

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: November 26, 2012

| | | |
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| AGENDA ITEM: PA12022 – Expiration of Application | AGENDA SECTION: New business | |
| PREPARED BY: Angela Gemmer, Associate Planner | APPROVED BY: | |
| ATTACHMENTS: 1. PC Minutes, dated 9/11/12 and 10/9/12 2. PC recommendation 3. Memo to PC dated 7/24/12 4. Inventory of land use projects subject to code 5. Adopting Ordinance | | |
| | MAYOR | CAO |
| BUDGET CODE: | AMOUNT: | |

DESCRIPTION:

The Planning Commission (PC) held a Public Hearing on October 9, 2012 to review a proposed amendment to MMC Chapter 22G.010, *Land Use Application Procedures*, consisting of a new section entitled *Expiration of Application*. RCW 36.70B.080 requires establishing time periods for local government actions for each type of project permit application. Currently there is no language codified in the MMC related to the expiration of an application if an applicant does not respond to review comments or requests for additional information in a timely manner. The proposed amendment, MMC Section 22G.010.205 *Expiration of Application*, would require applicants to respond in a timely manner and keep the application status current, ensuring that projects are not allowed to be shelved and vested to outdated code requirements.

The PC held a public workshop on September 11, 2012 and a duly advertised public hearing on October 9, 2012 to review the proposal, and received testimony from staff. There was no public testimony at the public hearing. Following the public hearing, the PC made a motion to recommend the proposed amendment to Marysville City Council for adoption by ordinance.

RECOMMENDED ACTION:

Affirm the PC’s Recommendation and adopt the amendment to MMC Chapter 22G.010, *Land Use Application Procedures*, by adding MMC Section 22G.010.205, *Expiration of Application*, by Ordinance.

COUNCIL ACTION:



MARYSVILLE PLANNING COMMISSION

September 11, 2012

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the September 11, 2012 meeting to order at 7:05 p.m. noting the excused absence of Steve Lebo.

Chairman: Steve Chair Leifer

Commissioners: Jerry Andes, Marvetta Toler, Roger Hoen, Eric Emery

Staff: Senior Planner Cheryl Dungan, Associate Planner Angela Gemmer and Recording Secretary Amy Hess

Absent: Steve Lebo

APPROVAL OF MINUTES:

June 12, 2012 and July 24, 2012

Motion made by Commissioner Toler, seconded by Commissioner Andes to approve the June 12, 2012 meeting minutes as presented. Motion carries, with Commissioner Hoen abstaining as he was not present (4-0).

NEW BUSINESS:

Site Plan Review Standards

Ms. Gemmer gave an overview of the proposed revisions to the Site Plan Review Process. She described what was currently in place and what the differences would be in the proposed revisions. Additionally, an expiration term was being proposed to be established for Site Plan Reviews. Under the current economic situation, a 36 month extension could be granted. Ms. Gemmer gave some examples of how the proposed revisions could be applied in actual situations.

Commissioner Andes questioned if this was consistent with other codes. Ms. Gemmer responded that it was intended to stream line the process and codify it. Commissioner Andes questioned the Pre Application requirements. He felt that the Pre App could be a little more nailed down in some cases to prevent unforeseen costs in particular situations. Senior Planner Dungan responded that there is now language included in letters regarding Pre App stating that a Pre App approval does not vest a developer in current codes and are

subject to change. She added that the comments staff provides are quite comprehensive and try to point out any foreseeable code changes.

Chair Leifer questioned the exceptions of necessity of a site plan approval. He didn't feel that this provision was necessary if interior improvements don't require land use change. Ms. Gemmer replied that it was intended to be applied in situations where an addition was proposed. She noted that she would clarify the language to be clearer.

Commissioner Toler questioned the projects and applications that were currently unfinished. Ms. Gemmer responded that staff would make contact with the appropriate parties that would be affected by the revisions if they were adopted. The goal was to allow for an end point for projects that really will not be continued.

Ms. Gemmer noted that if the Commission was in support, it would be set for public hearing. Commissioner Emery stated he was in support of setting a Public Hearing.

FEMA Biological Opinion Response

Senior Planner Dungan stated that this was more of an informative item which didn't require any action by the Commission. She described the 3 choices cities were given for projects within flood plains. She also described the standards in place by the City and how fish within the flood plains are protected by these standards. The hope was that the documentation provided to FEMA would be accepted and current City Codes and standards would be sufficient.

Chair Leifer questioned when the Shoreline Master Program would be reviewed again. Senior Planner Dungan replied that it had been most recently updated in 2006, with some administrative changes proposed a few months back. It was scheduled for review every 7 years. Senior Planner Dungan was glad that the 2006 Plan was approved when it was, as the process seems to be a cumbersome and slow one.

There was discussion regarding requirements for traffic mitigation of coffee stands, gas stations and the like. There was also discussion regarding the new Walmart being constructed on Hwy. 9.

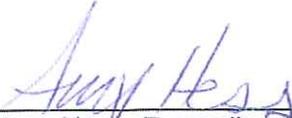
Commissioner Hoen wanted to take a moment to remember 9/11. Chair Leifer thought that it was too easy for people to become complacent and forget about what happened and let our guard down. It was a good reminder to stay vigilant.

ADJOURNMENT:

Motion made by Commissioner Emery, seconded by Commissioner Toler to adjourn the meeting at 7:54 p.m. Motion carries, (5-0).

NEXT MEETING:

September 25, 2012



Amy Hess, Recording Secretary



MARYSVILLE PLANNING COMMISSION

October 9, 2012

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the October 9, 2012 meeting to order at 7:03 p.m.

Chairman: Steve Chair Leifer

Commissioners: Jerry Andes, Marvetta Toler, Roger Hoen, Eric Emery, Steve Lebo, Kelly Richards

Staff: Senior Planner Chris Holland, Associate Planner Angela Gemmer, CAO/CD Director Gloria Hirashima, Recording Secretary Amy Hess

Absent: None

APPROVAL OF MINUTES:

September 11, 2012

Motion made by Commissioner Andes, seconded by Commissioner Toler to approve the September 11, 2012 meeting minutes as presented. Motion carries, with Commissioner Richards abstaining as he was not present (6-0).

PUBLIC HEARING:

Site Plan Review Standards

Ms. Gemmer described the 2 proposed ordinances in front of the Commission for approval tonight and the intent behind them. Commissioner Hoen questioned whether the ordinances were completely new or modifications of existing ones. Ms. Gemmer responded that both ordinances were entirely new and went into further detail of what each ordinance would accomplish if adopted. Chair Leifer requested clarification of references of what wasn't captured in 22G. What was not included? Ms. Gemmer described what was included in each section of Code and what was being proposed in the ordinances in front of the commission. Mr. Holland added that the intent was to codify the process that had been being followed since about 1995 adding that this would give the applicant some certainty of the process as well as to establish a time limit to ensure projects remain current. Chair Leifer questioned if there was any further discussion regarding what comes out of a pre-application meeting and whether or not any language had been included. Ms. Gemmer responded that staff does their best to give the most pertinent comments and anticipate any potential code changes, but that only current information could be provided at the time of

pre-app. The issue is whether or not an applicant is vested at the time of pre-app or final application.

Motion made by Commissioner Emery to approve ordinances as written and forward to Council for approval, seconded by Commissioner Toler. Motion carries, (7-0). Public Hearing closed at 7:21 p.m.

NEW BUSINESS:

School District Capital Facilities Plans

Mr. Holland went over the bi-annual process that was ahead of the City. Mr. Holland added that all fees, except for one, would all be going down significantly. There was further discussion regarding current multi-family housing projects. Commissioner Hoen had some questions related to how projected student counts were figured. Mr. Holland replied that he would have to refer those types of questions to the School District, as the City does not come up with these numbers. He recommended the Commission look over the materials provided and have questions prepared for the Public Hearing which would be held in 2 weeks.

Mr. Holland informed the Commission that the impact fee deferral ordinances had been approved by Council and seemed to be being well accepted by developers; both with current projects as well as prospective projects.

Ms. Hirashima introduced a Proclamation passed at City Council last night regarding National Community Planning Month. She echoed the sentiment of the Council recognizing the Commission for their efforts in and dedication to Community Planning.

Mr. Holland also updated the Commission on the CDBG meeting that had taken place earlier tonight and the presentation the applicants had given. Ms. Hirashima added that it was a valuable experience hearing the different groups present and that it really gives the City a better idea of the groups and organizations working within the Community.

COMMENTS FROM COMMISSIONERS:

Chair Leifer welcomed the new Commissioner, Kelly Richards. Commissioner Richards introduced himself and gave a brief biography of his life in Snohomish County.

Commissioner Emery announced that the next meeting would be his last, and he was giving his official resignation tonight. He added that he had very much enjoyed his time on the Commission.

Commissioner Lebo questioned whether there had been any discussion regarding the Doleshe! Tree Farm Property and if would be becoming a park. Ms. Hirashima described that recent conversations and events regarding this project, but that it seemed to be getting closer. Commissioner Lebo added that he felt it would be a great benefit to the community and offered his services in any aspect needed. There was agreement that it was important

to follow through with this project, especially given the amount of volunteer time that had been dedicated to this as well as the benefit to the City and Community.

ADJOURNMENT:

Motion made by Commissioner Lebo, seconded by Commissioner Richards to adjourn the meeting at 7:53 p.m. Motion carries, (7-0).

NEXT MEETING:

October 23, 2012



Amy Hess, Recording Secretary



COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue ♦ Marysville, WA 98270
(360) 363-8100 ♦ (360) 651-5099 FAX

PC Recommendation – Expiration of Application Code

The Planning Commission (PC) of the City of Marysville, having held a public hearing on October 9, 2012 in review of a NON-PROJECT action amendment of the Marysville Municipal Code, proposing amendments to the Marysville Municipal Code, Title 22G, *Administration and Procedures*, adopting a new section 22G.010.205, *Expiration of Application*, and having considered the exhibits and testimony presented, PC does hereby enter the following findings, conclusions and recommendation for consideration by the Marysville City Council:

FINDINGS:

1. The Community Development Department held a public meeting to introduce the NON-PROJECT action Expiration of Application Code to the community on September 11, 2012.
2. The proposal was submitted to the State of Washington Department of Commerce for 30-day expedited review on July 25, 2012, in accordance with RCW 36.70A.106.
3. The PC held a public work session to review the NON-PROJECT action amendment proposing adoption of the NON-PROJECT action Expiration of Application code amendment as described above, on September 11, 2012.
5. The PC held a duly-advertised public hearing on October 9, 2012 and received testimony from city staff and the public.
6. At the public hearing, the PC reviewed and considered the Expiration of Application code.

CONCLUSION:

At the public hearing, held on October 9, 2012, the PC recommended **APPROVING** the Expiration of Application code.

RECOMMENDATION:

Forwarded to City Council as a Recommendation of **APPROVAL** of the NON-PROJECT action known as Expiration of Application code, an amendment to the Marysville Municipal Code, Title 22G, *Administration and Procedures*, this **October 9, 2012**.

By: _____

Stephen Leifer, Planning Commission Chair



COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue ♦ Marysville, WA 98270
(360) 363-8100 ♦ (360) 651-5099 FAX

MEMORANDUM

DATE: July 24, 2012
TO: Planning Commission
FROM: Angela Gemmer, Associate Planner
RE: Application Expiration
PA 12022

RCW 36.70B.080 requires establishing time periods for local government actions for each type of project permit application and provide timely and predictable procedures to determine whether a completed project permit application complies with adopted development regulations. This time period should not exceed 120-days, unless written findings are made that specifies the amount of additional time is needed to process specific complete project permit applications or project types.

The 120-day review requirement and exceptions are codified in MMC 22G.010.200 *Final decision*. The 120-day clock is only running when the project is being reviewed by the City. The 120-day clock *is not* running when the City asks for additional information from the applicant, or requests revisions to the application. In some cases applicants fail to respond in a timely manner and the status of an application is simply put on hold. Currently there is no language codified in the MMC related to the expiration of an application if an applicant does not respond in a timely manner.

The following language, if adopted, would require applicants to respond in a timely manner and keep the application status current, ensuring that projects are not allowed to be shelved and vested to outdated code requirements:

22G.010.205 Expiration of Application

(1) Any application which has been determined to be complete, and for which the applicant fails to complete the next application step for a period of one hundred eighty days after issuance of the determination of completeness, or for a period of one hundred eighty days after the City of Marysville has requested additional information or studies, will expire by limitation and become null and void. The department may grant a one-hundred-eighty-day extension on a one-time basis per application. In no event shall an application be pending for more than three hundred sixty days from the date the application is deemed complete. For purposes of this section, all time during which the City is reviewing materials submitted by an applicant will be excluded. This subsection shall apply to applications regardless whether the applications were submitted prior to the effective date of this section, as amended.

(2) Applications which have been determined to be complete by the effective date of the ordinance codified in this title shall have one hundred twenty days to complete the project review, receive a decision, and complete any appeal provisions of this chapter. The department will notify any applicants in writing that are subject to this provision within thirty days of the effective date of the ordinance codified in this title.

A list of projects that would be affected by this code provision, if adopted, will be provided to the Planning Commission, prior to holding a public hearing.

LAND USE PROJECTS SUBMITTED FROM 2003 - 2012 THAT DID NOT OBTAIN PRELIMINARY APPROVAL AND WILL EXPIRE UPON IMPLEMENTATION OF EXPIRATION TERM FOR INACTIVE LAND USE PROJECTS

| File Number | Project Name | Filing Date | Preliminary Approval Date | Expiration Date | Project Description/Units |
|---|-------------------------------------|-------------|---------------------------|--------------------------------|---|
| Commercial | | | | | |
| PA06036 | Third Street Center | 4/18/06 | Not obtained. | 120-days from date of adoption | 1625 Third Street/ 4,338 SF retail and 4 multi-family units |
| PA07020 | Josten's Addition | 3/27/07 | Not obtained. | 120-days from date of adoption | 1716 4 th Street/ Commercial addition and change of use. |
| PA08032 | Mid-City Investments | 6/26/08 | Not obtained. | 120-days from date of adoption | West side of 36 th Drive NE approximately 900 feet south of 136 th Street NE/ Two new 13,432 SF buildings (total of 26,864 SF). |
| PA08040 | Quilceda Crossing | 7/29/08 | Not obtained. | 120-days from date of adoption | Northwest corner of 88 th Street NE and 36 th Avenue NE/ 15,064 SF retail complex comprised of two buildings (one 9,184 SF and the other 5,880 SF). |
| PA08046 | Northwest Baptist Church Fellowship | 9/12/08 | Not obtained. | 120-days from date of adoption | 114 Beach Avenue/ 4,168 SF fellowship hall |
| Multi-family, Condominium, Subdivision, and Short-Subdivision Developments | | | | | |
| PA06027 | Smokey Point Subdivision | 3/22/06 | Not obtained. | 120-days from date of adoption | North of 152 nd Street, east of Smokey Point Boulevard, and west of the Smokey Point Channel/256-lot subdivision |
| SP07005 | Linscott Short Plat | 7/11/07 | Not obtained. | 120-days from date of adoption | 9622 48 th Drive NE/ 4-lot short subdivision |
| SP07007 | Roberts Short Plat | 9/14/07 | Not obtained. | 120-days from date of adoption | 7723 60 th Drive NE/ 2-lot short subdivision |
| PA07008 | Audobon Ridge "Navy Housing" | 2/11/07 | Not obtained. | 120-days from date of adoption | South of 98 th Street NE and west of 83 rd Avenue NE/ 141-lot subdivision |
| PA07013 | King's Court at the Ridge | 3/9/07 | Not obtained. | 120-days from date of adoption | 5515 83 rd Avenue NE/ 24-lot subdivision |
| PA07014 | Estates at Whiskey Ridge | 3/15/07 | Not obtained. | 120-days from date of adoption | 7318 83 rd Avenue NE/ 14-lot subdivision |
| PA07034 | The Firs at Twin Lakes | 4/25/07 | Not obtained. | 120-days from date of adoption | 16900 block of 25 th Avenue NE/ 69 unit Planned Residential Development (PRD) consisting of detached SFRs. |
| PA08028 | 1310 Cedar Apartments | 5/13/08 | Not obtained. | 120-days | 1310 Cedar Avenue/ 30 unit apartment complex |
| PA09027 | Stoney Ridge | 7/17/09 | Not obtained. | 120-days | 7014 61 st Place NE/12-lot subdivision |

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING THE CITY'S MUNICIPAL CODE AND DEVELOPMENT REGULATIONS BY AMENDING TITLE 22G, ADMINISTRATION AND PROCEDURES, BY ADDING SECTION 22G.010.205, EXPIRATION OF APPLICATION; AND AMENDING SECTION 22A.010.160 OF MMC CHAPTER 22A.010, GENERAL ADMINISTRATION, RELATED TO TRACKING AMENDMENTS TO THE CITY'S UNIFORM DEVELOPMENT CODE.

WHEREAS, the State Growth Management Act, RCW Chapter 36.70A mandates that cities periodically review and amend development regulations which include but are not limited to zoning ordinances and official controls; and

WHEREAS, RCW 36.70A.106 requires the processing of amendments to the City's development regulations in the same manner as the original adoption of the City's comprehensive plan and development regulations; and

WHEREAS, the State Growth Management Act requires notice and broad public participation when adopting or amending the City's comprehensive plan and development regulations; and

WHEREAS, the City, in reviewing and amending its development regulations has complied with the notice, public participation and processing requirements established by the Growth Management Act, as more fully described below; and

WHEREAS, the City Council of the City of Marysville finds that from time to time it is necessary and appropriate to review and revise provisions of the City's municipal code and development code (MMC Title 22); and

WHEREAS, during public meetings on September 11, 2012 and October 9, 2012, the Planning Commission discussed the proposed amendments to MMC Title 22G, Administration and Procedures;

WHEREAS, after providing notice to the public as required by law, on October 9, 2012, the Marysville Planning Commission held a Public Hearing on the proposed amendments to the City's development regulations; and

WHEREAS, on October 9, 2012 the Planning Commission made a Recommendation to the City Council recommending the adoption of the proposed amendments to MMC Title 22G, Administration and Procedures, by adding MMC Section 22G.010.205, Expiration of Application; and

WHEREAS, at a public meeting on _____, the Marysville City Council reviewed and considered the Planning Commission's Recommendation and proposed amendments to the development regulations; and

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on July 25, 2012, as required by RCW 36.70A.106;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Approval of Planning Commission's Recommendation and Adoption of Findings and Conclusions. The Planning Commission's October 9, 2012 Recommendation regarding the proposed development regulation revisions, including the Findings and Conclusions contained therein, as set forth in the attached **Exhibit "A"**, is hereby adopted and incorporated herein by this reference.

Section 2. Required Findings. In accordance with MMC 22G.010.500, the following findings are made regarding the development regulation amendments subject of this ordinance:

- (1) The amendments are consistent with the purposes of the comprehensive plan;
- (2) The amendments are consistent with the purpose of Title 22 MMC;
- (3) There have been significant changes in the circumstances to warrant a change;
- (4) The benefit or cost to the public health, safety and welfare is sufficient to warrant the action.

Section 3. MMC Title 22G, Administration and Procedures, is hereby amended by adopting new Section 22G.010.205, Expiration of Application, to read as follows:

22G.010.205 Expiration of Application

(1) Any application which has been determined to be complete, and for which the applicant fails to complete the next application step for a period of one hundred eighty days after issuance of the determination of completeness, or for a period of one hundred eighty days after the City of Marysville has requested additional information or studies, will expire by limitation and become null and void. The department may grant a one-hundred-eighty-day extension on a one-time basis per application. In no event shall an application be pending for more than three hundred sixty days from the date the application is deemed complete. For purposes of this subsection, all time during which the City is reviewing materials submitted by an applicant will be excluded. This subsection shall apply to applications regardless of whether the applications were submitted prior to the effective date of this section, as amended.

(2) Applications which have been determined to be complete by the effective date of the ordinance codified in this title shall have one hundred twenty days to complete the project review, receive a decision, and complete any appeal provisions of this chapter. The department will notify any applicants in writing that are subject to this provision within thirty days of the effective date of the ordinance codified in this title. For purposes of this subsection, all time during which the City is reviewing materials submitted by an applicant will be excluded.

Section 4. Section 22A.010.160, Amendments, of MMC Chapter 22A.010, General Administration, is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City's Unified Development Code:

"22A.010.160 Amendments.

The following amendments have been made to the UDC subsequent to its adoption:

| <u>Ordinance</u> | <u>Title (description)</u> | <u>Effective Date</u> |
|------------------|----------------------------|-----------------------|
| _____ | Expiration of Application | _____, 2012" |

Section 5. Severability. If any section, subsection, sentence, clause, phrase or work of this ordinance should be held to be invalid or unconstitutional by a court of competent

jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 6. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2012.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
CITY CLERK

Approved as to form:

By: _____
GRANT K. WEED, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)