2016 Annual Threshold Review CPA Recommendation
and Consideration of Geographic Scoping
Site-Specific Amendment

Park Lands Policy #2

Staff recommendation: Do not include the Park Lands Policy #2 CPA proposal in the 2016 annual CPA work program.

Application Number: 16-122081 AC
Subarea: citywide
Original Addresses: N/A
Applicant(s): Mary Smith

PROPOSAL
This is the Threshold Review stage of the annual Comprehensive Plan amendment (CPA) process. The purpose of Threshold Review is to determine whether a proposed amendment should be considered in the Comprehensive Plan amendment work program for Final Review.

The Comprehensive Plan Amendment process has two phases: (1) Threshold Review to determine whether a proposed amendment should be considered in the Comprehensive Plan amendment work program for Final Review; and (2) Final Review, where the merits of an application are considered. Each phase uses Land Use Code decision criteria for review.

This privately-initiated application would amend policy and/or text in the Comprehensive Plan. Three new policies are proposed in the Parks, Recreation and Open Space Element. These policies would restrict or regulate review in changes in use of acquired park lands and park property by citizens, the Parks Board and in the city's formal rezone process. A fourth policy proposal would require city owned park lands to be designated as such in the Comprehensive Plan, zoned with a new "Park" designation. This new "Park" zoning designation would limit uses is the designated property solely to active and passive recreation and open space. See Attachment 1.

In support of the proposal, the applicant cites nineteen existing policies in the Comprehensive Plan. The applicant also argues that the amendments are necessary because land is becoming scarcer for parks, the city should treasure existing parks, and the public who paid for these parks should be involved in any decision to change usage of the parks.

STAFF RECOMMENDATION
Staff recommends not including this Comprehensive Plan amendment application in the 2016 work program.

The proposals intend restrictions to the City Council's legislative authority. The Comprehensive Plan amendment process is not the place to appropriately address matters of law. The timing of this proposal would present a hardship on city resources because

the proposal would require reexamination of citywide issues regarding new zoning districts a new work program to be directed by City Council just after the completion of the recent 2015 Comprehensive Plan Update.

BACKGROUND

Non site-specific CPAs are proposed to amend policy and/or text in the Comprehensive Plan. This proposal has not previously been presented and it was not submitted during the recent Comprehensive Plan Update exercise (2015).

THRESHOLD REVIEW DECISION CRITERIA

The Threshold Review Decision Criteria for an initiated Comprehensive Plan Amendment proposal are set forth in the Land Use Code Section 20.30I.140. Based on the criteria, Department of Planning and Community Development staff has concluded that the proposal **not be included** in the annual CPA work program.

This conclusion is based on the following analysis:

A. The proposed amendment presents a matter appropriately addressed through the Comprehensive Plan; and

The proposed amendments do not present a matter appropriately addressed through the Comprehensive Plan. Using policy to restrict or regulate changes in use of acquired park lands and park property that could restrict already-established statute and court-tested procedures for city actions regarding real property is a matter of law, not policy.

In citing existing policies in the Parks, Environment and Urban Design Elements in support of the amendments, the proposal implies that these existing policies need additional restrictions on park lands decisions. These existing policies are a mix of land acquisition, proactive use of parks for active and passive space, protection of natural areas, trees, views and open space, and balance in sustainability, energy efficiency and water quality. The recent 2015 Comprehensive Plan Update was the opportunity to test the adequacy of these policies to adequately frame parkland development and implementation.

The portions of the proposal restricting the sale or disposal of park property would conflict with existing provisions of state law and the Bellevue City Code. Generally speaking, the City is authorized to acquire real and personal property of every kind and to convey or otherwise dispose of such property for the common benefit. RCW 35A.11.010. Consistent with RCW 35A.11.010, the City has adopted code provisions regarding the sale of real property:

> *Notwithstanding any other section of this chapter, when city property with an estimated value of over $10,000 is to be sold, the finance director or his/her designee may, with prior approval of the city manager or his/her designee, sell or dispose of the property in any legal, commercially reasonable manner in the best interests of the city, including but not limited to public auction, private sale, sealed bid, exchange of in-kind*

goods, or through a broker or agent. The city shall comply with any notice requirements imposed by law for the sale.

BCC 4.32.030.

Except as provided in BCC 4.32.020 [property less than $10,000] and 4.32.030, any sale of real property shall be submitted to the council for approval. A public hearing on the proposed sale is not required.

BCC 4.32.060. Changes to the City's ability to buy and sell real property should be addressed through an amendment to the City Code, not an amendment to the Comprehensive Plan.

The portions of the proposal that relate to bond issuances conflict with existing law. Approval of a bond issuance creates a relationship between the issuing jurisdiction and those taxpayers whose taxes are pledged to the payment of the bonds. See O'Byrne v. City of Spokane, 67 Wash.2d 132, 136-37, 406 P.2d 595 (1965). This relationship is, or is analogous to, a contract. Sane Transit v. Sound Transit, 151 Wash.2d 60, 85 P.3d 346, 350 (2004). As a result, the voter-approved taxes must be applied in a manner consistent with the purposes set forth in the ordinance authorizing the bond issuance and approved by the voters, taking into account any discretion reserved to the City Council in the ballot language to set the limitations for the use of the bond proceeds to certain uses for certain periods of time.

The proposed amendments intend to restrict use of park land for non-park purposes, a scenario that is either adequately covered by the language of a bond issuance itself or would frustrate the intent of a bond issuance. In either case, this is not a matter properly addressed through a Comprehensive Plan amendment.

B. The proposed amendment is in compliance with the three-year limitation rules set forth in LUC 20.30I.130.A.2.d; and

The three-year limitation does not apply to this proposal.

C. The proposed amendment does not raise policy or land use issues that are more appropriately addressed by an ongoing work program approved by the City Council; and

The policy or land use issues raised by the proposed amendment are more appropriately addressed by an ongoing work program approved by the City Council. The recent 2015 Comprehensive Plan Update was the opportunity to test the adequacy of these policies to adequately frame parkland development and implementation.

The fourth policy proposed with this application would require city owned park lands to be designated as such in the Comprehensive Plan, zoned with a new "Park" designation, and with uses limited solely to active and passive recreation and open space.

The Comprehensive Plan already designates public lands, including park property, with a "P" or "PF" (Public and Public Facility designation, respectively). The Land Use Code groups categories of similar uses in permitting categories. This is based on the Standard Land Use Coding classification system in use around the country. Park, recreation and open space uses are categorized under a Recreation class of use on the premise that such uses are properly located in any of the land use districts, subject to conditions.

D. The proposed amendment can be reasonably reviewed within the resources and timeframe of the Annual Comprehensive Plan Amendment Work Program; and

This proposed amendment cannot be reasonably reviewed because it implies statutory change to the relationship between the issuing jurisdiction and those taxpayers whose taxes are pledged to the payment of the bonds. This disqualifies it from being reasonably reviewed within the resources and timeframe of the annual process.

Approval of a bond issuance creates a relationship between the issuing jurisdiction and those taxpayers whose taxes are pledged to the payment of the bonds. See O'Byrne v. City of Spokane, 67 Wash.2d 132, 136-37, 406 P.2d 595 (1965). This relationship is, or is analogous to, a contract. Sane Transit v. Sound Transit, 151 Wash.2d 60, 85 P.3d 346, 350 (2004). As a result, the voter-approved taxes must be applied in a manner consistent with the purposes set forth in the ordinance authorizing the bond issuance and approved by the voters, taking into account any discretion reserved to the City Council in the ballot language to set the limitations for the use of the bond proceeds to certain uses for certain periods of time.

The proposed amendments intend to restrict use of park land for non-park purposes, a scenario that is either adequately covered by the language of a bond issuance itself or would frustrate the intent of a bond issuance. In either case, this is not a matter properly addressed through a Comprehensive Plan amendment.

E. The proposed amendment addresses significantly changed conditions since the last time the pertinent Comprehensive Plan map or text was amended. Significantly changed conditions are defined as:

> **Significantly changed conditions.** Demonstrating evidence of change such as unanticipated consequences of an adopted policy, or changed conditions on the subject property or its surrounding area, or changes related to the pertinent Plan map or text; where such change has implications of a magnitude that need to be addressed for the Comprehensive Plan to function as an integrated whole. This definition applies only to Part 20.30I Amendment and Review of the Comprehensive Plan (LUC 20.50.046); and

Policy implementation here did not create an unanticipated consequence suggesting that additional policy is necessary.

Policy PA-37 mandates a "public review process for the conversion to non-recreational use of park lands and facilities." This policy implementation was in place governing the Balatico property conveyance as well as the provisions in the East Link MOU. The City Attorney's Office (Attachment 4) has already detailed the public review process for these actions. This policy anchors the city's—and specifically the City Council's—ability to protect taxpayer investments through prescribed statute.

PA-37's predecessor was adopted in 1985 (the Parks Element was first adopted in 1974). It thus has over 30 years of successful operation. The applicant did not bring forward the opportunity to consider such citywide consequences in the recent 2015 Comp Plan Update.

F. When expansion of the geographic scope of an amendment proposal is being considered, shared characteristics with nearby, similarly-situated property have been identified and the expansion is the minimum necessary to include properties with those shared characteristics; and

Non-site specific applications are not subject to expansion of geographic scope analysis.

G. The proposed amendment is consistent with current general policies in the Comprehensive Plan for site specific amendment proposals. The proposed amendment must also be consistent with policy implementation in the Countywide Planning Policies, the Growth Management Act (GMA), other state or federal law, and the Washington Administrative Code (WAC); or

The first part does not apply as this is not a site-specific amendment.

The proposed amendments are inconsistent with policy implementation in the Countywide Planning Policies because they direct actions that would restrict established legislative authority regarding real property conveyance, where otherwise jurisdictions should make use of the full range of regulatory and land preservation tools available to create, maintain and steward the regional open space system which has been cooperatively identified (CC-12).

The proposed amendments are inconsistent with policy implementation in the Growth Management Act because they direct actions that would restrict established legislative authority regarding Private Property and Open Space and Recreation planning goals (RCW 36.70A.020(6) and (9)).

and:

H. State law requires, or a decision of a court or administrative agency has directed such a change.

State law or a decision of a court or administrative agency has not directed the suggested change.

PUBLIC COMMENT

PCD has received two public comment on this application, one inquiring as to the motivation for the proposal and the other seeking information.

ATTACHMENTS

1. Application materials
2. List of referenced existing Plan policies
3. Public comment

ATTACHMENT 1

RECEIVED
JAN 8 2016
City Manager's Office

To: Department of Planning and Community Development

Attention Nicholas Matz

450 110th Ave NE

Bellevue, WA 98009

Date: January 8th 2016

Subject: Proposed Amendments to the Comprehensive Plan for year 2016 for non-site-specific applications.

Bellevue City Staff,

Please find attached a completed proposal for city wide non site-specific amendments for additions to the Comprehensive Plan for years 2016 per RCW 36.70A and Bellevue Code 20.30I that may result in significantly changed conditions.

Also attached are the SEPA Environmental Checklist 27, Supplemental Sheet for Nonproject Action 28 and the Environmental Checklist Information Handout L-29.

Respectfully Submitted by

Mary Smith

Mary Smith

1632 109th Ave SE

Bellevue, WA 98004

E-mail: hendershott_smith@me.com

Phone: 425-453-9919

Total of 19 pages including this page

Department of Planning & Community Development
425-452-6800 www.bellevuewa.gov

Application for
COMPREHENSIVE PLAN AMENDMENT

CPA YEAR 20__ APPLICATION DATE:	TECH INITIALS	AMANDA PROJECT FILE:

1. Project name —
2. Applicant name MARY SMITH Agent name —
3. Applicant address 1632 109th AVE SE, BELLEVUE WA 98004
4. Applicant telephone (425) 453-9919 fax (__) — e-mail hendershott_smith@me.com
5. Agent telephone (—) — fax (—) — e-mail —

This is a proposal to initiate a site-specific Comprehensive Plan Amendment proposal ☐ (Go to **Block 1**)
This is a proposal to initiate a non site-specific Comprehensive Plan Amendment proposal ☐ (Go to **Block 2**)

BLOCK 1
Property address and/or 10-digit King County parcel number _____.

Proposed amendment to change the map designation from existing _____ to proposed _____.
Site area (in acres or square feet) _____.
Subarea name _____.
Last date the Comprehensive Plan designation was considered ___/___/___.
Current land use district (zoning) _____.
Is this a concurrent rezone application? ☐Yes ☐No Proposed land use district designation _____.

Go to **BLOCK 3** Community Council: ☐ N/A ☐ East Bellevue

BLOCK 2
Proposed amendment language. This can be either conceptual or specific amendatory language; but please be as specific as possible so that your proposal can be adequately evaluated. If specific wording changes are proposed, this should be shown in ~~strike-out~~/underline format. Attach additional pages as needed.

SEE ATTACHED PAGE 4
ELEMENTS THAT ARE REFERENCED:-
1) PARKS, RECREATION & OPEN SPACE
2) ENVIRONMENT
3) URBAN DESIGN & THE ARTS

PAGE 4, BLOCK 2 1), 2), 3) AND 4)

Reference Element of the Comprehensive Plan (e.g., Land Use, Transportation, Housing, Capital Facilities):

Last date the Comprehensive Plan policy or text was considered ___/___/___.
Go to **BLOCK 3**

BLOCK 3
Support for the proposed amendment. Explain the need for the amendment—why is it being proposed? Describe how the amendment is consistent with the Comprehensive Plan Vision (Web link). Include any data, research, or reasoning that supports the proposed amendment. Attach additional pages as needed.

THE FOLLOWING ELEMENTS of THE COMPREHENSIVE PLAN SUPPORT THE PROPOSED ADDITIONS TO THE PLAN:-
PA-2 PA-5 PA-7 PA-16 PA-21 PA-29 PA30 PA-37
EN-1 EN-2 EN-4 EN-21 EN-36 EN-63 EN-89
UD-2 UD-3 UD-62 UD-83

Go to **BLOCK 4**

BLOCK 4a
Evaluating the proposed amendment. Explain how the proposed amendment is consistent with the Threshold Review Decision Criteria in LUC Section 20.30I.140 (see Submittal Requirements Bulletin #53). Attach additional pages as needed.

THE PROPOSED AMENDMENTS ARE CONSISTANT WITH SECTION 20.30.140 of THE LUC IN THAT IT ASSURES THE PUBLIC THAT THE GOALS & POLICIES IN THE COMP PLAN WILL BE ASSURED & ADDRESSES SIGNIFICANTLY CHANGED CONDITIONS.

BLOCK 4b ***complete this section only for a site-specific concurrent rezone***
Evaluating the proposed concurrent rezone. Explain how the proposed rezone would be reviewed under Rezone Decision Criteria in Land Use Code Section 20.30A.140. Attach additional pages as needed.

I have read the Comprehensive Plan and Procedures Guide ☑

NOTICE OF COMPLETENESS: Your application is considered complete 29 days after submittal, unless otherwise notified.

Signature of applicant Mary Smith Date January 6, 2016

I certify that I am the owner or owner's authorized agent. If acting as an authorized agent, I further certify that I am authorized to act as the Owner's agent regarding the property at the above-referenced address for the purpose of filing applications for decisions, permits, or review under the Land Use Code and other applicable Bellevue City Codes and I have full power and authority to perform on behalf of the Owner all acts required to enable the City to process and review such applications.

I certify that the information on this application is true and correct and that the applicable requirements of the City of Bellevue, RCW, and the State Environmental Policy Act (SEPA) will be met.

Signature — *Date* —
(Owner or Owner's Agent)

CP Amendment Proposals for year 2016

Block 2 1)

Prohibit park lands acquired through city-wide bond measures (i.e., Bellevue taxpayers) from being used for non-park purposes, unless such uses are approved through a city-wide ballot measure.

Block 2 2)

Per RCW 79A.25.100 and RCFB Manual 7 use of any park property for non-park uses that exceeds access for longer than six months duration shall be deemed permanent and shall require approval by the City Parks and Community Services Board and City Council.

Block 2 3)

Require City owned park lands to be designated as such in the Comprehensive Plan and zoned with a 'Park' zoning designation, limiting uses solely to active and passive recreation and open space.

Block 2 4)

Prior to using any dedicated public park land for non-recreational or open space use, the Comprehensive Plan shall be amended and the property shall be rezoned as a condition of such use.

March 9, 2016

Good evening, my name is Mary Smith and I reside at 1632 109th AVE SE, Bellevue and have lived here for 38 years.

I am here tonight to speak briefly on my suggested Comp Plan Amendments dealing with park land preservation and protection that I provided to the city on January 8, 2016.

I am one of the original members of the Save the Mercer Slough Committee from the late 1980's that was instrumental in saving the lands in the Mercer Slough to become part of the Mercer Slough Nature Park.

My reasoning for suggesting this amendment is land is becoming scarce for more parks and we should treasure the parks that we have. While no one can see into the future, and changes in use may be considered, it should be required that the public who paid for these park lands must be involved in any decision to change them.

In essence, my suggested Comp Plan Amendments are:

1. Park lands acquired through bond measures should remain park land unless the public votes to change the usage.
2. Any park lands used for 6 months or longer should be considered permanent consistent with state law.
3. Park lands should be designated as their own zoning code so citizens are aware the zoning is for parks only.
4. Under extreme conditions when parks are to be used for non-park uses, the Comp Plan should be amended appropriately.

Thank you for the opportunity to speak tonight on this topic.

ATTACHMENT 2

PA-2. Obtain land throughout the community to meet present and future parks and open space needs.

PA-5 Obtain, for preservation, natural areas that are sensitive to urbanization or represent a valuable natural and aesthetic resource to the community.

PA-7 Maximize use of public lands by collaborating with other City projects and programs to incorporate utility, storm drainage, underutilized right-of-way and other public lands into the parks and open space system.

PA-16 Designate active and passive recreation uses and cultural use of parkland through the master plan approval process.

PA-21 Use parks to celebrate, promote and preserve Bellevue's history, cultural arts and local heritage when consistent with the park's design and programming.

PA-29 Design, construct, operate, and maintain parklands and facilities to preserve the ecology of natural systems on parklands.

PA-30 Protect and retain, in a natural state, significant trees and vegetation in publicly and privately-dedicated greenbelt areas.

PA-37 Require a public review process for the conversion to non-recreational use of park lands and facilities.

EN-1 Balance the immediate and long range environmental impacts of policy and regulatory decisions in the context of the city's commitment to provide for public safety, infrastructure, economic development and other obligations.

EN-2 Conduct city operations in a manner that ensures the sustainable use of natural resources, promotes an environmentally safe workplace for its employees, and minimizes adverse environmental impacts.

EN-4 Promote and invest in energy efficiency and renewable energy resources as an alternative to non-renewable resources.

EN-21 Monitor surface water quality and implement measures to identify and address the sources of contamination.

EN-36 Require an analysis of soil liquefaction potential where appropriate, in the siting and design of structures and infrastructure.

EN-63 Preserve and maintain fish and wildlife habitat conservation areas and wetlands in a natural state and restore similar areas that have become degraded.

EN-89 Explore opportunities for public acquisition and management of key critical areas of valuable natural and aesthetic resources, and fish and wildlife habitat sensitive to urbanization through a variety of land acquisition tools such as conservation easements and fee-simple purchase.

UD-2 Preserve and enhance trees as a component of the skyline to retain the image of a "City in a Park."

UD-3 Foster and value the preservation of open space as a dominant element of the city's character.

UD-62 Identify and preserve views of water, mountains, skylines or other unique landmarks from public places as valuable civic assets.

UD-83 Preserve, enhance and interpret Bellevue's historical identity.

ATTACHMENT 3

Matz, Nicholas

From: CAROLYN A MAXIM <camaxim@msn.com>
Sent: Friday, March 04, 2016 2:29 PM
To: Matz, Nicholas
Subject: RE: Bellevue Planning Commission 3-9-2016 Study Session on 2016 privately-initiated Comprehensive Plan Amendments (CPA)

Nick,
Thanks for the notice. If you'd be kind enough to send a link to those materials, I'd appreciate it. Bellevue's website I find cumbersome to navigate.
I have a conflict next Wednesday but will certainly try to keep informed re the subject.
From the brief items you sent before, I'm guessing the proposals came from individuals with longstanding opinions re. the City's policies, and one speculates about what's motivating them at this particular time.
Carolyn Maxim

From: NMatz@bellevuewa.gov
To: NMatz@bellevuewa.gov
CC: EAKing@bellevuewa.gov; TCullen@bellevuewa.gov; JSteedman@bellevuewa.gov; estead@bellevuewa.gov
Subject: Bellevue Planning Commission 3-9-2016 Study Session on 2016 privately-initiated Comprehensive Plan Amendments (CPA)
Date: Fri, 4 Mar 2016 21:40:01 +0000

The Bellevue Planning Commission will be introduced in Study Session to the 2016 site-specific privately-initiated Comprehensive Plan Amendment (CPA) applications on Wednesday, March 9, 2016. The meeting location is at Bellevue City Hall, 450 110th Ave NE, in Room 1E-113. The meeting will start at **7:00** pm. The Planning Commission agenda and meeting materials are posted online. Please let me know if you would like the materials delivered in another manner.

The purpose of the Study Session is to introduce the Commission to the proposals and ask them to advise on the geographic scope of the proposals under LUC 20.30I.130.A. This is **not** the Threshold Review public hearing and a Threshold Review staff recommendation has **not** been proposed or presented.

Please also note that a Public Meeting required by LUC 20.35.327 for the Newport Hills Village and Naficy concurrent rezones will be held from 5:30-6:30 pm at Bellevue City Hall in Room 1E-113.

This is also **not** a legal notice; you are receiving this courtesy information because you are the applicant, agent, or party of record to one or more of these CPA applications.

Please contact me with any questions or issues.

Nicholas Matz AICP
Senior Planner
425 452-5371

Matz, Nicholas

From: Matz, Nicholas
Sent: Monday, February 29, 2016 2:46 PM
To: 'Renay Bennett'
Subject: RE: File Number: 16-123752-AC
Attachments: VCOBPRINTPR01_PCD_DEPT8_SP_0972_001.pdf; VCOBPRINTPR01_PCD_DEPT8_SP_0973_001.pdf

Hi Renay-

The pieces aren't missing.

Here is the map they make reference to in their application.

Here is the application page with the signature.

Please let me know what else we can provide.

Nicholas Matz AICP
Senior Planner
425 452-5371

One City
Committed to Excellence

From: Renay Bennett [mailto:renaybennett@msn.com]
Sent: Thursday, February 18, 2016 8:41 PM
To: Matz, Nicholas <NMatz@bellevuewa.gov>
Subject: File Number: 16-123752-AC

Hi Nicholas,
I was looking at this link and there is no map. Also, there is no signature on the form.
Can you please email me these two missing pieces?
Thanks!
Renay