

DRAFT

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

December 1, 2016
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

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

APPROVAL OF AGENDA

The agenda was accepted as presented.

APPROVAL OF MINUTES

The minutes of November 17, 2016 were adopted as corrected.

GENERAL PUBLIC COMMENT

There were no general public comments.

PUBLIC HEARING: DEEP GREEN INCENTIVES PROGRAM

Chair Craft reviewed the rules and procedures and then opened the public hearing.

Staff Presentation

Ms. Redinger reviewed that on September 14, 2015, adoption of a Living Building Challenge Ordinance and Petal Recognition Program was selected by the City Council as a priority sustainability implementation strategy for 2016-2019. On February 8, 2016 the Commission received a presentation from the International Living Future Institute (ILFI) regarding certification programs, and they also discussed potential components of an ordinance. On October 20, 2016 the Commission discussed draft Ordinance 760 and implementing regulations.

Ms. Redinger reminded the Commission that the Deep Green Incentive Program is intended to only be applied to the highest level of green building certification that is currently available from various agencies (ILFI, U.S. Green Building Council, and Built Green). The incentive package has two primary categories: Fee waiver or reduction of various imposed fees and exemptions or departures from certain development standards. The packages have been broken into three tiers, the highest tier being reserved solely for the Living Building Challenge. Tier 2 is the Petal Recognition Program or Built Green Emerald Star Program, and Tier 3 is the Leadership in Energy and Environmental Design (LEED) Platinum or Net Zero Energy Building (NZEB).

Ms. Redinger advised that, since the October 20th meeting, staff has had additional conversations with the Public Works Department that resulted in three revisions to the regulations:

- The available maximum parking reduction was reduced from 100%/75%/50% for tiers to 75%/55%/40%.
- The stormwater fee waiver was removed and will be considered through the update of the Surface Water Master Plan, which is currently underway.
- The language regarding the Transportation Impact Fee Waiver was revised. It will now be based on a project-level Transportation Impact Analysis rather than on tiers. A Transportation Impact Analysis will provide more details about what mitigation strategies a particular project will do. This is a better way to determine the nexus between the impacts of a particular project as opposed to blanket tiers.

Ms. Redinger concluded her presentation by advising that a City Council study session has been scheduled for February 6, 2017, and anticipated adoption of Ordinance 760 is scheduled for March 6, 2017.

Commissioner Chang noted that only two buildings have been constructed in Seattle under the Deep Green Program: The Bullitt Center and Stone 34. In addition to larger developments, it appears that the proposed ordinance is intended to apply to all types of buildings, including single-family residential homes. Ms. Redinger responded that the City of Seattle's program is limited to a certain number of projects. Early in the process, the Commission had a discussion about where and to what types of development the ordinance would apply. It was decided that, rather than limiting the program to certain

areas and/or certain types of development, the program would apply citywide to all development, including single-family residential homes.

Commissioner Chang referred to Item E in Subchapter 9, which talks about departures from the Development Code requirements. She noted that Tier 1 allows up to double the allowed density for projects that meet the full challenge criteria. She questioned how this departure would be applied in a single-family zone. Ms. Redinger said a good example would be cottage housing, which could be limited to the same height but allow 12 units per acre rather than 6. She emphasized that a pre-application meeting and neighborhood meeting would be required for development in single-family zones. Commissioner Chang asked which development standards would stay in place, with no departures allowed. Ms. Redinger said all development standards would apply, unless an applicant can prove, during a pre-application meeting, that a certain departure is needed in order to meet the requirements of the certification program. There are a number of variables that make the code application different for each site. She explained that the standards are independent of each other. The City expects a design team to think about how they need to meet the energy and water budgets of their program. Then they must approach the City with a request for departure from lot coverage, height, density, etc. The intent is that a developer will design the project to meet the certification requirements, and then the City will negotiate about which departures will be allowed.

Ms. Redinger advised that, at this time, no limit is proposed on the number of code departures that will be allowed. The Commission could consider a limit, but the point is to provide enough flexibility to allow applicants to design living buildings. An example of a density departure on a 7,200-square foot lot would be to allow two houses rather than just one.

Chair Craft asked staff to review how the density bonus would be applied to Tier 2 and Tier 3 development in a single-family zone. Ms. Redinger said a 75% density bonus would be allowed in Tier 2. It would equate to 1.75 houses per lot, which would be rounded up to 2.

Commissioner Malek referred to a development on Dayton Street that included a number of green elements. The site is developed with a number of smaller houses that are close together with common driveways. He asked how the proposed ordinance would have impacted the project. Mr. Szafran said the development is four separate homes, and each home has a detached garage with an accessory dwelling unit (ADU). The project is consistent with the requirements of R-6 zoning, and no code departures were applied. The proposed ordinance would increase the potential density of the site to a maximum of 8. Commissioner Malek pointed out that development is also limited based on parking requirements, building code requirements and other restrictions.

Commissioner Mork summarized that the point of code departures is to allow enough flexibility to get environmental controls in place. Ms. Redinger pointed out that the two biggest sources of carbon emissions in Seattle City Light territory are buildings and transportation. The City has been working to address transportation issues by placing more density near transit nodes. However, if these areas are not redeveloped with buildings that are energy efficient, the City will be missing a huge opportunity to get at the carbon reduction targets the City Council adopted as part of the Climate Action Plan in 2013. The goal is to put in place a viable and meaningful incentive program to get people to build to the highest environmental standards.

Commissioner Chang reviewed that Seattle's program does not apply to single-family development. The two projects that have been constructed met the requirements as part of their mission, but the projects did not really pencil out. On the other hand, she felt that there is more opportunity for green building to pencil out in single-family development. She questioned if the City is okay with the potential of having dense residential development in areas that are expected to be single-family.

Vice Chair Montero reminded the Commission that a neighborhood meeting would be required for any code departures associated with the program. Chair Craft agreed, but said there would be no obligation for the City or the developer to address concerns that are raised at the meeting.

Commissioner Mork commented that if there is a significant number of single-family zones developed based upon the Green Incentives Program, the ordinance could be reevaluated and amended as appropriate. Chair Craft agreed, but cautioned that unnecessary damage could unknowingly be done in the intervening period. He said he imagines the types of incentives outlined in the ordinance would be easier to obtain with single-family development than with commercial development. The program will likely be far greater utilized in a short amount of time by single-family home builders.

Commissioner Malek said he cannot speak to the dichotomy of residential versus commercial, but he believes there is a need and desire for both. He commented that there are more people than you would think that are interested in doing green building at a commercial level, and cost is the single biggest threshold. The cost of building green is significant, and the green features are not apparent to potential buyers to clearly understand what they are paying for. The proposed ordinance allows, and even encourages in a positive way, a very necessary incentive to break the threshold. If a green builder is competing against a conventional builder to develop the same piece of property, allowing two homes instead of one would create an instant advantage for green development. This advantage is needed because the cost of constructing a green building is profoundly more and takes more skill, too.

Chair Craft summarized that Commissioner Chang's point is that the ordinance, as proposed, would allow the advent of multiple homes on a single lot. This could increase the level of density and the public would be powerless to have any say in how the development turns out.

Vice Chair Montero pointed out that allowing a green developer to construct two rather than one home on a lot could create a significant advantage. Chair Craft commented that the cost of doing green development likely competes with the cost of doing high-end luxury development. With land values so high, it makes more sense to want to do green development and mitigate the everyday operating costs and do something good for the environment, as well. Commissioner Thomas added that someone may be willing to pay more upfront, knowing that the long-term operating costs are going to be less and they are doing something for the environment. They may not be interested in having a large lot, either.

Chair Craft requested information about how the parking reduction would apply in single-family zones. Ms. Redinger said the Traffic Impact Analysis would allow the City to determine the parking needs on a project-by-project basis based on proximity to transit, walkability, etc. She reminded the Commission that the City has administrative design review rather than a design review board. When an applicant asks for a departure, it is intended to be an iterative, negotiated process based on very site-specific

project information. She emphasized that a parking reduction is not guaranteed. Chair Craft summarized that people are sensitive to street parking in some areas of the City. If the City institutes a program that eliminates a good portion of the off-street parking for certain types of development, it is likely the provision would be used more in the single-family zones than the commercial zones at this point.

Ms. Redinger recalled that Commissioner Thomas raised a concern about the 100% parking reduction. She clarified with certification organizations that the City was not going to have a minimum parking standard that would preclude certification of a project under their program, but most of the certification organizations focus more on design. Every system and material that is used is carefully designed.

Commissioner Malek pointed out that commercial structures are the bigger carbon emitters, and that is where the City's emphasis should be. The design costs of green development are not inconsequential. He referred to a television show called "Renovation Nation," which talks about all the different technologies available for green building for both commercial and residential development.

Commissioner Thomas referred to the structure height bonus, which allows a bonus of 10 additional feet in zones with a height limit of 35 feet. A height bonus up to 20 feet would be allowed in zones with a height limit greater than 45. Ms. Redinger commented that the language should say 45 or greater, so that the MUR-45' zone is included.

Commissioner Thomas referred to the provision that waives permit and pre-application fees and asked if the waivers would apply to all tiers. Ms. Redinger said the City imposed fees, including pre-application and permit fees, would be waived at a percentage based on the tier.

Commissioner Thomas asked if the number of required parking spaces increases based on the number of bedrooms. Ms. Redinger answered that bedrooms are counted for multi-family zones, but not for single-family zones.

Commissioner Mork asked staff to describe what happens if an applicant fails to meet the requirements of deep green development. Ms. Redinger said the City requires reports to make sure applicants are on track to get certification throughout the process. The City will impose a fine if an applicant misses filing a report, particularly towards the end of a project. This is similar to how the City currently handles non-compliance. If an applicant fails to meet certification, he/she would be required to pay back all of the City-imposed fees and a building valuation up to 5% of the building. She noted that Seattle started with a 10% building valuation fine as a penalty, but they found it dissuaded people who are on the fence about whether to do green building or not. In their current version, the penalty was lowered to 5%. Commissioner Chang noted that developers in Seattle were required to set aside 10% in a separate account in order to obtain financing. That was another reason why Seattle lowered the fine.

Commissioner Chang voiced concern that a 5% penalty would be a significantly smaller number for single-family development. It may be that the homeowner, and not the builder, would end up paying the fine. She questioned if it would be appropriate to require a developer to set money aside in account if necessary. Chair Craft voiced concern that some of the fail-safes that would work for commercial development might not be significant enough for single-family development. Ms. Redinger explained

that certification requires a year of full-occupancy to ensure that performance standards are met. If a building has been constructed to standard, the onus is on the occupants to take the necessary behavioral steps to meet the performance standards. However, she agreed that an owner could end up being penalized for a builder who fails to meet the standard, and that is why regular reports are required from the certification agencies.

Commissioner Mork asked if there would be safeguards in place to prevent a builder from using the deep green provisions to construct two homes on a single lot, without ever intending to meet the certification requirements. Ms. Redinger agreed that is possible, but it would be much more difficult for the developer to obtain future permits if that were to occur.

Vice Chair Montero asked if the County offers any incentives, such as property tax relief, for deep green development. Ms. Redinger answered there are none at this time. There are no sales tax exemptions in place, either.

Chair Craft asked if it would be possible to limit the ordinance's application in single-family zones to Tier 1 only. He noted that LEED platinum is a lot less expensive than it was previously. Ms. Redinger agreed that the regulations could be amended to reflect that approach. Chair Craft explained that limiting single-family development to Tier 1 would require a developer to have a significant commitment to understanding the deep green program and be willing to meet with staff.

Ms. Redinger commented that Tier 2 would likely work better in a single-family neighborhood. She explained that the ordinance is intended to encourage people to build to the highest level available. Some of the certification programs cater more towards single-family development, and others towards multi-family development. It goes back to the question of priorities. If the City's effort is focused solely on greenhouse gas emissions, Net Zero Energy options should be prioritized. The proposed ordinance represents a comprehensive program. She agreed that the tiered structure is complicated because there are a number of variables. Chair Craft recalled that Commissioners have pointed out several aspects of what may or may not happen in single-family zones. If the ultimate goal is to get developers to commit to meeting the Tier 1 level, he would be hesitant to give development in single-family zones carte blanche around the three tiers. A Tier 1 limitation would give people the knowledge that you have to go for the very top components of a deep green program.

Commissioner Thomas suggested that perhaps it would be appropriate to provide a notice on title that reconciliation is required. Ms. Redinger cautioned that City does not want to be in the certification business, and the certification programs do not recertify every five years. However, a notice would be recorded on the title.

Vice Chair Montero summarized that the purpose of the proposed amendment is to encourage green building. Given the stringent requirements and the design review process, he does not see a lot of room for violations. He anticipates that violations would be few, and there would be a substantial fine for those who do not comply. Again, Chair Craft voiced concern that the homeowners, and not the builders, would be responsible to pay any fines for noncompliance after a project has been completed. He questioned if a homeowner would even have knowledge of the situation. Vice Chair Montero felt that homeowners could be vested in the process of making sure the home is built to the required standard.

They would likely know that a home was being built to deep green standards based on the higher cost. Chair Craft said he does not want to presuppose that homeowners would be completely aware, when purchasing a property, of all of the components they would be responsible for a year later. Vice Chair Montero countered that it is obvious when a home has been built to green standards, and the green elements become the main selling features. Commissioner Malek said there would also be an additional layer of oversight via the lending and inspection processes. Lenders offer substantial benefits to those who are trying to purchase a green home, and certain criteria must be met in order to qualify.

Chair Craft voiced concern that there seem to be loopholes that prevent him from supporting the ordinance as written. There needs to be a higher level of consumer protection, or at least isolating the single-family zones for just Tier 1. Ms. Redinger commented that the initial buyer will be very vested in getting the performance correct or they will not get certification. If a homeowner wants to resell as a certified home, he/she needs to complete the certification process.

Commissioner Thomas suggested that property owners should be held to some type of accountability standard even if a structure fails to obtain certification. Chair Craft said his greatest concern is that the ordinance allows for maximization of lot coverage and profit taking. There are risks associated with allowing two homes on one lot. If a property owner fails to obtain certification, there is no remedy to require a property owner to remove one of the homes and restore the property to its original state.

Ms. Redinger asked if there is a density bonus number the Commission would feel more comfortable with. For example, the top tier could be 50% and the lower two tiers could be 25%. This would require a developer to have a fairly large lot in order to maximize the capacity. She recalled that staff is recommending that the parking reduction be scaled back, and perhaps the density bonus could be scaled back, as well. Chair Craft agreed that the numbers could be manipulated. However, he is concerned about treating single-family development the same as commercial development. The proposed ordinance would allow people to build two homes on one lot when they do not have any intention of actually complying, and then the homeowner gets stuck with a fine. The mitigations in place to avoid this risk are not as significant as he would like. Ms. Redinger said if the specific concern is density, then density could be removed as a potential incentive, or the density could be more limited for single-family zones. Chair Craft said his concern is not about allowing the bonus to take place. His concern is that there could be lapses in accountability to achieve the certification that was initially promised, and there would be no way to undo the fact that a single-family lot has been developed with double density. This could have a significant impact to the neighborhood.

Commissioner Mork said it appears that Chair Craft is suggesting that the City require bonding from the developer, and the bonding would stay with the property through final certification. Commissioner Malek said there are limits to how long escrow can hang onto money, so the best approach would likely be a bonding or insurance requirement. He explained that there are only a limited number of builders who can do deep green construction, and there is not a broad spectrum of buyers clamoring to purchase the homes. The spirit in which deep green construction is pursued is not the broader pool of buyers and sellers. He said he does not anticipate that the program would be used widespread throughout the City. He appreciates concerns about consumer protection, and perhaps they could limit the number of permits per year. Ms. Redinger agreed that would be possible, and another option would be to remove density bonus as an option that can be waived.

Chair Craft said he supports the proposed program, and he appreciates that the density bonus is necessary to encourage deep green construction because it costs significantly more. However, he is concerned about the density incentive being applied to single-family zones. Eliminating the density bonus would limit the effectiveness of the program, and he would be disinclined to support this approach. But he would like to ensure that safeguards are in place to avoid mistakes.

Vice Chair Montero suggested they place a time limit on the ordinance and then review it again after a certain period of time and adjust it as appropriate. Commissioner Thomas said it appears that a major concern is the unintended consequences of someone trying to find a loophole. Chair Craft commented that allowing one loophole could sink the entire program if a mistake occurs and people become upset.

Commissioner Malek suggested that perhaps there should be a minimum lot size associated with the density bonus provision. This would allow developers to design a reasonable project without visually compromising the surrounding property owners. He said there are not enough laborers to do a significant number of deep green projects, and there are not enough projects to keep laborers in the area. Ms. Redinger said part of the intent is to push the market, as a whole. There are not a lot of suppliers, and companies have had to reformulate certain products to be able to meet the requirements.

Ms. Redinger asked if Commissioner Malek is suggesting that a minimum lot size requirement would apply specifically to the density bonus. Commissioner Thomas suggested that the requirement be placed on each of the lots that are developed rather than the property as a whole. Commissioner Malek commented that 4,500 to 5,000 square feet would be a reasonable minimum lot size that would still keep within a visual similarity to surrounding properties. Vice Chair Montero pointed out that a minimum lot size requirement would discourage deep green building. Why would someone build two green homes on a 10,000-square-foot lot, when he/she could build a duplex for three-quarters the price. The math would not work for a builder. Chair Craft commented that the sale price would go up significantly for two homes versus a duplex.

Public Testimony

Dave Lange, Shoreline, commented that there is no single price range for development in single-family zones (R-4 and R-6). A developer can price a green home any way he/she wants, regardless of its location. The MUR-35' zone would allow multiple houses on a single lot, so perhaps the new concept should be restricted to places where it already belongs. Development in the MUR-35' zone can be priced as single units, and there is reasonably good real estate potential in these zones. This would eliminate the need to double up density where people are not expecting it to be. If there are not enough material and/or builders to construct deep green buildings, he questioned why they are proposing to allow it in zones where it does not really fit.

Continued Commission Discussion

Commissioner Chang said she recently had a conversation with Jess Harris, who is in charge of Seattle's Deep Green Incentives Program. She learned there is a requirement from Seattle Public Utilities that buildings and homes have to hook up to public water. Ms. Redinger said water connection waivers were

not included in the proposed incentive package because of lessons learned in discussions with King County and other jurisdictions. With Living Building or Net Zero or Net Positive water building, the goal is to not have to use the public utility connection. There are great technologies to capture and purify water, but a number of agencies can put up code barriers to these options.

Chair Craft summarized that questions have been raised about bonding and including a minimum lot size requirement for density reductions. He suggested that the public hearing be continued to allow staff to provide additional information and direction about how the provisions would be applied in single-family zones.

CHAIR CRAFT MOVED THAT THE PUBLIC HEARING BE CONTINUED TO JANUARY 5, 2017. COMMISSIONER CHANG SECONDED THE MOTION, WHICH CARRIED 4-2, WITH COMMISSIONERS CRAFT, CHANG, THOMAS AND MALEK VOTING IN FAVOR AND COMMISSIONERS MORK AND MONTERO VOTING IN OPPOSITION.

PUBLIC HEARING: 2016 DEVELOPMENT CODE AMENDMENTS

Chair Craft reviewed the rules and procedures and then opened the hearing.

Staff Presentation

Mr. Szafran recalled that the Commission has reviewed the proposed 2016 Development Code amendments twice before (September 15th and November 17th). There were originally three separate groups of amendments: transitional encampments, the 2016 batch and Deep Green Building Incentives. The amendments related to transitional encampments were placed on a separate track. He summarized that the 2016 batch includes 37 proposed Development Code amendments and 2 proposed Municipal Code amendments. He briefly reviewed the proposed Development Code amendments as follows:

- **Amendment 1 (SMC 20.20.016)** combines dwelling types.
- **Amendment 2 (SMC 20.20.026)** adds “Non-Vegetated Surface” to the Impervious Surface definition.
- **Amendment 3 (SMC 20.20.040)** adds “Private Stormwater Management Facility” to the “P” definitions.
- **Amendment 4 (SMC 20.20.046)** updates the Short Subdivision Definition and adds “Stormwater Manual.”
- **Amendment 5 (SMC 20.20.050)** adds a new definition for “Unit Lot Development.”
- **Amendment 6 (SMC 20.30.040)** deletes “Home Occupation” from the table land add “Planned Action Determination.”
- **Amendment 7 (SMC 20.30.160)** extends the vesting expirations for Special Use Permits.
- **Amendment 8 (SMC 20.30.280)** clarifies and moves MUR-45’ standards.
- **Amendment 9 (SMC 20.30.290)** changes “Director” to “Director of Public Works.”
- **Amendment 10 (SMC 20.30.330)** extends the vesting expiration for Special Use Permits.
- **Amendment 11 (SMC 20.30.357)** adds a new section for “Planned Action Determinations.”
- **Amendment 12 (SMC 20.30.380)** deletes “Lot Line Adjustments.”

- **Amendment 13 (SMC 20.30.410(D))** adds NPDES and Unit Lot Development requirements.
- **Amendment 14 (SMC 20.30.470)** updates the section to reflect that short plats are now 9 lots.
- **Amendment 15 (SMC 20.40.120)** combines dwelling types based on the revised definitions.
- **Amendment 16 (SMC 20.40.130)** removes “Fuel and Service Stations” as a permitted use in the TC-1, 2 and 3 zones.
- **Amendment 17 (SMC 20.40.130)** adds “Light Manufacturing” as a use in the Mixed-Business Zone.
- **Amendment 18 (SMC 20.40.160)** combines dwelling types.
- **Amendment 19 (SMC 20.40.230)** updates critical area reference.
- **Amendment 20 (SMC 20.40.240)** revises some rules for “Beekeeping.”
- **Amendment 21 (SMC 20.40.340)** deletes the reference to “Duplex.”
- **Amendment 22 (SMC 20.40.510)** amends the criteria for “Single-Family Attached Dwellings.”
- **Amendment 23 (SMC 20.40.600)** deletes Notice of Decision for wireless facilities.
- **Amendment 24 (SMC 20.50.020(1))** enacts a 5-foot minimum side-yard setback instead of the 5 minimum/combined 15 setback.
- **Amendment 25 (SMC 20.50.020(2))** deletes “up to” from the front setback requirements.
- **Amendment 26 (SMC 20.50.021)** adds the Community Renewal Area to the section.
- **Amendment 27 (SMC 20.50.040(I)(4), (5) and (6))** amends and clarifies setbacks for porches and decks.
- **Amendment 28 (SMC 20.50.070)** moves the 20-foot driveway requirement.
- **Amendment 29 (SMC 20.50.090)** restricts additions for structures that are nonconforming.
- **Amendment 30 (SMC 20.50.110)** deletes the requirement for 3.5-foot fences in the front yard.
- **Amendment 31 (SMC 20.50.240(C)(1)(a))** strikes “on private property.”
- **Amendment 32 (SMC 20.50.330)** adds NPDES language.
- **Amendment 33 (SMC 20.50.390(D))** adds parking requirements for Self-Storage Facilities.
- **Amendment 34 (SMC 20.50.540(G))** adds a reference to the Community Renewal Area.
- **Amendment 35 (SMC 20.70.020)** corrects a reference to the Engineering Development Manual and deletes text.
- **Amendment 36 (SMC 20.70.430)** deletes the section and refers to Shoreline Municipal Code (SMC) Title 13.
- **Amendment 37 (SMC 20.100.020)** adds a reference to Ordinance 705, which is the adopting ordinance for the Community Renewal Area.

Mr. Szafran also reviewed the two proposed Municipal Code amendments as follows:

- **Amendment 1 (SMC 20.10)** would delete the entire Shoreline Management Plan Section which is redundant. A new Shoreline Management Plan was adopted in 2013.
- **Amendment 2 (SMC 20.20)** would delete the entire section, as it is represented in SMC Chapter 3.01.

Mr. Szafran concluded his presentation by stating that staff recommends approval of the proposed Development Code and Municipal Code amendments as presented.

Public Testimony

There were no public comments.

Continued Commission Deliberation and Action

VICE CHAIR MONTERO MOVED THAT THE COMMISSION FORWARD THE 2016 DEVELOPMENT CODE AND MUNICIPAL CODE AMENDMENTS TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL. COMMISSIONER MALEK SECONDED THE MOTION.

The Commissioners and staff reviewed each batch of proposed amendments as follows:

SMC 20.20 -- Definitions

- **Amendment 1 (SMC 20.20.016).** Mr. Szafran advised that Amendment 1 combines some of the definitions of dwelling types. There is a lot of duplicative language. For example, “Town Houses” has its own definition, and it is also included in the definition for “Single-Family Attached.”
- **Amendment 2 (SMC 20.20.026).** Mr. Szafran reviewed that the proposed amendment would add “Non-Vegetated Surface” to the “Impervious Surface” definition.
- **Amendment 3 (SMC 20.20.040).** Mr. Szafran said this amendment would simply add the word “infiltrate” under the definition of “Private Stormwater Management Facility.”
- **Amendment 4 (SMC 20.20.046).** Mr. Szafran said this amendment updates the Formal and Short Subdivision Definitions and adds “Stormwater Manual.”
- **Amendment 5 (SMC 20.20.050).** Mr. Szafran reviewed that the amendment would add a new definition for “Unit Lot Development.”

There were no Commissioner comments or questions related to the proposed amendments to SMC 20.20.

SMC 20.30 – Procedures and Administration

- **Amendment 6 (SMC 20.30.040).** Mr. Szafran said this amendment deletes “Home Occupation” from the Type A Permit Table and adds “Planned Action Determination.”
- **Amendment 7 (SMC 20.30.160).** Mr. Szafran advised that this amendment extends the vesting expirations for Special Use Permits that are granted to public agencies, such as Sound Transit, that may need longer vesting timelines.
- **Amendment 8 (SMC 20.30.280).** Mr. Szafran said this amendment would move the strike-through language in Item 4 to the next section. It also adds Items G and H (Change of Use provisions).
- **Amendment 9 (SMC 20.30.290).** Mr. Szafran said this amendment simply changes “Director” to “Director of Public Works.”
- **Amendment 10 (SMC 20.30.330).** Mr. Szafran said this amendment increases the vesting period for Special Use Permits.

- **Amendment 11 (SMC 20.30.357).** Mr. Szafran said this amendment adds a new section for “Planned Action Determinations” for projects within the City’s Planned Action Areas.
- **Amendment 12 (SMC 20.30.380).** Mr. Szafran said this amendment deletes “Lot Line Adjustments” from a subdivision category. Lot line adjustments are not subdivisions. The language was moved to SMC 20.30.400.
- **Amendment 13 (SMC 20.30.410(D)).** Mr. Szafran said this amendment adds low-impact development techniques as required by the NPDES Permit. The amendment also adds provisions and regulations for “Unit Lot Developments”.
- **Amendment 14 (SMC 20.30.470).** Mr. Szafran said this amendment updates the section to reflect that short plats are now 9 lots and not 4.

Commissioner Thomas referred to Amendment 13 and asked if the City’s Vegetation Management Program should be referenced in some way under the environmental criteria. Mr. Cohen pointed out that including the reference would be premature given that the City has not started the project yet.

Vice Chair Montero requested clarification of Section H in Amendment 8. Mr. Szafran said this provision applies to situations where one use is replaced by another that generates more parking. Vice Chair Montero summarized that, as proposed, a change of use would require re-evaluation of the parking requirement. If more parking spaces are required, the owner of the development would have to increase the number of spaces before the new use would be allowed. Mr. Cohen added that the language articulates the City’s current practice and makes it clear about what happens when uses change.

SMC 20.40 -- Uses

- **Amendment 15 (SMC 20.40.120).** Mr. Szafran advised that this amendment would delete “Duplex” from the table, since the definition for “Single-Family Attached” includes duplexes.
- **Amendment 16 (SMC 20.40.130).** Mr. Szafran reviewed that this amendment removes “Fuel and Service Stations” as a permitted use in the TC-1, 2 and 3 zones.
- **Amendment 17 (SMC 20.40.130).** Mr. Szafran reviewed that this amendment adds “Light Manufacturing” as a permitted use in the Mixed-Business Zone and strikes the “S” for Special Use Permit.
- **Amendment 18 (SMC 20.40.160).** Mr. Szafran said this amendment strikes “Duplex,” “Town House,” and “Row Homes” as separate uses. These uses are combined into the “Single-Family Attached” definition.
- **Amendment 19 (SMC 20.40.230).** Mr. Szafran advised that this amendment updates the critical area language that was outdated.
- **Amendment 20 (SMC 20.40.240).** Mr. Szafran said this amendment revises some rules for “Beekeeping.”
- **Amendment 21 (SMC 20.40.340).** Mr. Szafran said this amendment deletes the reference to “Duplex” from the Index Criteria.
- **Amendment 22 (SMC 20.40.510).** Mr. Szafran reviewed that this amendment updates the criteria for “Single-Family Attached Dwellings.”
- **Amendment 23 (SMC 20.40.600).** Mr. Szafran said this amendment deletes the Notice of Decision requirement for permits for wireless facilities.

Chair Craft asked if there is a reason why beehives should not be located within 25 feet of a lot line. Director Markle said she reviewed several codes, and 25 feet appeared to be standard. The initial call to action was to make it easier to keep bees. Based on the research, staff did not see a need to reduce the setback.

Commissioner Thomas referred to the definition for “Light Manufacturing” (Amendment 17) and asked what is meant by the phrase “custom manufacturing.” Mr. Cohen said the definition comes from the Glossary of Zoning, Development and Planning Terms. Staff interprets “custom manufacturing” to mean someone is making something by hand based on a custom order. Commissioner Thomas questioned why staff is recommending that custom manufacturing be prohibited in the Mixed-Business (MB) zone. Mr. Szafran answered that custom manufacturing uses would fall more within the definition of retail or even a home-based business. Commissioner Thomas suggested that the definition for “Light Manufacturing” be amended by eliminating the words “and customer manufacturing.”

Assistant City Attorney Ainsworth-Taylor clarified that Amendment 17 does not amend the definition for “Light Manufacturing.” The amendment simply changes the use table. Commissioner Thomas said her interpretation was that staff was proposing to add the definition. Mr. Szafran agreed with the Assistant City Attorney. The definition was provided as an example of what staff uses for the definition of “Light Manufacturing”. Mr. Cohen added that not all definitions of land uses have been codified, and staff is not recommending that the definition for “Light Manufacturing” be codified at this time and reiterated that it comes from the Glossary of Zoning, Development, and Planning Terms.

Commissioner Chang referred to Amendment 16 and asked if there are currently fueling and service stations located in the TC-1, TC-2 or TC-3 zones. Mr. Cohen noted that there are two. These stations will be allowed to remain as legal, non-conforming uses. If the sites are redeveloped, new ones could not be constructed in the Town Center zones.

Commissioner Chang requested clarification of Amendment 19. Mr. Cohen said staff felt the language in SMC 20.40.230(A) was contradictory and created confusion. The change would not diminish the Critical Areas Regulations in any way. Mr. Szafran explained that Item A states that areas encumbered by critical areas cannot be used when calculating density bonuses, but Item A.5 states just the opposite. The changes clarify that you cannot build in a critical area, but you can use the area of a lot that is encumbered by a critical area as part of the density bonus calculation.

SMC 20.50 – General Development Standards

- **Amendment 24 (SMC 20.50.020(1)).** Mr. Szafran reviewed that the amendment deletes the requirement of a 15-foot side setback in the R-6 zone and adds “Unit Lot Development” to Exception 2 of the table.
- **Amendment 25 (SMC 20.50.020(2)).** Mr. Szafran advised that this amendment would delete the words “up to” from the front setback requirements.
- **Amendment 26 (SMC 20.50.021).** Mr. Szafran said this amendment adds the transition requirements of the Community Renewal Area to this section.

- **Amendment 27 (SMC 20.50.040(I)(4), (5) and (6)).** Mr. Szafran said these amendments represent a cleanup of the “Uncovered Porches and Decks” section of the code. The intent is to make it easier to understand and administer. Mr. Cohen added that, currently, the language is contradictory and confusing for both staff and property owners. Without expanding the ability for people to build larger decks and/or porches, the amendments clean the language up so it is logical and equitable on all sides of the property.
- **Amendment 28 (SMC 20.50.070).** Mr. Szafran said the language would not be changed, but the amendment moves it to a new location.
- **Amendment 29 (SMC 20.50.090).** Mr. Szafran said this amendment is a companion to Amendment 24, and staff is proposing to delete the entire section.
- **Amendment 30 (SMC 20.50.110).** Mr. Szafran said this amendment deletes the recommendation for 3.5-foot fences in the front yard, because it is a recommendation and not a requirement.
- **Amendment 31 (SMC 20.50.240(C)(1)(a)).** Mr. Szafran said this language strikes the words “if on private property.” This phrase is redundant and confusing. Buildings and parking structures are only developed on private property.
- **Amendment 32 (SMC 20.50.330).** Mr. Szafran said this amendment updates the code based on the Department of Ecology’s review.
- **Amendment 33 (SMC 20.50.390(D)).** Mr. Szafran said this amendment matches the parking requirements for Self-Storage Facilities with the Institute of Transportation Engineers (ITE) Trip Generation Calculator for mini-warehouse uses, which do not generate as much parking as the City has been requiring.
- **Amendment 34 (SMC 20.50.540(G)).** Mr. Szafran reviewed that this amendment adds a reference in the Sign Code to the Community Renewal Area.

Chair Craft requested clarification of Amendment 24. Mr. Cohen explained that the City currently requires 15-foot setbacks for two side yards, combined with a minimum 5-foot setback in R-4 and R-6 zones. Setbacks are used to create separation between residences. However, since either neighbor on each side can experience a 5-foot setback, the combined setback would not benefit each neighbor. The indirect benefit of a greater side yard setback may be the overall size of the house on the property, and lot coverage maximums are a better regulation to affect the density and open space to surrounding neighbors. The proposed amendment would not change the dimensional standards. He further explained that Amendment 24 is related to Amendment 29, which deletes the provision that allows a homeowner to add on and expand a home that is nonconforming to setbacks. If the City eliminates the ability to extend a non-conforming structure, allowing a 5-foot setback on both sides would create more flexibility for people to remodel non-conforming homes.

Chair Craft summarized that, as proposed, the total setback on both sides combined would be 10 feet instead of 15 feet. Mr. Cohen said the setback change would not make a difference in terms of the proportion of a house on a piece of property. There are a fair number of non-conforming structures in the City, and evening the side yard setback requirements for both sides would resolve many of the issues. If the intent of the current setback requirement is to have larger setbacks, the code should require 7.5 feet on each side.

Commissioner Thomas referred to Amendment 31 and said she understands that staff is recommending removal of the language based on enforcement issues. Mr. Cohen explained that it is written in the code as a recommendation, which is difficult to administer. It could become a single-family design standard. However, the size and height of the fence in the front yard is irrelevant as long as the site distance requirements are met.

It was noted that the proposed language in Amendment 33 needs to be updated by changing “Self-Serving Storage Facilities” to “Self-Storage Facilities” to be consistent with the new language that is being proposed.

COMMISSIONER MORK MOVED THAT THE MAIN MOTION BE AMENDED TO CHANGE THE LANGUAGE IN 20.50.390 FROM “SELF-SERVICE STORAGE FACILITIES” TO SELF-STORAGE FACILITIES.” COMMISSIONER MALEK SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

SMC 20.70 – Engineering and Utility Development Standards

- **Amendment 35 (SMC 20.70.020).** Mr. Szafran said this amendment eliminates the regulations and refers the reader to SMC 12, which is the Engineering Development Manual that contains the latest and greatest design requirements.
- **Amendment 36 (SMC 20.70.430).** Mr. Szafran said this amendment deletes the section and refers to SMC 13.20.050 for the undergrounding requirements.
- **Amendment 37 (SMC 20.100.020).** Mr. Szafran said this amendment adds a reference to Ordinance 705, which is the adopting ordinance for the Community Renewal Area.

There were no Commission questions or comments regarding the proposed amendments to SMC 20.70.

Mr. Szafran also reviewed the two proposed Municipal Code amendments as follows:

- **Amendment 1 (SMC 16.10).** Mr. Szafran advised that this amendment would repeal SMC 16.10 in its entirety. The City Council adopted the City’s own Shoreline Master Program in 2013, making Chapter 16.10 unnecessary.
- **Amendment 2 (SMC 16.20).** Mr. Szafran said this amendment would eliminate the fee schedule, which is no longer needed. All of the fees are outlined in SMC 3.

There were no Commission questions or comments regarding the proposed amendments to SMC 16.10 or 16.20.

THE MAIN MOTION, TO RECOMMEND ADOPTION OF THE 2016 BATCH OF DEVELOPMENT CODE AMENDMENTS, WAS UNANIMOUSLY APPROVED AS AMENDED.

Chair Craft closed the public hearing on the 2016 Development Code amendments.

DIRECTOR’S REPORT

Director Markle did not have any items to report.

UNFINISHED BUSINESS

Commissioner Mork said she would like to tour the Bullitt Center. Staff agreed to schedule a tour for interested Commissioners prior to the continued hearing on January 6th. It was noted that if a quorum attends the tour, it must be noticed as a public meeting.

NEW BUSINESS

Vice Chair Montero recommended the Commission consider forming a subcommittee to review the concepts of cottage housing, apodments, micro-housing, affordable housing, etc. The Commissioners agreed to discuss the idea at their next meeting.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

There were no reports from committees or Commissioners.

AGENDA FOR NEXT MEETING

Mr. Szafran advised that the continued public hearing for Transitional Encampment Amendments is scheduled for December 15th.

ADJOURNMENT

The meeting was adjourned at 9:06 p.m.

Easton Craft
Chair, Planning Commission

Lisa Basher
Clerk, Planning Commission