



# CITY OF SNOHOMISH

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## NOTICE OF REGULAR MEETING

### PLANNING COMMISSION

**NOTE TIME AND  
LOCATION**

In the  
George Gilbertson Boardroom  
Snohomish School District Resource Center  
1601 Avenue D

**WEDNESDAY  
May 4, 2016  
6:00 p.m.**

- 6:00 1. **CALL TO ORDER** – Roll Call
- 6:05 2. **APPROVE** the minutes of the March 2, 2016, regular meeting (*P. 1*)
- 6:10 3. **CITIZEN COMMENTS** on items not on the agenda
- 6:15 4. **DISCUSSION ITEMS**
- a. Planning Commission Assistance with Planning Director Recruitment (*P.7*)
  - b. Mobile Food Vendors (*P.13*)
  - c. 2016 Comprehensive Plan Docket (*P.29*)
  - d. Community Based Theaters (*P.33*)
  - e. Deferred Impact Fees (*P.43*)
- 9:00 5. **ADJOURN**

**NEXT MEETING:** The next regular meeting is **Wednesday, June 1, 2016**, at 6:00 p.m. in the George Gilbertson Boardroom, Snohomish School District Resource Center, 1601 Avenue D.



**AGENDA ITEM 2**

**CITY OF SNOHOMISH  
REGULAR MEETING OF THE PLANNING COMMISSION  
MEETING MINUTES  
March 2, 2016**

**1. CALL TO ORDER:** The regular meeting of the Planning Commission was called to order by Vice Chair Eskridge at 6:05 p.m. in the George Gilbertson Boardroom, 1601 Avenue D. The assemblage joined in the flag salute and roll was taken.

**PLANNING COMMISSION**

**MEMBERS PRESENT:**

Gordon Cole  
Hank Eskridge  
Steve Dana  
Terry Lippincott  
Van Tormohlen

**STAFF:**

Owen Dennison, Planning Director  
Katie Hoole, Permit Coordinator

**OTHERS PRESENT:**

Lisa Utter, Thumbnail Theatre Boardmember

**MEMBERS ABSENT:**

Christine Wakefield Nichols  
Laura Scott, Chair

2. **APPROVE** the minutes of the February 3, 2016 regular meeting

Mr. Cole moved to approve the February 3, 2016, minutes as written; Ms. Lippincott seconded, and the motion was approved, 5-0.

Mr. Eskridge thanked Mr. Dennison for his hard work on the wireless communication facilities (WCF) ordinance. Mr. Dennison said the Council ultimately adopted the Commission's recommendation, with the change that WCFs be prohibited in parks. There was also a direction to staff to come back with an amendment to establish a notification sign size standard to use the extra large one (brought in for the cell tower hearing) for Tier 3 and 4 proposals.

Ms. Lippincott asked about the recommendation for an RF engineer and Mr. Dennison said staff recommended an attorney with engineering expertise; the thought was that the City would probably gain more benefit from an attorney. The price of a thorough review was fairly similar: \$5,000 for an engineer versus \$7,000-10,000 for an attorney; however, the Council did not want to take on that expense. They were confident in the ordinance and wanted to give it a try. If issues were identified after one or two applications, then they would send it to an attorney. Mr. Dennison added that every time an issue has been brought up, he checked the federal code and had not found a problem.

Mr. Eskridge confirmed that tower lighting was determined by the FAA. Mr. Dennison said the preference in the Code is for a red beacon rather than white.

Mr. Dennison said the Commissioners did a good job. The five arduous months were well spent, and he felt good about the product.

## **AGENDA ITEM 2**

### **3. CITIZEN COMMENTS** on items not on the agenda

There were no citizen comments on items not on the agenda.

### **4. DISCUSSION ITEM** – Various Potential Amendments to Title 14 SMC

Mr. Dennison explained that this topic covers several potential code amendments; the majority were issues raised in an audit by the Washington Cities Insurance Authority (WCIA). The first one is from the Federal Religious Land Use and Institutionalized Persons Act, which addresses regulations that may place a substantial burden on religious exercise; the best example is signs. Certain signs can be regulated because there are public safety issues, but for things like sign dimensions, an institution could conceivably argue that our size regulations are prohibiting them from communicating with the public. Staff has proposed that instead of changing the regulations, we acknowledge that under a substantial burden claim, an exception may be granted to the standard application of our regulations. It requires the applicant to specify which standards are at issue and what the minimum relief is that they need for their religious exercise. The decision is administrative but appealable to the Hearing Examiner by either the applicant or someone who disagrees. This would be placed in SMC 14.55 for provisions applicable to all permits.

The second potential amendment is a state law that says a code city cannot take any action that prohibits homeless encampments on religious properties. When we did the group quarters revision, it seemed appropriate to update the definitions of church, synagogue, temple or mosque. At that time, we excluded homeless encampments, but were unaware that doing so was a violation of state law. This would correct that.

The next amendment relates to state law that says recreational vehicles must be allowed in any mobile home park. The City has a definition of “mobile home park” and no provisions in the mobile home park requirements that address recreational vehicles. There is no specific prohibition, but to be on the safe side, staff felt it should be added. This amendment also corrects the multifamily zoning reference for consistency.

The fourth proposed amendment is in regard to childcare; the City currently has two kinds of childcare: in-home—where an occupant of the residence has a business to watch up to 6 children, or 6-12 children including their own family; and childcare—which is not in a residence and can be in any appropriately-zoned commercial space. State law says a city cannot create impediments to allowing family childcare up to 12 kids.

Currently the City requires a Conditional Use Permit (CUP) for 7-12 children, and under 6 is permitted in most zones (except Public Park). According to state law, the CUP would be an impediment. Staff’s proposal is to collapse the two family childcare categories into one, if we’re not creating a process distinction, and call it family childcare. It would have to be licensed by the state. Part 3 of the proposed amendment states the City may require proof of written notification by the provider that immediate property owners have been notified of the facility, and any dispute would be mediated by the state.

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Commissioners were concerned that the language said the state “*may provide a forum to resolve the dispute.*” Mr. Dennison explained the state also has some latitude in denial of licenses; the state could decide to not renew if there were issues.

At some point, Mr. Cole would like to think about adult day care, which is not addressed in our Code but is a growing need in our society. The Code mentions retirement homes, but he’s talking specifically about respite/day care. Mr. Dennison said it could potentially be addressed through the childcare designation, and it could be changed to “daycare” or “care.” It is a good idea and something that could be docketed in another package of amendments—it could even be combined with the current group of amendments, if they were revised to be a little more inclusive. He suspects the regulations would be fairly similar to childcare. Mr. Cole recommended including it unless staff discovers some problem with it.

Mr. Dennison confirmed Commissioners were in favor of including the provision requiring proof of written notification of the intent to locate a childcare facility.

The final amendment pertains to Community Based Theatres, discussed last August and in 2010 as part of a work plan considering various uses and structures, in the Historic District in particular, where the original use has vacated and there is no good alternative consistent with the range of uses permitted in a single family zone. Churches are the prime example. The nonprofit at 331 Avenue D (alternately addressed as 1211 Fourth Street) is currently a theatre; theatres are not among the list of uses permitted outright or conditionally in the single family zone. A theatre is similar in nature to a church in that it is an assembly use, albeit with different hours and perhaps in use during more days of the week. No formal code violation complaints have been filed; if a complaint was filed, the City would be in position of shutting it down.

The proposal would create a new land use for Community Based Theatres that would be subject to certain limitations: a maximum floor area to maintain the scale of a single family neighborhood; restricted to the Historic District; adjacent to a collector or minor arterial; and any land use that transitions would have to show compliance with the parking code.

Mr. Cole asked for confirmation that if one of these larger churches is converted to a single family residence, it couldn’t be converted back to a theatre; Mr. Dennison said that would be true if the use was abandoned for 12 months.

Mr. Dana wasn’t sure there was a demand for five community theatres; Mr. Cole added that three of the five locations in the agenda weren’t adjacent to an arterial so they wouldn’t be permitted as theatres, and Mr. Dennison noted that a fourth was too large.

Mr. Dana would prefer to have regulations that apply to all of these identified properties, rather than creating language that specifically calls for community theatres when an appropriate use may be something else, such as an adult daycare center. We don’t want to tear down these old church buildings because there aren’t any legal uses for them. How can we write regulations that apply to these properties only?

Mr. Dennison noted it was important to have concern for what the neighbors wanted to see as well; Mr. Dana said the Conditional Use Permit was used in the old days to mitigate the

## **AGENDA ITEM 2**

neighbor's concerns, and the differences were reconciled right in the CUP meeting. He wants a process that applies to just these buildings, giving a range of uses that may be allowed.

Mr. Dennison said the City has something comparable for home occupations. The code doesn't say what the range of uses are, but is more performance-based and has conditions that must be met to preserve the residential nature of the neighborhood. It is harder to regulate because it requires a detailed understanding of not only what the use is, but how a use could conceivably grow into something with more impact. The enforceability is largely complaint-driven for home occupations, and the applicants are informed that continued approval of the home occupation depends on the neighbors not objecting.

Ms. Lippincott agreed with Mr. Dana's proposal regarding looking at other options for what can be done with the buildings when they are no longer used as churches; it doesn't need to be written tonight, but it is worth pursuing. Mr. Cole also agreed and said this particular set of regulations may only apply to one building, and they could move forward with it if there is no serious downside; however, as a future issue, the Commissioners should look at what can be done to allow these other buildings to transition to other uses. Mr. Cole recommended staff bring back an ordinance for review.

Mr. Dennison asked if there were any citizen comments.

**Lisa Utter, 18828 46<sup>th</sup> Avenue West, Lynnwood**, added that some adult care facilities were starting to provide night care as well. Ms. Utter is on the Board of the Tim Noah Thumbnail Theatre, which has met with the neighbors to hear their parking concerns. They talked to their regular patrons and performers about parking further away, and it has been about 4-5 months since there have been any reported issues. It is public property, so people are allowed to park there, but the Theatre has a loyal fan base with lot of repeat attendees, so the Board has been asking them to move further away. The Theatre Board is anxious about being a non-conforming use, as it puts them in an awkward position; the issue comes up pretty regularly.

Mr. Dennison added that it is also a public and prominent use; people come here for it.

Mr. Dana was concerned this was written so narrowly that it seemed like spot zoning; Mr. Dennison said all of the standards of the criteria can be justified, but as it turned out, it applied to only one property.

Ms. Utter noted, and Mr. Dennison confirmed, that a portion of the Zion property could be used.

Mr. Cole moved to direct staff to prepare an ordinance based on the preliminary staff report and bring back materials for discussion of the other properties. Mr. Dana seconded. The motion passed unanimously (5-0).

Mr. Dennison had a formality that needed addressing. He submitted the Comprehensive Plan to the state in July 2015, and they had 60 days to review it. Every time he's worked on a GMA Comp Plan, the Department of Commerce has compiled comments from various state agencies and drafted a letter stating what they liked and didn't like; he has been waiting for the

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letter. Finally, a month ago, he called to ask where the letter was, and they said it was fine; they had no comments.

The City is actually under a bit of a time constraint. An adopted plan has to be certified by the Puget Sound Regional Council, and they had a couple tweaks—they wanted to add a little more language, and as part of the process, he had to send it out for consultation to the pilots association, the airport, and others. Our last day to adopt it, get it certified, and remain eligible for federal funds is the 15<sup>th</sup>, the same day it is scheduled for adoption. He drafted the ordinance language and realized the Commission never took action on it. The idea was that it would come back for a final blessing, but suddenly we ran out of time. He asked if the Commission would like to formally recommend that the City Council adopt the Planning Commission recommended Comprehensive Plan.

Mr. Cole asked what changes were made since they last saw it. Mr. Dennison said one was a policy they had removed that was confusing and made no sense; WSDOT had liked it, so it went back in. The policy was that when changes to the development code or the comprehensive plan are proposed, the City will consult with the airport. There were two other airport-related items, including policy language for the notice for new residential development in the flight path.

Mr. Dennison asked if Commissioners would recommend approval of the version they reviewed.

Mr. Cole moved to recommend the City Council adopt the final revised Comprehensive Plan that was developed by the Planning Commission. Mr. Eskridge seconded. The motion passed unanimously, 5-0.

### **5. ADJOURN**

The meeting adjourned at 7:18 p.m.

Approved this 4<sup>th</sup> day of May, 2016

By: \_\_\_\_\_  
Commissioner Laura Scott, Chair

**AGENDA ITEM 2**

**DISCUSSION ITEM 4a**

**Date:** May 4, 2016  
**To:** City of Snohomish Planning Commission  
**From:** Clay White, Interim Planning Director  
**Subject:** **Planning Commission participation in Planning Director interviews**

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**In Brief:** The City of Snohomish is currently in the process of recruiting a new Planning Director. Interviews are tentatively set for the 2nd or 3rd week of June. A final date will be set after the application deadline in late May. The interview process will most likely consist of two panels and the City would very much appreciate the participation of one Planning Commission member during the interview process.

**Request of the Commission:** To discuss and select a member of the Planning Commission to participate in the Planning Director interview process.

**Next Steps:** City staff will coordinate with the Planning Commission selected to participate once interview dates have been set up.

**Lead Staff:** Clay White, Interim Planning Director

**ATTACHMENT:** Planning Director Job Announcement



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## **DISCUSSION ITEM 4a**

### **WHY APPLY?**



Nestled in the heart of the Pacific Northwest just a short drive from either the blue waters of the Puget Sound or the amazing slopes of the beautiful Cascade Mountains,

the City of Snohomish is considered to be one of the most livable small communities in Western Washington. Snohomish maintains its small town, friendly atmosphere, but also projects an underlying sense of energy and potential growth. Residents are intent on maintaining a quality of life by effectively managing growth and ensuring that the City's high quality municipal services are maintained in all operational areas.

Snohomish is a great community and the City is well-managed and financially stable. Snohomish offers an experienced planning professional an outstanding career opportunity in a truly great place to live!



### **THE COMMUNITY**

Located in the heart of the Pacific Northwest, along the banks of the Snohomish River, the City of Snohomish is a community that maintains ties to the past while progressively shaping its future as the home of 9,400 residents. It is the commercial hub of the area, servicing a current trade area of 80,000 people. The City of Snohomish is located in one of the fastest growing counties in the State and is known as the "Antique Capital of the Northwest," with over 300 antique dealers. The City is the third oldest city in the State of Washing-

ton and contains a significant National Historic District. Its ideal location, just 30 miles northeast of downtown Seattle, provides residents with easy and walkable access to a wide variety of recreational, cultural and educational opportunities.

Snohomish is very much a model of how cities can reinvigorate their business districts by preserving their historic charm. The city has nurtured a great balance between regular businesses in modern facilities which serve the community and specialty shops in the historic part of town to serve the tourist trade. In the 1990s, First Street was redeveloped to take advantage of its historic buildings as a tourist attraction. The sidewalks were rebuilt and public restrooms and Riverfront Trail added in order to further serve the community and visitors. The city hall and police station were moved away from First Street, allowing those historic buildings to be renovated as well.



This genuinely historic community is listed on the National Registry of Historic Places. Snohomish is the oldest and best preserved city in the county. The Historic District serves as a backdrop for annual shows and festivals, including a tour of homes, tour of gardens, classic motorcycle show, classic auto show, Easter parade, and other community festivals which can attract up to 20,000 visitors a day. The City maintains 190 acres of parks and 5 miles of trails.

Outdoor recreation enthusiasts have an abundance of choices. Snohomish's parks and 5 miles of trails with flat terrain are ideal for bicyclists looking for an easy going ride. The Snohomish River provides water sports and fishing, while the nearby Sky Valley region and Cascade Mountains provide endless outdoor recreation opportunities. The City of Snohomish is served by the Snohomish School District with approximately 9,800 students in grades K through 12. The District consists of three high schools, two middle schools, 10 elementary schools, a preschool, an alternative learning program for students and a cooperative program for home-school families.

## **DISCUSSION ITEM 4a**

### **THE CITY**

Incorporated in 1890, the City of Snohomish is 3.16 square miles in area and has a population of approximately 9,400 and services a current commercial trade area of 80,000 people.

The City of Snohomish operates under the Council-Manager form of government with the City Manager serving as the Chief Executive Officer and head of the administrative branch of city government. Seven Council Members are elected to four-year staggered terms; the Mayor is selected by a vote of the Council Members. City Manager Larry Bauman has been with the City since 2002 and enjoys a reputation as a progressive and talented municipal manager, bringing solid leadership to the city. Four Department Directors and forty-nine fulltime employees provide City services, with the City Manager guiding an \$21 million operating budget and a total budget of \$43 million (all funds).



### **THE DEPARTMENT**

The Planning and Development Service Department (PDS) includes four full-time positions, including Building Safety. The Planning and Permitting Division is responsible for the preparation of policies and regulations that guide land use and development in ways that implement broader City objectives and respond to State mandates.

The City's Comprehensive Plan guides decisions relating to topics such as commercial land supply, economic development, community character, environmental protection, and historic preservation.

The Permitting service includes review of land use and development applications for compliance with the City's land use and development regulations

and standards; coordination and processing of land use, building, and engineering applications; staff support to the Design Review Board and the Hearing Examiner; and enforcement of land use, environmental, and sign regulations.



### **THE POSITION**

Under general administrative direction of the City Manager, the Planning Director plans, directs, manages, and oversees the activities and operations of the Planning Department, including reviewing permit applications and plans, preparing permit procedures and draft ordinances, and coordinating assigned activities with other divisions, departments, and outside agencies. The Planning Director also provides staff support to the City Council, Planning Commission, Design Review Board, Hearing Examiner, and other committees and task forces.

#### **Other responsibilities include:**

- Assumes full management responsibility for all Planning Department services and activities including permitting, building inspections, and related programs, services, and activities.
- Manages the development and implementation of departmental goals, objectives, and priorities for each assigned service area; recommends and administers policies/procedures.
- Establishes, within City policy, appropriate service and staffing levels; monitors and evaluates the efficiency and effectiveness of service delivery methods and procedures; allocates resources accordingly.
- Plans, directs, coordinates, and reviews the work plan for assigned staff; assigns work activities, projects, and programs; reviews and evaluates work products, methods, and proce-

## **DISCUSSION ITEM 4a**

dures; meets with staff to identify and resolve problems.

- Selects, trains, motivates, and evaluates assigned personnel; provides or coordinates staff training; works with employees to correct deficiencies; implements discipline and termination procedures.
- Oversees and participates in the development and administration of the department budget; approves the forecast of funds needed for staffing, equipment, materials, and supplies; approves expenditures and implements budgetary adjustments as appropriate.
- Provides customer service and serves as liaison to City staff, applicants, developers, consultants, the general public, and outside organizations and agencies regarding City codes, policies, standards, processes, and requirements over the phone or at the public counter; reviews permit applications.
- Reviews applications for land use and development for conformance to City requirements.
- Coordinates and participates in resolving processing problems regarding applications and/or permits; revises codes as necessary to meet City requirements.
- Conducts review of environmental checklists for applications to ensure compliance with SEPA guidelines.
- Prepares draft code revisions that implement the City's Plan and relevant state laws.
- Prepares administrative rules and procedures for the City's development process and information documents that make that process clear and understandable to the public.
- Oversees the review of building plans.
- Performs inspections of development for conformance to plans and regulations including some basic building permits.
- Coordinates and participates in specialized planning studies and regional planning efforts.
- Provides staff support for hearings and meetings that deal with development permits and processes; works with Planning Commission, Design Review Board, Hearing Examiner, and ad hoc committees on community development issues.

### **OPPORTUNITIES & CHALLENGES**

- 1) The Shoreline Master Plan is in need of updating.
- 2) Climate change work plan is on the horizon.
- 3) Mentor an energetic staff to shape the Department's culture and promote staff's professional development expertise.



### **THE IDEAL CANDIDATE**

Snohomish is looking for a talented director or senior planning professional from a public sector organization of comparable complexity and size with extensive knowledge and experience in all aspects of community development. This position will be a "working director" who has a strong understanding of long range planning, current planning and code writing. Experience with Washington State GMA, state law, countywide planning policies and principles of community development is highly desired.

He/she will have a strong sense of public service and be committed to customer service; helping the customer succeed through the planning/permitting process. Strong leadership and people skills, coupled with political savvy and a commitment to public engagement, will be attributes for the preferred candidate. Enjoying working with citizen committees is a quality desired. The ideal candidate will have excellent written communication and oral presentation skills. The ability to multi-task and work without dedicated administrative support staff will be an important asset for the successful candidate.

## **DISCUSSION ITEM 4a**

Candidates should possess strong personnel management skills and have the ability to bring a team together. A proven mentor who has the ability to bring a talented staff to the next level will move candidates to the front of the list. Snohomish has cultivated a collaborative management environment. The ideal candidate will be highly ethical and have a collaborative approach while working with other City Departments.

### **EXPERIENCE & EDUCATION**

A Bachelor's degree from an accredited college or university in urban planning, geography, or related field is required, along with eight (8) years of increasingly responsible professional planning experience, including two (2) years of administrative and supervision responsibility.

Candidates must have a Washington State driver's license, or the ability to obtain one by hire.

### **COMPENSATION & BENEFITS**

- > **\$105,432 - \$116,820**
- > Medical
- > Dental
- > Vision
- > Annual Paid Leave
- > 11 paid holidays
- > Short Term Disability Insurance
- > Long Term Disability Insurance
- > Retirement – PERS
- > 457 Deferred Compensation

[www.snohomishwa.gov](http://www.snohomishwa.gov)

The City of Snohomish is an Equal Opportunity Employer. All qualified candidates are strongly encouraged to apply by **May 22, 2016** (first review, open until filled). Applications, supplemental questions, resumes and cover letters will only be accepted electronically. To apply online, go to [www.prothman.com](http://www.prothman.com) and click on "submit your application" and follow the directions provided. Resumes, cover letters and supplemental questions can be uploaded once you have logged in.



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## **DISCUSSION ITEM 4b**

**Date:** May 4, 2016  
**To:** Planning Commission  
**From:** Clay White, Interim Planning Director  
**Subject:** **Mobile Food Vendor Licensing Code Amendments**

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### **INTRODUCTION**

This agenda item provides for the Planning Commission's discussion of draft code language addressing the licensing and siting requirements for *Mobile Food Vendors*. The proposed language would be added to Title 5 (Business Regulations and Licensing) since a mobile food vendor license would be required to operate. A small code change is also proposed for 11.08.130 SMC (Parking for Certain Purposes) which currently prohibits the selling of merchandise from a vehicle. This section would be amended to allow sales from a licensed mobile food vendor.

Since this item is not amending regulations subject to the Growth Management Act, this is not an item that the Planning Commission will hold a hearing on. However, any feedback or thoughts on this issue will be helpful to staff as this item goes to the City council for discussion and a hearing.

Both the Economic Development Committee and City Council have been previously briefed on this issue. Minutes from both of those meetings are attached for your reference. The draft code language reflects the preliminary feedback from both the committee and council.

### **BACKGROUND**

With the exception of special event permits, SMC does not address businesses operating from a wheeled vehicle. Brick and mortar eating and drinking establishments are allowed as permitted or conditional uses in all commercial and mixed-use land use designations and in Public Park designations where they are permitted only if ancillary to a recreational use.

Unlike brick and mortar restaurants, mobile food vendor vehicles are not treated the same under the code for several reasons, including the fact that no construction permit is typically required. Permits and licenses are required by agencies including the Washington State Department of Motor Vehicles, Washington State Department of Labor and Industries, and the Snohomish County Health District. Certain code requirements applicable to new development do not necessarily apply to transitory uses such as mobile food vendors where no building permit is required. These requirements may include site and frontage improvements, dimensional standards, parking standards, traffic impact fees, design standards, handicap accessibility, and restroom facilities.

From an economic development perspective, there may be benefits to the community to allow mobile food vendors within certain limits. These may include potential interim economic use of undeveloped land and furthering entrepreneurial opportunities. As well, the allowance may expand dining options for residents. In some jurisdictions, aggregations of mobile food vendors are promoted as, or have become, a destination draw. An example is Everett's recent Food

## **DISCUSSION ITEM 4b**

Truck Festival. However, there may be concerns from citizens that the use is not consistent with community character, and concerns from brick and mortar restaurants that these uses would unfairly compete due to different start-up and operational costs.

### **PROPOSAL**

The City already has a process in place for mobile food vendors associated with special event permits. Therefore, the proposed code will not address food trucks associated with special events, only those who wish to operate on a more regular basis.

It is also important to note that this will be the first code for mobile food vendors within the City. It has been intentionally written so the scope is limited while also providing opportunities for it to be successful. This will give the opportunity for the City to see how the code functions. It can always be expanded in the future based upon the experience the City has with licensing these operations.

Attached you will find a copy of the draft code language for review. Some changes to the structure of the code will be made prior to the June hearing along with any changes requested by the Commission.

The following provides an overview of the code development goals and how the draft language addresses those issues.

- Make an allowance in Title 5, Snohomish Municipal Code (SMC) for the licensing of mobile food vendors so they can be properly licensed and sited within certain areas of the City.

*The proposed code language outlines where mobile food vendors can potentially locate and operate. The code also provides for the annual licensing of these operations and process to ensure all local and state health, safety and welfare requirements are met prior to operation. Fees for the mobile vendor license will be handled under a separate process through the Economic Development Department.*

- Ensure that mobile food vendors stay mobile and do not interfere with the operation of brick and mortar restaurants. Create limited areas where mobile food vendors can operate until impacts of these businesses on the City can be fully understood.

*The proposed code provides a number of requirements:*

- *Vendors may locate in the Pilchuck District's Neighborhood Center Zone, Neighborhood Civic zone, and land designated Business Park.*
- *Vendors may only use right-of-way adjacent to the First street travel lanes west of Avenue D.*
- *A mobile food vendor may not locate on a given parcel or premises for more than six hours in any 24-hour period.*
- *Mobile food vendors shall not operate at more than one site within any 24 hour period unless such sites are separated by at least 2,000 feet*

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- *Mobile food vendors shall not operate within 200 feet of a brick and mortar food business that is open without consent of that business (if they offer similar food items).*
- Ensure mobile food vendors are set up so they do not obstruct sidewalks, passage of pedestrians or vehicles, and other right-of-way issues.

*The draft code prevents vendors from using freestanding awnings, tents, canopies, or umbrellas. These types of devices must stay attached to the vendor vehicle. The code also specifies that signs, lights, overhangs, and awnings must not create a hazard to pedestrians, customers or vehicles. Finally, there is language included to ensure queuing of customers does not create an issue for traffic and pedestrians.*

### **NEXT STEPS**

Since the Planning Commission will not hold a hearing on this subject matter, there are no next steps for the Commission. Staff is tentatively scheduling this item for discussion with the Council later in May or early June with a hearing to follow.

### **ATTACHMENTS:**

- A. Draft code section 5.30 - Mobile Food Vendors
- B. Draft revision to 11.08.130 – Parking for Certain Purposes Prohibited
- C. Minutes – September 1<sup>st</sup>, 2015 City Council briefing
- D. Map of Possible Siting Locations

**Chapter 5.30**

**MOBILE FOOD VENDORS**

Sections:

- 5.28.010 Purpose
- 5.28.020 Mobile food vendor defined
- 5.28.030 Restrictions
- 5.28.040 License renewal
- 5.28.050 License permit required – application contents
- 5.28.060 Conflicting provisions
- 5.28.070 Severability

**5.30.010 Purpose.** This Chapter sets forth the licensing, location, and operating requirements for mobile food vendors.

**5.30.020 Mobile food vendor defined.** For the purposes of this chapter, a “mobile food vendor” means a business that, as its principal function, sells or otherwise dispenses prepared food and non-alcoholic beverages to the general public from a licensed motor vehicle that is not permanently affixed to real property. The term excludes food delivery vehicles and vehicles that dispense food and move from place to place and are stationary for no more than 15 minutes at a time, such as ice cream trucks. The term also excludes food trucks and similar concession vehicles that are licensed by the City under a special event permit.

**5.30.030 Restrictions.** A mobile food vendor shall:

- A. Not be located on any given parcel or premises for more than six hours in any 24-hour period.
- B. Mobile food vendors shall not operate at more than one site within any 24 hour period unless such sites are separated by

at least 2,000 feet. Mobile food vendors that serve employees of businesses on the property of such businesses and are not located for more than one hour on any given parcel are exempt from this provision.

- C. Comply with the standards of the State of Washington Department of Labor and Industries for electrical service to the mobile food preparation vehicle and shall have a valid and current license issued by the Washington State Department of Licensing.
- D. Not use freestanding awnings, tents, canopies, umbrellas, or other structures or weather protection devices. All such devices shall remain attached to the vending unit and fully supported thereby. All merchandise, wares, and food shall only be displayed or offered for sale from the vendor’s vehicle.
- E. Maintain all attachments to the vending unit, including but not limited to signs, lights, overhangs, and awnings, in such a manner as to not create a hazard to pedestrians, customers or vehicles.
- F. Provide at least one trash receptacle for customer use. All such receptacles shall be screen from the right of way and securely covered, and the contents disposed in a compliance with all City regulations with removal of the vehicle.
- G. Maintain a minimum setback of 20 feet between the mobile food preparation van or other vending unit and all interior property lines and other buildings and a minimum of 50 feet from flammable, combustible liquid or gas storage and dispensing structures.

## **DISCUSSION ITEM 4b**

- H. Comply with all applicable requirements of the Snohomish County Health District and shall maintain current Snohomish Health District certifications.
- I. If operating on private property, provide at least two customer parking spaces in compliance with the parking standards in Chapter 14.235 SMC.
- J. No mobile food vendor shall sell or deliver any food or goods if the vending unit is within 200 feet of the entrance of any non-mobile business establishment that is open for business and offers for sale similar food or products for sale without the written consent of the business.
- K. No mobile food vendor shall obstruct or cause to obstruct the passage of any pedestrian or vehicle on any public sidewalk, street, or any other public right-of-way, including customer queues or customers consuming any food sold by the mobile food vendor at or near the place where any items are sold or offered for sale. No items may be offered or sold and no customers served in any traveled portion of a public roadway.
- L. No mobile food vendor shall operate except on private property in the Pilchuck District's Neighborhood Center Zone, Neighborhood Civic Zone, or Business Park land use designation or on public right-of-way or public property adjacent to the First Street travel lanes west of Avenue D.

### **5.30.040 License renewal.**

Mobile food vendor licenses shall be valid for one year from the date of issuance. Amendments to the license regarding the vehicle, product, location, hours of operation

or other element identified in the original application shall require a review fee but shall not change the renewal date.

### **5.30.050 License permit required – application contents.**

- A. No person, firm, or corporation shall operate within the City as a mobile food vendor without a valid business license according to the requirements of Chapter 5.02 SMC and a mobile food vendor license per this chapter. Application for a mobile food vendor license shall be made to the City Clerk, upon forms to be provided by the City Clerk. A mobile food vendor license shall not be issued prior to submittal and approval of all items required in this section and a determination of compliance with all conditions of license approval.
- B. A mobile vendor license may be suspended or revoked in writing by the City Manager for any of the following reasons:
  - 1. Any fraud, misrepresentation or false statement contained in the application for a license.
  - 2. Any fraud, misrepresentation or false statement made in connection with the selling of products.
  - 3. Any violation of this chapter.
  - 4. Conviction of the licensee or operator of a felony or of a misdemeanor involving moral turpitude.
  - 5. Conducting a business licensed under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- C. The application for a mobile food vendor license shall state the name and address

## **DISCUSSION ITEM 4b**

of the applicant, the vehicle license numbers of all motor vehicles from which the applicant proposes to conduct business, a description of the general type of food and other goods proposed to be sold by the applicant, and the place or places where the applicant proposes to engage in business as a mobile food vendor.

D. Such application shall be accompanied with the license fee as provided for in the current fee resolution, together with a photocopy of a valid motor vehicle operator's license for all operators, proof of automobile liability insurance coverage in an amount acceptable to the risk manager for the City, and evidence of a Washington State Department of Revenue business registration number.

E. In addition to the foregoing requirements, mobile food vendors shall:

1. Provide documentation that the vending unit has been approved by the State of Washington Department of Labor and Industries.
2. Provide evidence of current State of Washington vehicle registration.
3. Provide documentation of approval by the Snohomish County Health District of the vending unit and a commissary in support of the vending unit.
4. Provide evidence of a current Snohomish County inspection and approval of the vending unit.
5. Provide a written plan documenting appropriate disposal of wastewater generated by the vending unit.

6. Identify available toilet and handwashing facilities.

7. Provide written permission from the property owner consenting to operation of the business on the owner's property, if operated on private property.

8. Provide hours of operation at each location.

9. Provide a site plan depicting existing site improvements, ingress and egress location(s), the location of the vending unit, and, if on private property, the location of at least two spaces for customer parking.

**5.30.060 Conflicting provisions.** In the event any of the provisions of this ordinance conflict with any provision of any other ordinance, the provisions set forth in this ordinance shall supersede.

**5.30.070 Severability.** Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Snohomish hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

**DISCUSSION ITEM 4b**

ATTACHMENT B

**11.08.130 Parking for Certain Purposes Prohibited.**

- A. No person shall park any vehicle upon any street or alley for the principal purpose of:
1. Displaying of commercial or noncommercial signs;
  2. Displaying such vehicle for sale;
  3. Selling merchandise from such vehicle, except for licensed mobile food vendors meeting the requirements of SMC 5.30.
- B. No person shall park any vehicle upon any roadway for the principal purpose of washing, greasing or repairing such vehicle except repairs necessitated by an emergency. (Ord. 1546, 1985; Ord. 1865, 1998)

## **DISCUSSION ITEM 4b**

### ATTACHMENT C

*Excerpt of September 1, 2015 City Council minutes regarding Mobile Food Vendors*

#### **7. DISCUSSION ITEM – Mobile Food Vendors**

The purpose of this item was for staff to receive Council policy direction on whether to allow mobile food vendors and how to incorporate them into the municipal code. Currently in Title 14, the Land Use code, both mobile food vendors and brick-and-mortar restaurants were considered eating and drinking establishments with no distinction drawn between them. Eating and drinking establishments were permitted in a wide variety of zones, including all of the employment zones as well as Public Park where it was a conditional use.

There were certain code requirements for most land uses which needed development or occupied land that was previously developed. With development they were required to show they had adequate parking, had made certain site improvements, paid certain impact fees, and other development requirements. However a vehicle was not subject to a building permit nor these requirements so it really was qualitatively different from brick-and-mortar restaurants.

Food truck vendors were mobile, self-contained, and designed to move from one place to another to find their customers. However on Airport Way there was a mobile food vendor who had been there day after day the last several years so they didn't always move. Staff's concern about enforcing regulations was that because the vendors may not move, while self-contained, there were questions in particular about where the effluent was going if the trucks weren't connected to utilities. Staff has conditioned these on a connection to utilities which has essentially precluded them from becoming established, as there had been no interest in connecting to permanent City utilities.

The first question was whether the Council would like to see mobile food vendors in town. In 2012 when the Council discussed issues to bring forward in updating the strategic plan, Councilmember Guedel brought up mobile food vendors as a potential economic development tool. Other communities did use them. Everett just had a festival of food trucks.

At their May meeting the EDC considered the topic and recommended that the Council allow them on a limited basis. The market demand was unknown at this time. Most of the success stories dealt with where they became a destination either regionally or within a city, and were typically larger metropolitan areas. It wasn't known if the City could support one or more.

There were several potential issues from the community that may arise from allowing mobile food vendors. One was potential competition for the brick-and-mortar restaurants. There were certain costs that went into establishing a fixed restaurant that would not be the same as establishing a mobile food vendor, and similarly there were costs for a mobile food vendor that wouldn't be directly applicable to a brick-and-mortar restaurant. There may be concerns about new competition.

Second, there were recurrent concerns by members of the community that actions taken by the City were contrary or adverse to the community character. It wasn't clear whether mobile

## **DISCUSSION ITEM 4b**

food vendors would be embraced widely or whether there would be concerns that they were diverging from the values of the community.

The first question was whether this was something the City did or didn't want. A question was placed on the City's website asking whether the City should allow mobile food vendors to operate in town and if so, where they should be located. A range of comments came in. Some people were interested in having them involved with special events. Currently special events were the code exception that allowed them. A special event was a short-term thing; it was known they wouldn't be located in one place so the utility connection wasn't an issue. One commenter would like to see them limited to special events. Other comments included: having them at the Sunday farmers market location on a year-round basis; having them more places than the farmers market; that they generally provided more variety; and they added a new dimension.

Another consideration was that mobile food vendors created more options for local diners as well as a potential economic draw. One responder thought it would be good to have them in the historic land use as well as visiting the industrial or employment areas to provide lunches. One questioned why they were restricted at all and encouraged the City to allow the market to determine who would succeed and who would fail.

If the City allowed the use it was likely to be with certain conditions, although one option was to allow it everywhere without limit. The EDC recommended locations be restricted to the Business Park zone along Bickford Avenue, the Pilchuck District, and along First Street west of Avenue D. West on First Street had a lot of available parking and was very under-utilized; it would bring attention to that area and it was a good use of the extra parking area. For operating limits, EDC recommended a six-hour limit in 24 hours on one site. Applying a six-hour limit meant they would move by necessity, hopefully to a place where they could appropriately drain the sump tanks and use the facilities at their commissaries.

Other possible conditions were culled from other codes if the Council's decision is to move forward. A lot of cities allowed them with conditions. Freestanding canopies, umbrellas, or other temporary structures would not be allowed, with the intent to ensure that it functioned as a truck, not as a quasi-outdoor restaurant, making it an entirely different animal from the sit-down restaurants. The City would want to ensure trash generated on the site was being collected and disposed of in a suitable way. According to the EDC recommendation, trucks would be within right-of-way on public land along First Street and on private property in the Bickford Corridor and Pilchuck District. Other jurisdictions required some additional parking when located on private property and staff's recommendation was two parking spaces.

Another common condition was to require a limit on how closely these uses could locate to either another restaurant or a restaurant vending a particular type of cuisine, unless there was written permission from that business owner to allow them within whatever distance may be set. Everett had a 250' limit while other jurisdictions set it at 100'.

Mayor Guzak confirmed an example would be like a pizza truck not parking close to a pizza restaurant without permission.

## **DISCUSSION ITEM 4b**

A final condition would be to ensure that the trucks didn't set up adjacent to a sidewalk and block the public circulation either on a street or public sidewalk. That was the summary of recommended conditions. Staff's first question was whether the City should allow the use.

Councilmember Burke said food trucks had a lot of strengths that restaurants didn't have and vice versa. It was a very different experience. He ate at a lot of taco trucks and had friends who owned really successful ones. He also had friends who had failed and others who had grown the mobile business into a restaurant. There was huge demand.

Councilmember Hamilton was generally in favor of the concept of mobile food trucks. What came to mind nowadays were the really large trucks or the pick-up trucks with a camper shell that went into a job site to sell sandwiches and drinks, and then moved down the road. It was important to recognize there could be several different varieties of mobile food truck. There was opportunity for them at certain types of events, such as the Bigfoot Soccer Tournament. A few months ago he was at the Ballard Saturday Market with at least 20 mobile food trucks relegated to a certain area for the run of the market. Who knew how many restaurants there were in the area besides. He wasn't opposed to them but there were questions to review.

Councilmember Rohrscheib supported mobile food trucks. They should be allowed in more areas than currently listed; not on First Street between Avenue D and Union Avenue, but just outside of those limits would be fine. He was all about competition, especially when it came to food. He questioned the idea of a mobile pizza place opening next to an established pizza restaurant. What would the restriction be, how many feet? What did 100' or 200' look like? He didn't see it being a big issue in the long run.

Councilmember Kaftanski would allow them.

Councilmember Schilaty thought there was a myriad of ways this could be done. The EDC talked a lot about using the area west of Avenue D; it would serve many purposes and have many benefits. It would be the designated area so people knew where the food trucks were. It would broaden the introduction to that end of town and could interest more people in parking in the area. There were many benefits. Portland used a concentrated area. They wanted to look at what could be done to provide the service to the community and also have the City benefit by more than just the sales tax generated. The First Street location was so attractive because it would get people acquainted with the downtown. These food trucks had followings; there were applications that told where they would be located. There was one in Freeland and when visiting there, she looked to see what their special was; it could be a big deal. Was it better to provide a concentrated known area or should the trucks be diversified and in more places? She was in favor of them.

Mayor Guzak was a 'yes' also. Then the Council would work out the details.

Mr. Dennison brought up the next question of location. One benefit of allowing mobile food vendors apart from the Land Use code and with time limitations was that there was not the vesting issue. The Council could change the policy or the location, determining what worked and what didn't. Certainly if a license was granted for a year, or whatever time frame, that

## **DISCUSSION ITEM 4b**

would be honored but the program was easier to redirect than a land use action which would be more unwieldy to change directions or where people could become established.

Mayor Guzak agreed it was very appropriate to permit them rather than deal with zoning issues. She liked the Business Park location for lunch; that was north where there weren't many restaurants. There were some at Snohomish Station but not in direct competition. The Pilchuck District was really close to downtown and the Sunday market. First Street seemed a good place to start.

Councilmember Burke was more flexible about geographic location but wanted to nail down what was meant by approximate distance away from another facility. He didn't agree with the terminology about asking a similar restaurant owner for permission. If the truck was beyond the set distance, a business should not need to ask for permission to operate. What to do about effluent waste was important. There could be requirements like using biodegradable silverware; garbage cans at these places were typically overflowing over the course of a day. Costco had biodegradable trash bags; everything could be biodegradable rather than have the stuff work its way out to the Pacific Ocean. The City wouldn't gain anything from that but it was a good thing to do. It could be required and was a really simple thing to enforce as well.

Councilmember Kaftanski said in regard to the geographic locations sometimes it was good to take baby steps, then crawl, and then walk. Food trucks needed a density of people and traffic to have a chance to be successful. The three locations identified probably provided the best opportunity for that density. The City was trying to develop the Pilchuck District which was adjacent to downtown, and the business park area. The trucks wouldn't locate in residential areas so what was the purpose of allowing them there? There was no parking on Avenue D north of Seventh Street. In his mind that probably represented the universe of where they could or would locate. He agreed with the concept of starting off with these geographical locations as a first step.

Councilmember Hamilton thought one additional area where there were occasional major events was the soccer fields.

Mayor Guzak confirmed it would be a special event permit if they were at Bigfoot.

Mr. Dennison added that allowing the trucks on private property might require a limited modification to the land use code. The soccer fields were designated Open Space which allowed very limited uses. Staff could work on that if it was the Council's direction.

Ms. Emge said major events held at the soccer fields were done through a special event permit. But there were a lot of people at the soccer fields every weekend so it potentially would be of interest to mobile food vendors. Sometimes private property owners had their own concessions as well so it would be up to the owners of the soccer field. Was all of the soccer field area Open Space, even the parking lot and building?

Mr. Dennison said the building may be Residential.

## **DISCUSSION ITEM 4b**

Councilmember Hamilton confirmed there was a City park across the street.

Councilmember Rohrscheib disagreed a bit with the locations. There were other places in town which would be private property where someone could set up, such as the traffic circle area where the fireworks stand went. Food trucks didn't always rely just on people walking in; people drove to them as well. He liked the idea of having an area where the food trucks would be but it was also way off the beaten path. The trucks needed to be more visible. The Second Street furniture store was private property but a lot of cars drove by, making it a great spot for a food truck, or the Carnegie parking lot. There were other places. Maui had what was called First Friday; the first Friday of every month all the food trucks went to one area and everyone knew where to gather for live music and food. That would be something to consider doing in the future.

Councilmember Schilaty said the EDC did talk about the old Yakima Fruit Stand property. One of the concerns discussed was whether this was in character with the City. Food trucks were great but there wasn't a lot of control over what they looked like and she didn't want them to be visually distracting to the town. She liked the idea of the City working to promote where the trucks gathered, such as "Munchie Monday" or "Food Truck Friday."

Mayor Guzak agreed. To start this program, those three areas would be good. If it was very successful and they liked the project, it could expand.

Councilmember Hamilton said it was a broad subject. For discussion, he envisioned three types of food truck operations: one that would be for a short period of time of 15-30 minutes before moving on to another site; a limited amount of time for an event of 6-12 hours; and the permanent installation. While he didn't necessarily envision it for the City, Portland had permanent food trucks like the taco food truck on Airport Way. The BBQ Shack had started out as a food truck just outside the City boundaries. They needed to address that whole range of issues in addition to the size of the truck, from a pick-up truck to a moving van.

Councilmember Burke wanted to be careful about lowering the odds of having healthy competition, whether the issue was 6 hours in one location or use of the umbrella stands. Someone willing to sit under an umbrella to eat a taco off a paper plate wasn't in the mood to go to a restaurant; that was a very different experience. Either way they were paying real money for it. Everybody ate multiple times a day. This was something that would grow; the market size wasn't fixed. He didn't want to kill competition before it had a way or chance to blossom. How long were they going to stay in one place? How many hours in a day? Was the location restricted too much? etc. He agreed with talking about how to deal with effluent wastewater and fryer oil at the end of the day; that made sense. He wanted to see what people could come up with. Working in a food truck was hard work. Even if people did well with it, a lot of times when they became successful, they didn't want to do it forever; they wanted to grow out of it. A good food truck manager had talent.

Mayor Guzak said there were mixed messages. She was very supportive of the EDC's work and not as personally supportive of opening up other areas or a longer time. This was a discussion tonight and will come back again. Canopies were similar to temporary buildings to

## **DISCUSSION ITEM 4b**

be permitted so that was another issue. She thought not. Were trucks powered or plugged in?

Mr. Dennison believed they were designed to be self-contained and operate exclusive of exterior power sources. If the City wanted to create an incentive for them to locate in one area, and it was a benefit to the trucks to have an external power source, maybe that was something the City could do to encourage them in a location.

Mayor Guzak didn't think that was necessary to start the program. They were talking about how to start it in a judicious thoughtful way. She agreed canopies and umbrellas really got to be territorial and it was better to eliminate them. The canopies should be on the trucks.

Councilmember Burke asked, after the broader discussion about whether or not the trucks could have covered structures, would they have to go through the fire marshal? Wasn't that common with tents? They couldn't be flammable, couldn't have wooden stands, and had to have metal poles. The fire marshal walked around at the fairs and outlawed certain canopies that didn't meet fire code. There had to be good wording in other municipal codes for the City to analyze and use the best ideas. Somebody was doing this right.

Mayor Guzak said Mr. Dennison had already looked at codes and brought them tonight.

Councilmember Schilaty heard there had been talk of the City providing some tables on the City property west of Avenue D as an incentive to help the food trucks so there wouldn't be a need for canopies or umbrellas. A lot of times people just wanted to sit down and eat right away. It was a whole different experience, filling a need for when someone wanted to eat a certain way; it wasn't a restaurant experience. The power issue could be addressed as part of the permitting costs. There were ways the City could help these businesses be successful.

Mayor Guzak said the First Street location contained space for picnic tables as the City owned quite a bit of the property, especially around Iron Works. The health department would be guiding the quality of the food and cleanliness of preparation.

Mr. Dennison added that the vehicles were inspected by the state Labor & Industries department and had to be licensed for the road as well. Staff's next question was should there be a parking standard for trucks, or assume it would be more informal, consistent with the idea of a drive-up restaurant, or a 'restaurant' that drives up?

Councilmember Kaftanski favored not requiring parking stalls for the mobile vendor trucks. In relation to private property, there was either a business that happened to be a land owner or a land owner who happened to have tenants on the property. If a mobile food truck took up parking spaces and was required to have other parking spaces, that would impact viability of an existing business. It could detract from the net bottom line of the business or the land owner. There were minimum parking standards as opposed to maximum parking standards. Bankers required minimum parking. Whether the minimum parking was too much or too little, a mobile vendor truck on private property was an ancillary source of income, not a primary source. A business owner wasn't going to allow something that detracted from the bottom line. Where would extra parking spaces come from on already developed land unless

## **DISCUSSION ITEM 4b**

it was at a bank that closed at 5 p.m. and the mobile food truck was there after 5 p.m.? Then there was joint use of parking but would that actually occur? He was in favor of letting the market determine where the trucks would be and if parking was impacted, it wasn't going to happen on private property. If there's sufficient parking, it will occur.

Mayor Guzak and Councilmember Burke agreed parking shouldn't be required for trucks on private property. That will work itself out.

Councilmember Burke suggested if the location was going to be the big discussion item, to move the issue forward they could insert language that it be a 2- or 3-year trial, and revisit the geographic distribution after that time.

Mayor Guzak confirmed that if it was done as a permitting issue rather than a land use, it would be fairly easy for the Council to change it at any time.

Mr. Dennison said mobile food vendors would be an augmented business license.

Councilmember Schilaty said there had to be a balance between supporting brick-and-mortar and the food trucks if they came in. At what point was one given advantage and the other disadvantaged? Brick-and-mortar obviously had a lot more requirements than food trucks. Parking issues might be one of those things that ruffle some feathers. The Council had to be aware of that and weigh cost benefit for all the business owners within the community.

Mayor Guzak verified that required parking would be on public property rather than on private property.

Mr. Dennison said on public property the assumption was that it would be on right-of-way or immediately adjacent. Public parking wasn't usually assigned so it would be on a first come-first serve basis in any event on the adjacent streets. The Council had discussed proximity to fixed restaurants which sounded like something that would deserve more discussion.

Mayor Guzak heard other jurisdictions had 100' and 250' requirements. Councilmember Schilaty's comment was that they didn't want this to interfere with the fixed restaurants who had invested a lot, and many of them weren't likely to be flush with money. Competition needed to be controlled.

Councilmember Kaftanski thought this issue needed further discussion. Similar fast food chains wanted to locate next to each other, and similarly retail wanted to locate next to each other. They weren't looking to separate themselves; they were looking to congregate among themselves which was a 180 degree different perspective. In judging whether a business was similar to another business, if a food truck only provided calzones and a place only provided pizza, were those similar foods or not? It became very subjective and he favored letting the market discern it. They didn't want staff to spend a lot of time being a judge and jury of what was a similar food product. That was more of a losing proposition than a winning one. This could be a no-win situation and there were so few people in the Planning Department. The Council had to be careful what they legislated because staff had to implement and enforce it.

## **DISCUSSION ITEM 4b**

Councilmember Hamilton suggested another use for a mobile food truck would be on First Street when the bars were still open and everything else was closed. There used to be a hot dog vendor for awhile although there were other issues associated with that. There were a lot of possibilities; there was a lot more to flush out with this.

Councilmember Rohrscheib said those people weren't going to walk all the way down past the Iron Works but they would walk to the Carnegie. Speaking as a former bar owner, they wouldn't stumble that far; they would just go to 7-11.

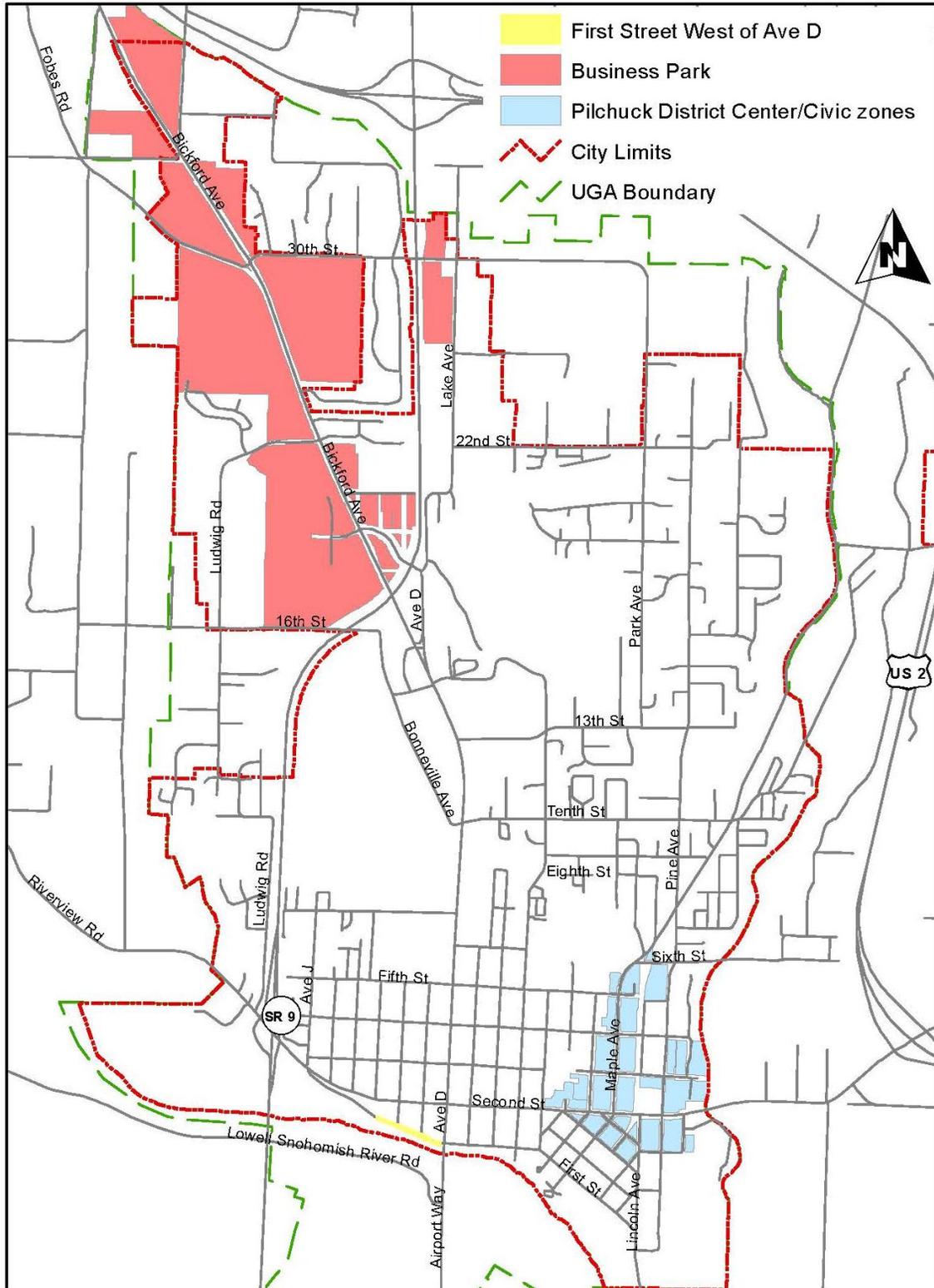
Mr. Dennison asked if there were any other concerns staff should consider? Any other information to bring back that hadn't been raised so far?

Councilmember Rohrscheib had two points. The look of a food truck had been brought up. The majority looked really nice as the owners put a lot of money into their concept. They were trying to get business and the truck was their billboard. There were always a few exceptions that wouldn't look very nice and people still ate at them. These people worked very hard and eventually some even opened restaurants. But a lot of food truck owners had actually been in a fixed location and got tired of those four walls; they chose the food truck life because they got to be mobile and drive around. They could usually make the same amount of money in a six-hour period that they had made being open all day and night.

Mayor Guzak confirmed staff had enough information to put some language together for the Council to look at again. Would it go back to the EDC also?

Ms. Emge didn't think the Council needed to wait for the EDC to make comments. She would communicate with the committee throughout the process.

Mayor Guzak thanked Mr. Dennison for the work he put into this, for coming in at 7 a.m. and working until 7 p.m.



**Potential Sites for Mobile Food Vendors**

## **DISCUSSION ITEM 4c**

**Date:** May 4, 2016  
**To:** Planning Commission  
**From:** Brooke Eidem, Associate Planner  
**Subject:** 2016 Comprehensive Plan Amendment Application

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### **INTRODUCTION**

This agenda item provides a briefing of the Planning Commission on applications for the 2016 Comprehensive Plan amendment cycle. If docketed by the City Council, the proposed amendment will be brought back to the Planning Commission for further review and a recommendation.

### **BACKGROUND**

The Growth Management Act (GMA), RCW Chapter 36.70A, requires that the City Council consider amendments to the Comprehensive Plan no more frequently than once per year. The City has instituted the following docketing and review process for such amendment proposals.

- Deadline for amendment applications (March 31st)
- **Optional: initial review by Planning Commission (May 5)**
- City Council approval of the 2016 docket
- SEPA (environmental review by staff)
- Notification of proposed amendments to the Department of Commerce
- Planning Commission hearing and recommendation
- City Council hearing and decision
- Any appeal of the City Council decision is heard by the Central Puget Sound Growth Management Hearings Board

One application was submitted for consideration for inclusion in the current year's Comprehensive Plan Docket. The proposal is for a change to the Land Use Designation and zoning map.

### **PROPOSAL**

The proposal is to change the land use designation of the property at 2501 Bickford Avenue from Business Park to High Density Residential. A vicinity map is provided as Attachment A.

The property at 2501 Bickford Avenue is 3.36 acres and located on a west-facing slope with a Category III wetland in the northeast corner. The frontage along Bickford Avenue is relatively narrow at just over 70 feet. SMC 14.207.075(6) allows multi-family housing in the Business Park designation when in conjunction with a commercial use that comprises at least half of the gross square footage. The applicant has stated that commercial development on this property is difficult due to site constraints and a limited street frontage. The ultimate proposal is for a senior apartment complex, with connections to the Snohomish Station commercial development to the immediate north as shown in the site plan provided as Attachment B.

**DISCUSSION ITEM 4c**

**NEXT STEPS: Information only, no action is requested at this time.**

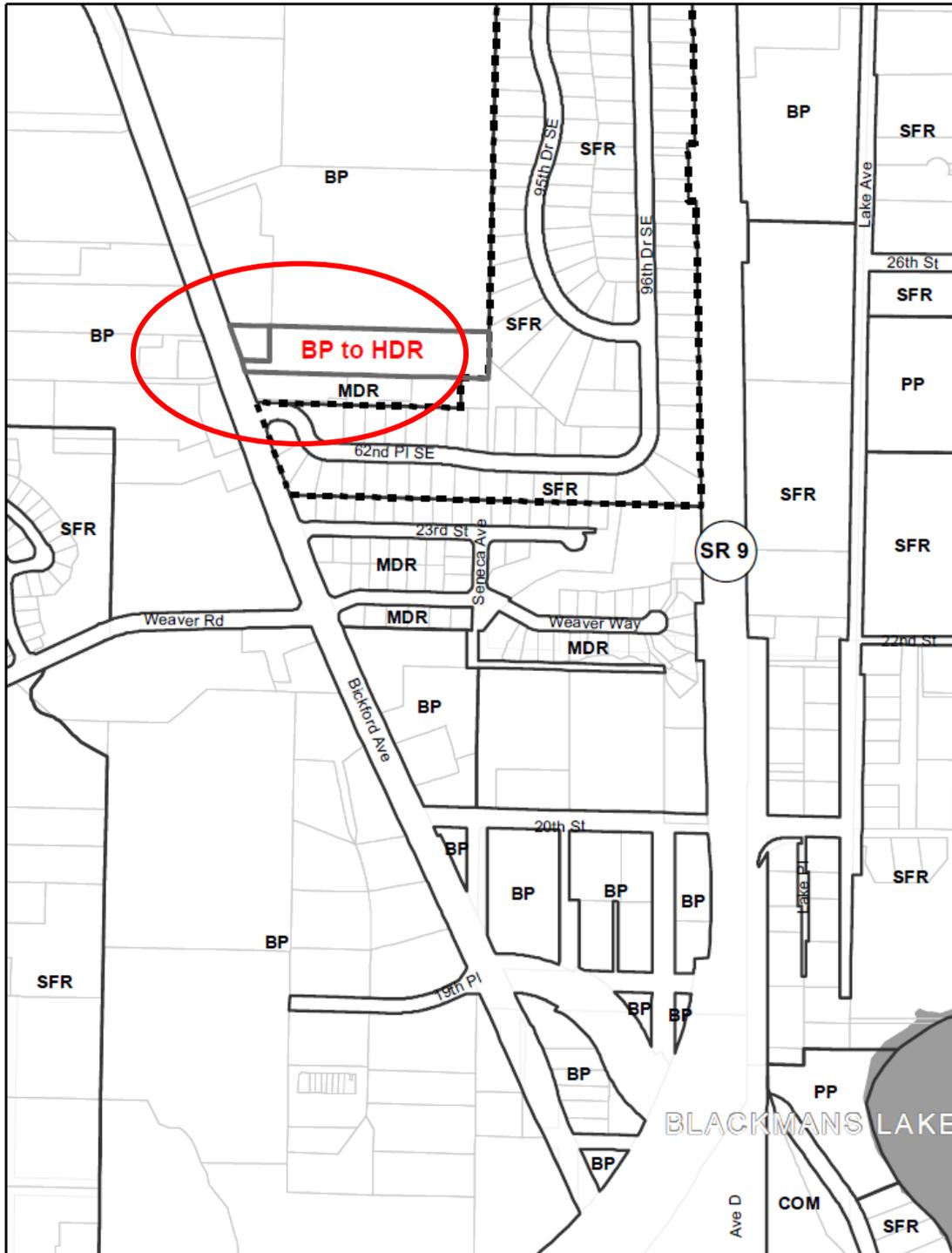
**ATTACHMENTS:**

- A. 2501 Bickford Avenue vicinity map
- B. "Bickford Landing" site plan

**DISCUSSION ITEM 4c**

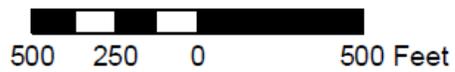
ATTACHMENT A

Vicinity Map



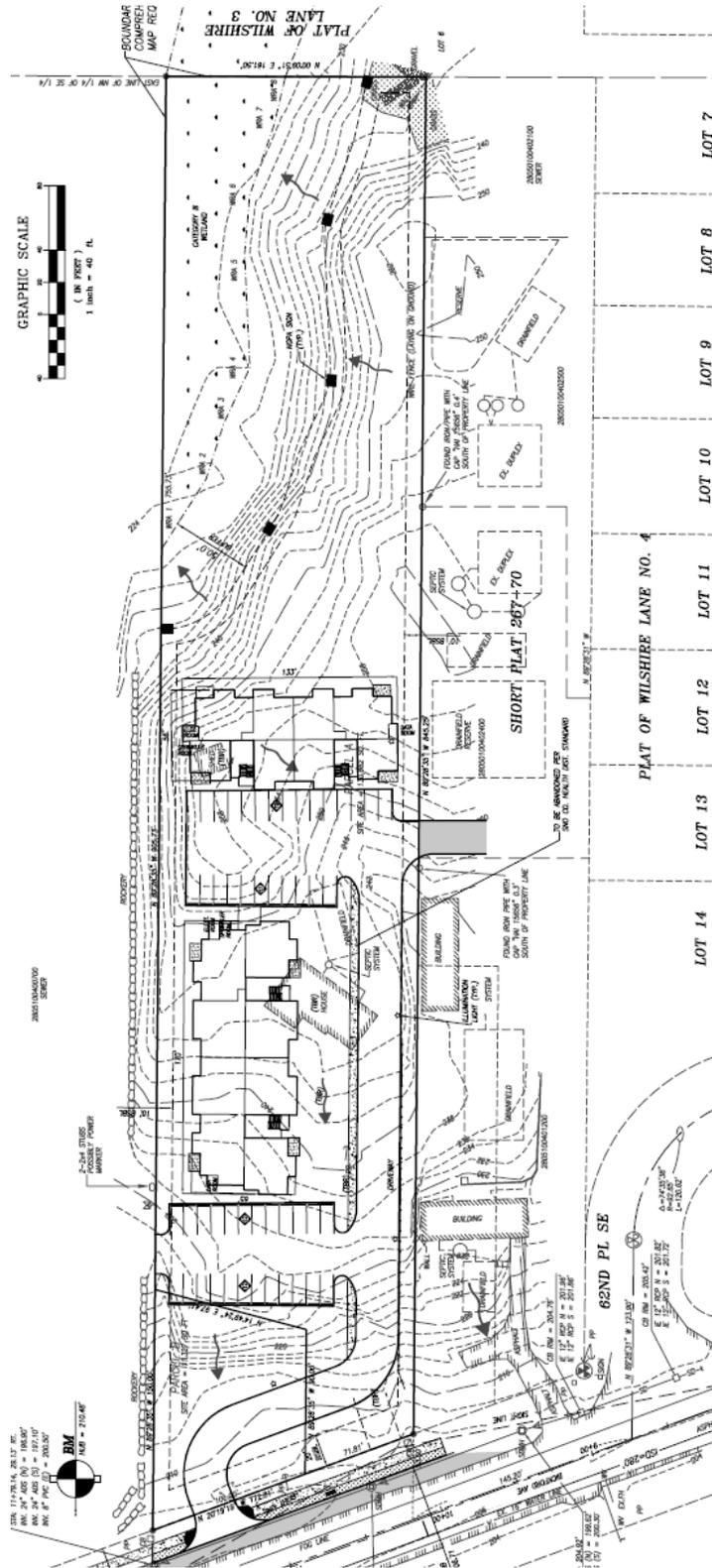
- 2501 Bickford Ave
- Parcel Base
- City Boundary

2501 Bickford Ave



ATTACHMENT B

Site Plan



## **DISCUSSION ITEM 4d**

**Date:** May 4, 2016  
**To:** Planning Commission  
**From:** Clay White, Planning Director  
**Subject:** **Community-Based Theaters**

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### **INTRODUCTION**

This agenda item provides for the Planning Commission's discussion of draft language addressing *community-based theaters*. At the March meeting, the Planning Commission discussed identifying community-based theaters as a separate land use to allow adaptive re-use of historic, non-residential structures in the Single Family zone. Under the draft language included as Attachment A, the regulations would have limited applicability.

### **BACKGROUND**

The purpose of the proposed amendments is to establish a mechanism for certain nonconforming uses in the Single Family designation, such as the Thumbnail Theater, to achieve conformity with the land use code. Consistent with the intent to encourage preservation of historic structures, the regulations would limit the use to the Historic District. The proposed definition would require such facilities to be owned and operated by a non-profit organization. The use would be listed as a conditional use only for the Single Family designation. In addition to the conditional use criteria of SMC 14.65.020, proposed conditions would restrict the use to a maximum floor area of 4,000 square feet to maintain a single family scale, and location within the Historic District and on a collector arterial or minor arterial.

### **PROPOSAL**

The Recreational/Cultural Land Use Table in SMC 14.207.130 currently has two theater listings: *Plays/theatrical production* and *Theater*. Neither use is defined in the code, although staff interprets the *Theater* use to mean movie houses. Staff proposes to collapse *Plays/theatrical production* and *Theater* into one *Theater* listing, and add a definition for *Theater* to Chapter 14.100 SMC.

Historic District sites eligible for the new use will be limited, in large part, to properties where adequate parking exists or where the prior use had an equal or larger parking requirement than the community-based theater use. Parking standards would be the same as the current requirement of one stall per every four seats listed for *Theater, Plays* in SMC 14.235.230. Staff proposes to revise this Land Use type to *Theaters* to encompass all theater uses.

At the March meeting, the Planning Commission discussed looking at the issue of non-conforming uses at a broader scale. Planning staff agrees that this is a worthwhile code amendment. However, staff's recommendation is to move the current amendment forward at this time and discuss a more comprehensive review of appropriate uses in the future.

#### **DISCUSSION ITEM 4d**

**NEXT STEPS:** That the Planning Commission review and discuss the draft language and direct staff on a preferred approach for the proposed amendments. A hearing has been tentatively scheduled for the June 1, 2016 Planning Commission Hearing.

#### **ATTACHMENTS:**

- A. Draft code sections from Chapters 14.100, 14.207, 14.235 SMC
- B. Map of Potential Locations for Community-based Theaters
- C. Analysis of Site Characteristics for Eligible Locations
- D. Draft Meeting Minutes

**DISCUSSION ITEM 4d**

ATTACHMENT A

**Chapter 14.100**

**DEFINITIONS**

(...)

**Community-based theater** means a land use where musical and dramatic performances are staged for public audiences. The term includes only those facilities owned and operated by a non-profit organization. Accessory uses may include arts education, assembly uses, ticket sales, and concessions.

(...)

**Theater** means an establishment primarily engaged in the indoor exhibition of motion pictures or of live theatrical presentations.

(...)

**14.207.130 Recreational/Cultural Land Use Table.**

**DISCUSSION ITEM 4d**

Land Use	Open Space	Public Park	Urban Horticulture	Single Family Residential	Low Density Residential	Medium Density Residential	High Density Residential	Commercial	Neighborhood Business	Historic Business District	Business Park	Industrial	Airport Industry	Mixed Use
<b>Parks and Recreation</b>														
Campgrounds	p	p												
Community stables		c	c											
Destination resorts		p						p		p			p	
Marina		p	c					p		p				
Public park	p	p	p	p	p	p	p	p		p	p	p	p	p
Public trails	p	p	p	p	p	p	p	p		p	p	p	p	p
Recreational center		p						p			p			
Recreational vehicle park		c						p2						
<b>Amusement/Entertainment</b>														
Amusement arcades								p		p	p	p		p
Bowling center								p			p			
Golf driving range		c											c	
Golf facility		c						p						
<del>((Plays/theatrical production))</del> Community-based theater		((p))		c8				((p))		((p))	((p))			((p))
Shoot range												c6		
Sports club		p						p		p	p	p		p
Theater		p						p		p	p			
<b>Cultural</b>														
Arboretum		p7		p	p	p	p	p		p	p	p	p	p
Conference center		p7						p		p	p	p	p	p
Library		p7		c	c	c	c	p		p				p
Museum		p7		c	c	c	c	p		p	p	p		p

**14.207.135 Recreational/Cultural Land Uses: Regulations.**

(...)

8. The following conditions and limitations shall apply to community-based theaters:
  - a. The floor area of the facility is limited to 4,000 square feet.
  - b. The facility shall be located within the Historic District.
  - c. The site shall have direct access to a street designated as a collector arterial or minor arterial.

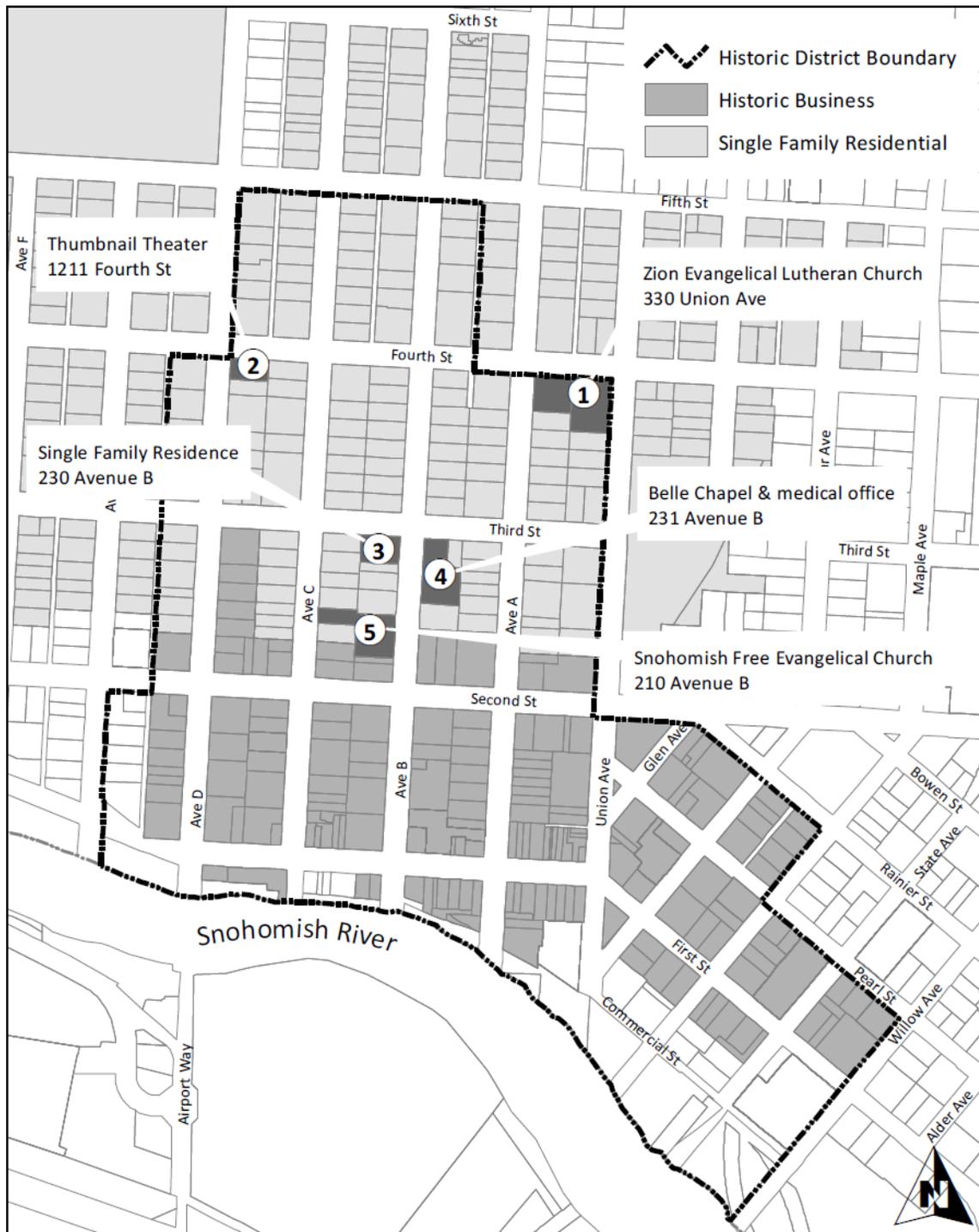
**DISCUSSION ITEM 4d**

<b>14.235.230 Parking for Recreational/Cultural Land Uses.</b>			
	<b>Land Use</b>	<b>Parking Requirement</b>	<b>Supplemental Requirements</b>
<b>Parks and Recreation</b>			
	Park	To be determined based on use	
	Trails	To be determined based on use	
	Campgrounds	1 space per camp site	
	Community stables	1 space per horse if at maximum capacity	
	Destination resorts	1 space per 200 gsf	
	Recreational vehicle park	1 stall per space	
<b>Amusement/Entertainment</b>			
	Theater(,-Plays))	1 space per every 4 seats	
	Bowling center	1 space per maximum design capacity for use	1 space per 200 sf of gfa not incl. in calculation
	Sports club	1 space per 200 sf enclosed gfa	plus 1 space for every 3 persons at maximum capacity use
	Golf facility	1 space per 300 sf of area	1 space per 200 sf of enclosed gfa
	Golf driving range	1 space per tee	1 space per 200 sf of enclosed gfa
	Shooting range (indoor)	1 space per 400 enclosed gsf	
	Amusement arcades	1 space per 200 sf gfa	
<b>Cultural</b>			
	Library, Museum	1 space per 300 sf of gfa	
	Arboretum	to be determined	
	Conference center	1 space per 200 gfa	

**DISCUSSION ITEM 4d**

ATTACHMENT B

Map of potential locations for community-based theaters



Potential Sites for Community-Based Theaters

ATTACHMENT C

Analysis of site characteristics for eligible locations

Map #	Address	Size (acres)	Former use	Present use	Parking	Floor Area	Year built	Arterial location
1	330 Union Ave	0.88	church	Zion Lutheran Church	32	12,562 (chapel); 14,900 (annex)	1922; 1960	no
2	1211 Fourth St	0.21	church	Thumbnail Theater	1	3,698	1930	yes
3	230 Avenue B	0.26	church	Single Family Residence	3	4,368 (chapel) 3,212 (rectory)	1890	no
4	231 Avenue B	0.53	church	Belle Chapel; Compass Health	30	2,752 (Chapel); 4,856 (office)	1900; 1967	no
5	210 Avenue B	0.56	church	Snohomish Evangelical Free Church	30	5,700 (chapel); 2,912 (annex)	1956	no

ATTACHMENT D

**Planning Commission Draft Meeting Minutes Excerpt  
March 2, 2016**

The final amendment pertains to Community Based Theatres, discussed last August and in 2010 as part of a work plan considering various uses and structures, in the Historic District in particular, where the original use has vacated and there is no good alternative consistent with the range of uses permitted in a single family zone. Churches are the prime example. The nonprofit at 331 Avenue D (alternately addressed as 1211 Fourth Street) is currently a theatre; theatres are not among the list of uses permitted outright or conditionally in the single family zone. A theatre is similar in nature to a church in that it is an assembly use, albeit with different hours and perhaps in use during more days of the week. No formal code violation complaints have been filed; if a complaint was filed, the City would be in position of shutting it down.

The proposal would create a new land use for Community Based Theatres that would be subject to certain limitations: a maximum floor area to maintain the scale of a single family neighborhood; restricted to the Historic District; adjacent to a collector or minor arterial; and any land use that transitions would have to show compliance with the parking code.

Mr. Cole asked for confirmation that if one of these larger churches is converted to a single family residence, it couldn't be converted back to a theatre; Mr. Dennison said that would be true if the use was abandoned for 12 months.

Mr. Dana wasn't sure there was a demand for five community theatres; Mr. Cole added that three of the five locations in the agenda weren't adjacent to an arterial so they wouldn't be permitted as theatres, and Mr. Dennison noted that a fourth was too large.

Mr. Dana would prefer to have regulations that apply to all of these identified properties, rather than creating language that specifically calls for community theatres when an appropriate use may be something else, such as an adult daycare center. We don't want to tear down these old church buildings because there aren't any legal uses for them. How can we write regulations that apply to these properties only?

Mr. Dennison noted it was important to have concern for what the neighbors wanted to see as well; Mr. Dana said the Conditional Use Permit was used in the old days to mitigate the neighbor's concerns, and the differences were reconciled right in the CUP meeting. He wants a process that applies to just these buildings, giving a range of uses that may be allowed.

Mr. Dennison said the City has something comparable for home occupations. The code doesn't say what the range of uses are, but is more performance-based and has conditions that must be met to preserve the residential nature of the neighborhood. It is harder to regulate because it requires a detailed understanding of not only what the use is, but how a use could conceivably grow into something with more impact. The enforceability is largely complaint-driven for home occupations, and the applicants are informed that continued approval of the home occupation depends on the neighbors not objecting.

#### **DISCUSSION ITEM 4d**

Ms. Lippincott agreed with Mr. Dana's proposal regarding looking at other options for what can be done with the buildings when they are no longer used as churches; it doesn't need to be written tonight, but it is worth pursuing. Mr. Cole also agreed and said this particular set of regulations may only apply to one building, and they could move forward with it if there is no serious downside; however, as a future issue, the Commissioners should look at what can be done to allow these other buildings to transition to other uses. Mr. Cole recommended staff bring back an ordinance for review.

Mr. Dennison asked if there were any citizen comments.

**Lisa Utter, 18828 46<sup>th</sup> Avenue West, Lynnwood**, added that some adult care facilities were starting to provide night care as well. Ms. Utter is on the Board of the Tim Noah Thumbnail Theatre, which has met with the neighbors to hear their parking concerns. They talked to their regular patrons and performers about parking further away, and it has been about 4-5 months since there have been any reported issues. It is public property, so people are allowed to park there, but the Theatre has a loyal fan base with lot of repeat attendees, so the Board has been asking them to move further away. The Theatre Board is anxious about being a non-conforming use, as it puts them in an awkward position; the issue comes up pretty regularly.

Mr. Dennison added that it is also a public and prominent use; people come here for it.

Mr. Dana was concerned this was written so narrowly that it seemed like spot zoning; Mr. Dennison said all of the standards of the criteria can be justified, but as it turned out, it applied to only one property.

Ms. Utter noted, and Mr. Dennison confirmed, that a portion of the Zion property could be used.

Mr. Cole moved to direct staff to prepare an ordinance based on the preliminary staff report and bring back materials for discussion of the other properties. Mr. Dana seconded. The motion passed unanimously (5-0).

**DISCUSSION ITEM 4d**

## **DISCUSSION ITEM 4e**

**Date:** May 4, 2016  
**To:** Planning Commission  
**From:** Clay White, Interim Planning Director  
**Subject:** **Deferral of Impact Fees**

---

### **INTRODUCTION**

This agenda item provides for the Planning Commission's discussion of upcoming code amendments on the deferral of school, parks, and traffic impact fees for single-family attached and detached residential construction. A hearing on this item is tentatively scheduled for the June 1, 2016 Planning Commission meeting.

### **BACKGROUND**

RCW 82.02 provides the statutory authority for the collection of impact fees. The collection of impact fees is optional for Growth Management Act counties, cities, and towns but many use this option as a way to offset the impacts of new development. RCW 82.02.050 describes the purpose for impact fee collection. It states:

*(1) It is the intent of the legislature:*

*(a) To ensure that adequate facilities are available to serve new growth and development;*

*(b) To promote orderly growth and development by establishing standards by which counties, cities, and towns may require, by ordinance, that new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and*

*(c) To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact.*

Most jurisdictions that collect impact fees do so at the time of permit issuance, including the City of Snohomish. The idea of deferring impact fee collection until later in the development process became popular during the recession. By deferring collection, applicants could hold on to their money until a time closer to the point of sale. This was especially important to developers who were building many houses at one time as the cost of impact fees can add up. Several jurisdictions adopted deferral processes but it was still an optional process to do so.

This changed in 2015, when the legislature passed Engrossed Senate Bill (ESB) 5923. The Bill requires that the City of Snohomish (and all other jurisdictions that collect impact fees under RCW 82.02) adopt a process for the deferral impacts fees.

Currently, the City of Snohomish requires collection of impact fees prior to building permit issuance or prior to final plat approval. These can include traffic, parks, and school impact fees (the Snohomish School District does not currently require impact fees for new development but it could in the future). Although not an impact fee, the City does have a process for deferring utility connect fees. A change in the code for impact fees could run similar to the process currently outlined in 15.04 SMC for utilities.

Under ESB 5923, we are required to provide an optional process for applicants to defer fees for single-family attached and detached residential construction until one of these steps in the permit process:

**DISCUSSION ITEM 4e**

- Final inspection
- Issuance of a certificate of occupancy
- Closing of the first sale of the property occurring after the issuance of the applicable building permit

This will not change when we collect impact fees for subdivisions. No matter which point of the process we chose to collect impact fees for building permits, they cannot be deferred longer than 18 months from building permit submittal. It is also important to note that the final inspection and the certificate of occupancy processes are often completed at or near the same time.

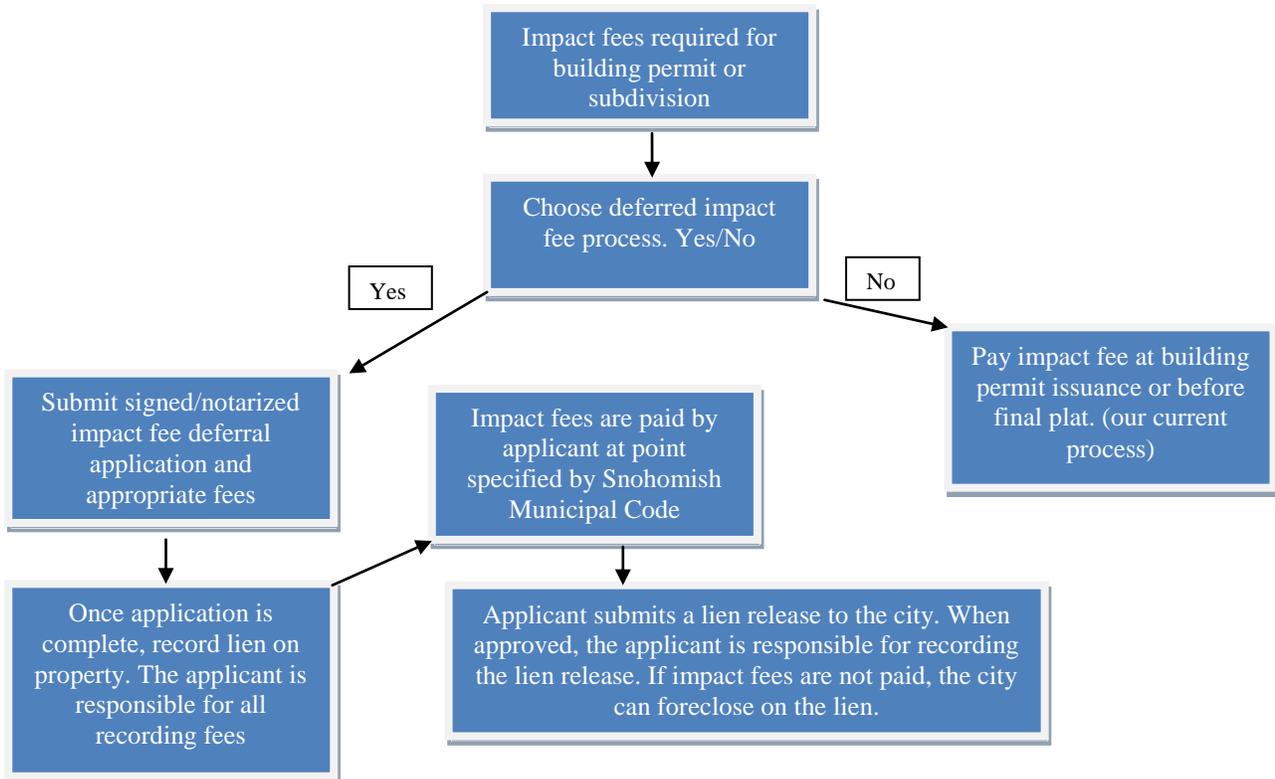
New regulations must be adopted by the City Council no later than September 1, 2016.

**PROPOSAL**

ESB 5923 provides very few areas of discretion for the Planning Commission and Council to consider. We are required to provide an optional process to defer impact fees and the law sets out how the process is accomplished. There are a couple of areas where it will be important to get policy direction from the Planning Commission including:

- The point at which we should collect deferred impact fees when the applicant chooses this process?
- Should we charge applicants for deferring impact fees?

As described above, the City currently collects impact fees prior building permit issuance or final plat approval. The optional deferral process will be much more cumbersome. The following describes both processes when impact fees are required:



**DISCUSSION ITEM 4e**

The Planning Commission review and discuss those areas which will help shape the final code language. A hearing has been tentatively scheduled for the June 1, 2016 Planning Commission meeting. Public notice, including the 60-day notice to Commerce and SEPA will be conducted after this meeting.

**ATTACHMENT:** Engrossed Senate Bill 5923

**DISCUSSION ITEM 4e**

CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 5923**

64th Legislature  
2015 Regular Session

Passed by the Senate April 16, 2015  
Yeas 28 Nays 18

\_\_\_\_\_  
**President of the Senate**

Passed by the House April 14, 2015  
Yeas 82 Nays 15

\_\_\_\_\_  
**Speaker of the House of Representatives**  
Approved

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Pablo G. Campos, Deputy Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5923** as passed by Senate and the House of Representatives on the dates hereon set forth.

\_\_\_\_\_  
**Deputy Secretary**

FILED

**Secretary of State  
State of Washington**



**DISCUSSION ITEM 4e**

1 provided that the financing for system improvements to serve new  
2 development must provide for a balance between impact fees and other  
3 sources of public funds and cannot rely solely on impact fees.

4 (3)(a)(i) Counties, cities, and towns collecting impact fees  
5 must, by September 1, 2016, adopt and maintain a system for the  
6 deferred collection of impact fees for single-family detached and  
7 attached residential construction. The deferral system must include a  
8 process by which an applicant for a building permit for a single-  
9 family detached or attached residence may request a deferral of the  
10 full impact fee payment. The deferral system offered by a county,  
11 city, or town under this subsection (3) must include one or more of  
12 the following options:

13 (A) Deferring collection of the impact fee payment until final  
14 inspection;

15 (B) Deferring collection of the impact fee payment until  
16 certificate of occupancy or equivalent certification; or

17 (C) Deferring collection of the impact fee payment until the time  
18 of closing of the first sale of the property occurring after the  
19 issuance of the applicable building permit.

20 (ii) Counties, cities, and towns utilizing the deferral process  
21 required by this subsection (3)(a) may withhold certification of  
22 final inspection, certificate of occupancy, or equivalent  
23 certification until the impact fees have been paid in full.

24 (iii) The amount of impact fees that may be deferred under this  
25 subsection (3) must be determined by the fees in effect at the time  
26 the applicant applies for a deferral.

27 (iv) Unless an agreement to the contrary is reached between the  
28 buyer and seller, the payment of impact fees due at closing of a sale  
29 must be made from the seller's proceeds. In the absence of an  
30 agreement to the contrary, the seller bears strict liability for the  
31 payment of the impact fees.

32 (b) The term of an impact fee deferral under this subsection (3)  
33 may not exceed eighteen months from the date of building permit  
34 issuance.

35 (c) Except as may otherwise be authorized in accordance with (f)  
36 of this subsection (3), an applicant seeking a deferral under this  
37 subsection (3) must grant and record a deferred impact fee lien  
38 against the property in favor of the county, city, or town in the  
39 amount of the deferred impact fee. The deferred impact fee lien,

**DISCUSSION ITEM 4e**

1 which must include the legal description, tax account number, and  
2 address of the property, must also be:

3 (i) In a form approved by the county, city, or town;

4 (ii) Signed by all owners of the property, with all signatures  
5 acknowledged as required for a deed, and recorded in the county where  
6 the property is located;

7 (iii) Binding on all successors in title after the recordation;  
8 and

9 (iv) Junior and subordinate to one mortgage for the purpose of  
10 construction upon the same real property granted by the person who  
11 applied for the deferral of impact fees.

12 (d)(i) If impact fees are not paid in accordance with a deferral  
13 authorized by this subsection (3), and in accordance with the term  
14 provisions established in (b) of this subsection (3), the county,  
15 city, or town may institute foreclosure proceedings in accordance  
16 with chapter 61.12 RCW.

17 (ii) If the county, city, or town does not institute foreclosure  
18 proceedings for unpaid school impact fees within forty-five days  
19 after receiving notice from a school district requesting that it do  
20 so, the district may institute foreclosure proceedings with respect  
21 to the unpaid impact fees.

22 (e)(i) Upon receipt of final payment of all deferred impact fees  
23 for a property, the county, city, or town must execute a release of  
24 deferred impact fee lien for the property. The property owner at the  
25 time of the release, at his or her expense, is responsible for  
26 recording the lien release.

27 (ii) The extinguishment of a deferred impact fee lien by the  
28 foreclosure of a lien having priority does not affect the obligation  
29 to pay the impact fees as a condition of final inspection,  
30 certificate of occupancy, or equivalent certification, or at the time  
31 of closing of the first sale.

32 (f) A county, city, or town with an impact fee deferral process  
33 on or before April 1, 2015, is exempt from the requirements of this  
34 subsection (3) if the deferral process delays all impact fees and  
35 remains in effect after September 1, 2016.

36 (g)(i) Each applicant for a single-family residential  
37 construction permit, in accordance with his or her contractor  
38 registration number or other unique identification number, is  
39 entitled to annually receive deferrals under this subsection (3) for  
40 the first twenty single-family residential construction building

**DISCUSSION ITEM 4e**

1 permits per county, city, or town. A county, city, or town, however,  
2 may elect, by ordinance, to defer more than twenty single-family  
3 residential construction building permits for an applicant. If the  
4 county, city, or town collects impact fees on behalf of one or more  
5 school districts for which the collection of impact fees could be  
6 delayed, the county, city, or town must consult with the district or  
7 districts about the additional deferrals. A county, city, or town  
8 considering additional deferrals must give substantial weight to  
9 recommendations of each applicable school district regarding the  
10 number of additional deferrals. If the county, city, or town  
11 disagrees with the recommendations of one or more school districts,  
12 the county, city, or town must provide the district or districts with  
13 a written rationale for its decision.

14 (ii) For purposes of this subsection (3)(g), an "applicant"  
15 includes an entity that controls the applicant, is controlled by the  
16 applicant, or is under common control with the applicant.

17 (h) Counties, cities, and towns may collect reasonable  
18 administrative fees to implement this subsection (3) from permit  
19 applicants who are seeking to delay the payment of impact fees under  
20 this subsection (3).

21 (i) In accordance with sections 3 and 4 of this act, counties,  
22 cities, and towns must cooperate with and provide requested data,  
23 materials, and assistance to the department of commerce and the joint  
24 legislative audit and review committee.

25 (4) The impact fees:

26 (a) Shall only be imposed for system improvements that are  
27 reasonably related to the new development;

28 (b) Shall not exceed a proportionate share of the costs of system  
29 improvements that are reasonably related to the new development; and

30 (c) Shall be used for system improvements that will reasonably  
31 benefit the new development.

32 ~~((4))~~(5)(a) Impact fees may be collected and spent only for the  
33 public facilities defined in RCW 82.02.090 which are addressed by a  
34 capital facilities plan element of a comprehensive land use plan  
35 adopted pursuant to the provisions of RCW 36.70A.070 or the  
36 provisions for comprehensive plan adoption contained in chapter  
37 36.70, 35.63, or 35A.63 RCW. After the date a county, city, or town  
38 is required to adopt its development regulations under chapter 36.70A  
39 RCW, continued authorization to collect and expend impact fees  
40 ~~((shall be))~~is contingent on the county, city, or town adopting or

**DISCUSSION ITEM 4e**

1 revising a comprehensive plan in compliance with RCW 36.70A.070, and  
2 on the capital facilities plan identifying:

3 ~~((a))~~(i) Deficiencies in public facilities serving existing  
4 development and the means by which existing deficiencies will be  
5 eliminated within a reasonable period of time;

6 ~~((b))~~(ii) Additional demands placed on existing public  
7 facilities by new development; and

8 ~~((c))~~(iii) Additional public facility improvements required to  
9 serve new development.

10 (b) If the capital facilities plan of the county, city, or town  
11 is complete other than for the inclusion of those elements which are  
12 the responsibility of a special district, the county, city, or town  
13 may impose impact fees to address those public facility needs for  
14 which the county, city, or town is responsible.

15 **Sec. 2.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each  
16 amended to read as follows:

17 The comprehensive plan of a county or city that is required or  
18 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
19 and descriptive text covering objectives, principles, and standards  
20 used to develop the comprehensive plan. The plan shall be an  
21 internally consistent document and all elements shall be consistent  
22 with the future land use map. A comprehensive plan shall be adopted  
23 and amended with public participation as provided in RCW 36.70A.140.  
24 Each comprehensive plan shall include a plan, scheme, or design for  
25 each of the following:

26 (1) A land use element designating the proposed general  
27 distribution and general location and extent of the uses of land,  
28 where appropriate, for agriculture, timber production, housing,  
29 commerce, industry, recreation, open spaces, general aviation  
30 airports, public utilities, public facilities, and other land uses.  
31 The land use element shall include population densities, building  
32 intensities, and estimates of future population growth. The land use  
33 element shall provide for protection of the quality and quantity of  
34 groundwater used for public water supplies. Wherever possible, the  
35 land use element should consider utilizing urban planning approaches  
36 that promote physical activity. Where applicable, the land use  
37 element shall review drainage, flooding, and storm water run-off in  
38 the area and nearby jurisdictions and provide guidance for corrective

**DISCUSSION ITEM 4e**

1 actions to mitigate or cleanse those discharges that pollute waters  
2 of the state, including Puget Sound or waters entering Puget Sound.

3 (2) A housing element ensuring the vitality and character of  
4 established residential neighborhoods that: (a) Includes an inventory  
5 and analysis of existing and projected housing needs that identifies  
6 the number of housing units necessary to manage projected growth; (b)  
7 includes a statement of goals, policies, objectives, and mandatory  
8 provisions for the preservation, improvement, and development of  
9 housing, including single-family residences; (c) identifies  
10 sufficient land for housing, including, but not limited to,  
11 government-assisted housing, housing for low-income families,  
12 manufactured housing, multifamily housing, and group homes and foster  
13 care facilities; and (d) makes adequate provisions for existing and  
14 projected needs of all economic segments of the community.

15 (3) A capital facilities plan element consisting of: (a) An  
16 inventory of existing capital facilities owned by public entities,  
17 showing the locations and capacities of the capital facilities; (b) a  
18 forecast of the future needs for such capital facilities; (c) the  
19 proposed locations and capacities of expanded or new capital  
20 facilities; (d) at least a six-year plan that will finance such  
21 capital facilities within projected funding capacities and clearly  
22 identifies sources of public money for such purposes; and (e) a  
23 requirement to reassess the land use element if probable funding  
24 falls short of meeting existing needs and to ensure that the land use  
25 element, capital facilities plan element, and financing plan within  
26 the capital facilities plan element are coordinated and consistent.  
27 Park and recreation facilities shall be included in the capital  
28 facilities plan element.

29 (4) A utilities element consisting of the general location,  
30 proposed location, and capacity of all existing and proposed  
31 utilities, including, but not limited to, electrical lines,  
32 telecommunication lines, and natural gas lines.

33 (5) Rural element. Counties shall include a rural element  
34 including lands that are not designated for urban growth,  
35 agriculture, forest, or mineral resources. The following provisions  
36 shall apply to the rural element:

37 (a) Growth management act goals and local circumstances. Because  
38 circumstances vary from county to county, in establishing patterns of  
39 rural densities and uses, a county may consider local circumstances,  
40 but shall develop a written record explaining how the rural element

## **DISCUSSION ITEM 4e**

1 harmonizes the planning goals in RCW 36.70A.020 and meets the  
2 requirements of this chapter.

3 (b) Rural development. The rural element shall permit rural  
4 development, forestry, and agriculture in rural areas. The rural  
5 element shall provide for a variety of rural densities, uses,  
6 essential public facilities, and rural governmental services needed  
7 to serve the permitted densities and uses. To achieve a variety of  
8 rural densities and uses, counties may provide for clustering,  
9 density transfer, design guidelines, conservation easements, and  
10 other innovative techniques that will accommodate appropriate rural  
11 densities and uses that are not characterized by urban growth and  
12 that are consistent with rural character.

13 (c) Measures governing rural development. The rural element shall  
14 include measures that apply to rural development and protect the  
15 rural character of the area, as established by the county, by:

16 (i) Containing or otherwise controlling rural development;

17 (ii) Assuring visual compatibility of rural development with the  
18 surrounding rural area;

19 (iii) Reducing the inappropriate conversion of undeveloped land  
20 into sprawling, low-density development in the rural area;

21 (iv) Protecting critical areas, as provided in RCW 36.70A.060,  
22 and surface water and groundwater resources; and

23 (v) Protecting against conflicts with the use of agricultural,  
24 forest, and mineral resource lands designated under RCW 36.70A.170.

25 (d) Limited areas of more intensive rural development. Subject to  
26 the requirements of this subsection and except as otherwise  
27 specifically provided in this subsection (5)(d), the rural element  
28 may allow for limited areas of more intensive rural development,  
29 including necessary public facilities and public services to serve  
30 the limited area as follows:

31 (i) Rural development consisting of the infill, development, or  
32 redevelopment of existing commercial, industrial, residential, or  
33 mixed-use areas, whether characterized as shoreline development,  
34 villages, hamlets, rural activity centers, or crossroads  
35 developments.

36 (A) A commercial, industrial, residential, shoreline, or mixed-  
37 use area (~~shall be~~) are subject to the requirements of (d)(iv) of  
38 this subsection, but (~~shall~~) are not (~~be~~) subject to the  
39 requirements of (c)(ii) and (iii) of this subsection.

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1 (B) Any development or redevelopment other than an industrial  
2 area or an industrial use within a mixed-use area or an industrial  
3 area under this subsection (5)(d)(i) must be principally designed to  
4 serve the existing and projected rural population.

5 (C) Any development or redevelopment in terms of building size,  
6 scale, use, or intensity shall be consistent with the character of  
7 the existing areas. Development and redevelopment may include changes  
8 in use from vacant land or a previously existing use so long as the  
9 new use conforms to the requirements of this subsection (5);

10 (ii) The intensification of development on lots containing, or  
11 new development of, small-scale recreational or tourist uses,  
12 including commercial facilities to serve those recreational or  
13 tourist uses, that rely on a rural location and setting, but that do  
14 not include new residential development. A small-scale recreation or  
15 tourist use is not required to be principally designed to serve the  
16 existing and projected rural population. Public services and public  
17 facilities shall be limited to those necessary to serve the  
18 recreation or tourist use and shall be provided in a manner that does  
19 not permit low-density sprawl;

20 (iii) The intensification of development on lots containing  
21 isolated nonresidential uses or new development of isolated cottage  
22 industries and isolated small-scale businesses that are not  
23 principally designed to serve the existing and projected rural  
24 population and nonresidential uses, but do provide job opportunities  
25 for rural residents. Rural counties may allow the expansion of small-  
26 scale businesses as long as those small-scale businesses conform with  
27 the rural character of the area as defined by the local government  
28 according to RCW 36.70A.030(15). Rural counties may also allow new  
29 small-scale businesses to utilize a site previously occupied by an  
30 existing business as long as the new small-scale business conforms to  
31 the rural character of the area as defined by the local government  
32 according to RCW 36.70A.030(15). Public services and public  
33 facilities shall be limited to those necessary to serve the isolated  
34 nonresidential use and shall be provided in a manner that does not  
35 permit low-density sprawl;

36 (iv) A county shall adopt measures to minimize and contain the  
37 existing areas or uses of more intensive rural development, as  
38 appropriate, authorized under this subsection. Lands included in such  
39 existing areas or uses shall not extend beyond the logical outer  
40 boundary of the existing area or use, thereby allowing a new pattern

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1 of low-density sprawl. Existing areas are those that are clearly  
2 identifiable and contained and where there is a logical boundary  
3 delineated predominately by the built environment, but that may also  
4 include undeveloped lands if limited as provided in this subsection.  
5 The county shall establish the logical outer boundary of an area of  
6 more intensive rural development. In establishing the logical outer  
7 boundary, the county shall address (A) the need to preserve the  
8 character of existing natural neighborhoods and communities, (B)  
9 physical boundaries, such as bodies of water, streets and highways,  
10 and land forms and contours, (C) the prevention of abnormally  
11 irregular boundaries, and (D) the ability to provide public  
12 facilities and public services in a manner that does not permit low-  
13 density sprawl;

14 (v) For purposes of (d) of this subsection, an existing area or  
15 existing use is one that was in existence:

16 (A) On July 1, 1990, in a county that was initially required to  
17 plan under all of the provisions of this chapter;

18 (B) On the date the county adopted a resolution under RCW  
19 36.70A.040(2), in a county that is planning under all of the  
20 provisions of this chapter under RCW 36.70A.040(2); or

21 (C) On the date the office of financial management certifies the  
22 county's population as provided in RCW 36.70A.040(5), in a county  
23 that is planning under all of the provisions of this chapter pursuant  
24 to RCW 36.70A.040(5).

25 (e) Exception. This subsection shall not be interpreted to permit  
26 in the rural area a major industrial development or a master planned  
27 resort unless otherwise specifically permitted under RCW 36.70A.360  
28 and 36.70A.365.

29 (6) A transportation element that implements, and is consistent  
30 with, the land use element.

31 (a) The transportation element shall include the following  
32 subelements:

33 (i) Land use assumptions used in estimating travel;

34 (ii) Estimated traffic impacts to state-owned transportation  
35 facilities resulting from land use assumptions to assist the  
36 department of transportation in monitoring the performance of state  
37 facilities, to plan improvements for the facilities, and to assess  
38 the impact of land- use decisions on state-owned transportation  
39 facilities;

40 (iii) Facilities and services needs, including:

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1 (A) An inventory of air, water, and ground transportation  
2 facilities and services, including transit alignments and general  
3 aviation airport facilities, to define existing capital facilities  
4 and travel levels as a basis for future planning. This inventory must  
5 include state-owned transportation facilities within the city or  
6 county's jurisdictional boundaries;

7 (B) Level of service standards for all locally owned arterials  
8 and transit routes to serve as a gauge to judge performance of the  
9 system. These standards should be regionally coordinated;

10 (C) For state-owned transportation facilities, level of service  
11 standards for highways, as prescribed in chapters 47.06 and 47.80  
12 RCW, to gauge the performance of the system. The purposes of  
13 reflecting level of service standards for state highways in the local  
14 comprehensive plan are to monitor the performance of the system, to  
15 evaluate improvement strategies, and to facilitate coordination  
16 between the county's or city's six-year street, road, or transit  
17 program and the office of financial management's ten-year investment  
18 program. The concurrency requirements of (b) of this subsection do  
19 not apply to transportation facilities and services of statewide  
20 significance except for counties consisting of islands whose only  
21 connection to the mainland are state highways or ferry routes. In  
22 these island counties, state highways and ferry route capacity must  
23 be a factor in meeting the concurrency requirements in (b) of this  
24 subsection;

25 (D) Specific actions and requirements for bringing into  
26 compliance locally owned transportation facilities or services that  
27 are below an established level of service standard;

28 (E) Forecasts of traffic for at least ten years based on the  
29 adopted land use plan to provide information on the location, timing,  
30 and capacity needs of future growth;

31 (F) Identification of state and local system needs to meet  
32 current and future demands. Identified needs on state-owned  
33 transportation facilities must be consistent with the statewide  
34 multimodal transportation plan required under chapter 47.06 RCW;

35 (iv) Finance, including:

36 (A) An analysis of funding capability to judge needs against  
37 probable funding resources;

38 (B) A multiyear financing plan based on the needs identified in  
39 the comprehensive plan, the appropriate parts of which shall serve as  
40 the basis for the six-year street, road, or transit program required

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1 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
2 35.58.2795 for public transportation systems. The multiyear financing  
3 plan should be coordinated with the ten-year investment program  
4 developed by the office of financial management as required by RCW  
5 47.05.030;

6 (C) If probable funding falls short of meeting identified needs,  
7 a discussion of how additional funding will be raised, or how land  
8 use assumptions will be reassessed to ensure that level of service  
9 standards will be met;

10 (v) Intergovernmental coordination efforts, including an  
11 assessment of the impacts of the transportation plan and land use  
12 assumptions on the transportation systems of adjacent jurisdictions;

13 (vi) Demand-management strategies;

14 (vii) Pedestrian and bicycle component to include collaborative  
15 efforts to identify and designate planned improvements for pedestrian  
16 and bicycle facilities and corridors that address and encourage  
17 enhanced community access and promote healthy lifestyles.

18 (b) After adoption of the comprehensive plan by jurisdictions  
19 required to plan or who choose to plan under RCW 36.70A.040, local  
20 jurisdictions must adopt and enforce ordinances which prohibit  
21 development approval if the development causes the level of service  
22 on a locally owned transportation facility to decline below the  
23 standards adopted in the transportation element of the comprehensive  
24 plan, unless transportation improvements or strategies to accommodate  
25 the impacts of development are made concurrent with the development.  
26 These strategies may include increased public transportation service,  
27 ride sharing programs, demand management, and other transportation  
28 systems management strategies. For the purposes of this subsection  
29 (6), "concurrent with the development" means that improvements or  
30 strategies are in place at the time of development, or that a  
31 financial commitment is in place to complete the improvements or  
32 strategies within six years. If the collection of impact fees is  
33 delayed under RCW 82.02.050(3), the six-year period required by this  
34 subsection (6)(b) must begin after full payment of all impact fees is  
35 due to the county or city.

36 (c) The transportation element described in this subsection (6),  
37 the six-year plans required by RCW 35.77.010 for cities, RCW  
38 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
39 systems, and the ten-year investment program required by RCW  
40 47.05.030 for the state, must be consistent.

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1 (7) An economic development element establishing local goals,  
2 policies, objectives, and provisions for economic growth and vitality  
3 and a high quality of life. The element shall include: (a) A summary  
4 of the local economy such as population, employment, payroll,  
5 sectors, businesses, sales, and other information as appropriate; (b)  
6 a summary of the strengths and weaknesses of the local economy  
7 defined as the commercial and industrial sectors and supporting  
8 factors such as land use, transportation, utilities, education,  
9 workforce, housing, and natural/cultural resources; and (c) an  
10 identification of policies, programs, and projects to foster economic  
11 growth and development and to address future needs. A city that has  
12 chosen to be a residential community is exempt from the economic  
13 development element requirement of this subsection.

14 (8) A park and recreation element that implements, and is  
15 consistent with, the capital facilities plan element as it relates to  
16 park and recreation facilities. The element shall include: (a)  
17 Estimates of park and recreation demand for at least a ten-year  
18 period; (b) an evaluation of facilities and service needs; and (c) an  
19 evaluation of intergovernmental coordination opportunities to provide  
20 regional approaches for meeting park and recreational demand.

21 (9) It is the intent that new or amended elements required after  
22 January 1, 2002, be adopted concurrent with the scheduled update  
23 provided in RCW 36.70A.130. Requirements to incorporate any such new  
24 or amended elements shall be null and void until funds sufficient to  
25 cover applicable local government costs are appropriated and  
26 distributed by the state at least two years before local government  
27 must update comprehensive plans as required in RCW 36.70A.130.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 44.28  
29 RCW to read as follows:

30 (1) The joint legislative audit and review committee must review  
31 the impact fee deferral requirements of RCW 82.02.050(3). The review  
32 must consist of an examination of issued impact fee deferrals,  
33 including: (a) The number of deferrals requested of and issued by  
34 counties, cities, and towns; (b) the type of impact fee deferred; (c)  
35 the monetary amount of deferrals, by jurisdiction; (d) whether the  
36 deferral process was efficiently administered; (e) the number of  
37 deferrals that were not fully and timely paid; and (f) the costs to  
38 counties, cities, and towns for collecting timely and delinquent  
39 fees. The review must also include an evaluation of whether the

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1 impact fee deferral process required by RCW 82.02.050(3) was  
2 effective in providing a locally administered process for the  
3 deferral and full payment of impact fees.

4 (2) The review required by this section must, in accordance with  
5 RCW 43.01.036, be submitted to the appropriate committees of the  
6 house of representatives and the senate on or before September 1,  
7 2021.

8 (3) In complying with this section, and in accordance with  
9 section 4 of this act, the joint legislative audit and review  
10 committee must make its collected data and associated materials  
11 available, upon request, to the department of commerce.

12 (4) This section expires January 1, 2022.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.31  
14 RCW to read as follows:

15 (1) Beginning December 1, 2018, and each year thereafter, the  
16 department of commerce must prepare an annual report on the impact  
17 fee deferral process established in RCW 82.02.050(3). The report must  
18 include: (a) The number of deferrals requested of and issued by  
19 counties, cities, and towns; (b) the number of deferrals that were  
20 not fully and timely paid; and (c) other information as deemed  
21 appropriate.

22 (2) The report required by this section must, in accordance with  
23 RCW 43.01.036, be submitted to the appropriate committees of the  
24 house of representatives and the senate.

25 NEW SECTION. **Sec. 5.** This act takes effect September 1, 2016.

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