

DRAFT

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

August 4, 2016
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

Chair Craft
Vice Chair Montero
Commissioner Chang
Commissioner Malek
Commissioner Mork
Commissioner Moss-Thomas

Staff Present

Paul Cohen, Planning Manager, Planning & Community Development
Steve Szafran, Senior Planner, Planning & Community Development
Miranda Redinger, Senior Planner, Planning & Community Development
Julie Ainsworth Taylor, Assistant City Attorney
Lisa Basher, Planning Commission Clerk

Commissioners Absent

Commissioner Maul

CALL TO ORDER

Chair Craft 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 Craft, Vice Chair Montero, and Commissioners Chang, Malek, Mork and Moss-Thomas. Commissioner Maul was absent.

APPROVAL OF AGENDA

The agenda was accepted as presented.

APPROVAL OF MINUTES

Approval of the draft July 21, 2016 minutes was postponed to the next meeting.

GENERAL PUBLIC COMMENT

Steve Walker, Shoreline, said he recently spoke to the developer of nearby property and learned that a number of mature trees would have to be removed to accommodate the sidewalk and other public

amenities within the right-of-way. He suggested that a number of these mature trees could be saved if the City allowed sidewalks to be curved. This seems like a simple idea that would not cost the City. Mature trees are very valuable to him right now because he won't be around to see the small trees grow to a mature height. He moved to Shoreline 16 years ago because of its gorgeous foliage. Mr. Cohen agreed to discuss the issue further with Mr. Walker.

STUDY ITEM: 145th STREET STATION SUBAREA PLAN PLANNED ACTION ORDINANCE (PAO)

Staff Presentation

Ms. Redinger advised that this is the last of a series of study sessions related to the various components of the 145th Street Station Subarea Plan (SSSP). The next step will be an August 18th public hearing on the following three ordinances:

- Ordinance 750 adopts the 145th Street Subarea Plan and amends the Comprehensive Plan and Land Use Map.
- Ordinance 751 amends the Unified Development Code, Shoreline Municipal Code (SMC) Title 20 and Official Zoning Map to Implement the 145th SSSP.
- Ordinance 752 adopts the Planned Action for the 145th SSSP pursuant to the State Environmental Policy Act (SEPA).

Ms. Redinger reviewed that the Commission has discussed the development codes and zoning maps on multiple occasions in May, June and July, and there will be an opportunity for additional discussion later in the meeting. However, the 145th SSSP Planned Action (Ordinance 752) will be the main topic of the study session. She referred to the draft PAO, which was attached to the Staff Report and posted on the City's webpage (www.shorelinewa.gov/145FEIS), along with the other ordinances, exhibits, subarea plan, and Final Environmental Impact Statement (FEIS). She advised that the PAO (Ordinance 752) also includes the following:

- Exhibit A is a list of mitigation measures that specifically apply to Phase 1 of the Compact Community Hybrid Scenario.
- Exhibit B is a list of Development Code regulations.
- Exhibit C is a draft PAO Boundary Map.

Ms. Redinger further reviewed that the draft ordinances and exhibits assume the boundaries identified in the Compact Community Hybrid Scenario (Alternative 4), which is the last recommendation that was made by the Planning Commission for a preferred alternative. When the City Council selected the 4th alternative for study (Compact Community Hybrid), they did not select a preferred alternative. Alternative 4 is being used as a placeholder, but it can be amended via a recommendation by the Planning Commission and/or City Council action. For the PAO, the Planned Action Boundary Maps specifically shows Phase 1 of the Compact Community Hybrid model.

Ms. Redinger displayed a map of the Compact Community Hybrid alternative. The area outlined in yellow identifies the Phase 1 boundary of the subarea plan. She explained that the City Council chose to

study the same phasing boundary for all three of the action alternatives (Connecting Corridors, Compact Community, and Compact Community Hybrid). Staff looked at the impacts of growth within those boundaries and developed a specific set of mitigation measures as part of the FEIS process. This set of impacts and mitigation measures correlate roughly with the 20-year timeframe that is more common for a PAO. She emphasized that the Planned Action Boundary Map outlines the areas that could be rezoned under Phase 1 of the Compact Community Hybrid Scenario. If a different zoning scenario is adopted, the map would be amended to match, as would the Comprehensive Plan Future Land Use Map.

Ms. Redinger reviewed the following questions that have come up throughout the process:

- **Why adopt a PAO?** A PAO is a cumulative analysis of project-specific impacts to the system. Potential impacts are defined by applying a growth rate based on 20-year and build-out scenarios. A PAO allows for a macro look in addition to the micro analysis that will occur later.
- **Why use a PAO instead of an overlay?** PAO's and overlays are two very different planning tools. The PAO is a cumulative look and identification of system level impacts and necessary mitigations over time. Overlays provide additional regulations on top of the already existing zoning based on certain criteria. With all of the critical areas (lakes, streams and landslide hazard areas) present within the subarea, the Critical Areas Ordinance (CAO) will function as an overlay on top of the zoning to require additional regulations regardless of the underlying zoning. Therefore, staff is not recommending an overlay approach for the 145th SSSP.
- **How does the PAO correspond to the 20-year timeframe?** This question was addressed earlier.
- **Why does the PAO only include Phase 1?** Mitigation measures have been identified via the FEIS for phasing with a 17-year time frame, as well as a larger 20-year timeframe and build out. Phase 1 is a more common timeframe of 20 years, plus additional mitigations identified in the FEIS.

Staff reviewed the following Development Amendments that were discussed at the previous meeting, but needed additional clarification.

- **Amendment 1 – Critical Areas Reasonable Use Permit (SMC 20.30.336).** Mr. Szafran explained that, as currently written, if a development proposal is located in an MUR-35' zone and the parcels do contain a critical area or a buffer, then reasonable use would be based on the allowable uses and standards for the R-6 zone.
- **Amendment 3 – Single Family Residential Detached in the MUR-35' and MUR-45' Zones.** Mr. Szafran said this amendment would allow single-family detached dwelling units in the MUR-35' and MUR-45' zones. The indexed criteria would allow one home to be built in the MUR-35' zone based on R-6 zoning standards or multiple homes based on the MUR-35' standards. If a property owner wants to develop more than one home on the parcel, staff is still recommending that there be a minimum density requirement in place. The minimum density would allow more of a "small house" product and guard against "mega-homes."

- **Amendment 5** – Mr. Cohen said the intent of the amendment, which was initiated by the City Council, was to provide full MUR-70' development by establishing a minimum lot size. The current proposal is 20,000 square feet. He clarified that the amendment would not require a developer to build to the full potential of the MUR-70' zone. The density would be dictated by the development market rather than the lot size. He acknowledged that, based on the current market, it is not likely that the properties would be developed to their full potential in the near term. The intent of the minimum density requirement is to anticipate the type of development that might occur in the future and establish appropriate regulations. Staff has received inquiries from owners who want to develop property that is less than 20,000 square feet, and the proposed amendment would not allow this to occur. While a minimum lot size could help prevent the creation of a lot of small, isolated parcels that cannot be redeveloped to their full potential, there is no way to know how much impact it will have. If the Commission still has reservations about the amendment, they could recommend support of full MUR-70' development but that the City Council should explore with staff more effective techniques and actions to achieve the goal.

Council Member Malek said he does not believe that requiring developers to consolidate lots would be a huge hurdle for redevelopment. However, he questioned if the intent is to control the dimensions or look of future development. Mr. Cohen said there is currently development proposed on a 10,000 square foot lot. While they are building to full potential in terms of size, the parking requirements limit the development to about half the density allowed in the zone. He recalled that staff provided examples of a number of developments in the City that were fully developed at 50 or 60 feet, and the smallest lot size was about 20,000 square feet. However, he acknowledged that 20,000 square feet may not fit every lot configuration, and staff is not confident as to whether the provision would promote or hinder future development.

Commissioner Moss-Thomas clarified that developers have already approached the City to express interest in developing lots within the MUR-70' zone that are less than 20,000 square feet in size. If the proposed amendment is adopted, these developers would have to comply with the minimum lot size requirement. Mr. Szafran answered affirmatively and clarified that the provision would apply in both the 145th and 185th Street Station Subareas. Commissioner Moss-Thomas summarized that property owners in the MUR-70' zone could sell their properties as existing single-family uses, but redeveloping the properties would require that owners negotiate and consolidate properties. Mr. Cohen reminded the Commission that there is also a minimum density of 48 units per acre, which is about half of the density that could be developed in the MUR-70' zone.

- **Amendment 8 – Minimum Density Calculation (SMC 20.50.020)**. Mr. Szafran recalled that, at their last meeting, there was some confusion about whether minimum density numbers would be rounded up or down. Commissioner Moss-Thomas explained that rounding the number up would be a small incremental opportunity to increase density.

Ms. Redinger concluded that the goal is to publish the packet for the August 18th hearing on August 5th, including any amendments the Commission makes during their final study session. Study sessions with the City Council are scheduled for September 12th and 26th. The Council could potentially adopt the three ordinances as early as September 26th, but it may take longer. If the Commission needs more time

to complete the public hearing and formulate their recommendation to the City Council, the schedule would have to be adjusted accordingly.

Public Comment

Wendy DiPeso, Shoreline, said she was present to represent the Shoreline Preservation Society. She asked that the Commission accept her comments as part of the official public record and she requested status as party of record with legal standing on the matter of the proposed PAO for the 145th SSSP. She recalled that the Society has established legal standing previously on matters pertaining to the 185th SSSP and PAO and are also members of longstanding interest in the community and with the Thornton Creek Watershed. She said the Society continues to have the following serious concerns on the impacts that the PAO will have to the environment and the rights of citizens:

- In general, the Southeast Neighborhood Subarea Plan (SNSP) is intended to preserve the single-family character of the neighborhoods. It speaks of using small lots and infill development to preserve and enhance affordable housing. While the resolution prepared by the staff (Attachment A) states that the designation of the 145th Street Station Subarea PAO is consistent with the goals and policies of the City's Comprehensive Plan, the Society believes that is inconsistent because it ignores the SNSP requirement to maintain single-family dwellings in the overlap areas.
- The FEIS has not fully satisfied the need for adequate information about environmental impact. Specifically, the inaccurate, incomplete assessment by OTAK does not use best available science (BAS) with regard to the wetland in Paramount Park. A delineation needs to be done, and it could also be recommended as an another added benefit to have a biologist do sampling of the biodiversity in the wetland and open water bodies to establish a baseline of ecosystem health to measure against for future development and required mitigations. Without a baseline, no developer can be required to do any mitigation. When City staff undertakes a project level review, the public must be notified to review and comment at that time in order to comply with SEPA and the Growth Management Act (GMA).
- The area being considered for the PAO is within the headwaters of Thornton Creek, the largest watershed in Shoreline and Seattle. It is habitat to five species of salmonids. Page 4 of the Staff Report makes a statement about critical areas but neglects to mention critical area buffers that are needed for wetland health. The assertion that subsequent development will have better stormwater standards will not make up for the increased hard surface and destruction of green space and trees on existing single-family lots. The loss of habitat and impervious surfaces will be a net loss for the watershed.
- The Ridgecrest and Parkwood Neighborhoods are not blighted as suggested in the comparison provided in the Staff Report. They are well functioning and provide excellent affordable housing. The Staff Report also compares other areas with PAO's that are industrial zones or otherwise blighted.
- There is inadequate road network and other infrastructure analysis to support the massive impact. The existing roadways are not designed for the increase in density and traffic that will surely accompany it. The SNSP specifies that the areas east of 8th NE should remain R-6.

- The Society continues to be concerned that the City is creating policies that will convert and destroy existing affordable housing into larger, denser housing with fewer affordable homes. This will mainly help developers avoid taxes.
- The PAO does not provide sufficient detail on how local infrastructure will be paid for. There also seems to be little or no provision for the impacts and disruption to the neighborhood associated with the traffic and noise created by construction of new infrastructure.
- According to the resolution adopted by the City Council, the Green Network would only be implemented in the long term and in conjunction with development. Any benefits touted to the community previously would not be seen for many years in the future. In the meantime, the community will have to suffer the impacts of development now.

Ms. DiPeso summarized that the Society believes the PAO is in conflict with the Comprehensive Plan, GMA, SEPA and the SNSP. The mitigations suggested are inadequate. The Society also asserts that destruction of viable neighborhoods is a violation of the trust citizens have in their local governments. The Society asks that the City reconsider and correct the proposal to be based more on logic, reason, good science, and fairness to existing residents and taxpayers.

David Lange, Shoreline, referred to a statement in the Staff Report that *“it is important to remember that the use of a PAO does not prohibit comment from the community.”* He agreed that is correct if the PAO is done correctly. However, the way the City is implementing the PAO, citizens will not be allowed to comment at the project level where it will count. The Staff Report also states that, *“assuming the proposed development is under the thresholds established in the PAO, the City will approve a project as a Planned Action and issue the determination of consistency. Those who disagree with the determination may appeal as it is provided in the SMC for Type A Land Use Decisions.”* He expressed concern that, as proposed, citizens would be excluded from participating in a project level review. Only the City staff would do a project level review, absent of information from the community.

Mr. Lange said the City has also failed to clearly spell out in lay terms what the appeal process would actually entail. The information is not easily accessed unless the reader is already familiar with the City’s website, knows where to look for the SMC, understands how the SMC is organized, and understands the terminology used. Further, Type A Land Use Decisions are made by the director and are final. Projects that require a SEPA Threshold Determination would be subject to public notice, and the reader is then referred to the schedule for Type B Land Use Decisions. However, the document in the packet says that the public can only appeal those decisions as provided in the SMC for Type A Land Use Decisions. Absent clarification, the process is still pretty opaque to the average citizen.

Dan Jacoby, Shoreline, voiced concern about staff’s justification for using a PAO rather than an overlay for the 145th SSSP. He agreed that the purpose of a PAO is to streamline the permitting process, which saves the City money because all they have to do is check off some boxes rather than the review. However, staff left out some important information. In 2012, the legislature amended SEPA to allow cities to preplan for development, and included in Revised Code of Washington (RCW) 43.21.C.440.1.b, is an express requirement that any future planned action development project had its project level significant impacts adequately addressed in the earlier EIS for the subarea plan or in the Comprehensive Plan. Paragraph C further provided that a city’s procedures for adoption of an ordinance authorizing planned actions include findings that future projects had their project level significant impacts addressed

already. Also, the Washington Real Property Desk Book, Volume 5, Land Use Planning, Chapter 14.31.d, states that the legislature required that the use of this early planned action designation contain sufficient environmental analysis of project level impacts to take the place of any normal project environmental review. This process replaces the usual SEPA process, where permit applications are subject to review, environmental determinations and possible appeals. The legislature recognized that the PAO can be misused to keep the public out of the process if project level EIS and facilities planning is not required. However, the legislature also provided extra flexibility that allows jurisdictions to defer project level review until the time that there's an actual project proposed. To do that, cities must meet SEPA requirements to specify what impacts are to be deferred, how they would be addressed, and provide for the opportunity for public notice and citizen comment and appeal. All this and more has been written up, but it has never been litigated in court.

Mr. Jacoby summarized that the effect of adopting a PAO without meeting all of the SEPA requirements denies the rights of citizens to have input on project level impacts and mitigations. Shunting the review off to City staff still keeps citizens out of the loop. The Shoreline community believes in citizen involvement and information. It is important to let the public know what is going on and give them a chance to be a part of the process. He asked the Commission to recommend that an opportunity for project level public review be added to the proposal that is sent to the Council for adoption.

Yoshiko Saheki, Shoreline, recalled the idea she proposed at the July 7th meeting, which is to delay nonconforming status of existing R-6 homes in the MUR-45' and up zones until 10 years after the station opens. She reviewed that in the MUR-35' zone, current single-family homes would remain conforming and new single-family homes could be constructed to R-6 standards. While she is not asking for the same provision for the other MUR zones, she is asking that existing homes not become nonconforming immediately upon adoption of the subarea plan. She cautioned that people are putting off home remodeling projects because they are in the "wait and see" mode. If the homes remain conforming until 2033, people will be willing to invest in their homes and neighborhoods will remain vibrant. If the homes become nonconforming immediately after adoption of the subarea plan, people will not invest in their homes. At the same time, if developers do not make offers that are acceptable to homeowners, the rezoning will not achieve anything in time for light rail except blight.

Ms. Saheki said she is aware that the City has won awards for subarea planning, but she noted that the awards have not come from anyone living in the subareas. In fact, the upzone has been overwhelming unpopular amongst residents. Retaining R-6 as conforming in zones that are MUR-45' and up would lessen the impact to residents. She recognized that the subarea plan is about the future, but she asked them to give some consideration to the current residents and not focus their entire attention upon the future.

Jeff Eisenbrey, Shoreline, reviewed that residents and members of the Shoreline Preservation Society have accused the City's Planning Department of misuse of the PAO to curtail project level review by citizens. The question remains, why does the City not use a zoning overlay, which would allow for greater scrutiny of planning decisions. In response, the Planning Department has cited several other municipalities' use of the PAO, but his review indicates significant fundamental differences in the nature of the plans relative to Shoreline's use. He referred to the projects on the list and explained how they are vastly different in both scale and intent as follows:

- The project in Mill Creek on a 13.2-acre site is not comparable to the area designated as part of the subarea plan. Unlike the currently proposed PAO, the Mill Creek PAO quantified all mitigation measures for parks, schools, fire district, stormwater, traffic, parking, buffers, setbacks, utilities, trail access and on-site pedestrian and traffic flow.
- The Bothell Downtown Revitalization and Traffic Corridor Improvements encompass parcels already zoned for commercial and public use, and the process took 16 years to reach final adoption.
- The green field development at Badger Mountain in Richland turned farmland and scrubland into a planned community.
- Covington's Hawk Project occurred on a 212-acre lot, and the EIS that was done in 2013 contains 153 pages devoted to quantifying every imaginable mitigation, including but not limited to parks, schools, fire districts, stormwater, traffic, buffers, setbacks and utilities.
- The Kent Downtown Subarea Plan received a great deal of public push back because the PAO included a residential area. The City of Kent has been accused of inappropriate application of the PAO to limit public review of project level developments. Otherwise, the property has all been previously zoned as urban and the goal is to increase economic activity within the zone.
- Tacoma's North Downtown Subarea Plan is massive and the intent is to preserve the character of the existing neighborhood while increasing economic activity. It describes different character zones they are concerned about maintaining while they increase housing and business opportunities.
- The Sedro Wooley Center for Innovation and Technology was developed in 2015 on a single property that was formerly developed as an industrial site.

Mr. Eisenbrey summarized his belief that the City staff has misrepresented how a PAO is applied by other municipalities. Whether or not this has been done intentionally is a matter of grave concern. The use of a PAO to radically upzone a residential neighborhood on such a scale as what is being attempted in Shoreline is an outrageous violation of the intent of the law that established the tool. By the City's own evidence, it is more appropriately utilized for single properties, green field to brown field developments, and in intensively-analyzed and minutely-planned urban redeveloped scenarios that do not involve the destruction of existing, highly-functional residential neighborhoods. He said that in all of his research he has yet to find any remotely comparable upzoning fantasy in North America or Europe. The only logical conclusion to be drawn from the City staff's hasty and inadequate work is that they intended to forestall citizen review in pursuit of a recklessly ambitious goal. This violates the residents' trust in their government by the intended degradation of the neighborhoods they love.

Commission and Staff Discussion

Ms. Redinger explained that the SNSP is the result of the work of a Citizens Advisory Committee (CAC) that met over a period of two years. It was adopted by the City Council in 2010 and its primary purpose was to provide Comprehensive Plan Land Use Designations for an area that did not have them. It was previously designated as a Special Study Area. Prior to its adoption, the SNSP boundaries were extended to 8th Avenue NE on the west side of Paramount Park. During the process, the CAC had significant debate and came up with policies that also matched the policies in the Comprehensive Plan.

Specifically, it included policies and direction on how to accommodate growth, but also preserve neighborhood character. At the time, and based on the purpose of the plan, there was a lot of discussion about appropriate infill development, which included town homes, small homes on small lots, etc. Some areas were rezoned to higher density, primarily near Bothell Way at the far southeast corner of the City. Because there is some overlap between 8th Avenue NE and 15th Avenue NE and 155th Street and 145th Street, the area would be subject to both subarea plans.

Mr. Szafran pointed out that the City Council placed an amendment on the docket of Comprehensive Plan amendments to change the boundaries of the SNSP, and a final decision will be made by the end of December. Ms. Redinger explained that the intent of the docketed amendment is to change the boundaries of the SNSP to zip against the boundaries of the 145th SSSP. If the 145th SSSP is adopted prior to adoption of the boundary changes for the SNSP, there would be two Comprehensive Plan Land Use Designations for the same area on the Land Use Map. The docketed amendment would prevent this inconsistency.

Ms. Redinger said there are a lot of complimentary policies between the two subarea plans. For example, policies relating to Paramount Park, Paramount Open Space and 15th Avenue were included in the 145th SSSP to address such things as the trail through Paramount Open Space, improvements along 15th Avenue to make it a gateway, etc. The remainder of the area would remain as adopted in the SNSP.

Commissioner Mork asked if the light rail station was included as part of the SNSP. Ms. Redinger reviewed that when the SNSP CAC started its work in 2008, there was some indication that Sound Transit may put a station at 145th Street. However, the process for determining the exact alignment and preferred alternative took several years. The SNSP makes a reference to the fact that there could be a station at 145th Street, but that was the only level of planning done at the time.

Commissioner Moss-Thomas referred to the map contained in Attachment A of Exhibit C and asked if all of the residentially-zoned properties east of 8th Avenue NE would remain under the standards called out in the SNSP. Ms. Redinger answered that if the City Council amends the boundaries for the SNSP as proposed, there would be no overlap. Even if the City Council adopts phased zoning as proposed on the map, most of the residential parcels east of 8th Avenue would not be eligible to use the MUR zoning criteria until 2023. If the Council does not adopt phased zoning, the new zoning would be in place, but the properties would not be subject to the PAO and individual developments would have to apply for a separate SEPA review if they are above the threshold. Assistant City Attorney Ainsworth-Taylor clarified that the City Council will be asked to take two actions. First is adoption of the 145th Street Station Subarea Boundary and then the designation of area covered by the PAO will be a subset of the subarea plan. It is only within that area that the PAO operates, and other areas of the subarea will have the MUR zoning, but development proposals will be subject to SEPA review if they meet the threshold. The Critical Areas Ordinance (CAO) applies across the City, regardless of where the property is located and what it is zoned.

Assistant City Attorney Ainsworth-Taylor explained that the SNSP is a component of the Comprehensive Plan. It sets goals and policies for areas, but it does not regulate individual land use in and of itself. That is done via the zoning regulations in the Development Code.

Commissioner Chang said one of the main concerns is the potential lack of public comment on projects that come in under the PAO. She asked staff to talk more about the SEPA thresholds. Mr. Szafran explained that if there were no PAO for the area and the City relied strictly on the SEPA thresholds established in the Development Code (60 multi-family units, 30 single-family homes, 30,000 square feet of commercial), no public notice would be required for projects that come in under the thresholds. For example, a 50-unit apartment next to the station would not require SEPA review, nor would 25 row-homes that line the street.

Commissioner Moss-Thomas clarified that applicants are only required to complete the SEPA Checklist if the project exceeds the threshold. Mr. Szafran said the checklist is a 22-page questionnaire that applicants must complete to analyze the environmental impacts of a project, but it is only required if the project exceeds the threshold. Commissioner Moss-Thomas asked if a full SEPA review would be required if an applicant cannot satisfy all of the expectations of the SEPA Checklist. Assistant City Attorney Ainsworth Taylor explained that the purpose of the SEPA Checklist is to test for the threshold of adverse impacts to determine if they are significant. Based on the checklist, staff will issue a Determination of Non-Significance; a Determination of Significance, which would trigger the preparation of an EIS; or a Mitigated Determination of Non-Significance, which would require mitigation to drop the project below the threshold for EIS analysis. The City's code does have a notice provision for threshold determinations.

Mr. Szafran added that the PAO looks at the cumulative impacts of the entire area and lists mitigation requirements that must be met by all projects within that geographic area, including smaller projects that are not subject to SEPA. The risk of not doing a PAO is that you could have hundreds of little projects that never rise to have any mitigation requirements. The PAO would subject all projects to all the listed mitigations. Assistant City Attorney Ainsworth Taylor clarified that projects within the PAO boundary would only be subject to the mitigation of the ordinance if seeking to be called a Planned Action. Developers can choose not to select Planned Action coverage if the project falls under a certain threshold. The reason for making the PAO boundary smaller than the Subarea Plan boundary is to exclude the smaller zoning areas that would not want to qualify as a Planned Action. Ms. Redinger clarified that there is consistency between how the PAO boundaries were applied in both the 185th and 145th SSSP's.

Commissioner Chang clarified that development on properties within the subarea that are not within the PAO boundary are not likely to meet the SEPA threshold. She asked if staff would expect that development in the MUR-45' zone that is also within the PAO Boundary would tend to meet SEPA thresholds. Ms. Redinger said it would depend on how many parcels are aggregated. Redevelopment of a single parcel in the MUR-45' zone would probably not meet the SEPA threshold, but development of aggregated parcels may.

Given the sensitivity around making sure that development adheres to certain criteria, Chair Craft suggested they enhance the PAO to encompass all development within the area, whether it meets the SEPA threshold or not. Assistant City Attorney Ainsworth Taylor explained that, under the SEPA statute, certain things are categorically exempted by the State Legislature, and the City has no authority to amend the standards. The City has the authority to adopt level of thresholds that set up to their standards, but they can't go above those thresholds.

Commissioner Mork recalled that, at the last meeting, the Commission talked about the appropriate type of zoning for properties that surround the parks: MUR-35' versus R-6. They requested that staff provide an overlay to illustrate where the critical areas are located. There was a lot of public comment that suggested it was questionable for the City to call something MUR-35' if there is already an amendment that would make it R-6 if there is a critical area on the property. As requested by the Commission, Ms. Redinger shared a map that overlaid the boundaries of wetlands and streams and their buffers based on the newly updated CAO, as well as the new delineation that was completed for Twin Ponds Park. The intent was to illustrate the properties that would likely be impacted. As suggested by Commissioner Mork, properties that are shown on the layer as having critical areas and/or buffers would be designated as R-6 on the Compact Communities Hybrid Map, and parcels that are not shown on the layer as being impacted by critical areas and/or buffers would be zoned MUR-35'. Commissioner Mork voiced concern about equity and creating an exclusive area around the parks that is only R-6 and will be heavily favored for expensive homes. Making it MUR-35' would accommodate single-family homes, as well as other housing types. Her thinking is that when there is a strong indication that a property is within the critical area and/or buffer, the property should be zoned R-6. MUR-35' zoning would be appropriate for properties where there is no indication of a critical area and/or buffer.

To address Commissioner Moss-Thomas' concern, Ms. Redinger explained that any project within the PAO boundary would be analyzed through the permit review process with regard to critical areas and the application of the critical areas regulations. Assistant City Attorney Ainsworth Taylor further clarified that Type A Land Use Decisions are administrative decisions that are appealable to the Superior Court.

Vice Chair Montero referred to a map of the SNSP and asked what was intended for the south end of Paramount Park. Ms. Redinger answered that idea was to have the City acquire the properties to expand the Paramount Park Open Space, but the properties have since been developed.

Commissioner Mork recalled that she also asked staff to clarify the minimum density concept and what would and would not be allowed as far as mega-homes. As per staff's presentation, a person with a parcel that is zoned MUR-35' could build one single-family home that covers up to 50% of the lot, two homes that cover up to 85% of the lot, or a certain number of multi-family structures. Mr. Szafran answered that would be the case if the Commission wants to allow detached single-family homes in the MUR-35' zone, without a provision for minimum density. She asked why the Commissioners are opposed to a minimum density requirement. Commissioner Moss-Thomas said the Commission did not come to a conclusion about whether minimum density was good or bad, but the subject has been part of the ongoing discussion. Staff has indicated support for a minimum density requirement. Commissioner Mork voiced support for more density and said she would support a minimum density requirement. While she would be in favor of allowing one single-family home per lot, based on the R-6 zoning standards, she would be opposed to allowing two homes on a single lot.

Chair Craft asked staff to respond to the comments that were made relative to the RCW with regard to project level review. From the information provided, it appears that a threshold or at least criteria for a project level review is necessary. While she does not have the language in front of her, Assistant City Attorney Ainsworth-Taylor acknowledged that there are various provisions in RCW 43.21.C.440 that

apply to project level review. The City is authorized to adopt a PAO when it has prepared an EIS for a subarea plan, which is what the City has done, and when the subarea plan addresses the impacts of the project. It sets mitigation measures, and the mitigation measures are subsumed into the PAO. She agreed to prepare a confidential legal memorandum on the full analysis of the SEPA provision.

Chair Craft suggested that staff revisit the issue of conforming versus nonconforming uses, particularly in the MUR-45' zone. Mr. Szafran said that, currently, new single-family, detached development would not be allowed in the MUR-45' zone. Ms. Redinger recalled that, while going through adoption of the 185th SSSP regulations, there was a lot of discussion about whether or not single-family detached should be allowed as a new use. The proposed language is clear that single-family detached uses would be allowed in the MUR-35' zone subject to the R-6 zoning standards. However, this clause would not apply to the MUR-45' zone. Based on the standard nonconforming code, existing homes in the MUR-45' zone could expand up to 10%, which many feel is too limiting. A new provision would allow existing single-family homes in the MUR-45' zone to expand up to 50% or 1,000 square feet, which is beyond the standard non-conforming code.

Chair Craft asked staff to explain the concept of defining existing single-family homes as nonconforming from the beginning versus defining them as conforming with some standards around what would and would not be allowed. Mr. Szafran explained that, based on the City's use table, single-family detached homes in the MUR-45' zone would be nonconforming because they would not meet the minimum density standards.

Chair Craft asked if it would be possible to allow single-family detached homes as conforming uses in MUR-45' zone subject to the same R-6 standards that would apply to the use in the MUR-35' zone. Ms. Redinger said the mechanism for doing this would be to apply the same clause that currently only applies to the MUR-35' zone. The use table would also have to be amended accordingly.

Commissioner Moss-Thomas asked if applying the R-6 standards would mean that a home could only expand up to 10%. Ms. Redinger explained that because the clause would make the use conforming, the 10% limitation would not apply. Allowing development at the R-6 standard would also eliminate the need for the provision that limits expansion to 50% or 1,000 square feet. Chair Craft summarized that by making single-family detached dwellings a permitted use in the MUR-45' zone, the use would be conforming but subject to all of the standards of the R-6 zone.

Commissioner Mork said Ms. Saheki specifically asked that the City delay making residential uses in the MUR-45' zone nonconforming until ten years after the subarea plan has been adopted. If the Commission recommends that single-family detached uses be permitted in the MUR-45' zone, could there be a specific end date for the provision? Chair Craft responded that establishing a sunset date would require a type of phased zoning. If that is the direction the Commission wants to go, they could ask staff to include it in the proposed language now. Another option would be to make an amendment at the public hearing.

Commissioner Mork asked staff to explain the ramifications of allowing single-family detached uses in the MUR-45' zone subject to a sunset clause. Mr. Szafran recalled that this same concept was considered by the City Council as part of their discussion of the 185th SSSP. He reviewed that the

MUR-45' and MUR-70' zones were established to encourage higher densities around the stations. The MUR-45' areas will likely develop first to create a mass of people near the stations. He questioned whether including the provision would be consistent with the vision, goals and policies of the subarea plan. Mr. Cohen briefly reviewed the thought process behind allowing single-family detached development in the MUR-35' zone. The MUR-35' zone is frequently located between Single Family Residential (SFR) and MUR-45'. The intent of the provision is to allow people who want to remain in their area to keep, maintain and improve their homes. The MUR-45' zones are adjacent to major arterials and MUR-70' zoning where significant change is anticipated. It is not intended that these areas will remain viable as single-family residential for a long period of time.

Chair Craft voiced his opinion that whether single family detached uses are conforming or nonconforming would not significantly impact whatever evolution will take place in the neighborhood. Mr. Cohen agreed but reminded the Commission that people are concerned that if their land use is considered nonconforming, it will depress the properties and discourage people from reinvesting in or expanding their homes. Chair Craft said he does not believe that allowing single-family detached homes to be conforming uses in the MUR-45' zone would be an unreasonable component. Market forces will prevail in terms of when and how the subarea is redeveloped, if at all.

Commissioner Mork requested further clarification of Amendment 5, which would establish a 20,000 minimum lot size in the MUR-70' zone. She voiced concern that the provision would only allow redevelopment to occur on lots that are at least 20,000 square feet. She asked if it would be reasonable to provide a process and/or exception that would allow large lots that are less than 20,000 to be redeveloped. Assistant City Attorney Ainsworth Taylor explained that it is not possible to develop a lot that is substandard in size. The variance process is used to address bulk and setback requirements, but not lot dimension requirements. Mr. Cohen explained that 10 criteria must be met in order to obtain a zoning variance, and one that is particularly hard to meet is "do you have a hardship on your property that keeps you from developing your lot?" The zoning variance approach is good for exceptional situations. But if the Commission thinks there is an overall problem, the best approach is to change the Development Code requirement. He expressed his belief that in the early years, a number of small residential properties will seek to redevelop. As the market builds, the demand will encourage developers to assemble large parcels of lots and build to their full potential. The minimum lot size requirement is intended to prime the City's vision and goal for the subarea. Staff is not recommending that the minimum lot size requirement for the MUR-70' zone be included at this time. If the Commission likes the intent of the provision, they could direct staff to study the concept further to address the issues and concerns that have been raised.

Commissioner Chang recalled that previous discussions about the minimum lot size requirement included a discussion about the minimum lot size needed in order to accommodate reasonable underground parking. Mr. Cohen said the proposed provision identifies a square foot minimum lot size, but the properties could vary in shape. For example, a property could be long and linear, preventing a second or third row of parking. The concept was suggested as a starting point, but staff is wary of adding more and more requirements to meet the threshold to build in the MUR-70' zone at this time. Staff believes it would be appropriate to study the concept more carefully.

Commissioner Moss-Thomas requested clarification of Table 20.50.020(2), which outlines the dimensional standards for the MUR zones. Specifically, she requested more information about the minimum front yard setback requirement. Ms. Redinger clarified that this provision would only come into play on 185th and 145th Streets. These two corridors are currently going through additional study, and the City does not yet know how much right-of-way may be required to expand the roadways. Both studies will need to be brought to a higher engineering level before the City will know the exact amount of right-of-way that will be needed. The standards identified in the table are intended to protect the right-of-way that may be needed for future expansion, but not require development to be set further back than necessary. The standards identify a range for the setbacks, which allows staff to review development proposals on a case-by-case basis. As the corridor studies progress to the design level, the setback requirements will be better defined and it may be determined that a smaller setback is needed.

While she understands the intent, Commissioner Moss-Thomas voiced concern that using the word “maximum” to identify a minimum setback standard is confusing. Mr. Cohen pointed out that Footnote 14 provides additional clarification, but Commissioner Moss-Thomas still felt the language was unclear.

DIRECTOR’S REPORT

Mr. Cohen did not have any items to report.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

There were no reports or announcements.

AGENDA FOR NEXT MEETING

Chair Craft announced that a public hearing on the 145th SSSP package is scheduled for August 18th.

ADJOURNMENT

The meeting was adjourned at 8:45 p.m.

Easton Craft
Chair, Planning Commission

Lisa Basher
Clerk, Planning Commission