



## Planning Commission

# TRANSMITTAL

DATE: June 29, 2016

TO: Mayor Stokes and Members of the City Council

FROM: Michelle Hilhorst, Chair  
Members of the Planning Commission

SUBJECT: Threshold Review Recommendation for 2016 **privately-initiated** non-site-specific Comprehensive Plan Amendments (CPA): **Park Lands Policies #1 15-129232 AC**

The Planning Commission recommends by a 7-0 vote that the City Council include the proposed Park Lands Policies #1 non-site-specific CPA in the 2016 Comprehensive Plan Work Program.

### I. SUMMARY OF PROPOSAL

This non-site-specific application would amend policy and/or text in the Comprehensive Plan. Three new policies are proposed in the Parks, Recreation and Open Space Element. These policies would restrict or regulate review in changes in use of acquired park lands and park property by citizens, the Parks Board and in the city's formal rezone process.

In support of the proposal, the applicant cites nineteen existing policies in the Comprehensive Plan. The applicant also includes (1) an exhibit regarding property in the Mercer Slough referred to as the "Balatico property", portions of which are being conveyed to Sound Transit under the East Link operating Memorandum of Understanding ("MOU"); and (2) a narrative indicating that the amendments are necessary to protect taxpayer investments in park lands from non-park uses, including sales of any park lands.

### II. RECOMMENDATION

The Planning Commission finds that the Threshold Review Decision Criteria have been satisfied for this proposed Comprehensive Plan Amendment as set forth in the Land Use Code in Section 20.30I.140 (Threshold Review Decision Criteria).

The Commission finds that the proposal can be reasonably reviewed by City Council to determine if further or additional policy is necessary because park acquisition and disposition actions associated changing conditions not anticipated by the Comprehensive Plan. There are current changing conditions that were not known or anticipated by the City Council at the time of the voters passing the levy for parks purchase. This example allows Council to review current conditions and determine if policy changes are necessary. Both for current and future yet unanticipated changing conditions for consistency within the Comprehensive Plan and public understanding. The existing policy may be insufficient; and that the proposal is consistent with county and state policy and statute.

### **III. BACKGROUND**

Non site-specific CPAs are proposed to amend policy and/or text in the Comprehensive Plan. This proposal has not previously been presented.

### **IV. PUBLIC NOTICE AND COMMENT**

The applications were introduced to the Planning Commission during study session on March 9, 2016. Notice of the Application was published in the Weekly Permit Bulletin on February 18, 2016, and mailed and posted as required by LUC 20.35.420. Notice of the June 1, 2016, Threshold Review Public Hearing before the Planning Commission was published in the Weekly Permit Bulletin on May 12, 2016, and included notice sent to parties of record. Information about the June 15, 2016, Planning Commission study session was provided to applicants, agents, parties of record, subscribers to the Planning Commission web page, and through the city's Next Door online neighborhood portal.

Comments were made at the public hearing. Printed materials relative to the 1988 park bond were provided to the Commission by one speaker, who explained that the bond came about because citizens realized what was going on in the Mercer Slough and that there were a lot of developers wanting to develop in there. The speaker also noted an outrage that Council is able to sell bond-acquired parklands to pay for the downtown tunnel and to put a train in the Mercer Slough Nature Park. Another speaker suggested parallels between the Newport Hills and parklands issues, and that to have the lands sold and drained is unthinkable. A third speaker voiced concern over the lateness of the hour, that people do not understand what is happening to the Mercer Slough, and that it should not be necessary to sue the city in order to preserve parkland.

Written comments received prior to the hearing included an April 1988 newspaper article regarding the Balatico property, a copy of a portion of architectural drawings for the Balatico Trailhead, the first page of a December 5, 1988 agenda memorandum to Council regarding action on Resolution No. 5080, the resolution itself, the first page of a May 2011 draft memo regarding an East Link restricted use appraisal report for Balatico, a page from a 2014 East Link Extension engineering drawing titled Ground Improvements Stone Column Soil Stabilization, a copy of the proposed policy language in the 2016 CPA, a page (Exhibit R, undated) showing a chart titled City of Bellevue – Sound Transit Property Conveyance, and a March 2016 copy of some portion of an email from Hannah Peshkov, City of Bellevue Senior Real Property Agent, explaining what certain acronyms mean.

Comments were made at the June 15, 2016 Study Session. A former Parks Board commissioner urged her support of the proposed policies, noting that parks need to be protected from the pressures experienced from Bellevue's increasing urban population demands, that parks are for recreation uses, that there are recreation uses that will help communities grow, stay together, form cohesive neighborhoods, and people get to know each other, that parks should not be sold or bargained away for uses that are not for parks or recreation uses. The former commissioner also noted that parks lands should not be used for light railroad facilities as East Link coming along the whole western edge of the Mercer Slough Nature Park and that the whole western border of the Mercer Slough Nature Park will be devastated.

The applicant recapped his history of the Mercer Slough preservation, and pointing out his belief in inaccuracies in the city planning and legal staff's material in the staff recommendation. A second speaker presented a large black cardboard box whose dimensions were represented as one cubic yard, noting her concern that this represented the amount of soil that would be removed from the Mercer Slough and if placed in dump trucks (which it would be) would then stretch from the Mercer Slough in Bellevue to Kelso, Washington. The speaker closed with stating her belief that all of the Threshold Review criteria had been met including significantly changed conditions, in that a train in our park land was quite a changed condition.

Printed materials were presented to the Commission at the June 15, 2016, study session. They included a June 2016 email from a Sound Transit public records officer regarding the estimated volume of soil to be excavated, a copy of a page of Chapter 4.32 BCC Sale of City Property, two pages of a portion of an email exchange between Geoff Bidwell and Holly Haugh of the Trust for Public Lands, subject: Selling of TPL Park Lands, and a copy of a letter dated June 21, 1988 from Martin J. Rosen, President of the Trust for Public Land to Geoffrey Bidwell, Chairman, Save the Mercer Slough Campaign.

#### **V. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

The proposed amendment would be subject to State Environmental Policy Act review if included in the Annual Work Program. The Environmental Coordinator determines a Threshold Decision.

#### **VI. REVIEW PROCESS AND APPLICATION OF DECISION CRITERIA**

The Threshold Review Decision Criteria for a proposed Comprehensive Plan Amendment are set forth in the Land Use Code in Section 20.30I.140. A proposal must meet all of the criteria to be included in the annual CPA work program.

Based on the criteria, the Planning Commission recommends that the 2016 annual CPA work program include the proposed Park Lands Policies #1 privately initiated non-site-specific CPA. This recommendation is based on information in the application materials, the staff report, and testimony and material provided at the public hearing.

This conclusion is based on the following:

- A. The proposed amendment presents a matter appropriately addressed through the Comprehensive Plan; and

*The proposed policy amendments present a matter appropriately addressed through the Comprehensive Plan. Noting that the proposal intends restrictions on City Council legislative authority, the Commission felt that of every single policy in the Comprehensive Plan does that. Everything that the City adopts has to be consistent with the Comprehensive Plan and to implement it. The Comprehensive Plan is necessary by it just being a restriction on the Council's otherwise unbridled legislative authority. If the Comprehensive Plan designates it park or neighborhood business then it should be zoned park or neighborhood business. So this is not unique or different than anything else in our Comprehensive Plan or how it works.*

*The proposed amendments intend to restrict use of park land for non-park purposes, a scenario that is not adequately covered by the language of a bond issuance itself. In either case, this is a matter properly addressed through a Comprehensive Plan amendment.*

- B. The proposed amendment is in compliance with the three-year limitation rules set forth in LUC 20.30I.130.A.2.d; and

*The three-year limitation does not apply to this proposal.*

- C. The proposed amendment does not raise policy or land use issues that are more appropriately addressed by an ongoing work program approved by the City Council; and

*The policy or land use issues raised by the proposed amendment are not more appropriately addressed by an ongoing work program approved by the City Council. The ongoing work program that governs the construction of East Link—the Sound Transit MOU—should be looked at to avoid having this thing happen again.*

- D. The proposed amendment can be reasonably reviewed within the resources and timeframe of the Annual Comprehensive Plan Amendment Work Program; and

*This proposed amendment can be reasonably reviewed. The suggested implication of statutory change to the relationship between the issuing jurisdiction and those taxpayers whose taxes are pledged to the payment of the bonds is a red herring here, where paying off the debt we authorized the city to incur to buy us a park has bearing on the proposed amendments.*

- E. The proposed amendment addresses significantly changed conditions since the last time the pertinent Comprehensive Plan map or text was amended. Significantly changed conditions are defined as:

**Significantly changed conditions.** Demonstrating evidence of change such as unanticipated consequences of an adopted policy, or changed conditions on the subject property or its surrounding area, or changes related to the pertinent Plan map or text; where such change has implications of a magnitude that need to be addressed for the Comprehensive Plan to function as an integrated whole. This definition applies only to Part 20.30I Amendment and Review of the Comprehensive Plan (LUC 20.50.046); and

*This is not about Policy PA-37 and its mandate for a “public review process for the conversion to non-recreational use of park lands and facilities.” The significantly changed condition is an unintended consequence that Policy PA-37 as well as the rest of the policies in the city’s park Comprehensive Plan did not anticipate that the city would dispose of massive amounts of park land in a city in a park behind closed doors.*

- F. When expansion of the geographic scope of an amendment proposal is being considered, shared characteristics with nearby, similarly-situated property have been identified and the

expansion is the minimum necessary to include properties with those shared characteristics;  
and

*Non-site specific applications are not subject to expansion of geographic scope analysis.*

- G. The proposed amendment is consistent with current general policies in the Comprehensive Plan for site specific amendment proposals. The proposed amendment must also be consistent with policy implementation in the Countywide Planning Policies, the Growth Management Act (GMA), other state or federal law, and the Washington Administrative Code (WAC); or

*The first part does not apply as this is not a site-specific amendment.*

*The proposed amendments are consistent with policy implementation in the Countywide Planning Policies in that there is nothing in the CPP or policy implementation in the Growth Management Act that would disallow such an honest look by Council.*

and:

- H. State law requires, or a decision of a court or administrative agency has directed such a change.

*State law or a decision of a court or administrative agency has not directed the suggested change.*

## **VII. CONCLUSION**

The Planning Commission recommends by a vote of 7-0 the City Council include the proposed Park Lands Policies #1 non-site-specific CPA in the 2016 Annual CPA work program.

## **VIII. ATTACHMENTS**

- 4a. Proposed policies

## CP Amendment Proposals years 2015 through 2016

### Block2 - PA xx1

Protect and prevent park lands, acquired through city wide bond measures (i.e., Bellevue taxpayers), from being used for purposes that are inconsistent with park dedicated uses, unless such uses are approved by citizens of the city.

### Block2 - PA xx2

Require park property restricting public use and/or park access for longer than a 6 month duration, shall be deemed permanent and require review and approval by the City Parks and Community Services Board for closures related to non-park uses.

### Block2 - PA xx3

Require park lands that are to be converted (or partially converted) for uses other than park dedicated use, shall be formally re-zoned and subject to the city public review process.