

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: December 8, 2014

AGENDA ITEM: Ordinance adopting amendments to the Marysville Municipal Code related to Caretaker’s Quarters, requiring Temporary Use Permit approval and Development Standards	AGENDA SECTION: New Business	
PREPARED BY: Chris Holland, Planning Manager	APPROVED BY:	
ATTACHMENTS: 1. Hearing Examiner’s Decision (CE 13-000312) 2. PC Recommendation, including: <ul style="list-style-type: none"> • Exhibit A – PC DRAFT Recommended Ordinance • Exhibit B – DRAFT PC Minutes, November 12, 2014 • Exhibit C – PC Minutes, October 28, 2014 • Exhibit D – PC Minutes, July 8, 2014 3. Photos of existing (illegal) RV Caretaker’s Quarters 4. Staff Recommended Ordinance		
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

DESCRIPTION:

The Hearing Examiner recently ruled on a code enforcement appeal related to a tenant that had occupied an existing commercial office space as a caretaker’s quarters with no commercial uses associated with the structure. The enforcement order was upheld by the Hearing Examiner, however, in the findings the Hearing Examiner made the following notation:

Hearing Examiner Note: This finding does not imply that if an active caretaker’s role did become established to provide security for the property owner by a resident of the subject structure, that the current single family use of the structure as a residence of multiple registered sex offenders would then comply with MMC 22C.020.060.

Based on the finding of the Hearing Examiner, the Community Development Department proposed amending provisions of the Marysville Municipal Code to ensure that establishment of a caretaker’s quarters would clearly be subordinate and incidental to the primary commercial use. More specifically, a definition for caretaker’s quarters is proposed, a temporary use permit is proposed to be required, and development conditions, such as requiring consent from the owner and submittal of site and floor plans.

At the public hearing held on November 12, 2014, the Planning Commission requested staff amend the DRAFT Ordinance to allow recreational vehicles as a caretaker’s quarters in the General Industrial (GI) and Light Industrial (LI) zones (see attached PC Recommendation and Exhibits). As reflected in the attached minutes Staff does not support allowing recreational vehicles as a caretaker’s quarters as it would raise a number of on-site issues, including aesthetics, outdoor storage of household items and garbage, no sanitary water or sewer connections, etc (see attached photos). Currently, the Marysville Municipal Code recreational vehicles are only allowed for housing in recreational vehicle parks.

RECOMMENDED ACTION:

Amend the recommendation of the Planning Commission and adopt the DRAFT Staff Recommended Ordinance amending the Marysville Municipal Code related to Caretaker’s Quarters, requiring Temporary Use Permit approval and Development Standards.

COUNCIL ACTION:

CITY OF MARYSVILLE
Hearing Examiner
Findings, Conclusions and Decision

APPLICANT: John Mack

CASE NO.: CE13-000312

LOCATION: 15324 Smokey Point Boulevard
Marysville, WA 98270

APPLICATION: APPEAL by John Mack of Permanent Enforcement Order; To Violation of Permitted Uses pursuant to MMC Section 22C.020.060.

SUMMARY OF DECISION

Staff Recommendation: DENY the appeal, UPHOLD the Permanent Enforcement Order issued on December 5, 2013, and apply the two conditions outlined in Section 4.0 of the Staff Recommendation.

Hearing Examiner Decision: DENY the appeal, UPHOLD the Permanent Enforcement Order issued on December 5, 2013, and apply the two conditions outlined in Section 4.0 of the Staff Recommendation.

PUBLIC HEARING OVERVIEW

After reviewing the official public record file, that included the Marysville Community Development Department Staff Recommendation; and after visiting the site, the Hearing Examiner conducted a public hearing on the APPEAL. The hearing on the APPEAL was opened at 7:00 p.m., May 28, 2014, in the Council Chambers, Marysville, Washington, and closed at 10:00 p.m. Participants at the public hearing included representatives of the city of Marysville and the appellant, and are listed below and in the minutes of the hearing. A verbatim recording of the hearing and summary minutes may be obtained from 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.

PUBLIC HEARING TESTIMONY

The Hearing Examiner noted for the record that the issue under consideration is the appeal from the Permanent Enforcement Order; that was issued on December 5, 2013 with respect to Violation of the Permitted Uses on the subject site, pursuant to MMC Section 22C.020.060. The substantive issue related to the Marysville Municipal Code (MMC) is the residential use and

occupancy of a building on a parcel of land that is not zoned or permitted for that purpose. Specifically:

MMC 22C.020.060: Defines the Permitted Uses on land located in the General Commercial (GC) land use zone. The city of Marysville finds that a single family residential use on the subject property is not permitted in the GC zone and therefore the current use of the property for single family residential use exists on the property in violation of City Code.

Testimony was provided by both the city of Marysville and the appellant. A summary of the testimony is as follows:

City of Marysville, Community Development Department

Chris Holland, Planning Manager explained the situation related to the APPEAL as summarized here and documented in the Staff Recommendation (Exhibit 29):

- Subject property is in General Commercial zoning – single family residential use is not permitted
- Use of the subject structure lost legal non-conforming status as residential use in 2007 when a change of occupancy from single family residence to Occupancy Group “B” occurred – single family residential use is not permitted under this occupancy category
- On August 2013, a lease agreement was signed between the property owner (Greg Stewart) and John Mack D/B/A Holy Ghost Revival Ministries (Exhibit 38)
- Marysville police Detective Bartl reported to city code enforcement officer Paul Rochon, that 9 people were occupying the structure
- November 7, 2013 Notice of code violation (CE 13-00012) was issued to Mr. Mack regarding the illegal single family residential use of the structure. Mr. Mack in response argued that the use was actually as a caretaker’s residence. However, a review by the city of the layout of the structure confirmed that it was being occupied primarily as a residential use, not a subordinate use to a commercial or industrial business as would be required as a caretaker’s quarters.
- City worked with appellant to encourage modifying the use of the structure to comply with zoning. Appellant a submitted structure floor plan that did not convince the city that the structure was being used as a caretaker’s quarters. To the contrary, the floor plan clearly demonstrated that the structure was being used for residential purposes.
- December 5, 2013 the city issued a Permanent Enforcement Order (CE 13-000312), requiring the structure be reverted to commercial use consistent with the GC zoning and the Occupancy Group B category of uses, subject to penalties if compliance is not attained
- The use of a structure as a caretaker’s quarters must be subordinate to a permitted commercial or industrial business and the use must be intended to provide security services
- Observations of the structure and the plans/layout of the structure support the city’s position that the structure is being used for residential purposes, in contradiction to the provisions of Marysville Municipal Code.

On Behalf of the AppellantJane Mack (testimony provided largely under the questioning of Mack's attorney, Scott Stafne)

- Holy Ghost Revival Ministry operates the "Mack House of Western Washington". The Ministry is a 501(c)(3) organization the mission of which is to teach men coming out of prison to transition to community living through teaching the 12 steps to clean and sober lives.
- Holy Ghost Revival Ministry was founded in 1993. Ministry works with the state Department of Corrections to house registered sex offenders who have been released from prison. The Ministry has 9 houses in total, four of which are in the city of Marysville and one of which is the subject structure.
- No city business license is required for this 501(c)(3) organization
- Rules for residency and behavior in Mack Houses are established and enforced
- Intended use of the subject structure is for Ministry office and housing. Men who live in the house watch over the house and the adjacent Peterbuilt business. There have been a lot of break-ins in the vicinity.

John Mack (testimony provided largely under the questioning of Mack's attorney, Scott Stafne)

- Mr. Mack is the pastor of Holy Ghost Revival Ministry. The ministry operated a church in Downtown Seattle to give men a structured living situation to get their lives back in order. Operates three other "Mack Houses" in Marysville, and there is a great need. Men in the houses support each other and would otherwise be homeless. The Department of Corrections contracts with Mack for housing services. *(Hearing Examiner note: In Exhibit 44, page 19, it is noted that the Department of Corrections pays the housing costs for registered sex offenders for up to 90 days to promote the movement from prisoners to neighborhood housing.)*
- Mr. Mack called attention to several exhibits in the public record:
 - Exhibit 38: Lease contract and amendment. Certificate of Incorporation of Holy Ghost Revival Ministries as a Washington non-profit organization. Recognized under IRS tax code 501(c)(3) as a non-profit.
 - Exhibit 39: Predominant use of the structure is for office. According to Snohomish County the "dwelling" is very small (2,300 square feet) compared to the primary use, which is the Peterbuilt business that is housed in a 12,000 square foot structure.
 - Exhibit 40: Everett city code regarding zoning standards for caretaker's quarters.
 - Exhibit 46: Hand-written description of monthly costs to operate the subject house and the income, showing a slight monthly deficit *(Hearing Examiner note: under the rent structure for the 2016-2017 time period)* if no vacancies
- Residents of the structure are all mentally disabled men under the federal Fair Housing Act
- Residents help stop crime by providing security
- More than one person needs to be present to provide caretaker's services because not all of the men are in the house all of the time
- Residents form a "family unit" under the code
- Structure meets the definition of a "dwelling" under the code

- The member agreement applies to each person living in the house. Residents are primarily registered sex offenders who have been released from prison. They may be considered to be mentally disabled.

Steve Osborne, resident at 15324 Smokey Point Boulevard (testimony provided largely under the questioning of Mack's attorney, Scott Stafne)

- Resides in the "Mack House", Suffers from P.T.S.D. from military service
- Described his role as "house manager" for the "Peterbuilt House" (*Hearing Examiner note: Peterbuilt House appears to be a nickname for this particular Mack House to distinguish it from other Mack Houses in Marysville and elsewhere*)
- Calls police when observing anything suspicious
- House has been used for an office and as a caretaker's quarters
- Current use of the house provides for a sense of family for the residents and allows observations of individual residents for changes in personality

Closing Remarks

City of Marysville, offered by Thom Graafstra

- The issue is a matter of code enforcement based on the single family residential use of the site that is not consistent with the General Commercial zoning
- Legal non-conforming use is not established. (*Hearing Examiner note: Prior non-conforming use was abandoned with the change of occupancy in 2007.*) Therefore the structure must be occupied and used consistent with the existing General Commercial zoning.
- Regardless of the laudable community service that Mr. Mack is providing in housing registered sex offenders, the structure on this property cannot be used for single family residential purposes, which is the primary use that is occurring. (*Hearing Examiner note: It is not clear how long any resident remains a tenant in a Mack House – DOC may provide 90 days of housing support.*)
- This "Mack House" or "Peterbuilt House" as it is described by Mr. Osborne, is not being used as a "Caretaker's Quarters" as defined by MMC 22C.020.070 that allows for a dwelling unit to provide service and security of the related commercial or industrial business
- Appellant has not demonstrated that any service is being provided to the primary use (Peterbuilt truck service and parts) therefore it is not an accessory use nor a caretaker's quarters
- If service and security are being provided, this use would need to be subordinate and incidental to the primary use. (*Hearing Examiner note: Regardless of the size difference between the residential structure and the business/industrial structure*), that is not what is occurring in this structure which is housing at least seven occupants.
- Evidence provided in Exhibit 44 shows a number of bedrooms consistent with the primary use of the structure as single family residential.
- This is an issue of zoning, not of fair housing

Appellant, offered by John Mack

- Lease of the structure is to the Holy Ghost Revival Ministry. The church use is the predominant use.
- Part of the office space is devoted to a caretaker's unit that houses the residents
- Ministry has a business use of running this and other Mack Houses
- People may not like the fact that registered sex offenders occupy the house, but they don't get to pick their neighbors
- If these men are evicted from the house, they will be put back on to the street. (*Hearing Examiner note: unclear how long residents remain in the house, considering DOC provides housing support for 90 days*).
- City must acknowledge the Ministry as a real mission, and must make reasonable accommodation for these men to occupy this structure
- Regardless of what the structure looks like, it is a church office and a caretaker's residence
- The Peterbuilt business is the primary use of the property, the house is accessory and residents of the house provide security
- Marysville's motive is to get rid of registered sex offenders living in the community

WRITTEN COMMENTS

None introduced to the record at the public hearing.

FINDINGS, CONCLUSIONS AND DECISION

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

A. FINDINGS

1. The information contained in the Community Development Department Staff Recommendation (Exhibit 29) 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 may be obtained from 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. Findings with respect to the specific issues in this appeal:
 - Single Family Residential use is not permitted in the General Commercial (GC) zone, in accordance with MMC 22C.020.060
 - MMC 22C.020.060 does provide for other types of residential uses in General Commercial zoning (dwelling units, group residences, accessory uses, and temporary lodging) either permitted outright or conditionally. The Hearing Examiner finds that none of following the residential use types that may be permitted in the GC zone are occurring in the subject structure:

- Multiple-family (provided that residential units must be above the first floor of commercial use, ADA accessible units may be permitted on the first floor with Conditional Use approval)
 - Mobile home (if established prior to 2006)
 - Caretaker's quarters (limited to one dwelling unit for purposes of providing on-site service and security for a commercial or industrial business)
 - Adult family home (as defined by MMC 22A.020.020)
 - Convalescent, Nursing, Retirement (as defined by MMC 22A.020.020)
 - Residential care facility (as defined by MMC 22A.020.020)
 - Master planned senior community
 - Home occupation
 - Hotel/motel
 - Bed and breakfast
4. Residents of the structure on the subject property (Mack House) are male registered sex offenders who have been released from prison, and who, through the work and supervision of the Holy Ghost Revival Ministry and the support from the state Department of Corrections (*Hearing Examiner note: 90 days housing support, not sure if any other resources are made available from DOC*) are transitioning to community living.
5. Residents of the Mack House are not directly providing a caretaker's function for the Peterbuilt truck service and parts commercial activity. However, the residents of the Mack House may by their presence (*Hearing Examiner note; temporary as their residence may be*), observations and contacts with the police, be providing for passive deterrence and security. The Hearing Examiner finds that such passive deterrence is not an active caretaker's role and is better attributed to the "eyes on the street" phenomenon or the "see something, say something" guidance in airports and transit systems. No evidence was provided to indicate that any one or more of the residents actively engages in a patrol of the site intended to deliberately and actively seek to observe inappropriate and potentially criminal behavior. Instead, testimony indicated that one or more residents call the police upon observing anything suspicious, as would be expected from an "eyes on the street" deterrent, similar to the action a person would take when observing suspicious activity in a park or an abandoned piece of luggage in an airport. (*Hearing Examiner note: This finding does not imply that if an active caretaker's role did become established to provide security for the property owner by a resident of the subject structure, that the current single family use of the structure as a residence of multiple registered sex offenders would then comply with MMC 22C.20.020.060*)
6. Within the city of Marysville are several houses – "Mack Houses" - that accommodate registered sex offenders. These may exist in zoning districts that allow this type of residential use, however no testimony was provided. A map provided as part of Exhibit 46, page 12 shows the locations of a number of Level II and Level III sex offender housing, but does not show the underlying zoning. (*Hearing Examiner note: an off-the-record examination of the Marysville zoning map on the city's web site appears to show*

that other locations for housing of registered sex offenders may be consistent with the land use provisions of the zoning.) Testimony provided did assert that the city of Marysville is actively trying to eliminate the accommodation of registered sex offenders within the city, but the Hearing Examiner finds no compelling evidence to back up this assertion, and the presence of other similar accommodations for sex offenders within the city undermines the appellant's assertion.

7. The zoning provisions and accommodations afforded by other jurisdictions to accommodations for registered sex offenders were entered into the record, however only the zoning and accommodations of the city of Marysville are applicable.

B. CONCLUSION

1. Single family residential use is not permitted in structures on land in the General Commercial zone
2. The existing use of the structure on the subject property does not meet the definition of a "Caretaker's Quarters" in Marysville Municipal Code 22C.020.060 Permitted Uses.
3. The existing single family residential use of the structure on the subject property accommodates various numbers (6 to 10) of male registered sex offenders who have been released from prison, and who, through the work and supervision of the Holy Ghost Revival Ministry and the support from the state Department of Corrections, are transitioning to community living.
4. The existing use of the structure is as a single family residence, and such use of the structure on the subject property is not a permitted use in the General Commercial (GC) zone under MMC 22C.020.060 Permitted Uses.
5. Single family residential use was discontinued through a change of occupancy in 2007, therefore a legal non-conforming single family residential use cannot be re-established.

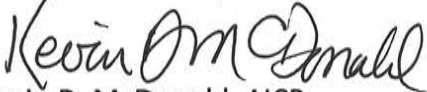
C. DECISION

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner DENIES the appeal, UPHOLDS the Permanent Enforcement Order issued on December 5, 2013, and applies the two conditions defined in Section 4.0 of the Staff Recommendation:

1. The property owner and lessee shall terminate the illegal residential use of the structure located at 15324 Smokey Point Boulevard, and the property shall be utilized only for the permitted uses identified in MMC 22C.020.060 and International Building Code Section 304 – Business Group B per the Certificate of Occupancy permit issued on October 10, 2007.
2. Compliance with the violations of MMC 22A.010.040(1) *Conformity with this title required*; MMC 22A.020.020 "A" *definitions for Accessory use, commercial/industrial*; MMC 22C.020.060 *Permitted Uses*; and MMC 22C.100.050(2) *Discontinuance or abandonment* shall be obtained within 30 days of the decision rendered by the Hearing Examiner (June 11, 2014). If compliance is not obtained within 30 days of the decision rendered by the Hearing Examiner, the property owner and lessee shall each be

assessed a civil penalty in the amount of \$250.00 per day until compliance is satisfactorily obtained, as determined by the Community Development Director.

Dated this 11th day of June 2014.



Kevin D. McDonald, AICP

Hearing Examiner

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. Certificate of Occupancy, 10.04.07
2. Email- re; RSO vs permitted use, 10.29.14
3. Permitted Uses
4. Snohomish County Property Summary
5. Enforcement Order-MMC Title 4, 11.07.13
6. Violation Response Form, 11.13.13
7. Complaint Tracking Form, 11.21.13
8. Background data
9. Floor Plan, 12.02.13
10. Permanent Enforcement Order- MMC Title 4, 12.05.13
11. Email- Caretakers Dwelling- business uses, 12.05.13
12. Letter of Appeal, 12.13.13
13. Letter setting Hearing date, 12.23.13
14. Public Records request and responsive materials, 01.02.14
15. Mack- Letter of waiver-60 day hearing requirement, 01.02.14
16. Mack- Letter reconfiguring 'business use', 01.08.14
17. Emails- re; revised floor plan, 01.22.14
18. Mack- "Reasonable Accommodation request", 01.31.14
19. Mack- Letter requesting hearing procedures, 01.18.14
20. Letter to Stewart advising of hearing date set, 02.24.14
21. Letter to Mack advising of hearing date set, 02.24.14
22. Notice of Public Hearing
23. Affidavit of posting- NOH
24. Email- Appeal Hearing procedures, 03.05.14
25. Memorandum- Business Licensing History, 03.11.14
26. MPD- Confirmation of occupants status at location, 03.13.14
27. International Building Code- Business Group B section
28. Memorandum- Business License History, 03.14.14
29. Staff Recommendations
30. Email- City to Mack-case files, 03.18.14
31. Email- City to Stewart – case file, 03.18.14
32. Hearing Agenda, 03.27.14
33. Stafne/Trumbull- Request for continuance, 03.19.14
34. Stafne/Trumbull- Concerns of Hearing, 03.27.14
35. City Attorney- Point of contact designation, 04.08.14
36. Affidavit of Posting- NOH
37. Affidavit of Publication- NOH
38. Appellant- Lease agreement with nonprofit papers, 05.19.14
39. Appellant- Property description, 05.19.14
40. Appellant- MMC, State and County legal codes, 05.19.14
41. Appellant- Incident reports and neighbor statements, 05.19.14
42. Appellant- emails to Planning Dept., 05.19.14
43. Appellant- Public records request for Caretaker's Unit, 05.19.14
44. Appellant- Emails regarding Mack house, 05.19.14
45. Appellant- Public Safety Concerns, 05.19.14
46. Appellant- Reasonable accommodations and related info, 05.19.14
47. Appellant- Misconduct by City Officials, 05.19.14
48. Appellant- Summary, 05.19.14
49. Marysville Brief, 05.28.14

PARTIES of RECORD

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

Jane Mack
15316 77th Ave NE
Arlington, WA 98223

John Mack
15316 77th Ave NE
Arlington, WA 98223

Steve Osborne
15324 Smokey Point Boulevard
Marysville, WA 98270



COMMUNITY DEVELOPMENT DEPARTMENT

80 Columbia Avenue ♦ Marysville, WA 98270

(360) 363-8100 ♦ (360) 651-5099 FAX

PC Recommendation - Caretaker's Quarters

The Planning Commission of the City of Marysville, having held a public hearing on October 28, 2014, which was continued to November 12, 2014, in review of amendments related to Caretaker's Quarters by amending Marysville Municipal Code (MMC) Sections 22A.020.040 "C" Definitions; 22C.110.020 Permitted Temporary Uses; 22C.110.030 Exempted Temporary Uses; and 22C.020.070 Permitted Uses – Development Conditions, having held a public work session on July 8, 2014, and having considered the exhibits and testimony presented, does hereby enter the following findings, conclusions and recommendation for consideration by Marysville City Council:

FINDINGS:

1. The Planning Commission held a public work session to review amendments related to Caretaker's Quarters on July 8, 2014.
2. The proposed amendment to the City's development regulations is exempt from State Environmental Policy Act review under WAC 197-11-800(19).
3. Community Development Staff submitted the DRAFT amendments related to Caretaker's Quarters to the State of Washington Department of Commerce for expedited review pursuant to RCW 36.70A.106(3)(b). No comments were received from State Agencies.
4. The Planning Commission held a duly-advertised public hearing on October 28, 2014, which was continued to November 12, 2014.
5. At the public hearing, continued on November 12, 2014, the Planning Commission requested staff amend the DRAFT Ordinance to allow Recreation Vehicles as caretaker's quarters in the General Industrial (GI) and Light Industrial (LI) zones, with development conditions, as reflected in the attached **Exhibit A** DRAFT Ordinance 3.0 PC Recommendation – Caretaker's Quarters. *A Recreational vehicle, as defined in MMC 22A.020.190, means:*

"A vehicle or portable structure built on a chassis and designed to be used for temporary occupancy or travel, recreational or vacation use. Said vehicles contain plumbing, heating and electrical systems which are operated without connection to outside utilities. Recreational vehicles shall include, but are not limited to, campers, motor homes and travel trailers; tents are excluded."

CONCLUSION:

At the public hearing, held on October 28, 2014, which was continued to November 12, 2014, the Planning Commission recommended adoption of the development code amendments related to Caretaker's Quarters, amending Staff's Recommendation, and allowing Recreation Vehicles as caretakers quarters in the General Industrial (GI) and Light Industrial (LI) zones, with development conditions, as reflected in the attached **Exhibit A** DRAFT Ordinance 3.0 PC Recommendation – Caretaker's Quarters, as reflected in the PC minutes attached hereto as **Exhibit(s) B, C & D**.

RECOMMENDATION:

Forwarded to City Council as a Recommendation of Approval of the development code amendments related to Caretaker's Quarters by the Marysville Planning Commission this 12th day of November, 2014.

By: _____

Steve Verfa, Planning Commission Chair

EXHIBIT A

**CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____**

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON RELATED TO CARETAKER'S QUARTERS BY AMENDING MARYSVILLE MUNICIPAL CODE (MMC) SECTIONS 22A.020.040 "C" DEFINITIONS; 22C.110.020 PERMITTED TEMPORARY USES; 22C.110.030 EXEMPTED TEMPORARY USES; 22C.020.070 PERMITTED USES – DEVELOPMENT CONDITIONS; AND AMENDING MMC SECTION 22A.010.160 GENERAL ADMINISTRATION, RELATED TO TRACKING AMENDMENTS TO THE CITY'S UNIFORM DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

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

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

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

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

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

WHEREAS, the development code amendment is consistent with the following required findings of MMC 22G.010.500:

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

WHEREAS, the Planning Commission discussed the above-referenced amendment during a public meeting held on July 8, 2014; and

WHEREAS, after providing notice to the public as required by law, on October 27, 2014, the Marysville Planning Commission held a Public Hearing on proposed amendments to the City's development regulations; and

EXHIBIT A

WHEREAS, on October 28, 2014, the Marysville Planning Commission held a duly-advertised public hearing, which was continued to November 12, 2014; and

WHEREAS, On November 12, 2014, at the continued public hearing, the Marysville Planning Commission made a recommendation to the City Council recommending the adoption of the proposed amendments to the City's development regulations; and

WHEREAS, at a public meeting on December 8, 2014, the Marysville City Council reviewed and considered the Marysville Planning Commission's Recommendation and proposed amendments to the City's development regulations; and

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on September 29, 2014, seeking expedited review under RCW 36.70A.160(3)(b) in compliance with the procedural requirement under RCW 36.70A.106; and

WHEREAS, the amendments to the development regulations are exempt from State Environmental Policy Act review under WAC 197-11-800(19);

NOW, THEREFORE, the City Council of the City of Marysville, Washington do ordain as follows:

Section 1. MMC 22A.020.040 is hereby amended by amending Section "C" definitions to add the following definition:

22A.020.040 "C" definitions.

"Caretaker's quarters" means a dwelling unit, or recreational vehicle that complies with MMC 22C.110.020(2)(h)(v), which is accessory to a permitted commercial or institutional use that is occupied exclusively by the caretaker or manager employed by the business or institution which it serves. Said dwelling unit, or recreational vehicle that complies with MMC 22C.110.020(2)(h)(v), must be located on the same property of the business or institution it serves; is limited to one such ~~unit-caretaker's quarters~~ per property; and must be demonstrated to be clearly incidental and subordinate to the primary business or institutional use and the structure it serves.

Section 2. MMC 22C.110.020 is hereby amended as follows:

22C.110.020 Permitted temporary uses.

(1) Except as provided in MMC 22C.110.030, a temporary use permit shall be required for all permitted temporary uses listed in subsection (2) of this section.

(2) The following types of temporary uses, activities and associated structures may be authorized, subject to the specific limitations noted herein and as noted in MMC 22C.110.040 and as may be established by the community development director:

- (a) Outdoor art and craft shows and exhibits;
- (b) Use associated with the sale of fresh fruits, produce and flowers;
- (c) Mobile services such as veterinary services for purposes of giving shots;
- (d) Group retail sales such as swap meets, flea markets, parking lot sales, Saturday market, auctions, etc. Automobile sales are not a permitted temporary use;
- (e) Use associated with festivals, grand openings or celebrations;
- (f) Temporary fundraising and other civic activities in commercial or industrial zoning districts;

EXHIBIT A

(g) When elderly or disabled relatives of the occupant of an existing residence require constant supervision and care, a manufactured home with adequate water and sewer services located adjacent to such residences may be permitted to house the relatives, subject to the following requirements:

(i) The need for such continuous care and assistance shall be attested to in writing by a licensed physician;

(ii) The temporary dwelling shall be occupied by not more than two persons;

(iii) Use as a commercial residence is prohibited;

(iv) The temporary dwelling shall be situated not less than 20 feet from the principal dwelling on the same lot and shall not be located in any required setbacks outlined in MMC Title 22C, Land Use Standards;

(v) A current vehicular license plate, if applicable, shall be maintained during the period of time the temporary unit is situated on the premises;

(vi) Adequate screening, landscaping or other measures shall be provided to protect surrounding property values and ensure compatibility with the immediate neighborhood;

(vii) An annual building permit or manufactured home permit renewal for the temporary dwelling shall be required, at which time the property owner shall certify, on a form provided by the community development department, to the continuing need for the temporary dwelling and, in writing, agree that such use of the property shall terminate at such time as the need no longer exists;

(h) Watchmen's or caretaker's quarters when approved in writing by the community development director. Said caretaker's quarters must comply with the definition set forth in MMC Section 22A.020.040 and will require submittal of the following:

(i) A consent letter from the owner and/or proof of ownership of the subject property or structure.

(ii) A letter identifying the business or institution to be served by the caretaker's quarters, and the purpose of, and need for, the caretaker's quarters;

(iii) A site plan identifying the location of the structure which will be occupied; and

(iv) A floor plan identifying the area within the structure which will be occupied to ensure that the use will be incidental to the primary business or institutional use of the structure.

(v) A recreational vehicle is allowed to be utilized as a watchmen's or caretaker's quarters within the General Industrial (GI) and Light Industrial (LI) zones, subject to the following conditions:

(A) The recreational vehicle shall be legally registered and licensed with the State of Washington;

(B) The recreation vehicle shall be self contained;

(C) The recreation vehicle shall be well-maintained and operable; and

(D) Any violation of this subsection, as determined by the director, shall be subject to the enforcement procedures outlined in MMC Title 4 Enforcement Code.

(i) Transitory accommodations which comply with the provisions outlined in MMC 22C.110.050;

(j) The community development director may authorize additional temporary uses not listed in this subsection, when it is found that the proposed uses are in compliance with the provisions of this chapter.

Section 3. MMC 22C.110.030 is hereby amended as follows:

EXHIBIT A

22C.110.030 Exempted temporary uses.

The following activities and structures are exempt from requirements to obtain temporary use approval, but are not exempt from obtaining all other applicable permits outlined in the MMC, including but not limited to building permits, right-of-way permits, special events permits, business licenses, home occupation permits, sign permits, etc.:

(1) Uses subject to the special events provisions of Chapter 5.46 MMC, Special Events, when the use does not exceed a total of 14 days each calendar year, whether at the same location in the city or at different locations;

(2) Community festivals, amusement rides, carnivals, or circuses, when the use does not exceed a total of 14 days each calendar year, whether at the same location in the city or at different locations;

(3) Activities, vendors and booths associated with city of Marysville sponsored or authorized special events such as Home Grown;

(4) Retail sales such as Christmas trees, seasonal retail sale of agricultural or horticultural products. Christmas tree sales are allowed from the Saturday before Thanksgiving Day through Christmas Day only;

(5) Individual booths in an approved temporary use site for group retail identified under MMC 22C.110.020(2)(d);

(6) Fireworks stands, subject to the provisions of Chapter 9.20 MMC, Fireworks;

(7) Garage sales, moving sales, and similar activities for the sale of personal belongings when operated not more than three days in the same week and not more than twice in the same calendar year;

(8) Manufactured homes, residences or travel trailers used for occupancy by supervisory and security personnel on the site of an active construction project;

(9) Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project;

~~(10) Watchmen's or caretaker's quarters when approved by the community development director;~~

~~(1110) Portable units and manufactured homes on school sites or other public facilities when approved by the community development director;~~

~~(1211) A manufactured home or travel trailer with adequate water and sewer service used as a dwelling while a residential building on the same lot is being constructed or while a damaged residential building is being repaired. The manufactured home or travel trailer shall be removed upon completion of the permanent residential structure construction, when repair is completed, or after one year, whichever occurs first;~~

~~(1312) Model homes or apartments and related real estate sales and display activities located within the subdivision or residential development to which they pertain. A temporary real estate office may be located in a temporary structure erected on an existing lot within a residential subdivision, if approved by the community development director. If approved, a temporary real estate office shall comply with the following conditions:~~

~~(a) The temporary real estate office may be used only for sale activities related to the subdivision in which it is located;~~

~~(b) The temporary real estate office shall have an Americans with Disabilities Act (ADA) accessible restroom located in or adjacent to said office;~~

~~(c) ADA accessibility shall be provided to the temporary real estate office. General site, accessible routes and building elements shall comply with ICC/ANSI A117.1-2003 or current edition;~~

~~(d) The temporary real estate office shall meet all applicable building and fire codes, or shall be immediately removed; and~~

~~(e) The temporary real estate office shall be removed immediately upon the sale of the last lot within the subdivision;~~

~~(1413) Home occupations that comply with Chapter 22C.190 MMC, Home Occupations;~~

EXHIBIT A

(~~1514~~) Fundraising car washes. The fundraising coordinator is required to obtain a clean water car wash kit from the Marysville public works department in order to prevent water from entering the public storm sewer system;

(~~1615~~) Vehicular or motorized catering such as popsicle/ice cream scooters and self-contained lunch wagons which cater to construction sites or manufacturing facilities. Such a use must remain mobile and not be utilized as parking lot sales;

(~~1716~~) Any permitted temporary use not exceeding a cumulative total of two days each calendar year.

Section 4. MMC 22C.020.070 is hereby amended as follows:

22C.020.070 Permitted uses – Development conditions.

(3) Limited to one dwelling unit for the purposes of providing on-site service and security of a commercial or industrial business. Caretaker's quarters are subject to the provisions set forth in MMC Chapter 22C.110 entitled "Temporary Uses".

Section 5. MMC 22A.010.160, Amendments, of MMC Chapter 22A.010, General Administration, is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City's Unified Development Code:

"22A.010.160 Amendments.

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

<u>Ordinance</u>	<u>Title (description)</u>	<u>Effective Date</u>
_____	Caretaker's Quarters	_____, 2014"

Section 6. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 7. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2014.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
APRIL O'BRIEN, DEPUTY CITY CLERK

EXHIBIT A

Approved as to form:

By: _____
GRANT K. WEED, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)

EXHIBIT B

PLANNING
COMMISSION



MINUTES

November 12, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the November 12, 2014 meeting to order at 7:02 p.m. noting the excused absence of Commissioner Kelly Richards and the ongoing absence of Commissioner Marvetta Toler. He also noted the presence of several people in the audience, including the representatives of the various school districts.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Steven Lebo

Staff: Planning Manager Chris Holland, Associate Planner Angela Gemmer

Absent: Kelly Richards, Marvetta Toler

APPROVAL OF MINUTES

October 28, 2014

Commissioner Smith referred to the first full paragraph on page 3 and noted that *Commissioner Richards* should be corrected to *Commissioner **Smith***. Also, at the bottom of the first page, the motion was made by Commissioner **Andes**, and not Commissioner *Richards*.

Motion made by Commissioner Smith, seconded by Commissioner Andes, to approve the October 28 Meeting Minutes as amended. **Motion** passed unanimously (5-0).

AUDIENCE PARTICIPATION

None

PUBLIC HEARING(s):

- School District's Capital Facilities Plans

Ms. Gemmer explained that in order to collect school impact fees each school district must prepare a Capital Facilities Plan which must be adopted by City Council as a sub element of the Comprehensive Plan. The three things that the City must look at are: whether the Capital Facilities Plan is consistent with the Growth Management Act and state law; whether they have calculated the school impact fees in accordance with the provisions in the Marysville Municipal Code; and whether the Capital Facilities Plan has been adopted by the respective school districts. Staff has reviewed these elements and finds each plan consistent with these requirements. Ms. Gemmer summarized the proposed impact fee changes for each of the districts.

Chair Leifer opened the public hearing at 7:07 p.m.

Jim Baker, Marysville School District, stated that the Marysville School District has updated its Capital Facilities Plan as required. They feel they are fully compliant with the law. In updating the materials, they found a sharp decrease in its student generation rates in the multi-family category thereby reducing its rate by nearly 60%. He stated that they are concerned about short-term and long-term overcrowding in the district as the result of additional funding for the state for lower class sizes as well as the state implementing funding full day instruction for kindergarten. The District is seeing a slow, but steady return of enrollment rates.

Robb Stanton, Lake Stevens School District, stated that growth has increased, but fees also have declined in Lake Stevens.

Devlin Piplic, Lakewood School District, stated that Lakewood has a new high school being constructed and is in the design phase right now. The enrollment is steady, but impact fees will be going up.

Commissioner Hoen said he is hearing conflicting opinions about the likelihood that the new funding for reduced class sizes will actually be accomplished. He asked for comments on this. Mr. Baker provided his personal opinion that even though the legislation has been passed, it has yet to be earmarked. Until this is done, there are a lot of unknowns.

Chair Leifer solicited public comment. There was none.

Motion made by Commissioner Smith, seconded by Commissioner Lebo, to recommend the Capital Facilities Plans for adoption by the City Council. **Motion** passed unanimously (5-0).

The public hearing was closed at 7:19 p.m.

- Caretaker's Quarters code amendment (continued)

The public hearing was opened at 7:19 p.m.

Planning Manager Holland summarized staff's recommendation and the changes requested by the Planning Commission at the public workshop, including the fact that Staff does not support allowing temporary structures for caretaker's quarters. Additionally, allowing temporary structures in all zones, would mean that several sections of the development code would be required to be amended, including permitted uses and camping. Staff is not recommending any additional changes to the DRAFT Ordinance. He reviewed options available to the Planning Commission.

Chair Leifer stated there is a difference of opinion between staff and the majority of the commissioners. He said he would like to have more discussion on this item. He said he checked with the City of Everett about their regulations and was told that from a zoning standpoint they have no restrictions on RVs, in Light Industrial zones. They allow caretakers/watchmen's quarters outright. There is some question about whether or not the building department might get involved regarding the quality. He referred to specific businesses around the community where the site does not allow for a modular unit to be built without taking away from required parking space or causing other issues. He commented that when they were talking about this issue before he assumed that the water and sewer connections would be accessory to the main structure and they wouldn't bear a capital improvement fee. He asked if this was accurate. Planning Manager Holland stated they would be required hook up to water and sewer and pay the applicable capital improvement charges. Commissioner Leifer stated that if the RV option is not possible, the modular unit with the fee schedule described by Planning Manager Holland is probably reasonable, but he thinks this will be problematic for many businesses. He said he understands what the concerns are, but recommended working with the owners to work out compliance with regulations. Planning Manager Holland stated that the Planning Commission has the option of recommending allowance of temporary structures to be utilized as caretaker's quarters. Staff has concerns about aesthetics, community vision, and enforcement. Chair Leifer clarified that he is only talking about allowing these in industrial zones. He commented that large auto dealerships that are generally in a better position to be able to afford a modular structure. Smaller businesses are often not in a financial position to be able to do that. Limiting this to an industrial zone would be logical and would address aesthetic concerns throughout the city.

Commissioner Hoen asked if it would even qualify as a caretaker's residence if the RV came in at night and left in the morning. Planning Manager Holland noted that this is part of the enforcement issue he was referring to. It might not fall under the Caretaker's Quarters portion of the code, but it would fall under the Camping section.

Commissioner Andes asked how many calls Code Enforcement gets on this issue. Planning Manager Holland noted that they get camping calls weekly; usually these are at Wal-Mart or in residential areas, but occasionally in industrial zones. Commissioner Andes asked if the ones in industrial zones have any connection with the building they are parking by. Planning Manager Holland said that is a matter of opinion. Sometimes they say that is what they are doing, but there are no sanitary conditions for them so code enforcement tells them they need to move. He added that it always comes from a neighbor complaint; code enforcement is not driving around looking for these. Commissioner Hoen said he thought Wal-Mart offered free overnight parking. Planning Manager Holland noted that they do, but camping is not allowed in the City of Marysville.

Commissioner Lebo expressed concern about the issue of permanent utilities being required for a motor home being used as a caretaker's facility. He asked: If it is not anchored down or attached by water or sewer is there a time limit to how long they can be there? Planning Manager Holland said they are currently not allowed at all.

Commissioner Andes pointed out there seems to be more of an issue with these in residential areas rather than industrial zones. Planning Manager Holland replied they are not allowed in either zone, but they get more calls on residential ones because generally there are more residents viewing the activity. Commissioner Andes commented on the value of having mobile homes performing surveillance for businesses and potentially preventing some of the theft.

Chair Leifer recommended making a rule that there is an option available to property owners to protect their investment with an onsite watchman who might stay in an RV. They could then address the issues that might arise with this such as requiring self-contained water and sewer. They could also set a standard on age or quality of the RV to address aesthetic concerns. Any adverse conditions that arise in the community could be addressed directly with the owner of the property and potential fees. He thinks any negative issues would be outweighed by preventing the hundreds of thousands of dollars of theft that occurs regularly in the community. He doesn't think the option for property owners to protect their stuff should be eliminated because the City is concerned about potential issues that could be regulated.

Chair Leifer solicited public comment on this issue. There was none.

Commissioner Hoen suggested limiting this to a business size. He would like to see some kind of research regarding possible restrictions and regulations related to this. He thinks the City needs to support small business.

Planning Manager Holland suggested that the Commission could add something like the following to item H: *Temporary structures and RVs are allowed in industrial zones subject to the following restrictions . . .*

Chair Leifer suggested that they also update definitions to add that a "Caretaker's Quarters" means a dwelling unit **or an RV or other temporary structure** which is accessory to a permitted commercial institutional use.

Commissioner Hoen asked if this really needs to fall under Caretaker's Quarters or if it could fall under something regarding security. Chair Leifer thought they were synonymous.

Commissioner Hoen said he doesn't think this should be available to large industry. It should somehow be available only to small businesses. Commissioner Andes disagreed, noting that larger businesses have more assets they need to protect.

Chair Leifer summarized that they are recommending adding an item under Section 2 under 2(h)(v) stating that:

RV or temporary structures are allowed in the Light Industrial or General Industrial zones subject to the following conditions:

- a. The RV needs to be self-contained.*
- b. The RV needs to be legally licensed.*
- c. The RV needs to be operable and well-maintained.*
- d. Non-compliance with these conditions shall be subject to enforcement procedures in MMC Title 4.*

Chair Leifer stated they are also recommending amending the definitions to clarify that "Caretaker's Quarters" means a dwelling unit **or an RV or other temporary structure** in accordance with (h)(v).

Commissioner Leifer referred to section J and noted that this section would already allow the Planning Manager wiggle room if necessary. Planning Manager Holland explained that this refers to items that are not already addressed in the temporary use code.

Motion made by Commissioner Hoen, seconded by Commissioner Smith, to recommend staff redraft the Ordinance to include the definition of caretakers quarters to include RV or other temporary structures and add a section item (h)(v) to include RVs with the conditions as outlined above. **Motion** passed unanimously (5-0).

The hearing was closed at 8:17 p.m.

- Code Amendments

Chair Leifer opened the hearing at 8:18 p.m.

-Master Planned Senior Communities

Planning Manager Holland explained that Council adopted Ordinance 2969 on September 8 establishing a 6-month moratorium for Master Planned Senior Communities. This was in relation to some inquiries staff received regarding establishment of affordable housing tax exempt development within the City in a Community Business zone. Once that inquiry was received staff looked closely at the zones that these Master Planned Senior Communities are allowed in and also looked at the Comprehensive Plan to see if there is anything that would allow these types of facilities. Staff is proposing an ordinance which would take out the allowance for Master Planned Senior Communities in the NB (Neighborhood Business), CB (Community Business), GC (General Commercial) and DC (Downtown Commercial) zones which is aligned with the allowances in the Comprehensive Plan. They would still be allowed in the Mixed Use and Public Institutional zones.

Public Testimony:

Rune Harkestad, 500 NE 108th Ave, Ste #2400, Bellevue, WA 98004, stated he was opposed to removing senior housing from the CB Zone. He is a commercial real estate broker currently listing about nine acres of property on 116th Street all zoned Community Business. He had an inquiry from a developer interested in doing Master Planned Senior Housing. Over the roughly nine acres, he would have developed about three acres for 250 units of senior housing. This would be an extremely high utilization of the land. He commented on the loss of the tax revenue as a driver for the City's decision, but stated he thinks this development would spearhead additional commercial development. He noted that the fees in the City are directly tied to the number of units. For 250 units, the developer is assuming that fees will be several million dollars for the number of units he is proposing. Senior housing is an asset to other commercial uses and shares in the cost of impacts to the community. He doesn't think Master Planned Senior Housing should be seen as a competition to commercial development. He stated that the trend in the Puget Sound is higher density and better efficiency of land use as well as integrating senior housing with services in the community. He encouraged the Commission to continue to allow the senior housing in the CB zones.

Chair Leifer asked what the height requirement would need to be to get 250 units on three acres. Planning Manager Holland stated there is a 55-foot height limit in the CB zone, no maximum density, and 85% maximum impervious surface coverage. There was discussion about the likelihood of getting numbers this high. Mr. Harkestad commented that the Master Planned Senior Community allows developers to get to a density that makes sense.

Commissioner Hoen asked what density the developer feels they need to achieve per acre. Mr. Harkestad noted that they need to get to at least 180 units on nine acres for it to make sense.

Planning Manager Holland stated Commercial Business and General Commercial zones are the highest and greatest retail zones within the City. The goal is not to get housing within commercial zones, nor is it even essentially allowed within the Comprehensive Plan. Mr. Harkestad commented that the incentives don't add up to a substantial number. He noted that commercial in the back would be impossible to lease. Their proposal is to have a solely residential building in the back with commercial in the front. He thinks housing is the highest and best use for the back portion of that property. He doesn't think Master Planned Senior Communities are the deterrent to development of this area.

Commissioner Hoen asked where the road goes. Mr. Harkestad replied that there would be a requirement to build the road out at the signal, curve the road over to the Tribal property where the City has right-of-way similar to what was done on the north side. Planning Manager Holland explained that the signal that has been installed on 116th Street impacts the necessary alignment.

Ron Barkly, 3724 – 116th Street NE, Marysville, WA, also stated he is opposed to removing senior housing from the CB zone. He noted that the properties next to and behind his property are not going to do anything for several generations. He thinks there are opportunities here for development. He agrees that requiring commercial below senior housing would be disruptive to senior housing. He recommended a quiet four-story residential building in back with commercial in the front.

Commissioner Hoen noted that there has been a problem with homeless people camping in the area behind that property. Mr. Barkly concurred and noted that their property is secured with a chain link fence.

Chair Leifer referred to the White-Leasure development on the north side of 116th noting that the depth seems the same, but they have managed to fill it up with commercial. He wondered why the Barkly's wouldn't be able to do the same. Mr. Barkly wasn't sure. Mr. Barkly commented that he has been trying to sell this property for 10 years and it hasn't been deemed feasible. White-Leasure gave up on it after 8 years.

Commissioner Lebo said he was amazed they could get 250 units on three acres.

Mr. Harkestad commented that the White-Leasure property is 30 acres and they have the full frontage of 116th. This is a totally different configuration. He noted that the 55-foot height really helps. He doesn't see the harm in leaving the senior housing component in the code. If that is gone, it won't be a viable project for the developer.

Staff's recommendation is to not have all commercial and retail zones get eaten up by residential Master Planned Senior Communities that would require no commercial development.

Discussion:

Commissioner Andes agreed with staff that he hates to see land set aside for certain land uses and then being eaten up by an undesirable use.

Commissioner Hoen agreed with hanging onto Marysville's long-term plans rather than changing it.

Commissioner Smith concurred.

Commissioner Lebo agreed that they need to stick with the zoning plan.

Carol Barkly commented that they have had generations of people on this property. She and her husband are aging and have a lot of land to manage. They feel that senior housing would be ideal in the back because of the quiet and the beauty back there. She noted their taxes are \$40,000 a year just on the acreage. She urged the Commissioners to come out and see the property to see the potential. They are confident that the commercial on the front part will fill up.

Chair Leifer asked how many parcels this is. Mr. Barkly said that it is 14 parcels owned by him and his son. Chair Leifer commented that there are boundary line adjustments. He asked about developing it in chunks. Ms. Barkly explained that it is a complicated situation. She discussed issues associated with this.

Ron Barkly asserted that the emergency moratorium was spearheaded to shut down this specific project.

Commissioner Andes acknowledged that it is sad to see properties zoned for commercial use and the County taxing them so heavily without any exemptions.

Motion made by Commissioner Andes, seconded by Commissioner Hoen, to pass this on to Council as presented for their consideration. **Motion** passed unanimously (5-0).

There was consensus to continue the remainder of the agenda to the next meeting.

-Legislative Enactment Amendments

-Nonconforming Situations

-Sign Code

-Beekeeping

-Pet Daycares and Kennels

- School, Traffic and Park Impact Fees
- Geologic Hazards
- State Environmental Policy Act
- Wireless Communication Facilities

OLD BUSINESS

CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

Motion made by Commissioner Smith, seconded by Commissioner Lebo, to adjourn the meeting at 9:37 p.m. **Motion** passed unanimously.

NEXT MEETING:

November 25, 2014

- 2015 Comp Plan Update
 - Economic Development Element
 - Environmental Element



Laurie Hugdahl, Recording Secretary

EXHIBIT C

PLANNING
COMMISSION



MINUTES

October 28, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the October 28, 2014 meeting to order at 7:00 p.m. noting the excused absences of Commissioners Lebo and Richards and the ongoing absence of Marvetta Toler. He also noted the presence of several audience members. Chair Leifer requested a moment of silence for the victims and those hurting as a result of the shooting at Marysville-Pilchuck High School last week.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith,

Staff: Angela Gemmer

Absent: Steven Lebo, Kelly Richards, Marvetta Toler

APPROVAL OF MINUTES

October 14, 2014

Chair Leifer referred to page 4 of 8, paragraph 2, and noted it should be *Lakewood school area* instead of Lake Stevens. He also noted that on page 7, the second to last paragraph, the word *not* should be removed.

Commissioner Smith noted she would be abstaining from the vote as she was absent from the meeting.

Motion made by Commissioner Andes, seconded by Commissioner Hoen, to approve the October 14 Meeting Minutes as amended. **Motion** passed unanimously.

Public Hearing

- Caretaker's Quarters code amendment

The public hearing was opened at 7:04

Angela Gemmer introduced this item and reviewed the proposed Ordinance regarding Caretaker's Quarters.

Commissioner Andes asked if this would still disallow mobile homes in all cases. Ms. Gemmer explained that in the Light Industrial and General Industrial zones a manufactured home would be possible. There is a provision for a job shack or temporary structure for construction situations or if you are caring for an invalid family member. You would have to anchor it per the manufacturer's specifications but it wouldn't have to meet design requirements in Light Industrial or General Industrial zones. In other commercial zones there are design standards that would apply.

Commissioner Andes expressed concern about the extra cost associated with this. He referred to the new car dealerships and said he has seen a motor home that appears to be used strictly for surveillance and monitoring the automobiles when the place is closed. It seems to him like the regulations should be part of the permit process to inform businesses that they will have to provide space for something specific to caretaking because they don't have room in their buildings for somebody to stay and live permanently. Ms. Gemmer agreed that this might be a good thing to bring up to applicants. Not everyone wants someone onsite for that purpose, but if you are going to have someone, there are specific requirements. Ms. Gemmer offered to table this item and bring it back with more clarification on that.

Commissioner Hoen asked for clarification. Ms. Gemmer noted that if you are constructing a personal residence or developing a subdivision you can have a job shack.

Commissioner Andes expressed concern about this being a burden to business owners to have to attach something to the ground to protect their inventory. He thought they should allow someone to pull in temporarily to watch over things.

Chair Leifer reiterated that he is thoroughly supportive of allowing someone to stay in a decent RV to watch over the wares and the treasures of businesses in this community that so often have been vandalized over and over again. The police are just not able to stop it. For the most part these crimes just go unabated and the losses mount up for businesses. For some businesses this equates to hundreds of thousands of dollars in losses. It bothers him that the City is so concerned about problems that *might* come up as a result of allowing that situation to take place when there are other ways of dealing with abuse of the situation. He thinks that the City should be more flexible and not require hooking up to water and sewer and other construction costs just to have someone come onto the site. He noted that a lot of times a roving RV is a much more effective way to secure the site anyway. He summarized that this is not a fair analysis of

the situation, but it appears that staff is adamant about it. Perhaps going forward as things change they can take another look at it.

Commissioner Smith strongly agreed with Chair Leifer. There was a time when she was in the same position as a small business owner where things were being stolen because there was nobody there to protect them. She can't understand why the City can't help the small business person or even the big businesses and would disregard that situation.

Ms. Gemmer said she'd be happy to table this matter for further discussion. She stated she would take these concerns back to staff to see if something needs to be reworked. She pointed out that today a camper or RV is not allowed so that part is not changing with this proposal. The intent of this amendment is so that existing structures in commercial zones that have been abandoned for residential purposes are not reestablished for caretaking quarters. It sounds like there are two different concerns. The objective of staff is to prevent the circumvention of the caretaker's quarter's provisions. The concern brought up by the Planning Commission, regarding the type of structure being too stringent, is not proposed to be changed with this amendment. She thought it might be appropriate for Planning Manager Chris Holland to address that matter with the Planning Commission.

Commissioner Hoen asked if there has been research of other jurisdictions about their codes regarding caretaker's quarters. Ms. Gemmer stated she had researched this in the past and there is not a lot to compare to. She offered to look into it again.

Commissioner Andes said it seems like two separate issues. He is supportive of the residential property portion of the code, but has serious concerns about the manufactured home requirements issue.

Chair Leifer commented that it's not totally separate because RVs would still be precluded under this ordinance. Ms. Gemmer replied that this might actually be a building code issue. Chair Leifer commented that refers to the use of job shacks and that sort of things on job sites that are under construction. The subject is on the table, but it doesn't allow it for any other situation other than that. That apparently negates the option to utilize them. Ms. Gemmer agreed that the Temporary Use code explicitly states what the use and purpose is. There is a provision for the Community Development Director to authorize additional temporary uses not listed specifically; However, if something is specifically listed that is the provision that would be used.

Chair Leifer commented that the consensus of the Planning Commission members present tonight appears to be that it would be beneficial to allow RVs. He noted that there appears to be a disagreement between what the Planning Commission believes is best and what the staff wants. Ms. Gemmer stated she would take these concerns back to Planning Manager Chris Holland.

Commissioner Hoen commented that it seems like there is an overriding concern about unintended consequences of this. It appears that the objective of staff is to avoid the

unintended consequence of somebody moving his family onto a commercial site as opposed to allowing someone to do his job.

Ms. Gemmer stated that the permanence issue is not changing. Today, with a footnote in the permitted uses matrices, an RV or camper trailer would not be allowed to be utilized for a caretaker's quarters. The concern raised by the Planning Commission is status quo. The intent of the proposal is to prevent something that is not truly a caretaker's quarters from being established in a commercial zone.

Commissioner Andes asked what staff thinks the car dealers are going to say when the City sends the code enforcement officer out there to say they have to remove their motor home. He doesn't think they will comply because they have millions of dollars of inventory they need to protect.

Chair Leifer wondered who in the world is driving around worrying about whether there is an RV parked on some industrial site or a commercial lot. Ms. Gemmer thought it was mainly complaint driven. Chair Leifer stated he is totally against the direction this is going.

Commissioner Andes said he would like to see more work done on this particular issue and to bring it back for more discussion. He stressed that business owners need to be able to protect their assets by having someone on site to monitor things.

Motion made by Commissioner Andes, seconded by Commissioner Smith, to bring this back for reconsideration. **Motion** passed unanimously.

Commissioner Hoen said he is familiar with someone who has a pretty sophisticated camera/alarm system that detects motion and calls his house. This seems to be cost effective for mid-range businesses.

The hearing was closed at 7:30 p.m.

Old Business

- Bees

Commissioner Smith pointed out a typo in the memo where *aviary* was mistakenly used instead of *apiary*.

Jeff Thompson, Mr. Thompson, President, Northwest District Beekeepers Association gave a presentation on beekeeping to the Planning Commission. The purpose of the NW Beekeepers is to encourage people to become beekeepers and assist them in being good beekeepers. He is also a master gardener.

He expressed concern about the proposed ordinance's focus on lot size. He noted that when addressing new beekeepers they always encourage them to start with two hives to balance things out and to help prevent swarming. Beekeepers don't want hives that

swarm because it ruins honey production. Beekeepers have a responsibility as well as an economic incentive to keep their hives from swarming. A lot of things in the ordinance are things that could be considered good beekeeping practices and he has no issue with them. However, having one hive makes it very difficult. He explained that honeybees don't even exist in the wild anymore. He noted that bees only swarm when they are too crowded or when they are looking for something they don't have. He commented that sometimes people don't know the difference between honeybees and yellow jackets. He addressed concerns about deaths related to bee stings. He explained that more than half of the people who died (2500 people) of anaphylactic reactions in the last 21 years died as a result of prescription medication not bees. The real problem is very small. Bees are not a major cause of death. Most beekeepers are very responsible people.

Regarding lot size requirements, he stated that Marysville's proposal is the most restrictive he has seen. He thinks they are doing citizens a disservice with this. Bees are one of the most fascinating, most studied insects in the world. He encouraged the City to allow more hives per lot.

Chair Leifer asked what an Africanized bee is. Mr. Johnson explained that Africanized bees are a type of bees that came from Africa and originally came to this country for research purposes and escaped to the wild. When they attack, Africanized bees (or killer bees) attack a person in a large hive or swarm instead of individually as honeybees do. Beekeepers don't want them.

Chair Leifer asked how many bees exist in nature in a certain area. Mr. Johnson explained that specific crops like almonds, only the honey bee can pollinate it. The more pollinators you get the higher the production. Apples can be pollinated by mason bees or honeybees. Regarding a background number of honeybees in a community he said he didn't have a good answer on that. Chair Leifer wondered how many bees a farmer would need to pollinate their crops.

Dan Hall, 5325 77th Place NE, Marysville, WA 98270, explained that there is no specific number. It varies from crop to crop.

Chair Leifer commented that if they can't come up with a certain number of bees that it takes to pollinate a certain amount of crops, agricultural uses should be exempt from these regulations. Mr. Hall explained that farmers aren't going to want to pay for more bees than they need so it's sort of self-limiting. He agrees that an agricultural exemption makes perfect sense because that's not where the concern is anyway. You don't want to limit farmers from getting the pollination they need. He added that one reason honeybees are used for crops is because they are movable from crop to crop. You can't do that with other kinds of bees.

Mr. Hall stated this is his fourth year keeping bees. He agrees that having some parameters is a very good thing, but he hopes it won't be detrimental to the hobbyist beekeeper. He noted that having two hives gives beekeepers the ability to manage those hives and see the growth. Regarding a number of bees per beehive, he

commented on the changes that a beehive undergoes throughout the year. By the end of July or August the hive is huge compared to the size it is in February. Also, trying to limit a hive to try to limit the number of bees in a specific neighborhood doesn't make sense because they will forage 2 to 5 miles away. Bees only swarm when they run out of space. Beekeepers manage the hives to avoid that. Limiting the hives to only one per lot is not doing anyone a favor. He recommended having a minimum amount of two hives instead of one.

Larry Brainard, 829 Dayton Street, Edmonds, WA stated he has been a beekeeper for about five years. He has 65 hives on many lots that he manages full time. He acknowledged that they need to do the right thing for communities, but wondered if square footage is the appropriate way to regulate this. He suggested looking at courses offered by Washington State Beekeepers Association and the Master Beekeepers at different levels. In addition to all other aspects of study, taking an apprentice course is really important. Good beekeeping also requires good communication with neighbors because the forage area of a colony is about 1 to 4 miles from the hive. One of the factors for bee colony health is the availability of the forage area.

Mr. Hall explained that this is self-regulating because the area has to be able to support the hives. He stated that the one change he would recommend is changing the limit of one hive to a minimum of two hives.

Mr. Johnson concurred that the limitation of one hive would preclude anyone from really being a good beekeeper. There was discussion about how beekeepers sometimes separate a hive into two to address growth. Regarding annual requeening, Mr. Johnson noted that this is very important. He requeens his hives every year to prevent swarming. Conscientious beekeepers do this as needed to prevent swarming. Mr. Hall commented on the misconception about what a bee is and what a honeybee is in particular. People don't understand that if it's coming out of a paper nest it's not a honeybee. Honeybees travel to a home such as a hole in a tree; they don't make a home. He noted that the honeybee can't survive without humans in this climate. Mr. Brainard noted that beekeepers are beneficial to a community because they will go out and collect bee swarms from other people's property. In principle, the more beekeepers you have the more availability of beekeepers you have to control swarms in a community.

Teresa Jorgenson, 7032 66th Drive NE, Marysville, WA 98270, spoke to the benefit of beekeepers in the community. Her daughter was able to identify yellow jackets for a neighbor who then knew how to deal with them. This has been a great family project for her and her daughter.

Chair Leifer suggested changing the ordinance by going from one to two hives on lots less than or equal to 5,000 square feet and an added provision that would exempt all agricultural uses from the regulations.

Mr. Hall thought it was a good compromise. Mr. Johnson agreed, but noted that sometimes there is a need to have an extra hive to prevent swarm prevention. He said

he saw another ordinance that allowed temporary hives for 30 days when hives need to be expanded temporarily. He spoke to the importance of allowing flexibility.

There was discussion about the need for community education on this topic. Mr. Johnson noted that most beekeepers are very responsible. He also spoke to the importance of encouraging good beekeeping habits. Mr. Brainard commented that 9 times out of 10 the stings are not from honeybees, but from yellow jackets or hornets.

Mr. Brainard discussed Africanized bees or killer bees and why they are not a threat to this area. There was also discussion about the international black market honey business.

Mr. Johnson offered to assist staff in crafting some language

Motion by Commissioner Hoen, seconded by Commissioner Andes, to direct staff to address issues related to:

- Minimum of two hives
- Lot sizes
- Provision for temporary increase to avoid swarming issues
- Consideration of exclusion legitimate agricultural uses

Motion passed unanimously (4-0).

The Commission thanked the beekeepers for coming in to share the information.


CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

Motion made by Commissioner Hoen, seconded by Commissioner Smith, to adjourn the meeting at 9:15 p.m. **Motion** passed unanimously.

NEXT MEETING:

November 12, 2014



Angela Gemmer, Associate Planner
for Laurie Hugdahl, Recording Secretary

EXHIBIT D

PLANNING COMMISSION



MINUTES

July 8, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the July 8, 2014 meeting to order at 7:00 p.m. noting the excused absence of Steven Lebo and the absence of Marvetta Toler.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards

Staff: Planning Manager Chris Holland, Chief Administrative Officer Gloria Hirashima, Recording Secretary Laurie Hugdahl

Absent: Steven Lebo, Marvetta Toler

APPROVAL OF MINUTES

April 8, 2014 Minutes

Motion made by Commissioner Kay Smith, seconded by Commissioner Kelly Richards, to approve the April 8 Meeting Minutes.

Chair Leifer explained that the missing section in his comments on page one should refer to the area just east of 39th and in close proximity to the Sheriff's Office.

Motion passed unanimously (5-0) to approve the minutes as amended.

AUDIENCE PARTICIPATION

None

NEW BUSINESS

- **Non-Residential Uses in Residential Zones Signage**

Planning Manager Holland explained that the Planning Commission asked staff to look at signage allowances for non-residential uses in residential zones. Staff looked at some other cities to get an idea of what they are doing. He summarized the findings as contained in the Memorandum in the Planning Commission packet. Staff is not recommending any changes at this time. The current sign allowances ensure compatibility with the surrounding residential neighborhoods.

Commissioner Richards pointed out that most of the schools' signs right now are non-compliant. Mr. Holland reviewed examples of how the code has been applied to businesses and other organizations around the City. If someone wants to retrofit to a digital sign, it would need to be brought into compliance. Planning Manager Holland explained that there is a CUP process to go through to allow for additional height and sign area.

Commissioner Hoen asked what the fee for the CUP is. Planning Manager Holland replied that it is \$350 to cover administrative costs.

- **Non-Conforming Uses Code Amendment**

Planning Manager Holland reviewed this item as contained in the Planning Commission packet. The proposed code amendment would make the expansion of a residential use and construction of an accessory structure in a non-residential zone administrative.

There was consensus among the Planning Commission that this was a good idea.

- **Caretaker's Quarters Code Amendment**

Planning Manager Holland stated that there was recently a code enforcement issue where a single family residence converted to an office use. It had since been occupied recently by anywhere from 6 to 9 occupants in the office space. Staff issued a permanent enforcement order because once you go from a residential use to a commercial use you can't go back to a residential use. The permanent enforcement order was appealed. The Hearing Examiner upheld the order, but there was a finding highlighting an area that staff needed to address in the future. Based on the finding in the decision by the HE staff recommended adding a definition for a caretaker quarters and making it a requirement to get a temporary use permit

Chair Leifer referred to the "C" definitions paragraph and asked why the caretaker's quarters is required to be in the same structure as the business. He has often seen them on the same property, but not necessarily in the same building. He thought this was too restrictive. Planning Manager Holland indicated that section could be removed.

Commissioner Richards referred to *Findings* on page 6 and asked if the particular situation referred to by Planning Manager Holland could have been avoided if the property had been set up as a Hotel/Motel or a Bed and Breakfast. Planning Manager Holland acknowledged that it would be allowed, but it would not have fit in with their organizational setup.

Planning Manager Holland referred to page 2, item (g) of the Memo regarding requirements and stated he would like to add that approval of the owner would be required.

Chair Leifer asked why watchmen's and caretaker's quarters had been stricken as an exempted use. He thinks they should actually be encouraged on industrial property. Planning Manager Holland explained that they were just proposing removing the exemption and requiring a temporary use permit. Chair Leifer asked if "structure" would include an RV. Planning Manager Holland replied that typically they have not allowed any occupancy of an RV or any temporary structure on any commercial or industrial use. Chair Leifer commented that this could prevent a lot of vandalism. He cited several examples of businesses that have been vandalized or burglarized and stated that a lot of theft could have been prevented if someone in an RV was there protecting their goods. He doesn't think anyone in the area would be opposed to that. Planning Manager Holland suggested that the business could add some type of a structure to a site. CAO Hirashima commented that allowing RVs would create a huge loophole although she could understand the reasoning and justification for it in the situations described by Chair Leifer in providing security.

Chair Leifer thought there might be some kind of middle ground. He commented that an Industrial zone is a little different situation than General Commercial zone. He thought there could be a way of regulating this so that it didn't get taken advantage of. He stressed that 100's of 1000's of dollars have been lost due to theft in these places, and the police department is not able to stay on top of these things. Commissioner Richards pointed out that the way around this problem would be for the business to build a one-room structure to live in. Commissioner Andes noted that it might not be possible on all property. CAO Hirashima and Planning Manager Holland explained that a loophole allowing RVs would raise issues regarding storage, garbage, sewer, etc. in addition to aesthetic issues.

Chair Leifer asked staff what alternative solution they would suggest for companies who want to protect their assets. CAO Hirashima thought that provisions like they have brought tonight which allow caretaker quarters would be one solution. Planning Manager Holland added that if the company brought in a Pacific Mobile trailer, tied it down, and got utilities (sewer and water) a caretaker would be allowed to stay in it. Chair Leifer thought this could be an acceptable alternative.

Commissioner Richards noted there are two 13's in Section 3.

Planning Manager Holland noted that this would come back for a public hearing in September along with some other items.

- **Snohomish County and Cities Permit Statistics (PowerPoint)**

CAO Hirashima reviewed the year 2010 in housing units permitted on a city-by-city basis where Marysville had quite a bit of activity. In 2011 and 2012 Marysville still had a high volume of residential permits relative to other cities. In 2013, Marysville had an even higher number of permits relative to other cities. In 2010-2013 Marysville had 1473 units permitted. The next closest city was Everett at 723. In 2010-2013 the total housing units permitted by city and unincorporated north Snohomish County. CAO Hirashima summarized that most of the development in the UGA has occurred in the unincorporated Snohomish County in the south and in Marysville in the north. She reviewed data showing the trend toward more multifamily development starting in 2011. In 2010 it was predominantly single family development, but by 2013 it was predominantly multifamily. There was discussion about the lot shortages in single family.

CAO Hirashima reviewed the total UGA comparison of development in 2010-2013 by housing unit type. In the southwest area it was about 40% multifamily. Other UGA areas were about 75% single family. Marysville is much more similar to the southwest UGA area at about 40% multifamily. She stressed that Marysville has a very small Community Development staff who is working very hard. She believes Marysville will continue to be a big place for growth to occur in the coming years.

Commissioner Hoen noted that the freeway signs for Marysville are lacking. CAO Hirashima concurred and suggested they look into that with WSDOT.

OLD BUSINESS

- **Industrial Park Design Standards Photos (PowerPoint)**

Planning Manager Holland gave a PowerPoint presentation showing photos taken during a tour of industrial park design standards in Southwest Everett. The intent of the tour was to show what can be done as it relates to the Smokey Point Master Plan Design Standards.

Chair Leifer asked about the acreage and the jobs numbers. CAO Hirashima indicated staff could provide that at the next meeting.

Highlights of the designs shown included:

- Tree-lined streets, heavily buffered
- Wide landscape buffers (30-foot) between parking lot and street
- Quality design standards
- Landscaped entryways
- Screening of service areas
- Blank wall treatment – trees, add-ons, awnings, windows
- Windows and modulation

- Change in building materials and modulation – metal awnings
- New development continues

Commissioner Hoen asked who benefits from the setbacks, landscaping, and attractiveness of the buildings in an industrial area. CAO Hirashima said it is an image thing for the businesses and plays into the quality of the businesses the city can attract. Everett planned to be a top quality city and set up very strict standards 25 or 30 years ago anticipating the type of businesses they wanted to attract. Now it is a very successful area with high-density employment. CAO Hirashima summarized that hopefully the Planning Commission will see something like this as the product of all their hard work and planning.

OTHER

CAO Hirashima gave an update on the extremely popular new spray park. She noted that the City is looking into adding more parking.

CITY COUNCIL AGENDA ITEMS AND MINUTES

None

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Richards, to adjourn the meeting at 8:45 p.m. **Motion** passed unanimously.

NEXT MEETING:

July 22, 2014



Laurie Hugdahl, Recording Secretary



CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON RELATED TO CARETAKER'S QUARTERS BY AMENDING MARYSVILLE MUNICIPAL CODE (MMC) SECTIONS 22A.020.040 "C" DEFINITIONS; 22C.110.020 PERMITTED TEMPORARY USES; 22C.110.030 EXEMPTED TEMPORARY USES; 22C.020.070 PERMITTED USES – DEVELOPMENT CONDITIONS; AND AMENDING MMC SECTION 22A.010.160 GENERAL ADMINISTRATION, RELATED TO TRACKING AMENDMENTS TO THE CITY'S UNIFORM DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

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

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

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

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

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

WHEREAS, the development code amendment is consistent with the following required findings of MMC 22G.010.500:

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

WHEREAS, the Planning Commission discussed the above-referenced amendment during a public meeting held on July 8, 2014; and

WHEREAS, on October 28, 2014, the Marysville Planning Commission held a duly-advertised public hearing, which was continued to November 12, 2014; and

WHEREAS, On November 12, 2014, at the continued public hearing, the Marysville Planning Commission made a recommendation to the City Council recommending the adoption of the proposed amendments to the City's development regulations; and

WHEREAS, at a public meeting on December 8, 2014, the Marysville City Council reviewed and considered the Marysville Planning Commission's Recommendation and proposed amendments to the City's development regulations; and

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on September 29, 2014, seeking expedited review under RCW 36.70A.160(3)(b) in compliance with the procedural requirement under RCW 36.70A.106; and

WHEREAS, the amendments to the development regulations are exempt from State Environmental Policy Act review under WAC 197-11-800(19);

NOW, THEREFORE, the City Council of the City of Marysville, Washington do ordain as follows:

Section 1. MMC 22A.020.040 is hereby amended by amending Section "C" definitions to add the following definition:

22A.020.040 "C" definitions.

"Caretaker's quarters" means a dwelling unit which is accessory to a permitted commercial or institutional use that is occupied exclusively by the caretaker or manager employed by the business or institution which it serves. Said dwelling unit must be located on the same property of the business or institution it serves; is limited to one such unit per property; and must be demonstrated to be clearly incidental and subordinate to the primary business or institutional use and the structure it serves.

Section 2. MMC 22C.110.020 is hereby amended as follows:

22C.110.020 Permitted temporary uses.

(1) Except as provided in MMC 22C.110.030, a temporary use permit shall be required for all permitted temporary uses listed in subsection (2) of this section.

(2) The following types of temporary uses, activities and associated structures may be authorized, subject to the specific limitations noted herein and as noted in MMC 22C.110.040 and as may be established by the community development director:

- (a) Outdoor art and craft shows and exhibits;
- (b) Use associated with the sale of fresh fruits, produce and flowers;
- (c) Mobile services such as veterinary services for purposes of giving shots;
- (d) Group retail sales such as swap meets, flea markets, parking lot sales, Saturday market, auctions, etc. Automobile sales are not a permitted temporary use;
- (e) Use associated with festivals, grand openings or celebrations;
- (f) Temporary fundraising and other civic activities in commercial or industrial zoning districts;
- (g) When elderly or disabled relatives of the occupant of an existing residence require constant supervision and care, a manufactured home with adequate water and sewer services located adjacent to such residences may be permitted to house the relatives, subject to the following requirements:

- (i) The need for such continuous care and assistance shall be attested to in writing by a licensed physician;
- (ii) The temporary dwelling shall be occupied by not more than two persons;
- (iii) Use as a commercial residence is prohibited;
- (iv) The temporary dwelling shall be situated not less than 20 feet from the principal dwelling on the same lot and shall not be located in any required setbacks outlined in MMC Title 22C, Land Use Standards;
- (v) A current vehicular license plate, if applicable, shall be maintained during the period of time the temporary unit is situated on the premises;
- (vi) Adequate screening, landscaping or other measures shall be provided to protect surrounding property values and ensure compatibility with the immediate neighborhood;
- (vii) An annual building permit or manufactured home permit renewal for the temporary dwelling shall be required, at which time the property owner shall certify, on a form provided by the community development department, to the continuing need for the temporary dwelling and, in writing, agree that such use of the property shall terminate at such time as the need no longer exists;
- (h) Watchmen's or caretaker's quarters when approved in writing by the community development director. Said caretaker's quarters must comply with the definition set forth in MMC Section 22A.020.040 and will require submittal of the following:
 - (i) A consent letter from the owner and/or proof of ownership of the subject property or structure.
 - (ii) A letter identifying the business or institution to be served by the caretaker's quarters, and the purpose of, and need for, the caretaker's quarters;
 - (iii) A site plan identifying the location of the structure which will be occupied; and
 - (iv) A floor plan identifying the area within the structure which will be occupied to ensure that the use will be incidental to the primary business or institutional use of the structure.
- (i) Transitory accommodations which comply with the provisions outlined in MMC 22C.110.050;
- (j) The community development director may authorize additional temporary uses not listed in this subsection, when it is found that the proposed uses are in compliance with the provisions of this chapter.

Section 3. MMC 22C.110.030 is hereby amended as follows:

22C.110.030 Exempted temporary uses.

The following activities and structures are exempt from requirements to obtain temporary use approval, but are not exempt from obtaining all other applicable permits outlined in the MMC, including but not limited to building permits, right-of-way permits, special events permits, business licenses, home occupation permits, sign permits, etc.:

- (1) Uses subject to the special events provisions of Chapter 5.46 MMC, Special Events, when the use does not exceed a total of 14 days each calendar year, whether at the same location in the city or at different locations;
- (2) Community festivals, amusement rides, carnivals, or circuses, when the use does not exceed a total of 14 days each calendar year, whether at the same location in the city or at different locations;
- (3) Activities, vendors and booths associated with city of Marysville sponsored or authorized special events such as Home Grown;

(4) Retail sales such as Christmas trees, seasonal retail sale of agricultural or horticultural products. Christmas tree sales are allowed from the Saturday before Thanksgiving Day through Christmas Day only;

(5) Individual booths in an approved temporary use site for group retail identified under MMC 22C.110.020(2)(d);

(6) Fireworks stands, subject to the provisions of Chapter 9.20 MMC, Fireworks;

(7) Garage sales, moving sales, and similar activities for the sale of personal belongings when operated not more than three days in the same week and not more than twice in the same calendar year;

(8) Manufactured homes, residences or travel trailers used for occupancy by supervisory and security personnel on the site of an active construction project;

(9) Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project;

~~(10) Watchmen's or caretaker's quarters when approved by the community development director;~~

~~(1110)~~ Portable units and manufactured homes on school sites or other public facilities when approved by the community development director;

~~(1211)~~ A manufactured home or travel trailer with adequate water and sewer service used as a dwelling while a residential building on the same lot is being constructed or while a damaged residential building is being repaired. The manufactured home or travel trailer shall be removed upon completion of the permanent residential structure construction, when repair is completed, or after one year, whichever occurs first;

~~(1312)~~ Model homes or apartments and related real estate sales and display activities located within the subdivision or residential development to which they pertain. A temporary real estate office may be located in a temporary structure erected on an existing lot within a residential subdivision, if approved by the community development director. If approved, a temporary real estate office shall comply with the following conditions:

(a) The temporary real estate office may be used only for sale activities related to the subdivision in which it is located;

(b) The temporary real estate office shall have an Americans with Disabilities Act (ADA) accessible restroom located in or adjacent to said office;

(c) ADA accessibility shall be provided to the temporary real estate office. General site, accessible routes and building elements shall comply with ICC/ANSI A117.1-2003 or current edition;

(d) The temporary real estate office shall meet all applicable building and fire codes, or shall be immediately removed; and

(e) The temporary real estate office shall be removed immediately upon the sale of the last lot within the subdivision;

~~(1413)~~ Home occupations that comply with Chapter 22C.190 MMC, Home Occupations;

~~(1514)~~ Fundraising car washes. The fundraising coordinator is required to obtain a clean water car wash kit from the Marysville public works department in order to prevent water from entering the public storm sewer system;

~~(1615)~~ Vehicular or motorized catering such as popsicle/ice cream scooters and self-contained lunch wagons which cater to construction sites or manufacturing facilities. Such a use must remain mobile and not be utilized as parking lot sales;

~~(1716)~~ Any permitted temporary use not exceeding a cumulative total of two days each calendar year.

Section 4. MMC 22C.020.070 is hereby amended as follows:

22C.020.070 Permitted uses – Development conditions.

(3) Limited to one dwelling unit for the purposes of providing on-site service and security of a commercial or industrial business. Caretaker's quarters are subject to the provisions set forth in MMC Chapter 22C.110 entitled "Temporary Uses".

Section 5. MMC 22A.010.160, Amendments, of MMC Chapter 22A.010, General Administration, is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City's Unified Development Code:

"22A.010.160 Amendments.

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

<u>Ordinance</u>	<u>Title (description)</u>	<u>Effective Date</u>
_____	Caretaker's Quarters	_____, 2014"

Section 6. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 7. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2014.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By: _____
GRANT K. WEED, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)