City of Kenmore

City of Kenmore - 18120 68th Avenue NE - P.O. Box 82607 - Kenmore, WA 98028
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Planning Commission Meeting

ON-SITE

November 15, 2022 - 7 PM

In addition, we try to provide access to the meeting virtually:

ZOOM LINK:

https://kenmorewa-gov.zoom.us/j/89479265060

Or Telephone: Dial US:+12532158782,,89479265060#
Callers please dial *9 to Raise/Lower Hand
Webinar ID: 894 7926 5060

Technical Difficulties - If the virtual component of the meeting disconnects, and we cannot resolve technical difficulties to reconnect the virtual component, the in-person meeting will continue at City Hall if there is a quorum of the body to conduct business.

1. CALL TO ORDER

2. PUBLIC COMMENTS

This is an opportunity to express your views on issues that are important to you and to the community. Please email comments to Rita Moreno at rmoreno@kenmorewa.gov by 5:00 p.m. on Tuesday, November 15, 2022. All comments received will be forwarded to the Planning Commission for consideration. In a hybrid meeting, we will hear from our onsite guests first, followed by our virtual guests. You also may use the "raise hand" feature in Zoom during the Public Comment portion of the meeting or call in at the number listed above. A 3-minute comment limit applies.

3. APPROVAL OF MINUTES

November 1, 2022 Planning Commission Meeting Minutes will be available at the next Planning Commission Meeting.

4. AGENDA ITEMS

Transit-Oriented Development (TOD) Regulations – Presentation to City Council
Staff Memo
Banaszynski Planning Commission TOD minority report

5. ADJOURNMENT

6. UPCOMING MEETINGS:

Staff recommendation to cancel the December 6 and December 20 meetings

City Of Kenmore, Washington

Memorandum

Date: November 9, 2022

To: Planning Commission

From: Debbie Bent, Community Development Director
Lauri Anderson, Principal Planner

Regarding: Presentation to City Council of the Transit-Oriented Development (TOD) Code Amendments

At your last meeting, you made recommendations on the TOD code amendments that will be presented to the City Council on Monday, November 21. The agenda packet for that meeting will be released on Friday, November 11, and you will receive a copy at that time.

On November 15, we recommend that the Commission determine which policy issues should be highlighted for the City Council. Typically, individual Commissioners speak to particular issues.

Staff has identified the following topics that the Commission may wish to highlight:

ZONING APPROACH

- The basic TOD standards (permitted uses, increased height, minimum density, maximum density, affordable housing, design standards, reduced parking, pedestrian connectivity, and tree grove preservation) have been incorporated into existing nonresidential zoning districts in the area: Downtown Commercial, Urban Corridor east subarea, and Public/Semi-Public (the Park and Ride property).
- The residential zones in the TOD overlay would be converted into a single new zoning district: Urban Residential (UR).
- Townhouses are no longer permitted as a standalone use.
- The TOD has been expanded to the west to include Downtown (the Downtown Commercial zoning district) for increased density and affordable housing requirements.

INCREASED HEIGHT

- The TOD developers' panel suggested that allowing heights up to 85' would provide the most flexibility for future developers. (85' is the maximum height allowed for wood frame construction over a concrete podium.)
- The current TOD height limit is 65'.
- After reviewing images of various building heights, the Planning Commission concluded that a height limit of 85' (7-8 stories) in the TOD overlay area was appropriate.
- In the Downtown Commercial area, the Commission increased the height limit to 65' (without some current restrictions), but did not increase heights further in recognition of the need to do additional analysis of the Kenmore Air flyway.

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- As the TOD overlay area is near Kenmore's heron rookery, the Planning Commission's recommendations include a special requirement that would require new development in the area of the heron rookery to address height and building orientation issues in a habitat management plan, with recognition that height and building orientation standards may be adjusted to protect the rookery.

AFFORDABLE HOUSING

- The most significant changes to the current TOD standards relate to the inclusionary affordable housing requirements.
- The existing TOD overlay has a very complicated formula for affordable housing provision that results in an overall maximum requirement of 10% affordable units.
- During City Council discussions of the TOD interim regulations, interest was expressed in looking at a 25% inclusionary requirement for households making 50% area median income (AMI) or less.
- After studying development feasibility, staff from A Regional Coalition for Housing (ARCH) concluded that this ambitious goal would be difficult to achieve given current development standards.
- The Commission suggested reducing parking requirements to make potential projects possible. On balance, the Planning Commission felt that provision of more deeply affordable housing was more important than more stringent parking requirements in this area with good transit availability.
- The recommended new requirement, then, is for a 25% inclusionary requirement for households making 50% AMI or less.
- In the Downtown Commercial zone west of 73rd Avenue NE, the 25% inclusionary affordable housing requirement is included, but would be for households with incomes no greater than 70% AMI. This higher AMI reflects the fact that no parking adjustments have been made for Downtown and there is, as yet, no multifamily tax exemption (MFTE) in most of the zoning district.
- (For the inclusionary requirements, a different level of affordability is assigned for rental versus ownership housing.)

REDUCED PARKING

- In the current TOD overlay area, parking requirements for nonresidential uses are reduced to 75% of the standard requirements. Residential parking requirements are 1.0 parking space per market rate dwelling plus guest parking. Affordable housing units and senior units are required to provide .6 parking spaces per unit. These requirements may be reduced through a project-specific parking demand analysis or, for nonresidential uses, through a formula related to accessibility to transit. Also under the existing rules, on-street parking immediately adjoining the property may be used to partially satisfy parking requirements and shared parking is encouraged. The rules place upper limits on the overall amount of parking that can be provided and require structured or under-building parking in some circumstances.
- New State law mandates a maximum parking requirement of .75 parking stalls per residential unit within ¼ mile of transit (or a maximum of 1 stall per bedroom). For residential developments for seniors or people with disabilities, no parking for residents can be required. It is possible to require parking for staff and visitors of those developments.
- The TOD developers' panel noted that parking stalls, particularly in a garage, are expensive to construct and add to the cost of housing. They also recognized that

Kenmore is a suburban area and that developers anticipated providing parking for their tenants.

- The Planning Commission recommendations reduce parking to .50 stall per unit in the zoning districts in the TOD overlay area. This choice is to support the feasibility of requiring a significant amount of affordable housing while acknowledging that parking adds to housing cost and may not be as critical in areas well-served by transit.
- The current TOD requirement that parking exceeding the minimum required amount be placed in a garage or under-building and screened has been extended to all of the Downtown Commercial and Downtown Residential zones (currently this is only required in those zones west of 68th Avenue NE).

Please also note that Commissioner Banaszynski has submitted a minority report (Attachment 1) that she will speak to.

Attachment 1: Minority report from Commissioner Banaszynski

ATTACHMENT 1

Minority Report

Kenmore Planning Commission Recommendations
for Comprehensive Plan Transit-Oriented Development Code Amendments

To: Kenmore City Council
From: Tracy Banaszynski, Kenmore Planning Commissioner

November 8, 2022

cc: Kenmore Planning Commission

I respectfully dissent from the Planning Commission Recommendation for Approval of the Comprehensive Plan Transit-Oriented Development Code Amendments.

What we build now will be with us for decades, possibly up to a century. The more densely we develop in the Swamp Creek corridor in the Transit-Oriented Development zone, the more difficult it will be recover healthy ecological functioning of Swamp Creek and the Swamp Creek wetland. Current degraded conditions in the Swamp Creek corridor contribute to large scale and localized flooding, poor water quality, and poor habitat for fish and other wildlife (resulting in biodiversity loss), all variables connected to human healthy and prosperity.

We can change that by updating the Transit-Oriented Development zone boundaries at the same time we update code amendments.

Context and Background
Staff and Commission worked hard to craft a document that meets State requirements while being sensitive to local concerns. We had extensive conversations about Kenmore's commitment to our share of regional housing and jobs growth, the ecologically sensitive areas[1] included in or adjacent to the Transit-Oriented Development zone, and resident concerns about Transit-Oriented Development density coming to their neighborhood.[2] Staff, Commissioners, and community members identified unsatisfied concerns through this process and modified the proposal to generate as much agreement as possible. That means some concerns were satisfied, but some were not.

I concur with many of the recommendations included in the Transit-Oriented Development Code

[1] Currently known ecologically sensitive areas in or adjacent to the TOD include Swamp Creek, the Swamp Creek wetland, and the Heron Rookery.

[2] Transit Oriented-Development density has been included in the Comprehensive Plan since 2015. Many residents coming forward with concerns were not aware until recently that their homes were included in TOD boundaries, and a recent development proposal represents a sudden change for the residents directly impacted.

Amendments forwarded to Council; my dissent is grounded in being unable to recommend those code amendments within current Transit-Oriented Development boundaries.[3]

Objections
The current Transit-Oriented Development boundaries allow inappropriately high levels of density too close to ecologically sensitive areas. With dense development as close as would be allowed, even strict adherence to current critical areas regulations will fail to protect the environment. Further, buffers outlined in critical areas regulations do not create the space needed for meaningful restoration (e.g., unarmoring, floodplain reconnection, the reintroduction of stream complexity) of natural ecological watershed functions, making future restoration efforts difficult to impossible.

Request and Remedy
The following recommendations will improve the Transportation-Oriented Development Code Amendments and align them with Kenmore's commitment to protecting environment and climate:

- Redraw boundaries of the Transit-Oriented Development zone. Give Swamp Creek and the Swamp Creek wetland the space needed to restore natural functions that will accrue multiple benefits to Kenmore, including but not limited to reducing large scale flooding up and downstream, improving water quality, protecting property and public infrastructure, creating habitat connectivity, and contributing to climate resiliency.

- Remove the area west of 80th Ave NE to Swamp Creek from the Transit-Oriented Development zone.

- For areas west of Swamp Creek, work with wetlands scientists, fish biologists, wildlife scientists, and other experts to craft evidence-based Transit-Oriented Development boundaries that allow us to protect the natural environment at the same time that we meet our jobs and housing targets with dense development that supports transit and a walkable urban core.

- When redrawn Transportation-Oriented Development boundaries cannot adequately protect Swamp Creek, the Swamp Creek wetland, and the Heron Rookery, consider other remedies including but not limited to conservation easements, land donations, and funded land acquisition and policies that support the same.

Responses to Staff Statements
During Planning Commission discussion regarding Transit-Oriented Development, Staff expressed reluctance to reconsider Transit-Oriented Development boundaries. This cautious approach is not surprising given the many stakeholders involved in land use decisions and the associated complicated nature of coming to mutually agreeable arrangements.

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[3] Transit-Oriented Development boundaries have not changed since 2015 (except for the removal of some areas presently zoned R-1).

I acknowledge that these decisions are not easy, that we are attempting to balance multiple, often competing, needs and priorities, and an advisory group like Planning Commission has many policy hurdles to clear. But robust conversation about land use, especially when ideas deviate from current standard practices, is crucial in the face of the existential threat posed by climate crisis.

What follows is a partial list of Staff statements expressing preference not to reconsider Transit-Oriented Development boundaries and my responses. This section captures conversation that occurred over the course of months as Planning Commission worked with Staff to craft recommendations for Comprehensive Plan Transit-Oriented Development Code Amendments.

Statement: We currently use best available science to protect our critical areas, all of which apply to the environmentally sensitive areas in or adjacent to the Transit-Oriented Development zone.

Response: As Staff themselves noted, best available science changes over time. As such, decisions may need to be revisited as new scientific information becomes available.

The current best available science was published by the Department of Ecology, in partnership with the Washington Department of Fish and Wildlife, in 2005. Updates in 2013 included revisions where new information meant the conclusion needed to be expanded or modified. However, the 2013 update did not address how new information could be incorporated into critical areas ordinances, and for the 2015-2019 ordinance update cycle, the Department of Ecology did not propose any changes to the buffer widths recommended in their 2005 guidance.

Unless local decisions have been made that depart from Department of Ecology and Department of Fish and Wildlife official guidance, Kenmore critical areas code is relying on best available science from 9 to seventeen years ago. It seems reasonable to suggest that we study whether the best available science underlying our critical areas regulations remains best available science.

Further, when best available science relies exclusively on western scientific methods, we may be missing insights from indigenous or traditional knowledge.[4] Indigenous or traditional knowledge systems embody a wealth of wisdom and experience with nature gained over millennia from direct observations and transmitted—most often orally—over generations. It is different from the Western system of empirical, lab-based science, but is equally valid and efficacious.

Finally, best available science is filtered through a political process. There is a lag between what federal, state, and local governments have deemed best available science and what the earth is suggesting about the same. Our climate and environment are in crisis, resulting in material suffering and harm to humans and other species. We have the opportunity to mitigate or potentially reverse negative outcomes by revisiting best available science in Kenmore critical areas code and making land use decisions accordingly.

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[4] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1479546/

Statement: The areas around Swamp Creek and the Swamp Creek wetland in the Transit-Oriented Development zone are already moderately to densely developed and/or covered in asphalt and concrete. There are less disturbed areas in Kenmore that would be easier to restore, making this a lower priority area.

Response: It is true that land in the Transit-Oriented Development zone has been highly degraded and that other less disturbed areas would be easier to restore. I largely agree that we are wise to prioritize development on already disturbed land; however, when highly disturbed land is in or adjacent to critical areas, the long term benefits of returning ecological functioning to that land must be included in decision making about continued land use no matter the perceived difficulty in doing so.

Both the Growth Management Act and Shoreline Management Act have an existing "no net loss" standard for shoreline and critical area ecological functions and values. Bills to modernize state land use, development, and environmental laws and regulations to result in a net gain of ecological health by replacing the current Washington State standard of "no net loss" for development with a new "net ecological gain"[5] policy have been proposed. The Legislature funded an effort to define and determine how to achieve net ecological gain in 2020; however, the funding was returned due to pandemic response and uncertainty around revenue forecasts before being secured in the 2021-2023 operating budget for the State to publish a report to the Legislature by December 2022 on how to achieve net ecological gain.

The current policy of "no net loss" is not working. Salmon runs have declined from their historic numbers by 90%. The Southern Resident Killer Whale population is down to 73.

We have the opportunity to experiment with new ideas about land use that are likely going to be a reality in the near future through State mandates. We don't need to wait when it is clear that action is needed now.

Statement: High density development is more protective of watershed health than low density development; therefore, we should develop densely in the Transit-Oriented Development zone.

Response: I agree with evidence showing that high density development can be more protective of watershed health than low density development.[6] Among other things, denser developments consume less land to accommodate the same number of houses. Consuming less land creates less impervious cover in the watershed.

However, as the EPA writes, "Increasing development densities is *one strategy* (emphasis mine) communities can use to minimize regional water quality impacts. To fully protect water resources,

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[5] https://apps.ecology.wa.gov/publications/documents/1911079.pdf

[6] https://www.epa.gov/smartgrowth/protecting-water-resources-higher-density-development

communities need to employ a *wide range of land use strategies* (emphasis mine) that are based on their local conditions, context, and goals. Such strategies could include building a range of development densities, incorporating adequate open space, preserving critical ecological and buffer areas, and minimizing land disturbance."

Building densely is a useful and necessary tool in creating a healthy and sustainable Kenmore, but we must be mindful about where density is placed. Continuing to build densely in and adjacent to critical areas is a mistake from the past that will not result in improved watershed health if we allow it to continue.

Statement: Kenmore is inside the Urban Growth Area. By building densely here, we are protecting environmentally sensitive areas and farmland in rural areas.

Response: I agree with the idea underlying the Urban Growth Boundary. Sprawl and building communities that rely on individual modes of gas combustible transportation has been disastrous for climate and environment. (The jury is still out on whether simply replacing gas-powered vehicles for electric ones will result in much better outcomes.) Containing sprawl and encouraging public transit are wise planning decisions. I, too, value the ecologically sensitive areas and farmland outside the Urban Growth Area. We should be doing our part in Kenmore to protect those areas by encouraging density *in appropriate places* in our own community.

Not all policies in the Growth Management Act are working to protect our environment and climate. Our ecosystems are just that — systems that are part of a larger whole. The health of the parts must be attended to if the whole is to be healthy. We must plan for more robust ecologically healthy riparian zones, wildlife corridors, and critical areas buffers in Kenmore — inside the Urban Growth Area — in order to support the density we need here to protect areas outside the Urban Growth Area. It is all connected.

Summary
Reconsidering Transit-Oriented Development zone boundaries now will ensure we are making the best possible decisions we can, with information currently available, to support a vibrant, thriving, and sustainable Kenmore.

It is for this reason and the reasons outlined in *Context and Summary* and *Responses to Staff Statements* that I dissented from the Planning Commission recommendation for Approval of the Comprehensive Plan Transit-Oriented Development Code Amendments. My requests and remedies are my best thinking on the topic to date with the hope that they would be refined and improved with study and expert input.

I would be happy to answer questions about my dissent if clarification is required. Thank you for your consideration.