



CITY OF KIRKLAND
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Eric Shields, Planning and Building Director
Kathy Brown, Public Works Director
Tracey Dunlap, Deputy City Manager
Robin Jenkinson, City Attorney

Date: October 8, 2015

Subject: Planned Action Ordinance

RECOMMENDATION

Provide direction to staff on how to proceed with consideration of a Planned Action Ordinance (PAO) for Totem Lake. Staff recommends that there be further evaluation prior to determining whether to enact a PAO, and if so how best to structure the PAO.

BACKGROUND DISCUSSION

Request to consider a PAO.

City Council members may recall that prior to beginning the preparation of an environmental impact statement (EIS) for the Comprehensive Plan update, the Council directed that the EIS be of sufficient detail to allow for the adoption of a PAO for Totem Lake. The potential advantage of a PAO is that it would identify impacts of and mitigating measures for future development and indicate the specific measures that future developers would be required to incorporate into their developments. In so doing, future developments complying with the PAO would be exempt from further State Environmental Policy Act (SEPA) requirements. For developers, this would provide certainty as to City requirements and protect them from potential appeals of the SEPA determinations issued by the City for their projects.

Mitigating measures identified in the EIS.

The Comprehensive Plan Draft EIS identifies a number of mitigating measures needed to address the impacts of future growth. Potential growth was determined using a methodology which identifies properties as likely to redevelop within the next 20 years if the assessed value of improvements on those properties is less than or equal to half the assessed land value of the properties. For the "redevelopable" properties, growth was assigned based on zoning. For properties where future development is already known (such as Totem Lake Mall), projected growth was based on approved development plans. Using this methodology, forecasted growth was scattered throughout Totem Lake, rather than being clustered in a particular location.

The primary impacts identified in the EIS relate to transportation. Potential mitigating measures address all modes of transportation and include road, bicycle and pedestrian connections needed complete the transportation "grid" in Totem Lake. The EIS consultants initially suggested a mitigation approach in which the total cost of the identified improvements (minus those that were already considered to be system-wide) was calculated and divided by the projected new trips from Totem Lake development. This resulted in a cost per trip that could be required of all new development in Totem Lake through a PAO, much like a second impact fee. Unfortunately, the calculated cost per trip was very high and staff decided not to pursue this approach out of concern that such a fee would unreasonably deter development in a location in which the City would like to encourage growth. Subsequently, staff incorporated one of the desired connections into the City-wide transportation network used as the basis for calculating city-wide impact fees. The current thinking is that the other improvements could be required of individual developments where there is an adequate nexus and reasonable basis to do so. However, more thought is needed on this subject.

Use of SEPA to assess transportation impacts.

For Totem Lake, as with the rest of the City, the City utilizes SEPA primarily to analyze transportation impacts, since other topics are thoroughly addressed by specific City regulations. Historically, the focus of the analysis has been on traffic. Under the auspices of an administrative guideline, new development proposals are required to prepare a Traffic Impact Analysis (TIA) to assess the projected growth in traffic at key intersections. Based on the degree to which projected traffic would worsen the traffic level of service (LOS) at an intersection, the development may be required, through the issuance of a SEPA Mitigated Determination of Non-significance (MDNS), to make improvements to impacted intersections.

However, with adoption of the new Transportation Master Plan and Transportation Element of the Comprehensive Plan, the focus of future traffic analyses will need to shift to a more multi-modal approach. Time is needed to sort out how the new TIA (T now standing for Transportation) should work. Staff has discussed the possibility of codifying the new TIA (with Council adoption) rather than using an administrative standard. If this is done, then SEPA may no longer be needed for assessing and mitigating transportation impacts.

Scope of PAO

Some of the issues related to assessing the impacts for the PAO are related to the diversity of potential development patterns that occur given the size of the Totem Lake Business District. If development is concentrated in one part of the area, the transportation needs may vary from those needed if the development is spread throughout the District. The Washington Department of Ecology *SEPA Handbook* provides the following observation related to planned action projects:

"The designation of planned action projects will only be appropriate in limited situations. The designation of planned action projects is probably most appropriate for:

- *Smaller geographic areas;*
- *Relatively homogenous geographic areas where future development types, site-*

- specific conditions, and impacts can be more easily forecast;*
- *Development sites with significant overlapping requirements; or*
- *Routine types of development with few impacts.”*

It further provides examples of projects in a subarea or neighborhood plan with a limited number of development types or a large parcel in single ownership where construction will be done in phases. Kirkland’s only PAO experience was related to the Parkplace redevelopment, which met the second criteria. Given the size and diverse possible development scenarios in the Totem Lake Business District, staff would like to evaluate whether a more targeted subarea in Totem Lake might be more appropriate for a PAO.

An additional consideration is timing of development. A PAO assumes that a certain level of infrastructure will be built to support the planned level of development. Aligning the City’s Capital Improvement Program (CIP) with a PAO for the entire Totem Lake area would be particularly challenging. A PAO does not prescribe *when development will occur*; yet it commits that infrastructure will be constructed and in place to accommodate planned development *when it does occur*. This could mean that the City could allocate a disproportionate share of scarce transportation CIP resources to the Totem Lake area to fulfill its infrastructure commitment under the PAO. In effect, this would shift city-wide CIP resources to the Totem Lake area early in the 20-year CIP horizon, with no assurances that those improvements will even be necessary at that time, because there are no assurances when the anticipated development would occur. In fact, there would be no assurances that the anticipated development would occur at all within the 20-year horizon. Other – some higher priority – CIP projects would be have to be shifted to later in the 20-year CIP Plan, leaving other areas of the City underserved.

Limiting the geographic size of the PAO area to a more predictable subset of the entire Totem Lake Business District would reduce this risk.

Outreach

With respect to public participation in the designation of planned action projects, the *SEPA Handbook* provides as follows:

An extensive level of public review for both the EIS and the proposed planned action ordinance is crucial. Since a new threshold determination or EIS is not required when a permit application is received, there may not be an opportunity for public review or administrative appeal at the project review stage. In order to build support for an abbreviated permit process, public awareness is needed at these earlier phases.

Staff held an appropriately noticed community meeting about the PAO and made information available about the PAO at the three open houses held on the Comprehensive Plan Update. Additionally, formal notifications were sent to those on the listserv for the EIS. However, because of the size of the proposed Planned Action area and the time span over which development may occur, interested parties and

neighborhoods may question the sufficiency of the opportunity for public participation as specific development projects are proposed in the future.

Next steps

Given the above factors, staff has concluded that it is premature to adopt a PAO this year. We recommend that additional work be conducted to establish a new TIA methodology and determine to what degree a PAO is necessary or advantageous for Totem Lake. Consideration should also be given to the potential implications of growth occurring in a different pattern than discussed in the EIS. A schedule for this work will be prepared which includes an opportunity for discussion with the Transportation and Planning Commissions.