



# **CITY OF SEATAC**

## **PLANNING COMMISSION MEETING**

City Council Chambers, SeaTac City Hall, 4800 S. 188<sup>th</sup> Street  
March 4, 2014, 5:30 p.m.

### **MEETING AGENDA**

- 1) Call to Order/Roll Call – 5:30 p.m.
- 2) Approve Minutes of February 18, 2014 Planning Commission Meeting (Exhibit A)
- 3) Public Hearing:
  - A) Miscellaneous Amendments to the SeaTac Municipal Code regarding Hearing Examiner authorities; land use action decision criteria; SEPA substantive authority; and the Comprehensive Plan (Exhibit B)
- 4) Old Business:
  - A) Discussion of potential code amendments regarding Development Agreements (Exhibit C)
- 5) Detailed Commission Liaisons' Reports
- 6) Community & Economic Development Director's Report
- 7) Planning Commission Comments (including suggestions for next meeting agenda)
- 8) Adjournment

**CITY OF SEATAC  
PLANNING COMMISSION  
Minutes of February 18, 2014  
Regular Meeting**

**Members Present:** Roxie Chapin, Tom Dantzler, Jim Todd

**Members Absent:** Joe Adamack (excused)

**Staff present:** Steve Pilcher, Planning Manager; Kate Kaehny, Senior Planner; Mike Scarey, Senior Planner

**1. Call to Order**

Chairman Chapin called the meeting to order at 5:32 p.m.

**2. Approve minutes of February 4, 2014 Meeting**

Moved and seconded to approve the minutes as written. Passed 3-0.

**3. Angle Lake Station Area Plan progress report**

Senior Planner Kate Kaehny reviewed the proposed work program for the project. The majority of work will be completed by the end of June due to requirements of two grants that have been received. Final adoption by the Planning Commission is targeted for September 2014.

Ms. Kaehny noted the variety of community engagement activities that are in the planning stages. The efforts include outreach to the business community; involvement of high school students; and activities to be held at Madrona Elementary School. She noted that the variety of efforts should yield a good sampling of individuals who use different transportation modes.

Ms. Kaehny then reviewed a recent presentation presented to the City Council by Brian Saelens of Seattle Children's Research Institute, which is the local source of the Community Transformation Grants that are funding the Pedestrian/Bicycle Connectivity Study and Community Engagement portions of the project (over 50% of the total cost of the planning project). The data collected indicates that adding transit service to communities can significantly increase daily activities, resulting in positive health benefits.

Commissioners were interested to learn when materials would begin to appear on the City's website, including details on the progress of Sound Transit projects.

#### **4. Major Comprehensive Plan update: review of draft Land Use Background Report**

Senior Planner Mike Scarey presented information regarding the amount of growth that the Comprehensive Plan will need to accommodate. He noted that the State Office of Financial Management (OFM) provides an overall growth projection to King County. The County and its cities then meet and agree upon how to allocate the anticipated growth to each community. These “growth targets” are what each jurisdiction’s plan must include sufficient appropriately zoned land to accommodate the growth (both in households and jobs) it has been allocated. Mr. Scarey noted that based upon the City’s recently completed land capacity analysis (prepared for the King County Buildable Lands Report), sufficient land exists under the current comprehensive plan land use designations.

However, staff is suggesting a more conservative “growth projection,” as the allocated growth number is significantly higher than past trends. For example, the growth target numbers result in a 66% increase in households and over a 100% increase in jobs. It is important to have a realistic growth projection, as that will have impact in transportation planning.

The Commission discussed the issues concerning the various growth numbers and also the impact that airport noise may have on additional residential growth.

#### **5. Planning Commissioner Liaison Reports**

Commissioner Dantzler noted that Sound Transit has selected a design/build firm to construct the new parking garage for the Angle Lake Station. The garage will include 1050 parking stalls.

#### **6. CED Director’s Report**

Mr. Pilcher noted that Mr. Scorcio was unable to attend this evening’s meeting. He reminded the Commissioners of the upcoming City Council Retreat, beginning at 9:00 a.m. on Saturday February 22<sup>nd</sup> at the Cedarbrook Lodge.

He also noted that the City Council had been briefed by Mr. Scorcio of the status of marijuana legislation/court opinions and that Council indicated its desire for the Commission to examine the issue and come back with recommendations. Staff is suggesting this begin after the State legislative session closes, in the event there are new laws passed regarding this issue.

#### **7. Planning Commission Comments**

Commissioner Dantzler noted that former Chair Daryl Tapio has several new homes under construction, an encouraging indicator of an improving economy.

#### **8. Adjournment**

Moved and seconded to adjourn the meeting at 6:48 p.m. Passed 3-0.

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# STAFF REPORT

## COMMUNITY & ECONOMIC DEVELOPMENT

Date: February 24, 2014  
To: Planning Commission  
From: Steve Pilcher, AICP, Planning Manager  
Subject: Public Hearing on code amendments

### **Synopsis**

The Commission is scheduled to conduct a public hearing at its regular meeting of March 4, 2014, concerning various amendments to the SeaTac Municipal Code regarding the Hearing Examiner authority and decision criteria for various land use permits; SEPA substantive authority; and adding a chapter to address the Comprehensive Plan.

### **Public Notice**

Notice of the hearing was published in the Seattle Times on February 14, 2014 and has also been posted to the City's website.

At the time of writing this report, no public comments have been received.

### **SEPA Compliance**

These amendments are procedural in nature and therefore exempt from SEPA review pursuant to WAC 197-11-800 (19).

### **State Agency Review**

In accordance with the State Growth Management Act, the proposed amendments were sent to the Department of Commerce on January 24, 2014 for state agency review. On February 11, 2014, staff received confirmation that the proposals had been granted expedited review and there have been no further comments.

### **Hearing Examiner**

Like most jurisdictions, the City uses a Hearing Examiner to consider land use applications (i.e., variances, rezones, conditional use permits, etc.). Chapter 1.20 of the Municipal Code outlines the hearing examiner system. Some duplicative language is also found in the Zoning Code at SMC 15.22.060. It is preferable to only have one section of code contain similar language; staff has recommended retaining this language in Chapter 1.20 and striking it from SMC 15.22.

There are some sections of the Chapter 1.20 that address decision criteria for various land use applications. In some instances, these are different than the decision criteria found in Chapter 15.22. Staff recommends consolidating these citations at one location (in Chapter 15.22).

Other changes to Chapter 1.20 will be proposed by staff, but since that section of the Municipal Code does not fall within the

**SEPA Substantive Authority**

This citation is found at SMC 16A.23.130. Substantive authority is what gives the City's SEPA Responsible Official (the CED Director) the ability to either approve, condition or deny a proposed action for environmental reasons. The list is currently out of date and needs to be updated to reflect City-adopted codes and policies.

**Comprehensive Plan**

Many jurisdictions have portions of their codes that address their comprehensive plan: what it consists of and, in some instances, procedures and criteria for its amendment. SeaTac has neither, although the City Council has, by resolution, granted the CED Director the authority to develop the process for considering amendments to the Plan. Staff is recommending adding a chapter to Title 16A to specifically address the Plan and basic procedural issues regarding its amendment.

The attached document contains the various recommended amendments, together with commentary notes for each section proposed for change.

### **15.05.055 Property-Specific Development Standards**

A.— ~~In addition to the minimum requirements of this title, property-specific development standards further restricting development may be imposed by the City Council or the City Hearing Examiner in either an individual or City-initiated zoning reclassification; provided, that all other zone reclassification criteria as specified in SMC [15.22.050](#) are met. The property-specific development standards are for the purpose of ensuring the public health and safety, neighborhood compatibility, and environmental protection and may include, but are not limited to, increased development standards, limits on permitted uses, or special conditions of approval. Such property-specific development standards shall not reduce the development standards specified elsewhere in this title.~~

B.— ~~An asterisk (\*) shall be shown on the official zoning map and on appropriate GIS databases to provide notice of the property-specific development standards. The asterisk shall reference an appendix to the Zoning Code which shall detail the adopting ordinance for the property-specific standard and any other details deemed appropriate. The Director of the Department of Community and Economic Development is hereby authorized and directed to cause the official zoning map to be amended to notate properties subject to property-specific conditions, and to update the zoning map upon adoption of future standards and agreements. (Ord. 11-1002 § 2; Ord. 01-1001 § 1; Ord. 99-1030 § 2)~~

***Comment: This provision appears to be a hold-over from prior King County practices of imposing property-specific standards through the “P-suffix” method. Generally, development agreements are now the preferred method of establishing specific conditions to apply to an individual parcel. Staff recommends deletion of this section.***

### **15.05.080 Administration and Review Authority**

A. The Hearing Examiner shall have the authority to hold public hearings and make decisions and recommendations on reclassification, subdivisions and other development proposals and appeals as set forth in City ordinances, including Chapter [15.22](#) SMC, and subsequent amendments. ~~The Hearing Examiner shall also have the authority to impose property-specific development standards pursuant to SMC [15.05.055](#).~~

B. The City Manager, or designee, shall have the authority to grant, condition or deny commercial and residential building permits, grading and clearing permits, in violation or noncompliance with this code.

C. The City Manager, or designee, shall have the sole authority to issue official interpretations of the Zoning Code, in accordance with the criteria set forth in SMC [15.05.060](#). Such decisions shall be considered administrative decisions which can be appealed through the Hearing Examiner. (Ord. 99-1030 § 3; Ord. 95-1012 § 1; Ord. 92-1041 § 1)

***Comment: This change is consistent with the recommended amendment to 15.05.050 above.***

## **Chapter 15.22 DECISION CRITERIA**

### Sections:

- 15.22.010 Purpose
- 15.22.020 Variance
- 15.22.030 Conditional Use Permit (CUP)
- 15.22.035 Siting of Essential Public Facilities
- 15.22.050 Zone Reclassification (Rezone)
- 15.22.055 Development Agreements
- 15.22.060 Hearing Examiner Development Review Process
- 15.22.065 Appeal Process
- 15.22.070 Severability

### **15.22.010 Purpose**

The purposes of this chapter are to allow for consistent evaluation of land use applications and any other quasi-judicial matters considered by the Hearing Examiner pursuant to the applicable ordinances and authority. This chapter also details decision criteria for administrative variances and minor conditional use permits rendered by the City Manager or designee.

The criteria in this chapter are intended to protect nearby properties from the possible effects of land use requests subject to discretionary land use permits by:

- A. Providing clear criteria on which to base a decision;
- B. Recognizing the effects of unique circumstances upon the development potential of a property;
- C. Avoiding the granting of special privileges;
- D. Avoiding development which may be unnecessarily detrimental to neighboring properties;
- E. Requiring that the design, scope and intensity of development is in keeping with the physical aspects of a site and adopted land use policies for the area; and
- F. Providing criteria which emphasize protection of the general character of neighborhoods. (Ord. 03-1020 § 16; Ord. 01-1022 § 2; Ord. 99-1045 § 2; Ord. 92-1041 § 1)

### **15.22.020 Variance**

A. A variance is a request for an exception to the development standards of the code because of special circumstances (i.e., size, shape, topography of lot, ~~conflict with Growth Management Policies~~) when the strict application of the code deprives such property of privileges enjoyed by

other similar properties. A variance may be granted when a hardship is proven. A variance cannot be used for relief from types of uses permitted within zone classifications.

B. The applicant must show that the proposed development issue requiring a variance meets all of the following criteria for approval, except as specified in subsection (D) of this section:

1. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and
  2. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
  3. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.
  4. That the special circumstances necessitating the variance have not resulted from any action of the applicant.
  5. That the requested variance will not create a use not generally permitted within the zone in which the subject property is located
- ~~1.—There are exceptional circumstances applicable to the property;~~
  - ~~2.—The variance is necessary to protect a property right possessed by others;~~
  - ~~3.—The variance will not harm the public welfare of adjacent properties;~~
  - ~~4.—There is no reasonable alternative that will allow a reasonable use of the land or building;~~
  - ~~5.—The special circumstances and conditions do not result from the actions of the applicant;~~
  - ~~6.—The requested variance will not create a use not generally permitted within the zone classification in which the subject property is located;~~
  - ~~7.—The variance is the minimum necessary to grant relief to the applicant.~~



***Comment: Currently, the decision criteria in the Hearing Examiner code (SMC 1.20.200) is different than that found in this section. Staff recommends using the language from 1.20.200, but relocating it to this portion of the code.***

C. The requested variance is decided by the City's Hearing Examiner through a public hearing process, except in cases where the requested change involves less than twenty percent (20%) variance to a standard. In these cases, the variance may be decided by the City Manager or designee, provided the following criteria are met in addition to those in subsection (B) of this section:

1. The variance does not reasonably involve a life/safety issue nor does it reasonably involve damage to or loss of property of any person or entity.
2. The person or entity requesting the requirements change shall agree to waive all rights to pursue a variance or other process to seek an alternative to the requirements of the City Code; provided, that if no change in the requirements of the City Code is granted to such person or entity, the person or entity would be entitled to pursue a variance or other available procedure in the normal course.

D. A variance from the standards for WCF regarding height, aesthetics (including concealment), equipment enclosures and the dimensions of freestanding poles specified in Chapter 15.31A SMC may be granted by the Hearing Examiner only in situations where all of the following criteria are met. These criteria shall apply in lieu of those specified in subsection (B) of this section.

1. The specified standard would have the effect of precluding the provision of commercial wireless communication service;
2. The variance is necessary to protect a property right possessed by others;
3. The variance will not harm the public welfare of adjacent properties;
4. The requested variance will not create a use not generally permitted within the zone classification in which the subject property is located;
5. The variance is the minimum necessary to grant relief to the applicant;
6. Any request for a variance from the standards regarding height, aesthetics, equipment enclosures and dimensions of freestanding poles specified in Chapter 15.31A SMC shall include a written report that specifies:
  - a. The necessity of the site to provide the communication coverage required by the applicant; and

- b. The necessity of the requested variance as the minimum necessary to provide the communication coverage required by the applicant; and
- c. An assessment of all possible alternatives that could meet the service provider's system coverage requirements. The alternatives assessment shall include alternative sites, alternative antenna types, and any other mechanism that could make the variance unnecessary in terms of meeting the service provider's system coverage needs. (Ord. 04-1030 § 5; Ord. 04-1010 § 16; Ord. 03-1020 § 16; Ord. 97-1013 § 25; Ord. 92-1041 § 1)

**15.22.030 Conditional Use Permit (CUP)**

- A. A major conditional use permit (CUP) is a permit granted by the Hearing Examiner, which sets special conditions regarding a use in a zone where the use is not permitted outright due to the nature of impacts created by the use.
- B. A minor conditional use permit may be granted by the City Manager, or designee, to allow specified uses as listed under subsection (E) of this section.
- C. The CUP process is a means of imposing special conditions and requirements on development, so that the compatibility of uses shall be maintained considering other existing and potential uses within the general area where the conditional use is proposed. Conditions imposed on a CUP will reasonably assure that a nuisance or hazard to life or property will not occur. The CUP process is not a means to reduce the requirements of a zone classification where the conditional use is proposed.
- D. The applicant must show that the proposed development satisfies all of the following criteria for approval by the Hearing Examiner or City Manager, or designee:
  - 1. The proposed use is listed as a conditional use under the zone classification use charts, Chapter 15.12 SMC;
  - 2. The site is adequate in size and shape for the proposed project and the use conforms to the general character of the neighborhood;
  - 3. The unique character of topography, arterial streets and adjacent land use complement the proposed conditional use;
  - 4. The conditional use would not be detrimental to surrounding land use;
  - 5. Modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this code;

6. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and

7. The conditional use will be supported by adequate public facilities or services, and will not adversely affect public services to the surrounding area unless conditions can be established to mitigate adverse impacts.

E. A minor conditional use permit may be granted by the City Manager, or designee, only in the following situations:

1. The minor conditional use must conform to the criteria as set forth in this section and all other requirements of this code.

2. To allow the expansion of an existing, legal conditional use which has previously been permitted within the zone classification, provided the requested expansion of the existing conditional use is either:

a. No greater than twenty percent (20%) of the gross floor area of the existing conditional use; and

b. Exempt from environmental review under the State Environmental Policy Act (SEPA).

3. To allow location of a new concealed freestanding WCF in a low intensity zone, subject to the requirements set forth in Chapter 15.31A SMC.

4. To allow the following uses in school facilities or City facilities within the residential zones and park zone, subject to the following size criteria:

a. Religious use facilities, with a congregation of eighty (80) or less persons.

b. Specialized instruction school with eighty (80) or less students.

c. Day care II.

d. A preschool, with an attendance of one hundred thirty (130) or less children.

e. A sports club with a membership of eighty (80) or less persons.

f. Nonprofit organizations with a local membership of eighty (80) or less members.

5. To allow the following uses in existing religious use facilities within the residential zones, subject to size criteria:

- a. Specialized instruction school with sixty (60) or less students.
- b. Day care II.
- c. Nonprofit organizations with a local membership of sixty (60) or less members.

The minor conditional use must conform to the criteria as set forth in this section and all other requirements of this code. (Ord. 08-1001 § 5; Ord. 04-1030 § 6; Ord. 03-1020 § 17; Ord. 98-1036 § 2; Ord. 97-1011 § 10; Ord. 92-1041 § 1)

### **15.22.035 Siting of Essential Public Facilities**

A. **Purpose.** The purpose of this section is to establish a formal process for identifying and siting of essential public facilities (EPFs) as defined in SMC 15.10.249.

B. **Included Essential Public Facilities.** EPFs subject to this section include, but are not limited to, those facilities identified in SMC 15.10.249, the Seattle-Tacoma International Airport, Interstate 5, State Route 509 (both current and proposed extensions), State Route 518, the Federal Detention Center, the King County Bow Lake Solid Waste Transfer Station, and the Sound Transit's "LINK" Light Rail System.

C. **Threshold Review.** During or within forty-five (45) days subsequent to the mandatory preapplication Development Review Committee meeting required by SMC 16A.05.020, the Director of Community and Economic Development shall make a threshold determination, and advise the potential applicant in writing of such determination, whether the proposed project is an EPF and, if so, whether it is difficult to site. In making said determinations, the Director shall broadly and liberally apply the definition of an EPF in consideration of the full range of proposed and potential services to be provided to the public, whether provided directly by, funded by, or contracted for by a governmental agency, or provided by a private entity or entities subject to public service obligations. The determination of whether an EPF will be difficult to site shall be made by the director, upon known or reasonably perceived and articulable facts. Proposed projects determined not to be EPFs, and proposed projects determined to be EPFs but also determined to be not difficult of siting, shall be reviewed and processed as any other similar project pursuant to the City Development Code without regard to this section.

D. **Applications for EPF Projects.** All proposed projects determined to be EPFs and determined to be difficult to site or expand shall be reviewed and conditioned in accordance with all requirements of this code and, in addition, with the conditional use permit procedure, herein referred to as the CUP-EPF review procedure. All applications shall contain the following information:

1. A detailed written description of the proposed and potential public services to be provided, the source or sources of funding, and identification of any applicable public regulatory agencies;
2. A written statement of the need, in statistical or narrative form, for the proposed project currently and over the following ten (10) year period;
3. An inventory of known, existing or proposed facilities, by name and address, within King County, or within the region, serving the same or similar needs as the proposed project;
4. An explanation of the need and suitability for the proposed facility in the proposed City location(s);
5. Information regarding the number of jurisdictions affected or served by the proposed EPF;
6. An analysis of the environmental, social, economic, financial and infrastructure impacts of the proposed EPF, including an assessment of the proportionate financial impacts on affected jurisdictions, and consideration copies of agreements which allocate the financial burdens of the proposed project on the City and other jurisdictions;
7. An analysis of the proposals consistency with the City of SeaTac Comprehensive Plan and development regulations, and plans and policies of other affected jurisdictions, including but not limited to the King County Countywide Planning Policies;
8. Documentation of public involvement efforts to date, including public and agency comments received, and plans for future public participation;
9. Such information as requested by staff to complete the preliminary analysis and/or information to assist the Ad Hoc Committee, City staffs and City Council in making the final determination on the CUP-EPF.

E. **CUP-EPF Review Process.** All EPFs shall be subject to the following CUP-EPF review procedure:

1. **Project Notification.** The applicant, after a preapplication meeting, shall notify the City as soon as possible of intent to submit a CUP-EPF review application. If the applicant does not notify the City of a pending EPF review application, the City may make an initial determination of whether the proposed project is subject to CUP-EPF review, and shall notify the project proponent, in writing, of the City's determination.

2. **Environmental Review.** The EPF project shall comply with all applicable SEPA/NEPA requirements and the proponent shall mitigate identified environmental impacts as conditions of CUP-EPF approval.

3. **Formation of Ad Hoc Committee.** The City Council shall establish an Ad Hoc Committee by appointing up to seven (7) members and the Planning Commission appointing one (1) member, for each CUP-EPF application. The Ad Hoc Committee may include representatives of the Planning Commission or other persons with detailed knowledge of City land use or transportation issues. The Ad Hoc Committee shall be appointed by the City Council within seventy-five (75) days of the determination by the Director of Community and Economic Development that the proposed project is an EPF, pursuant to subsection (C) of this section.

a. The City Council will establish a time frame of not more than sixty (60) days, unless a longer time frame is necessary due to an EPF project timeline, in which the Ad Hoc Committee must review, consult and issue recommended conditions for the EPF. This time frame may be extended only by the authority of the City Council, and shall not be extended more than a maximum of three (3) such time periods, unless the applicant agrees that more time is needed.

b. Prior to accepting an appointment on the Ad Hoc Committee, an appointee must divulge any vested interest in any properties or businesses, the value of which could be substantially affected by the committee's recommendations, if any.

4. **Ad Hoc Committee Review and Coordination.** The Ad Hoc Committee shall make recommendations to the designated hearing body, regarding the appropriate conditions to mitigate the impacts of the proposed EPF under the authority of the City's SEPA regulations, Comprehensive Plan and development regulations. City staff shall prepare an analysis of the CUP-EPF application for use by the Ad Hoc Committee. The Ad Hoc Committee shall review the staff analysis of the proposed EPF project and prepare written recommendations on each of the following:

a. Any criteria identified in subsection (F) of this section that was reviewed by the Ad Hoc Committee; and

b. Whether the project should include a special district overlay zone (defined in Chapter 15.28 SMC); and

c. Any recommended conditions for mitigating the impacts of the proposed EPF under the authority of the City's SEPA ordinances, Comprehensive Plan and development regulations.

The Ad Hoc Committee shall present its draft recommendations to the Planning Commission and, upon receiving input of the Planning Commission, shall prepare final written recommendations to the designated hearing body.

5. **Designated Hearing Body.** The Hearing Examiner shall hear an essential public facility application. However, the City Council may determine that the application should be heard by the City Council, and in that case, the City Council will be the designated hearing body. The City Council's determination should be based on the following criteria:

- a. Size of project;
- b. Area of City affected by proposed project;
- c. Environmental impact on sensitive areas;
- d. Timing of project.

6. **Staff Report.** The Department of Community and Economic Development shall prepare a staff report, which shall include Planning Commission comments, as well as the final recommendations of the Ad Hoc Committee. The staff report shall also include an evaluation of the consistency of the proposed EPF, as recommended by the Ad Hoc Committee, with the City's adopted Comprehensive Plan and development regulations, and shall include proposed findings, proposed conclusions, and proposed recommendations for disposition of the proposed CUP-EPF to the designated hearing body for a public hearing.

7. **Public Hearing and Decision.** The designated hearing body shall hold a public hearing pursuant to SMC 16A.13.020 to make findings and issue a decision. The notice of such public hearing shall be consistent with SMC 16A.13.010. A final decision shall be rendered by the designated hearing body in accordance with Chapter 16A.15 SMC.

F. **Ad Hoc Committee Review Criteria.** In making its recommendations the Ad Hoc Committee should consider the following:

1. Whether the proposed site is adequate in size and shape for the proposed project and the use conforms, or can aesthetically conform, to the general character of the neighborhood.
2. The proportionate financial burdens of the proposed EPF on the City and other affected jurisdictions, and whether they are reasonably mitigated as provided in an inter-jurisdictional agreement, or by other means.
3. Whether the proposed EPF is compatible with the following:

- a. Availability and physical constraints of land.
- b. Compatibility with adjacent and nearby land uses.
- c. Mitigation of likely adverse environmental impacts, including but not limited to erosion, sensitive areas, noise, odor, traffic, and air and water quality.
- d. Basic infrastructure standards, such as vehicular traffic, and the availability of necessary utilities and services.
- e. The City of SeaTac's Comprehensive Plan, development regulations, and SEPA regulations.
- f. Any existing and applicable City inter-jurisdictional agreements.
- g. Siting of secure community transition facilities must be in accordance with the siting criteria of Chapter 71.09 RCW, and regulations adopted pursuant thereto. In addition, no secure community transition facility shall be sited closer than three hundred thirty (330) feet from any residentially zoned property.

**G. Designated Hearing Body Review Criteria.** The designated hearing body, giving substantial weight to the recommendations of the Ad Hoc Committee and the staff report, shall review the application under the following criteria:

- 1. Whether the proposed action is consistent with the criteria under subsection (F) of this section;
- 2. Whether modifications to recommended conditions or restrictions, if any, are needed to mitigate impacts in a manner which meets the standards of this code and any related development agreement; and
- 3. Any conditions or restrictions shall be consistent with any development agreements that are in existence at the time of the hearing.
- 4. Whether project conditions cumulatively are reasonable and would not preclude development of the EPF.

Should the recommendation of staff conflict with the recommendation of the Ad Hoc Committee the recommendation of staff shall be given greater weight.

**H. Development Agreements.** The terms and conditions of a development agreement completed after the decision of the designated hearing body shall supersede the conditions and restrictions imposed by the designated hearing body. (Ord. 11-1002 §§ 2, 3; Ord. 05-1021 § 1; Ord. 02-1029 §§ 6 – 9; Ord. 02-1008 § 2; Ord. 00-1001 §§ 1, 2; Ord. 98-1037 § 2)



### 15.22.050 Zone Reclassification (Rezone)

A. The purpose of a rezone is to provide a change of zoning to allow a new or different land use which conforms with the City Comprehensive Plan. A rezone ~~is necessary~~ may be approved when there has been a change in conditions, and/or is necessary to implement the Comprehensive Plan ~~may or may not provide for such a use~~. A proposed use and site plan must be submitted with the rezone request if there is an upzone of the property (e.g., UL 7,200 to UM 3,600). ~~Property-specific conditions may be imposed as a condition to the rezone pursuant to SMC 15.05.055 and 15.05.080. In the case of a rezone classification from a more intensive zone to a less intensive zone (e.g., industrial to commercial), only a description of the proposed use must be submitted with the rezone request. The proposed use may be the existing use on the property, provided the use is a permitted use in the lesser zone classification.~~

B. The applicant must show that the proposed development satisfies the following minimum criteria for approval by the Hearing Examiner:

1. The proposal conforms with the Comprehensive Plan policies and land use map ~~the adopted Comprehensive Plan specifies that the property shall be subsequently considered through an individual reclassification application;~~
2. The requested reclassification is in the public interest;
3. The requested reclassification is not hazardous or will not have adverse impacts on adjacent properties;
4. The requested reclassification does not pose undue burdens on public facilities;  
and
5. For sites located within the designated urban center, the ~~The~~ requested reclassification has, or will potentially have, an adequate link to a high-capacity transit mode. (Ord. 04-1010 § 17; Ord. 00-1033 § 14; Ord. 96-1008 § 6; Ord. 92-1041 § 1)

***Comment: The Growth Management Act requires zoning to be consistent with the Comprehensive Plan. Court cases have established that a rezone must be supported by either a change in conditions or must implement the Comprehensive Plan.***

***Requiring submittal of a site plan with a rezone request is not recommended. If site-specific conditions or standards are desired, it would be preferable to have a property owner enter into a development agreement.***

***The clarification to criteria #5 is suggested, as many properties outside of the urban center may not have a linkage to high-capacity transit, yet otherwise be supported by the Comprehensive Plan land use map.***

### **15.22.055 Development Agreements**

A. A person or entity having ownership or control of real property within the City may file an application for a development agreement with the Department of Community and Economic Development, solely and exclusively on the current form approved by the said Department, together with the filing fee set forth in the current edition of the City's Fee Schedule as adopted by resolution of the City Council.

B. Terms of the proposed development agreement shall be subject to the Development Review Committee process set forth at SMC 16A.05.020 and such other provisions of SMC Title 16A as may be deemed appropriate by the City.

C. The City Manager, and such designee or designees as may be appointed for the purpose, is authorized, but not required, to negotiate acceptable terms and conditions of the proposed development agreement with due regard for the following criteria:

1. The development agreement conforms to the existing Comprehensive Plan policies.
2. The terms of the development agreement are generally consistent with the development regulations of the City then in effect.
3. Appropriate project or proposal elements such as permitted uses, residential densities, and nonresidential densities and intensities or structure sizes are adequately provided, to include evidence that the site is adequate in size and shape for the proposed project or use, conforms to the general character of the neighborhood, and would be compatible with adjacent land uses.
4. Appropriate provisions are made for the amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of State law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications.
5. Adequate mitigation measures, development conditions, and mitigation requirements under Chapter 43.21C RCW are provided.
6. Adequate and appropriate design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features are provided.
7. If applicable, targets and requirements regarding affordable housing are addressed.
8. Provisions are sufficient to assure requirements of parks and open space preservation.

9. Interim uses and phasing of development and construction is appropriately provided. In the case of an interim use of a parcel of property, deferments or departures from development regulations may be allowed without providing a demonstrated benefit to the City; provided, that any departures or deferments to the Code requested for a final use of the property shall comply with criteria No. 11 below. The agreement shall clearly state the conditions under which the interim use shall be converted to a permanent use within a stated time period and the penalties for noncompliance if the interim use is not converted to the permanent use in the stated period of time.

10. Where a phased development agreement is proposed, a site plan shall be provided and shall clearly show the proposed interim and final use subject to the agreement.

11. In the case of a development agreement where the proposed use would be the final use of the property, it shall be clearly documented that any departures to the standards of the Code, requested by the applicant, are in the judgment of the City, offset by providing a benefit to the City of equal or greater value relative to the departure requested. In no case shall a departure to the Code be granted if no benefit to the City is proposed in turn by the applicant.

12. Conditions are set forth providing for review procedures and standards for implementing decisions.

13. A build-out or vesting period for applicable standards is provided.

14. Any other appropriate development requirements or procedures necessary to the specific project or proposal are adequately addressed.

15. If appropriate, and if the applicant is to fund or provide public facilities, the development agreement shall contain appropriate provisions for reimbursement over time to the applicant.

16. Appropriate statutory authority exists for any involuntary obligation of the applicant to fund or provide services, infrastructure, impact fees, inspection fees, dedications, or other service or financial contributions.

D. If the City Manager deems that an acceptable development agreement has been negotiated and recommends the same for consideration, the City Council shall hold a public hearing and then may take final action, by resolution, to authorize entry into the development agreement. In addition, the Council may continue the hearing for the purpose of clarifying issues, or obtaining additional information, facts, or documentary evidence.

- E. The decision of the Council shall be final immediately upon adoption of a resolution authorizing or rejecting the development agreement.
- F. Following approval of a development agreement by the Council, and execution of the same, the development agreement shall be recorded with the King County Recorder.
- G. Because a development agreement is not necessary to any given project or use of real property under the existing comprehensive plan and development regulations in effect at the time of making application, approval of a development agreement is wholly discretionary and any action taken by the City Council is legislative only, and not quasi-judicial. (Ord. 11-1002 § 2; Ord. 01-1022 § 3; Ord. 99-1045 § 3)

**15.22.060 Hearing Examiner Development Review Process**

- A. ~~See SMC 1.20. Purpose. To establish a Hearing Examiner system under the provisions of Chapter 35A.63 RCW to hear and decide applications for amendments to land use regulations and other matters as specifically assigned by the appropriate ordinances.~~
- B. ~~**Office Created.** The office of the Hearing Examiner is hereby created to act on behalf of the City Council by considering and applying zoning and regulatory ordinances to the land as provided herein. The Hearing Examiner shall also exercise administrative powers and such other quasi-judicial powers as may be granted by ordinance and code adoption.~~
- C. ~~**Appointment and Terms.** The Hearing Examiner shall be appointed by the City Manager, subject to confirmation by the City Council, to serve for a term of two (2) years.~~
- D. ~~**Removal.** The Hearing Examiner may be removed from office at any time for just cause by a majority vote of the whole membership of the City Council.~~
- E. ~~**Qualifications.** The Hearing Examiner shall be appointed solely on the basis of qualifications for the duties of the office with special reference to training, actual experience in, and knowledge of administrative or quasi-judicial hearings on zoning, subdivision and other land use regulatory enactments as may be granted by ordinance or code adoption.~~
- F. ~~**Examiner Pro Tem.** In the event of the absence or the inability of the Hearing Examiner to act on an application, a Hearing Examiner Pro Tem may be appointed, in the manner specified in subsection (C), for such application or period of absence, and shall have all the duties and powers of the Hearing Examiner.~~
- G. ~~**Freedom from Improper Influence.** Individual Council members, City officials or any other persons shall not interfere, or attempt to interfere, with the performance of the Hearing Examiner's designated duties.~~

~~H. **Functions Relating to Area Zoning.** Prior to adopting new area zoning, the City Council may choose to have the Hearing Examiner conduct public hearings to consider individual property requests for changes to the proposed area zoning, in which case such decisions shall be considered as recommendations to the Council.~~

~~I. **Decisions Appealable to the City Council.** See SMC 1.20.090.~~

~~J. **Decisions of the Hearing Examiner Which are Final.** See SMC 1.20.110.~~

~~K. **Hearing Procedures.** The Hearing Examiner shall have the power to prescribe procedures for the conduct of the hearings subject to confirmation of the City Council; and also to issue summons and subpoenas to compel the appearance of witnesses and production of documents and materials, to order discovery, to administer oaths, and to preserve order.~~

***Comment: The above language is also found in SMC 1.20, Hearing Examiner System. Staff recommends retaining the language in that section and eliminating it here.***

**LB. Public Hearings.**

1. Before rendering a decision on any application or appeal, the Hearing Examiner shall hold ~~at least one (1)~~ a public hearing thereon. For applications subject to City Council action, the public hearing by the Hearing Examiner shall constitute a hearing by the City Council.
2. Whenever a project requires more than one (1) permit or approval, the Hearing Examiner may order a consolidation of and conduct the required public hearings to avoid unnecessary costs or delays. Decisions of the Hearing Examiner to order and conduct consolidated hearings shall be final in all cases.

***Comment: State law only allows one open record public hearing to be held on a land use application.***

**MC. Procedural Notice Requirements.** Notice of public hearings shall be provided as specified in SMC 16A.13. ~~Unless otherwise provided by ordinance, the City Manager, or designee, shall cause the notice of the time and place of the public hearing to be mailed to all of record at least fourteen (14) calendar days prior to the scheduled hearing (not including the day the notice is mailed). Additional notice shall be given as provided in the section or ordinance governing the particular type of application or appeal. Public hearings may be continued or reopened by the Hearing Examiner with written notice to all persons of record at least seven (7) calendar days prior to the rescheduled hearing. Public hearings may be continued by the Hearing Examiner without additional written notice; provided the continuance is made during open session to a specific date, time and location.~~

***Comment: Rather than have these standards in two sections of the code, the suggested change directs the reader to the primary chapter dealing with procedural requirements.***

**ND. Community and Economic Development Department Report.** When an application or appeal has been set for public hearing, the Department of Community and Economic Development shall coordinate and assemble the reviews of other City departments and governmental agencies having an interest in the subject application or appeal, and shall prepare a report summarizing the factors involved and the Department of Community and Economic Development’s findings and recommendation or decision. At least fourteen (14) days prior to the scheduled hearing, the report, and, in the case of appeals, any written appeal arguments submitted to the City shall be filed with the Hearing Examiner and copies thereof shall be mailed to all persons of record who have not previously received said materials.

**OE. General Criteria for Examiner Decisions.**

1. Each decision of the Hearing Examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision.
2. The Hearing Examiner’s findings and conclusions shall carry out and help implement applicable state laws and regulations and the regulations, policies, objectives and goals of the Comprehensive Plan, the Zoning Code, the Subdivision Code and other official laws, policies and objectives of the City, and that the decision will not be unreasonably incompatible with, or detrimental to, affected properties and the general public.
3. The Hearing Examiner shall accord substantial weight to the recommendation of the Department of Community and Economic Development.

~~P.—Additional Criteria for Pending Area Zoning Recommendations.~~ When the Hearing Examiner considers individual property owner requests for pending area zoning, he/she shall prepare a report which contains additional findings based on the applicable proposed Comprehensive Plan causing the pending area zoning.

***Comment: Area zoning would be a legislative action of the City and therefore, under the purview of the Planning Commission rather than the Hearing Examiner.***

~~Q.—Additional Criteria for Subdivision Decisions.~~ When the Hearing Examiner issues a decision regarding an application for a subdivision of property and there are conflicts between adopted plans, portions of plans, or zoning, the following criteria shall apply:

- 1.—In case of conflict in use and density designations between adopted Comprehensive Plans, the most current adopted plan shall govern.

~~2. In case of conflict in use and density designations between adopted Comprehensive Plans and present zoning, the zoning shall govern.~~

***Comment: The State GMA requires Plans and regulations to be consistent, so the circumstances contemplated here could not exist.***

RF. Examiner Actions. Within ten (10) working days of the conclusion of a hearing or rehearing, the Hearing Examiner shall render a written recommendation or decision and shall transmit a copy thereof to the Department of Community and Economic Development. all persons of record. The Department shall then transmit a copy of the decision to all parties of record.

1. The Examiner's decision may be to grant or deny the application or appeal, or the Hearing Examiner may grant the application or appeal with such conditions, modifications and restrictions as he/she finds necessary to make the application or appeal compatible with the environment, and carry out applicable state laws and regulations, and the regulations, policies, objectives and goals of the Comprehensive Plan, the Zoning Code, the Subdivision Code and other ordinances, policies and objectives of the City.

2. The conditions, modifications and restrictions that the Hearing Examiner may impose include additional setbacks, screening in the form of landscaping or fencing, covenants, easements and dedications of additional road rights-of-way. Performance bonds or equivalent measures may be required to insure compliance with the conditions, modifications and restrictions of this code. (Ord. 11-1002 § 2; Ord. 96-1008 §§ 9, 10; Ord. 95-1012 § 1; Ord. 92-1041 § 1; Ord. 90-1045 §§ 1, 7, 8)

***Comment: This change reflects current practice; the Hearing Examiner provides a decision to staff, which is responsible for its distribution.***

### **15.22.065 Appeal Process**

See SMC 16A.17.

~~A. **Appeal to the Hearing Examiner — Notice and Content.** All notice of appeal regarding any decision being appealed to the Hearing Examiner shall be filed with the City Clerk, only on a form provided by the City Clerk, within fourteen (14) days of the date of the decision together with a filing fee in the amount specified in the City's schedule of fees or in such other amount as may be specified by resolution of the City Council. All notices of appeal shall state with specificity the decision being appealed and the reasons why the appealed decision should be reversed or modified.~~

~~B.— **Appeal to City Council — Notice.** Decisions by the Hearing Examiner on cases subject to City Council action may be appealed to the City Council by a person with standing by filing a notice of appeal with the City Clerk within fourteen (14) days of the date the Hearing Examiner's written decision is mailed, together with a filing fee in the amount specified in the City's schedule of fees or in such other amount as may be specified by resolution of the City Council.~~

~~C.— **Appeal Briefs.** If a notice of appeal has been filed, the appellant shall file any supplemental written arguments within twenty-one (21) days of filing the appeal.~~

~~D.— **Appeal to City Council — Consideration.** Consideration by the City Council of the appeal shall be based upon the record of the Hearing Examiner's public hearing and upon written appeal statements based upon the record; provided the City Council may allow parties a period of time for oral argument based on the record. The Hearing Examiner may conduct a conference with all parties to the appeal for the purpose of clarifying or attempting to resolve certain issues on appeal; provided such conference shall be informal and shall not be part of the public record.~~

~~—After consideration of the record, written appeal statements and any oral argument, City Council may:~~

- ~~1.— Affirm the decision of the Hearing Examiner;~~
- ~~2.— Determine that an error in fact or procedure may exist or additional information or clarification is desired. The City Council shall then remand the matter back to the Hearing Examiner; or~~
- ~~3.— Determine that the recommendation of the Hearing Examiner is based on an error in judgement or conclusion. The City Council may then modify or reverse the decision of the Hearing Examiner with appropriate findings of fact, conclusions of laws and decision.~~

~~E.— **Appeal to City Council — City Council Action.** The City Council shall take final action by ordinance or resolution on a Hearing Examiner's recommendation on area zoning or on any appeal of a Hearing Examiner's decision, and when so doing, the City Council shall make and enter findings of fact and conclusions from the record which support its action. Said findings and conclusions shall set forth and demonstrate the manner in which the action is consistent with, carries out, and helps implement objectives and goals of the Comprehensive Plan, the Zoning Code, the Subdivision Code and other official laws, policies and objectives of the City. The City Council may adopt as its own all or portions of the Hearing Examiner's findings and conclusions.~~

~~F.— **Reconsideration of Final Action.** The City Council may reconsider any action after it has become final if:~~



- ~~1.—The action was based in whole or in part on erroneous facts or information;~~
- ~~2.—The action, when taken, failed to comply with existing laws or regulations applicable thereto; or~~
- ~~3.—An error or procedure occurred which prevented consideration of the interests of persons directly affected by the action.~~

~~**G.—Review of Final Decisions.**~~

- ~~1.—Land use decisions of the City Council shall be final and conclusive unless appealed to the King County Superior Court within twenty-one (21) days by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW. All other final decisions of the City Council shall be final and conclusive unless a petition for review is filed with the King County Superior Court within thirty (30) days.~~
- ~~2.—Land use decisions of the Hearing Examiner shall be final and conclusive, unless appealed to the King County Superior Court within twenty-one (21) days by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW. All other final decisions of the Hearing Examiner shall be final and conclusive unless a petition for review is filed with the King County Superior Court within thirty (30) days.~~
- ~~3.—Notwithstanding the foregoing provisions of this section, final decisions of the City Council relating to matters governed by the State Shorelines Management Act shall be appealed to the State Shorelines Hearing Board as specified in the said Act. (Ord. 03-1020 § 18; Ord. 00-1036 § 6; Ord. 92-1041 § 1)~~

**15.22.070 Severability**

The standards, criteria and process of this chapter shall be fully governed by the adopted ordinances that provide the authority to the Hearing Examiner. Any conflict of provisions shall require the stricter provision prevailing. The applicable ordinances are Nos. 90-1045 and 90-1051 and any subsequent amendments. (Ord. 92-1041 § 1)

***Comment: This keeps all appeal provisions in one section of the Municipal Code.***

### 16A.23.130 Substantive Authority

The City adopts by reference the following policies, plans, rules and regulations, as now existing or as may subsequently be amended, as a basis for the exercise of substantive authority to approve, condition or deny proposed actions under RCW [43.21C.060](#) of SEPA:

- A. ~~King County Comprehensive Plan and related community plans;~~ City of SeaTac Comprehensive Plan;
- B. ~~King County~~ City of SeaTac Shoreline Management Master Programs;
- C. City of SeaTac Municipal Code ~~SeaTac Area Update Plan;~~
- D. King County Surface Water Design Manual, together with City of SeaTac Addendum SeaTac Capital Improvements Plan;
- E. King County Road Construction Standards ~~SeaTac Six Year Street Plan;~~
- F. Des Moines Creek Restoration Plan;
- G. State Growth Management Legislation or Initiatives;
- H. City of SeaTac Parks, Recreation and Open Space Plan;
- H I. City of SeaTac Comprehensive Transportation Plan;
- J. SeaTac Subarea Plans and Policies. (Ord. 04-1008 § 2; Ord. 90-1061 § 13. Formerly 13.30.130)

***Comment: These changes identify the proper documents for the exercise of SEPA authority.***

**Chapter 16A.25  
COMPREHENSIVE PLAN**

Sections:

- 16A.25.010 Purpose
- 16A.25.020 Comprehensive Plan adopted.
- 16A.25.030 Early and continuous public participation.
- 16A.25.040 Amendments and exceptions.

**16A.25.010 Purpose**

The City of SeaTac Comprehensive Plan establishes the principles, goals, objectives and policies guiding future development of the city in compliance with Chapter 36.70A RCW, the Washington State Growth Management Act. The purpose of this chapter is to identify those elements that comprise the Comprehensive Plan and to provide for the establishment of procedures for review and amendment of the Plan.

**16A.25.020 Comprehensive Plan adopted**

A. The City of SeaTac Comprehensive Plan, initially adopted in December 1994 to comply with the Growth Management Act and as periodically amended thereafter, is hereby adopted by reference.

B. The Comprehensive Plan consists of the following:

1. City of SeaTac Comprehensive Plan, Volumes 1 and 2;
2. City of SeaTac Shoreline Master Program;
3. City Center Plan, December 1999;
4. South 154<sup>th</sup> St. Station Area Action Plan;
5. City of SeaTac Parks, Recreation and Open Space Plan;
6. City of SeaTac Comprehensive Transportation Plan.

**16A.25.030 Early and continuous public participation.**

A. The City of SeaTac encourages early and continuous public participation in the comprehensive planning process and in other city-initiated planning programs that may be carried out under the overall framework of the plan.

B. The Community and Economic Development Director shall establish and broadly disseminate information regarding the comprehensive plan amendment process.

#### **16A.25.040 Amendments and exceptions**

A. Pursuant to Resolution 97-001, the comprehensive plan may only be amended pursuant to procedures established by the Community and Economic Development Director and no more frequently than once each calendar year, except as provided in subsection C of this section.

B. All amendments shall be considered concurrently so as to assess their cumulative impact.

C. Exceptions. Pursuant to Chapter 35A.70 RCW, under the following circumstances, amendments to the comprehensive plan may be processed separately and in addition to the established amendment cycle:

1. If an emergency exists, which is defined as an issue of community-wide significance that addresses the public health, safety, and general welfare;
2. To resolve an appeal of a comprehensive plan filed with the Growth Management Hearings Board or with the court;
3. To adopt or amend the shorelines master program under the procedures set forth in Chapter 90.58 RCW;
4. The initial adoption of a subarea plan or new element to the comprehensive plan;
5. An amendment of the capital facilities plan may occur concurrently with the adoption or amendment to the city budget.

***Comment: This is a new chapter to the Code, which identifies what documents constitute the Comprehensive Plan, discusses the annual amendment process and provides clarity of how often and under what circumstances the Plan may be amended.***