

**CITY OF MARYSVILLE**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: June 10, 2013**

AGENDA ITEM: PA 12014 Lakewood Station BSP/Rezone	AGENDA SECTION: New Business	
PREPARED BY: Chris Holland, Planning Manager	APPROVED BY:	
ATTACHMENTS: 1. Adopting Ordinance, including: <ul style="list-style-type: none"> <li>• <b>Exhibit A</b> – HE Recommendation</li> <li>• <b>Exhibit B</b> – Rezone Boundary Map</li> </ul> 2. HE Minutes 3. Staff Recommendation 4. Preliminary BSP	MAYOR	CAO
	AMOUNT:	

**DESCRIPTION:**

Smokey Point Commercial, LLC, submitted a Binding Site Plan (BSP) and concurrent Rezone application proposing to subdivide 39.4-acres of property into 11-lots and construct between 170,000 – 290,000 SF of commercial space and approximately 350 multi-family units and concurrently Rezone a portion of the property in order to increase the acreage of Mixed Use zoning from 13-acres to approximately 16.6-acres, with the remaining acreage to retain General Commercial zoning. The proposed project is generally located north of 172<sup>nd</sup> Street NE (SR 531) on either side of 25<sup>th</sup> Avenue NE.

The Hearing Examiner held a public hearing on the BSP and concurrent Rezone application on March 28, 2013 and adopted Finding and Conclusions approving the preliminary BSP request, subject to twelve (12) conditions, and recommended approval of the Rezone request to Marysville City Council, as set forth in Exhibit A of the attached ordinance.

The proposed layout of the preliminary BSP will require a street vacation of 25<sup>th</sup> Avenue NE. Street vacations are processed pursuant to Chapter 12.32 MMC, *Vacation of Streets and Alleys*, and will be reviewed by Marysville City Council under a separate application, once the final road configuration has been determined and access to SR 531 has been approved by WSDOT.

**RECOMMENDED ACTION:**

Affirm the recommendation of the Hearing Examiner, rezoning a portion of the preliminary BSP from General Commercial to Mixed Use, and authorize the Mayor to sign the ordinance amending the official zoning map of the City.

**COUNCIL ACTION:**

**CITY OF MARYSVILLE**

**Marysville, Washington**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AFFIRMING THE RECOMMENDATION OF THE HEARING EXAMINER FOR THE LAKEWOOD STATION BINDING SITE PLAN AND SITE SPECIFIC REZONE, INCREASING THE ACREAGE OF MIXED USE ZONING FROM 13 TO APPROXIMATELY 16.6-ACRES, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY.**

WHEREAS, Smokey Point Commercial, LLC, submitted a Binding Site Plan (BSP) and concurrent Rezone application proposing to subdivide 39.4-acres of property into 11-lots and construct between 170,000 – 290,000 SF of commercial space and approximately 350 multi-family units and concurrently Rezone a portion of the property in order to increase the acreage of Mixed Use zoning from 13-acres to approximately 16.6-acres, with the remaining acreage to retain General Commercial zoning; and

WHEREAS, following notice as required by law, the Hearing Examiner held a public hearing on the BSP and concurrent Rezone application on March 28, 2013 and adopted Finding and Conclusions approving the preliminary BSP request, subject to twelve (12) conditions, and recommended approval of the Rezone request to Marysville City Council, as set forth in the attached **Exhibit A**; and

WHEREAS, Marysville City Council held a public meeting on said rezone on June 10, 2013 and concurred with the Findings, Conclusions and Recommendation of the Hearing Examiner;

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

Section 1. The Findings, Conclusions and Recommendation of the Hearing Examiner, as set forth in the attached **Exhibit A**, are hereby approved and adopted by this reference, and the City Council hereby finds as follows:

- (1) The rezone is consistent with the purposes of the Marysville Comprehensive Plan;
- (2) The rezone is consistent with the purpose of Title 22 MMC;
- (3) There have been significant changes in the circumstances to warrant the rezone; and
- (4) The benefit or cost to the public health, safety and welfare is sufficient to warrant the rezone.

Section 2. The areas depicted in attached **Exhibit B** are hereby rezoned from General Commercial to Mixed Use.

Section 3. The zone classification for the property depicted in attached **Exhibit B** shall be perpetually conditioned upon strict compliance with the conditions of the preliminary BSP as provided in the Findings, Conclusions and Recommendation of the Hearing Examiner, as set forth in the attached **Exhibit A**. Violation of any condition of said decision may result in reversion of the property to the previous zoning classification and/or may result in enforcement action being brought by the City of Marysville.

Section 4. The official zoning map of the City of Marysville is hereby amended to reflect the reclassification of the property from the zoning designation General Commercial to Mixed Use as depicted in **Exhibit B**.

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.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF MARYSVILLE

By: \_\_\_\_\_  
JON NEHRING, MAYOR

Attest:

By: \_\_\_\_\_  
SANDY LANGDON, CITY CLERK

Approved as to form:

By: \_\_\_\_\_  
GRANT K. WEED, CITY ATTORNEY

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**CITY OF MARYSVILLE**  
**Hearing Examiner**  
**Findings and Conclusions**  
**Preliminary Binding Site Plan Decision/Rezone Recommendation**

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**APPLICANT:** Smokey Point Commercial, LLC

**FILE NO.:** PA12014

**LOCATION:** North of 172<sup>nd</sup> Street NE (SR 531) east and west of 25<sup>th</sup> Avenue NE  
2609 172<sup>nd</sup> St NE, Marysville, WA 98270

**APPLICATION:** Preliminary Binding Site Plan and concurrent Rezone in order to subdivide 39.4 acres into 11 lots and construct between 170,000 – 290,000 square feet of commercial space and approximately 350 multifamily dwelling units.

**SUMMARY OF DECISION:**

**Staff Recommendation:** Approve the Preliminary Binding Site Plan request, with conditions  
Recommend Approval of the Rezone request to the Marysville City Council

**Hearing Examiner Decision:** Approve the Preliminary Binding Site Plan request, with conditions  
Recommend approval of the Rezone request to the Marysville City Council

**PUBLIC HEARING:**

After reviewing the official file, which included the Marysville Community Development Department Staff Recommendation; and after visiting the site, the Hearing Examiner conducted a public hearing on the request for the Preliminary Binding Site Plan and concurrent Rezone. These are two separate requests for which the hearing was held concurrently and for which the Hearing Examiner will issue a decision on the Preliminary Binding Site Plan and a recommendation to the City Council on the Rezone. The combined hearing on the Preliminary Binding Site Plan and the Rezone was opened at 7:15 p.m., March 28, 2013, in the Council Chambers, Marysville, Washington, and closed at 8:28 p.m. Participants at the public hearing included representatives of the City of Marysville, the applicant, and neighborhood residents, and are listed below and in the minutes of the hearing. E-mail correspondence from the Washington State Department of Transportation was submitted for the record. A verbatim

recording of the hearing and summary minutes are available in the Community Development Department. A list of exhibits offered and entered into the record at the hearing and a list of parties of record are attached at the end of this report.

#### **HEARING COMMENTS AND TESTIMONY:**

The Hearing Examiner noted for the record that the issue under consideration is the combined application for a Preliminary Binding Site Plan and a Rezone. Substantive issues related to the Marysville Municipal Code (MMC) are as follows:

1. MMC 22G.100 sets forth the factors to be considered in review of a proposed binding site plan, and provides for the process to include a public hearing before the hearing examiner
2. MMC 22G.010.420 sets forth the criteria applicable to a request for a zone reclassification
3. MMC 22G.010.430(2) provides for a concurrent process for a preliminary binding site plan and a rezone

Testimony was provided by the City of Marysville, the applicant and neighborhood residents. A summary of the testimony is as follows:

#### **City of Marysville, Community Development Department – Chris Holland, Planning Manager**

Mr. Holland reviewed the applicant's current request and the history of the proposed Preliminary Binding Site Plan and Rezone as summarized here and documented in the Staff Recommendation (Exhibit 69):

- A Rezone is requested to adjust the zoning boundaries on the subject 39.4 acre site to increase the acreage of the Mixed Use (MU) zoning by 3.6 acres, resulting in approximately 16.6 acres of MU zoning, with the balance of the 22.8 acres being zoned General Commercial (GC).
- A Preliminary Binding Site Plan is requested to define the proposed site development layout and plan for utilities, access and circulation, subject to conditions and allowing for design flexibility to address emerging issues and refinements prior to the administrative issuance of a Final Binding Site Plan.
- A Mitigated Determination of Non-Significance (MDNS) was issued on February 25, 2013, with 20 conditions intended to mitigate potential adverse environmental impacts. The MDNS appeal period ended on March 4, 2013 with no comments or appeals.
- Mr. Holland entered into the record, Exhibits 70 – 76 that document correspondence with the Washington State Department of Transportation (WSDOT), adopted land use and transportation plan maps, and a memorandum to the Hearing Examiner regarding 172<sup>nd</sup> Street NE and 25<sup>th</sup> Avenue NE.
- Mr. Holland noted that WSDOT had not provided comments regarding the SEPA threshold determination, the appeal period for which ended on March 4, 2013. WSDOT is now requesting widening of 172<sup>nd</sup> Street NE (SR 531) from 5 to 8 lanes, and disallowing a proposed traffic signal at 25<sup>th</sup> Avenue NE due to signal spacing standards that require .5 mile spacing between signals.

- While the spacing between the existing signal at 27<sup>th</sup> Avenue NE and the proposed signal at 25<sup>th</sup> Avenue NE – which is an existing street that would be improved with redevelopment of the site – does not meet WSDOT spacing standards, traffic impact analysis conducted for the proposed development demonstrated adequate level of service along 172<sup>nd</sup> Street NE would be maintained with the signal as proposed at 25<sup>th</sup> Avenue NE.
- Mr. Holland acknowledged that WSDOT must approve any roadway channelization and signalization plans, and pointed out the City of Marysville's adopted plans that call for the build-out of 25<sup>th</sup> Avenue NE as a north-south arterial. The intersection of 25<sup>th</sup> Avenue NE and 172<sup>nd</sup> Street NE warrants appropriate traffic control. The specific width and channelization of 172<sup>nd</sup> Street NE and the location of the intersection and the type of traffic control at 25<sup>th</sup> Avenue NE may be subject to negotiations with WSDOT. Mr. Holland expressed that MDNS condition #8 provides the necessary flexibility to design 172<sup>nd</sup> Street NE to meet WSDOT specifications. In Exhibit 76, Mr. Holland offered alternate language to MDNS Condition NO. 14 that would accommodate alternate traffic control such as a roundabout at the 25<sup>th</sup> Avenue NE/172<sup>nd</sup> Street NE intersection.
- Staff recommends the Hearing Examiner approve the proposed Preliminary Binding Site Plan request, and recommend approval to the City Council of the proposed Rezone, subject to conditions as provided in the staff recommendation.

#### **Applicant – Dan Eernisse**

As a representative of the applicant Mr. Eernisse reviewed the evolution of the proposed Preliminary Binding Site Plan and Rezone, and acknowledged ongoing conversations with the neighbors regarding specific site and building design concerns and with the Washington State Department of Transportation regarding the location and traffic control for NE 25<sup>th</sup> Street and 172<sup>nd</sup> Avenue NE intersection. Mr. Eernisse requested the Hearing Examiner approve the Preliminary Binding Site Plan and Rezone request, and concurs with the conditions of approval recommended by staff.

#### **Public Comment**

- Peter Cowley. Concerned that the neighborhood received inadequate notice regarding the SEPA threshold determination, noting that signs posted on the site had fallen down and that mailed notice arrived only 5 days prior to the end of the SEPA comment/appeal period. Expressed concerns about drainage, noise impacts, increases in traffic, and the height of proposed apartment buildings, and offered that roadway infrastructure be expanded to address projected traffic volume.
- Julie Workman. Member of the Lakewood Homeowners Association. Commented about inadequate and untimely notice, traffic impacts, and the height of future apartment buildings adjacent to the single family neighborhood.
- Kermit (Rob) Metcalf. Adjacent property owner to the north. Supports the proposal and requests that utilities be designed in such a way so as to allow for extensions beyond the site to serve potential future development.

**WRITTEN COMMENTS:**

No written comments were to the record at the public hearing, other than those introduced by Mr. Holland. However Mr. Cowley introduced 5 photographs that are included collectively in the record as Exhibit 77.

**FINDINGS, CONCLUSIONS AND DECISION/RECOMMENDATION:**

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

**A. FINDINGS AND CONCLUSIONS:**

1. The information contained in the Community Development Department Staff Recommendation (Exhibit 69) is found by the Hearing Examiner to be supported by the evidence presented during the hearing and is by this reference adopted as portion of the Hearing Examiner's findings and conclusions. A copy of the Staff Recommendation is available in the Marysville Community Development Department.
2. The minutes of the hearing are an accurate summary of the testimony offered at the hearing and are by this reference entered into the official record.
3. Specific Findings and Conclusions with respect to the Preliminary Binding Site Plan and Rezone are as follows:
  - a. FINDINGS:
    - Reconfiguration of the zoning (Rezone) for the Mixed Use (MU) component of the site plan provides for multi-family housing opportunities at a suitable location and provides for a transition from commercial uses to adjacent residential development.
    - Per MMC 22G.100.110, approval of the Preliminary Binding Site Plan constitutes authorization for the applicant to take the necessary steps to meet the conditions imposed by the City before commencing the final binding site plan review process.
    - A mitigated determination of non-significance (MDNS) was issued by the City of Marysville on February 15, 2013, with 20 conditions or mitigation measures. The MDNS was subject to a 15-day comment/appeal period that expired on March 4, 2013. Public Notice for the SEPA threshold determination and the open record public hearing for the proposed Preliminary Binding Site Plan and concurrent Rezone was provided in accordance with MMC 22E.030.120 and MMC 22G.010.110.
    - The City received no timely comments or appeals of the MDNS.
    - Per MMC 22E.030.090(5)(c). Mitigation measures identified in an MDNS are considered conditions of permit approval.
    - MDNS Condition No. 8 provides for the necessary right-of-way for 172<sup>nd</sup> Street NE (SR 531) to be approved by WSDOT and the City Engineer prior to civil construction plan approval.

- MDNS Condition No. 14, as proposed to be amended per Exhibit 76 provides reasonable flexibility for the parties (City of Marysville, applicant, WSDOT) to determine to their mutual satisfaction the location and traffic control measures for the proposed roadway intersection of 172<sup>nd</sup> Street NE at 25<sup>th</sup> Avenue NE.
- Exhibit 73 – City of Marysville Comprehensive Plan Land Use Map identifies General Commercial, Mixed Use and Multi-Family as the predominant planned land uses in the Lakewood neighborhood. Exhibit 75 – City of Marysville Transportation Element plan for Connector Roads identifies a southward extension of 25<sup>th</sup> Avenue NE across 172<sup>nd</sup> Street NE. Together, these two exhibits provide a clear indication of the City of Marysville intent for an integrated land use and transportation plan that includes an intersection on 172<sup>nd</sup> Street NE that would be located at the approximate existing southern terminus of 25<sup>th</sup> Avenue NE. Plans do not specify what, if any traffic control mechanism would be appropriate for that intersection.
- Exhibit 72 expresses the WSDOT disapproval of a proposed signalized intersection at 172<sup>nd</sup> Street NE (SR 531) and 25<sup>th</sup> Avenue NE due to the close spacing (680 feet) from the existing signalized intersection at 27<sup>th</sup> Avenue NE. WSDOT standards provide for .5 mile spacing on highways of the classification of 172<sup>nd</sup> Street NE, with a possible reduction to .25 mile spacing under certain conditions. WSDOT proposes that a signalized intersection could be permitted on the western edge of the property, or, a roundabout could be allowed at 25<sup>th</sup> Avenue NE if feasible.
- An alternate location for a signalized intersection at the western edge of the property would not be supported by the City of Marysville, as articulated in a City of Marysville memorandum to the Hearing Examiner - Exhibit 76.
- Exhibit 76 provides alternate language for MDNS Condition No. 14 regarding the 25<sup>th</sup> Avenue NE/172<sup>nd</sup> Street NE intersection that the City believes would be satisfactory to WSDOT.
- As of the close of the public hearing on March 28, the Hearing Examiner was not aware of a response from WSDOT of the City's proposed alternate language to MDNS Condition No. 14.
- Site-specific design and development approval will occur in the Final Binding Site Plan. Conversations and negotiations with adjacent property owners regarding issues of concern identified at the public hearing, such as utility location, building height, fence height and materials, traffic and noise mitigation and others that may emerge will be addressed as administrative decisions, in accordance with MMC 22G.100.
- Per MMC 22G.010.170(3)(a-e) the Hearing Examiner finds the proposal, as conditioned, is consistent with adopted development codes, plans and regulations.



- Per MMC 22G.010.420 the Hearing Examiner finds the proposal complies with the criteria for approval of a Rezone, and incorporates the request for a street vacation of 25<sup>th</sup> Avenue NE in the recommendation to the City Council.

b. CONCLUSIONS:

- Staff recommended MDNS conditions adequately mitigate identified potential adverse environmental impacts of the proposal.
- MDNS Condition No. 14 is hereby amended per Exhibit 76 and incorporated in Section B below.
- Staff recommended conditions for the Preliminary Binding Site Plan adequately address site specific development conditions.
- The applicant has satisfactorily demonstrated that the proposal is consistent with the Comprehensive Plan and has addressed the criteria for approval of a zone reclassification (Rezone) MMC 22G.010.420.

**B. DECISION ON PRELIMINARY BINDING SITE PLAN/RECOMMENDATION FOR REZONE:**

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner APPROVES the Preliminary Binding Site Plan request, and RECOMMENDS APPROVAL of the Rezone request with conditions per the staff recommendation for the Preliminary Binding Site Plan/Concurrent Rezone and the SEPA MDNS mitigation as follows:

PRELIMINARY BINDING SITE PLAN/CONCURRENT REZONE

1. The preliminary Binding Site Plan (BSP) received by the Community Development Department on March 1, 2013 (Exhibit 66) shall be the approved preliminary BSP layout.
2. The Rezone proposal identifying the revised boundary between MU zoning and GC zoning received by the Community Development on March 1, 2013 (Exhibit 67) shall be the zoning configuration recommended to the City Council for approval. This recommendation for Rezone approval includes the request for street vacation of 25<sup>th</sup> Avenue NE.
3. Project design shall comply with the condition of the Comprehensive Plan Map Amendment and concurrent rezone Ordinance No. 2755, requiring two (2) east-west road connections, one located at approximately the 17300 Block and the other located at approximately the 17500 Block.
4. All power lines, telephone wires, television cables, fire alarm systems and other communication wires, cables or lines shall be placed underground either by direct burial or by means of conduit or ducts providing service to each building.
5. A six (6) to eight (8) foot CMU wall shall be installed along the east perimeter of the development from 173<sup>rd</sup> Street NE to the northeast property corner, separating the multi-family and commercial uses from the Lakewood Commons single-family condominium development. This detail shall be provided on the on the civil construction, and/or architectural plans.

6. The following design elements shall be incorporated into the commercial portion of the BSP:
- a. Public entrances for the buildings located along 25<sup>th</sup> Avenue NE, 27<sup>th</sup> Avenue NE, 172<sup>nd</sup> Street NE (SR 531) and 173<sup>rd</sup> Street NE shall be visible and accessible from public streets and sidewalks. Preferably these access ways should be separated from the parking and drive aisles. If access traverses the parking lot, then it should be raised and clearly marked.
  - b. Pedestrian-oriented space shall be required at intersections and street corners leading directly to a building entry or entries, such as:
    - i. Pedestrian access to the abutting structures from the street;
    - ii. Paved walking surfaces of either concrete or approved unit paving;
    - iii. Pedestrian scaled lighting (no more than 15' in height) at a level averaging at least 2 foot candles throughout the space;
    - iv. Landscaping components that add seasonal interest to the space;
    - v. Pedestrian amenities, such as a water feature, drinking fountain, tables, and/or distinctive paving or artwork.
    - vi. A pedestrian-oriented building façade.
    - vii. If providing pedestrian oriented space is not feasible or desirable per the director, consider the following:
      - A. Install substantial landscaping (at least 30 x 30' or 900 SF of ground surface area with trees, shrubs, and or groundcover). The space may include a special architectural element, such as a trellis, to add identity or demarcation of the area. Such an architectural element may have a sign incorporated into it (as long as such sign does not identify an individual business or businesses).
      - B. Other treatments will be considered by the Director, provided they meet the intent of the standards and guidelines outlined above.
  - c. Blank walls shall not be allowed on elevations facing a public or private road. A blank wall is a ground floor wall, or portion of a ground floor wall, over 4' in height having a horizontal length greater than 15' that does not include a transparent window or door, or, any portion of a ground floor wall having a surface area of 400 SF or greater that does not include a transparent window. Design Treatments to eliminate blank walls shall include, but shall not be limited to:
    - i. Transparent windows or doors;
    - ii. Display windows;
    - iii. Landscape planting bed at least 5 feet wide or a raised planter bed at least 2 feet high and 3 feet wide in front of the wall. Such planting

- areas shall include planting materials that are sufficient to obscure or screen at least 60% of the wall's surface within 3 years;
- iv. Installing vertical trellis in front of the wall with climbing vines or plant materials sufficient to obscure or screen at least 60% of the wall's surface within 3 years. For large areas, trellises should be used in conjunction with other blank wall treatments.
  - v. Other methods such as murals or special building material treatments that meet the intent of the standards outlined above may be approved by the director.
- d. Street furniture, including the following elements, shall be provided and strategically located throughout:
- i. Trash Receptacles: Ironsites Series S-20 as manufactured by Victor Stanley; Powdercoating Victor Stanley, or comparable.
  - ii. Ash Urn: Ironsites Series S-20 as manufactured by Victor Stanley; Powdercoating Victor Stanley, or comparable.
  - iii. Benches: Victor Stanley RB-28 steel sides bench or Timber Form Renaissance Model 2806-5, 5'-1" length with arm rest; Powdercoat over galvanized zinc, or comparable.
- e. Plazas and gathering places for relaxing, eating, socializing and recreating shall be provided and designed, as follows:
- iv. Sized between 5,000 to 10,000 SF.
  - v. Able to serve as a center for daily activities.
  - vi. Paving should be unit pavers or concrete with special texture, pattern, and/or decorative features.
  - vii. Pedestrian amenities should be provided, including features such as seating, plants, drinking fountains, artwork, and such focal points as sculptures or water features.
7. Detailed recreational site amenities and boundaries of proposed recreational facilities shall be provided on the civil construction, architectural, or landscape plans for the multi-family portion of the site in accordance with MMC 22C.020.270 & MMC 22C.020.280. Recreational amenities shall be reviewed and approved by the Parks Director.
8. A detail of the bicycle parking spaces shall be provided on the civil construction or architectural plans, and designed in accordance with MMC 22C.130.060.
9. A lighting plan and details for parking lot illumination locations, materials and fixture design shall be provided on the civil construction or architectural plans. Lighting shall comply with the following design standards:
- a. 25' maximum height.

- b. Fixtures shall be full cut-off, dark sky rated, with lower fixtures preferable so as to maintain a human scale.
  - c. Parking lot lighting shall be designed to provide security lighting to all parking spaces.
  - d. Lighting shall be shielded in a manner that does not disturb residential uses or pose a hazard to passing traffic. Lighting should not be permitted to trespass onto adjacent private parcels nor shall light source (luminaire) be visible at the property line.
  - e. Fixture design shall incorporate unique design features that coincide with the architectural design of the development.
  - f. Pedestrian scale lighting (light fixtures no taller than 15') is required in areas of pedestrian activity. Lighting shall enable pedestrians to identify a face 45' away in order to promote safety.
  - g. Exterior lighting shall be part of the architectural concept. Lighting shall enhance the building design and adjoining landscaping. It should provide adequate lighting to ensure safety and security, and enhance and encourage evening activities. In addition, the following shall be addressed:
    - i. The site plan shall identify lighting equipment and standards. Uplighting on trees and provisions for seasonal lighting are encouraged.
    - ii. Accent lighting on architectural and landscape features is encouraged to add interest and focal points.
10. Prior to civil construction plan approval, a detailed landscaping plan depicting all of the applicable elements outlined in MMC 22C.120.030 will be required to be submitted for review and approval. The landscape plan shall incorporate the following design elements, as outlined in Chapter 22C.120 MMC:
- a. All landscaped areas shall be provided with an irrigation system or a readily available water supply with at least 1 outlet located within 50' of all plant material.
  - b. Water conservation measures shall be applied as outlined in MMC 22C.120.050.
  - c. The proposed and existing residential structures shall be buffered from commercial structures and adjoining parking lots by use of vegetation, landscaping, fencing, walls, berms or other similar methods which are deemed under the circumstances to create effective and aesthetically pleasing screens or buffers between such diverse land uses.
  - d. Site development shall be sensitive to the preservation of native trees, where applicable.
  - e. A 20' L1 landscape buffer, plus a quality 6' minimum height, sight-obscuring fence or wall, is required to be installed to create a buffer between the

- commercial portion of the site and the existing single-family residential properties.
- f. A 10' L1 landscape buffer, plus a quality 6' minimum height, sight-obscuring fence or wall, is required to be installed to create a buffer between the multi-family portion of the site and the existing single-family residential properties.
  - g. A 10' L2 landscape buffer, plus a quality 6' minimum height, sight-obscuring fence or wall, is required to be installed to create a buffer between the commercial portion of the site and the proposed multi-family residential properties.
  - h. A 15' L3 landscape buffer is required between off-street parking and drive-aisles and 172<sup>nd</sup> Street NE (SR 531).
  - i. A 10' L3 landscape buffer is required between off-street parking and drive-aisles and 27<sup>th</sup> Avenue NE, 25<sup>th</sup> Avenue NE, 173<sup>rd</sup> Street NE and 174<sup>th</sup> Street NE.
  - j. The development shall create a well-defined streetscape to allow for the safe movement of pedestrians. Whenever possible, building setbacks shall be minimized and parking and drive-through passageways shall be relegated to the side and rear of buildings.
  - k. Attractive landscape transition to adjoining properties shall be provided.
  - l. Where buildings are not located along the street frontages, enhanced landscaping shall be required in order to create an attractive street edge.
  - m. Ten (10%) percent of the required parking areas shall be landscaped with L4 landscaping, provided that:
    - i. No parking stall shall be located more than 45' from a landscaped area;
    - ii. All landscaping must be located between parking stalls, at the end of parking columns, or between stalls and the property line;
    - iii. All individual planting areas within parking lots shall be planted with at least one tree, be a minimum of 5' in width and 120 SF in size, and in addition to the required trees, shall be planted with a living groundcover;
    - iv. All landscaped areas shall be protected from vehicle damage by a 6" protective curbing. Wheel stops may be substituted when required to allow storm water to pass.
    - v. A minimum 2' setback shall be provided for all trees and shrubs where vehicles overhang into planted areas.
  - n. Pursuant to MMC 22C.130.050(6), screening in the form of a solid masonry wall, architectural fence or dense coniferous hedge shall be effected or planted and maintained to a height of not less than 5' where a parking lot has a common boundary line with any residentially developed property.
  - o. Street trees are required to be planted along all public streets and access roads/easements and comply with the following:

- i. Street trees shall be planted between the curb and the walking path of the sidewalk. Either 5' x 5' pits with tree grates or a continuous planting strip with groundcover that is at least 5' wide may be used. Where planting strips are not incorporated into the design, street trees shall be located behind the sidewalk.
  - ii. Street trees shall meet the most recent ANSI standards for a 1 ½" caliper tree at the time of planting, and shall be spaced to provide a continuous canopy coverage within 10-years.
  - p. Utility meters, electrical conduit, and other service utility apparatus shall be located and/or designed to minimize their visibility to the public. If such elements are mounted in a location visible from the street, pedestrian pathway, common open space, or shared auto courtyards, they shall be screened with vegetation or by architectural features.
  - q. Additional landscaping design standards related to site and building design are outlined in MMC 22C.020.250.
11. The following calculations and design elements for storage space and collection points for recyclables shall be provided on the civil construction or architectural plans and approved by the Sanitation Division:
- a. Residential:
    - i. 1 ½ SF per dwelling unit.
    - ii. The storage area shall be dispersed in collection points throughout the site.
    - iii. Minimum of 1 collection point for every 30 dwelling units.
    - iv. Collection points may be located within residential buildings, in separate buildings/structures without dwelling units, or outdoors.
    - v. Collection points located in separate buildings/structures or outdoors shall be no more than 200' from a common entrance of a residential building.
    - vi. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way.
  - b. Commercial:
    - i. 5 SF per every 1,000 SF of commercial GFA.
    - ii. Storage space may be allocated to a centralized collection point.
    - iii. Outdoor collection points shall not be located in any required setback areas.
    - iv. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way.

- v. Access to collection points may be limited, except during regular business hours and/or specified collection hours.
- c. Generally:
  - i. Dimensions of the collection points shall be of sufficient width and depth to enclose containers for recyclables.
  - ii. Architectural design of any structure enclosing an outdoor collection point, or any building primarily used to contain a collection point, shall be consistent with the design of the primary structure(s) on the site.
  - iii. Collection points shall be identified by signs not exceeding 2 SF.
  - iv. A 6' wall or fence shall enclose any outdoor collection point.
  - v. Enclosures for outdoor collection points and buildings used primarily to contain a collection point shall have gate openings at least 12' wide for haulers. In addition, the gate opening for any building or other roofed structure used primarily as a collection point shall have a vertical clearance of at least 12'.
  - vi. Weather protection of recyclables shall be ensured by using weather-proof containers or by providing a roof over the storage area.
- 12. The following solid waste details will be required to be provided on the civil construction, architectural, or landscape plans:
  - a. Service elements shall be located to minimize the negative visual, noise, odor, and physical impacts to the street environment, adjacent (on and off-site) residents or other uses, and pedestrian areas.
  - b. The designated spot for service elements shall be paved with concrete.
  - c. Appropriate enclosure of the common trash and recycling elements shall be required, as determined by the Director. Requirements and considerations:
    - i. A 6-foot fence constructed of concrete block or brick enclosing trash and recycling receptacles is required. Coordination with the current franchise hauler is required. The sides and rear of the enclosure must be screened with Type L1, L2, L3, or L4 Landscaping at least 5' deep in visible locations, as determined by the director, to soften the views of the screening element and add visual interest.
    - ii. Preferably, service enclosures are integrated into the building itself.

#### SEPA MITIGATED DETERMINATION OF NON-SIGNIFICANCE

A Mitigated Determination of Non-Significance (MDNS) was issued on February 15, 2013. The following mitigation measures are imposed to minimize the probable significant adverse environmental impacts of the proposed Preliminary Binding Site Plan and concurrent Rezone for Lakewood Station (Note Amended Condition No. 14):

1. The applicant/contractor shall adhere to the recommendation outlined in Geotechnical Engineering Study, prepared by Earth Solutions NW, LLC, dated May 21, 2012, or as amended.
2. *Prior to civil construction plan approval*, the applicant shall submit a more detailed noise analysis in order to determine the extent of required mitigation, as recommended in the preliminary noise analysis, prepared by The Greensbusch Group, Inc., dated December 5, 2012. This noise analysis shall include, but not be limited to, a review of any external mechanical equipment, delivery and loading areas, parking lot traffic, street sweeping lot parking lots, as well as recommendations to mitigate any noise impacts the proposed commercial development will have on the adjacent single-family (existing) and multi-family (proposed) properties.
3. The applicant shall be required to replace the off-site stormwater culvert under 172<sup>nd</sup> Street NE, which is located at 2131 172<sup>nd</sup> Street NE. Additionally, the applicant shall be required to analyze the peak flows for this system to ensure that the new culvert and existing ditch can convey developed peak flows.
4. The applicant shall obtain all necessary state and federal authorizations for wetland impacts prior to beginning any ground disturbing activities within the wetland areas or associated buffers.
5. The existing on-site sewage system(s) shall be abandoned by having the septic tank(s) pumped by a certified pumper, then having the top of the tank removed or destroyed and filling the void (WAC 246-272A-0300). Documentation demonstrating completion of this work shall be submitted *prior to final BSP approval*.
6. The existing on-site well(s) shall be decommissioned in accordance with WAC 173-160-381. A copy of the well contractor's decommissioning report(s) shall be submitted *prior to final BSP approval*.
7. A street vacation for 25<sup>th</sup> Avenue NE shall be required to be approved by Marysville City Council in accordance with Chapter 12.32 MMC. The street vacation shall be reviewed by Marysville City Council concurrently with the Hearing Examiner's Recommendation on the proposed rezone.
8. Public right-of-way (ROW) shall be dedicated along 172<sup>nd</sup> Street NE (SR 531) in order to accommodate the 90' principal arterial 5-lane public ROW section (EDDS SP3-201-002), in accordance with MMC 12.02A.110(1)(c), unless additional ROW is required to be dedicated by Washington State Department of Transportation (WSDOT). The City Engineer and WSDOT shall review and approve the required ROW dedication, *prior to civil construction plan approval*.
9. Thirty-feet (30') of public ROW shall be dedicated along 174<sup>th</sup> Street NE, west of 25<sup>th</sup> Avenue NE, in order to accommodate the half-street 60' neighborhood collector public ROW section (EDDS SP3-202-001) in accordance with MMC 12.02A.110(1)(c).



10. Public ROW shall be dedicated along 25<sup>th</sup> Avenue NE and 27<sup>th</sup> Avenue NE, in order to accommodate the 60' collector arterial/commercial access street public ROW section (EDDS SP3-201-003) in accordance with MMC 12.02A.110(1)(c).
11. 173<sup>rd</sup> Street NE is approved as a private road. 173<sup>rd</sup> Street NE shall be designed and constructed to the public road standard, including two 11' travel lanes, two 5' bicycle lanes, curbs & gutter per EDDS Section 3-514, two 5' planter strips and two 5' sidewalks. A public utility and access easement for the private road shall be reviewed and approved by the City Engineer and *recorded concurrently with the BSP*.
12. The applicant shall be required to construct frontage improvements along 172<sup>nd</sup> Street NE (SR 531), 173<sup>rd</sup> Street NE (private), 174<sup>th</sup> Street NE, 25<sup>th</sup> Avenue NE and 27<sup>th</sup> Avenue NE, in accordance with MMC 12.02A.090, *prior to recording the BSP*. Frontage improvements shall include street lighting and signal communications conduit. Roadway improvements, channelization and site access plans will be required to be reviewed and approved by the City Engineer and WSDOT (SR 531 and traffic signals) *prior to construction plan approval*.
13. Frontage improvements along 172<sup>nd</sup> Street NE (SR 531) shall be credited against the traffic impact fees in accordance with Section 22D.030.070(5) MMC. The amount of credit for improvements to 172<sup>nd</sup> Street NE (SR 531) shall be approved by the City Engineer.
14. The applicant shall construct a traffic signal at the intersection of 25<sup>th</sup> Avenue NE and 172<sup>nd</sup> Street NE (SR 531) *prior to recording the BSP*. Traffic signal design shall consider both the short-term (one eastbound through lane) and long-term (two eastbound through lanes) at this location. Signal design shall include protected phasing for the eastbound left-turn. Signal construction plans shall be reviewed and approved by the City Engineer and WSDOT *prior to civil construction plan approval*. Credit towards traffic impacts fees shall not be given for any work related to design and construction of the signal.

If a signal permit at the intersection of 25<sup>th</sup> Avenue NE and 172<sup>nd</sup> Street NE (SR 531) cannot be obtained from WSDOT, and the applicant can provide an alternative traffic control method, such as a roundabout, and meet the adopted level-of-service standards in the Transportation Element of the Marysville Comprehensive Plan, and said alternative is approved by WSDOT, the signal at the intersection of 25<sup>th</sup> Avenue NE and 172<sup>nd</sup> Street NE (SR 531) shall not be required.

15. The applicant shall conduct a detailed analysis in order to understand street system operations and queuing along 27<sup>th</sup> Avenue NE between the site access and 172<sup>nd</sup> Street NE *prior to civil construction plan approval*. The evaluation shall consider impacts to the neighborhood north and east of the site. Analysis shall determine if dual southbound left-turn lanes and/or access management is necessary to provide adequate operations and minimize neighborhood impacts. After review of the

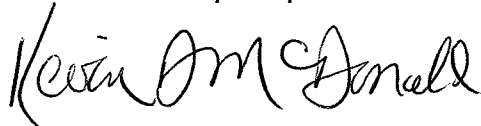
analysis, the City Engineer shall determine whether or not signal improvements or access management on 27<sup>th</sup> Avenue NE will be required.

16. The applicant shall install Lemec Renaissance Series color BRTX street luminaire fixtures along 172<sup>nd</sup> Street NE (SR 531), 173<sup>rd</sup> Street NE (private), 174<sup>th</sup> Street NE, 25<sup>th</sup> Avenue NE and 27<sup>th</sup> Avenue NE. Street illumination shall be designed in accordance with Section 3-506 of the Marysville Engineering Design and Development Standards (EDDS).
17. The applicant shall install a 6' wide by 16' long concrete pad on the back side of the sidewalk at the existing Community Transit bus stop on the northwest corner of 172<sup>nd</sup> Street NE (SR 531) and 27<sup>th</sup> Avenue NE for the future installation of a bus shelter.
18. The applicant shall install a 6' wide by 16' long concrete pad on the back side of the sidewalk for a future Community Transit bus stop on the northwest corner of 172<sup>nd</sup> Street NE (SR 531) and 25<sup>th</sup> Avenue NE for the future installation of a bus shelter.
19. In order to mitigate impacts upon the future capacity of the road system, the applicant shall be required to submit payment to the City of Marysville, on a proportionate share cost of the future capacity improvements as set forth in MMC 22D.030.070(3), for the development. Traffic impact fees shall be vested at a rate of \$3,290.00 per multi-family unit and \$1,870.00 per commercial PM Peak Hour Trip (PMPHT).
20. Pursuant to the ILA with Snohomish County, the applicant is obligated to pay traffic mitigation based on 20% of the average daily trips generated from the proposed project multiplied by the County mitigation fee of \$46.00 per new average daily trip (ADT) for the multi-family phase and \$39.00 per new ADT for the commercial phases. The applicant submitted a signed traffic mitigation offer to Snohomish County, in the amount of \$69,404.20, calculated as follows:

USE	ADT	RATE (20%)	IMPACT FEE
Multi-Family (348-units)	1493	\$9.20	\$13,735.60
Commercial	7137	\$7.80	\$55,668.60
<b>TOTAL</b>			<b>\$69,404.20</b>

Snohomish County reserves the right to adjust the impact fee if there is a change of use or building size within the development.

Dated this 8<sup>nd</sup> day of April 2013.



Kevin D. McDonald, AICP  
Hearing Examiner Pro Tem

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**RECONSIDERATION (MMC 22G.010.190):**

A party to a public hearing may seek reconsideration only of a final decision by filing a written request for reconsideration with the director within fourteen (14) days of the final written decision. The request shall comply with MMC 22.010.530(3). The hearing examiner shall consider the request within seven (7) days of filing the same. The request may be decided without public comment or argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the hearing examiner may immediately revise and reissue its decision. Reconsideration should be granted only when a legal error has occurred or a material factual issue has been overlooked that would change the previous decision.

**JUDICIAL APPEAL (MMC 22G.010.540):**

- (1) Appeals from the final decision of the hearing examiner, or other city board or body involving MMC Title 22 and for which all other appeals specifically authorized have been timely exhausted, shall be made to Snohomish County superior court pursuant to the Land Use Petition Act, Chapter 36.70C RCW, within 21 days of the date the decision or action became final, unless another applicable appeal process or time period is established by state law or local ordinance.
- (2) Notice of the appeal and any other pleadings required to be filed with the court shall be served as required by law within the applicable time period. This requirement is jurisdictional.
- (3) The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The record of the proceedings shall be prepared by the City or such qualified person as it selects. The appellant shall post with the city clerk prior to the preparation of any records an advance fee deposit in the amount specified by the city clerk. Any overage will be promptly returned to the appellant.

**EXHIBITS:**

The following exhibits were offered and entered into the record:

1. Receipt
2. Land Use Application
3. BSP and Rezone Submittal Checklist
4. Legal Description
5. Rezone Criteria Response Letter, Dan Eernisse, 05.29.12
6. Smokey Point Commercial Rezone Staff Rec (PA 08001-2)
7. Smokey Point Commercial Rezone Ordinance 2755
8. First American- Title Report

9. Environmental Checklist (also see Exhibit 59)
10. 8 ½ x 11 Vicinity Map
11. Wakefield- BSP/Rezone Cover letter, 05.31.12
12. Critical Areas Report (CAR), Talasaea Consultants, Inc., 03.27.12
13. CAR & Mitigation Plan, Talasaea Consultants, Inc. 03.21.12 SUPERSEDED
14. Earth Solutions NW- Geotechnical Engineering Study, 05.21.12
15. TraffEx- Traffic Impact Analysis, 05.18.12
16. 24 x 36 Critical Areas Enhancement Plan, 06.12.12 SUPERSEDED
17. 24 x 36 ARCH Site Plan and Conceptual Elevation Plan, 06.12.12 SUPERSEDED
18. 11x 17 Preliminary BSP, 06.12.12 SUPERSEDED
19. 24 x 36 Preliminary BSP, 06.12.12 SUPERSEDED
20. 11 x 17 Conceptual Landscape Plan, 06.12.12
21. 24 x 36 Conceptual Landscape Plan, 06.12.12
22. 11 x 17 Phasing Plan, 06.12.12 SUPERSEDED
23. 24 x 36 Phasing Plan, 06.12.12 SUPERSEDED
24. 11 x 17 Preliminary Civil Plan, 06.12.12 SUPERSEDED
25. 24 x 36 Preliminary Civil Plan, 06.12.12 SUPERSEDED
26. 24 x 36 Architectural Site Plan, 06.12.12 SUPERSEDED
27. Color Vicinity map
28. Preliminary Drainage report, June 2012 SUPERSEDED
29. 11 x 17 Subdivision Plan, 06.19.12 SUPERSEDED
30. 24 x 36 Subdivision Plan, 06.19.12 SUPERSEDED
31. Letter of Complete application, 06.20.12
32. Scott & Debbie Hackworth Email String, 07.10.12
33. RFR Checklist
34. Affidavit of Posting- NOA
35. 1<sup>st</sup> Technical Review (TR) Comments, 08.02.12
36. Omega Engineering – 1<sup>st</sup> TR response letter, 10.15.12
37. TraffEx-Response Letter, 09.20.12
38. TraffEx-Revised Impact Fees Letter, 10.04.12
39. ADAPT- Phase 1 Environmental Site Assessment, 02.15.12
40. 11 x 17 Site Plan, 10.22.12 SUPERSEDED
41. Earth Solutions- Phase 1 ESA, 11.09.07
42. Preliminary Drainage Report, Joseph M. Smeby, June 2012, Revised Oct. '12
43. 24 x 36 Site Plan, 10.22.12 SUPERSEDED
44. RFR Checklist
45. 2<sup>nd</sup> Technical Review Comments, 11.09.12
46. TraffEx- Response to add'l comments on the TIA, 11.27.12
47. The Greenbusch Group- Preliminary Noise Study, 12.05.12
48. 24 x 36 Site Plan, 12.05.12 SUPERSEDED
49. Transpo Group- TIA review, 01.25.13
50. Amendment to SEPA Checklist, 01.29.13 (also see Exhibit 59)
51. 11 x 17 Site Plan, 01.29.13 SUPERSEDED

52. 24 x 36 Architectural Site Plan, 01.29.13 SUPERSEDED
53. 24 x 36 Site Plan, 01.29.13 SUPERSEDED
54. TraffEx- Response to Transpo and Revised Trip Generation, 01.31.13
55. Critical Areas report and Detailed Mitigation Plan, 02.03.13
56. Traffic Concurrency Recommendation, Kevin Nielsen, 02.11.13
57. 3<sup>rd</sup> Technical Review, 02.13.13
58. Traffic Concurrency Acceptance Letter, Steve Malsam, 02.13.13
59. MDNS, 02.15.13, w/EC (Exhibit 9) & Amendment to EC (Exhibit 50)
60. Affidavit of posting- MDNS
61. Affidavit of posting – NOH
62. Technical Review 3 response letter-Dan Fernissee, 02.21.13
63. 11 x 17 Architectural Site Plan(sheets A1, A101, A102) DDG, 03.01.13
64. 24 x 36 Architectural Site Plan, (sheets A1, A101, A102) DDG 03.01.13
65. 11 x 17 Site Plan (sheets 1-10) Omega , 03.01.13
66. 24 x 36 Site Plan (sheets 1-10) Omega, 03.01.13
67. 8 ½ x 11 Rezone Boundary map
68. Snohomish County RODO for Mitigation of Impacts to County Roads
69. Staff Recommendation
70. E-mail correspondence thread: WSDOT - Marysville
71. E-mail correspondence thread: WSDOT – Marysville
72. E-mail correspondence thread: WSDOT – Marysville
73. Marysville Land Use Plan Map
74. Marysville Lakewood Neighborhood Land Use Designations Map
75. Marysville Planned Connector Roads Map
76. Memo to Hearing Examiner from Chris Holland, Planning Manager
77. Photographs submitted by Mr. Cowley

**PARTIES of RECORD:**

City of Marysville  
Community Development Department  
80 Columbia Avenue  
Marysville, WA 98270

Peter Cowley  
P.O. Box 191  
Marysville, WA 98270

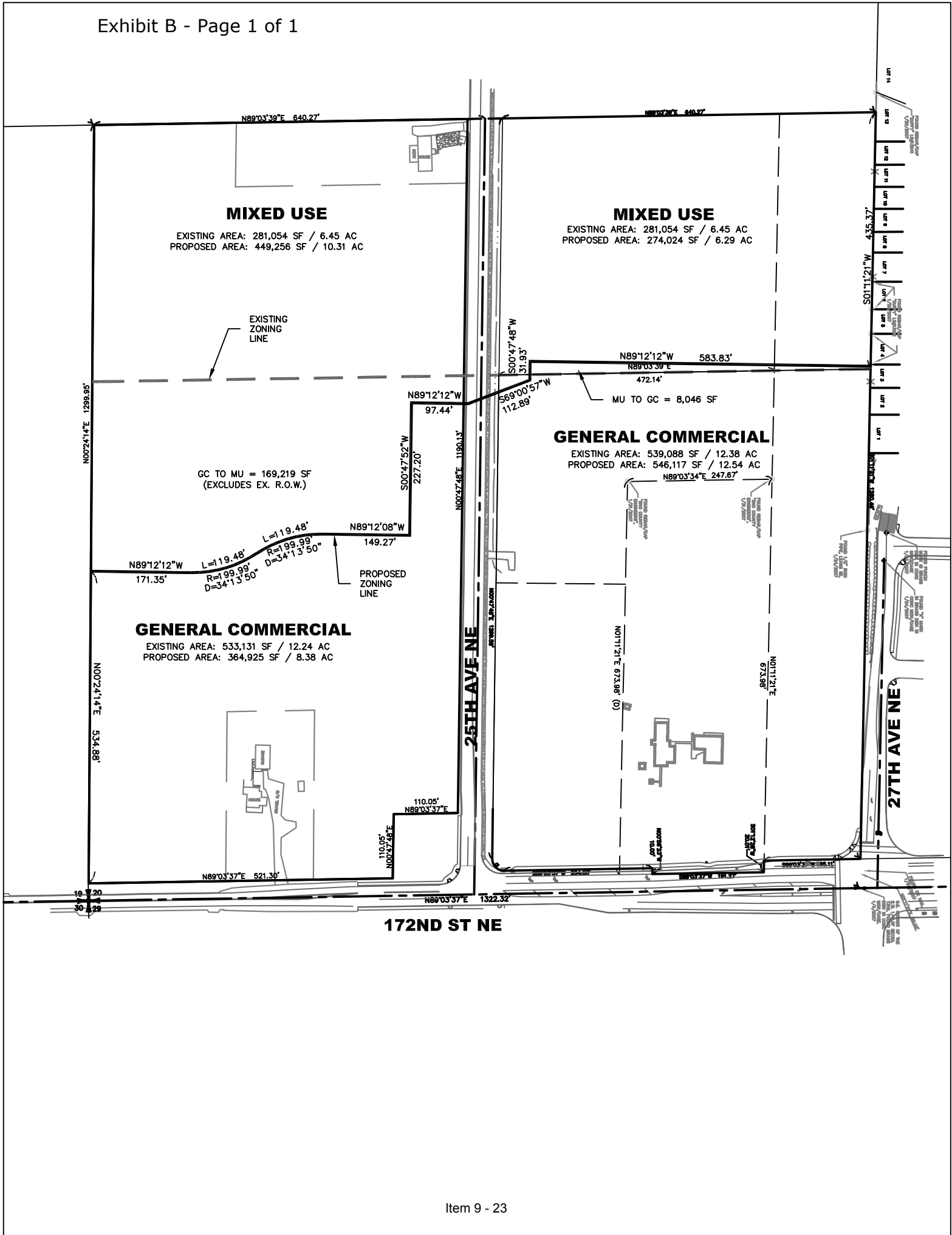
Kermit R. Metcalf  
18904 – 86<sup>th</sup> Place West  
Edmonds, WA 98026

Dan Eernissee  
5509 17<sup>th</sup> Ave NE  
Seattle, WA 98105

Julie Workman  
17516 27<sup>th</sup> Ave NE  
Marysville, WA 98271

Ramin Pazooki  
WSDOT  
P.O. Box 330310  
Seattle, WA 98133-9710

Steve Benenati  
WSDOT  
P.O. Box 330310  
Seattle, WA 98133-9710



**MIXED USE**

EXISTING AREA: 281,054 SF / 6.45 AC  
 PROPOSED AREA: 449,256 SF / 10.31 AC

**MIXED USE**

EXISTING AREA: 281,054 SF / 6.45 AC  
 PROPOSED AREA: 274,024 SF / 6.29 AC

GC TO MU = 169,219 SF  
 (EXCLUDES EX. R.O.W.)

MU TO GC = 8,046 SF

**GENERAL COMMERCIAL**

EXISTING AREA: 539,088 SF / 12.38 AC  
 PROPOSED AREA: 546,117 SF / 12.54 AC

**GENERAL COMMERCIAL**

EXISTING AREA: 533,131 SF / 12.24 AC  
 PROPOSED AREA: 364,925 SF / 8.38 AC

**172ND ST NE**

**25TH AVE NE**

**27TH AVE NE**

HEARING



EXAMINER

**Hearing Examiner Meeting**  
March 28, 2013

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Hearing Examiner Pro Tem Kevin McDonald at Marysville City Hall.

**Also Present:** Planning Manager Chris Holland, Associate Planner Angela Gemmer, and Recording Secretary Laurie Hugdahl.

**PUBLIC HEARING**

**PA13006 – Ottawa Variance- a variance from MMC Section 22C.010.070(11)(a) in order to allow a manufactured home that is more than five years old to be installed on an existing residential lot.**

**Applicant:** Cynthia and Vern Ottaway  
**Location:** 4505 79<sup>th</sup> Ave NE

Hearing Examiner McDonald explained that Cynthia and Vern Ottaway were requesting a variance from Marysville code that requires a manufactured home to be less than five years old on a residential lot. He stated that he has received and read the materials provided by staff and also visited the site. He entered Exhibits 1-12, with Exhibit 12 being the staff report, into the record. This issue relates to a variance from the code to allow for the installation of a manufactured code that was constructed in 1999, and therefore is approximately 14 years old. The code requires that a manufactured home be five years old or less, but it provides for a variance from the strict application of the code provided that each of nine provisions is met.

**Staff Testimony:**

Angela Gemmer, Associate Planner, stated the property is presently developed with a 1969 mobile home which has deteriorated in condition. The property owners would like to have a newer, good quality manufactured home placed on the site as a replacement for the older one. They have requested relief from the restriction of manufactured homes to be five years old or less because it makes the home cost prohibitive. Ms. Gemmer explained that the intent of the five-year restriction was to balance the state requirement of not discriminating against manufactured homes with preserving the integrity of subdivisions so that property values don't deteriorate.



Staff feels a variance is merited in this case because it is an improvement from the current condition. It will be a much nicer, contemporary home. The east side of 79th Avenue is heavily encumbered with critical areas so staff does not anticipate that this home will be placed in a subdivision. There is also a PUD corridor on the east side that precludes development to the east side. Additionally, the subject property is a panhandle lot and set back a fair distance from the road. Due to critical areas buffers, there is buffering afforded by the existing trees and shrubs around the two streams that border the property. Additionally, there are already a number of manufactured homes in the neighborhood so it would be compatible with the neighborhood. In summary, the request merits approval based on the acceptable response to all of the variance conditions. No comments have been received on this item.

Hearing Examiner McDonald noted that the recommendation from staff, in addition to approval, is for the new manufactured home to be installed approximately in the same location as the existing manufacture home. He asked if that situation was acceptable to the applicant.

**Applicant Testimony:**

Ms. Ottaway stated it is her intent to put the replacement home in the same location as the existing home except it will be larger.

**Public Testimony:** None

Seeing applicant's concurrence with the conditions of approval, the hearing on the Ottaway variance was closed at 7:12 p.m.

**PA12014 - Lakewood Station- Preliminary Binding Site Plan and concurrent Rezone in order to subdivide 39.4-acres into 11-lots and construct between 170,000-290,000 SF of commercial space and approximately 350 multi-family units.**

**Applicant:** Smokey Point Commercial, LLC  
**Location:** 2609 172<sup>nd</sup> St NE

Hearing Examiner McDonald stated that there are two issues at hand with the Lakewood Station application. It is an application for Preliminary Binding Site Plan and concurrent rezone in order to subdivide 39.4 acres into 11 lots and construct between 170,000 and 290,000 square feet of commercial space and approximately 350 multi-family residential units. He has received the staff report and Exhibits 1-69 which have been entered into the record. Additionally, Exhibits 70-76 have been received in his desk packet tonight and were added to the record.

## Staff Testimony:

Planning Manager Chris Holland reviewed the request as contained in the packet. He explained that in 2008 the applicant proposed a Comprehensive Plan amendment and concurrent rezone which designated the northern portion of the development site to Mixed Use. That Mixed Use zoning designation encompasses about 13 acres and was adopted by City Council by Ordinance 2755. For the subject rezone, after review of site conditions and the proposed development, the applicant has proposed shifting the lines a little bit to accommodate the proposed layout. The increase in commercial area would go from about 13 to approximately 16.6 acres. Staff has reviewed all of the pertinent information submitted by the applicant and has determined that it complies with the provisions of the rezone criteria and with the applicable provisions of the design criteria in the Marysville Municipal Code. Staff is recommending, as conditioned in Section 2.0 of the staff recommendation, that the Hearing Examiner approve the Binding Site Plan and recommend approval of the rezone to Marysville City Council for their consideration and adoption by formal ordinance.

Mr. Holland stated he had several new exhibits he wanted to read into the record and provide some clarification on. He read Exhibit 70, which was an email string from Steve Benenati with WSDOT received on Monday, March 25. The City had requested that WSDOT review and provide comments throughout the review process on this application, including the Notice of Application process. Comments were not received until Monday, March 25. A SEPA threshold determination was issued on February 15 with 20 conditions, and the appeal period expired on March 4. There were no comments from WSDOT or any other agencies or private citizens. In Exhibit 70, WSDOT requested that the City amend the MDNS Conditions 8 and 14. Specifically they are requesting additional right-of-way for construction of 172nd from a five-lane to an eight-lane arterial. They are also requesting that the City amend Condition 14 disallowing a signal at 25th Avenue NE. Mr. Holland pointed out that in the January 12 email from Steve Benenati, under item 4, WSDOT specifically stated that:

"It is imperative that the location of any public access point be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that might ultimately require signalization are planned with a minimum of half-mile spacing. The addition of all new public or private access points that may require signalization will require an engineering analysis that is signed and sealed by a qualified professional engineer . . ."

25th Avenue is an existing roadway that provides access to Carroll's Creek Landing so it is not a new intersection. He noted that the applicant provided a traffic impact analysis as well as several supplemental signal warrants demonstrating that a signal at 25th can meet the Level of Service (LOS) standards even though it would not meet the half-mile spacing from 27th Avenue NE.

Exhibit 71 is an email string from Chris Holland to the WSDOT that was sent on Monday, March 25 stating that the City had not received any comments during the public review process or during the public comment period and appeal period for the

issuance of the determination of non-significance on this project. The City also disagreed that Condition 8 of the MDNS needs to be amended. This condition specifically states that if the five-lane roadway isn't acceptable to WSDOT, they can require additional right-of-way. Sr. Holland pointed out that WSDOT owns the road, and they will have to approve any channelization and signal plans for this development along SR 531. Condition 14 of the MDNS specifically states that signal construction plans shall be reviewed and approved by the city engineer and WSDOT prior to civil construction plan approval. Again, approval by WSDOT is already required for the development to move forward.

Exhibit 71 is an email from WSDOT received this afternoon, March 28, further stating that WSDOT will not allow a signal at 25th because it doesn't meet the half-mile spacing requirement; however, they would consider a reduction to a quarter-mile spacing based on certain analysis. They would also entertain a signal at the western edge of the proposed development site. They would also entertain a roundabout at 25<sup>th</sup> or at the western edge of the proposed development site. WSDOT went on to state that in the City's Transportation Element and Comprehensive Plan it doesn't specifically state that there are signals planned for 25th or any other intersections along 172nd. Planning Manager Holland agreed, but stated that planned road connections are clearly identified in the Comprehensive Plan. Also, in the Transportation Element signals are installed as warranted.

Exhibits 73-75 are land use maps clearly showing the future road extensions of 25<sup>th</sup> to the south of the subject property and connecting to 169th. They also show the future road extension west of this site which would provide access all the way down to 156th Street which would be a principal access point to the existing and newly constructed 156th Street overpass and potential future interchange at 156th.

Exhibit 76 is a memo from Chris Holland to the Hearing Examiner outlining what staff has reviewed from WSDOT and their thoughts on WSDOT's comments this week. He reiterated that staff does not believe there any change is warranted to the MDNS Condition number 8. On MDNS Condition 14 staff is respectfully requesting the Hearing Examiner amend to add the following or similar language or add to the conditions of the Binding Site Plan:

"If a signal permit at the intersection of 25th Avenue NE and 172nd Street NE cannot be obtained from WSDOT and the applicant can provide an alternative traffic control method such as a roundabout and meet the adopted Level of Service standards in the Transportation Element of the Marysville Comprehensive Plan and said alternative is approved by WSDOT, the signal at the intersection of 25th Avenue NE and 172nd Street shall not be required."

This allows for an alternative that can meet concurrence and LOS standards. Lastly, Mr. Holland stated that Marysville would not be in support of a signalized intersection on the western side of the proposed development as it would not support the half-mile or even a variance for a quarter-mile separation for the City's future signalization further west of

this development which would provide the primary access south down to the 156th/I-5 overpass.

Hearing Examiner McDonald referred to the right-of-way width that would be required by WSDOT along 172nd, and asked if the state is looking for right-of-way enough to provide for an eight-lane section. Senior Planner Holland affirmed this, but stated he believes what they are actually asking for is a deceleration lane, not for the entire section from 25th to 27th to be an eight-lane section. WSDOT recently installed brand new signal poles, curbs, gutters, sidewalks, and planter strips on the north side of 172nd all the way to 25th. With the way the curb lines exist and where the signal poles are they would not be able to widen at the intersection of 27th and 172nd. Hearing Examiner McDonald asked if the transit pullout would cease to exist and become part of the right turn lane into 25th. Chris Holland didn't think the curb line would change where the bus pullout is. He thinks it would change halfway in the block between 25th and 27th for a right deceleration lane. Hearing Examiner McDonald commented that the point of a deceleration lane would be irrelevant if a signal at that intersection was allowed or if some alternative intersection control would be installed. Mr. Holland concurred and stated he does not believe that WSDOT has reviewed all of the traffic impact analysis or the subsequent information submitted by the professional engineer for the project manager.

Hearing Examiner McDonald asked what the requirement for additional right-of-way would do to the configuration of the Lakewood Station site development. Mr. Holland thought that if additional right-of-way ultimately is required, the applicant would come back to the City for a minor amendment to change the location of some of the buildings and the parking layout. He doesn't think it would warrant any additional mitigation measures or additional conditions as proposed in the Staff Recommendation. Hearing Examiner McDonald asked if approval of the Preliminary Binding Site Plan would preclude such rearrangement of building pads, driving, or parking circulation. Senior Planner Holland stated that it would not.

Hearing Examiner McDonald asked if there would be pedestrian crossings at 25th if there is any sort of traffic control. Mr. Holland replied that there would be pedestrian connections to the south on both the east and the west legs.

### **Applicant Testimony:**

Dan Eernisse, 5509 17<sup>th</sup> Ave NE, Seattle, 98105, spoke in support of the request. He noted that Larry Hobbs, the traffic engineer; Joseph Smede, the engineer; and Steve Molson, an owner, were present to answer any questions that might arise. He stated that the rezone of the site from Commercial Business to Mixed Use is now five years old. He reviewed some of the background of this project and the justification for the rezone. He stated that the applicant had always intended to come back at some point once they had a site layout that worked well with the commercial and the residential site. Most recently, the SEPA appeal/public opinion process went through without comments or appeals. They have tried their best to get together with anyone who had any issues with the proposed site plan. He met with the Lakewood Commons

Homeowners Association prior to the MDNS being issued to talk about their concerns and hasn't heard from them since. One of the biggest concerns raised was the type of fencing used. The developer agreed to put in a 6 or 8-foot CMU wall instead of a wood fence based on the residents' preference. Mr. Eernisse stated that if the Hearing Examiner would elect to keep the record open, the developer would be open to responding to any issues that might come up, especially to the neighbors at Lakewood Commons. Regarding the roundabout/signal at 25<sup>th</sup>, the applicant will continue to work with staff, but they agree that the Binding Site Plan decision shouldn't be constrained or held up based on that issue. The applicant fully understands that they need to work this out with WSDOT.

### **Public Testimony:**

Peter Cowley, PO Box 191, Marysville, WA 98270, expressed concern about the mailings regarding the SEPA threshold determination. He stated that he received his postcard on February 28. The deadline to file an appeal was March 4 so he received five days notification of this. Three of the four signs posted at the site were blown down or fell down. He feels the neighborhood should have had an opportunity to review all of the determination. He thanked Lakewood Station developers for meeting with the homeowners and the board recently. It is helpful that they are addressing concerns with a cement wall rather than a wooden fence. He expressed concern about the raising of the grade of the soil by two to three feet to promote adequate drainage because this will create a height discrepancy between the parcels. He had additional concerns about drainage issues this might create. Also, he expressed concern about access of traffic from the mixed use sections through the development and exiting on 172<sup>nd</sup>. He wants them to exit on 25<sup>th</sup> because of the traffic issues that are already a problem. Backups already occur now that the Everett Clinic and the White-Leasure development are there. He is also concerned about the noise. He stated that the noise studies are done in an office setting and not actually on site. He lives on the corner of 27<sup>th</sup> and one of the proposed entrances. He spoke against access going into the development from 27<sup>th</sup>. He stated that the Lakewood area is growing at a tremendous rate. The fact that WSDOT is recommending eight lanes is very astute on their part. He feels that this is necessary for the long-term benefit of the community. He would also like to see a planter strip separating traffic westbound and eastbound on 172<sup>nd</sup>. He feels this would beautify the neighborhood. Finally, Mr. Cowley reiterated that the residents are not happy with the failure of someone to get the notices out in a timely manner. Five photos from Mr. Cowley were entered as part of the record.

Hearing Examiner McDonald commented that it is not in his purview to make any design recommendations for 172<sup>nd</sup>.

Julie Workman, 17516 27<sup>th</sup> Ave NE, Marysville, WA 98271, stated she is part of the board of the Lakewood Home Owners Association concurred with Mr. Cowley's comments. She also was upset they did not have notice in a timely manner to respond. She expressed concern about the traffic. If they do dump onto 27<sup>th</sup>, she expressed concern about emergency access. Also, she thinks a decision should be postponed until WSDOT can properly review the proposal. She stated that the neighbors are concerned

with the height of the apartment proposed (three stories) because of the proximity and privacy issues.

Kermit (Rob) Metcalf, Ryan Northwest II, LLC, 18904 – 86<sup>th</sup> Place West, Edmonds, WA 98026, spoke in support of the project. As an adjacent property owner, he shares a common northern boundary within the UGA. He requested that the final design for utilities serving the project would contain the ability to serve the maximum UGA possible to the north. His conversations with city officials have indicated that there are means to accomplish this and to maximize the servicing of the UGA area. He wants to make sure the slopes and sizing of pipes within the design are adequate to extend the sewer and make it available to other properties north of this project.

Chris Holland explained that the sewer main on 172<sup>nd</sup> street is not very deep. There is another main on 27th Avenue NE that is a little deeper. As you head north, and install a main within 25th Avenue NE it will shallow up and ultimately get to the surface where it may not necessarily serve all of the properties further north of this development. The applicant has proposed to extend the sewer from the deeper main within 27th Avenue NE behind the proposed commercial buildings and stub it out at the north line. Staff does not know yet how much further north it can be extended, but it will be extended as far north as possible. Also, regarding the public notice requirements, he clarified that there are two different public notice requirements for this project. One is the Mitigated SEPA Threshold Determination Notice. The other is the public hearing notice. Staff did a combined notice to the area. The Mitigated SEPA determination notice is required to be posted on site, published in the paper, published on the City's website, published at City Hall, and with the US Postal Service. As shown in Exhibit 60, those items were accomplished. The MDNS notice typically is not, nor is it required to be mailed to the surrounding property owners; however, Notice of Application and Notice of Public Hearing notices are required to be sent to the 300-foot surrounding property owners as well as all parties of record. To clarify, the City did a combined notice which meant the Notice of the SEPA Threshold Determination with comments and appeal periods had an expiration date. It also had a date for when the public hearing would be held. He feels there is confusion over process and what was required to go out. He believes the residents did receive their notification as surrounding property owners in accordance with the public hearing notices. Mr. Holland pointed out that Mr. Cowley, as a party of record, was also emailed the MDNS and the Notice of Public Hearing either on the 15th or on the 18th of February. This was done as a courtesy and was not required.

Peter Cowley further discussed height concerns related to the new apartments which would be adjacent to approximately 14 existing homes. He requested that the apartments be only two stories where they are adjacent to those homes and then step up in height further back from the property line. He added that due to the county development years ago, some of the existing two-story residences are only five feet from the property line.

Hearing Examiner McDonald commented that a major concern he has heard from the community seems to be the use of 27<sup>th</sup>. He asked staff or the project's traffic engineer to describe the outcome for the level of service analysis for that intersection. Planning

Manager Holland explained that, as conditioned in the MDNS Condition 15, additional analysis of that intersection is required to ensure that it will function at an acceptable level of service. Staff has requested additional information to see whether or not a dual left out would be necessary. There may be some signal design that needs to be done there. There may also be some restrictions about left turns if there is stacking. Staff has requested additional information and would not approve a construction plan for the project until there is further analysis. Hearing Examiner McDonald asked if staff feels that it would be appropriate to keep the hearing open until additional traffic analysis is done. Mr. Holland replied that in his opinion, as it's laid out, it meets the level of service as they've analyzed with future projection and with the existing commercial shopping center. However, staff has concerns that the first southerly access which is proposed on 27th might cause some queuing issues. This could require a minor site plan modification that wouldn't affect the overall level of service of the intersection function that is acceptable in the Transportation Element of the Comprehensive Plan. Hearing Examiner McDonald stated that typically it is better to have more access points to improve LOS issues and traffic flow. He asked for confirmation that the configuration of the intersection can be done at a subsequent point in the process without requiring a modification to the Preliminary Binding Site Plan. Planning Manager affirmed this and added that those would all be reviewed in concurrence with the civil construction plans. No development permit would be issued until those issues are identified and approved.

Hearing Examiner McDonald referred to 25<sup>th</sup> and noted that the planning maps show approximate future roadway layouts. He asked if 25th on the Lakewood Station site were to be shifted or if the traffic control of that intersection were to be non-signalized, would that affect the long-term infrastructure planning for this portion of Marysville. Mr. Holland said it would not, but if the road were to shift west the City would like to ensure, through the review and approval process that the civil plans for the channelization improvements along 172nd, that they have the opportunity to have an intersection further west. Staff will continue to review this along with DOT, but it would not have any effect or bearing on the overall Binding Site Plan or the effectiveness of that roadway corridor.

Hearing Examiner McDonald asked the approximate distance between 25<sup>th</sup> and 27<sup>th</sup>. Mr. Holland stated that it is approximately 690 feet. Hearing Examiner McDonald noted that this is less than a quarter mile and below the DOT threshold of a half mile. Planning Manager Holland concurred. He added that it is not uncommon with state highways of this classification to have multiple signalizations within a closer proximity than a half mile or a quarter mile. Hearing Examiner McDonald commented that in an urban setting, the character, movement, and speed of traffic tends to be different than a more rural character where there is less friction and more unimpeded flow. The character of the area around Lakewood Station will change and the character of the roadway that serves those neighborhoods would probably need to be changed as well to reflect more of an urban character. There may be an argument there for looking at closer signal spacing than is typically part of the WSDOT state highway system standards.

Hearing Examiner McDonald asked if any of the access points via 27th would be proposed to be signalized. Mr. Holland said 27<sup>th</sup> would maintain a through-road

character, and traffic approaching from the west to access 27th would be stop-controlled.

Hearing Examiner McDonald noted that, based on the photographs and the testimony, it appears that at some points in the day queuing on the north leg of the 27<sup>th</sup> Ave intersection progresses quite a distance to the north. He asked if the traffic analysis indicates that traffic loading from Lakewood Station would significantly increase that queuing and result in driveway blockage along 27th. Mr. Holland stated that this is why staff is requiring additional information to make sure that does not occur. However, as reflected in Condition 15, staff believes that the dual left out at that location would clear this queue much more rapidly.

Hearing Examiner McDonald referred to the eastbound transit pullout on the far side of the intersection of 27th. He asked if there is any proposal to include an additional transit stop along the frontage of Lakewood Station. Mr. Holland said there have been two requested pad locations from Community Transit. The first one would be close to the intersection of 27th (near Building E) and 172nd (near Building K). The second one would be close to the intersection of 25th and 172nd. Both of those are shown on the site plan as cement pads for future installation of bus shelters. This is conditioned in the MDNS. Hearing Examiner McDonald if there would be a complementary bus stop on the south side of the street for eastbound pickup and drop off. Planning Manager Holland stated that they anticipate there will eventually be one closer to 25th on the south side, but that would occur as improvements to the south side of 172nd would occur.

Hearing Examiner McDonald asked the applicant if there is concurrence with the conditions proposed by staff with respect to the Preliminary Binding Site Plan and Rezone. Mr. Eernisse stated that that the applicant is in concurrence with each of the conditions.

Hearing Examiner McDonald stated that he was not inclined to leave the record open. With respect to the design of the fence that would separate Lakewood Station from the existing single-family neighborhood, he believes this is a design issue that can be dealt with in the course of finalizing the plan. With respect to the design capacity and intersection configuration of 25th, he believes that the City, the applicant, and WSDOT can work out the issues of access and signal control to the mutual satisfaction of all the parties. He summarized that some access from 172nd will be required; the precise location of that will remain to be determined in the final negotiations with the Binding Site Plan. Planning Manager Holland agreed with this.

#### Additional Public Comments:

Peter Cowley stressed that a signal light is needed at 25<sup>th</sup>. There are a lot of young families that live in the navy housing in the back. He said he will be talking to WSDOT about this item and encouraging them to consider this. He stated that this is not a primary highway by his definition even though it is labeled as a state route. He also feels that now is the time to increase the road width as it will be much more expensive



later. The costs can be shared with future development in that area. He is not convinced that two left turn lanes will address all the traffic issues there.

Seeing no further comments, the hearing was closed at 8:28 p.m. Hearing Examiner McDonald stated that he would report his recommendations to the City within 15 calendar days.

### **ADJOURNMENT**

The meeting was adjourned at 8:28 p.m.

 FOR:  
Laurie Hugdahl, Recording Secretary



# STAFF RECOMMENDATION

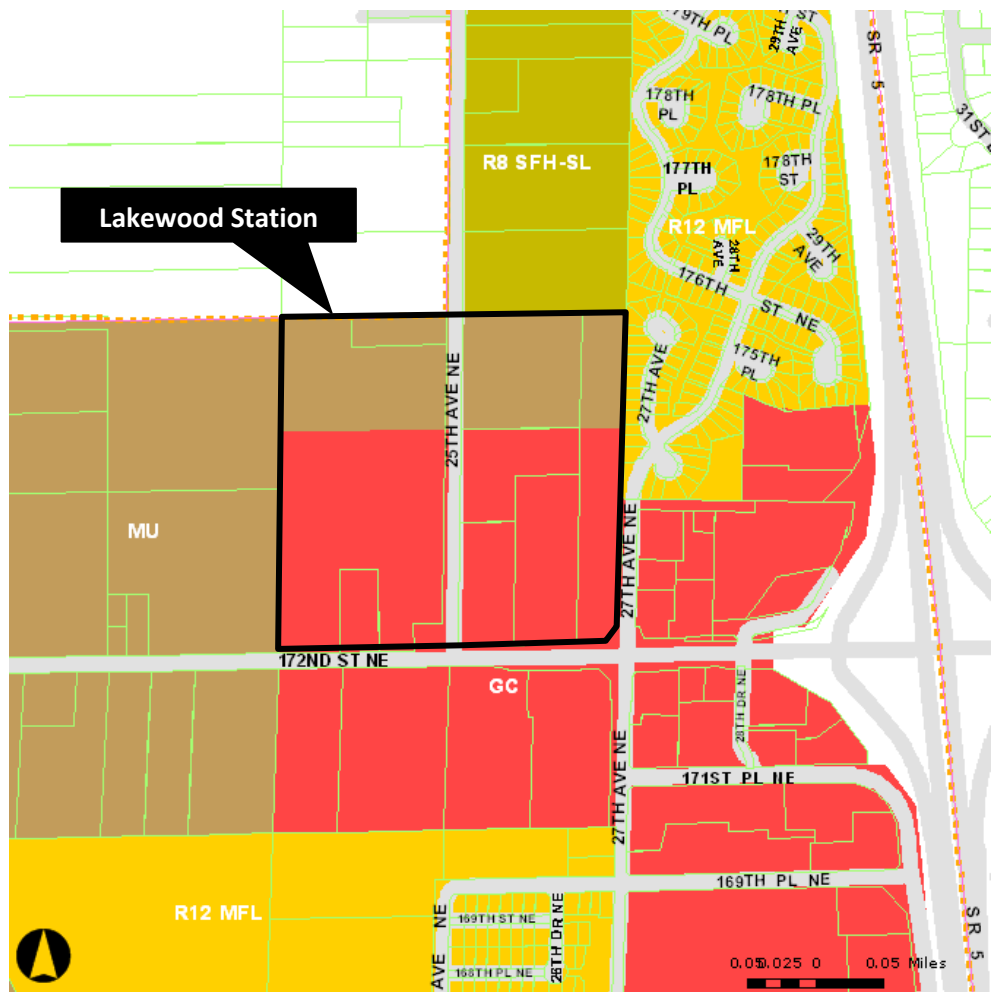
Community Development Department ♦ 80 Columbia Avenue ♦ Marysville, WA 98270  
 (360) 363-8100 ♦ (360) 651-5099 FAX ♦ Office Hours: Mon - Fri 7:30 AM - 4:00 PM

PROJECT INFORMATION									
<b>Project Title</b>	Lakewood Station			<b>Date of Report</b>	March 19, 2013				
<b>File Number</b>	PA 12014			<b>Attachments</b>	Rezone boundary map (Exhibit 67)				
<b>Staff Recommendation</b>	Approve the preliminary <i>Binding Site Plan</i> and forward a recommendation of approval of the <i>Rezone</i> to Marysville City Council, for Lakewood Station, subject to the conditions contained in Section 2.0 of this Staff Recommendation.								
BACKGROUND SUMMARY									
<b>Applicant</b>	Smokey Point Commercial, LLC								
<b>Request</b>	Preliminary <i>Binding Site Plan</i> approval and concurrent <i>Rezone</i> in order to subdivide 39.4-acres into 11-lots and construct between 170,000 – 290,000 SF of commercial space and approximately 350 multi-family units. The applicant is also seeking approval of a Street Vacation of 25 <sup>th</sup> Avenue NE that will be considered under a separate application, reviewed by Marysville City Council.								
<b>SEPA Status</b>	A SEPA Threshold Determination of Non-Significance (DNS) was issued on February 15, 2013. The appeal period for the DNS expired on March 4, 2013. No appeals were filed.								
<b>General Location</b>	North of 172 <sup>nd</sup> Street NE (SR 531) on either side of 25 <sup>th</sup> Avenue NE			<b>APN(s)</b>	31052000302400, 31052000304600, 31052000303600, 31052000302600, 31052000302800, 31052000302900, 31052000302500, 31052000302700				
<b>Acreage (SF)</b>	39.4 (1,716,264 SF)			<b>Section</b>	20	<b>Township</b>	31N	<b>Range</b>	05E
<b>Comprehensive Plan</b>	MU & GC	<b>Zoning</b>	MU & GC	<b>Shoreline Environment</b>			N/A		
<b>Water Supply</b>	<b>Current</b>		<b>Proposed</b>		<b>Sewer Supply</b>	<b>Current</b>		<b>Proposed</b>	
	Marysville		Marysville			Private (septic)		Marysville	
<b>Present Use of Property</b>	The majority of the site is vacant undeveloped land. There is a single-family home and associated outbuildings located on the east side of 25 <sup>th</sup> Avenue NE and a single-family residence and mobile home on the west side of 25 <sup>th</sup> Avenue NE.								
REVIEWING AGENCIES									
<b>Marysville</b>	<b>Local Agencies &amp; Districts</b>		<b>State &amp; Federal</b>		<b>County</b>		<b>Other</b>		
<input checked="" type="checkbox"/> Building <input checked="" type="checkbox"/> Fire District <input checked="" type="checkbox"/> Land Development <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input checked="" type="checkbox"/> Police <input checked="" type="checkbox"/> Public Works	<input checked="" type="checkbox"/> Arlington (city) <input type="checkbox"/> Arlington Airport <input checked="" type="checkbox"/> Community Transit <input type="checkbox"/> Everett (city) <input type="checkbox"/> Lake Stevens (city) <input checked="" type="checkbox"/> Lakewood SD 306 <input checked="" type="checkbox"/> PUD No. 1 (electric)		<input type="checkbox"/> US Army Corps of Engineers <input type="checkbox"/> BNSF <input checked="" type="checkbox"/> DOE <input type="checkbox"/> WDFW <input checked="" type="checkbox"/> WSDOT <input type="checkbox"/> WUTC <input type="checkbox"/>		<input checked="" type="checkbox"/> Health District <input type="checkbox"/> Planning <input checked="" type="checkbox"/> Public Works - Land Development <input type="checkbox"/> Public Works <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		<input checked="" type="checkbox"/> Tulalip Tribes <input checked="" type="checkbox"/> Stillaguamish Tribe <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
ACTION									
<input type="checkbox"/> Administrative	<input type="checkbox"/> City Council	<input checked="" type="checkbox"/> Quasi-Judicial		<input type="checkbox"/> Planning Commission					
<b>Date of Hearing</b>	March 28, 2013		<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Continued				
STAFF CONTACT									
<b>Name</b> Chris Holland	<b>Title</b> Planning Manager	<b>Phone</b> 360.363.8207	<b>E-mail</b> cholland@marysvillewa.gov						

**SURROUNDING USES**

	<b>Comprehensive Plan</b>	<b>Zoning</b>	<b>Land Use</b>
<b>Site</b>	Mixed Use; General Commercial	MU; GC	Majority of site is vacant, with two single-family residences
<b>North</b>	Single-family, High Density-small lot	R-8	Vacant land and large lot single-family residences
<b>East</b>	Multi-family, Low Density; General Commercial	R-12; GC	Lakewood Commons single-family Condo's; Lakewood Pointe Shopping Center
<b>South</b>	General Commercial	GC	Vacant; Lakewood Crossing Shopping Center is located to the southeast
<b>West</b>	Mixed Use	MU	Large lot single-family residences; farming

**Vicinity Map**



- |                       |                         |                                 |                           |
|-----------------------|-------------------------|---------------------------------|---------------------------|
| General Commercial    | 88 - Mixed Use          | R12 Multi-Family Low            | R4.5 Single Family Medium |
| Downtown Commercial   | General Industrial      | R6-18 Multi-Family Low          | Public-Institutional      |
| Community Business    | Light Industrial        | R8 Single Family High Small Lot | Recreation                |
| Neighborhood Business | R28 Multi-Family High   | R6.5 Single Family High         | Open                      |
| Mixed Use             | R18 Multi-Family Medium | R4-8 Single Family High         |                           |

## 1.0 FINDINGS AND CONCLUSIONS

1. Smokey Point Commercial, LLC (applicant), has requested preliminary *Binding Site Plan (BSP)* approval and a concurrent *Rezone* in order to subdivide 39.4-acres into 11-lots and construct between 170,000 – 290,000 SF of commercial space and approximately 350 multi-family units.
2. The application was determined to be complete on June 19, 2012 (Exhibit 31).
3. Marysville City Council adopted Ordinance No. 2755 (Exhibit 7) on November 24, 2008, amending the Marysville Comprehensive Plan map and concurrently zoning approximately 13 of the 39.4-acre site to Mixed Use (MU). The remaining 26.4-acres retained the General Commercial (GC) zoning designation.
4. A condition of the Comprehensive Plan Map Amendment and concurrent rezone, Ordinance No. 2755, was that future project actions will be required to incorporate into project design, two (2) east-west road connection, one located at approximately the 17300 Block and the other located at approximately the 17500 Block. These two connections are shown on the preliminary BSP (Exhibit 65 & 66), satisfying the condition of Ordinance No. 2755.
5. The applicant is proposing a concurrent rezone in order to increase the acreage of MU zoning from 13 to approximately 16.6-acres, with the rest of the 22.8-acres to remain GC (see Exhibit 67).
6. The proposed layout of the preliminary BSP will require a street vacation of 25<sup>th</sup> Avenue NE. Street vacations are processed pursuant to Chapter 12.32 MMC, *Vacation of Streets and Alleys*, and will be reviewed by Marysville City Council under a separate application.
7. The proposed site consists of eight (8) parcels totaling approximately 39.4-acres. The majority of the site is vacant undeveloped land. There is a single-family home and associated outbuildings located on the east side of 25<sup>th</sup> Avenue NE and a single-family residence and mobile home on the west side of 25<sup>th</sup> Avenue NE. The overall site topography is relatively flat. On-site vegetation is generally moderate to heavy, with mature species of deciduous and evergreen trees, combined with some open areas consisting of field grass.
8. Primary access to the site is proposed via commercial driveways located off of 25<sup>th</sup> Avenue NE. Secondary access is proposed from 27<sup>th</sup> Avenue NE. Direct access to the site is prohibited from 172<sup>nd</sup> Street NE (SR 531).
9. According to the Traffic Impact Analysis (TIA) prepared by TraffEx, dated May 18, 2012 (Exhibit 15), and supplemental information submitted by TraffEx dated September 20, 2012 (Exhibit 37), October 4, 2012 (Exhibit 38) and November 27, 2012 (Exhibit 46), the development, as currently proposed, would generate 8,630 average daily trips (ADT) and 895 PM peak hour trips (PMPHT).
10. The Public Works Director reviewed the TIA and supplemental information submitted by TraffEx and issued a written concurrency recommendation, dated February 11, 2013 (Exhibit 56), informing the developer of the project impacts and mitigation obligation pursuant to Chapter 22D.030 MMC, *Traffic Impact Fees and Mitigation*. Pursuant to MMC 22D.030.070(1)(d), an applicant is required to make a written proposal for mitigation of the impacts to the Public Works Director, based on the concurrency recommendation. The applicant submitted a written mitigation offer to the Public Works Director dated February 13, 2013 (Exhibit 58).

The Public Works Director reviewed the written mitigation offer and made a final concurrency determination, the conditions of which are reflected in mitigation measures 7 – 20 of the Mitigated SEPA Threshold Determination of Non-Significance (MDNS). The mitigation measures are referenced in Section 3.0 of this Staff Recommendation.

11. Pursuant to MMC 22D.030.070, the traffic concurrency determination and the project's impacts and mitigation obligations shall expire on February 15, 2019 (6-years from the date the MDNS was issued). If concurrency expires prior to building permit issuance, the Public Works Director shall, at the request of the developer, consider evidence from the applicant that conditions have not significantly changed and make a new concurrency determination.
12. Pursuant to Chapter 14.15 MMC, a stormwater pollution prevention plan (SWPPP) and subsequent installation of an approved stormwater management system on the site is required. Potential significant adverse environmental impacts associated with increased stormwater runoff from the proposed development are adequately mitigated by compliance with this regulation.
13. A Critical Areas Report (CAR) for the properties located west of 25<sup>th</sup> Avenue NE was prepared by Talasaea Consultants, Inc., dated March 27, 2012 (Exhibit 12), and a CAR and Detailed Conceptual Mitigation Plan for the properties located east of 25<sup>th</sup> Avenue NE was prepared by Talasaea Consultants, Inc., dated March 21, 2012 (Exhibit 13) and revised on February 4, 2013 (Exhibit 55).

According to the CAR (Exhibit 12), one 31,929 SF artificially created pond and one drainage ditch were identified on the properties located west of 25<sup>th</sup> Avenue NE. The pond and ditch are artificially created wetlands and are, therefore, exempt from the provisions of Chapter 22E.010 MMC *Critical Areas Management*. The artificially created pond is proposed to be retained and maintained as open space for the development, and the vegetative community around the pond is proposed to be enhanced per the CAR.

According to the revised CAR and Detailed Conceptual Mitigation Plan (Exhibit 55), one 31,923 SF Category III wetland was identified on the properties located east of 25<sup>th</sup> Avenue NE. In July 2011, an enforcement letter from the Washington State Department of Ecology (DOE) was issued to Smokey Point Commercial, LLC (applicant) regarding clearing and grading activity that has occurred within the wetland without DOE permit approval. The CAR and Detailed Conceptual Mitigation Plan has been prepared in order to obtain an "after-the-fact" approval for wetland impacts and to address mitigation for impacts to the wetland. Proposed mitigation includes on-site wetland and buffer restoration and purchasing an appropriate amount of credits at a certified mitigation bank for the indirect (paper-fill) wetland impacts. Prior to beginning any ground disturbing activities within the wetland areas or associated buffers, the applicant shall obtain all necessary state and federal authorizations for wetland impacts.

14. A preliminary noise study was prepared by The Greenbusch Group, Inc., dated December 5, 2012 (Exhibit 47). The preliminary analysis provides a rough estimation of predicted sound levels associated with mechanical equipment, parking lot activity, deliver trucks, and sweepers. *Prior to civil construction plan approval*, the applicant shall submit a more detailed noise analysis in order to determine the extent of required mitigation, as recommended in the preliminary noise analysis. This noise analysis shall include, but not be limited to, a review of any external mechanical equipment, delivery and loading areas, parking lot traffic, street sweeping lot parking lots, as well as recommendations to mitigate any noise impacts the proposed commercial development will have on the adjacent single-family (existing) and multi-family (proposed) properties.
15. Public notice of the development application was provided in accordance with MMC 22G.010.090 (Exhibit 34).
16. During the public review and comment period, the City received a letter from Marie A. Ryan (Exhibit 35), who is the managing partner of 5-acres located directly north of the proposed BSP (APN 31052000300100); an e-mail from Scott & Debbie Hackworth (Exhibit 32); and a phone call from Peter Cowley, owner of the adjacent single-family residence located at 17408 27<sup>th</sup> Avenue NE (see exhibit 45 for phone call synopsis). Concerns and questions raised during the public review and comment period include the following:

- a. Request that the new sewer line, required to be installed within 25<sup>th</sup> Avenue NE, be deep enough to serve additional properties along 25<sup>th</sup> Avenue NE.

Staff Comment: Due to the limited depth of the existing sewer main within 172<sup>nd</sup> Street NE (SR 531), the applicant is proposing to extend the sewer main within 27<sup>th</sup> Avenue NE, west to 25<sup>th</sup> Avenue NE, in order to provide properties north of the proposed development, along 25<sup>th</sup> Avenue NE, adequate sanitary sewer service in the future.

- b. General questions about the types of stores proposed, critical areas, height allowances, whether or not the proposed multi-family units are apartments (rentals) or condos (owned), will water and sewer service be extended along the entire length of 25<sup>th</sup> Avenue NE, and when will the project begin construction and approximate completion date.

Staff Comment: All of these general questions were responded to via e-mail, with an acknowledgement of receipt from Scott & Debbie Hackworth (see Exhibit 32).

- c. Added motor vehicle traffic to the area.

Staff Comment: The applicant submitted a Traffic Impact Analysis (TIA), prepared by TraffEx, dated May 18, 2012 (Exhibit 15), and supplemental information submitted by TraffEx dated September 20, 2012 (Exhibit 37), October 4, 2012 (Exhibit 38) and November 27, 2012 (Exhibit 46). The City of Marysville contracted with TranspoGroup to conduct an independent analysis of the TIA and supplemental information submitted by TraffEx (Exhibit 49).

The Public Works Director reviewed the TIA and supplemental information prepared by TraffEx and the independent analysis conducted by TranspoGroup, and made a final traffic concurrency determination, the conditions of which are reflected in mitigation measures 7 – 20 of the Mitigated SEPA Threshold Determination of Non-Significance (MDNS) referenced in Section 3.0 of this Staff Recommendation.

Although traffic in the area will increase due to the proposed development, it has been determined by the Public Work Director, as conditioned, that all affected intersections and roadway corridors in the area will comply with the adopted level-of-service (LOS) standards established in the Transportation Element of the Comprehensive Plan.

- d. Thirty (30) to forty (40) foot building heights.

Staff Comment: Pursuant to MMC 22C.020.080(2), the base height allowed in the Mixed Use (MU) zone is 45' and the base height allowed in the General Commercial (GC) zone is 35'. In both zones, heights may be increased when portions of the structure or building which exceed the base height limit provide one additional foot of street and interior setback beyond the required setback for each foot above the base height limit.

MMC 22C.120.120 requires new development to provide a minimum 20' L1 landscape buffer, plus a 6', sight-obscuring fence or wall between the commercial portion of the site and existing single-family residential properties. Additionally, a minimum 10' L1 landscape buffer, plus a 6' sight-obscuring fence or wall is required between the multi-family portion of the site and existing single-family residential properties. An L1 landscape buffer is required to be opaque from the ground to a height of at least 6' with intermittent visual obstructions from the opaque portion to a height of at least 20'. The L1 screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation.

The landscape buffers and sight-obscuring fencing required in the MMC should provide adequate spatial separation between the existing single-family residences and proposed multi-family and commercial uses.

- e. City code should require an 8' cement wall separating the commercial and multi-family from the existing single-family homes.

Staff Comment: The applicant has offered to install a split-face CMU wall between the proposed project and the Lakewood Commons single-family condominium development to the west. The applicant has requested that the Lakewood Commons Homeowners Association determine if they would prefer a 6' or 8' CMU wall (6' minimum required).

- f. City should not allow a left hand turn into the development off of 27<sup>th</sup> Avenue NE. The concern is that this would add to much traffic, light and noise to the existing single-family homes.

Staff Comment: Primary access to the site is proposed via commercial driveways located off of 25<sup>th</sup> Avenue NE. Secondary access is proposed from 27<sup>th</sup> Avenue NE via two commercial access driveways. Fifteen (15%) percent, or 134 trips, are proposed to utilize 27<sup>th</sup> Avenue NE during the critical PM peak hour (4:00 – 6:00 PM).

Condition No. 15 of the MDNS, referenced in Section 3.0 of this Staff Recommendation, requires the applicant to conduct a detailed analysis in order to understand street system operations and queuing along 27<sup>th</sup> Avenue NE between the site access and 172<sup>nd</sup> Street NE *prior to civil construction plan approval*. The evaluation shall consider impacts to the neighborhoods north and east of the site. Analysis shall determine if dual southbound left-turn lanes and/or access management is necessary to provide adequate operations and minimize neighborhood impacts. After review of the analysis, the City Engineer shall determine whether or not signal improvements or access management on 27<sup>th</sup> Avenue NE will be required.

17. A Request for Review of the proposed development was sent to the following Local, County, State & Federal Agencies and Districts:

a. *City of Arlington:* No comments received.

- b. *Community Transit:* Community Transit (CT) requested a 6' x 16' concrete pad be constructed on the back side of the sidewalk at the northwest corner of 172<sup>nd</sup> Street NE (SR 531) and 27<sup>th</sup> Avenue NE, and on the northwest corner of 172<sup>nd</sup> Street NE (SR 531) and 25<sup>th</sup> Avenue NE for future bus shelter installation (Exhibit 35).

Staff Comment: A detail of the requested bus shelters has been provided on the preliminary BSP. Additionally, the application has been conditioned to provide the concrete pad for future installation of bus shelters, as reflected in MDNS Condition(s) 17 & 18, referenced in Section 3.0 of this Staff Recommendation.

- c. *Lakewood School District 306:* Lakewood School District No. 306 provided general comments regarding bus service and an assumption that the project would be required to provide sidewalks for students utilizing bus service (Exhibit 35).

Staff Comment: Sidewalks are required to be constructed along 25<sup>th</sup> Avenue NE, 27<sup>th</sup> Avenue NE and 172<sup>nd</sup> Street NE (SR 531) in accordance with MMC 12.02A.090.

- d. *Public Utilities District (PUD) No. 1 of Snohomish County:* No comments received.

e. *Washington State Department of Ecology (DOE)*

Staff Comment: Staff forwarded the initial application, including the Critical Areas Reports and amendments to DOE. No written comments have been received from DOE. However, based on phone conversations Staff had with Paul S. Anderson, PWS, DOE Wetland Specialist, the project was conditioned to obtain all necessary state and federal authorizations for wetland impacts prior to beginning any ground disturbing activities within the wetland areas or associated buffers, as reflected in MDNS Condition No. 4, as referenced in Section 3.0 of this Staff Recommendation.

- f. *Washington State Department of Transportation (WSDOT):* No comments received.

g. *Snohomish Health District:* Snohomish Health District recommended the existing onsite sewage system(s) be abandoned in accordance with WAC 246-272A-0300 and

the existing well(s) be decommissioned in accordance with WAC 173-160-381 (Exhibit 35).

Staff Comment: The onsite sewage systems and wells were conditioned to be abandoned/decommissioned, as reflected in MDNS Condition(s) 5 & 6, referenced in Section 3.0 of this Staff Recommendation.

- h. *Snohomish County Department of Public Works:* Snohomish County Department of Public Works requested the applicant provide a traffic mitigation offer in accordance with the ILA between the City of Marysville and Snohomish County based on 20% of the average daily trips generated from the proposed project multiplied by the County mitigation fee of \$46.00 per new average daily trip (ADT) for the multi-family phase, and \$39.00 per new ADT for the commercial phases (Exhibit 35).

Staff Comment: The applicant submitted a signed traffic mitigation offer to Snohomish County in the amount of \$69,404.20. The traffic mitigation offer was approved by Snohomish County through a Record of Developer Obligations for Mitigation of Impacts to the County Road (Exhibit 68).

- i. *Stillaguamish Tribe:* No comments received.

- j. *Tulalip Tribes:* No comments received.

- 18. MMC 22G.100.100(3) requires the City to determine whether or not the BSP complies with the following criteria:

- a. Whether the proposed BSP and development of the parcel(s) relate to all elements of the Marysville Comprehensive Plan.

Staff Comment: The Comprehensive Plan designation for the subject property is Mixed Use and General Commercial. The proposed development and subsequent use of the property will be consistent with the pertinent development policies outlined in the Marysville Comprehensive Plan, as conditioned herein.

The following development policies outlined in the Comprehensive Plan that are specifically pertinent to this request, and were used to establish appropriate conditions, are as follows:

**LAND USE ELEMENT**

General Development Land Use Policies

*Policies:* LU-3, LU-4, LU-5, LU-6, LU-7, LU-8, LU-9, LU-11

Commercial Land Use Policies

*Policies:* LU-58, LU-59, LU-60, LU-64, LU-67, LU-68, LU-69, LU-72, LU-76, LU-81

General Commercial

*Policies:* LU-98

Mixed Use

*Policies:* LU-154, LU-156, LU-157, LU-158, LU-163

**HOUSING ELEMENT**

Housing Policies

*Policies:* HO-21, HO-26

**ENVIRONMENTAL ELEMENT**

Environmentally Sensitive Lands Policies

*Policies:* EN-9, EN-12, EN-13, EN-15

Earth Goals and Policies

*Policies:* EN-19, EN-21

Water: Quality, Wetland and Watershed Protection, Storm Water Runoff, Drainage, Shoreline Goals and Policies

*Policies:* EN-27, EN-29, EN-32, EN-38



**TRANSPORTATION ELEMENT**

Transportation System Efficiency and Safety

*Policies:* T-7, T-8, T-9, T-11

Public Involvement and Agency Coordination

*Policies:* T-13

Mobility Options

*Policies:* T-24, T-25, T-26, T-27, T-28, T-30

Sustainable Transportation Systems and the Environment

*Policies:* T-34, T-38

Level of Service Standards and Concurrency

*Policies:* T-40, T-41

Financing and Implementation

*Policies:* T-44, T-45, T-46

**UTILITIES ELEMENT**

*Policies:* UT-1, UT-3, UT-8, UT-9

**PUBLIC FACILITIES & SERVICES ELEMENT**

Police, Fire, Library

*Policies:* PS-1, PS-3, PS-9, PS-10, PS-11

Schools

*Policies:* SC-8

Water, Sewer, Storm Drainage, Solid Waste

*Policies:* PF-1, PF-2, PF-7, PF-18, PF-19, PF-20, PF-26

- b. Whether the proposed BSP meets the zoning regulations.

Staff Comment: Approximately 13 of the 39.4-acres is currently zoned Mixed Use (MU). The remaining 26.4-acres is zoned General Commercial (GC). The applicant is proposing a rezone in order to increase the acreage of MU zoning from 13 to 16.6-acres, with the remaining 22.8-acres to retain GC zoning.

The purpose of the MU zone is to provide for pedestrian- and transit-oriented high-density employment uses, together with limited complementary retail and higher density residential development, in locations within activity centers where the full range of commercial activities is not desirable.

The purpose of the GC zone is to provide for the broadest mix of commercial, wholesale, service and recreation/cultural uses with compatible storage and fabrication uses, serving regional market areas and offering significant employment.

After review of the preliminary BSP, and other supporting documentation and materials submitted with the application the preliminary BSP and concurrent Rezone, as conditioned herein, shall comply with all of the applicable development standards outlined in Title 22 MMC, *Unified Development Code*.

- c. Whether the binding site plan properly takes into account the topography, drainage, vegetation, soils and any other relevant physical elements of the site.

Staff Comment: A Phase I Environmental Site Assessment (ESA) was prepared by Adapt Engineering, Inc., dated February 15, 2012 (Exhibit 39) for the entire 39.4-acre project site. A Phase I ESA was also prepared by Earth Solutions NW, dated November 9, 2007 (Exhibit 41), for the 19-acres located east of 25<sup>th</sup> Avenue NE. The Phase 1 ESAs were prepared in order to identify recognized environmental conditions in connection with the subject property. According to the ESAs, no evidence or recognized environmental conditions in connection with the property were revealed.

A Geotechnical Engineering Study (GES) was prepared by Earth Solutions NW, LLC (Exhibit 14), in order to evaluate: the subsurface conditions and characterization of the soil and groundwater conditions; recommendations for site grading, drainage and structural fill placement; recommendations for soil bearing capacity, subgrade preparation, foundations and pavements; and preliminary geotechnical recommendations for stormwater infiltration and pervious pavements. The applicant/contractor shall adhere to the recommendations outlined in the GES, dated May 21, 2012, or as amended.

d. Public Services:

i. Adequate water supply

Staff Comment: A 12" ductile-iron water main is located in 25<sup>th</sup> Avenue NE, an 8" DI water main is located in 27<sup>th</sup> Avenue NE, and a 12" cast-iron water main is located within 172<sup>nd</sup> Street NE (SR 531). The applicant is proposing to tap the existing mains and loop the water service throughout the development in order to provide service to each building and provide adequate fire flow. The existing water main located within 25<sup>th</sup> Avenue NE shall be required to be relocated in order to vacate a portion of 25<sup>th</sup> Avenue NE.

Water improvements will be designed in accordance with the applicable provisions of the MMC, which will be specifically addressed during civil construction plan review.

ii. Adequate sewage disposal

Staff Comment: A 6" sewer force main is located in 25<sup>th</sup> Avenue NE, which serves the townhome development to the north, known as Carol's Creek Landing. The applicant shall not be allowed to connect to the existing force main. A 10" PVC sewer main is located in 25<sup>th</sup> Avenue NE and 172<sup>nd</sup> Street NE (SR 531). The applicant is proposing to extend the sewer mains within 25<sup>th</sup> Avenue NE and 172<sup>nd</sup> Street NE (SR 531) to serve the development. However, due to the limited depth of the existing sewer main within 172<sup>nd</sup> Street NE (SR 531), the applicant is proposing to extend the sewer main within 27<sup>th</sup> Avenue NE, west to 25<sup>th</sup> Avenue NE, in order to provide properties north of the proposed development, along 25<sup>th</sup> Avenue NE, adequate sanitary sewer service in the future.

Sewer improvements will be designed in accordance with the applicable provisions of the MMC and specifically addressed during civil construction plan review.

iii. Appropriate storm drainage improvements

Staff Comment: A Preliminary Drainage Report (PDR), dated June 2012 (Exhibit 28), and revised on October 2012 (Exhibit 42), was prepared by Joseph M. Smeby, PE. According to the PDR, roof runoff from the new buildings is proposed to be connected to individual infiltration systems, or will be collected and conveyed to one of the on-site wetlands to provide flows to maintain their current function. Road runoff and the parking lot run-off is proposed to be directed to catch basins and infiltration trenches spread out around the site.

Storm drainage improvements will be designed in accordance with the Stormwater Management Manual for Western Washington (SMMWW) and applicable provisions of the MMC. Storm drainage improvements will be specifically addressed during civil construction plan review.

iv. Adequate fire hydrants

Staff Comment: In a memo dated November 6, 2012 (Exhibit 45), Assistant Fire Marshall, David Vanbeek, commented that the size and locations of water mains appears to be generally adequate. The locations of some hydrants exceed the City standard for spacing between hydrants. Standard hydrant spacing for the proposed use is 300 feet. Some hydrants should be

relocated, or additional hydrants provided, to improve their spacing. Further evaluation of hydrant locations will be part of the civil plan review and approval process.

- v. Appropriate access to all anticipated uses within the site

Staff Comment: After review of the preliminary BSP, it has been determined that, as conditioned herein, the proposed motor vehicle and pedestrian accesses generally comply with the applicable provisions outlined in the MMC and the Marysville Engineering Design and Development Standards (EDDS). Final motor vehicle and pedestrian accesses improvements will be specifically addressed during civil construction plan review.

- vi. Provisions for all appropriate deeds, dedications, and/or easements

Staff Comment: Final deeds, dedication, and/or easements shall be required in accordance with the applicable provisions in the MMC and reviewed and approved, prior to recording the final BSP.

- vii. Examination of the existing streets and utilities and how the proposed BSP relates to them.

Staff Comment: After review of the preliminary BSP, it has been determined that, as conditioned herein, the proposed streets and utilities generally comply with the applicable provisions outlined in the MMC and the Marysville Engineering Design and Development Standards (EDDS). Final street and utility improvements will be specifically addressed during civil construction plan review.

- e. Examination of the project through the SEPA process and a determination of whether the proposed binding site plan complies with the SEPA requirements.

Staff Comment: After evaluation of the applicant's environmental checklist submitted with the application, and other supporting documentation and application materials, a Mitigated Environmental Threshold Determination of Non-Significance (MDNS) was issued on February 15, 2012 (Exhibit 59). The appeal period for the MDNS expired on March 4, 2013. No appeals were filed.

- f. Binding site plans shall comply with the critical areas land division requirements of MMC 22E.010.350.

Staff Comment: The proposed lots within the BSP contain at least one building site, including access that is suitable for development and is not within the critical areas or its associated setback in accordance with MMC 22E.010.350(1). Prior to recording the final BSP, the critical areas and associated buffers and setbacks shall be placed in a separate tract on which development is prohibited in accordance with MMC 22E.010.350(2).

- 19. MMC 22G.010.420(1) requires the applicant to demonstrate that the proposal is consistent with the comprehensive plan, and applicable functional plans, and complies with the following criteria:

- a. There is a demonstrated need for additional zoning as the type proposed;
- b. The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties;
- c. There have been significant changes in the circumstances of the property to be rezoned, or surrounding properties, to warrant a change in classification; and
- d. The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

The applicant submitted a written response to the rezone criteria outlined above (Exhibit 5). After evaluation of the applicant's written response, and other supporting documentation and application materials, the proposed rezone, as conditioned herein, complies with the rezone criteria and applicable development standards outlined in Title 22 MMC, *Unified Development Code*.

20. Pursuant to MMC 22G.010.420(2), properties at the edges of land use districts can make application to rezone property to the bordering zone without applying for a comprehensive plan map amendment if the proponent can demonstrate, the following:
  - a. The proposed land use district will provide a more effective transition point and edge for the proposed land use district than strict application of the comprehensive plan map would provide due to neighboring land uses, topography, access, parcel lines or other property characteristics;
  - b. The proposed land use district supports and implements the goals, objectives, policies and text of the comprehensive plan more effectively than strict application of the comprehensive plan map; and
  - c. The proposed land use change will not affect an area greater than 10 acres, exclusive of critical areas.

The applicant submitted a written response to the rezone criteria outlined above (Exhibit 5). After evaluation of the applicant's written response, and other supporting documentation and application materials, the proposed rezone, as conditioned herein, will be consistent with the applicable development goals and policies outlined in the Marysville Comprehensive Plan.

21. After evaluation of the application materials and other supporting documentation available to the City, Staff concludes that, as conditioned, the proposed development is beneficial to the public health, safety and welfare and is in the public interest.
22. After evaluation of the application materials and other supporting documentation available to the City, Staff concludes that, as conditioned, the proposed development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan.
23. After evaluation of the application materials and other supporting documentation available to the City, Staff concludes that, as conditioned, the area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.

## 2.0 RECOMMENDATION

Based on the foregoing findings and conclusions, review of the environmental documents submitted by the applicant, and the City's regulatory authority to implement the policies, standards, and regulations of the Marysville Comprehensive Plan and MMC, the Community Development Department hereby recommends the Hearing Examiner **APPROVE** the preliminary BSP and forward a recommendation of **APPROVAL** of the Rezone, for Lakewood Station, to Marysville City Council, subject to the following conditions:

1. The preliminary BSP received by the Community Development Department on March 1, 2013 (Exhibit 66) shall be the approved preliminary BSP layout.
2. Project design shall comply with the condition of the Comprehensive Plan Map Amendment and concurrent rezone Ordinance No. 2755, requiring two (2) east-west road connections, one located at approximately the 17300 Block and the other located at approximately the 17500 Block.
3. All power lines, telephone wires, television cables, fire alarm systems and other communication wires, cables or lines shall be placed underground either by direct burial or by means of conduit or ducts providing service to each building.
4. A six (6) to eight (8) foot CMU wall shall be installed along the east perimeter of the development from 173<sup>rd</sup> Street NE to the northeast property corner, separating the multi-family and commercial uses from the Lakewood Commons single-family condominium development. This detail shall be provided on the on the civil construction, and/or

architectural plans.

5. The following design elements shall be incorporated into the commercial portion of the BSP:
  - a. Public entrances for the buildings located along 25<sup>th</sup> Avenue NE, 27<sup>th</sup> Avenue NE, 172<sup>nd</sup> Street NE (SR 531) and 173<sup>rd</sup> Street NE shall be visible and accessible from public streets and sidewalks. Preferably these access ways should be separated from the parking and drive aisles. If access traverses the parking lot, then it should be raised and clearly marked.
  - b. Pedestrian-oriented space shall be required at intersections and street corners leading directly to a building entry or entries, such as:
    - i. Pedestrian access to the abutting structures from the street;
    - ii. Paved walking surfaces of either concrete or approved unit paving;
    - iii. Pedestrian scaled lighting (no more than 15' in height) at a level averaging at least 2 foot candles throughout the space;
    - iv. Landscaping components that add seasonal interest to the space;
    - v. Pedestrian amenities, such as a water feature, drinking fountain, tables, and/or distinctive paving or artwork.
    - vi. A pedestrian-oriented building façade.
    - vii. If providing pedestrian oriented space is not feasible or desirable per the director, consider the following:
      - A. Install substantial landscaping (at least 30 x 30' or 900 SF of ground surface area with trees, shrubs, and or groundcover). The space may include a special architectural element, such as a trellis, to add identity or demarcation of the area. Such an architectural element may have a sign incorporated into it (as long as such sign does not identify an individual business or businesses).
      - B. Other treatments will be considered by the Director, provided they meet the intent of the standards and guidelines outlined above.
  - c. Blank walls shall not be allowed on elevations facing a public or private road. A blank wall is a ground floor wall, or portion of a ground floor wall, over 4' in height having a horizontal length greater than 15' that does not include a transparent window or door, or, any portion of a ground floor wall having a surface area of 400 SF or greater that does not include a transparent window. Design Treatments to eliminate blank walls shall include, but shall not be limited to:
    - i. Transparent windows or doors;
    - ii. Display windows;
    - iii. Landscape planting bed at least 5 feet wide or a raised planter bed at least 2 feet high and 3 feet wide in front of the wall. Such planting areas shall include planting materials that are sufficient to obscure or screen at least 60% of the wall's surface within 3 years;
    - iv. Installing vertical trellis in front of the wall with climbing vines or plant materials sufficient to obscure or screen at least 60% of the wall's surface within 3 years. For large areas, trellises should be used in conjunction with other blank wall treatments.
    - v. Other methods such as murals or special building material treatments that meet the intent of the standards outlined above may be approved by the director.
  - d. Street furniture, including the following elements, shall be provided and strategically located throughout:
    - i. Trash Receptacles: Ironsites Series S-20 as manufactured by Victor Stanley; Powdercoating Victor Stanley, or comparable.
    - ii. Ash Urn: Ironsites Series S-20 as manufactured by Victor Stanley; Powdercoating Victor Stanley, or comparable.

- iii. Benches: Victor Stanley RB-28 steel sides bench or Timber Form Renaissance Model 2806-5, 5'-1" length with arm rest; Powdercoat over galvanized zinc, or comparable.
  - e. Plazas and gathering places for relaxing, eating, socializing and recreating shall be provided and designed, as follows:
    - iv. Sized between 5,000 to 10,000 SF.
    - v. Able to serve as a center for daily activities.
    - vi. Paving should be unit pavers or concrete with special texture, pattern, and/or decorative features.
    - vii. Pedestrian amenities should be provided, including features such as seating, plants, drinking fountains, artwork, and such focal points as sculptures or water features.
- 6. Detailed recreational site amenities and boundaries of proposed recreational facilities shall be provided on the civil construction, architectural, or landscape plans for the multi-family portion of the site in accordance with MMC 22C.020.270 & MMC 22C.020.280. Recreational amenities shall be reviewed and approved by the Parks Director.
- 7. A detail of the bicycle parking spaces shall be provided on the civil construction or architectural plans, and designed in accordance with MMC 22C.130.060.
- 8. A lighting plan and details for parking lot illumination locations, materials and fixture design shall be provided on the civil construction or architectural plans. Lighting shall comply with the following design standards:
  - a. 25' maximum height.
  - b. Fixtures shall be full cut-off, dark sky rated, with lower fixtures preferable so as to maintain a human scale.
  - c. Parking lot lighting shall be designed to provide security lighting to all parking spaces.
  - d. Lighting shall be shielded in a manner that does not disturb residential uses or pose a hazard to passing traffic. Lighting should not be permitted to trespass onto adjacent private parcels nor shall light source (luminaire) be visible at the property line.
  - e. Fixture design shall incorporate unique design features that coincide with the architectural design of the development.
  - f. Pedestrian scale lighting (light fixtures no taller than 15') is required in areas of pedestrian activity. Lighting shall enable pedestrians to identify a face 45' away in order to promote safety.
  - g. Exterior lighting shall be part of the architectural concept. Lighting shall enhance the building design and adjoining landscaping. It should provide adequate lighting to ensure safety and security, and enhance and encourage evening activities. In addition, the following shall be addressed:
    - i. The site plan shall identify lighting equipment and standards. Uplighting on trees and provisions for seasonal lighting are encouraged.
    - ii. Accent lighting on architectural and landscape features is encouraged to add interest and focal points.
- 9. Prior to civil construction plan approval, a detailed landscaping plan depicting all of the applicable elements outlined in MMC 22C.120.030 will be required to be submitted for review and approval. The landscape plan shall incorporate the following design elements, as outlined in Chapter 22C.120 MMC:
  - a. All landscaped areas shall be provided with an irrigation system or a readily available water supply with at least 1 outlet located within 50' of all plant material.
  - b. Water conservation measures shall be applied as outlined in MMC 22C.120.050.

- c. The proposed and existing residential structures shall be buffered from commercial structures and adjoining parking lots by use of vegetation, landscaping, fencing, walls, berms or other similar methods which are deemed under the circumstances to create effective and aesthetically pleasing screens or buffers between such diverse land uses.
- d. Site development shall be sensitive to the preservation of native trees, where applicable.
- e. A 20' L1 landscape buffer, plus a quality 6' minimum height, sight-obscuring fence or wall, is required to be installed to create a buffer between the commercial portion of the site and the existing single-family residential properties.
- f. A 10' L1 landscape buffer, plus a quality 6' minimum height, sight-obscuring fence or wall, is required to be installed to create a buffer between the multi-family portion of the site and the existing single-family residential properties.
- g. A 10' L2 landscape buffer, plus a quality 6' minimum height, sight-obscuring fence or wall, is required to be installed to create a buffer between the commercial portion of the site and the proposed multi-family residential properties.
- h. A 15' L3 landscape buffer is required between off-street parking and drive-aisles and 172<sup>nd</sup> Street NE (SR 531).
- i. A 10' L3 landscape buffer is required between off-street parking and drive-aisles and 27<sup>th</sup> Avenue NE, 25<sup>th</sup> Avenue NE, 173<sup>rd</sup> Street NE and 174<sup>th</sup> Street NE.
- j. The development shall create a well-defined streetscape to allow for the safe movement of pedestrians. Whenever possible, building setbacks shall be minimized and parking and drive-through passageways shall be relegated to the side and rear of buildings.
- k. Attractive landscape transition to adjoining properties shall be provided.
- l. Where buildings are not located along the street frontages, enhanced landscaping shall be required in order to create an attractive street edge.
- m. Ten (10%) percent of the required parking areas shall be landscaped with L4 landscaping, provided that:
  - i. No parking stall shall be located more than 45' from a landscaped area;
  - ii. All landscaping must be located between parking stalls, at the end of parking columns, or between stalls and the property line;
  - iii. All individual planting areas within parking lots shall be planted with at least one tree, be a minimum of 5' in width and 120 SF in size, and in addition to the required trees, shall be planted with a living groundcover;
  - iv. All landscaped areas shall be protected from vehicle damage by a 6" protective curbing. Wheel stops may be substituted when required to allow storm water to pass.
  - v. A minimum 2' setback shall be provided for all trees and shrubs where vehicles overhang into planted areas.
- n. Pursuant to MMC 22C.130.050(6), screening in the form of a solid masonry wall, architectural fence or dense coniferous hedge shall be effected or planted and maintained to a height of not less than 5' where a parking lot has a common boundary line with any residentially developed property.
- o. Street trees are required to be planted along all public streets and access roads/easements and comply with the following:
  - i. Street trees shall be planted between the curb and the walking path of the sidewalk. Either 5' x 5' pits with tree grates or a continuous planting strip with groundcover that is at least 5' wide may be used. Where planting strips are not incorporated into the design, street trees shall be located behind the sidewalk.
  - ii. Street trees shall meet the most recent ANSI standards for a 1 1/2" caliper tree at the time of planting, and shall be spaced to provide a continuous canopy coverage within 10-years.

- p. Utility meters, electrical conduit, and other service utility apparatus shall be located and/or designed to minimize their visibility to the public. If such elements are mounted in a location visible from the street, pedestrian pathway, common open space, or shared auto courtyards, they shall be screened with vegetation or by architectural features.
  - q. Additional landscaping design standards related to site and building design are outlined in MMC 22C.020.250.
10. The following calculations and design elements for storage space and collection points for recyclables shall be provided on the civil construction or architectural plans and approved by the Sanitation Division:
- a. Residential:
    - i. 1 ½ SF per dwelling unit.
    - ii. The storage area shall be dispersed in collection points throughout the site.
    - iii. Minimum of 1 collection point for every 30 dwelling units.
    - iv. Collection points may be located within residential buildings, in separate buildings/structures without dwelling units, or outdoors.
    - v. Collection points located in separate buildings/structures or outdoors shall be no more than 200' from a common entrance of a residential building.
    - vi. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way.
  - b. Commercial:
    - i. 5 SF per every 1,000 SF of commercial GFA.
    - ii. Storage space may be allocated to a centralized collection point.
    - iii. Outdoor collection points shall not be located in any required setback areas.
    - iv. Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way.
    - v. Access to collection points may be limited, except during regular business hours and/or specified collection hours.
  - c. Generally:
    - i. Dimensions of the collection points shall be of sufficient width and depth to enclose containers for recyclables.
    - ii. Architectural design of any structure enclosing an outdoor collection point, or any building primarily used to contain a collection point, shall be consistent with the design of the primary structure(s) on the site.
    - iii. Collection points shall be identified by signs not exceeding 2 SF.
    - iv. A 6' wall or fence shall enclose any outdoor collection point.
    - v. Enclosures for outdoor collection points and buildings used primarily to contain a collection point shall have gate openings at least 12' wide for haulers. In addition, the gate opening for any building or other roofed structure used primarily as a collection point shall have a vertical clearance of at least 12'.
    - vi. Weather protection of recyclables shall be ensured by using weather-proof containers or by providing a roof over the storage area.
11. The following solid waste details will be required to be provided on the civil construction, architectural, or landscape plans:
- a. Service elements shall be located to minimize the negative visual, noise, odor, and physical impacts to the street environment, adjacent (on and off-site) residents or other uses, and pedestrian areas.
  - b. The designated spot for service elements shall be paved with concrete.



- c. Appropriate enclosure of the common trash and recycling elements shall be required, as determined by the Director. Requirements and considerations:
  - i. A 6-foot fence constructed of concrete block or brick enclosing trash and recycling receptacles is required. Coordination with the current franchise hauler is required. The sides and rear of the enclosure must be screened with Type L1, L2, L3, or L4 Landscaping at least 5' deep in visible locations, as determined by the director, to soften the views of the screening element and add visual interest.
  - ii. Preferably, service enclosures are integrated into the building itself.

### 3.0 MDNS CONDITIONS

A Mitigated Determination of Non-Significance (MDNS) was issued on February 15, 2013. The mitigation measures imposed to minimize the probable significant adverse environmental impacts of the proposed BSP and concurrent Rezone for Lakewood Station are referenced below:

1. The applicant/contractor shall adhere to the recommendation outlined in Geotechnical Engineering Study, prepared by Earth Solutions NW, LLC, dated May 21, 2012, or as amended.
2. *Prior to civil construction plan approval*, the applicant shall submit a more detailed noise analysis in order to determine the extent of required mitigation, as recommended in the preliminary noise analysis, prepared by The Greensbusch Group, Inc., dated December 5, 2012. This noise analysis shall include, but not be limited to, a review of any external mechanical equipment, delivery and loading areas, parking lot traffic, street sweeping lot parking lots, as well as recommendations to mitigate any noise impacts the proposed commercial development will have on the adjacent single-family (existing) and multi-family (proposed) properties.
3. The applicant shall be required to replace the off-site stormwater culvert under 172<sup>nd</sup> Street NE, which is located at 2131 172nd Street NE. Additionally, the applicant shall be required to analyze the peak flows for this system to ensure that the new culvert and existing ditch can convey developed peak flows.
4. The applicant shall obtain all necessary state and federal authorizations for wetland impacts prior to beginning any ground disturbing activities within the wetland areas or associated buffers.
5. The existing on-site sewage system(s) shall be abandoned by having the septic tank(s) pumped by a certified pumper, then having the top of the tank removed or destroyed and filling the void (WAC 246-272A-0300). Documentation demonstrating completion of this work shall be submitted *prior to final BSP approval*.
6. The existing on-site well(s) shall be decommissioned in accordance with WAC 173-160-381. A copy of the well contractor's decommissioning report(s) shall be submitted *prior to final BSP approval*.
7. A street vacation for 25<sup>th</sup> Avenue NE shall be required to be approved by Marysville City Council in accordance with Chapter 12.32 MMC. The street vacation shall be reviewed by Marysville City Council concurrently with the Hearing Examiner's Recommendation on the proposed rezone.
8. Public right-of-way (ROW) shall be dedicated along 172<sup>nd</sup> Street NE (SR 531) in order to accommodate the 90' principal arterial 5-lane public ROW section (EDDS SP3-201-002), in accordance with MMC 12.02A.110(1)(c), unless additional ROW is required to be dedicated by Washington State Department of Transportation (WSDOT). The City Engineer and WSDOT shall review and approve the required ROW dedication, *prior to civil construction plan approval*.

9. Thirty-feet (30') of public ROW shall be dedicated along 174<sup>th</sup> Street NE, west of 25<sup>th</sup> Avenue NE, in order to accommodate the half-street 60' neighborhood collector public ROW section (EDDS SP3-202-001) in accordance with MMC 12.02A.110(1)(c).
10. Public ROW shall be dedicated along 25<sup>th</sup> Avenue NE and 27<sup>th</sup> Avenue NE, in order to accommodate the 60' collector arterial/commercial access street public ROW section (EDDS SP3-201-003) in accordance with MMC 12.02A.110(1)(c).
11. 173<sup>rd</sup> Street NE is approved as a private road. 173<sup>rd</sup> Street NE shall be designed and constructed to the public road standard, including two 11' travel lanes, two 5' bicycle lanes, curbs & gutter per EDDS Section 3-514, two 5' planter strips and two 5' sidewalks. A public utility and access easement for the private road shall be reviewed and approved by the City Engineer and *recorded concurrently with the BSP*.
12. The applicant shall be required to construct frontage improvements along 172<sup>nd</sup> Street NE (SR 531), 173<sup>rd</sup> Street NE (private), 174<sup>th</sup> Street NE, 25<sup>th</sup> Avenue NE and 27<sup>th</sup> Avenue NE, in accordance with MMC 12.02A.090, *prior to recording the BSP*. Frontage improvements shall include street lighting and signal communications conduit. Roadway improvements, channelization and site access plans will be required to be reviewed and approved by the City Engineer and WSDOT (SR 531 and traffic signals) *prior to construction plan approval*.
13. Frontage improvements along 172<sup>nd</sup> Street NE (SR 531) shall be credited against the traffic impact fees in accordance with Section 22D.030.070(5) MMC. The amount of credit for improvements to 172<sup>nd</sup> Street NE (SR 531) shall be approved by the City Engineer.
14. The applicant shall construct a traffic signal at the intersection of 25<sup>th</sup> Avenue NE and 172<sup>nd</sup> Street NE (SR 531) *prior to recording the BSP*. Traffic signal design shall consider both the short-term (one eastbound through lane) and long-term (two eastbound through lanes) at this location. Signal design shall include protected phasing for the eastbound left-turn. Signal construction plans shall be reviewed and approved by the City Engineer and WSDOT *prior to civil construction plan approval*. Credit towards traffic impacts fees shall not be given for any work related to design and construction of the signal.
15. The applicant shall conduct a detailed analysis in order to understand street system operations and queuing along 27<sup>th</sup> Avenue NE between the site access and 172<sup>nd</sup> Street NE *prior to civil construction plan approval*. The evaluation shall consider impacts to the neighborhood north and east of the site. Analysis shall determine if dual southbound left-turn lanes and/or access management is necessary to provide adequate operations and minimize neighborhood impacts. After review of the analysis, the City Engineer shall determine whether or not signal improvements or access management on 27<sup>th</sup> Avenue NE will be required.
16. The applicant shall install Lemec Renaissance Series color BRTX street luminaire fixtures along 172<sup>nd</sup> Street NE (SR 531), 173<sup>rd</sup> Street NE (private), 174<sup>th</sup> Street NE, 25<sup>th</sup> Avenue NE and 27<sup>th</sup> Avenue NE. Street illumination shall be designed in accordance with Section 3-506 of the Marysville Engineering Design and Development Standards (EDDS).
17. The applicant shall install a 6' wide by 16' long concrete pad on the back side of the sidewalk at the existing Community Transit bus stop on the northwest corner of 172<sup>nd</sup> Street NE (SR 531) and 27<sup>th</sup> Avenue NE for the future installation of a bus shelter.
18. The applicant shall install a 6' wide by 16' long concrete pad on the back side of the sidewalk for a future Community Transit bus stop on the northwest corner of 172<sup>nd</sup> Street NE (SR 531) and 25<sup>th</sup> Avenue NE for the future installation of a bus shelter.
19. In order to mitigate impacts upon the future capacity of the road system, the applicant shall be required to submit payment to the City of Marysville, on a proportionate share cost of the future capacity improvements as set forth in MMC 22D.030.070(3), for the development. Traffic impact fees shall be vested at a rate of \$3,290.00 per multi-family unit and \$1,870.00 per commercial PM Peak Hour Trip (PMPHT).
20. Pursuant to the ILA with Snohomish County, the applicant is obligated to pay traffic mitigation based on 20% of the average daily trips generated from the proposed project multiplied by the County mitigation fee of \$46.00 per new average daily trip (ADT) for the

multi-family phase and \$39.00 per new ADT for the commercial phases. The applicant submitted a signed traffic mitigation offer to Snohomish County, in the amount of \$69,404.20, calculated as follows:

<b>USE</b>	<b>ADT</b>	<b>RATE (20%)</b>	<b>IMPACT FEE</b>
Multi-Family (348-units)	1493	\$9.20	\$13,735.60
Commercial	7137	\$7.80	\$55,668.60
<b>TOTAL</b>			<b>\$69,404.20</b>

Snohomish County reserves the right to adjust the impact fee if there is a change of use or building size within the development.

