

# APPROVED

## CITY OF BREMERTON

### PLANNING COMMISSION MINUTES OF VIRTUAL MEETING October 19, 2020

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#### CALL TO ORDER:

Chair Wofford called the regular meeting of the Bremerton Planning Commission to order at 5:30 p.m.

#### ROLL CALL

##### Commissioners Present

Chair Wofford  
Vice Chair Tift  
Commissioner Coughlin  
Commissioner Mosiman  
Commissioner Pedersen  
Commissioner Rich

##### Staff Present

Andrea Spencer, Director, Department of Community Development  
Allison Satter, Planning Manager, Department of Community Development  
Garrett Jackson, Planner, Department of Community Development  
Isaac Gloor, Planner, Department of Community Development  
Sarah Lynam, DCD Project Assistant, Department of Community Development

##### Others Present

Dan Nickel, The Watershed Company

##### Commissioners Excused

None

#### *Quorum Certified*

#### CHAIR CALL FOR MODIFICATIONS TO AGENDA

The agenda was accepted as presented.

#### APPROVAL OF MINUTES

COMMISSIONER COUGHLIN MOVED TO APPROVE THE MINUTES OF SEPTEMBER 21, 2020, AS SUBMITTED. COMMISSIONER MOSIMAN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

#### PUBLIC MEETING

Call to the Public (public comments on any item not on the agenda).

Chair Wofford asked if there were any comments from citizens. Seeing none, he closed the public portion of the meeting.

#### Public Hearing: Zoning Code Amendments for Accessory Dwelling Units (BMC 20.46.010)

Ms. Satter and Mr. Gloor provided the Staff Report. Ms. Satter briefly reviewed that the Commission discussed Accessory Dwelling Units (ADUs) previously at a workshop on May 18<sup>th</sup>. At that time, she explained that the Legislature (House Bill 1923) asked cities in the State (zoned under the Growth Management Act) to review their ADU provisions and look for opportunities to increase residential capacity. The Commission indicated general support for the ADU amendments presented

by staff, but requested staff consider alternatives to design standards. Since the May 18<sup>th</sup> workshop, staff has amended the design standards, conducted environmental review and agency outreach, incorporated public feedback, and added amendments for detached nonconforming structures.

**Ms. Satter** briefly reviewed the format for the public hearing, noting that the public would have an opportunity to comment twice. She also provided an outline for the topics that would be discussed:

- **Size.** Currently, the code allows ADUs up to 60% of the primary residence, and House Bill (HB) 1923 encourages jurisdictions to consider allowing 1,000 square feet or 60% of the primary residence, whichever is larger.
- **Parking.** The current code requires 2 parking spaces for the residential unit and 1 parking space for the ADU. HB1923 encourages jurisdictions to remove the requirement of one additional parking space ADUs.
- **Owner Occupancy.** HB1923 encourages jurisdictions to remove the owner-occupancy requirement. A few options will be discussed, including modifying the owner-occupancy requirement.
- **Number of ADUs.** The current code allows one ADU, and there has been public interest in allowing two. Some cities in the region have already adopted this provision. It is not something HB1923 requested jurisdictions do, but it is being presented for the Commission's consideration. While the Staff Report suggests otherwise, staff supports either one or two ADUs, and the environmental review was done for both options.
- **Design Standards.** Design standards not required by HB1923 but are common in ADU standards in other jurisdictions. There are a few options for modifying the design criteria, and the one being proposed by staff is to remove design criteria completely.
- **Detached Structure Conversion.** This is something new that hasn't been discussed by the Commission before. The provision would allow existing structures that do not meet certain development standards to be established as ADUs. An example is an existing garage that does not meet setback requirements. The current ADU code requires that the underlying setbacks are met, and the proposed provision would allow existing structures to be converted to ADUs. However, certain requirements would apply. As proposed:
  - The provision would only apply to legally constructed buildings and not to new construction.
  - The structures would have to meet the health and safety requirements of the building and fire code.
  - An ADU could be enlarged into the setback up to 20% provided it doesn't increase the size beyond what ADUs are allowed by code. Existing structures that are greater in size would be allowed to convert to ADUs, as long as there are no modifications other than those needed to create a livable space.
  - Expanded areas must match or compliment the primary dwelling and contain architectural features.

**Director Spencer** noted that this provision was added to the Staff Report late in the afternoon and was not included in the original Staff Report. The updated Staff Report is available on the City's website for review.

**Ms. Satter** concluded by reminding the Commissioners that they will be asked to make a recommendation to the City Council following the public hearing. The Commission's recommendation will be presented to the City Council on December 16<sup>th</sup>. She recommended that citizens send their email addresses to either her or Sarah Lyman to be added to the email list of interested parties.

**Ms. Satter** reported that one question was received late in the day requesting clarification on the size limits for ADUs. She responded that multi-story structure ADUs would be allowed, and the size would be based on habitable space. Garage space is usually exempt from the requirement. ADUs would have to comply with the height limit in the zoning code, which is 35 feet in most residential zones.

**Chair Wofford** opened the public hearing and invited public comment.

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**Roy Runyan, Bremerton**, said he likes the flexibility that allowing detached structure conversion would provide. He also likes the idea of following the guidelines set by HB1923 regarding size (1,000 square feet or 60% the size of the principal residence), but he would prefer 80%. He supports removing the parking requirement, since ADUs are often used by people who do not need an additional parking space. He also supports removing the occupancy requirement and allowing multiple ADUs. He suggested that a formula be created whereby property owners in lower density areas could put as many ADUs on a property as technically feasible. He asked why the Commissioners are leaning towards retaining as many design standards for ADUs as possible. This would, in effect, hold ADUs to a higher standard than manufactured homes and single-family residences.

**Russ Shiplet, Executive Officer, Kitsap Building Association**, voiced the Association's 100% support for the proposed amendments. The staff's presentation addressed each of their concerns. He urged the Commission to recommend approval and move it to the City Council. He said he would participate in the public hearing before the City Council, as well.

**Susan Plahnn, Bremerton**, asked if there would be any provisions for alternative features such as composting toilets. She also asked if energy-efficiency standards would be required.

**Jason Vogt, Bremerton**, commented that building an ADU on his property would not be feasible unless the parking requirement is changed. He has owned his home for six years and has considered creating an ADU in his large backyard. He expressed his belief that the proposed changes might make it feasible for him to move forward with an ADU in the future.

**Chair Wofford** closed this phase of the public comment period and invited staff to respond to the public comments and continue the presentation.

**Director Spencer** responded to Ms. Plahn's comments by clarifying that energy codes are part of the Building Code that was adopted by Washington State and internationally, and ADU's would have to comply, as well. She doesn't believe that composting toilets would be allowed, as ADU's would be required to connect to the City's sewer system.

**Ms. Satter** referred to the draft amendments outlined in Attachment A and presented six questions for the Commissioners to consider as they prepare their recommendation to the City Council:

- **How many ADUs should be allowed on a single parcel?** The current code (Alternative A) allows just one ADU, either attached or detached. Alternative B would allow two ADUs, one attached and one detached, and Alternative C would allow two ADUs, either attached or detached. If the Commission supports either Alternative B or Alternative C, staff is recommending that an additional parking space be required for the 2nd ADU. The recommended proposed parking revision would require two off-parking spaces for the principal unit and one parking spaces for the second ADU for a total for three units with three parking spaces.

**Vice Chair Tift** said he supports providing maximum flexibility (Alternatives B or C), but he believes that requiring an additional parking space for the 2<sup>nd</sup> unit would be essential.

**Commissioner Rich** noted that staff is recommending that the parking requirement be eliminated to be consistent with HB1923. She asked if the amendment would remain consistent with HB1923 if the Commission were to recommend either Alternative B or C, plus a requirement for an additional parking space for the 2<sup>nd</sup> unit. **Ms. Satter** answered that, as proposed, no additional parking space would be required for the 1<sup>st</sup> ADU to be compliant with HB 1923, and she believes that requiring a parking space for the 2<sup>nd</sup> ADU would also be consistent with HB1923. **Commissioner Rich** said she also supports maximum flexibility (Alternatives B or C).

**Commissioner Pedersen** said he supports maximum flexibility (Alternatives B or C), but he does not support a parking requirement for the 2<sup>nd</sup> ADU. He felt that property owners should be allowed to make these decisions.

**Commissioner Coughlin** said he supports Alternative B. He is concerned about allowing two detached ADUs. In these situations, it might be better for a property to subdivide rather than create three separate residential units on a single lot.

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**Commissioner Mosiman** said he supports flexibility, as well. He supports Alternative C, as long as the property can support two independently sited ADUs. He pointed out that Alternatives B and C would both result in three residential units, and he questioned why the parking requirement should be different for Alternative C. **Ms. Satter** clarified that staff is recommending the additional parking requirement for both Alternatives B and C. **Commissioner Mosiman** said he doesn't have a strong opinion, either way, regarding the parking requirement.

**Chair Wofford** requested clarification on the maximum size for an ADU. **Ms. Satter** answered that, as proposed, the maximum size would be 1,000 square feet or up to 60% of the primary residence, whichever is greater. For example, if the primary structure is 10,000 square feet, the ADU could be up to 6,000 square feet.

**Chair Wofford** pointed out that property owners who create ADUs will need to work with the United States Postal Service to determine the appropriate addresses for the units. If the City allows existing garages to be converted to ADUs, it is important to note that many property owners obtain extra income by offering these spaces as unofficial parking for shipyard workers. Eliminating these parking spaces might result in additional parking chaos.

**Chair Wofford** asked if Alternatives B and C would limit the number of ADUs to a maximum of two. **Ms. Satter** responded that either option would allow a maximum of two ADUs regardless of lot size, and ADUs would only be allowed on properties that are developed with single family homes. ADUs would not be allowed on properties that are developed as multifamily.

The majority of the Commission indicated support for the most flexible option which is Alternative C, which would allow two ADUs, either attached or detached. The majority also supported requiring one additional parking space for the 2<sup>nd</sup> ADU.

- ***What should be the maximum size limit for ADUs?*** The current code (Alternative A) limits the size of an ADU to 60% of the size of the primary dwelling unit. Alternative B would be consistent with HB1923, allowing 1,000 square feet or 60% of the size of the primary dwelling, whichever is larger.

**Vice Chair Tift** observed that, as per Alternative B, a 3,000 square foot house could have an ADU much larger than 1,000 square feet. He noted that there aren't a lot of 5,000+ square foot houses in Bremerton. On the other hand, there are a number of homes that are around 1,000 square feet, and a 600 square foot ADU is quite small. Alternative B would allow all ADUs to be at least 1,000 square feet. He said he supports Alternative B, which is consistent with HB1923. **Commissioner Mosiman** said he supports the Alternative B, as well.

The Commissioners indicated support for Alternative B.

**Director Spencer** reminded the Commission that ADUs would be subject to the lot coverage requirements. Even if two detached ADUs are allowed on a parcel, their size would be limited to the lot coverage requirement, which is 60% for most residential zones.

**Chair Wofford** asked if the lot coverage requirement is based on stormwater capacity or the desire to avoid a lot of hardscape. **Ms. Satter** answered that it is both. **Chair Wofford** asked about the average home size in Bremerton, and **Ms. Satter** answered that, as per a comment from Mr. Shiple from the Kitsap Builders Association, the average size is 1,500 square feet.

- ***What should the ADU design standards include?*** As per the current code (Alternative A), ADUs must have a matching or complimentary exterior and a roof of equal or greater pitch as the primary unit. The eaves must be at least 12 inches, and the design must incorporate at least four architectural features from the list. Lastly, there must be an entrance on a different façade than the primary dwelling. Alternative B would modify the design standards to require a matching or complimentary exterior, an entrance that is visually distinct from the primary dwelling, and at least four architectural features from the list. Alternative C would completely remove the design standards.

**Ms. Satter** advised that the City received one public comment suggesting that the term "appearance of a duplex" can have different meanings. If the Commission recommends Alternative B, the words "appearance of a duplex" would be deleted.

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**Commissioner Coughlin** said he supports Alternative B, including the modification described above. The provision that the roof and exterior could either match the existing house or fit in with the general neighborhood represents a bare minimum without being too onerous. **Commissioner Rich** agreed, but said she is interested in hearing more about the alternatives through public testimony at this hearing.

**Commissioner Pedersen** said he was having a hard time deciding between Alternatives B and C. He is anxious to provide flexibility for ADUs, but most people in Bremerton would likely prefer some design standards. At their previous workshop discussion, he recommended lowering the number of design standards.

**Commissioner Mosiman** said he is also divided between Alternatives B and C. By nature, he believes in having some level of design standards. Eliminating the design standards could result in unattractive development. On the other hand, he questioned the fairness of requiring design standards for ADUs when there are none for the primary residence. He likes the idea of a design standard that requires the ADU to be reflective of the primary residence so there is visual cohesiveness.

**Chair Wofford** asked when the ADU design standards were adopted. **Director Spencer** answered that design standards were proposed to make ADUs more palatable without the owner-occupancy requirement. **Chair Wofford** asked when the City's general design standards were adopted. **Director Spencer** answered that there are no general design standards, but there are design standards that apply to the Downtown Subarea. **Ms. Satter** added that, when the ADU code was adopted in the early 2000, it was based on a state model that included design criteria for roof pitch, eaves, and matching the primary residence. Alternative B would eliminate the roof pitch and eave requirements. Roof pitches vary throughout the City. Also, because of the City's topography and existing housing design, it is difficult for ADUs to meet the height requirement and roof pitch. **Chair Wofford** asked when design standards were established for single-family residences, and **Director Spencer** answered that there are none. Currently, the City's only design standards are for ADUs and for projects in the downtown that are over a certain scale and require design review. Again, she said the ADU design standards were added a few years ago when the Commission recommended that the owner-occupancy requirement be eliminated. What was actually adopted made ADU development more difficult, as the owner-occupancy requirement was retained and design standards were added.

**Vice Chair Tift** said he supports Alternative B, as he believes it is important to have some design standards in place.

**Director Spencer** noted comments in the chat box from Mr. Runyan, suggesting that having design standards for ADUs makes affordable housing much more difficult.

**Ms. Satter** said another comment was received, asking about the design criteria for manufactured homes. She explained that, currently, manufactured homes are allowed as ADUs provided they comply with the design criteria for manufactured homes, excluding the criteria for size and roof pitch. If Alternative B is adopted, it would apply to manufactured homes, as well.

The majority of the Commission voiced support for Alternative B, including removing the words "appearance of a duplex."

- **What should the parking requirements be for ADUs?** The current code (Alternative A) requires one additional parking space per ADU. If two ADUs are allowed, a total of four parking spaces may be required for most typical single-family lots. Consistent with HB1923, Alternative B would eliminate the parking requirement for the 1<sup>st</sup> ADU. If the Commission recommends allowing two ADUs, one parking space would be required for the 2<sup>nd</sup> one.

**Director Spencer** clarified that, as per Alternative B, the 1<sup>st</sup> ADU would not be required to provide parking, but the 2<sup>nd</sup> would be required to have one. If the current code is retained, one parking space would be required for each of the units.

**Commissioner Mosiman** asked if staff has an idea of the likely impact of any of the options. For example, eliminating the parking requirement for ADUs could result in more on-street parking, which would impact the surrounding neighborhood. **Director Spencer** answered that no study has been done, and the impact would likely depend on the location of the ADU. For example, it would be very easy for the large lots in East Bremerton to accommodate additional units, but the impact could be greater in other areas of the City where there is already limited on-street parking. **Ms. Satter**

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reminded the Commissioners that eliminating the parking requirement for the 1<sup>st</sup> ADU was a request from the State and would be consistent with HB1923.

The Commissioners indicated general support for Alternative B.

- ***Should owners be required to live on site?*** As per the current code (Alternative A), the owner must live on site year-round. Alternatives B and C would eliminate the owner-occupancy requirement, consistent with HB1923. Alternative B would provide clarity and code citations for property maintenance, and Alternative C would not. However, it is important to emphasize that, in the absence of the code citations, a property owner would still have to qualify for property maintenance. Alternative D would require the property owner to live on site for at least six months after issuance of occupancy for an ADU.

**Commissioner Coughlin** said he prefers Alternative B, which would eliminate the owner-occupancy requirement and provide clarity and code citations for property maintenance. This option would ensure that properties are maintained in accordance with the code. **Commissioner Rich** said she also supports Alternative B, and she appreciates the clarity it offers regarding property maintenance requirements. Although Alternative C would carry the same maintenance requirements, she felt it was better to make it very clear. **Commissioners Pedersen and Tift** also indicated support for Alternative B.

- ***Should detached, nonconforming structures be permitted as ADUs?*** The current code (Alternative A) does not allow detached, nonconforming structures to be converted to ADUs. Alternative B would allow detached structures that do not conform to some development standards to be converted to ADUs.

**Commissioner Mosiman** said he was not initially in support of this provision until he considered how it could be implemented in his own neighborhood. Someone on his street turned a garage into an ADU. The structure was far too close to the street and did not meet the setback requirement, but it was well done and attractive. He has changed his mind and now supports Alternative B. **Vice Chair Tift** said he had a similar concern and Commissioner Mosiman's comment provide him with reassurance that it is possible to properly convert nonconforming structures into ADUs. He now supports Alternative B, as well. **Commissioner Coughlin** indicated support for Alternative B, too.

The Commission voiced general support for Alternative B.

**Ms. Satter** said a comment in the chat box asked if the public would have an opportunity to comment when an ADU project comes forward. She answered no. Currently, ADUs require a Type I Building Permit, which does not include any public outreach. Staff is not proposing to change the process to include a public comment period in the permit review process.

**Ms. Satter** provided a brief summary of the Commission's discussion and **Chair Wofford** invited final public comments.

**Susan Plahn, Bremerton**, said she is curious how eliminating the parking requirement for ADUs would impact the downtown area where residential properties are small and very close together with little or no off-street parking. As proposed, these property owners could add ADUs in their backyards without providing any parking. The residents of both the primary unit, as well as the ADU unit would have to park on the street. She would be opposed to that.

**Roy Runyan, Bremerton**, said he appreciates and supports the changes being discussed by the Commission, but feels they fall short of where the City needs to be. He is an advocate for removing all design standards. If this is done, he anticipates there will be an explosion in the number of ADUs being built. If the purpose is to increase the amount of affordable housing available in the City, additional changes will be needed in the future. However, the proposed changes represent a good first step. He acknowledged that the City Council could make additional changes, including removing all of the design standard requirements. If they fail to do that, he is considering running an initiative that would build on the work of the Planning Commission. If the design standard requirement is removed entirely, the proposal would be almost perfect from his point of view.

**Jason Vogt, Bremerton**, said he supports eliminating the parking requirement for the 1<sup>st</sup> ADU. As he considered doing an ADU, he didn't have enough land to provide an additional parking space beyond the two that he already has for his primary residence. These changes are important given the current housing situation.

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There were no other public comments, and **Chair Wofford** closed the public hearing.

**Commissioner Mosiman** said he is still struggling with the design standard provision. If an ADU is built to reflect the single-family home on the same lot, he is not sure why additional design standards would be needed. Design standards could actually result in an ADU looking different than the original structure. He asked staff to provide more information about why the design standards were adopted in the first place. **Ms. Satter** compared the current code (Alternative A) with the proposed language (Alternative B). She reviewed that the current code (Alternative A) requires that ADUs be designed so the appearance of the building remains that of a single-family home that blends architecturally into the existing neighborhood. It also requires exterior finishes and roof pitch similar to the primary structure, eaves that project at least 12 inches, and the entrance cannot be on the same façade of the structure as the principal unit. In addition, it requires at least four architectural features from a provided list. Alternative B would modify the design standards to require a matching or complimentary exterior, an entrance that is visually distinct from the primary dwelling, and at least four architectural features from the list. Alternative C would completely remove the design standards. She summarized that Commissioner Mosiman appears to be suggesting that Alternative B be modified to remove the ala carte list of architectural features and require a matching and complimentary exterior and a visually distinct entrance. She summarized that Alternative B would eliminate the design standards related to roof pitch and eaves and add a new section regarding the placement of the entrance. It would also require at least four of the architectural features on the ala carte list.

**Commissioner Mosiman** said that, although he agrees with the ala carte architectural features in general, he doesn't believe they are necessary in this particular application. Requiring them could result in an ADU that looks quite different than the primary residence. He isn't sure that is the intent of the design standards.

**Vice Chair Tift** pointed out that, as written, both Alternatives A and B would require an ADU to have a brick finish if the primary residence has a brick finish. Under the criteria in either alternative, a manufactured home could not be placed next to a brick home with a pitched roof. **Ms. Satter** agreed that the manufactured home would need to have a brick façade. However, Alternative B would eliminate the requirements of a pitched roof and 12-inch eaves. **Vice Chair Tift** voiced concern that removing all of the design criteria could open the door to undesirable situations. There must be some oversight.

**Chair Wofford** commented that the design standards may not be necessary for ADUs that aren't visible from the street. **Ms. Satter** clarified that, as per Alternative B, the entrance criteria would only apply when visible from the right-of-way, but all of the other design criteria would apply regardless of the ADUs location. **Chair Wofford** generally questioned why the design standards need to be applied to ADUs that are not visible from the street.

**Commissioner Coughlin** clarified that Alternative B would require the exterior finish on an ADU to match the color, material and appearance of the primary dwelling unit and/or the characteristics of the neighborhood. If the primary residence is brick but there are wood structures nearby, the ADU could have wood siding. **Ms. Satter** agreed that the applicant could make the argument that wood siding matches better with the overall character of the neighborhood.

**Commissioner Coughlin** agreed that some minimum design standards are needed, but they could remove the ala carte menu of detailed design features. Instead, the design standards could simply require that an ADU match the exterior of the primary dwelling unit and/or the characteristics of the neighborhood. He felt this would be sufficient to address the concerns related to appearance. **Commissioner Rich** agreed that the ala carte menu could be eliminated. Requiring that an ADU match the general character of the neighborhood could assuage some of the concerns people might have about ADUs. **Commissioner Pedersen** agreed that some kind of design standard is appropriate, but the ala carte menu could be eliminated.

The Commissioners indicated support for modifying Alternative B by eliminating the ala carte menu of detailed architectural design features (Item f.3).

**Ms. Satter** referred to the new design standard regarding ADU entrance placement (Item f.2). As proposed, there are four different ways an applicant can differentiate the ADU entrance from that of the principal dwelling unit. **Vice Chair Tift** said he would prefer to retain the design standard related to entrance placement. **Commissioner Coughlin** agreed and noted that it would not be an onerous requirement. **Commissioner Pedersen** agreed, as well. **Commissioner Rich** said she wants to make

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things as easy as possible, but she also understands the concern that produced the provision. She said she doesn't feel strongly enough about the provision, based on the information available, to support it, and she is leaning towards removing it.

**Commissioner Mosiman** said he has lived in a number of midwestern cities around the country. In those areas that have been around longer, a number of homes constructed between 1910 and 1940 were built as upper/lower flats. They are beautiful homes of extraordinary quality. Most often, both doors are located on the front porch, which wouldn't be allowed as currently proposed. However, these types of structures are not present in the City's current housing stock. While he doesn't see a need for the entrance standard, he also wouldn't have a problem if it was retained. **Chair Wofford** pointed out that some of the original townhomes in Bay Vista have adjacent doors. **Vice Chair Tift** pointed out that these units have architectural features that differentiate the two residents. He felt that some level of differentiate is important.

The majority of the Commission indicated a desire to eliminate the entrance standard (Item f.2), but they agreed that a minority report should be presented to the City Council along with their recommendation. The minority report of the Commission was for a proposed amendment to the code for ADU façade design, and the Commission was opposed 4-2.

**Ms. Satter** summarized that, consistent with the Commission's discussion, Alternative B would be modified to read:

- f) *“Unless the ADU is limited to only interior remodeling of an existing single-family dwelling, a proposed ADU shall meet the following design standards:*
- 1) *Exterior Finish. The exterior of an ADU shall have siding and roofing which in color, material and appearance are comparable to the predominant materials of the primary dwelling unit and/or characteristics of the neighborhood.”*

**Ms. Satter** summarized the Commission's discussion as follows:

- **Maximum Size for ADUs.** The Commission indicated support for Alternative B, which is consistent with HB1923 and allows ADUs up to 1,000 square feet or 60% of the size of the primarily dwelling, whichever is larger.
- **Parking Requirement for ADUs.** The Commission indicated support for Alternative B, which is consistent with HB1923 and eliminates the parking requirement for the 1<sup>st</sup> ADU. One parking space would be required for the 2<sup>nd</sup> ADU.
- **Number of ADUs Allowed.** The Commission indicated support for Alternative C, which would allow two ADUs, either attached or detached. Parking would be required for the 2<sup>nd</sup> ADU.
- **Design Standards for ADUs.** The majority of the Commission indicated support for Alternative B, as modified to eliminate the standards in Items f.2 and f.3.
- **Owner-Occupancy Requirement for ADUs.** The Commission indicated support for Alternative B, which eliminates the owner-occupancy requirement and provides clarity and code citations for property maintenance.
- **Detached, nonconforming structures be permitted as ADUs?** The Commission indicated support for Alternative B, which would allow detached structures that do not conform to some development standards to be converted to ADUs.

**COMMISSIONER PEDERSEN MOVED THAT THE COMMISSION RECOMMEND THE CITY COUNCIL ADOPT TEXT AMENDMENTS TO BMC 20L.46.010 FOR ADUs, AS DIRECTED IN THE MEETING, BASED ON THE PUBLIC TESTIMONY, STAFF'S PRESENTATION, AND FINDINGS AND CONCLUSIONS IN THE STAFF REPORT. COMMISSIONER MOSIMAN SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.**

The Commission took a 5-minutes break at 7:25 p.m. The meeting reconvened at 7:30 p.m.

#### **Public Workshop: Discussion of Amendments for the Shoreline Master Program (SMP) Periodic Update**

**Mr. Jackson** introduced Dan Nickel, of The Watershed Company, the consultant who is assisting the City in its SMP Periodic Update. He reminded the Commissioners that this would not be a major update. Instead, the changes are meant to reflect updates in state and local regulations and to address portions of the code that staff has identified for improvement. Areas of improvement include adding more flexibility and proportionality to the code. Staff has run into a number of scenarios where the amount of mitigation required by the code, particularly for single-family development, is out of sync with the amount of development proposed. He advised that the update would be a joint process with the Department of Ecology (DOE). A joint public hearing is tentatively scheduled for November 16<sup>th</sup>, and notices will go out later in the week. He advised that the 30-

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day public comment period would extend beyond the public hearing. Staff will advise the Commission of any comments of substance that haven't already been addressed.

**Mr. Jackson** reviewed that the online public engagement tool was launched on October 1<sup>st</sup>. The tool is meant to keep the public involved in the SMP update process, answer their questions, lay out the proposed amendments, and notify the public of important dates throughout the process.

**Mr. Jackson** recalled that the Commission raised questions at their last meeting regarding the Gap Analysis (Attachment A), and staff has updated the analysis to reflect the comments that were provided. He reviewed that the Gap Analysis was created by the consultant to point out areas of the SMP and CAO that could be improved to be in compliance with state regulations and local code changes.

**Mr. Jackson** reviewed the proposed amendments to the Critical Areas Ordinance (CAO) as follows:

- **Wetland Buffer Requirements.**

- **Re-categorize Habitat Scores, resulting in reduced buffers.** The Wetland Form categorizes and scores wetlands based on size, vegetation, connectivity to other wetlands, etc. The state has updated the regulations associated with the habitat scores, and the City is proposing amendments to reflect those changes.
- **Adjust the minimization measures to allow for reduced buffer options.** Minimization measures are steps that need to be considered if a property owner is seeking to reduce a wetland buffer. It includes such things as directing lights away from a wetland, stormwater requirements and habitat corridors. The criteria will be updated to be consistent with the state regulations.
- **Clarify that habitat corridor requirements are only for higher-functioning wetlands.** A specific site may be a portion of a larger system, and they need to consider how that larger system can be preserved.

- **Fish and Wildlife Habitat**

- **Encourage conifer over deciduous plantings.** The consultant has found that conifers provide a higher ecological benefit than deciduous trees so they aren't necessarily needed in the same density numbers that are otherwise required by the current code. They have run into situations where too many trees are required for mitigation, making property improvements prohibitive.
- **Allow a one-time exemption from the Habitat Management Plan for single-family homes that impact 500 square feet of mitigation.** This revision recognizes that existing homes may need a bit of flexibility over time. Property owners should be allowed to do small expansions, install driveways, add small water-enjoyment features, etc. without providing a complete buffer enhancement.
- **Allow departures from buffer standards with state and federal mitigation approval.** The regulations do not quite fit in all instances. Staff would review these cases with the state and federal environmental stakeholders to determine whether the ecological functions would still be served by an alternative plan that doesn't quite meet the letter of the code. The current code does not allow this flexibility.

- **Shoreline Environment Designations.** These changes will either alter or add a shoreline designation to select properties in the City. The shoreline designations primarily coincide with the City's zoning map.

- **Add a shoreline designation of "Urban Conservancy" to a small island at the northern portion of Oyster Bay.** This is a small uninhabited island in its natural state. There are no utilities or other improvements. An Urban Conservancy Designation is most appropriate in this situation.
- **Extend the Commercial Shoreline designation by one parcel in two locations.** There are two instances where existing commercial buildings are not located within the Commercial Shoreline designation. The map change would expand the Commercial Shoreline Designation to include these two properties. One of the properties is a brick building on Shore Drive within the Manette Neighborhood Center. The other is located on Wheaton Way and within the new Eastside Village Subarea.

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- **Add a shoreline designation of “Isolated” to the area surrounding Evergreen Park.** Currently, Sheldon Boulevard separates Evergreen Park and the shoreline from the properties landward. The Isolated Shoreline Designation is intended for properties like these that are essentially divorced from the shoreline by physical barriers.
- **No longer being considered.** The Staff Report identified an area for a possible change to a commercial designation that is no longer being considered by staff. This is an existing law office. Changing the designation to “Commercial” would have been out of character, as well as a one-property shoreline designation. The property can continue on in its current commercial use.

Next, **Mr. Jackson** reviewed the proposed changes to the Shoreline Management Plan (SMP) as follows:

- **Vegetation Management Plan Allowances.** Vegetation Management Plans (VMPs) are planting plans that are required for all new development. The plans require that the entire buffer area be replanted with native vegetation. They are created by qualified biologists and recorded as a notice to title.
  - **Exempt development that avoids the buffer.** In instances where proposed development is not located in the protected shoreline buffer, mitigation for replanting the buffer would not be required. This amendment brings the City more in line with other jurisdictions and was recommended by the DOE.
  - **Clarify that a VMP would still be required.** In stances where proposed development is located outside of the buffer, a VMP would still be required to document existing vegetation along the shoreline and within the buffer to ensure it is preserved. The plan would be recorded as a notice to title.
  - **Waive bonding for small projects.** It can be very hard for small-dollar projects to secure bonds. Banks are often not willing to provide the small bonds, and this extra step is onerous for small development on the shoreline.
- **Shoreline Buffer Reduction Options.**
  - **Buffer averaging.** Currently, averaging is based on all the structures located within a numbered block. Staff found that the number of homes within a numbered block varies widely. In some instances, a direct neighbor may not be in the same numbered block. Staff is proposing a replacement system here the average is based on neighboring structures located on either side of a property. The goal is not to get structures closer to the water than the current code allows. However, there will be situations where structures can be closer or further away, depending on which system is used. The revision is intended to make the process simpler and more commonsense.
  - **Buffer reduction menu.** This menu provides a list of options (improvements or ecological enhancements) that could be made in order to qualify for a buffer reduction. An open-ended criterion was added, as well. If the Department of Fish and Wildlife agrees with an alternative mitigation proposal, a buffer reduction could be allowed in that instance, as well.
- **Interrupted Buffer.** This provision is intended to clarify what is meant by an “isolated” designation, which is for properties that are separated from the shoreline by physical barrier. However, a property can qualify as an isolated property without being mapped. The existing code includes criteria for properties that are not mapped as isolated but meet the same criteria as “isolated” in the code. To provide clarification, the proposed amendment would retain the definition for “isolated” and add a definition for “interrupted buffer” to address properties that are not mapped as isolated but still meet the criteria.
- **Nonconforming Structures.** Currently, the code requires that if a property owner invests 75% of a structure’s value or more into improvements, the structure must be brought up to all code requirements. This includes planting the entire buffer area and potentially moving the home out of the buffer entirely. A lot of existing homes were built in the 1940s, and the value of improvements can quickly add up to greater than 75% of the value of a structure. To recognize these situations, staff is proposing a provision that would allow improvements to a structure, up to replacing it, in its current footprint and location. The provision would not apply to overwater homes, and some mitigation would still be required, as outlined in the code.
- **Eastside Village Subarea Plan.** The amendment proposes to make sure compliance with the recently updated Eastside Village Subarea Plan. Specifically this includes an increase in height to meet zoning allowances through view impact demonstration. A current code provision allows developers to build higher than 35 feet via a Shoreline Conditional Use

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Permit. Rather than requiring this permit, staff is proposing that a greater height be allowed if an applicant can demonstrate that the views from neighboring properties would not be negatively impacted. This provision would only apply in commercial zones, as the height in single-family residential zones is capped at 35 feet.

- **Climate Resiliency.** Additional provisions were added to consider sea level rise impacts with new development and redevelopment.

**Mr. Jackson** reviewed the remaining timeline for the SMP and CAO update. The 30-day joint DOE/City public comment period will start in late October, and a joint DOE/City public hearing is tentatively scheduled for November 16<sup>th</sup>. Staff will submit an initial determination to the DOE in December, and the Planning Commission will have an opportunity to review and recommend changes as necessary in early 2021. It is anticipated that the SMP update will be adopted by the City Council in the spring of 2021. He emphasized that all of the dates are tentative and will be adjusted as necessary.

**Vice Chair Tift** asked if the proposed amendments would allow a property owner to increase the footprint of a nonconforming building that is repaired, restored, expanded or replaced without requiring any mitigation. **Mr. Jackson** clarified that mitigation may be required if square footage is added, and other code requirements could apply, as well.

**Vice Chair Tift** asked if the small island in Oyster Bay that is proposed for an Urban Conservancy Designation is privately owned. **Mr. Jackson** answered affirmatively. He explained that, currently, the island has no land use designation. The proposed amendment would provide this missing designation. **Vice Chair Tift** asked if the proposed designation would limit the property owner's options. **Mr. Jackson** answered affirmatively. He explained that the proposed land use designation reflects that the property is currently undeveloped. He questioned the feasibility of adding utilities and developing the island.

## **BUSINESS MEETING**

### **Chair Report**

**Chair Wofford** encouraged everyone to vote.

### **Director Report**

**Director Spencer** announced that the City Council adopted the Eastside Village Subarea Plan, and the area is now ready for revitalization.

**Director Spencer** referred to the Planning Commission By-Laws that were sent out prior to the meeting. She asked them to review the document and be prepared to discuss potential changes at their November meeting. The Commission will also elect new officers at their November meeting. She announced that on November 4<sup>th</sup>, the City Council will re-appoint Commissioners Tift and Mosiman to serve another term on the Commission, and Faye Flemister will be appointed to fill the vacant position.

### **Old Business**

There was no old business.

### **New Business**

There was no new business.

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**ADJOURNMENT**

The meeting was adjourned at 8:01 p.m.

Respectively Submitted by:

  
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Andrea L. Spencer, AICP  
Executive Secretary

  
\_\_\_\_\_  
Jack Worford, Chair  
Planning Commission

**APPROVED**