



Snohomish County Council

Committee: Planning & Community Development **Analyst:** Ryan Countryman
ECAF: 2021-0689
Proposal: Proposed Motion 21-308 **Date:** September 7, 2021

Consideration

Proposed Motion 21-308 would refer proposed code revisions relating to Development Agreements to the department of Planning and Development Services (PDS), Office of Hearings Administration (OHA) and to the Snohomish County Planning Commission. Council staff would work with PDS, OHA and other departments as necessary to refine the proposed revisions. Then Council staff would present code revisions similar to Attachment A of this motion in order for the Planning Commission to hold a public hearing and make a recommendation back to the County Council for further consideration by the Council.

Background

Development proposals sometimes include ideas that are consistent with adopted policies but inconsistent with the specific codes intended to implement those policies. When codes are more limiting than policy, applicants can seek relief from a limited scope of codes through provisions such as Variances, Landscape Modifications or Innovative Development Design. Applicants regularly use these provisions to address hardships, alternate landscape designs, and situations involving complex critical areas issues, respectively. However, these existing options to seek relief do not cover all code sections where policies call for more flexibility than code allows.

The docketing process may allow an applicant to propose a project that complies with policy objectives but exceeds present-day codes for the site. In addition to being lengthy and uncertain, docketing does not provide for fine tuning site- or proposal-specific requirements or mitigation.

The Snohomish County Growth Management Act (GMA) comprehensive plan, aka the General Policy Plan (GPP), includes policies calling for flexibility in the permitting process and innovation in designs proposed by applicants. Other jurisdictions, including Arlington

and Lynnwood, regularly use Development Agreements to allow innovation and flexibility. This is allowed for by state law, specifically RCW 36.70B.170, which authorizes local governments to enter into Development Agreements that “set forth development standards and other provisions that shall apply and govern and vest the development, use and mitigation of the development”. This scope is broader than what Snohomish County currently allows for through use of Development Agreements in Chapter 30.75.

Conceptually, the proposed amendments to Chapter 30.75 would cover many of the areas where GPP policies say something should be possible but Title 30 provisions and existing modification options do not address. The figure below illustrates this concept.



Although faster than docketing, Development Agreements are still a lengthy process. They require PDS to receive an application, process and review the application, then to make a recommendation to the Hearing Examiner. Next, the Hearing Examiner holds a public hearing before making its own recommendation to the County Council in the form a proposed ordinance. The County Council then holds another hearing on the proposed ordinance before acting.

There are no provisions in Chapter 30.86 for PDS to charge fees related to development agreements. Historically, PDS has recouped its costs much later when construction permits were issued. This creates a mismatch between when staff perform work and receipt of revenue. Such mismatches in timing can contribute to budgetary challenges for PDS. See, for instance, information provided by PDS to the County Council in materials received at the August 31, 2021, Planning and Community Development Committee on Ordinance 21-

048. These materials indicate that PDS' budget anticipates only recovering 82% of its costs for providing permit services in the current year.

Current Proposal

Summary: The motion would refer a proposed ordinance to the PDS, OHA, and the Planning Commission. This would allow the County Council to obtain a recommendation related to proposed changes in regulations and fees for Development Agreements.

Effective Date: The referral would take effect at passage of the motion; effective date for the ordinance is TBD

Fiscal Implications: The referral motion would have no impact; if the ordinance were to pass the new fees proposed could provide additional Fund 193 revenues to PDS

Scope: Movement of a motion to refer proposed code amendments

Handling: NORMAL

Approved-as-to-form: N/A

Risk Management: TBD

Executive Recommendation: TBD

Analysis

An affirmative vote on the motion would refer the proposed ordinance to the OHA, PDS and other departments as necessary for input. Council staff would provide a report on the results of that input to the Planning Commission. This would allow the County Council to receive a recommendation back from the Commission prior to considering further action.

As drafted, the motion requests input from the departments regarding:

1. The process for review and approval, including number of required hearings;
2. The scope of what codes a development agreement can or should be able to modify;
3. Submittal requirements;
4. Approval criteria; and
5. Fees necessary for PDS to recover its costs.

Request

Move to GLS for council to consider taking action.