



Community Development Department

Staff Report

Minor Amendments to Title 16 Environment of Camas Municipal Code File #MC16-06

To: Mayor Higgins
City Council

Public Hearing: February 6, 2017

From: Sarah Fox, Senior Planner on behalf of the Planning Commission

Report Date: January 31, 2017

Public Notices: Notice of the public hearing before City Council was published in the Post Record on January 26, 2017 (Legal Publication #576547). Notice of the public hearing before Planning Commission was published in the Post Record on December 8 and 15, 2016 (Legal Publication #573825).

Compliance with state agencies: Expedited review was requested on December 5, 2016 and was granted by the Department of Commerce on December 6, 2016, with Material ID # 23141. A State Environmental Policy Act Determination of Non-Significance was issued on January 12, 2017. The comment and appeal period ended on January 26, 2017, with one comment received (Exhibit 3).

I. Summary

As part of a periodic code improvement project, the proposed minor amendments to Title 16 Environment of the Camas Municipal Code (CMC) include updates due to changes of state law, corrections to typos, or to clarify sections that may have been challenging to administer since the past review cycle.

A public hearing before Planning Commission was held on December 20, 2016. The Commission unanimously recommended approval. The proposed CMC amendments are provided at Exhibit 1, which shows the draft changes as strike-through text or underlined. Exhibit 2 includes the currently adopted version of Title 16.

Staff has proposed amendments within the following chapters of Title 16 Environment:

- Chapter 16.01 General Provisions
- Chapter 16.07 Categorical Exemption and Threshold Determinations
- Chapter 16.13 SEPA and Agency Decisions and Appeals
- Chapter 16.19 Fees
- Chapter 16.21 Forms
- Chapter 16.31 Archaeological Resource Preservation
- Chapter 16.33 Public View, Open Space Protection and Historic Sites and Structures
- Chapter 16.35 Historic Preservation
- Chapter 16.51 General Provisions
- Chapter 16.53 Wetlands
- Chapter 16.61 Fish and Wildlife Habitat Conservation Areas

II. Description of Proposed Amendments

Chapter 16.01 General Provisions

Interestingly, there are eleven chapters of provisions for the State Environmental Policy Act (SEPA), with only one chapter that includes in its label, "SEPA" (16.01 to 16.21). Amendments to this chapter include adding "SEPA" to key chapter headings, which will assist with way finding when searching online and with code citations.

Chapter 16.07 Categorical Exemption and Threshold Determinations

The city is allowed to establish SEPA exempt levels for minor new construction, if consistent with the thresholds provided for in WAC197-11-800(1)(b). The state raised exemption levels this year and the proposed amendments comply with those thresholds. Staff provided the state law maximum allowances as a comment within Exhibit 1 (page 2). The changes also include formatting the exemptions list in a table format, which is how the state law presents this information.

Section III of this report includes findings for compliance with WAC197-11-800(1)(C) for the city's intention to raise exemption levels.

Section 16.13.060 Appeal

The current section required that an appeal of a SEPA determination must be referred to City Council if it was rendered by a non-elected SEPA Official. This procedure is inconsistent with the powers designated to the city's Hearings Examiner at Section 2.15.080; which includes certain land use decisions, such as SEPA appeals and Type II permit appeals.

Chapter 16.19 Fees

The changes proposed to this section include formatting, eliminating section headings and combining a few sections. No fees are listed in this chapter and no changes to fees were proposed.

Chapter 16.21 Forms

The proposal to repeal this chapter is due to the fact that the city creates its own forms and updates them as needed. The forms are substantially similar to the model forms provided by the Department of Ecology.

Chapter 16.31 Archaeological Resource Preservation

The amendments to this chapter are to incorporate policies that will be deleted from Chapter 16.33 and to clarify how the city reviews and processes archaeological reports. Current provisions in regards to the notification process requires considerable staff time (applicant and the city) to track postal receipts. The proposed change is to allow electronic submissions (emails).

Chapter 16.33 Public View, Open Space Protection and Historic Sites and Structures

The title of this chapter is proposed to change to, "Public View & Open Space Protection" given that policies regarding historic sites should more appropriately be organized under Chapter 16.31 Archaeological Resource Preservation.

Also, the current title did not include all of subsections contained within it. For example, the chapter includes policies in regard to transportation, public facilities and water. Those sections are proposed to be removed, due to the fact that the city adopted new policies for transportation and public facilities as part of the comprehensive plan update, Camas 2035, in June of this year.

The subsection regarding public views was amended to require a visual assessment for a new development that could impact a public view (page 13, Section 16.33.010-C). Currently, the code is silent as to what is expected to be submitted by the applicant. The proposed amendments are based on the WA

Department of Transportation view analysis standards for transportation projects.

Chapter 16.35 Historic Preservation

The amendments to this section include fixing typos and to change the name of the Clark County Board of Commissioners to the “Board of County Councilors”. The three-member council was expanded on January 1, 2016 to five members by a home rule charter that was adopted by voters in 2014.

Chapter 16.51 General Provisions

The proposed amendments to the vegetation removal section include creating a new section heading for ease of finding the requirements, rather than being located in a sub-subsection of the chapter. It will also clarify submittal materials and the standards for approval. Currently the code uses the terminology “topping” and allows it in certain circumstances. Tree topping is not an approved method of abatement by certified arborists, and the code is proposed to reflect current practices.

There are also amendments to Section 16.51.210, which concerns fencing and signage of critical areas. These provisions are currently listed as discretionary options, which means that they often become mitigation measures under SEPA. If these regularly conditioned items were adopted into CMC, then those same developments could likely have received unmitigated SEPA determinations.

III. Findings for Compliance with WAC197-11-800 (1)(C)

At CMC§16.07.020 (A), the city proposes to raise the exemption level for minor construction of the project type: “Office, school, commercial, recreational, service or storage buildings (including associated parking lots)”. The city also proposes to add two categories: Multi-family; and Parking Lots (not associated with a structure). In order to change exemption levels, the city must include findings per the criteria at WAC197-11-800(1)(C)(i-iv). Criteria of WAC197-11-800(1)(C) is provided below in *italicized* type.

(i) Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC 197-11-444) have been adequately addressed for the development exempted. The

Chapter 16.53 Wetlands

The amendments include removing references to shoreline compliance, which were inadvertently added with the mandated updates to wetland regulations in 2015.

The City received SEPA comments from Joe Turner (Exhibit 3), which noted that the fencing requirements within this chapter could be confusing or incongruous to the proposed fencing provisions at Chapter 16.51 General Provisions. Revisions were proposed to this section to mirror the proposed new text at Chapter 16.51.

Chapter 16.61 Fish and Wildlife Habitat Conservation Areas

Similar to Chapter 16.53, the amendments within this chapter include removing references to shoreline compliance, which were inadvertently added with the mandated updates to wetland regulations in 2015. References to “lakes” were also removed due to the fact that all lakes in Camas are within shoreline jurisdiction and are subject to the regulations contained within the Camas Shoreline Master Program.

requirements may be addressed in specific adopted development regulations, and applicable state and federal regulations.

Finding: The city issued a SEPA Determination of Non-Significance on January 12, 2017. The distribution documents included a SEPA Checklist. The comment and appeal period ended on January 26, 2017, with one comment received (Exhibit 3).

(ii) Description in the findings or other appropriate section of the adopting ordinance or resolution of the locally established notice and comment opportunities for the public, affected tribes, and agencies regarding permitting of development projects included in these increased exemption levels.

Finding: The SEPA Determination of Non-Significance provided instructions for submitting comments, along with public notices that were published on December 8 and 15, 2016, and January 26, 2017.

(iii) Before adopting the ordinance or resolution containing the proposed new exemption levels, the agency shall provide a minimum of sixty days' notice to affected tribes, agencies with expertise, affected jurisdictions, the department of ecology, and the public and provide an opportunity for comment.

Finding: On February 6, 2017 (date of public hearing), the city will have provided 63 days' notice to affected tribes, agencies with expertise, and the Department of Ecology through submittal of a request for expedited review to the Department of Commerce. The request for review was granted on December 6, 2016, with Material ID #23141. A SEPA Determination of Non-Significance was issued on January 12, 2017. Adoption of the amendments, if approved by Council, is anticipated on February 21, 2017. **The total days provided for comment by ordinance adoption will be 78 from Commerce notice and 41 days from SEPA notice.**

(iv) The city, town, or county must document how specific adopted development regulations and applicable state and federal laws provide adequate protections for cultural and historic resources when exemption levels are raised. The requirements for notice and opportunity to comment for the public, affected tribes, and agencies in (c)(i) and (ii) of this subsection and the requirements for protection and mitigation in (c)(i) of this subsection must be specifically documented. The local ordinance or resolution shall include, but not be limited to, the following:

- *Use of available data and other project review tools regarding known and likely cultural and historic resources, such as inventories and predictive models provided by the Washington department of archaeology and historic preservation, other agencies, and tribal governments.*
- *Planning and permitting processes that ensure compliance with applicable laws including chapters 27.44, 27.53, 68.50, and 68.60 RCW.*
- *Local development regulations that include at minimum preproject cultural resource review where warranted, and standard inadvertent discovery language (SIDL) for all projects.*

Finding: As noted previously, at CMC§16.07.020, the city proposes to increase the minor exemption level up to the allowed maximum of 30,000 square feet and associated parking lots of up to 40 spaces for project types which include: offices, schools, commercial and recreational buildings, service or storage buildings, multi-family developments, and parking lots (with an associated structure). There will also be two new project types, which

include Multifamily residential and Parking Lots (not associated with a structure). These project types are new to the CMC, yet are individually listed in the WAC.

Per this criterion, all of the aforementioned project types require development approval with a **Site Plan Permit** (Type II permit). The process for submittal of a Type II application requires a “Pre-application Meeting” prior to submittal of a development application. This meeting allows staff the opportunity to research whether or not the site is likely to contain any cultural or historic resources, or any critical areas in the vicinity, prior to determining whether or not the project will be eligible for a SEPA exemption.

In addition, the CMC includes inadvertent discovery provisions at CMC§16.31.150 Discovery Principle. Whether or not a project is exempt from SEPA does not exempt the project from archaeological review. Provisions at CMC§16.31.030, state that SEPA regulations are intended to supplement, not supplant, the provisions of Chapter 16.31 Archaeological.

IV. Recommendation

Staff recommends that Council conduct a public hearing, deliberate, and move to approve the amendments to Title 16 Environment as proposed. Further, Staff recommends that Council direct the City Attorney to prepare an ordinance for adoption.