

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF SPECIAL MEETING

August 22, 2016
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

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

Staff Present

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

CALL TO ORDER

Chair Craft called the special 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, Maul, Mork and Moss-Thomas.

APPROVAL OF AGENDA

Commissioner Chang said it was not clear to her that the public comment portion of the hearing was closed at the last meeting. Chair Craft explained that this is a continuation of the public hearing that began on August 18, 2016. The public comment portion of the hearing took place following the staff presentation and prior to the Commission's deliberation. The hearing was continued to allow the Commission an opportunity to complete its deliberations and formulate its recommendation to the City Council. Assistant City Attorney Ainsworth-Taylor explained that after the public comment period on August 18th, the Commission moved into deliberations with no indication that it would continue or offer any additional opportunity for public comment or continue the hearing past Thursday night. Later in the meeting, the Commission passed a motion to continue the hearing to August 22nd, specifically noting that the public comment period was closed. At this time the public comment period is closed, but the public is still welcome to speak to the issues when they move forward to the City Council for public hearing. Chair Craft advised that written comments could be submitted as well.

The agenda was accepted as presented.

PUBLIC HEARING: CONTINUATION OF COMMISSION DELIBERATION ON THE 145TH STREET STATION SUBAREA PLAN PACKAGE: PLANNED ACTION ORDINANCE (ORDINANCE 752) AND STATION AREA DEVELOPMENT REGULATIONS (ORDINANCE 756)

Chair Craft reviewed that the Commission completed its deliberation on Ordinance 750 (adopting the 145th Street Station Subarea Plan and amending the Comprehensive Plan Future Land Use Map) and Ordinance 751 (adopting the official Zoning Map to implement the 145th Street Station Subarea Plan). At the continued hearing, the Commission will continue its deliberation on Ordinance 752 (adopting the Planned Action Ordinance) and new Ordinance 756 (adopting the 145th Street Station Subarea Development Regulations). He recalled that Ordinance 756 was originally part of Ordinance 751, but was removed to keep the regulations specific to the 145th Street Station Subarea.

Ordinance 756 – Development Code Amendments to Implement the 145th Street Station Subarea Plan

COMMISSIONER MOSS-THOMAS MOVED TO RECOMMEND TO THE CITY COUNCIL THAT ORDINANCE 756, AN ORDINANCE ADOPTING AMENDMENTS TO THE SHORELINE MUNICIPAL CODE (SMC) TITLE 20 AND UNIFIED DEVELOPMENT CODE RELATED TO THE CITY’S STATION SUBAREA, BE ADOPTED AS PROPOSED BY PLANNING STAFF IN EXHIBIT A TO ATTACHMENT B OF THE AUGUST 18, 2016 STAFF REPORT. COMMISSIONER MALEK SECONDED THE MOTION.

Vice Chair Montero asked if the maps were updated to reflect the changes made by the Commission at their last meeting. Ms. Redinger answered that the Zoning, PAO and Comprehensive Plan Maps were updated based on the zoning the Commission recommended on August 18th. These updated versions were included in the Commission’s desk packet and are available on the back table for members of the audience. However, no changes were made to the proposed amendments to the Development Code (Ordinance 756).

Ms. Redinger explained that the Development Code Amendments were included in the August 18th Staff Report as exhibits to two of the ordinances. Ordinance 756 will officially adopt the regulations, but they were also attached to Ordinance 752 (PAO) as a reference because the regulations are considered mitigations for the PAO. She clarified that the document pertaining to Ordinance 756 is identified as Exhibit A to Attachment B of the August 18th Staff Report. The Commission reviewed each of the amendments as follows:

- **Amendment 1 – SMC 20.30.336 Critical Areas Reasonable Us Permit (CARUP).**

None of the Commissioners had questions or concerns about proposed Amendment 1.

- **Amendment 2 – SMC 20.40.160 Station Area Uses.**

Chair Craft summarized that the table was updated to identify detached single-family residential as a permitted use in the MUR-45' zone. Mr. Szafran said that is the first change to the table, but fire and police facilities were also added as a conditional use in the MUR-35' zone. None of the Commissioners raised questions or concerns relative to Amendment 2.

- **Amendment 3 – SMC 20.40.506 Single-Family Detached Dwellings.**

Mr. Szafran said the change in the first paragraph would allow single-family detached dwellings subject to the R-6 zoning standards. The second paragraph was also modified to allow multiple single-family detached dwellings in the MUR-35' and MUR-45' zones subject to minimum density standards and single-family attached and multifamily design standards. He reminded the Commission that multiple single-family attached dwellings would already be allowed in both the MUR-35' and MUR-45' zones, so the amendment would simply allow detached dwellings.

Ms. Redinger provided a graphic illustration of a 7,200 square foot lot and explained that, currently, the R-6 standards allow lot coverage of 35% for the building and an additional 15% for driveways, decks and other hardscapes. The intent of the proposed amendment is to prevent someone from using the new MUR-35' lot coverage standards and setbacks to build a very large house on the lot. As currently written, the R-6 standards would apply if just one home is being constructed, but the MUR-35' standards would apply to the development of multiple, detached single-family homes on the same lot. The MUR-35' standards allow a greater lot coverage and smaller setbacks. The intent of the provision is to prevent two large homes from being constructed, but allow three or more medium-sized homes on the same lot.

Chair Craft asked if the minimum density provision would apply to both the MUR-35' and MUR-45' zones. Ms. Redinger answered no. There would be a minimum density standard in the MUR-45' zone, but not in the MUR-35' zone. However, the proposed amendment to SMC 20.40.506 would tie the development of multiple single-family detached dwellings to the single-family attached and multifamily design standards in SMC 20.50.120. As proposed, existing homes in the MUR-35' zone would be considered a conforming use, and existing homes in the MUR-45' zone would only be considered nonconforming with respect to minimum density. No new single-family dwellings would be allowed in the MUR-45' zone. She reminded the Commission that an additional provision was included in the MUR-45' standards that allows existing nonconforming homes to expand up to 50% of the original home or 1,000 square feet, whichever is less.

Commissioner Chang asked how the provision in SMC 20.40.506 would apply to a property in the MUR-35' zone that is currently developed as a single-family dwelling but wants to add a detached accessory dwelling unit. Ms. Redinger answered that accessory dwelling units are allowed in any zone, but the R-6 standards limit their size to 50% of the size of the primary residence, requires one off-street parking space, and one member of the family must live in one of the units. Mr. Szafran added that the lot would still have to meet the 35% building coverage and 50% hardscape limitation.

Chair Craft said that based on his discussions with staff, comments from the public, and the development horizon for the light rail station area, it would be wise to allow single-family uses to continue in the MUR-35' and MUR-45' zones. The challenge is that the MUR-45' standards would not allow a property owner to add a second story to an existing home if the addition would be greater than

1,000 square feet. He would like to see more equal treatment of existing single-family homes in the MUR-35' and MUR-45' zones. Single-family homes in the MUR-35' zone are subject to the R-6 standards, and he would like that to carry over to single-family homes in the MUR-45' zone.

Commissioner Moss-Thomas clarified that, currently, existing and new single-family homes would still be an allowed use in the MUR-35' zone, subject to the R-6 standards. Additions or expansion of the footprint would be allowed as long as the R-6 standards are met. Existing homes in the MUR-45' zone would also be allowed to continue, but additions or expansion would be subject to a 50% or 1,000 square foot limit. Also, the minimum density requirement would prevent the development of any new single-family detached dwellings in the MUR-45' zone. She said she is not concerned about allowing existing homes in the MUR-35' and MUR-45' zones to expand vertically, since the remaining portion of the property could still be developed as MUR-35' or MUR-45' at some point in the future. Ms. Redinger agreed, but pointed out that, as currently proposed, nothing would limit the expansion to be vertical. The footprint could be expanded, as well.

CHAIR CRAFT MOVED TO AMEND THE MAIN MOTION TO CHANGE THE FIRST PARAGRAPH OF SMC 20.40.506 TO INCLUDE MUR-35' AND MUR-45'. HE FURTHER MOVED TO AMEND THE SUPPLEMENTAL CRITERIA TO ALLOW THE SAME STANDARDS TO APPLY TO MUR-45' AS THEY DO TO MUR-35'. COMMISSIONER MOSS-THOMAS SECONDED THE MOTION.

Chair Craft said he believes the motion represents an appropriate level of fairness. Existing residents in the MUR-35' and MUR-45' zones should have the ability to stay in their homes, and they should also have the ability to change the footprint of their homes. Allowing existing development to adhere to the R-6 development standards would not arbitrarily conform them to only 50% or 1,000 feet. It would allow them to make the changes necessary to maintain a vibrant, mixed neighborhood. The provision should apply equally to the MUR-35' and MUR-45' zones.

Commissioner Mork asked if the provision, as it applies to the MUR-45' zone, would have a sunset date. Chair Craft expressed his belief that redevelopment of the neighborhood would occur naturally over time, and an arbitrary sunset date is inappropriate. In his experience, allowing both mixed-use and single-family development in an area can create a nice variation.

Commissioner Mork asked if the intent of the amendment is for density to take a back seat. Chair Craft said future neighborhood transition is important, and the intent of the motion is to allow not only the existing type of development to occur, but also introduce new standards that allow for greater development in the area. The Subarea Plan encourages a level of density around the light rail station that will take place over time, and he does not see his motion as being mutually exclusive of one type of development over another.

Commissioner Moss-Thomas asked if the motion would allow new single-family residential homes to be constructed in the MUR-45' zone, and Chair Craft answered affirmatively. Commissioner Moss-Thomas pointed out that the proposed Subarea Plan does not include a large amount of MUR-45' zoning, and some of the properties that would be zoned MUR-45' are very large lots. While she is not opposed to allowing existing residential homes to remodel or expand up to 50% or 1,000, new

development and redevelopment should meet the density standards of the MUR-45 zone. She does not want the larger lots to be subdivided into smaller lots for single-family residential development at the R-6 standard with no minimum density requirement. From an economic standpoint, Chair Craft said it is not likely that developers will want to develop properties in the MUR-45' zone as single-family residential, and most development proposals will take advantage of the density allowed under the MUR-45' zone.

Commissioner Malek agreed with Commissioner-Moss Thomas. The opportunity for MUR-45' should be exploited where it is available. Height-wise, the MUR-35' zone has some degree of homogeneity, and with the variations in facades and elevations of single-family residential and mixed-use development can be attractive and compatible with each other. However, allowing single-family homes to be constructed intermittently throughout the MUR-45' zone between taller buildings would disrupt the "coefficient of variability," which is a tax assessor term. When assessing a property's value, the more similar the better. While development does not have to be exact, some semblance of conformity is important. Allowing properties to develop as single-family residential based on the R-6 standards would discourage this type of favorable development. He also agreed with Commissioner Moss-Thomas that MUR-45' is much different than the MUR-35' zone, and denser development should be encouraged.

Commissioner Chang said she likes the idea of offering flexibility to existing homeowners in the MUR-45' zone. It seems unfair to penalize them by placing limits on the how much the home can be expanded or remodeled. She supports applying the R-6 standards to existing single-family homes. However, they should encourage vacant lots to develop to their full potential under the MUR-45' standards. Chair Craft said he understands some of the concerns about allowing new single-family residential development in the MUR-45' zone, but he strongly supports the concept of allowing the existing single-family homes to be remodeled or replaced based on the R-6 standards.

If the amendment moves forward, Ms. Redinger suggested a second amendment that would repeal SMC 20.30.280(C)(4) as it applies to the MUR-45' zone. This provision limits expansion to 50% or 1,000 square feet.

Commissioner Moss-Thomas asked if the Commission would be opposed to allowing an existing single-family home in the MUR-45' zone to expand vertically up to a maximum height of 45 feet. Chair Craft said that, as currently proposed, single-family residential development would have to adhere to the R-6 standards unless a provision is added that specifically allows the greater height. Commissioner Moss-Thomas pointed out that, in most situations, MUR-45' abuts MUR-70', and the intent is to create a step down transition. Chair Craft said the intent of the motion is to allow existing single-family residents in MUR-45' to adhere to the same standards that are allowed in MUR-35'. He does not support the concept of allowing existing single-family homes in the MUR-45' zone to expand up to 45 feet in height.

COMMISSIONER MOSS-THOMAS MOVED TO AMEND THE SUBMOTION TO ALTER THE 1ST PARAGRAPH OF SMC 20.40.506 BY ADDING, "EXISTING SINGLE-FAMILY RESIDENCES IN THE MUR-45' ZONE MAY EXPAND LOT COVERAGE BY UP TO 50% OR 1,000 SQUARE FEET, WHICHEVER IS LESS, BUT MAY INCREASE VERTICAL HEIGHT TO THE MAXIMUM ALLOWED IN THE R-6 STANDARDS."

Commissioner Moss-Thomas said the intent is to allow single-family residential homes to be expanded up to 50% or 1,000 square feet, but also give an opportunity to expand vertically. Commissioner Maul clarified that if single-family residential dwellings in the MUR-45' zone are tied to the R-6 standards, the 50% lot coverage would apply, but there would be no specific limit on the size of the expansion. Allowing single-family homes to expand to a height of 45 feet in the MUR-45' zone would be contrary to the concern about "mega homes." Commissioner Moss-Thomas explained that limiting the expansion of lot coverage to 50% or 1,000 square feet would offer more opportunities for infill as time goes on.

Again, Commissioner Maul clarified that the R-6 standards allow 35% lot coverage, and 50% with hardscape. That is different than the allowable increase for expansion and/or remodel. If the MUR-45' zone allows single-family to the R-6 standards, then that 1,000 square foot or 50% increase would no longer apply. Homes can fully build out to the R-6 standards. Ms. Redinger commented that there appears to be some confusion. SMC 20.30.280(C)(4) deals with nonconforming uses and states that expansion would be limited to 50% of the total square footage or 1,000 square feet. The R-6 standards allow for a 50% lot coverage. The sub-motion currently on the floor would not accomplish Commissioner Moss-Thomas' intent to apply the provision to existing homes rather than new construction.

COMMISSIONER MOSS-THOMAS ALTERED HER SUB-MOTION TO CHANGE THE 1ST PARAGRAPH OF SMC 20.40.506 TO READ, "SINGLE-FAMILY DETACHED DWELLINGS THAT DO NOT MEET THE MINIMUM DENSITY ARE PERMITTED IN THE MUR-35' ZONE AND IN EXISTING SINGLE-FAMILY RESIDENCES IN THE MUR-45' ZONE SUBJECT TO THE R-6 DEVELOPMENT STANDARDS IN SMC 20.50.020. SHE FURTHER MOVED THAT SMC 20.30.280(C)(4) BE AMENDED BY REMOVING THE WORDS "AND MUR-45."

Ms. Redinger clarified that the motion would make the MUR-35' and MUR-45' zones the same. If you are doing one house, the R-6 zoning standards would apply. If you are doing multiple houses, the MUR-35' or MUR-45' standards would apply, keeping in mind that the Commission has not yet decided whether or not minimum density would apply in MUR-35'.

COMMISSIONER CHANG SECONDED THE MOTION.

Commissioner Mork asked Commissioner Malek to share his opinion about whether approval of the amendment would allow the City to reach minimum density over a period of 40 years. Commissioner Malek answered that depreciation on a standard single-family residence is 27.5 years. Single-family residential properties will not go 40 years without some sort of depreciation being addressed through maintenance and remodel. His hope would be that the code discourages this and actually encourages denser development in the MUR-45' zone. While he cannot anticipate how future redevelopment will go, he can say that like begets like. The more townhomes and higher density that is developed, the more comfort homeowners and builders will feel towards redeveloping to the MUR-45' standards. The goal should be to encourage MUR-45' development, which will lead to improved value. He said he is concerned that the proposed amendment will discourage the kind of density envisioned for the MUR-45' zone, but he sees its place in the MUR-35' zone.

Commissioner Mork asked if Commissioner Malek would feel less concerned if the provision for MUR-45' included a sunset date. While the concept is heartfelt, Commissioner Malek said he does not understand how well it would work. He would prefer to move the provision forward as originally proposed by staff, where MUR-35' does not have a minimum density and existing single-family homes are allowed to continue in perpetuity. However, he would not want these same provisions to apply to the MUR-45' zone.

Commissioner Moss-Thomas pointed out that, as currently written, the MUR-45' zone would have a minimum density requirement. She asked if Commissioner Malek felt the requirement would have an impact on redevelopment. Commissioner Malek answered that maintaining the minimum density requirement would address some of his concern, since the provision would only apply to existing single-family homes and not new development.

Commissioner Mork asked if the sub-motion, as proposed, would allow a property owner in the MUR-45' zone to replace an existing home. Mr. Szafran answered affirmatively.

Commissioner Malek said he is opposed to the sub-motion because it would delay future redevelopment in the MUR-45' zone, which was designed to encourage development. He referred to redevelopment at Greenlake, Ballard, etc. where taking baby steps towards change resulted in poor development. People tend to try and then leave within about seven years rather than taking pride of ownership. He does not like the idea of taking baby steps in the MUR-45' zone, but it would be acceptable in the MUR-35' zone. He thinks the code is written well enough as currently proposed.

Commissioner Moss-Thomas asked if existing homes in the MUR-45' zone could continue as a nonconforming use if the language is not amended as currently proposed. Ms. Redinger answered that single-family residential would be a permitted use in the MUR-45' zone, and the only nonconformance would be with regard to not meeting minimum density. Chair Craft emphasized that leaving the code as currently written would limit an existing homeowner's ability to remodel or expand the home. They are talking about a long development horizon, and they are encouraging development by going forward with a Subarea Plan that creates much denser zoning in specific areas. But he felt they should allow existing residents in the MUR-45' zone the same opportunities as those in the MUR-35' with regard to the R-6 standards if they choose to stay in their homes. Arbitrarily setting standards in the MUR-45' zone relative to expansion and/or remodel is unfair. He said he does not see that the proposed amendment would create any road blocks to the kind of density they are looking for. The market has not suggested that would happen, either. The amendment would allow the City to accomplish its goal of allowing the neighborhood to evolve over time. It would also create a balance between adding density overall and allowing existing family homeowners to have the same opportunities as their neighbors in the MUR-35' zone.

Again, Commissioner Moss-Thomas voiced support for a lot-coverage standard in MUR-45' that would allow existing single-family homes to expand vertically, without making the footprint more than 1,000 square feet larger. Chair Craft pointed out that the existing R-6 standards would apply to existing single-family homes in the MUR-45 zone, which includes a 50% lot coverage limitation. Ms. Redinger clarified that the nonconforming provision that applies to the MUR-45' zone limits additions to 50% or

1,000 square feet. Existing homes in the MUR-35' would be subject to the R-6 standard relative to lot coverage, which means that expansion could go up or out, as long as it does not exceed the lot coverage allowed. The sub-motion would simply apply the R-6 standards to existing homes in the MUR-35' and MUR-45' zone.

Commissioner Malek asked Commissioner Maul how realistic it is, from an architectural standpoint, to expand the existing housing stock up to four stories. Commissioner Maul said it would be unusual and contrary to everyone's fear about mega houses. He questioned why the City would want to encourage 4-story, single-family development under the R-6 standard. They do not allow this type of development anywhere else in the City. The point is to allow current owners in areas that are being rezoned to MUR-45' to continue and feel free to add on up to R-6 standards as they want, and that seems perfectly reasonable to him. He said he does not see the need to consider the concept of 4-story single-family houses.

Vice Chair Montero commented that the current sub-motion is specific to existing single-family homes in the MUR-45' zone and very different from the original motion that applied to new construction, as well.

THE AMENDMENT TO THE SUB-MOTION PASSED BY A VOTE OF 4-3, WITH CHAIR CRAFT AND COMMISSIONERS MALEK, MONTERO AND CHANG VOTING IN FAVOR AND COMMISSIONERS MOSS-THOMAS, MAUL AND MORK VOTING IN OPPOSITION.

THE SUB-MOTION, AS AMENDED, FAILED BY A VOTE OF 3-4, WITH CHAIR CRAFT AND COMMISSIONERS MAUL AND CHANG VOTING IN FAVOR AND VICE CHAIR MONTERO AND COMMISSIONERS MOSS-THOMAS, MALEK AND MORK VOTING IN OPPOSITION.

- **Amendments 4 through 7 – Table 20.50.020(2) Dimensional Standards for MUR Zones**

Commissioner Mork referred to Amendment 4, which adds a minimum density requirement to the MUR-35' zone. She said she supports the application of R-6 standards for single-family residential development, and she also supports the MUR-35' standards that allow multiple houses to be constructed on a single lot. However, she is concerned that the MUR-35' standards would allow two mega homes to be constructed on a single lot. This model of two very large homes that collectively cover 85% of the lot is the worst of all worlds. It does not appreciably increase density, and it takes away the appearance of an R-6 development with maximum hardscape of 50%. For that reason, she believes they need to have some amount of minimum density. She asked staff to explain why they are proposing a minimum density of 12 units per acre. Mr. Szafran recalled that, in the early phases of subarea planning, the MUR-35' zone related closely with the R-18 type zoning designation, which had a minimum density of 12. Commissioner Mork said she supports the minimum density requirement as outlined in Amendment 4.

COMMISSIONER MOSS-THOMAS MOVED TO AMEND THE MAIN MOTION TO CHANGE TABLE 20.50.020(2) TO SAY, "UP TO xx FT" INSTEAD OF "MAXIMUM." COMMISSIONER MAUL SECONDED THE MOTION.

Commissioner Moss-Thomas suggested that the table would be clearer if it did not talk about both maximum and minimum in a single statement. The intent is to allow the Public Works Department to review proposals for development on NE 145th Street and other arterials and identify the amount of setback needed for future infrastructure improvements. Although zero lot line development is allowed under some scenarios, the City does not want development to encroach into rights-of-way that may be needed for future expansion of the roadway. Mr. Szafran noted that this was clarified in Footnote 14, but changing the phrase used in the table would make it even clearer. Ms. Redinger expressed her belief that using the words “up to XX ft.” would mean the same as “maximum,” and the amendment would not materially change the intent.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR CRAFT MOVED TO AMEND THE MAIN MOTION TO CHANGE THE BASE DENSITY DWELLING UNITS PER ACRE STANDARD FOR THE MUR-70’ ZONE IN TABLE 20.50.020(2) FROM 48 TO 80 UNITS AND STRIKE THE 20,000 SQUARE FOOT MINIMUM LOT AREA. COMMISSIONER MAUL SECONDED THE MOTION.

Chair Craft said the Commission previously identified 20,000 square feet as a standard minimum under which you can develop in the MUR-70’ zone. However, after further discussion with staff and doing his own research, he does not believe that arbitrarily linking density to square footage would be the best approach. Establishing a standard of 80 units per acre would allow for greater flexibility in terms of lot usage and lot coverage, as well as opportunities for more creativity and flexibility within the MUR-70’ zone.

THE MOTION CARRIED UNANIMOUSLY.

- **Amendment 8 – SMC 20.50.020 Dimensional Requirements**

Commissioner Moss-Thomas summarized that Amendment 8 would add a provision that minimum density calculations in the MUR zones that result in a fraction shall be rounded up to the next whole number.

COMMISSIONER MOSS-THOMAS MOVED TO AMEND THE MAIN MOTION SO THAT WHEN CALCULATING MIMIMUM DENSITY TO ROUND UP WHEN IT IS FIVE OR MORE AND DOWN WHEN IT IS UNDER FIVE. COMMISSIONER CHANG SECONDED THE MOTION.

Mr. Szafran referred to the illustration provided earlier and noted that if density is rounded down, it could result in two mega houses rather than three regular size homes.

COMMISSIONER MOSS-THOMAS WITHDREW HER MOTION.

- **Amendment 9 – SMC 20.50.120 Purpose**

There were no concerns or questions raised by the Commission relative to Amendment 9.

- **Amendment 10 – SMC Thresholds for Required Site Improvements**

No concerns or questions were raised relative to Amendment 10.

- **Amendment 11 – SMC 20.50.220 Purpose**

No concerns or questions were raised relative to Amendment 11.

- **Amendment 12 – SMC 20.50.230 Threshold for Required Site Improvements**

No concerns or questions were raised relative to Amendment 12.

- **Amendment 13 – SMC 20.50.230 Threshold for Required Site Improvements**

No concerns or questions were raised relative to Amendment 13.

- **Amendment 14 – SMC 20.50.240 Site Design**

Commissioner Moss-Thomas referred to SMC 20.50.240(C)(1)(i), which requires new development on 185th Street, NE 145th Street and 5th Avenue NE between NE 145th Street and NE 148th Street to provide all vehicular access from a side street or alley. Given the proposed relocation of the station, she questioned if it would be appropriate to extend the requirement beyond NE 148th Street. Ms. Redinger said the restriction on access is tied to the interchange on-ramp and not the station, itself. Mr. Szafran felt the provision is fine as written. Ms. Redinger agreed to review this provision further and provide the most accurate information to the City Council before final adoption.

- **Amendment 15 – SMC 20.70.320 Frontage Improvements**

No concerns or questions were raised relative to Amendment 15.

THE MAIN MOTION TO RECOMMEND ORDINANCE 756 TO THE CITY COUNCIL FOR APPROVAL WAS UNANIMOUSLY APPROVED AS AMENDED.

Ordinance 752 – Planned Action Ordinance (PAO)

COMMISSIONER MAUL MOVED TO RECOMMEND TO THE CITY COUNCIL THAT ORDINANCE 752, AN ORDINANCE DESIGNATING A PLANNED ACTION (PAO) FOR THE 145TH STREET STATION SUBAREA, BE ADOPTED AS PROPOSED BY THE PLANNING STAFF IN ATTACHMENT C TO THE AUGUST 18, 2016 STAFF REPORT, EXCEPT THAT EXHIBIT B OF THE ATTACHMENT SHOULD BE AMENDED TO REFLECT THE AMENDMENTS THE PLANNING COMMISSION JUST RECOMMENDED WITH ORDINANCE 756. COMMISSIONER MALEK SECONDED THE MOTION.

COMMISSIONER MOSS-THOMAS MOVED TO AMEND THE MAIN MOTION TO EXTEND THE PAO BOUNDARY ON THE EASTERN SEGMENT TO RUN NORTH FROM NE 145TH STREET ALONG 12TH AVENUE NE SO THAT EVERYTHING EAST OF 12TH AVENUE NE WOULD BE ADDED TO THE PAO. CHAIR CRAFT SECONDED THE MOTION.

Commissioner Moss-Thomas said she has spent some time walking through the area, and it does not make sense to split the PAO boundary midblock between 12th and 15th Avenues NE. Although the properties zoned MUR-35' would have to adhere to a 35-foot height limit, it would make sense to include them as part of the PAO. As she stated previously, she believes there will be more short-term action from 15th Avenue NE going west towards 12 Avenue NE until after the station opens. She noted there are no critical areas to consider. Ms. Redinger clarified that the amendment would not impact the phased zoning. It would only affect what is included under the PAO and what projects would come in as a Planned Action in that area.

Commissioner Chang questioned if the proposed amendment would make a difference given that development in the MUR-35' zone is not likely to hit State Environmental Policy Act (SEPA) thresholds. Development in the MUR-45' could reach beyond the thresholds, depending on the size of the lot and the density proposed. Chair Craft said he was prepared to recommend a reduction in the PAO boundary to include only the MUR-45' and MUR-70' zones.

Commissioner Maul referred to Section 3.C.1, which outlines the types of land uses that qualify as Planned Action Projects. He specifically noted that item a.ii states that qualified land uses are those that are within one or more of the land use categories studied in the Environmental Impact Statement (EIS). That means the PAO would only apply to development that is more than a single-family detached house. He questioned what impact including these additional properties within the PAO boundaries would have. The MUR-35' will not accommodate a lot of multi-family and commercial development, and including it as part of the PAO will result in a lot more mitigation measures that might not be justified.

Commissioner Chang said her understanding is that properties within the PAO Boundaries would not require the additional mitigation unless the proposed development meets the SEPA threshold. Ms. Redinger explained that mitigations would be required when any project comes in, including traffic modeling and traffic improvements. For example, when a development requires an additional 1/3 of a traffic light, the City has a formula that allows the City's Traffic Engineer to assess the cost and charge the developer. Staff is confident that the mitigations, as a whole, are covered under the City's permit application process. Regardless of whether a project is within the PAO Boundary or not, the City will track the unit count, trip count, and mitigations over time so they know how the full buildout is tracking against the PAO. She said she does not anticipate that the mitigation would be significantly different whether a project falls under the PAO or not or whether it trips the SEPA threshold or not. The same is true for utilities, etc.

Commissioner Moss-Thomas clarified that, even if the properties are included as part of the PAO, a developer could decide whether or not to use the PAO standards. Ms. Redinger agreed, but if they don't they would have to do their own SEPA review if the project exceeds the threshold. It wouldn't make sense for them to do their own SEPA analysis when they can just fill out the checklist and the City will issue a determination of consistency. Commissioner Moss-Thomas asked what the limits are to trip

SEPA. Mr. Szafran said it is 30 detached single-family homes, 60 multifamily units, or 30,000 square feet of commercial space. Although it is possible, Commissioner Maul noted that a developer would have to consolidate a large number of lots in the MUR-35' zone in order to trip the SEPA threshold. Requiring this additional mitigation could result in a financial hardship for developers who want to maximize the density of the zone. Ms. Redinger emphasized that mitigation would be required for each project, regardless of whether it trips the SEPA threshold or not.

Commissioner Moss-Thomas expressed her belief that there is potential for larger developments within the MUR-35' zone, particularly between 12th and 15th Avenues NE where there are a number of single-family residential homes that are ripe for redevelopment. She does not see how the change would hurt anyone, but it may encourage development. In addition, it would eliminate the situation where the boundary splits in the middle of a block.

Commissioner Maul raised the question of whether including the properties in the PAO would be a benefit and encourage development or a distraction that slows development down. Given the minimum density of 12 units per acre in the MUR-35' zone, 35 acres would be required to develop the 60 multifamily units that would trip the SEPA threshold. He questioned the likelihood of such a large aggregation of property. He also questioned whether it would be a benefit for developers of projects that are below the SEPA threshold to opt into the PAO. The only real benefit he sees is that it would streamline the SEPA review, but it would more than likely require more mitigation.

Ms. Redinger cautioned the Commission to be careful about tinkering with the boundaries of the PAO because the current boundaries are tied to specific mitigation measures that were identified in the FEIS for Phase 1. Changing the boundaries of the PAO will require that the mitigation measures also be updated to be consistent. Another option would be to change the boundary to match the entire subarea and rely on the sunset clause. She emphasized that the PAO is not an unlimited path to growth.

Commissioner Moss-Thomas said she is not firmly wedded to the boundary change. Her intent is to find ways to encourage development in the subarea. She can support the boundaries as they currently exist, as well.

Chair Craft summarized that some of the boundary changes would impact the mitigation required in the supplemental documents, and the mitigations would have to be reanalyzed. Ms. Redinger explained that if properties not included in the PAO are later aggregated, they would be required to do their own SEPA, but they could use information from the PAO. Chair Craft noted that mitigation requirements for either option would be very similar. Ms. Redinger said the differences are more about the process than about mitigations.

CHAIR CRAFT MOVED TO AMEND THE SUBMOTION TO CHANGE THE PAO BOUNDARIES TO EXCLUDE THE MUR-35' ZONES AND INCLUDE ALL THE MUR-45' AND MUR-70' ZONES. COMMISSIONER MAUL SECONDED THE MOTION.

Chair Craft expressed his belief that including all of the MUR-45' and MUR-70' zones as part of the PAO would be an effective use of the PAO. However, tipping the SEPA threshold in the MUR-35' zone would be challenging, and he is not sure the PAO process would be appropriate.

Commissioner Malek asked if SEPA would be required if a developer accumulated five acres and chooses to do a phased development. Assistant City Attorney Ainsworth-Taylor answered that SEPA does not allow developers to hide under phasing. If the projects are dependently linked amongst each other that will be captured under the SEPA statute.

THE MOTION TO AMEND THE SUBMOTION, WHICH WOULD CHANGE THE PAO BOUNDARIES TO EXCLUDE ALL OF THE MUR-35' ZONES AND INCLUDE ALL OF THE MUR-45' AND MUR-75' ZONES, WAS UNANIMOUSLY APPROVED.

COMMISSIONER MOSS-THOMAS' SUBMOTION, AS AMENDED, WAS UNANIMOUSLY APPROVED.

Commissioner Mork requested an explanation of how the public would be notified of a Determination of Consistency. Assistant City Attorney Ainsworth-Taylor referred to Section 3 of the PAO, which outlines the permit process. The public notice afforded in the statute rides with the underlying project application, so Notice of Determination would get the same notice that the underlying project application gets. Under the statutes of SEPA, no other notice would be required other than that required by the application. Commissioner Mork asked if projects within the PAO that are large enough to trigger SEPA would have a public notice requirement. Assistant City Attorney Ainsworth-Taylor clarified that if a developer is seeking a Determination of Consistency under the PAO, there would be no requirement unless the development application for the project requires some kind of outward public notice. Commissioner Mork voiced concern about the process and felt the public should be notified of large projects in their area.

Director Markle advised that if the Commission wants to require notice for Planned Actions, the Development Code would need to be amended to add the requirement. Assistant City Attorney Ainsworth-Taylor further clarified that a building permit application, in and of itself, regardless of the size of the project, would not, by law, require direct public notice. However, projects that go through regular SEPA rather than taking advantage of the PAO would be subject to the threshold determination for SEPA, which has a notice provision. As per the PAO, the notice requirement would be tied to the underlying project permit. In order to incorporate Commissioner Mork's recommendation, the Commission would need to modify Section 3.F.4.d of the PAO, as well as the notice tables in Title 20. Chair Craft summarized that, as currently written, if there is no notice requirement for the underlying development permit, there would be no notice requirement for the project.

Vice Chair Montero voiced concern that placing a sign on a property to advertise a proposed project would give the assumption that the City is asking for comments and that public comments can impact the outcome of a project. Chair Moss-Thomas commented that placing a notice on the property could advise the public to stay tuned for an upcoming building permit, at which point they could appeal either the building permit or the Planned Action Status. As currently written, there would be no notice when a Determination of Consistency is issued. Commissioner Mork said her intent is that the notice requirement would apply to just the properties within PAO boundaries of both the 185th and 145th Street Station Subareas. She said she is particularly concerned about circumstances when the public would

have no reasonable ability to know of a Planned Action Project other than at the time of the Notice of Consistency or Inconsistency.

Assistant City Attorney Ainsworth-Taylor reminded the Commission that if they amend Ordinance 752 to include a notice requirement for Planned Action projects, it would leave the PAO for the 185th Street Station Subarea at a different standard. Future action would be needed to reconcile the two by amending the 185th Street PAO.

To clarify further, Assistant City Attorney Ainsworth-Taylor explained that once a Determination of Consistency has been issued by the City, citizens can appeal a determination if they feel it does not meet the qualifications of a Planned Action project. The burden of proof would be upon the appellant to show evidence that the City erred in finding that the proposed project met the qualifications of the PAO and that the impacts are addressed sufficiently within the ordinance and the attached FEIS.

Commissioner Moss-Thomas pointed out that the notification would come after the PAO determination has been issued. Ms. Redinger explained that projects that came in under the PAO are issued a Determination of Consistency or Determination of Inconsistency, and projects that come in under the SEPA process are issued a Determination of Significance, Determination of Non-significance or a Mitigated Determination of Non-significance. The timeline for each process would be the same.

The Commission discussed the best time for the public notice to occur. Commissioner Mork said she supports the notification coming after a determination has been issued relative to the PAO. This would let people know that a decision has been made. Vice Chair Montero pointed out that most large apartment projects will place a large billboard at the front of the property to advertise that the new development is coming, but Commissioner Chang voiced concern that the billboard might not be in place until after the appeal period has expired. Assistant City Attorney Ainsworth-Taylor advised that the window for appealing a Determination of Consistency to Superior Court is 21 days after the determination has been issued.

Vice Chair Montero asked if an appeal of a Determination of Consistency would stop the project. Assistant City Attorney Ainsworth-Taylor answered that the Land Use Petition Act (LUPA) does not stay the effectiveness of a permit during the appeal unless it is specifically asked for by the appellant. If the Commission incorporates a notice requirement into the PAO, Assistant City Attorney Ainsworth Taylor requested additional direction as to what the public notice should be. She explained that the City uses a variety of mechanisms for notice (posting on the website, posting on the site, mailing to individuals, publications, etc.) Commissioner Mork said she would like the notification to be posted on the City's website and on the project site.

COMMISSIONER MORK MOVED TO AMEND THE MAIN MOTION TO ADD ADDITIONAL LANGUAGE TO SECTION 3.F.4.d OF THE PAO TO REQUIRE MINIMAL PUBLIC NOTICE ON THE DECISION OF CONSISTENCY OR NOT CONSISTENCY ON THE CITY'S WEBSITE AND ON THE PROJECT SITE. COMMISSIONER CHANG SECONDED THE MOTION.

Commissioner Malek explained that the initial PAO is designed as a streamlined process. Decisions of Consistency will be issued for projects that meet certain criteria and/or qualifications and citizens can challenge the decision within a 21-day appeal period. Assistant City Attorney Ainsworth-Taylor also pointed out that citizens can file appeals on other project applications that are subject to challenge. Commissioner Malek said he does not support the motion to require notification.

Commissioner Moss-Thomas said she understands the intent of wanting to have transparency, but she is not sure what the notice requirement would accomplish if a citizen's only recourse would be to file suit based on the belief that the Determination of Consistency was improperly issued. Commissioner Mork argued that while neighbors may not want to challenge a decision in court, they will likely be interested in knowing that a decision was made. This will allow them to make decisions on their own life and investments based on the notice.

Once again, Commissioner Malek noted that the idea behind the PAO is to streamline the process. While he recognizes the need for transparency, it is important to note that these areas have already been relegated to high density (MUR-45' and MUR-70') via the Subarea Plan. Adding a notice requirement would be cumbersome, burdensome and counterintuitive to what the PAO is designed to do.

THE SUBMOTION FAILED BY A VOTE OF 3-4, WITH CHAIR CRAFT, AND COMMISSIONERS MORK AND CHANG VOTING IN FAVOR, AND VICE CHAIR MONTERO AND COMMISSIONERS MOSS-THOMAS, MAUL AND MALEK VOTING IN OPPOSITION.

THE MAIN MOTION TO ADOPT ORDINANCE 752, AS AMENDED, WAS APPROVED BY A VOTE OF 6-1, WITH CHAIR CRAFT, VICE CHAIR MONTERO, AND COMMISSIONERS MAUL, MOSS-THOMAS, MALEK AND MORK VOTING IN FAVOR AND COMMISSIONER CHANG VOTING IN OPPOSITION.

Assistant City Attorney Ainsworth-Taylor recalled that, at the beginning of the meeting, Chair Craft mentioned that the Commission would continue to accept written public comment. She explained that the Commission's work on the 145th Street Station Subarea Plan Package is now complete, and any future public comments will be directed to the City Council.

Chair Craft closed the public hearing and thanked the staff, public and Commissioners for their hard work on the Subarea Plan package.

ADJOURNMENT

The meeting was adjourned at 9:17 p.m.

Easton Craft
Chair, Planning Commission

Lisa Basher
Clerk, Planning Commission