# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION
## MINUTES OF PUBLIC HEARING MEETING

November 2, 2017 Shoreline City Hall
7:00 P.M. Council Chamber

| Commissioners Present | Staff Present |
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| Chair Craft | Rachael Markle, Director, Planning and Community Development |
| Vice Chair Montero | Paul Cohen, Planning Manager, Planning and Community Development |
| Commissioner Chang | Steve Szafran, Senior Planner, Planning and Community Development |
| Commissioner Maul | Julie Ainsworth-Taylor, Assistant City Attorney |
| Commissioner Malek | Carla Hoekzema, Planning Commission Clerk |
| Commissioner Mork | |
| Commissioner Thomas | |

### CALL TO ORDER

Chair Craft called the public hearing meeting of the Shoreline Planning Commission to order at 7:00 p.m.

### ROLL CALL

Upon roll call by Ms. Hoekzema the following Commissioners were present: Chair Craft, Vice Chair Montero, and Commissioners Chang, Malek, Maul, Mork and Thomas.

### APPROVAL OF AGENDA

The agenda was accepted as presented.

### APPROVAL OF MINUTES

The minutes of the October 19, 2017 minutes were approved with one amendment on Page 5, Paragraph 4. It was noted that not all Commissioners agreed that language should be added to proposed Amendment 13 to add a time period to the Accessory Dwelling Unit (ADU) provision's owner-occupancy requirement.

### GENERAL PUBLIC COMMENT

There were no general public comments.

## PUBLIC HEARING: 2017 DEVELOPMENT CODE AMENDMENTS

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

### Staff Presentation

Mr. Szafran reviewed that the Commission held study sessions on the draft code amendments on October 5th and October 19th and requested more information regarding Amendments 1, 4, 5, 11, 12, 22, 23, 24 and 38. Following staff's presentation of the additional information, the Commission will solicit public comments, followed by deliberation and a recommendation to the City Council. He reviewed the changes that were made since the October 19th study session as follows:

- **Amendment 4 (SMC 20.20.024) – Hardscape Definition.** Concern was raised that a site could be covered with hard surfaces, including a deck over the entire yard. Since that time, the definition has been updated to include decks as one of the Subsections that would count as hardscape, using a 50% calculation value similar to artificial turf with subsurface drain fields.

- **Amendment 1 (SMC 20.20.012) -- Brewpubs, Amendment 5 (SMC 20.20.034) – M Definitions, Amendment 11 (SMC 20.40.130) – Nonresidential Uses, and Amendment 12 (SMC 20.40.160) – Station Area Uses.** The Commission commented that brewpubs, microbreweries and microdistilleries should be added to the City's use tables, but microbreweries and microdistilleries are more intense and should not be allowed in some of the less-intense zoning districts. They also wanted to include a clear definition for "brewpub." The new definition was added as requested, and use tables were updated to exclude microbreweries and microdistilleries from the MUR-35' zone. However, they would still be allowed in the MUR-45' zone since there was no Commission consensus that they should be excluded.

- **Amendment 22 (SMC 20.50.100) and Amendment 23 (SMC 20.50.150) – Shipping Containers.** The Commission raised concern about whether a shipping container is a land use to be permitted or restricted. They also raised questions about how shipping containers could be distinguished from other portable storage containers and how to address shipping containers that are converted into habitable space for businesses or homes. As a result, "shipping containers" were removed from the use tables and addressed in the Single-Family Attached (SMC 20.50.100) and Multifamily (20.50.150) Design Standards, instead. As written, shipping containers would be prohibited in residential zones. In addition, it was noted that the Development Code already has a definition for "shipping containers."

- **Amendment 24 (SMC 20.50.240(C) – Site Frontage.** The Commission commented that if the provision for 12-foot ceilings is deleted, developers would not build commercial spaces with enough ceiling room to provide attractive commercial spaces that retailers and restaurants need and want. The Commission felt that increasing the height in the Mixed-Business (MB) zone from 65 to 70 feet (Amendment 19) would be an appropriate trade-off for leaving the requirement for higher ceiling heights in the commercial zones in place. As a result, staff is now recommending denial of this portion of Amendment 24.

- **Amendment 38 (SMC 20.80.090) – Buffer Areas.** As requested by the Commission, the two purpose statements were consolidated into one.

Mr. Szafran summarized that staff is recommending approval of the proposed 2017 Development Code Amendments as described in Attachment 1.

**Public Testimony**

There was no public testimony.

**Commissioner Deliberation and Recommendation**

**COMMISSIONER THOMAS MOVED THAT THE COMMISSION RECOMMEND APPROVAL OF THE 2017 DEVELOPMENT CODE AMENDMENTS AS PRESENTED BY STAFF. COMMISSIONER CHANG SECONDED THE MOTION.**

Mr. Szafran reviewed each of the amendments outlined in Attachment 1 as follows:

- **Amendment 1 (SMC 20.20.012) – Brewpubs.** This amendment would add a definition of "Brewpub" to read, *"An eating establishment that includes the brewing of beer as an accessory use. The brewery shall not produce more than 1,500 barrels of beer or ale per year."*

  **COMMISSIONER THOMAS MOVED THAT THE MAIN MOTION BE AMENDED TO CHANGE THE DEFINITION OF "BREWPUB" (SMC 20.20.012) TO REPLACE "AN EATING PLACE" WITH "AN ESTABLISHMENT." CHAIR CRAFT SECONDED THE MOTION TO AMEND, WHICH CARRIED UNANIMOUSLY.**

- **Amendment 2 (SMC 20.20.016) – D Definitions.** This amendment would change the definitions for "Dwelling, Apartment" to read, *"A building containing multiple dwelling units that are located above other dwelling units or above commercial spaces. Apartments are not considered single-family attached dwellings."* It also amends the definition for "Driveway, Shared" to read, *"A jointly owned and maintained tract or easement serving up to four dwelling units."*

- **Amendment 3 (SMC 20.20.018) – E Definitions.** This amendment would delete the term "City Engineer" and change the definition for "Enhancements" to read, *"Alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from mitigation projects."*

- **Amendment 4 (SMC 20.20.024) – H Definitions.** This amendment would amend the definition for "Hardscape" to read, *"Any structure or other covering on or above the ground that includes materials commonly used in building construction such as wood, asphalt and concrete, and also includes, but is not limited to, all structures, decks and patios, paving including gravel, pervious or impervious concrete and asphalt. Retaining walls, gravel or paver paths with open spacing that are less than 4 feet wide. Artificial turf with subsurface drain fields and decks that drain to soil underneath have a 50% hardscape and 50% pervious value."*

**COMMISSIONER THOMAS MOVED THAT THE MAIN MOTION BE AMENDED TO CHANGE THE DEFINITION OF "HARDSCAPE" (SMC 20.20.024) TO ADD THE WORDS "ARE NOT CONSIDERED HARDSCAPE" AT THE END OF THE 2ND SENTENCE. COMMISSIONER MORK SECONDED THE MOTION TO AMEND, WHICH CARRIED UNANIMOUSLY.**

- **Amendment 5 (SMC 20.20.034) – M Definitions.** This amendment adds definitions for "Microbrewery" and "Microdistillery" as proposed by Commissioner Mork. As proposed, a "Microbrewery" would be defined as *"A facility for the production and packaging of alcoholic beverages for distribution, retail, or wholesale, consumption on or off premise. Production is limited to no more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district."* A "Microdistillery" would be defined as *"A facility for the production and packaging of distilled spirits for distribution, retail, or wholesale, consumption on or off premise. Production is limited to no more than 4,800 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district."*

  Amendment 5 would also change the definition for "Mitigation" to read, *"The action taken to minimize, rectify, reduce or eliminate adverse impacts over time and/or compensate for the loss of ecological functions resulting from development or use."*

- **Amendment 6 (SMC 20.30.045) – Neighborhood Meeting for Certain Type A Proposals and (SMC 20.30.050) – Administrative Decision Type B.** The amendment would strike Subsection B.1 in SMC 20.30.045, and Subsection B.2 would become Subsection B.1. It would also eliminate the paragraph below B.2. In SMC 20.30.045, the amendment would add Footnote 4 under the table to read, *"These Type B Actions do not require a neighborhood meeting. A Notice of Development will be sent to adjacent properties."*

- **Amendment 7 (SMC 20.30.060) – Quasi-Judicial Decisions – Type C.** This amendment is a numbering change only. Number 7 would be changed from SMC 20.40.505 to SMC 20.40.502. Commissioner Thomas suggested that the acronym SCTF should be spelled out. Mr. Cohen noted that the acronym is identified in the definition as a "Secure Community Transitional Facility."

- **Amendment 8 (SMC 20.30.400) – Lot Line Adjustment and Lot Merger – Type A.** This amendment would add "and lot merger" to the title. As proposed, Subsection A would read *"Lot line adjustment and lot merger are exempt from subdivision review. All proposals for lot line adjustment and lot merger shall be submitted to the Director for approval. The Director shall not approve the proposed lot line adjustment or lot merger if the proposed adjustment will:"* The first sentence in Subsection B would be changed to read, *"An application for a lot line adjustment and lot merger shall expire one year after a complete application has been filed with the City."*

- **Amendment 9 (SMC 20.30.430) – Site Development Permit for Required Subdivision Improvements – Type A.** As proposed, this section would be amended to read, *"Engineering plans for improvements required as a condition of preliminary approval of a subdivision shall be submitted*

*to the Department for review and approval of a site development permit, allowing sufficient time for review before expiration of the preliminary subdivision approval. A separate Site Development Permit is not required if a Site Development Permit was reviewed and approved through a building permit. Permit expiration time limits for site development permits shall be as indicated in SMC 20.30.165."*

- **Amendment 10 (SMC 20.40) – Index of Supplemental Use Criteria.** This amendment is a numbering change only, from SMC 20.40.505 to SMC 20.40.502.

- **Amendment 11 (SMC 20.40.130) – Nonresidential Uses.** This amendment would add "Brewpub," "Microdistillery," and "Microbreweries" to the Nonresidential Use Table. Brewpubs would be allowed as permitted uses in the NB, CB, MB and TC 1, 2 and 3 zones. Microdistilleries and microbreweries would be added to the CB, MB, and TC 1, 2 and 3 zones.

- **Amendment 12 (SMC 20.40.160) – Station Area Uses.** This amendment is related to Amendments 1, 5 and 11 and would add "Brewpub," "Microdistillery," and "Microbreweries" to the Station Area Use Table. As proposed, brewpubs would be a permitted use in the MUR-35', MUR-45' and MUR-70' zones. Microbreweries and microdistilleries would be permitted uses in the MUR-45' zone if adjacent to an arterial street and outright permitted in the MUR-70' zone. These two uses would be prohibited in the MUR-35' zone.

  Chair Craft recalled that concern was expressed about the way the MUR-35' and MUR-45' zones integrate with the neighborhoods. A particular concern was expressed about allowing the more industrialized operations of a microdistillery or microbrewery being potentially so close to a residential area. Several Commissioners expressed the desire to prohibit the uses in both the MUR-35' and MUR-45' zones. Commissioner Malek recalled that he had a different opinion, in that he felt it would be appropriate to allow the uses in the MUR-45' zone, but prohibit them in the MUR-35' zone. Mr. Szafran advised that, as currently written, the uses would only be allowed in the MUR-45' zone if located on an arterial street.

  Chair Craft commented that if the use fronts on an arterial, it would not have an impact on single-family residential properties. However, it is possible for lots in the MUR-45' zone to be aggregated, which means the use could potentially abut a single-family residential zone. He suggested that, in addition to limiting the use in the MUR-45' zone to properties that front on an arterial, the use could also be prohibited on properties that abut single-family residential zones. The Commission reviewed the current zoning map to consider how the proposed change might impact properties in the two subareas. They discussed if the limitation should apply to properties that abut a single-family residential zone or properties that are adjacent to a single-family zone.

  **COMMISSIONER MORK MOVED THAT THE MAIN MOTION BE AMENDED TO CHANGE AMENDMENT 12 TO LIMIT MICROBREWERY AND MICRODISTILLERY USES IN THE MUR-45' ZONE TO PROPERITES THAT ARE ADJACENT TO AN ARTERIAL STREET AND NOT ADJACENT TO A SINGLE-FAMILY RESIDENTIAL ZONE. COMMISSIONER MAUL SECONDED THE MOTION TO AMEND, WHICH CARRIED UNANIMOUSLY.**

- **Amendment 13 (SMC 20.40.210) – Accessory Dwelling Units.** This amendment includes three proposed changes, two are citizen-initiated (Amendments A and B) and one is city-initiated (Amendment C). A private citizen proposed that the requirement for the property owner to occupy either the main residence or the accessory dwelling unit (ADU) be eliminated (Amendment A). She also proposed that the parking requirement for ADU's be eliminated (Amendment B). Staff voiced concern that the proposed amendments would change the character of single-family neighborhoods and allow single-family neighborhoods to transition into multifamily neighborhoods by outright allowing for rent duplexes or detached dwelling units on every parcel zoned R-4 and R-6. The owner-occupancy requirement is intended to minimize the impact to single-family neighborhoods and the parking requirement ensures that neighborhood streets are not burdened by additional cars. The amendment proposed by staff would add a new section having to do with setback requirements for ADUs. As proposed, ADUs that are created by modifying an existing accessory structure would have to meet all of the setback requirements. Staff is recommending denial of Amendments A and B and approval of Amendment C.

  If a single-family residence with a legal ADU is sold, Commissioner Mork asked if both units could be rented out by the new owner. Mr. Szafran answered that the owner-occupancy requirement would apply to current and future owners. Mr. Cohen added the ADU language would be recorded with the property. Commissioner Mork said when she first reviewed Amendment A, she envisioned a large number of developers constructed single-family residential units with ADU's, which could both be rented out. This is not something she wants to see in Shoreline. However, the citizen who submitted the amendment was not a developer. Instead, she was looking for flexibility for a short period of time that she could not live in her home. She suggested that an intermediate approach would be appropriate.

  **COMMISSIONER MORK MOVED THAT THE MAIN MOTION BE AMENDED TO CHANGE AMENDMENT A IN AMENDMENT 13 TO READ, *"EITHER THE PRIMARY RESIDENCE OR THE ACCESSORY DWELLING UNIT SHALL BE OCCUPIED BY AN OWNER OF THE PROPERTY OR AN IMMEDIATELY FAMILY MEMBER OF THE PROPERTY OWNER FOR AT LEAST ONE YEAR FROM THE DATE OF FINAL INSPECTION OF THE ADU PERMIT OR THE SALE OF PROPERTY WITH A LEGAL ADU. COMMISSIONER MAUL SECONDED THE MOTION.***

  Commissioner Malek said he supports Amendment A as proposed by the private citizen, without the changes proposed by Commissioner Mork. First and foremost, density is needed where reasonable, and ADU's are reasonable. However, he does not believe in creating duplexes in single-family homes. Rather than being beneficial, the proposed new language would impede people who want extra money to help them afford their property, including retirees who are wintering in Arizona, etc. Insisting that the units be owner-occupied seems counterintuitive. Commissioner Maul concurred.

  Commissioner Chang agrees with staff that the citizen amendment to eliminate the owner-occupancy requirement could lead to significant impacts to single-family neighborhoods. However, she supports some way to allow some temporary flexibility. Vice Chair Montero suggested that perhaps Commissioner Mork's alternate language could be changed to read, *"Either the primary residence or*

*the accessory dwelling unit shall be the legal residence of the owner of the property."* This would allow a "snowbird" to rent out his unit for a period of time, but would prevent a property owner from selling the two units separately. Commissioner Maul said it would not likely be possible to sell the units separately based on the zoning requirements for individual lots. Vice Chair Montero suggested that perhaps the time period could be based on the Internal Revenue Service time period of two years.

Chair Craft said he supports staff's recommendation to deny Subsections A and B. An ADU is a unique opportunity in single-family residential zones, and it allows for some flexibility to address situations related to affordability, maintenance, etc. He is also concerned that establishing timelines for owner-occupancy could be confusing and would not provide the type of clarity staff needs to appropriately administer the ADU component of the development code. In addition, he has deep concerns about the citizen's amendment, overall, since it could result in someone being able to purchase a single-family residential home, construct an ADU and then rent it into perpetuity without any control or any ability for the City to withdraw or rescind the ADU. The proposed amendment would provide an additional incentive to use the ADU component to build more residential units in a single-family zone, for rent, that would not necessarily meet the character of the neighborhood. He commented that it would be difficult to monitor how long an owner lives in the unit, and the proposed change would incentivize ownership on a larger scale of single-family homes with ADUs in a broader swath of areas. This would result in fewer owners and more renters.

Commissioner Malek questioned how the proposed amendment would encourage fewer owner occupants. If one of the units is owner-occupied, there would be pride of ownership in the sense that the property would be maintained. In addition, the provision provides neighborhoods a lot of flexibility. A number of people would like to live in smaller units without having to leave their neighborhoods. The ADU concept is modeled after the affluent communities in Boston and New York City where density was needed. Chair Craft said he supports the ADU concept, but he voiced concern that the citizen amendment would remove the owner-occupancy requirement, essentially allowing both units to be rented. Commissioner Malek agreed that the intent of the ADU provision is not to create duplex neighborhoods where both units are rented. However, he believes that homeowners should be allowed to rent both homes to the same person if they so desire. Commissioner Thomas commented that this type of situation would be different than creating a dual income property.

Commissioner Maul explained that if a timeline is established consistent with IRS requirements, as proposed by Vice Chair Montero, a property owner would be allowed to rent a house for two years and still claim it as the primary residence.

Commissioner Thomas expressed her belief that adopting the citizen amendment (Subsection A), with accompanying timelines, would create an administrative nightmare for the City staff. The issue should be addressed as part of a larger, overall discussion on housing. If the Commission is not clear, they should not move an amendment forward.

Commissioner Mork restated her motion, and Chair Craft pointed out that approval of the motion would adopt the citizen's recommendation, but delay it by one year. Commissioner Mork agreed, but pointed out that it would prevent developers from building two separate units to rent out individually.

**THE MOTION TO AMEND FAILED 3-4, WITH COMMISSIONERS MORK, MONTERO AND MALEK VOTING IN FAVOR AND COMMISSIONERS CHANG, MAUL, CRAFT AND THOMAS VOTING IN OPPOSITION.**

Chair Craft summarized that, as it currently stands, the Commission is recommending denial of Subsections A and B of Amendment 13 and approval of Subsection C.

- **Amendment 14 (SMC 20.40.235) – Affordable Housing in Light Rail Station Subareas.** The proposed amendment would add new language under "incentives" to read:

    - MUR-70'+ -- "*Height may be increased above 70 ft.; no density limits; and may be eligible for 12-year property tax exemption pursuant to 3.27; permit fee reduction pursuant to 20.40.235(F) and impact fee reduction pursuant to Title 3.*"
    - MUR-70' – "*Entitlement of 70 ft. height; no density limits and may be eligible for 12-year property tax exemption pursuant to 3.27; permit fee reduction pursuant to 20.40.235(F) and impact fee reduction pursuant to Title 3.*"
    - MUR-45' – "*Entitlement of 45 ft. height; no density limits and may be eligible for 12-year property tax exemption pursuant to 3.27; permit fee reduction pursuant to 20.40.235(F) and impact fee reduction pursuant to Title 3.*"
    - MUR-35' –"*No density limits; and may be eligible for 12-year property tax exemption pursuant to 3.27; permit fee reduction pursuant to 20.40.235(F) and impact fee reduction pursuant to Title 3.*"

    Amendment 14 would also strike Subsection 3, which references the City's "Catalyst Program" related to the Transfer of Development Rights (TDRs). The City will revisit the issue of TDRs when the City Council provides direction at the end of 2017 or early 2018. Subsection 2 as proposed, would read "*Payment in lieu of constructing any fractional portion of mandatory units is available upon City Council's establishment of a fee in lieu formula. See subsection (E)(1) of this section. Full units are not eligible for fee in lieu option and must be built on-site.*" A new provision (Subsection 3) explains that to be eligible for a PTE pursuant to SMC chapter 3.27, 20% of units must be built to affordability standard. Another new provision (Subsection 4) explains that to be eligible for permit or impact fee reductions or waivers, units must be affordable to households earning 60% or less of the King County Area Median Income.

Commissioner Chang asked what the permit fee and impact fee reductions would be. Director Markle explained that the permit fee reduction would be prorated per the affordable unit component, but not all units. Mr. Szafran said the impact fee would be reduced for the affordable unit component, but the market rate units would still generate the same impact fees. Commissioner Chang said she understands that the intent is to make affordable housing less costly to build, but she questioned if the City can afford to offer the fee reductions as proposed. Commissioner Thomas said her understanding is that the permit fee and impact fee reductions are already in place, and the proposed changes are intended to address the partial units. She does not believe the proposed amendment will fundamentally change the Commission's original recommendations for the exemptions. Director Markle agreed and said staff shares Commissioner Chang's concerns. The City estimates that, at most, there would be two projects each year. Calculations were done to figure out how much the City would be trading for the affordable units, and the initial results

were that the cost could be absorbed. Staff will monitor and revisit the provision with the Commission and City Council if the impacts are too significant.

- **Amendment 15 (SMC 20.40.438) – Light Rail Transit System/Facility.** This amendment will amend Subsection F.2.b by striking the reference to SMC 3.01.010 and replace it with SMC 3.01.

- **Amendment 16 (SMC 20.40.505) – Secure Community Transitional Facility.** This amendment only changes the numbering of the section. There are no substantive changes to the provision itself.

- **Amendment 17 (SMC 20.40.504) – Self-Storage Facility.** As proposed, Subsection C.4 would be changed to read, *"Loading docks, entrances, or bays shall be screened with screens, fences, walls, or evergreen landscaping from adjacent right of ways."* The first sentence in Subsection C.5 would be changed to read, *"If a fence or wall around an entry is proposed, then they shall be compatible with the design and materials of the building(s) and site."*

- **Amendment 18 (SMC 20.50.020(1) and (2) – Densities and Dimensions in MUR zones.** This amendment would add Footnote 14 at the end of the table to read, *"The exact setback along 145th Street (Lake City Way to Fremont Avenue) and 185th Street (Fremont Avenue to 10th Avenue NE), up to the maximum described in Table 20.50.020(2), will be determined by the Public Works Department through a development application."*

- **Amendment 19 (SMC 20.50.020(3) – Dimensional Requirements.** This amendment includes three changes. First, a Footnote 5 would be added to the table to read, *"The exact setback along 145th Street, up to the maximum described in Table 20.50.020(2), will be determined by the Public Works Department through a development application."* The second amendment changes the building height in the Mixed Business (MB) zone from 65 to 70 feet. The last amendment adds a setback between commercial zones and MUR zones. The proposal is to allow a 0-foot setback for MUR-70' when adjacent to commercial zones. The setback for the MUR-35' and MUR-45' zones would be 15 feet from commercial zones.

- **Amendment 20 (SMC 20.50.021) – Transition Areas.** This amendment clarifies Subsection C by adding "of Public Works" after "Director."

- **Amendment 21 (SMC 20.50.040) – Setbacks – Designation and Measurement.** The first amendment will allow additions to single-family homes to line up with the eave of the existing structure, provided the eave does not project closer than four feet to the property line. The second amendment clarifies the need to make sure that projections, of any type, are not allowed into the 5-foot minimum setback. As proposed, Subsection C would be amended to read, *"Fireplace structures, bay or garden windows, enclosed stair landings, closets, or similar structures may project into requirement setbacks, except into any five-foot yard required setback, provided such projections are:"* Subsection 2a would be changed to read, *"Into a required five-foot setback,"* and Subsection 2b would be changed to read, *"More than thirty-six inches into front and rear yard required setbacks."* An exception would be added following Subsection 2b to read, *"Exception SMC 20.50.040(I)(3): When adjoining a legal, non-conforming eave, a new eave may project up to 20% into the required setback*

*or may match the extent of the legal, non-conforming eave, whichever is lesser."* Lastly, Subsection 6 would be amended to add, *"but shall not be allowed into any five-foot yard setback."*

Commissioner Malek asked if a property owner could work with a neighbor to create an easement in between where the setback should be. Mr. Cohen said he is not sure an easement would affect the setback requirement. Setbacks are established based on the property line.

- **Amendment 22 (SMC 20.50.100) – Location of Accessory Structures Within Required Yard Setbacks.** This amendment would add an Subsection B that would read, *"Prohibited Structures. Shipping Containers are prohibited within any parcel."* It was noted that this provision pertains to single-family residential zones.

- **Amendment 23 (SMC 20.50.150) – Storage Space for the Collection of Trash, Recyclables, and Compost.** This amendment is related to Amendment 22. As proposed, a new Subsection D would be added that reads, *"Shipping Containers are not allowed."* It was noted that this provision pertains to the multifamily residential zones.

- **Amendment 24 (SMC 20.50.240(C) – Site Frontage.** This amendment is related to access in the 145th and 185th Street Station Subareas and contains two proposed changes. Staff is recommending denial of the proposed change to Subsection C.1.c that would read, *"Minimum space dimensions for building interiors that are ground-level and fronting on streets shall be 10-foot height and 20-foot depth. These spaces may be used for any permitted land use. This requirement does not apply when developing a residential only building in the MUR-35'and MUR-45' zones."* Staff is recommending approval of the amendment to Subsection C.1.i, that would read, *"New development in MUR zones on 185th Street, 145th Street and 5th Avenue NE between NE 145th Street and NE 148th Street shall provide all vehicular access from an existing, adjoining public side street or public/private alley. If new development is unable to gain access from an existing, adjoining public side street or public/private alley, an applicant may provide access from the adjacent right-of-way.*"

- **Amendment 25 (SMC 20.50.310) – Exemptions from Permit.** This amendment contains three changes. Amendment A would strike Subsections A.1.a, A.1.b and A.1.c and add new language in Section B.4 pertaining to tree removal on private property. In addition, a private citizen submitted Amendment B, which would change Subsection 4 to read, *"Removal of trees from property zoned NB, CB, MB and TC-1, 2 and 3 unless within a critical area or critical area buffer."* Staff is recommending denial of this amendment. However, staff is recommending approval of Amendment C, which would change Subsection A.4 by replacing "of" to "or."

  Chair Craft noted that the Commission received a letter from Innis Arden representatives, expressing objection to Amendment A. Although both he and Vice Chair Montero live in Innis Arden, he is concerned about how the proposed amendment would be applied citywide. As proposed, the language that is currently contained in Subsection A.1.c under "Complete Exemptions" was moved to Subsection B.4 under "Partial Exemptions." He voiced concern that someone may be appropriately maintaining their lot, removing significant trees as appropriate within the tree code. What happens if a tree cracks in a wind storm, posing an imminent danger. As described in the proposed code language, the City may require a property owner to mitigate for the hazardous tree that was removed in an

emergency. He does not think the City should manage its canopy by penalizing homeowners who are actively trying to protect their property or personal safety. He also voiced concern that, as proposed, a tree may be removed in whole or part if it is creating an active and imminent hazard to life and structural property. It says nothing about creating harm or potential damage to property, which can be a very valuable landscaped patio, koi pond, etc. As written, a citizen's ability to protect their personal property would be curtailed. This goes against the idea of what the City should be recommending for citizens. The original language requires documentation and the appropriate application of approval after the fact, so all the components of maintaining appropriate standards to ensure the idea of a hazard tree is not being taken advantage of would still be retained. But it would not limit a citizen's ability to protect property. He recommended that the original language be retained.

Commissioner Chang asked if the reason behind moving the language from "complete exemption" to "partial exemption" is so the City can ask for mitigation for the removal and it gets counted towards the number of trees that can be removed each year. Mr. Cohen answered affirmatively and explained that the idea of imminent hazard, as described, is that people should be allowed to take care of problems. However, after a tree has been taken down, the property owner would be required to submit documentation to support the emergency removal. The point is that hazardous trees should be removed as quick as possible, and then the City will make a determination as to whether the tree is exempt or if replacement is required. If the removal was classified as completely exempt, the City would not have the ability to require a replacement, if appropriate. Commissioner Chang voiced support for moving the provision to the "partial exemption" section because trees that become hazards are typically larger trees. On the other hand, she felt that the language could be changed to address Chair Craft's concerns relative to the first sentence.

Chair Craft suggested that the first sentence should be amended to read, "*A tree may be removed in whole or part if it is creating an active and imminent hazard to life, safety or property, such as tree limbs . . .*" Director Markle said the term "structure" is defined in the dictionary. She cautioned that using the word "property" could simply mean a tree falling on the property, regardless of whether a structure would be damaged or not. Chair Craft pointed out that, beyond the structure, people often invest a substantial amount of money on their property, itself. A tree could destroy that property, causing a significant amount of monetary damage. Commissioner Chang said it could also cause a hazard to life if someone happens to be close by. Chair Craft expressed his opinion that "structural property" is too limiting.

Commissioner Mork asked if Chair Craft is okay with moving the language to the "partial exemption" section, as long as it is more open ended. Chair Craft said his recommendation would be to maintain the existing language and location as is. He explained that, by moving the language to the "partial exemption" section, the City would have the ability to require a property owner to plant replacement trees that if a hazardous tree is removed. That would not be the case if the language were to remain in the "complete exemption" section. Assistant City Attorney Ainsworth Taylor explained that the City could require replacement regardless of the location. The current language grants property owners the ability to remove a hazardous tree, the City still requires them to submit documentation to support the emergency removal and the City has the right to require mitigation. The language was moved to the "partial exemption" section because it was not really completely exempt because a property owner may be required to get a permit if he/she cannot satisfy that it was truly an emergency

removal. Moving the language, as proposed, is consistent with the City's current policy. Chair Craft said he supports the City's ability to require mitigation if it is determined that a tree is removed that is not considered hazardous, but he felt the proposed language is too limiting and changing the location is unnecessary. A homeowner should not be required to mitigate for the removal of a tree that is damaged through no fault of his own.

Commissioner Maul clarified that, as per the proposed language, the City would only require mitigation if it is determined that a tree was removed that was not hazardous. Chair Craft said that, by including the language in the "partial exemption" section, the City could determine that mitigation is required if a significant tree is removed, even if it is determined to be hazardous. Assistant City Attorney Ainsworth Taylor referred to the last sentence, which states that, *"If upon review of this evidence the City determines that emergency removal was not warranted, then the property owner will be required to obtain the necessary permits and mitigate for the tree removal as set forth in this chapter."* Mitigation would only be required in this situation.

Vice Chair Montero said his understanding is that if the language is included in the "complete exemption" section, a property owner would have to submit an application and obtain a permit prior to cutting a tree. By including it in the "partial exemption" a hazardous tree could be removed and the property owner would be required to provide documentation after the fact to prove the tree was hazardous. Mr. Cohen emphasized that the standard for requiring replacement would not change, regardless of the location of the language.

Chair Craft recommended that the language be revised to read, *"Trees may be removed or cut on an urgent basis when they present an imminent risk of injury to persons or damage to property due to, for example, structural infirmity, such as rot, decay, tree limbs or trunks that are demonstrably cracked, leaning toward overhead utility lines or structures or uprooted by flooding, heavy winds or storm events. After the trees removal, photographic proof or other documentation of the need for removal should be submitted to the City. The City may dispute the emergency and issue a decision requiring that, after the fact, permit be obtained and/or require that replacement trees be replanted as mitigation. Such decision shall be appealable to the Hearing Examiner."*

Mr. Cohen pointed out that the City also has a category of hazardous trees called "non-imminent," and these are often reviewed by an arborist to identify potential rot or weakness in the structure. While these are considered hazardous trees, they are not considered an imminent hazard. Non-imminent hazardous trees are handled differently than imminent hazardous trees.

Commissioner Maul voiced concern that Chair Craft's proposal is too specific and would require that all potential hazards be listed. Commissioner Thomas commented that using the term "such as" indicates that the list is not exhaustive. Commissioner Maul said the fact that a hazardous tree could fall and injure someone is reason enough to have it removed.

**COMMISSIONER THOMAS MOVED THAT THE MAIN MOTION BE AMENDED TO CHANGE THE FIRST SENTENCE IN SUBSECTION B.4 OF AMENDMENT 25 TO READ, "A TREE MAY BE REMOVED IN WHOLE OR PART IF IT IS CREATING AN ACTIVE AND IMMINENT HAZARD TO LIFE AND/OR PROPERTY, SUCH AS TREE LIMBS OR**

**TRUNKS THAT ARE DEMONSTRABLY CRACKED, LEANING TOWARD OVERHEAD UTILITY LINES OR STRUCTURES, OR ARE UPROOTED BY FLOODING, HEAVY WINDS OR STORM EVENTS, SO AS TO REQUIRE IMMEDIATE ACTION WITHIN A TIME TOO SHORT TO ALLOW FULL COMPLIANCE WITH THIS CHAPTER. COMMISSIONER MAUL SECONDED THE MOTION, WHICH CARRIED 6-1, WITH CHAIR CRAFT VOTING IN OPPOSITION.**

- **Amendment 26 (SMC 20.50.350(B) – Exception.** The wording of this exception makes it unclear whether both 1 and 2 are required in order to grant the exception or either 1 or 2 may be the basis for granting the exception. The Director's interpretation of this exception concluded that 1 and 2 are alternate sets of criteria and that the exception may be granted if either is fulfilled. The amendment clarifies this interpretation. In addition, the City no longer maintains a list of qualified professionals. Therefore, the amendment would remove the phrase "and approved by the City" and add wording to be consistent with the current code definition of "certified arborists." As proposed, Subsection 1 would read, "*The Director may allow a reduction in the minimum significant tree retention percentage to facilitate preservation of a greater number of smaller trees, a cluster or grove of trees, contiguous perimeter buffers, distinctive skyline features, or based on the City's concurrence with a written recommendation by an arborist certified by the International Society of Arboriculture or by the American Society of Consulting Arborists as a registered consulting arborist that retention of the minimum percentage of trees is not advisable on an individual site, or"*

- **Amendment 27 (SMC 20.50.360) – Tree Replacement and Site Restoration.** This is a privately-initiated amendment and is related to Amendment 25. Staff recommends denial of the amendment to add a new Subsection D that reads, "*Tree Retention and Replacement in the MUR-70' Zone. Tree removal in the MUR-70' zone shall comply with the following requirements:*
    1. *Removal of 30-inch diameter or larger trees shall be replaced by three trees within a quarter mile of the property and maintained for three years.*
    2. *One tree must be planted and maintained onsite.*
    3. *Incentives for greater tree retention shall be provided by the Director. Incentives include tax breaks, additional building height, and reduced parking."*

- **Amendment 28 (SMC 20.50.410(F) – Parking Design Standards.** The amendment would add a sentence at the end of Subsection F that reads, "*Structural columns or permanent structures cannot impede the opening of vehicle doors or the ability of passengers to walk from the parking space."* Commissioner Maul recalled that he suggested a definition outlining where the columns could go, and the proposed language is a compromise. He questioned how the City would define the term *"to walk from the parking space."* Mr. Cohen explained that the intent is to allow people to open their doors and get out of their cars without being blocked by columns. Commissioner Maul asked if a column that protrudes 6 inches into the very tail end of a 9-foot wide parking stall would be considered blocking a person's ability to get in and out of the car. Mr. Cohen said the provision would allow the City to proof check to make sure that the required parking stalls are all workable, functional and accessible. While the stalls do not need to be highly spacious, people need to have the ability for to move their cars in and then get out of the parking spaces.

Commissioner Maul voiced concern that the proposed language is vague and it will be difficult for developers to understand without seeking additional direction from staff. Mr. Cohen said there are circumstances where developers propose parking stalls that are too tight to be useable, even though they meet the dimensional standards, because columns are in the way. In these situations, staff has to make a judgment call. This is difficult to do because car widths and the size of people vary. Commissioner Maul agreed and suggested that this makes the proposed language even more vague. Mr. Cohen said that regardless of the size of the vehicle, columns that encroach into the parking stalls can be problematic. Again, Commissioner Maul voiced concern that the proposed language is vague and hard to understand. He suggested that columns be allowed to encroach 6 inches into the last or first 4 feet of a parking stall. He pointed out that every jurisdiction he has worked in has allowed for parking garages to have smaller stalls and smaller drive aisles because they are expensive. The standard in designing a structured parking garage is a column every three stalls (roughly 27 feet apart). It would be rare to have columns on both sides of a stall because it would be structurally inefficient. Mr. Cohen agreed that if that is the case, and columns are not built close together to box a car in, the requirement would be unnecessary.

Mr. Cohen noted that there could be other structures that further impede the parking stalls. Commissioner Maul said other codes require an extra foot on the end stall that is up against a wall. Commissioner Maul pointed out that, as the code currently stands, a parking stall must be 8.5 feet wide, regardless of whether the stall abuts a wall or not. Commissioner Malek summarized that the intent is to encourage full use and full access of all parking stalls, so they do not end up being parking stalls in name only and people end up parking on the street because they can't get in and out of their spot. While he recognized that the provision would be subject to the size of a vehicle, an 8.5-foot width is quite broad for a standard vehicle. Commissioner Maul's proposed change would only allow a column to encroach up to a maximum of 6 inches into a small portion of a parking stall.

**COMMISSIONER MAUL MOVED THAT THE MAIN MOTION BE AMENDED TO CHANGE THE LAST SENTENCE IN AMENDMENT 28 (SUBSECTION F) TO READ, "STRUCTURAL COLUMNS OR PERMANENT STRUCTURES CAN ONLY ENCROACH INTO A PARKING STALL 6 INCHES THE FIRST 4 FEET AND THE LAST 4 FEET OF THE PARKING STALL." VICE CHAIR MALEK SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.**

- **Amendment 29 (SMC 20.50.470) – Street Frontage Landscaping.** This amendment is a clarification. As proposed, the section title would be changed by adding "*for parking lots*."

- **Amendment 30 (SMC 20.50.490) – Landscaping Along Interior Lot Line.** This amendment is a clean-up amendment. As proposed, Subsection B would be amended to read, "*Multifamily development shall use Type I landscaping when adjacent to single-family residential zones and Type II landscaping when adjacent to multifamily residential and commercial zoning within the required yard setback."*

- **Amendment 31 (SMC 20.70.440 and SMC 20.70.450) – Access.** This amendment is a new section that outlines access standards. As proposed, SMC 20.70.440 would state that, "*The purpose of this subchapter is to establish basic dimensional standards for access widths when applied to certain types*

*of development. Access widths are described and defined in the Engineering Development Manual."* A table outlining the proposed access widths is provided in SMC 20.70.450.

- **Amendment 32 (SMC 20.80.025(A) and (B) – Critical Area Maps.** This amendment would change the second sentence of Subsection A to read, *"These maps shall be used for informational purposes as a general guide only for the assistance of property owners and other interested parties."* A new sentence would also be added at the end of Subsection A to read, *"A site inspection by staff or an applicant's Critical Area Worksheet may also indicate the presence of a critical area."* The first sentence of Subsection B would also be amended to read, *"Based on an indicated critical area in Subsection A, the actual presence or absence, delineation and classification of critical areas shall be identified in the field by a qualified professional, and confirmed by the City, according the procedures, definitions and criteria established in SMC 20.80.080(D)(1and 2)."*

- **Amendment 33 (SMC 20.80.030) – Exemptions.** This amendment simply updates the reference to SMC 20.50.310(B)(4).

- **Amendment 34 (SMC 20.80.040(C) – Allowed Activities.** This amendment replaces the last sentence of Subsection C.1 with the following: *"If such modification, alteration, repair or replacement requires encroachment into a critical area or a critical area buffer to perform the work, then encroachment may be allowed subject to restoration of the area of encroachment to a same or better condition."*

- **Amendment 35 (SMC 20.80.045) – Critical Areas Preapplication Meeting.** This amendment adds a new sentence at the end of Subsection B that reads, *"An applicant may submit a critical area delineation and classification study prior to the City determining that a full critical area report is required."*

- **Amendment 36 (SMC 20.80.050) – Alteration of Critical Areas.** The provisions of this subsection clarify that critical areas shall be maintained in their natural state or current, legal condition. As proposed, the first sentence would be changed to read, *"In general, critical areas and their buffers shall be maintained in their existing state, including undisturbed native vegetation, to maintain the functions, values, resources and public health and safety for which they are protected or allowed as the current, developed legally established condition such as graded areas, structures, pavement, gardens and lawns."*

- **Amendment 37 (SMC 20.80.080) – Critical Area Reports.** This amendment would change the first sentence of Subsection D.1 to read, *"Reconnaissance. The existence, general location, and type of critical areas in the vicinity of a project site (off site within 300 feet for wetlands and fish and wildlife habitat conservation areas and off site within 200 feet for geologic hazards, shorelines, floodplains, and aquifer recharge areas) of a project site (if allowed by the adjoining property owners)."*

- **Amendment 38 (SMC 20.80.090) – Buffer Areas.** This amendment changes the second sentence of the purpose statement to read, *"The purpose of the buffer shall be to protect the integrity, function, value and resource of the subject critical area, and/or to protect life, property and resources from*

*risks associated with development on unstable or critical lands and consists of an undisturbed area of native vegetation."*

- **Amendment 39 (SMC 20.80.350) – Wetlands.** This amendment clarifies the table by adding *"Area – in square feet"* as part of the title at the top of each column.

- **Amendment 40 (SMC 20.230.200) – Land Disturbing Activity Regulations.** This amendment changes the title of the section by replacing "Policies" with "Regulations." The amendment also updates a reference in Subsection 4.

- **Amendment 41 (SMC 13.12.700(C)(3) – Permits.** This amendment updates a reference in Subsection C.3.

**THE MAIN MOTION WAS UNANIMOUSLY APPROVED WITH THE ASSOCIATED SUB AMENDMENTS.**

## DIRECTOR'S REPORT

Director Markle reviewed the list of permits that are currently under review, as well as pre-application meetings that have been conducted. She reported that the City received an application for a 5-story student housing building on the Shoreline Community College Campus on October 27th. The Arrabella 2 Project is nearing completion, and a permit should be issued soon. The City is also reviewing permit applications for a couple of self-storage developments, and one is nearing completion for permit. A pre-application meeting was conducted for a 3-story apartment building at 17743 112th Avenue. Pre-application meetings were also conducted for a townhome development at 14604 Corliss Avenue and a townhome development at 15425 2nd Avenue NE. An application for a 243-unit project on the Post Office site has also been submitted.

Director Markle announced that the Planning and Community Development Office will be closed on Tuesday, November 7th while staff is attending an off-site meeting. No permits will be taken or issued on that day.

## UNFINISHED BUSINESS

There was no unfinished business.

## NEW BUSINESS

There was no new business.

## REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

As a member of the Point Wells Subcommittee, Commissioner Malek reported that the upper bluff of Point Wells (45 acres) is still considered a contiguous part of the proposed development. Even though it has been subdivided and sold, it is considered the upland. The 61 acres at the waterfront level is considered

the lowland. There is also 16 acres of tideland. A site plan has been submitted for a project on the upland portion of the site called Woodway Point. The proposal includes 36 single-family homes and a secondary access to the lowland portion is proposed through to 238th Street down to the waterfront. The two projects are still joined. The City engineer has sent a response to the Town of Woodway and Snohomish County. Before the project goes further, there will be a review and a notice of public meeting from either Snohomish County or the Town of Woodway. Currently, the application for the lowland portion identifies 3,100 condominiums. June 30th is Blue Square Real Estate's last possible date to have the application accepted and their traffic corridor analysis completed or they lose vesting status. January 8th is the deadline for them to prove completion with Snohomish County, and they are working to do that now.

Mr. Szafran said the applicant must also do a scoping notice for the Environmental Impact Statement. A scoping meeting is required, which the applicant has not yet scheduled. However, the City has submitted scoping comments to the City of Woodway.

## AGENDA FOR NEXT MEETING

Chair Craft announced that the November 16th meeting is cancelled. The next regular meeting is scheduled for December 7th.

## ADJOURNMENT

The meeting was adjourned at 9:30 p.m.

Easton Craft
Chair, Planning Commission

Carla Hoekzema
Clerk, Planning Commission