

## AGENDA BILL APPROVAL FORM CITY COUNCIL

**Agenda Subject/Title:**

Ordinance No. 6728, File No. ZOA19-0002, Proposed Zoning Code Amendments by Inland Washington LLC

**Date:**

October 1, 2019

**Department:**

Community Development

**Budget Impact:**

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

**DESCRIPTION:**

Ordinance No. 6728, File No. ZOA19-0002, Proposed Zoning Code amendments by Inland Washington LLC

Proposed changes to four sections of the zoning code including: the chapter dealing with the Planned Action (ACC 18.08); the uses & development standards of the C-4, Mixed Use Commercial zoning district (ACC 18.23), the development standards associated with mixed use development (ACC 18.57), and revision of the architectural & design standards (ACC 18.31.200) and the associated revisions to Exhibit 1 to previously-adopted Ordinance No. 6382 (Planned Action Ordinance, codified as ACC 18.08).

**ADMINISTRATIVE RECOMMENDATION:**

Schedule Ordinance No. 6728, ZOA19-0002, Proposed Zoning Code Amendments by Inland Washington LLC for action by City Council on October 21, 2019.

**BACKGROUND/SUMMARY:**

**PROPOSAL:** An Inland Washington LLC ("Inland") application to amend the text of four sections the City's zoning code to facilitate development of the Auburn Gateway Project. In summary, the main changes to the four code sections include:

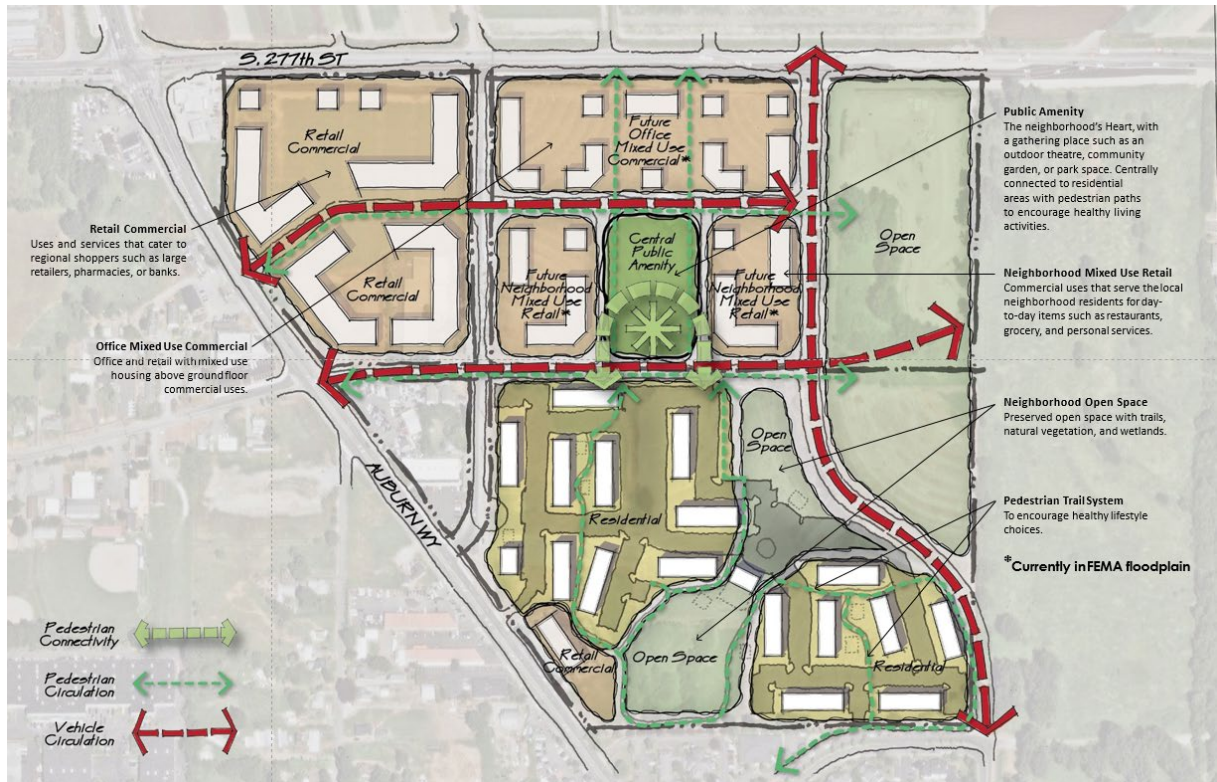
- **ACC 18.08 Change to Planned Action Ordinance (PAO)** This is a separate code chapter that is specifically for this development proposal and is being modified to accommodate project changes. Such changes include:
  - o Allow horizontal integrated mixed use in addition to vertical integrated mixed use.
  - o Recognize the preparation of additional environmental review documents
  - o Include any other project changes and associated mitigation measures (Amending Exhibit 1 to the original Ordinance No. 6382, Planned Action Ordinance previously adopted in 2011.)
- **ACC 18.23 Commercial and industrial zones**
  - o The unique zoning of C-4, Mixed Use Commercial to be changed to also allow horizontal distributed mixed use in addition to vertical distributed mixed use.
  - o Allow an "outdoor recreation use for profit" as an allowed use subject to a city approval of an administrative use permit (land use approval).

- **ACC 18.57.030 Mixed use development standard**
  - o Allow mixed use commercial to be changed to allow horizontal mixed use as well as vertical.
- **ACC 18.31.200 Architectural and Site Design Standards and regulations**
  - o Allow the Design Standards document to be administratively amended by the Community Development Director rather than amended by approval of the Planning and Development Committee of the Auburn city council--
  - o To change the references contained in ACC 18.31.200, (Architectural and site design review standards and regulations) to recognize any future amendments to the design standards.

## **FINDINGS OF FACT:**

### **Background & Proposal**

1. Inland Construction LLC ("Inland"), on May 17, 2019 filed an application (File No. ZOA19-0002) for a zoning code text amendment to affect changes to three provisions of the zoning code as part of the various approvals needed for the proposed 'Auburn Gateway Project'. This project was previously proposed by Robertson Properties Group (RPG) for redevelopment of the former Valley 6 Drive-In Theater site associated with the parcels that RPG had acquired in Northeast Auburn and was the subject of a previously executed Development Agreement (DA) with the City.
2. Since the time of the application, the city staff have been working with Inland Construction LLC on various approvals needed for the project. As a result, City staff identified an additional zoning code section that requires modification for the project; which is ACC 18.31.200, (Architectural and site design review standards and regulations). The changes have been reviewed with the Applicant.
3. The project site is approximately 70 acres in area and consists of the former drive theater site and adjacent parcels that RPG had acquired over the intervening time. All the drive in theater structures and features have been removed as authorized by city permits. The site is generally bounded by Auburn Way North, 45th ST NE, the extension of I ST NE and S 27th ST, with certain property exceptions.



4. Inland is acquiring the former Valley 6 Drive-In properties from Robertson Properties Group (RPG). In anticipation of acquiring the property, Inland has submitted an application to amend the City code and the existing Development Agreement (DA) adopted under Resolution No. 4756 (2011) in order to allow horizontal mixed use (the current DA restricts the development to only vertical mixed use in order to have multifamily residential land uses).
5. Inland has indicated their desire to construct, as a first phase, a multi-family complex with 500 dwelling units. This number is consistent with the maximum number of multi-family units considered and approved in the previously approved sub area plan of the City's Comprehensive Plan, the Environmental Impact Statements (EIS's), and the DA. However, Inland has indicated that there are a number of circumstances that preclude construction of the full amount of the previously proposed 1.6 million square feet of professional office and/or 720,000 square feet of retail commercial space. These circumstances include a changed economic environment for retail storefronts and the anticipated changes in 2020 to the floodplain maps by the Federal Emergency Management Agency (FEMA) to increase the extent and depth of floodplain in this vicinity.
6. DA's are a development tool authorized under State law (RCW 36.70B.170). The concept behind a DA is to allow a municipality and a property owner to voluntarily agree to development terms for a specific development proposal that may be beyond adopted city code requirements. Both parties may have interest in entering into such an agreement because it allows a property owner greater flexibility in certain specified city standards that

are determined in advance in exchange the City can require a higher quality of development and greater benefits to the community than what typical code requires. It is an optional process because it is a voluntary negotiated agreement. The City has only a few other instances of development agreements.

7. The main code change affecting multiple sections is to allow horizontal distributed or integrated mixed-use in addition to the currently exclusively-required vertical integrated mixed-use required by the C-4, Mixed Use Commercial zoning district. Vertical mixed-use is where the ground floor consists of commercial tenants with multi-family residential located above.
8. The City's zoning code provides the following definition of mixed use development:

*"ACC 18.04.625 Mixed-use development.*

*"Mixed-use development" means a single unified development that incorporates the planned integration of two or more different land uses consisting of some combination of office, light industrial, hotel, retail, entertainment, public uses, along with residential uses. Mixed-use development may be vertically oriented in one or more buildings, or horizontally distributed on a development site. When horizontally distributed, the different uses may be constructed concurrently and in separate phases, and should incorporate common and/or complementary features and/or elements such as pedestrian walkways, access driveways, parking areas, architectural themes, or other techniques that provide integration between uses on the site."*

9. To change provisions of the zoning code requires an amendment with a recommendation made by the Planning Commission and final action by the City Council. One of the other needed approvals for the project is amending the DA, which is a City Council decision.
10. Also since the time of their application, the City Council has considered amendments to the Development Agreement (DA) that was previously executed between Robertson Properties Group RPG) and the City (Resolution No. 4756). At a special Council meeting conducted on June 24<sup>th</sup> 2019, the City Council adopted Resolution No. 5442 approving an amended and re-stated development agreement between the City and Inland Construction LLC, for the Auburn Gateway Project.

### **Past Planning Commission & City Council Actions**

11. At the Planning Commission's May 7, 2019 regular meeting, John Fisher and Scott Morris of Inland Washington LLC (Inland) introduced themselves, their company, the type of projects their company constructs and described their proposal for the Auburn Gateway Project.
12. At the Planning Commission's June 4, 2019 regular meeting, staff introduced and described the first three code amendments. The materials presented included a description of the changes along with copies of the code sections with edits showing. Inland Construction LLC representatives were present at the meeting and were invited to add comments.

13. At the Planning Commission's July 16, 2019 regular meeting, a public hearing was conducted on the four proposed code amendments. The only testimony was from the John Fisher of Inland Washington LLC (Applicant). **At the conclusion of the hearing, the Planning Commission voted to recommend approval of the code amendments to the City Council.**
14. At the City Council's April 22, 2019 Study Session, John Fisher and Scott Morris of Inland Washington LLC (Inland) introduced themselves, their company, the type of projects their company constructs and described an overview of their proposal for the Auburn Gateway Project.
15. At the Study Session on June 24, 2019, the City Council discussed the Amended and Restated Development Agreement.
16. On June 24, 2019 after a properly noticed public hearing, the City Council adopted the Amended and Restated Development Agreement between the City and inland Washington LLC by Resolution No. 5442.

#### **Procedural Steps**

17. Pursuant to Revised Code of Washington (RCW) 36.70A the proposed zoning code amendment language was transmitted to the Washington State Department of Commerce for State Agency Review and requesting an expedited review (consisting of a 14-day period) on July 1, 2019. City received notice that expedited review had been accepted and that the City met the notice to state agency requirements contained in RCW 36.70A.106. The City has not received comments from any state agency.
18. In accordance with the State Environmental Policy Act (SEPA) (WAC 197-11) the City issued a Draft and Final Environmental Impact Statements (EIS) for the Auburn Gateway Project in 2004. Also, the City issued an Addendum to the Final Environmental Impact Statement Northeast Auburn Robertson Properties Special Area Plan, City of Auburn, 2004 to clarify wetland-related text, Page 9.
19. Subsequently, in 2011 the City issued a second addendum to the Final EIS to address some project changes including additional properties, identification of phasing, changes in governing regulations and changes in nearby development.
20. A third addendum to the Final EIS is currently being prepared to meet the SEPA requirements for the changes to the proposed action specifically by Inland Washington LLC.
21. To meet the City code requirements associated with zoning code amendments (ACC 18.68.030, Public Hearing Process), a Notice of Public Hearing (NOPH) was published in the Seattle Times newspaper on July 1, 2019 prior to the Planning Commission Public hearing and posted in three general public places (City Hall, City Annex, and the City's Public Land Use Notice webpage).



A further and more detailed explanation of the changes to each of the four code section follows:

**1. ACC 18.08 Text Change to Planned Action Ordinance (PAO) - Exhibits A & B.**

First, an explanation of the term: "Planned Actions". A planned action is a tool of the WA State Environmental Policy Act (SEPA) that was added to the state laws in 1997. A planned action is a designated development project whose impacts have been addressed by an Environmental Impact Statement (EIS) associated with a plan for a specific geographic area before individual development projects are proposed. A planned action involves detailed SEPA review and preparation of EIS documents in conjunction with sub-area plans, consistent with RCW 43.21C.031 and WAC 197-11-164 through WAC 197-11-172. The tool provides for up-front analysis of impacts and mitigation measures to facilitate expedited environmental review of subsequent individual development projects, when determined consistent.

The City adopted Chapter 18.08, 'Northeast Auburn Special Area Plan and Auburn Gateway Planned Action' in 2011 by Ordinance No. 6382 and has not been used, as no development has taken place. In summary, the text changes are for the purpose of:

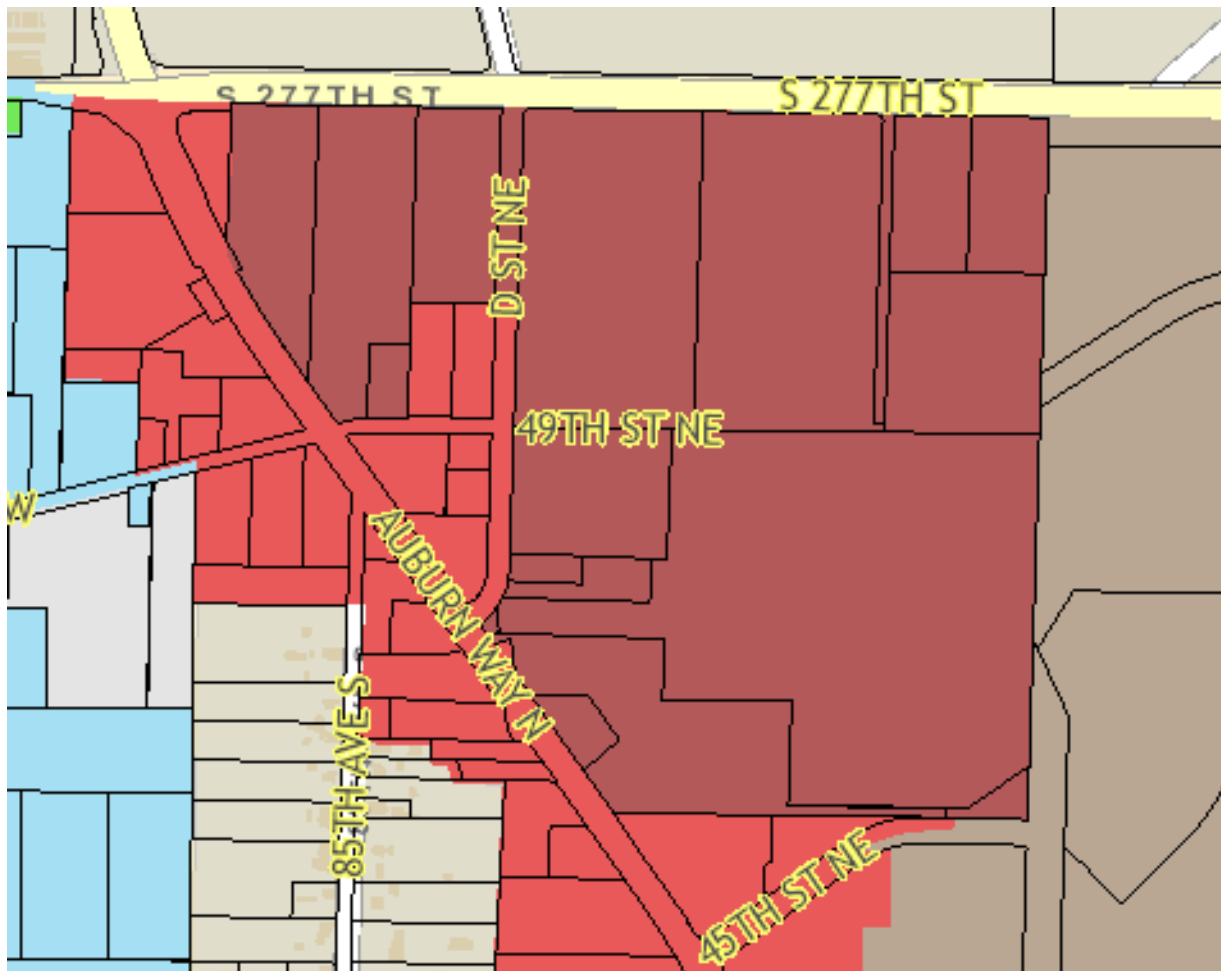
- o To recognize the preparation of additional environmental review documents (change text to recognize the November 2, 2011 EIS addendum and to recognize the future EIS addendum that is currently being prepared).
- o To allow horizontal integrated mixed-use in addition to vertical integrated mixed-use that is currently required by the zoning classification (While this does not require any text changes, the PAO refers to the zoning that applies to the site in subsection ACC 18.08.040, 'Planned action thresholds' and the C-4, Mixed Use Commercial is also proposed to change). By reference, this is also a change.
- o To recognize the change in City Department name.
- o To increase consistency with the development agreement.
- o To recognize any other project changes and associated EIS identified mitigation measures (Amending Exhibit 1 to the original Ordinance No. 6382, Planned Action Ordinance).

Please note: that in code subsection 18.08.080, 'Planned action mitigation measures' there is a reference to a separate document (Exhibit 1) that is not codified in the city's code chapter. This Exhibit 1 consists of the mitigation measures drawn from the EIS's and due to their length are not made part of the same document. The contents of this Exhibit could require modifications since the environmental review process is being conducted.

**2. ACC 18.23 Commercial and industrial zones – Exhibit C.**

Chapter 18.23 ACC, 'Commercial and industrial zones' describes the purpose statement, uses regulations, and zoning development standards of certain zoning classifications. The text changes are related to modifying the "C-4, Mixed Use" zoning classification. The project site is the only mapped location of this zoning classification in the city. See the following zoning map excerpt.

## Zoning Map (excerpt)



■ C3 Heavy Commercial District

■ C4 Mixed Use Commercial

■ M1 Light Industrial District

■ R20 Residential 20 DU/Acre

The changes are for the purpose of:

- o Change the C-4, Mixed Use Commercial zoning classification to also allow horizontal integrated mixed-use in addition to vertical integrated mixed-use.
- o Change the set of uses to recognize the listed use of: "outdoor recreation use for profit" in the zoning district subject to an administrative use permit (land use approval).

**3. ACC 18.31.200 Architectural and Site Design Standards and Regulations – Exhibit D.**

This chapter of the zoning code provides an administrative review process for evaluating the design and arrangement of development. The architectural and site design regulations are intended to be consistent with and implement the policies of the comprehensive plan. A further explanation of the purpose can be found at ACC 18.31.200.A. (Purpose and Intent). The architectural and site design regulations apply either to specific geographic areas of the city, such as downtown, or to specific types of development, such as multiple family residential. There is a document which contains the architectural and site design standards governing each geographic area or type of development. The “Auburn Gateway architectural and site design standards”: that apply in this instance were specifically adopted by Resolution No. 4756.

In summary, the text changes are for the purpose of:

- Allow the Design Standards document to be administratively amended by the Community Development Director rather than amended upon approval by the Planning and Development Committee of the Auburn City Council. This refers to Council committee structure which no longer exists because it was changed by Ordinance No. 6532 in 2014 to provide for study sessions of the entire council. The approach of administrative changes by the Department director is similar in authority to the Public Works Department Director approval of the Engineering Design Standards (ACC 12.04).
- Change the references contained in ACC 18.31.200, (Architectural and site design review standards and regulations) to recognize any future amendments to the specific design standards.
- To recognize the change in City Department name.

**4. ACC 18.57.030 Mixed use development standard – Exhibit E**

Chapter 18.57 ACC, ‘Standards for specific land uses’ contains zoning development standards in addition to those contained in the zoning district chapter. This chapter provides site planning, development, and/or operating standards for certain land uses that are allowed by individual or multiple zoning districts, and for activities that require special standards to mitigate their potential adverse impacts. Section ACC 18.57.030, ‘Mixed use development’ contains standards that apply when mixed-use development is proposed in the city.

The text amendments to the mixed-use standards are proposed to accomplish the following:

- To allow mixed-use commercial to be changed to allow horizontal mixed-use as well as vertical. It should be noted that vertical mixed-use is not actively being pursued for this project.

**STAFF:**

Tate

**COUNCILMEMBER:**

DaCorsi



**ATTACHMENTS:**

Ordinance No. 6728

Exh A – ACC 18.08, Text Changes to Planned Action Ordinance

Exh B – **Placeholder** - Exh 1 to Ordinance No. 6382 (Planned Action Ordinance, codified as ACC 18.08). Mitigation Measures derived from the EIS and addendums (An updated version will be provided when available).

Exh C – ACC 18.23 Text changes to Commercial and industrial zoning district

Exh D – ACC 18.31.200 Text changes to Architectural and Site Design Standards and Regulations

Exh E - ACC 18.57.030 Text changes to Mixed Use development standards

Exh F – **Placeholder** - 2019 EIS Addendum (As noted above, this document is being prepared and will be provided when available).