



ENVIRONMENTAL COMMISSION MOTION 20171101 007e

Date: November 1, 2017

Subject: Recommendation regarding CodeNEXT Draft 2

Motion by: Marisa Perales

Seconded by: Hank Smith

RATIONALE:

WHEREAS, City Council designated the Environmental Commission as one of the commissions charged with reviewing and providing recommendations regarding CodeNEXT, as suggested by the Environmental Commission; and

WHEREAS, the Environmental Commission was deeply involved in developing the Watershed Protection Ordinance, passed in 2013, and in working with Watershed Protection Department staff regarding Phase 2 of that process, which includes consideration of green infrastructure components of the code; and

WHEREAS, the Environmental Commission has also been involved in monitoring the implementation of the recommendations made by the Flood Mitigation Task Force in their Report; and

WHEREAS, the Environmental Commission has benefited from comments made by members of the Flood Mitigation Task Force, as well as from members of the community near Onion Creek and in Dove Springs, regarding the flooding concerns they have; and

WHEREAS, the Environmental Commission is charged with enforcing aspects of the Heritage Tree Ordinance and has been involved in developing a comprehensive tree protection plan; and

WHEREAS, based on the above, the Environmental Commission has an interest in, and has endeavored to, remain apprised of proposed revisions to the existing Land Development Code, via CodeNEXT, particularly those revisions that address or implicate environmental issues as described above; and

WHEREAS, the Environmental Commissioners have worked with staff to obtain the information necessary to understand the implications of the proposed revisions to the code; and

WHEREAS, the Environmental Commission has worked hard with staff to review and evaluate the information in a timely manner and in accordance with the deadlines that have been imposed; and

WHEREAS, in spite of the above-described efforts, the Environmental Commissioners have not had relevant and essential draft code language, and the analysis associated with the proposed language, for a sufficient length of time to properly evaluate it and present informed substantive recommendations on the proposed language; and

WHEREAS, the affected community also has not had sufficient time to review the proposed language and analysis to evaluate it and present their concerns to the Commissioners; and

WHEREAS, the drainage impact analysis requirements for “missing middle” housing was presented to an Environmental Commission sub-committee for the first time only 1 week ago, in conceptual form, without any specific draft code language; in other words, these proposed requirements are not even part of draft 2 of the code; and

WHEREAS, proposed changes to drainage impact analysis requirements for single-family residential was likewise presented to an Environmental Commission sub-committee for the first time only 1 week ago, again in conceptual form, without any specific draft code language; in other words, these proposed requirements are not even part of draft 2 of the code; and

WHEREAS, draft language regarding “functional green” requirements is still not yet available for consideration and is now being proposed to be included in an Environmental Criteria Manual; and

WHEREAS, the Environmental Commission still has not received all the modeling and analyses that it deems necessary to evaluate the drainage and other impacts resulting from the proposed code changes, including a comparison of existing impervious cover (as it exists on the ground now) versus proposed impervious cover entitlements under CodeNEXT and localized drainage and flooding impacts; and

WHEREAS, based on what has been presented to the Environmental Commission, thus far, the Commission can make some general recommendations, but will require additional time before providing meaningful input regarding many of the revisions, additional requirements, easing of requirements, and deletion of requirements proposed in CodeNEXT; and

WHEREAS, based on the information that has been presented to the Environmental Commission thus far, the Commission cannot determine whether the proposed code revisions are sufficient to address current drainage infrastructure and flooding concerns; and

WHEREAS, further information is necessary to determine whether additional safeguards are needed, such as whether volumes of run-off need to be mitigated as well as peak flow and whether other types of development/re-development (e.g., missing middle development) should be held to similar mitigation standards and whether a decrease in impervious cover in certain areas of the City is warranted to address existing drainage concerns; and

WHEREAS, the Environmental Commission has heard from residents impacted by single-family residential construction, under existing code requirements; and

WHEREAS, it is the Environmental Commission’s recommendation that the draft code should be used as a tool to address existing environmental issues experienced by the City’s residents as well as a tool to improve upon existing environmental protections; and

WHEREAS, there has been very limited opportunity for the members of the public to provide input regarding the proposed changes to drainage impact analysis requirements for single-family residential developments; and

WHEREAS, the Environmental Commission has previously commented on the need for more robust community engagement, particularly with members of the community who are likely to be the most impacted and whose voices have not traditionally been part of conversations regarding environmental policies; and

WHEREAS, the “functional green” requirements and standards have not yet been developed and neither the Commission nor the public has had an opportunity to evaluate this issue; and

WHEREAS, based on the conceptual information presented to an Environmental Commission sub-committee last week, the Commission generally supports proposed beneficial use of stormwater provisions; and

WHEREAS, the Environmental Commission generally supports including all proposed requirements, including those addressing functional green, tree removal, etc. be included in the draft code, and to the extent that additional detail is provided (or proposed to be provided) in the ECM, that the draft ECM revisions be made available for public review and input; and

WHEREAS, economic displacement of existing communities due to lack of affordability is an environmental concern that must be addressed, but to date has not been sufficiently analyzed; and

WHEREAS, the new Equity Office has the tools to apply an equity analysis to the draft code, but has not yet had an opportunity to do so; and

WHEREAS, not all items from the Environmental Commission’s May 2017 motion/resolution regarding CodeNEXT have been addressed and still need to be addressed;

THEREFORE, the Environmental Commission recommends that the proposed timeline for consideration and adoption of the draft code be delayed to allow the City staff, the Equity Office, the Environmental Commission and members of the public to fully analyze, consider the impacts, and engage with the community regarding the proposed code changes.

VOTE 9-0

For: Perales, Thompson, Istvan, Maceo, H. Smith, Guerrero, Gordon, Creel, B. Smith

Against: None

Abstain: None

Recuse: None

Absent: Neely, Kitchin

Approved By:



Marisa Perales, Environmental Commission Chair