



Burien
WASHINGTON

PLANNING COMMISSION AGENDA

August 25, 2009, 7:00 p.m.

Burien City Hall, **City Council Chamber**
400 SW 152nd Street, **1st Floor**
Burien, Washington 98166

I. ROLL CALL

II. AGENDA CONFIRMATION

III. PUBLIC COMMENT Public comments allowed on items not scheduled for a public hearing on tonight's agenda.

IV. APPROVAL OF MINUTES July 28, 2009

V. PLANNING COMMISSION ELECTION Election of chair and vice chair

VI. NEW BUSINESS a. Presentation and discussion regarding proposed Zoning Code amendments

VII. OLD BUSINESS a. Continued discussion regarding Fee-in-Lieu of Parking Program study

VIII. PLANNING COMMISSION COMMUNICATIONS

IX. DIRECTOR'S REPORT

X. ADJOURNMENT

Future Agendas (Tentative) Sept. 8 – Public hearing and possible recommendation regarding proposed Zoning Code amendments
Sept. 22 – TBD

Planning Commissioners

Brian Bennett
Stacie Grage (Vice Chair)

Jim Clingan
Rebecca McInteer

Joe Fitzgibbon
Rachel Pizarro

Janet Shull (Chair)

City of Burien

BURIEN PLANNING COMMISSION MEETING

July 28, 2009

7:00 p.m.

Miller Creek Room, Burien City Hall

MINUTES

Planning Commission Members Present:

Janet Shull, Jim Clingan, Brian Bennett, Rachel Pizarro, Joe Fitzgibbon

Absent:

Stacie Grage, Rebecca McInteer

Others Present:

Chip Davis, planner; Steve Nolen, Transportation Solutions, Inc.

Roll Call

Chair Shull called the meeting to order at 7:00 p.m. At the call of the roll all commissioners were present except Commissioners Grage and McInteer.

Agenda Confirmation

Motion to approve the agenda as presented was made by Commissioner Fitzgibbon. Second was by Commissioner Pizarro and the motion carried unanimously.

Approval of Minutes

Motion to approve the minutes of June 9, 2009, was made by Commissioner Clingan; second was by Commissioner Fitzgibbon. The motion carried unanimously.

Election of Chair and Vice-Chair

The commissioners decided to postpone the election until Aug. 25, when the absent members of the commission may be present.

New Business

Chip Davis, planner, introduced Steve Nolen of Transportation Solutions, Inc., which in 2006 provided the City with a parking study for downtown Burien. In 2007, a stakeholder group recommended using a fee-in-lieu of parking program to reduce a possible barrier to development of the downtown and to provide another tool to encourage redevelopment in the downtown. A fee-in-lieu program would serve as an alternative to the minimum on-site parking requirements for non-residential development in downtown Burien.

Mr. Nolen reviewed what a fee-in-lieu parking program is, and defined what would trigger its usage as “a change in use in the land or the property increases the parking requirement from what is available on the site.” It could be a completely new development or a change in use in an existing development that increases the parking demand to greater than what’s available, such as going from an office to a restaurant.

He listed potential benefits of a fee-in-lieu program: 1) can reduce the cost of development when on-site parking is difficult or expensive, especially on small parcels; 2) can encourage shared parking, which can be more efficient than parking on individual lots; 3) is more conducive to the walkability of an area because there aren't a lot of curb cuts, and reduces congestion because cars aren't coming into traffic at uncontrolled points; and 4) is an alternative to granting variances to developers who just can't fit parking onto their lots, providing revenue to build off-site parking.

Mr. Nolen noted some of the policy issues to be decided: What's the basis for the fee? Should the program be required or optional? Is the jurisdiction going to charge the full cost of developing each parking space or not, and if you don't, how do you finance the parking program? What are the expectations of developers and of the businesses that already provide their own parking? How should the City use the funds that come in? How would the City develop parking and manage a parking program; once a fee-in-lieu program is established, the City will be involved in the parking provision business either directly or through an association with another entity.

Mr. Nolen explained that there are three ways for determining the basis for the fee. Taking a case-by-case view, the City could have the land appraised to figure out exactly what it would cost to build parking for each individual project, which is very costly and time-consuming and difficult to administer. Another option is to establish varying costs based on the cost of developing in a certain area, for instance, the cost in the central business district would be higher than those in outlying areas of the business district. The third option is a uniform fee, common to virtually all the successful programs in this country. It very rarely is the full cost of parking recovered, but it's easier and quicker to administer and therefore more likely to be used. The program needs an ongoing process to adjust fees or the City would fall behind its costs, Mr. Nolen said, adding that adjusting fees can become a political process if there isn't a program in place, set through policy, to periodically re-examine and adjust fees.

Required programs are rare in the United States, according to Mr. Nolen, and usually only in a change of use for an existing building. Most programs are optional. The success of the optional programs depends upon the government subsidizing parking; it is necessary to provide revenue from somewhere else to supplement the fee collected to provide the necessary amount of parking. There are other revenues to come from the development and other benefits from having the parking program than just to the businesses paying the fees, so it can be justified, depending on a city's unique situation. The key, he said, is to look for a balance in determining the amount of the fee, taking into consideration demand, related site constraints, perceived costs and value. The decision to participate is made solely by the developer after looking at the rate, the cost of on-site parking, the value to the development of on-site vs. off-site parking, and the impact of parking availability on the success of the business.

Mr. Nolen explained that it is important to have a near-term approach to providing sufficient parking for the businesses – just because they pay the fee doesn't mean they will immediately have parking; people need to know there is no guarantee that you will build parking spaces when they hand the City their parking dollars. The City is required to use that money to build parking, but it doesn't have to build it immediately. It is on a case-by-case basis; the City already may have enough public parking available near the business paying the fee so the development of additional parking in that area may not be required. In some limited cases it is acceptable to use the fees for projects to reduce the need for parking, such as transit facilities and pedestrian/bicycle facilities, to try to get people into other modes of transportation. However, the fee-in-lieu ordinance has to be written in a way that allows that and people paying the fee have to understand that it could be used in that manner. Most businesses are going to expect convenient parking in return for paying the fee.

Mr. Nolen recommended looking at the fee-in-lieu money as “one-time revenue.” It’s paid one time, unlike a tax that will come year after year, so it should be used for one-time costs, such as purchasing land and developing surface lots or parking structures, to purchase the rights for a period of time to use surplus existing parking somewhere else, or use it for pedestrian/bicycle or transit facilities. It also could be used to support the operational costs for the City parking program, but only if the City put in a time-payment system producing an on-going revenue stream; Mr. Nolen does not recommend doing that as it makes the program more difficult to administer and must include penalties for non-payment.

The parking program could be administered in one of three ways: by City staff, by a parking commission, or by a public development authority. State law prohibits cities from directly administering city-owned parking facilities except for those facilities providing parking for users of “park or civic center facilities.” However, a city can contract with a private parking management company to administer parking for other uses. A parking commission has the same restriction. Public development authorities have a more private sector feel to them and may be more entrepreneurial in nature. They also have a little more leeway for developing partnerships with the private sector. Mr. Nolen said he believes this is an option worth investigating.

Mr. Nolen then explained the options for financing and developing parking facilities – through direct city financing and development, delegation or assignment of the City’s authority or through public-private partnerships. With direct city financing, revenue may need to come from general obligation bonds, revenue bonds, state and federal grants, or contributions from the General Fund. Delegation or assignment of the City’s authority can be accomplished either through 60-20 financing or a public development authority. In an example of public-private partnership, the City or public development authority could buy land and enter into an agreement giving a private developer the air rights and ability to develop offices, residential units or commercial space over a parking facility.

Mr. Nolen offered the following as topics to begin the commission’s discussion:

- Limit participation to downtown, non-residential properties.
- The program should be optional in most cases, but required for existing buildings with a higher parking need than is available on site.
- Instead of the current method, whereby the City allows a parking study to determine the parking demand, the City should base the required parking on Institute of Transportation Engineers parking standards. The City could reserve the option for a developer to submit a parking study in support of a request to provide fewer stalls.
- The rate should be uniform and approximately 70 to 80 percent of the City’s cost for developing a surface parking stall, with an annual adjustment for inflation based on the State of Washington Department of Transportation’s Construction Cost Index.
- The fee should be collected as a one-time payment in full before issuing a building permit.
- Review the program regularly.
- Set up a Parking Capital Fund and a Parking Operations Fund, keeping the money separate, and establish financial policies.
- Consider formation of a public development authority.
- Consider public/private partnerships.

Mr. Nolen noted that he will be discussing the Fee-in-Lieu of Parking Program study with the Burien Business and Economic Development Partnership on Aug. 14th and is available to appear before the Planning Commission again, if need be.

Chair Shull and Commissioners Pizzaro and Clingan said they would like to hear the BEDP's response to the study before the commission makes a recommendation.

Commissioner Clingan asked how much parking currently is available in the downtown; Mr. Davis explained that the last study of downtown parking determined that there is a surplus of parking in the short term – spread rather evenly throughout the downtown. The fee-in-lieu program would address long-term parking needs.

Commissioners Fitzgibbon and Pizzaro asked what other cities in the area have successful fee-in-lieu programs. Mr. Nolen replied that there are a few around and they all have a different environment – Kirkland's program uses its fee-in-lieu program to pay into a city parking facility in the downtown; several cities in Oregon have successful programs. He said it is a tool that works in some places and other places haven't chosen to use it. It's not common in Washington but, Mr. Nolen said, he thinks it would work in Burien because of the environment.

Commissioner Pizarro asked Mr. Davis is there is anything in process to increase bicycle facilities within the city; he responded that funding is required to do more than what the City currently is doing. Bike racks are often required during design review – for instance, for the City Hall. Chair Shull mentioned that some cities, one example being Portland, turn one on-street parking stall into multiple bicycle parking slots. Commissioner Pizarro said she tries to ride her bicycle as much as possible in Burien, but there are rarely places to lock it up. Mr. Davis said he would mention that to David Johanson, senior planner. Commissioner Pizarro said she would like to see Burien promote a more bicycle-friendly image.

Commissioner Fitzgibbon asked if there could be a fee-in-lieu program where in the downtown the fee is higher and goes toward parking facilities but in the other business zones the fee would be lower and go toward bicycle/pedestrian improvements. Mr. Nolen said he has yet to see a program set up like that, but he thinks it might be possible. Mr. Davis noted that the current focus is on downtown and Old Burien in order to foster redevelopment yet keep the small-town atmosphere and not have the issue of providing parking become an impediment.

Commissioner Bennett said he would like to have as much business community input as possible before making a recommendation to the City Council. He then excused himself from the remainder of the meeting to attend to family needs.

Commissioner Fitzgibbon said he would be interested, at a future date if the program is implemented, in investigating using revenue from the outlying business districts to fund bicycle/pedestrian improvements in neighborhoods that greatly need them. Mr. Nolen suggested that the authorizing ordinance be written to allow that. He also cautioned against making the program too big initially, otherwise it will be impossible to meet people's expectations.

Chair Shull commended staff for studying this potential program before the city reaches the crucial point of 85 percent of parking capacity filled; she also said as a consumer who likes to shop in Burien, she appreciates being able to park in one spot to shop the downtown, rather than finding most spots reserved for the business immediately adjacent, as she has found in other downtowns.

Old Business

None

Planning Commission Communications

None

Director's Report

None

Adjournment

Motion to adjourn was made by Commissioner Pizarro; meeting adjourned at 8:30 p.m.

Approved: _____

Janet Shull, chair
Planning Commission

**CITY OF BURIEN, WASHINGTON
MEMORANDUM**

DATE: August 18, 2009
TO: Planning Commission
FROM: Liz Ockwell, Assistant Planner
SUBJECT: Proposed Zoning Code Amendments

BACKGROUND

Planning staff is proposing another round of Zoning Code amendments for your review and consideration. The proposed amendments will codify current practices relating to a number of different sections of the Zoning Code.

PURPOSE/ACTION

The purpose of this agenda topic is to present draft code language for possible zoning code amendments based on existing code sections. Staff is requesting feedback on the proposed language in preparation for a public hearing to receive comments on possible zoning code amendments.

SUMMARY OF PROPOSED AMENDMENTS

The attached documents provide background and specific changes proposed for each amendment. Each proposed amendment is consistent with criteria for zoning code amendments in BMC 19.65.100. They have been reviewed for consistency with the Comprehensive Plan, substantial relation to the public health, safety, or welfare, and the best interest of the community as a whole.

The following list is a brief summary of the topics covered by the proposed amendments.

1. **BMC 19.10.185 (Definition of Garage, detached single-family):** Revises detached single-family garage definition to remove the one story and 500 square foot maximum area.
2. **BMC 19.10.505 (Definition of Slope):** Corrects a typographical error in the formula for calculating a slope.
3. **BMC 19.10.550 (Definition of Use):** Corrects a code reference typographical error in the definition of use.
4. **BMC 19.10.400 (Definition of Primary Use):** Corrects a code reference typographical error in the definition of primary use.
5. **BMC 19.10.400.5 (Definition of Primary Structure):** Adds new definition of Primary Structure to the definitions section.
6. **BMC 19.15.010.7 (Mixed use special regulation):** Corrects a typographical area regarding landscaping requirements relating to increased building height and landscaping.

7. **BMC 19.15.005.2 & 3 (Minimum parking spaces required reference in SPA-1):** Corrects a typographical error for minimum parking spaces required for retail, office, recreational facility, and eating and drinking establishment.
8. **BMC 19.15.050 (Interim zoning code references):** Corrects code reference for interim zoning code to BMC 19.25, the landscaping chapter.
9. **BMC 19.17.090.5.K (Home occupation signage):** Corrects typographical error for old code reference in Chapter 18 that has been repealed to the current sign code BMC 19.30.
10. **BMC 19.30.130.4.D and E (Master Sign Plan Criteria):** Adds clarification of intent to master sign plan criteria.
11. **BMC 19.30.130.2 (Master Sign Plan option, required review process):** Corrects typographical error regarding the appeal process for a master sign plan decision.
12. **BMC 19.30.100 (Sign permit required):** Corrects a typographical error regarding the appeal process regarding a sign permit decision.
13. **BMC 19.40.290.3.E (Geologically hazardous areas – Development standards and permitted alterations):** Corrects a misspelling of the word ‘trees’.
14. **BMC 19.55.030.3.B (Nonconforming structure demolition):** Adds clarification to the extent of voluntary demolition to a nonconforming structure.

Please see Attachment 1 which includes staff proposed language for each of the zoning code amendments.

Attachments

1. Draft zoning code changes

2009 PROPOSED ZONING CODE AMENDMENTS

1. BMC 19.10.185, Definition of ‘Garage, detached single-family’

Background: The current definition of single-family detached garage limits the size of a garage to 500 square feet and one story. This language should be removed due to the changing needs in the community for larger garages and garages with storage or living space above. Due to its restrictive nature, staff feels the definition should be revised to allow for more flexibility.

Proposed Amendment: Revise the definition of ‘detached single-family garage’; to remove the 500 square foot and one story maximum.

19.10.185 Garage, detached single-family – A detached structure ~~not to exceed 500 square feet and one story~~, which is *accessory* to a *single detached dwelling unit* and to which there is legal vehicular access from a public *right-of-way*, designed for the storage of motor vehicles or boats of the residents of the *single detached dwelling unit*.

2. BMC 19.10.505, Definition of ‘Slope’

Background: There is a need to correct a typographical error in the definition of ‘slope’. The calculation in the current definition is incorrect and should be revised.

Proposed Amendment: Revise incorrect calculation in definition.

10.10.505 Slope – An inclined surface, the inclination of which is expressed as a ratio or percentage of vertical distance to horizontal distance by the following formula:

$$\frac{\text{vertical distance}}{\text{horizontal distance}} \times 100 = \% \text{ Slope}$$

3. BMC 19.10.550, Definition of ‘Use’

Background: There is a need to correct a typographical error and reflect the correct chapter reference in the definition of ‘use’. The current definition references BMC 19.10 in the definitions chapter, and should reference BMC 19.15, the Use Zone Chart.

Proposed Amendment: Revise the incorrect code reference in the ‘use’ definition.

19.10.550 Use – The nature of the activities taking place on public or private property. Each separate listing under the “Use” column in Chapter ~~19.10~~ 19.15 of this Code is a separate use.

4. BMC 19.10.400, Definition of ‘Primary use’

Background: There is a need to correct a typographical error and reflect the correct chapter reference in the definition of ‘primary use’. The current definition references BMC 19.10 in the definitions chapter, and should reference BMC 19.15, the Use Zone Charts.

Proposed Amendment: Revise incorrect code reference in the ‘primary use’ definition.

BMC 19.10.400 Primary use – The *use* listed under the use column in Chapter ~~19.10~~ 19.15 of this code for which the majority of the total square footage of a *site* is designed, arranged, occupied, dedicated or maintained.

5. BMC 19.10.399.5, Definition of ‘Primary structure’

Background: There is a need to add the definition of ‘primary structure’ to help specify the general definition of ‘structure’ to differentiate between a primary and an accessory structure. This definition would allow flexibility in the code and provide for opportunity to regulate primary and accessory structures differently. This is important in both interpreting existing regulations, and the creation of new regulations and standards.

Proposed Amendment: Add a new definition of ‘primary structure’ to Chapter 19.10 Definitions.

BMC.19.010.400.5 Primary structure – The *structure* that contains the *primary use*.

Note: The definitions of ‘structure’ and ‘use’ are below for reference

19.10.550 Use – The nature of the activities taking place on public or private property. Each separate listing under the “Use” column in Chapter ~~19.10~~ 19.15 of this Code is a separate use.

19.10.525 Structure -- Anything permanently constructed in or on the ground, or over the water; excluding *fences* less than six feet in height, decks less than 18 inches above grade, and paved areas.

6. **BMC 19.15.010.7, Mixed Use special regulation relating to increased building height landscaping requirements.**

Background: There is need to correct a typographical error for the landscaping requirements in BMC 19.15.010.7 Special regulation 5.b. The current code references increasing a category of landscaping, but should reference an increase in the type of landscaping. A landscaping category has regulations which specify how wide landscaping areas should be, and what type of landscaping should be installed (BMC 19.25.040). While landscaping types specify the density and composition of the landscape vegetation (BMC 19.25.050), the intent of special regulation 5.b is to allow increased building height. To offset the visual impact of an increase in building height, the building and the parking should be screened with increased landscaping. Correcting the incorrect code reference will ensure the impacts of the increased building height will be mitigated.

Proposed Amendment: Revise BMC 19.15.010.7 Special Regulation 5.b regarding landscaping types in the RM use zone chart.

BMC 19.15.010.7 Special Regulation 5.b – The ~~landscaping~~ landscape type in the prescribed category is increased by one ~~category type~~ (for example, ~~Category Type 3 III~~ is increased to ~~Category Type 2 II~~).

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

RM Zones USE ↓	MINIMUMS				MAXIMUMS			Special Review Process (See Ch. 19.65)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.010.1 and Chapter 19.17, Miscellaneous Use, Development and Performance Standards)
	Lot Area	Front Setback	Interior Setback	Building Coverage	Impervious Surface Coverage	Height	Landscape Category (See Ch. 19.25)			
19.15.010.7 Mixed Use	5,000 s.f.	10'	5'	RM-12 & RM-18 zones: 60% RM-24 zone: 70%	85%	35' See Spec. Reg. 5	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	<ol style="list-style-type: none"> Mixed use is allowed only in RM-24 zones. The proposed development must fit in with the character of the surrounding residential neighborhood. No more than 50% of the gross floor area of the structure shall be devoted to office uses. Retail uses, banks, loan companies and similar financial institutions are not permitted. Maximum residential density is 24 dwelling units per acre. Height may be increased to 60 feet, if: <ol style="list-style-type: none"> At least 25% of the required parking is under or within a building and is fully screened from public view; and The landscaping landscape type in the prescribed category is increased by one category type (for example, Category Type 3 III is increased to Category Type 2 II). 	
19.15.010.8 Public Park and Recreation Facilities	None.	30' See Spec. Reg. 2	30' See Spec. Reg. 2	60%	85%	35'	C	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	<ol style="list-style-type: none"> Lighting for structures and fields shall be directed away from dwelling units. Structures shall maintain a 50-foot setback from adjoining lots containing single detached dwelling units. The Director may allow structures such as playground equipment, ball field backstops and tennis court fences closer than 50' if compatible with the surrounding neighborhood and traffic safety considerations. 	

7. **BMC 19.15.055, Minimum parking spaces required reference in the SPA-1 zone**

Background: There is need to correct a typographical error in the parking requirements for BMC 19.15.055 subsections 2 and 3 of the SPA-1 use zone chart. All other uses in the SPA-1 use zone chart reference parking regulations in BMC 19.20.030.2 which does not specify parking requirements, but requires a parking study for anticipated parking demand for the specific use proposed. BMC 19.15.55.2 and 3 should also reference BMC 19.20.030.2 and therefore should be corrected.

Proposed Amendment: Revise parking references under BMC 19.15.055 subsections 2 and 3 of the SPA-1 use zone chart.

BMC 19.15.055.2 Minimum Parking Spaces Required- ~~3 spaces per 1,000 s.f. of net floor area. [Ord. 313 § 1, 2000]~~ See Sec. 19.20.030.2

BMC 19.15.055.3 Minimum Parking Spaces Required - ~~13 spaces per 1,000 s.f. of dining or lounge area.~~ See Sec. 19.20.030.2

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

<div style="border: 1px solid black; padding: 5px; text-align: center;"> SPA-1: Old Burien USE ↓ </div>	↑ REGULATIONS		MINIMUMS				MAXIMUMS			Special Review Process (See Ch. 19.65)	Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.055.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)				
	Lot Area	Front Setback	Interior Setback	Building Coverage	Lot Coverage	Impervious Surface Coverage	Building Height	Landscape Category	Minimum Required Parking Spaces								
														Special Review Process (See Ch. 19.65)			
19.15.055.2 Retail Office Recreational Facility	None	0'	0'	85%	85%	3 stories	E	3 spaces per 4,000 s.f. of net floor area. (Ord. 2000) See Sec. 19.20.030.2	None	0'	0'	85%	85%	3 stories	E	3 spaces per 4,000 s.f. of net floor area. (Ord. 2000) See Sec. 19.20.030.2	1. The following are not permitted: motor vehicle sales and rental; boat sales and rental; recycling center, and self-service storage facility. 2. For retail use, maximum gross floor area per building is 25,000 s.f. Up to 30,000 s.f. may be approved through a Type 1 review process. 3. Distribution, wholesaling, repair or manufacturing that support the primary use are allowed as an accessory use. 4. An amusement arcade is allowed as an accessory use.
19.15.055.3 Eating and Drinking Establishment	None	0'	0'	85%	85%	2 stories	E	43 spaces per 1,000 s.f. of dining or lounge area. See Sec. 19.20.030.2	None	0'	0'	85%	85%	2 stories	E	43 spaces per 1,000 s.f. of dining or lounge area. See Sec. 19.20.030.2	1. Distribution, wholesaling or manufacturing that support the primary use are allowed as an accessory use. 2. An amusement arcade is allowed as an accessory use.
19.15.055.4 Lodging Facility Cultural Facility Community Facility School	Type 1	0'	0'	85%	85%	4 stories	E	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	None	0'	0'	85%	85%	4 stories	E	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	
19.15.055.5 Family Day Care Home I and II	None	See Special Regulation 1						See Special Regulation 1			None	See Special Regulation 1			1. Must comply with requirements of the primary use. 2. Family Day Care Home II: Must provide State certification of safe passenger loading area.		
19.15.055.6 Day Care Center	None	0'	0'	85%	85%	2 stories	E	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	None	0'	0'	85%	85%	2 stories	E	See Sec. 19.20.030.2 [Ord. 292 § 6, 2000]	1. Must provide State certification of safe passenger loading area.

8. BMC 19.15.050 Interim zoning code references in Industrial zone

Background: There is need to correct the code reference regarding landscaping requirements in the Industrial zone. Currently, the code references the Interim Zoning Code which has been repealed and should reference BMC 19.25.050.1, Type I landscaping requirements.

Proposed Amendment: Revise Interim Zoning Code references throughout 19.15.050.

BMC 15.15.050.1: SPECIAL REGULATIONS C. The outer 15 feet of the *front setback* must be landscaped with Type 1 landscaping (as ~~described~~ prescribed in the *Interim Zoning Code* BMC 19.25.050.1)

BMC 19.15.050.2, 3, 6, 9, 12, 15 Special Regulation 1 – Fifty (50) feet if *adjoining a residential zone*, otherwise, none. The outer 25 feet of the setback must be landscaped with Type 1 landscaping (as ~~described~~ prescribed in the *Interim Zoning Code* BMC 19.25.050.1)

BMC 15.15.050.18 Special Regulation 1 - The outer 25 feet of the *setback* must be landscaped with Type 1 landscaping (as ~~described~~ prescribed in the *Interim Zoning Code* BMC 19.25.050.1)

9. BMC 19.17.090.5.K, Home occupation signage

Background: BMC 19.17.090.5.K references the standards in BMC 18.50 for signage regulations relating to home occupations. BMC 18.50 Development Standards – Signs, has been repealed and replaced with BMC 19.30 Signs, and therefore should be updated.

Proposed Amendment: Revise code reference in BMC 19.17.090.5.K to reflect the current sign code regulations in BMC 19.30.050.

BMC 19.17.090.5.K – Signs. Signage for home occupations is subject to the standards in ~~BMC Chapter 18.50 Signs~~ BMC 19.30.050, as now in effect, and as may be subsequently amended.

10. BMC 19.30.130.4, Master Sign Plan

Background: The purpose of the master sign plan option is to provide “a mechanism under which special consideration can be given to signs which use a Master Sign Plan to integrate signs into the framework of a building or buildings, landscape, topography and other design features of the property, using an overall design theme”. Signs approved through the master sign plan process however, should still comply with the general purpose and intent of the sign code and should not be a way to retain existing non-conforming signs. There is need to add clarification of the intent of the review criteria found in BMC 19.30.130.4.D and E. Included in the intentions of the sign regulations is the provision for the timely elimination of legal, non-conforming signs. In addition, existence of other non-conforming signs should not be allowed as a reason for approval of a master sign plan application. If this loophole is not corrected, non-conforming signs might never convert to conforming signs.

There is also need to be more inclusive as to who is subject to the regulations of the master sign plan section. Staff recommends not only the applicant should be subject to the regulations, but also the property owner and/or tenant. In many instances, the applicant may be a different person than the

property owner or tenant, but the use and/or subject site shall still comply with the master sign plan requirements. This correction adds a level of specificity that is needed when enforcing and reviewing the criteria for the master sign plan, as well as adding a higher level of accountability.

Proposed Amendments: Add a statement to subsection D of BMC 19.30.130.4 that existing non-conforming signs shall not be used as a measure of compatibility. Also, add applicant to BMC 19.30.130.4.F

D. The proposal is compatible with the scale, character, design and lighting of the adjacent neighborhood or business district. Existing non-conforming signs shall not be used as a measure of compatibility.

F. The proposal is not for the convenience of:

i. the *applicant, property owner, or tenant*, or

ii. ~~for the convenience of~~ regional or national businesses that wish to use a standard *sign*.

11. **BMC 19.30.130.2, Master Sign Plan option, required review process**

Background: There is need to correct a typographical error in the Master Sign Plan option, required review process of the code. The code references BMC 19.65.070 Type 2 Appeal process, but states the Type 1 appeal should be used for sign permit appeals. The chapter reference should read BMC 19.65.065, which is the Type 1 appeal process.

Proposed Amendment: Revise BMC 19.30.130.2 to reference the Type 1 land use review appeal process, rather than the Type 2 land use review appeal process.

BMC 19.30.130.2 – Required Review Process. An application for a Master Sign Plan will be reviewed and decided upon by the *Director*. The *Director's* written decision may be appealed using the appeal process for a Type 1 land use review (BMC ~~19.65.070~~ 19.65.065).

12. **BMC 19.30.100, Sign permit required**

Background: There is need to correct a typographical error in the Sign permit - required section of the code. The code references BMC 19.65.070, which is the section for a Type 2 appeal process, but states the Type 1 appeal should be used for sign permit appeals. The chapter reference should read BMC 19.65.065, Type 1 appeal process.

Proposed Amendment: Revise incorrect chapter reference in BMC 19.30.100 to reflect correct code reference for a Type 1 land use review appeal process, which is BMC 19.65.065.

19.30.100 Sign permit --required. For *signs* requiring a sign permit in Table 19.30-1 or in BMC 19.30.120, no *sign* shall be *erected*, *re-erected*, attached, structurally altered, relocated, or the sign face changed by any person, firm or corporation from and after July 23, 2002 without a sign permit issued by the *Director*. If the sign permit is denied, the *Director* shall send the *applicant* a brief written statement of the reasons for denial, along with the deadline for filing an appeal of the denial. A sign permit decision may be appealed by the *applicant*, *sign* owner or property owner, using the process for appealing a Type 1 land use review found in BMC ~~19.65.070~~ 19.65.065. [Ord. 358 § 1, 2002].

13. **BMC 19.40.290.3.E Geologically hazardous areas – Development standards and permitted alterations**

Background: There is a need to correct a typographical error in BMC 19.40.290.3.E regarding landscaping in geologically hazardous areas. The word ‘trees’ has been misspelled and should be corrected.

Proposed Amendment: Correct misspelled word ‘trees’.

BMC 19.40.290.3.E Landscaping. The disturbed area of a site shall be landscaped to provide *erosion* control and to enhance *wildlife habitat*. Landscape plantings should include ~~tree~~ trees and shrubs with a mix of shade, flowering, and coniferous and broad-leaf *evergreens* that are either native to the Puget Sound area or are valuable to western Washington birds and wildlife as listed by the Department of Fish and Wildlife.

14. **BMC 19.55.030.3.B Nonconforming structures**

Background: BMC 19.55.030.3 states that if a nonconforming structure is damage or destroyed, it may be rebuilt provided that.... the damage or destruction was not due to abatement of voluntary demolition of the nonconforming structure;.... The code does not assign a value to the amount of voluntary demolition that is allowed before the structure shall be made to conform to the code. This could be interpreted that if even 1% of the structure was demolished such as a portion of siding removed, the entire structure would need to be replaced to conform to the code. It is our opinion that a value should be assigned to the amount of voluntary demolition that triggers a nonconforming structure brought into conformance. Staff believes that BMC 19.55.030.3.B does not give sufficient flexibility when non-conforming structures are voluntarily altered. The proposed change is a balanced mechanism to allow improvements to non-conforming structures to be improved. If those improvements exceed the threshold, the structure must be brought into conformance.

Proposed Amendment: Assign a value to voluntary demolition in BMC 19.55.030.3.B that triggers a nonconforming structure to be brought into conformance with the zoning code.

BMC 19.55.030.3 - If the *structure* is damaged or destroyed, it may be reconstructed or repaired provided that:

- B. The damage or destruction was not due to abatement, or voluntary demolition beyond 50% of the assessed value of the nonconforming structure as established by the most current county assessor’s tax roll.