

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 26, 2015

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| AGENDA ITEM: PA 12014 – Lakewood Station Ordinance Affirming the Recommendation of the Hearing Examiner for the Lakewood Station Binding Site Plan and Site Specific Rezone, Amending the Official Zoning Map of the City, and Repealing Ordinance No. 2929 | AGENDA SECTION: New Business | |
| PREPARED BY: Chris Holland, Planning Manager | APPROVED BY: | |
| ATTACHMENTS: Adopting Ordinance, including: <ul style="list-style-type: none"> • Exhibit A – Hearing Examiner Recommendation • Exhibit B – Ordinance 2929 • Exhibit C – Revised Rezone Boundary Map | | |
| | MAYOR | CAO |
| BUDGET CODE: | AMOUNT: | |

DESCRIPTION:

Marysville City Council adopted Ordinance No. 2929 on June 10, 2013 affirming the recommendation of the Hearing Examiner for the Lakewood Station Binding Site Plan and Site Specific Rezone, increasing the acreage of Mixed Use zoning from 13 to approximately 16.6 acres, and amending the official zoning map of the City.

Based on comments from Washington State Department of Transportation (WSDOT), during the review and approval process, to not allow construction of a signal at the intersection of 172nd Street NE (SR 531) and 25th Avenue NE, the road network system for the project was shifted to the west, realigning 25th Avenue NE and constructing a roundabout at approximately the 2300 Block of 172nd Street NE (SR 531) that requires altering the boundaries of the site specific rezone approved by Ordinance No. 2929.

The amended rezone boundary includes approximately 15.3-acres of Mixed Use zoning excluding right-of-way, compared to 16.6-acres of MU zoning approved by Ordinance No. 2929, as reflected in **Exhibit C** of the attached Ordinance.

The attached Ordinance would repeal Ordinance No. 2929 and adopt the amended boundaries of Mixed Use zoning for the Lakewood Station Binding Site Plan based on the realigned road network.

RECOMMENDED ACTION:

Affirm the recommendation of the Hearing Examiner for the Lakewood Station Binding Site Plan and site specific rezone and authorize the Mayor to sign the ordinance amending the official zoning map of the City, and repealing ordinance No. 2929.

COUNCIL ACTION:

CITY OF MARYSVILLE

Marysville, Washington

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AFFIRMING THE RECOMMENDATION OF THE HEARING EXAMINER FOR THE LAKEWOOD STATION BINDING SITE PLAN AND SITE SPECIFIC REZONE, AMENDING THE OFFICIAL ZONING MAP OF THE CITY, AND REPEALING ORDINANCE NO. 2929.

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

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

WHEREAS, Marysville City Council held a public meeting on said rezone on June 10, 2013 and concurred with the Findings, Conclusions and Recommendation of the Hearing Examiner, adopting Ordinance No. 2929 amending the official zoning map of the City, as set forth in the attached **Exhibit B**; and

WHEREAS, based on comments from Washington State Department of Transportation (WSDOT), during the review and approval process, to not allow construction of a signal at the intersection of 172nd Street NE (SR 531) and 25th Avenue NE, the road network system for the project was shifted to the west, realigning 25th Avenue NE and constructing a roundabout at approximately the 2300 Block of 172nd Street NE (SR 531) that requires altering the boundaries of the site specific rezone approved by Ordinance No. 2929;

WHEREAS, the amended rezone boundaries includes approximately 15.3-acres of Mixed Use zoning excluding property right-of-way, as set forth in the attached **Exhibit C**, compared to 16.6-acres of the site specific rezone approved by Ordinance No. 2929.

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

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

- (1) The rezone is consistent with the purposes of the Marysville Comprehensive Plan;
- (2) The rezone is consistent with the purpose of Title 22 MMC;
- (3) There have been significant changes in the circumstances to warrant the rezone; and

(4) The benefit or cost to the public health, safety and welfare is sufficient to warrant the rezone.

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

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

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

Section 5. Ordinance No. 2929 is hereby repealed in its entirety.

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

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2015.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
APRIL OBRIEN, DEPUTY CITY CLERK

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____

EXHIBIT A

CITY OF MARYSVILLE Hearing Examiner Findings and Conclusions

Preliminary Binding Site Plan Decision/Rezone Recommendation

APPLICANT: Smokey Point Commercial, LLC

FILE NO.: PA12014

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

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

SUMMARY OF DECISION:

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

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

PUBLIC HEARING:

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

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

HEARING COMMENTS AND TESTIMONY:

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

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

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

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

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

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

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

Applicant – Dan Eernisse

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

Public Comment

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

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WRITTEN COMMENTS:

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

FINDINGS, CONCLUSIONS AND DECISION/RECOMMENDATION:

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

A. FINDINGS AND CONCLUSIONS:

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

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

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

b. CONCLUSIONS:

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

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

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

PRELIMINARY BINDING SITE PLAN/CONCURRENT REZONE

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

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

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

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

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

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

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

SEPA MITIGATED DETERMINATION OF NON-SIGNIFICANCE

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

EXHIBIT A

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

EXHIBIT A

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

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

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

EXHIBIT A

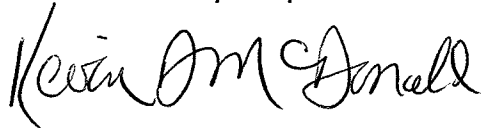
analysis, the City Engineer shall determine whether or not signal improvements or access management on 27th Avenue NE will be required.

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

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

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

Dated this 8nd day of April 2013.



Kevin D. McDonald, AICP
Hearing Examiner Pro Tem

EXHIBIT A

RECONSIDERATION (MMC 22G.010.190):

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

JUDICIAL APPEAL (MMC 22G.010.540):

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

EXHIBITS:

The following exhibits were offered and entered into the record:

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

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

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

PARTIES of RECORD:

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

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

Kermit R. Metcalf
18904 – 86th Place West
Edmonds, WA 98026

Dan Eernissee
5509 17th Ave NE
Seattle, WA 98105

Julie Workman
17516 27th Ave NE
Marysville, WA 98271

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

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Steve Benenati

WSDOT

P.O. Box 330310

Seattle, WA 98133-9710

EXHIBIT B

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. 2929

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

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

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

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

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

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

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

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

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

EXHIBIT B

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

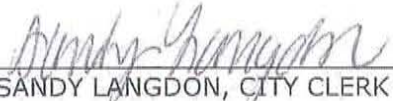
Section 5. Severability. If any section, subsection, sentence, clause, phrase or work of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

PASSED by the City Council and APPROVED by the Mayor this 10th day of June, 2013.

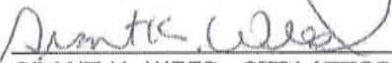
CITY OF MARYSVILLE

By: 
JON NEHRING, MAYOR

Attest:

By: 
SANDY LANGDON, CITY CLERK

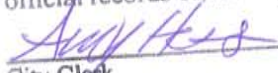
Approved as to form:

By: 
GRANT K. WEED, CITY ATTORNEY

Date of Publication: 6/19/2013

Effective Date: 6/24/2013

I hereby certify this to be a true and correct copy of the original on file in my office as part of the official records of the city of Marysville

Deputy 
City Clerk

Date 6/12/2013

EXHIBIT B

CITY OF MARYSVILLE Hearing Examiner Findings and Conclusions

Preliminary Binding Site Plan Decision/Rezone Recommendation

APPLICANT: Smokey Point Commercial, LLC

FILE NO.: PA12014

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

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

SUMMARY OF DECISION:

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

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

PUBLIC HEARING:

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

EXHIBIT B

Hearing Examiner Decision

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

HEARING COMMENTS AND TESTIMONY:

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

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

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

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

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

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

EXHIBIT B

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

Applicant – Dan Eernisse

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

Public Comment

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

EXHIBIT B

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WRITTEN COMMENTS:

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

FINDINGS, CONCLUSIONS AND DECISION/RECOMMENDATION:

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

A. FINDINGS AND CONCLUSIONS:

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

EXHIBIT B

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

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

b. CONCLUSIONS:

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

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

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

PRELIMINARY BINDING SITE PLAN/CONCURRENT REZONE

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

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

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

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

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

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

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

SEPA MITIGATED DETERMINATION OF NON-SIGNIFICANCE

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

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

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

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

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

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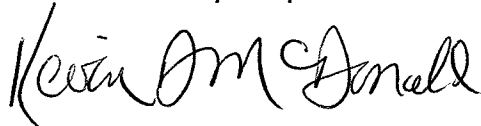
analysis, the City Engineer shall determine whether or not signal improvements or access management on 27th Avenue NE will be required.

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

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

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

Dated this 8nd day of April 2013.



Kevin D. McDonald, AICP
Hearing Examiner Pro Tem

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RECONSIDERATION (MMC 22G.010.190):

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

JUDICIAL APPEAL (MMC 22G.010.540):

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

EXHIBITS:

The following exhibits were offered and entered into the record:

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

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

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

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EXHIBIT B

Hearing Examiner Decision

File No.: PA 12014

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EXHIBIT B

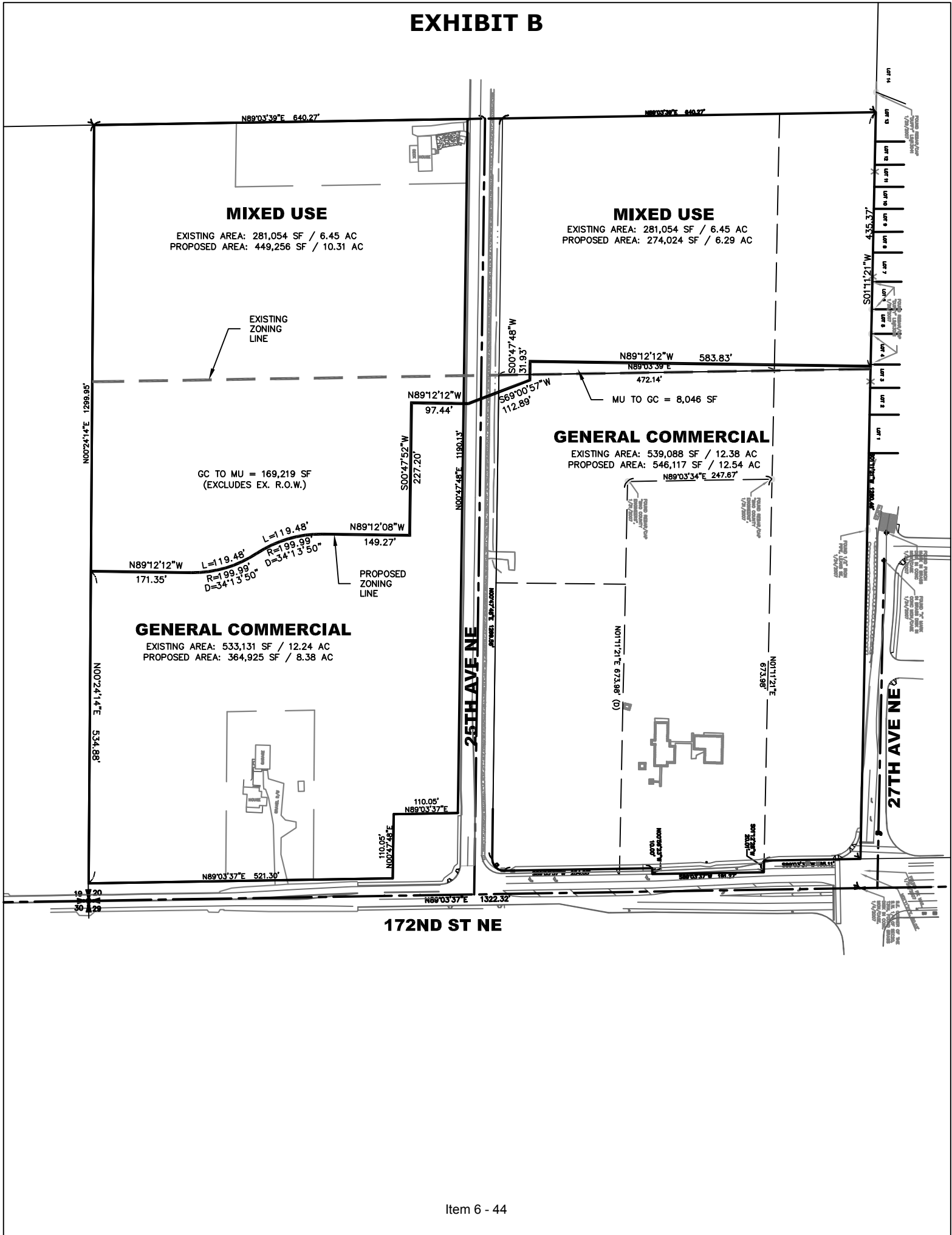
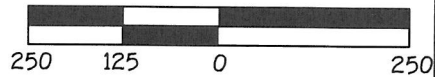
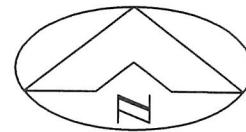
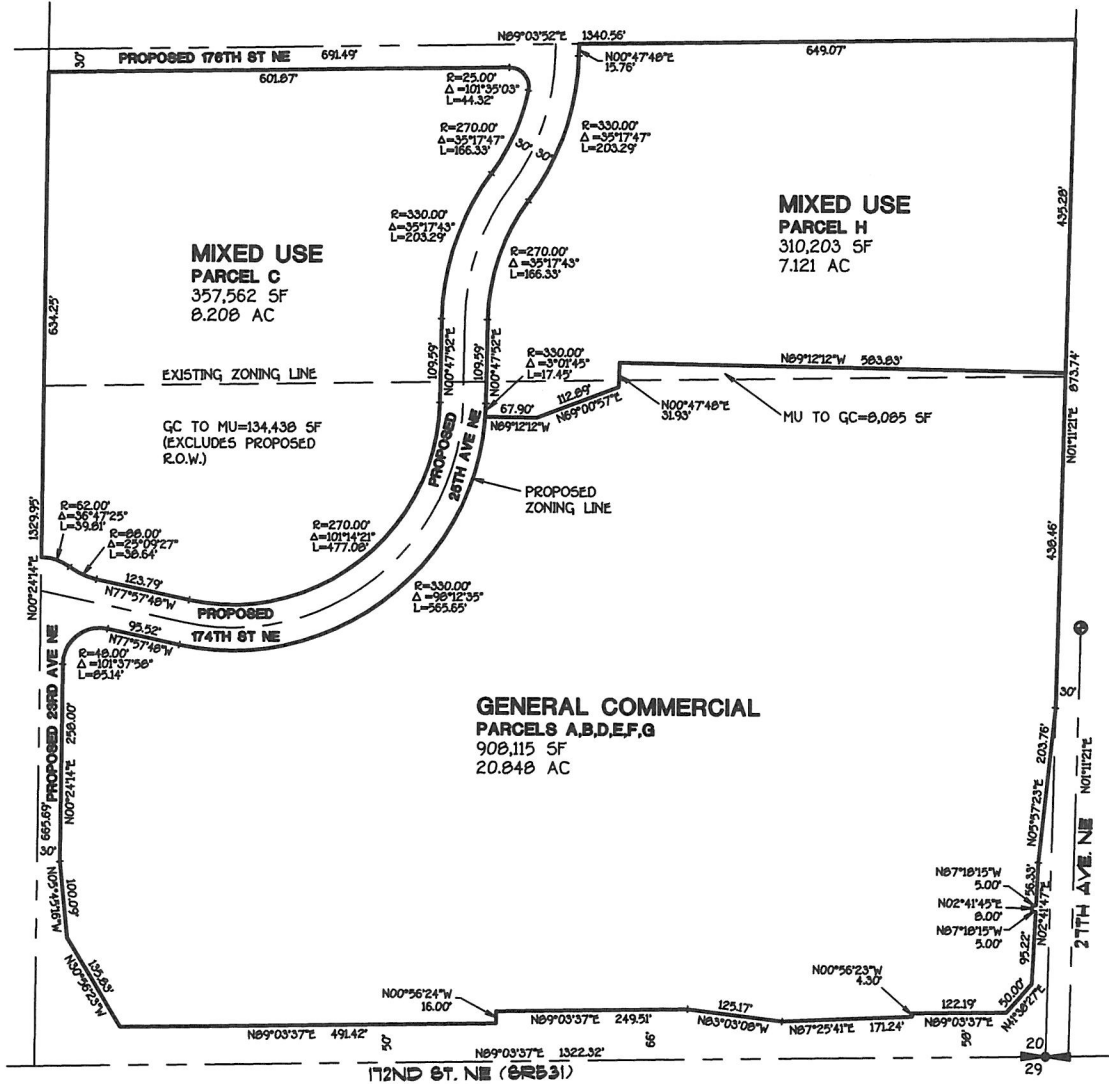


EXHIBIT C

EXHIBIT "C"



SCALE: 1" = 250'

| | | |
|---|--|--------------------------------------|
| <p>A.S.P.I. LAND SURVEYING AND PLANNING 4532-B EVERGREEN WAY EVERETT, WA 98203 (425) 252-1884</p> | <p>ZONING EXHIBIT MAP FOR SMOKEY POINT COMMERCIAL, LLC A PORTION OF THE SE 1/4, SW 1/4 OF SEC. 20, TWP. 31 N, RGE. 5 E, W.M. CITY OF MARYSVILLE SNOHOMISH COUNTY, WASHINGTON</p> | <p>09/23/2015 MSG 211069</p> |
|---|--|--------------------------------------|