

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: December 11, 2017

AGENDA ITEM: PA17-013 – Critical Areas Management Ordinance Amendments	AGENDA SECTION: New Business	
PREPARED BY: Angela Gemmer, Senior Planner	APPROVED BY:	
ATTACHMENTS: 1. Memo to City Council dated 11/21/17 2. Memo to Dave Koenig dated 10/18/17 3. PC Minutes dated 7/25/17, 9/12/17 and 11/14/17 4. Adopting Ordinance 5. Letter from WSDOT 6. Comments from MBA dated 11/29/17, 9/6/17 and 10/6/17 7. Letter from Gloria Hirashima, CAO to MBA dated 12/20/16	MAYOR	CAO
	AMOUNT:	
DESCRIPTION:		

The Planning Commission (PC) held a public hearing on November 14, 2017 to review proposed amendments to Marysville Municipal Code Chapter 22E.010, *Critical Areas Management*. The proposed amendments include, but are not limited to, the following: a) amend MMC Section 22E.010.100(5)(b) to allow wetland buffer reductions for all categories of wetlands when site specific criteria are met (presently this reduction is only allowed for Category III and IV wetlands); b) reference the current publication number for the Washington State Department of Ecology’s *Wetland Rating System for Western Washington*; c) omit the reference in MMC Section 22E.010.060(1) to using the *Washington State Wetlands Identification and Delineation Manual* since this publication is no longer in use, and instead reference use of the “current approved federal wetlands delineation manual and applicable regional supplements” consistent with WAC 173-22-035; d) amend the points references in MMC Section 22E.010.100(5)(v) and 22E.010.100(6)(a) to match the current scoring system adopted by Ecology; and e) reorganize of the wetland buffer width table in MMC Section 22E.010.100(4) to improve clarity. Some concerns were expressed by the development community regarding updates to the points references in code. These concerns are addressed in the attached memo.

The PC received testimony from staff and interested parties at the public hearing following public notice. The PC made a motion to recommend the proposed amendments to City Council for adoption by ordinance.

RECOMMENDED ACTION: Affirm the Planning Commission’s recommendation and adopt the Critical Areas Management code amendments by Ordinance.
COUNCIL ACTION:



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

MEMORANDUM

DATE: November 21, 2017
TO: City Council
FROM: Angela Gemmer, Senior Planner
RE: Marysville CAO Update – concerns of MBA and other development interests
 Alternative language for MMC Section 22E.010.100(6)
CC: Dave Koenig, Community Development Director
 Chris Holland, Planning Manager
 Cheryl Dungan, Senior Planner
 Amy Hess, Associate Planner

At the November 14, 2017 Planning Commission public hearing on the Critical Areas Ordinance (CAO) amendments, concerns were expressed by the Master Builders’ Association and other development interests about the proposed updates to the wetland points scoring system code references. The updated references are to ensure that the points outlined in the CAO are consistent with how the code is presently applied. The City adopts the manuals and ratings systems published and/or adopted by the State as they are amended. The 2014 *Wetland Rating System for Western Washington*, which contains the updated points system, is the current rating system published by the State and used by the City. Below are the Department of Ecology’s conversion tables which were used to update the points references in code.

Table for converting category scores

2004	Western WA	2014
≥ 70	Category I	23-27
51-69	Category II	20-22
30-50	Category III	16-19
<30	Category IV	9-15

Table for converting function scores

2004	Final Habitat Score	2014
29-36	High	8-9
20-28	Medium	5-7
≤ 19	Low	3-4

The specific concerns expressed by the MBA and others stem from MMC Section 22E.010.100(6)(a) which requires that wetland buffers be increased by 25 percent when habitat values for Category III and IV wetlands equal or exceed 5 points. As expressed to staff, the development community has observed habitat scores of 5 points or greater achieved on a regular basis under the 2014 Wetland Rating System for Western Washington. Given this, the development community believes that the standard Category III and IV buffers will frequently be increased with the City’s current code language and updated points references. In order to address this concern, the following alternative language for MMC Section 22E.010.100(6) is proposed. Option B requires that buffers not be decreased under the circumstances outlined, and Option C allows discretion to be used when determining whether the buffers should be increased.

Option B

22E.010.100 Wetland buffer areas.

- (6) The buffer width stated in subsection (4) of this section shall ~~not be decreased~~ be increased ~~by 25 percent:~~
- (a) When the qualified scientific professional determines, based upon a site-specific wetland analysis, that for Category III and IV wetlands the habitat value equals or exceeds ~~20~~ 5 points, and for Category II wetlands the habitat value equals or exceeds ~~29~~ 8 points; or
 - (b) When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
 - (c) When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or
 - (d) When the minimum buffer for a wetland extends into an area with a slope of greater than 25 percent, the buffer shall be the greater of:
 - (i) The minimum buffer for that particular wetland; or
 - (ii) Twenty-five feet beyond the point where the slope becomes 25 percent or less.

Option C

22E.010.100 Wetland buffer areas.

- (6) The buffer width stated in subsection (4) of this section shall ~~shall~~ may be increased by 25 percent:
- (a) When the qualified scientific professional determines, based upon a site-specific wetland analysis, that for Category III and IV wetlands the habitat value equals or exceeds ~~20~~ 5 points, and for Category II wetlands the habitat value equals or exceeds ~~29~~ 8 points; or
 - (b) When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
 - (c) When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or
 - (d) When the minimum buffer for a wetland extends into an area with a slope of greater than 25 percent, the buffer shall be the greater of:
 - (i) The minimum buffer for that particular wetland; or
 - (ii) Twenty-five feet beyond the point where the slope becomes 25 percent or less.

Staff believes that one of the options outlined above will address the concerns expressed about the 5 point habitat score always requiring a buffer increase. Staff respectfully requests adoption of the Critical Areas Management code amendments by Ordinance with either the originally proposed language or one of the options outlined above.



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

MEMORANDUM

DATE: October 18, 2017

TO: Dave Koenig, Community Development Director

FROM: Angela Gemmer, Senior Planner

RE: Marysville CAO Update – Summary of Proposed Changes and Rationale for Proposed Wetland Buffer Reductions

CC: Chris Holland, Planning Manager
Cheryl Dungan, Senior Planner
Amy Hess, Associate Planner

The City of Marysville is in the process of making some limited updates to its Critical Areas Ordinance (CAO) in accordance with the requirements of the Growth Management Act (GMA; RCW 36.70A). The only change which requires a Best Available Science (BAS) analysis is an amendment to MMC Section 22E.010.100(5)(b) to allow buffer reductions in any wetland category when all of the criteria contained in that code section are met. The purpose of this memorandum is to discuss the proposed amendment, and applicable "best available science" (BAS) related to this provision.

Best Available Science History and Other Background Information

The City completed a comprehensive update to the CAO in 2005, with BAS documented in *Use of Best Available Science in City of Marysville Buffer Regulations* (October 28, 2004) and associated documents. In 2015, the City conducted a review of its existing CAO, Shoreline Master Program (SMP), and associated regulations to verify compliance with State law. The City also evaluated whether there was any new information regarding critical areas within the City. With its review, the City determined that there was no new information available regarding critical areas in Marysville, and that the original BAS evaluation conducted in 2004-2005 is still relevant.

As noted within City of Marysville 2004 BAS Report, many of the Category I, II and III wetlands within the City are within existing stream corridors. Reviewing the critical areas which have been mapped from 1989 through the present, approximately 73.6 percent of wetlands have been identified as either Category III or IV wetlands. The remainder of wetlands within the City have been either Category I (5.3 percent) or Category II (21.1 percent). MMC Section 22E.010.220(3), requires that "any stream adjoined by a wetland or other adjacent habitat area shall have the buffer which applies to the wetland or other habitat area unless the stream buffer requirements are more expansive," and further requires in subsection (5)(c) that "when the minimum buffer for a habitat extends into an area with a slope of greater than 25 percent, the buffer shall be the greater of: (i) the minimum buffer for that particular habitat; or (ii) twenty-five feet beyond the point where the slope becomes

25 percent or less. Under these code sections, wetlands adjacent to streams are often afforded additional protection beyond what the standard wetland buffer is.

Proposed Amendment

The proposed update to the CAO is to allow Category I and II wetlands to pursue the 25 percent buffer reduction currently allowed for Category III and IV wetlands if the specific criteria in MMC Section 22E.010.100(5)(b) is met. In order to be eligible for a 25 percent reduction:

- a) there must be less than 15 percent slopes adjacent to the wetland;
- b) the buffer must be replanted with native trees and shrubs;
- c) buffer width averaging may not be used; and the wetland must either
- d) be separated by a preexisting, intervening and lawfully created structures or other substantial improvements which impair the delivery of the buffer functions; or
- e) must score 4 points or less for habitat value.

Given that many of the higher category wetlands within Marysville are adjacent to a stream or area with slopes in excess of 25 percent, and given the specific criteria that a wetland must meet to be granted this reduction, including scoring 4 points or less for habitat value, it is anticipated that this reduction would apply in limited instances and only when site and wetland specific circumstances warrant it. The intent of expanding this allowance is to:

- a) provide flexibility for development on sites that have wetlands with low habitat value or intervening obstructions which limit the function of buffers;
- b) allow for a flexibility that many Western Washington jurisdictions presently allow for;
- c) require mitigation so that the City's critical area buffers are enhanced over existing conditions; and
- d) ensure protection of critical areas functions and values, consistent with GMA requirements.

Best Available Science (BAS)

DOE's *Wetlands Guidance for CAO Updates – Western Washington Version* Table XX.3 outlines wetland buffers when wetland category and habitat score is used to determine buffers. Table XX.3 indicates that Category I and II wetlands and forested wetlands (not including bogs, wetlands of high conservation value, estuarine wetlands, and coastal lagoons) with habitat scores between 3 and 4 points should have 100 foot buffers.

The proposal to allow a 25 percent buffer reduction for Category I and II wetlands with habitat scores of 4 points or less, or substantial intervening improvements, is largely consistent with DOE's guidance. A 25 percent reduction to the City of Marysville's standard 125 foot Category I buffer would result in an approximately 94 foot buffer while a 25 percent reduction to the standard 100 foot Category II buffer would result in a 75 foot buffer.

DOE's *Wetlands in Washington State Volume 1 – A Synthesis of the Science*, Table 5-8, provides a summary of the comprehensive synthesis that was conducted by Desbonnet et al (1994) on the pollutant removal effectiveness and wildlife habitat value of wetland buffers of varying widths.

Pollutant Removal Effectiveness

Desbonnet's work indicates that wetland buffers of 66 feet and 98 feet both provide "approximately 70% or greater sediment and pollutant removal". A 5 percent increase in sediment and pollutant removal is not achieved until buffers reach 164 feet, and a 10 percent increase is not achieved until buffers reach 245 feet. This data shows that reducing the buffer to 94 feet for Category I wetlands and to 75 feet for Category II wetlands would not result in a decrease to sediment and pollutant removal over the City's standard buffers.

Wildlife Habitat Value

Desbonnet's work shows that at 66 feet, buffers provide "minimal wildlife habitat value and some value as avian habitat", and at 98 feet buffers may provide "use as a wildlife travel corridor as well as general avian habitat". At 164 feet, the habitat value is noted as "minimal general wildlife habitat value". As noted above, the proposed reduction is to apply only to those wetlands that have a low habitat value, or those wetlands where delivery of wetland functions and values is reduced due to substantial intervening improvements, and mitigation plantings would be required thereby increasing functions and values over existing levels. In these circumstances, the difference between wildlife habitat functions and values is either less crucial (due to the low habitat value) or less effective (due to the intervening improvements). Therefore, the differences between DOE's recommended 100 foot buffer for Category I and II wetlands that score 3 to 4 points, and the proposal to allow reductions in Category I and II wetlands buffers to 94 and 75 feet respectively when habitat scores are 3 to 4 points, is anticipated to be negligible.

BAS Summary

As Desbonnet's synthesis shows, the proposed wetland buffer reduction allowance should not result in reduced sediment and pollutant removal potential (still 70 percent effectiveness), and the difference in habitat functions and values would also be minimal particularly in light of the eligible wetlands having either low habitat value or intervening obstructions.

Summary

The proposed amendment to allow buffer reductions for Category I and II wetlands is anticipated to apply in limited instances when it can be demonstrated that site specific critical areas, physical features, and circumstances warrant the reduction. The limited application is due to:

- Lower prevalence of Category I and II wetlands than Category III and IV wetlands (historically account for about 26 percent of wetlands);
- Likelihood that the Category I or II wetland will be adjacent to another critical area such as a stream or steep slope which typically results in greater buffers being applied; and
- The specific criteria that the wetland must meet in order to be eligible for the reduction (4 points or less habitat score or substantial intervening structures), less than 15 percent slopes, etc.

The proposed amendment is substantially consistent with DOE guidance. In addition, a review of other Snohomish County jurisdictions' regulations show comparable wetland buffers for Category I and II wetlands with either low habitat function or intervening improvements.

Acceptance of other jurisdictions' regulations demonstrates that BAS supports the modest and limited reduction proposed. Furthermore, the expanded allowance will: afford flexibility for development on sites that have wetlands with low habitat value or intervening obstructions which limit the function of buffers; require mitigation so that the City's critical area buffers are enhanced over existing conditions; and ensure protection of critical areas functions and values, consistent with GMA requirements while having minimal impacts to the functions and values of wetlands. For the reasons cited above, the City of Marysville respectfully requests Ecology's support of this limited and specific amendment to the City's CAO.

PLANNING COMMISSION



MINUTES

July 25, 2017

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the July 25, 2017 meeting to order at 7:02 p.m.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Tom Thetford, Brandon Whitaker

Staff: Community Development Director Dave Koenig, Senior Planner Angela Gemmer

Excused Absence: Kelly Richards, Kay Smith

APPROVAL OF MINUTES

April 11, 2017 Planning Commission Meeting Minutes

Motion made by Commissioner Hoen, seconded by Commissioner Andes, to approve the April 11, 2017 Meeting Minutes as presented. **Motion** passed unanimously (3-0) with Councilmembers Whitaker and Thetford abstaining.

AUDIENCE PARTICIPATION

None

NEW BUSINESS

- A. Critical Areas Ordinance (CAO): Wetland Delineation Manual and Rating Systems References Updates, and Wetland Buffer Reductions

Senior Planner Gemmer reviewed the proposed changes which would amend or remove obsolete references as contained in the Planning Commission packet.

Chair Leifer referred to the language on item 4 under 22(e) 010.100. He asked why someone would even put together a plan that would not be sufficient to protect the wetland. Senior Planner Gemmer explained that the buffers listed in Marysville's code are baseline buffers. If there is justification for a buffer reduction, a biologist would analyze that. Similarly, if they found that the buffer wouldn't provide adequate water quality or if there was a particularly sensitive critical area, the biologist might recommend a larger buffer. This would be rare, but occasionally could happen.

Director Koenig explained that the information presented was just an introduction for the Planning Commission. The key part of the language is where they took out category 3 and 4 wetlands. This language change would allow all wetlands not just category 3 and 4s to have buffer width reduction when there is enhancement of the buffer. Staff is at the beginning of the comment opportunities. The code is currently in compliance with state law.

Commissioner Whitaker asked if staff is aware of any projects coming up with Category 1 or 2 wetlands. Staff was not sure, but offered to bring back information about that. Director Koenig discussed the reason for some of these and other recent changes which were requested by the building community as a desire for them building in Marysville. In working with the building industry staff has been able to identify amendments that needed to go through in order to allow certain areas of the community to develop.

Chair Leifer asked about the range and size value of the projects staff is seeing. Director Koenig replied that they appear to be middle to upper value range. He and Senior Planner Gemmer reviewed some of the applications that have come through.

Chair Leifer referred to page 4, item 5(b) and asked about the reason for removing the reference to Category III and IV wetlands. Senior Planner Gemmer explained that by removing the reference to Category III and IV wetlands, all wetland categories would be eligible for a buffer reduction if the criteria for reduction were met.

Commissioner Andes asked if there is anything in here about mitigation of wetlands. Senior Planner Gemmer reviewed the mitigation that would be required if wetlands are disturbed. In some cases mitigation is allowed offsite.

Chair Leifer commented on the different definitions of wetlands between the City and the Corps and asked which one has final authority on what a wetland is. Director Koenig explained that if it involves filling it would be the Corps' determination and they have their own permit process separate from the City of Marysville.

Commissioner Hoen asked about an article he saw about Snohomish County changing its permit processing methods to the point where they have cut their processing time in half. He asked if Marysville is working toward this as well. Director Koenig explained that Snohomish County has been historically slow in permit processing so it is not necessarily faster than Marysville even with the improvement. Marysville keeps records on its permit processing and posts those times on the city website.

B. Removal of fireworks stands references in 'Temporary Uses' code

Senior Planner Gemmer explained that the fireworks stand reference in the temporary use code are no longer needed since fireworks are no longer allowed (with limited exceptions for civic events, etc.) The proposed amendment would clean up the code. There was discussion about how much quieter and cleaner it was in Marysville this year on the 4th of July.

OTHER

Director Koenig gave an update on other items that staff has been working on such as: the Arlington-Marysville Manufacturing Industrial Center, the State's capital budget and grant funds, improved customer service efforts, permits for a new La Quinta Inn on 38th Street and 116th just south of Winco, new commercial development and another new hotel near Hagggen's, more development in the north side of the shopping center at 172nd, and Phase 3 of The Lodge apartments.

Commissioner Hoen raised a concern about traffic congestion related to construction near Winco. Director Koenig indicated he would look into it, but commented it would eventually get better when 38th is open.

Chair Leifer asked about laws that prohibit taking agriculture land into a UGA. Director Koenig explained it is not necessarily prohibited by law, but it is complicated and difficult to change the UGA boundaries. Counties that are growing have a buildable lands requirement where they have to show that they have a certain capacity to accept growth in the growth area. If there is growth capacity to accept the growth over the next 20 years, then you can't change urban growth boundaries. If you are going to expand you have to look at areas that are appropriate for expansion.

CITY COUNCIL AGENDA ITEMS AND MINUTES

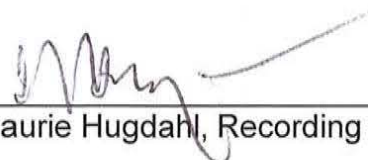
None

ADJOURNMENT

Motion made by Commissioner Thetford, seconded by Commissioner Whitaker, to adjourn the meeting at 7:51 p.m. **Motion** passed unanimously.

NEXT MEETING:

September 12, 2017



Laurie Hugdahl, Recording Secretary

PLANNING COMMISSION



MINUTES

September 12, 2017

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the September 12, 2017 meeting to order at 7:00 p.m.

Marysville

Chairman: Steve Leifer

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

Staff: Planning Manager Chris Holland, Senior Planner Angela Gemmer

Excused Absence: Brandon Whitaker (excused)

APPROVAL OF MINUTES

July 25, 2017

Commissioners Kay Smith and Kelly Richards asked to have their absences from the July 25 meeting excused.

Motion made by Commissioner Andes, seconded by Commissioner Thetford, to approve the July 25, 2017 Meeting Minutes as amended. **Motion** passed unanimously (4-0) with Commissioners Richards and Smith abstaining as they were not at the July 25 meeting.

AUDIENCE PARTICIPATION

None

NEW BUSINESS

A. Residential Density Incentives (RDI) Amendments

Senior Planner Gemmer reviewed this item as contained in the Planning Commission packet.

Commissioner Hoen expressed concern about increases to residential density. The State Healthy Youth Survey shows that four out of ten school age children in the Marysville School District do not know an adult in the neighborhood to go to in need of help. The current trend in building residential housing is rows of garage doors with virtually no front or side yards for family use and neighbor interaction contributes to this isolation.

Chair Leifer asked to what extent Master Builders' input has been integrated into these documents. Senior Planner Gemmer explained that the Built Green concept will likely be incorporated, but it needs a little more direction from the Director. Staff took the other comment seriously and did research to see what makes sense in the RDI. Staff feels what is being proposed makes the most sense.

Planning Manager Holland added that currently if you are building on land with any critical areas and the buffer is degraded, the requirement is to enhance it and do 3-5 years of monitoring on it. Master Builders and others have expressed concerns that this is a significant cost. By bringing it forward and offering it as a density incentive seems like a worthwhile benefit for all developments.

Commissioner Richards commented that this would increase the density, but the roads are already a mess. How is the City resolving this? Planning Manager Holland explained that a project cannot be approved unless it meets concurrency with the level of service. Commissioner Richards asked if the \$15,000 fee in lieu would go toward roads. Planning Manager Holland replied that it could. It would go into a fund where it could be used for a variety of improvements.

Commissioner Andes asked if someone would get two bonus units if they contributed \$30,000. Planning Manager Holland replied that they would receive one bonus unit per \$15,000 contribution. He added that staff will bring back additional information about the Green Built after discussing it more with staff.

Commissioner Richards noted that this is good for the development community, but he wondered if it was also good for the citizens of Marysville. Senior Planner Gemmer thought that it was a win-win because it helps builders get more density and also completes necessary projects in the community. Planning Manager Holland commented that Marysville is one of just a couple cities in the state that do this sort of thing in order to get a public benefit out of a development. He added that it is mainly utilized for multifamily projects and planned residential developments.

Commissioner Andes asked how much of an increase in units staff expects to see with these changes. Senior Planner Gemmer and Planning Manager Holland thought that the largest was 6-8 units, but normally they see 2-3 units. Space is a limiting factor

because builders still have to meet the minimum lot size requirements, road width requirements, etc.

Chair Leifer asked for confirmation that the area of wetlands in a parcel in a PRD can be multiplied times the density allowed on the site and transferred to the overall PRD number of units allowed. Planning Manager Holland confirmed that was accurate. Stream channels would not be included, but the wetlands and their buffers can all be included toward achieving density. He explained that the PRD code would allow someone to do smaller lot sizes or alternative road sections, but this is not too common as most builders are moving toward larger lot sizes these days.

B. Critical Areas Ordinance (CAO): Wetland Delineation Manual and Rating Systems References Updates, and Wetland Buffer Reductions

Senior Planner Gemmer explained that this would strike the category III and IV wetland references from the section that allows for critical area buffer reduction, thereby opening up the possibility to do a 25% buffer reduction to category I and II wetlands that meet the same criteria that category III and IV wetlands would be subject to. There are also updates to obsolete references in the code to be consistent with the current wetland rating manual and applicable regional supplements. Additionally, there would be an amendment to the point system to match the current scoring system adopted by Ecology.

Senior Planner Gemmer explained that staff received some comments from Master Builders and local developers who are concerned about the ability to actually get a reduction with the way the point system is. Staff feels that with the current best available science analysis that the existing critical areas code was based on, alterations to the points references in code would not be possible without revisiting best available science. Staff is not able to make adjustments to the point system without revisiting all of it and having a justification to present to Ecology. At this time staff still intends to open up the buffer reduction eligibility by making the changes described above. Senior Planner Gemmer explained that one of the concerns from Master Builders was that it is not possible to obtain a habitat score of 4 points; however staff reviewed recent projects that have been submitted under the 2014 ratings form and found that half of the wetlands they have seen so far have achieved a 4 in habitat score.

Planning Manager Holland commented that staff is not changing the allowances for buffer reductions. They are just changing the reference. Master Builders' concerns about not being able to get a score of 4 is a global issue that needs to be addressed with the legislature and Ecology. The City is not able to change the State's points system, and adjustments in the current code would require new best available science.

Commissioner Andes asked if there is any chance that a Category IV wetland can just be eliminated from a project. Planning Manager Holland explained that the Department of Ecology allows the City to exempt Category IV wetlands that are less than .1 of an acre. The Corps has changed their requirements, and you have to get Corps approval

for any wetland that you want to fill. The City has found that nobody wants to deal with the Corps because it takes too long to get a permit. The City has also allowed a "paper fill" where you put critical areas fence around it with signage and reduce the buffer. It would then be set aside in perpetuity as a natural growth protection area.

Planning Manager Holland stated that the City has a good relationship with the development community. They will continue to work to make this equitable for both the development community and the citizens of Marysville. Chair Leifer commented that he doesn't see developer interest and community interest as mutually exclusive. The availability of reasonably priced lots and houses is getting scarce which forces some people to move further out in order to be able to afford a home.

CITY COUNCIL AGENDA ITEMS AND MINUTES

COMMISSIONER COMMENTS

Commissioner Hoen brought up an issue someone raised to him about a Marysville resident who is being allowed to build a commercial shop in the middle of a residential area. The person in question doesn't live there, but he owns the property. Senior Planner Gemmer recalled that there was a duplex on the lot and this was proposed as a shop, but she wasn't familiar with the specific details. Planning Manager Holland explained that a commercial business would not be allowed in a residential area, but a home occupation would. Staff indicated they would look into this. Commissioner Hoen agreed with Commissioner Richards about the importance of doing what is good for the citizens as well as developers.

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Thetford, to adjourn the meeting at 7:55 p.m. **Motion** passed unanimously (6-0).

NEXT MEETING:

November 14, 2017



Chris Holland, Planning Manager, for:
Laurie Hugdahl, Recording Secretary

DRAFT

PLANNING
COMMISSION



MINUTES

November 14, 2017

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the November 14, 2017 meeting to order at 7:00 p.m.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Kelly Richards, Tom Thetford, Brandon Whitaker

Staff: Community Development Director Dave Koenig, Planning Manager Chris Holland, Senior Planner Angela Gemmer

Absent: None

APPROVAL OF MINUTES

September 12, 2017

Motion made by Commissioner Smith, seconded by Commissioner Richards, to approve the September 12, 2017 Meeting Minutes.

Commissioner Hoen submitted a paragraph to replace his comments in the first full paragraph of page 2 of the minutes from September 12, 2017 meeting.

Motion passed unanimously to approve the minutes as amended (7-0).

AUDIENCE PARTICIPATION

None

PUBLIC HEARING

- A. Code Amendment – MMC Section 22E.010.100(5)(b) proposing to allow Category I and II wetlands to pursue a 25 percent buffer reduction if the specific criteria in MMC Section 22E.010.100(5)(b) are met. Minor amendments are also proposed in order to refer to the most current manuals, forms and scoring system when evaluating wetlands.

The hearing was opened at 7:04 p.m.

Staff Presentation: Senior Planner Gemmer reviewed the proposed amendments which are a cleanup to the Critical Areas Code. The one substantive change would be to allow wetland buffer reductions for Category I and II wetlands when the current requirements in code for buffer reductions are met. There are additional updates to reference the current publication that DOE uses for their wetland rating system for Western Washington which the City is already required to use. She reviewed Ecology's wetland category and function score conversion tables. She explained there is an additional change that is proposed to reorganize the wetland buffer table in Section 22E.010.100(4) to enhance clarity.

Public Testimony:

Merle Ash, 18820 3rd Avenue NE, Arlington, WA, expressed concern about the proposed changes and the inability of developers to get scores under 5 with the state's new scoring system. He stated that developers in other jurisdictions in Snohomish County where this has already been implemented have had a lot of problems. In order to get the standard buffer under the old system, as per the table in the Critical Area Ordinance, you have a score under 20. Under the new system, in order to get the standard buffer you have to score less than 5 for the habitat score. Several projects scored well under the old system, but scored 5's and 6's on the new system. He expressed concerns about discrepancies between the two systems and the potential requirement for increased buffers as a result. Most of the consultants they have worked with say they rarely, if ever, have gotten habitat scores under 5.

Angie Sievers, Master Builders of King and Snohomish County, 335 – 116th Avenue SE, Bellevue, WA 98004, thanked the Planning Commission for taking the time to review this very technical information. She stated that all three amendments tonight were requests from the building community to help incentivize development in Marysville. She concurred with Mr. Ash's concerns and asked that the Commission consider the impacts of this very carefully. She agreed that it is nearly impossible to get a score of 4 and relayed an example of how this would play out on real projects. She requested that staff take another look at this. She noted that Master Builders is also working with the legislature to help them understand the impacts.

Senior Planner Gemmer clarified that while these score changes aren't codified, Marysville's code already requires that the State's most current revised manual be used so this is how the code is being applied. The code states that, ". . . wetlands shall be classified using Ecology's current Wetland Rating System for Western Washington or as amended hereafter." Planning Manager Holland concurred and noted that the only

substantial change being proposed is for the reductions for the Category I and II wetlands.

Chair Leifer recalled from previous discussions that the cities' hands are pretty much tied on this issue. Planning Manager Holland agreed that their hands are tied unless each individual community wants to go out and hire a consultant, do a Best Available Science study, rework their entire code, and have Ecology approve it. This would be very costly and time consuming.

Chair Leifer asked about the history on this and what efforts are being made at the state level with the legislature to make some changes. Planning Manager Holland replied that staff hasn't noticed a change in application of the scores across the city based on the new rating form. He reviewed the reasoning for the proposed change to allow reductions to Category I and II wetland buffers which is the only substantive change being proposed tonight. The other change is just to address outdated language.

Angie Sievers addressed the question about what is being done at the state level and explained that Master Builders has been in conversations with DOE. Next week they are meeting with state legislators because there are some projects in the south part of the region that are being severely restricted by this. She agrees that this would only impact specific projects. She discussed how this would impact buildable lands and growth potential in the City. She pointed out that there are some other cities that are not formally adopting the updated regulations.

Chair Leifer asked staff's opinion on postponing action on this. Planning Manager Holland stated that it would be fine. Category 1 and 2 wetlands would just stay as they are and the code will continue to function as it has since 2005. Chair Leifer asked Ms. Sievers if her opinion is that they should postpone action. She expressed concern about adopting the updated regulations. Director Koenig reiterated that the City's code already adopts the most current version; this just makes it clearer.

Chair Leifer asked Mr. Ash to explain again why staff should not move forward with this. Merle Ash clarified that they are in support of adopting the manual, but not of changing the classification of wetlands themselves. The developers' main concern is with the requirement for wildlife habitat scores of 4 or less in order to get standard buffers.

Chair Leifer asked staff how they could accomplish changing the numbers without breaching the intent of the code. Senior Planner Gemmer explained that they can't just change numbers from what the DOE Manual requires. Any proposed changes have to be based on Best Available Science and would require a thorough study. She explained that Marysville has very conservative and predictable wetland buffers compared to other jurisdictions.

Chair Leifer solicited feedback from other commissioners.

- Commissioner Thetford spoke to concerns, but noted that Ecology is the one who would need to make changes.

- Commissioner Whitaker spoke in support of moving forward with what staff is proposing. He noted that they could always review this in the future if needed.
- Commissioner Smith concurred.
- Commissioner Richards commended staff's work and noted that Ecology has told them what they have to do. This would align the City's regulations with what they have to do anyway.
- Commissioner Andes expressed frustration about the situation, but indicated that their hands are tied.
- Commissioner Hoen spoke in support of approving this as recommended by staff and then letting the City Council address any concerns they might have.

Motion made by Commissioner Richards, seconded by Commissioner Whitaker, to move the amendments forward as presented. **Motion** passed unanimously (7-0).

The hearing was closed at 8:10 p.m.

- B. Code Amendment – MMC Chapter 22C.090 Residential Density Incentives, including bonus allowances for contributions towards an identified capital improvement, energy conservation, critical areas buffer enhancement and clarifying the administrative review process.

The hearing was opened at 8:10 p.m.

Staff Presentation: Planning Manager Holland reviewed the proposed amendments which would add an RDI for contribution to identified capital improvement projects, reorganize Section 7(b) and 7(c) for clarification purposes, update Section 8 to add LEED evergreen standards and built-green units, and add a new Section 11 providing for a bonus for critical areas buffer enhancements. The City received comments from Master Builders related to energy conservation. What staff has proposed is a .20 bonus unit per certified unit. Master Builders has asked for a .25 or .33 bonus unit per unit constructed. Planning Manager Holland noted that staff has already increased it 100% from .10 to .20. Another comment received was related to critical areas buffer enhancement. Master Builders has requested a bonus unit per quarter acre or half acre instead of staff's recommendation of one bonus unit per acre of buffer enhancements. He reviewed examples of what this would look like for a project.

Chair Leifer asked if staff has any data about what the cost to enhance an acre of wetland might be. Senior Planner Gemmer replied it was in a packet a couple meetings ago. Planning Manager Holland explained that more than the cost of the actual enhancement, the concerns related to the increased costs due to the requirement for five years of maintenance and monitoring.

Commissioner Richards referred to number 8 and asked about inserting language related to "other energy efficient unit as approved by the director." Planning Manager Holland noted that it is already required, but this might clarify it.

Public Testimony:

Angie Sievers, Master Builders of King and Snohomish County, 335 – 116th Avenue SE, Bellevue, WA 98004, commended staff's work on this. She expressed concerns about the costs to developers to update degraded buffers and maintain them long-term. She spoke in support of Master Builders request to increase bonus units per acre in order to incentivize builders in Marysville to build green.

Merle Ash, 18820 3rd Avenue NE, Arlington, WA, commended staff for their work. He feels it works really well with Planned Residential Developments. He would like to see this applied to a half acre instead of an acre to due costs.

Planning Manager Holland reviewed staff's justification for the one acre size, but indicated that the Commission could modify this if desired.

The public testimony portion of the hearing was closed at 8:35 p.m.

Motion made by Commissioner Thetford, seconded by Commissioner Andes, to amend verbiage on item 11, Critical Areas Buffer Enhancement, from one bonus unit per one acre of buffer enhancement to two bonus unit per acre and an amendment to the energy conservation Section 8 to include "or equivalent energy efficient unit as approved by the director." **Motion** failed 2-5.

Motion made by Commissioner Richards, seconded by Commissioner Hoen, to forward this to City Council with an amendment to the energy conservation Section 8 to include ". . . or equivalent energy efficient unit as approved by the director." **Motion** passed unanimously.

The hearing was closed at 8:46 p.m.

- C.** Code Amendment – MMC Chapter 22G.090 Subdivisions and Short Subdivisions delegating final plat approval authority to the Community Development Director and City Engineer in compliance with Senate Bill 5674, which amended RCW 58.17.100, 58.17.170 and 58.17.190.

The hearing was opened at 8:46 p.m.

Staff Presentation: Planning Manager Holland explained that the legislature passed amendments to the subdivision law which would make final plat review an administrative process rather than going to City Council. This would save a tremendous amount of time for the developers and would streamline the process.

Public Testimony:

Angie Sievers, Master Builders of King and Snohomish County, 335 – 116th Avenue SE, Bellevue, WA 98004, spoke in support of this amendment.

Merle Ash, 18820 3rd Avenue NE, Arlington, WA, also spoke in support of this item.

Motion made by Commissioner Richards, seconded by Commissioner Andes, to forward this to City Council. **Motion** passed unanimously (7-0).

The hearing was closed at 8:53 p.m.

Director Koenig thanked Angie Sievers and Merle Ash for their efforts in working with staff on the proposed amendments tonight.

NEW BUSINESS

- Code Amendment – Miscellaneous Light Manufacturing Uses proposed to be a permitted use in the General Commercial (GC) Zone.

Director Koenig introduced this item and noted that it would be coming back to the Commission for review.

CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Whitaker, to adjourn the meeting at 9:02 p.m. **Motion** passed unanimously.

NEXT MEETING: TBD

Laurie Hugdahl, Recording Secretary

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON,
RELATING TO THE CRITICAL AREAS ORDINANCE, AMENDING
SECTIONS 22E.010.060 AND 22E.010.100 OF THE MARYSVILLE
MUNICIPAL CODE.**

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

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

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

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

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

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

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

WHEREAS, the Planning Commission discussed the above-referenced amendment during public meetings held on July 25, 2017, September 12, 2017, and November 14, 2017; and

WHEREAS, on November 14, 2017, the Marysville Planning Commission held a duly-advertised public hearing; and

WHEREAS, on November 14, 2017, the Marysville Planning Commission recommended City Council adopt the proposed amendments to the City's development regulations; and

WHEREAS, at a public meeting on December 11, 2017, the Marysville City Council reviewed and considered the Marysville Planning Commission's Recommendation and proposed amendments to the City's development regulations; and

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on October 19, 2017, seeking expedited review under RCW 36.70A.160(3)(b) in compliance with the procedural requirement under RCW 36.70A.106; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act, Ch.43.21C RCW, (SEPA) by adopting a determination of non-significance for the proposed revisions to the City's development regulations;

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

Section 1. Amendment of Municipal Code. MMC Section 22E.010.060, entitled "Wetland rating and classification," is hereby amended as follows:

22E.010.060 Wetland rating and classification.

- (1) Classification. Wetlands shall be classified as Category I, II, III, or IV using the Washington State Department of Ecology's Wetland Rating System for Western Washington, Publication No. ~~04-06-025~~ 14-06-029, or as amended hereafter. Wetland delineations shall be determined by using the ~~Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter~~ current approved federal wetland delineation manual and applicable regional supplements.
- (2) Sources used to identify designated wetlands include, but are not limited to:
 - (a) United States Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory.
 - (b) Areas identified as hydric soils, soils with significant soil inclusions and "wet spots" with the United States Department of Agriculture/Soil Conservation Service Soil Survey for Snohomish County.
 - (c) Washington State Department of Natural Resources, Geographic Information System, Hydrography and Soils Survey Layers.
 - (d) City of Marysville critical areas inventory maps.

Section 2. Amendment of Municipal Code. MMC Section 22E.010.100, entitled "Wetland buffer areas," is hereby amended as follows:

22E.010.100 Wetland buffer areas.

- (1) The establishment of wetland buffer areas shall be required for all development proposals and activities adjacent to wetlands to protect the integrity, function and value of the wetland. Buffers shall consist of an undisturbed area of native vegetation established to protect the functions and values of the wetland. Buffers shall be determined in conjunction with considerations of wetland category and quality, approved wetland alterations and required mitigation measures. Buffers are not intended to be established or to function independently of the wetland they are established to protect; the establishment of a buffer shall not operate to prevent a use or activity that would otherwise be permitted, as set

forth in MMC 22E.010.080, subsections (7) and (8) of this section, and MMC 22E.010.320, in the wetland subject to mitigation.

- (2) Buffers shall be measured from the wetland edge as delineated and marked in the field using the wetland delineation methods defined in Chapter 22A.020 MMC. Required buffer widths shall reflect the sensitivity of the wetland and its category and intensity of human activity proposed to be conducted near the wetland.
- (3) Where existing buffer area plantings provide minimal vegetative cover and cannot provide the minimum water quality or habitat functions, buffer enhancement shall be required. Where buffer enhancement is required, a plan shall be prepared that includes plant densities not less than five feet on center for shrubs and 10 feet on center for trees. Monitoring and maintenance of plants shall be required in accordance with MMC 22E.010.160, Wetland monitoring program and contingency plan. Existing buffer vegetation is considered "inadequate" and will require enhancement through additional native plantings and removal of nonnative plants when:
 - (a) Nonnative or invasive plant species provide the dominate cover;
 - (b) Vegetation is lacking due to disturbance, and wetland resources could be adversely affected; or
 - (c) Enhancement plantings in the buffer could significantly improve buffer functions.
- (4) The following buffer widths are established as minimum targets. All buffer widths shall be measured from the wetland boundary as surveyed in the field. If, according to the buffer mitigation plan, the buffer is not sufficient to protect the wetland, the city shall require larger buffers where it is necessary to protect wetlands functions based on site-specific characteristics. As an alternative to the buffer width being based on wetland category, the buffer width for Category I wetlands may be established according to the "Buffer Alternative 3" methodology contained in the Department of Ecology's document titled, "Freshwater Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands, Appendix 8C." Buffer Alternative 3 establishes buffer widths based on wetland category, intensity of impacts, and wetland functions or special characteristics.

Wetland Buffer Widths

Wetland Category	Buffer Width
Category I	125 feet
Ebey Slough	100 feet
Except in the following location: north and south shore of Ebey Slough between the western city limits, at approximately I 5, and 47th Ave. NE	25 feet
<u>Category I</u>	<u>125 feet</u>
<u>Ebey Slough</u>	<u>100 feet</u>
<u>North and south shore of Ebey Slough between the western city limits, at approximately I-5 and 47th Avenue NE</u>	<u>25 feet</u>
Category II	100 feet
Category III	75 feet

Wetland Category	Buffer Width
Category IV	35 feet

- (5) Buffer widths may be modified by averaging buffer widths as set forth herein:
- (a) Buffer width averaging shall be allowed only where the applicant demonstrates to the community development department that the averaging will not impair or reduce the habitat, water quality purification and enhancement, storm water detention, ground water recharge, shoreline protection and erosion protection and other functions of the wetland and buffer, that lower-intensity land uses would be located adjacent to areas where buffer width is reduced, and that the total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging;
 - (b) Buffer reductions may be allowed for ~~Category III and IV~~ wetlands; provided, that the applicant demonstrates the proposal meets criteria in subsections (5)(b)(i) through (iii) and either (iv) or (v) of this section. Buffer width reduction proposals that meet the criteria as determined by the director shall be reduced by no more than 25 percent of the required buffer and shall not be less than 25 feet in width.
 - (i) The buffer area meets buffer area planting requirements in subsection (3) of this section and MMC 22E.010.150 and has less than 15 percent slopes; and
 - (ii) A site-specific evaluation and documentation of buffer adequacy is based on consideration of the best available science as described in MMC 22E.010.040; and
 - (iii) Buffer width averaging as outlined in subsection (5)(a) of this section is not being utilized; and either
 - (iv) The subject property is separated from the wetland by pre-existing, intervening, and lawfully created structures, public roads, or other substantial pre-existing intervening improvements; and the intervening structures, public roads, or other substantial improvements are found to separate the subject upland property from the wetland due to their height or width, preventing or impairing the delivery of buffer functions to the wetland, in which cases the reduced buffer width shall reflect the buffer functions that can be delivered to the wetland; or
 - (v) The wetland scores ~~19~~ 4 points or less for wildlife habitat in accordance with the rating system applied in MMC 22E.010.060, and mitigation is provided based on MMC 22E.010.150, 22E.010.370, and Table 2 of this section, when determined appropriate based on the evaluation criteria in subsection (5)(b)(ii) of this section.

Table 2. Mitigation Measures

Disturbance	Activities That May Cause Disturbance	Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, high density residential	Direct lights away from wetland

Table 2. Mitigation Measures

Disturbance	Activities That May Cause Disturbance	Measures to Minimize Impacts
Noise	Manufacturing, high density residential	Place activity away from wetland
Pets and Humans	Residential areas	Landscaping to delineate buffer edge and to discourage disturbance of wildlife by humans and pets
Dust	Tilled fields	Best management practices for dust control

- (c) Notwithstanding the reductions permitted in subsections (5)(a) and (b) of this section, buffer widths shall not be reduced by more than 25 percent of the required buffer.
- (6) The buffer width stated in subsection (4) of this section shall be increased by 25 percent:
 - (a) When the qualified scientific professional determines, based upon a site-specific wetland analysis, that for Category III and IV wetlands the habitat value equals or exceeds ~~20~~ 5 points, and for Category II wetlands the habitat value equals or exceeds ~~29~~ 8 points; or
 - (b) When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
 - (c) When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or
 - (d) When the minimum buffer for a wetland extends into an area with a slope of greater than 25 percent, the buffer shall be the greater of:
 - (i) The minimum buffer for that particular wetland; or
 - (ii) Twenty-five feet beyond the point where the slope becomes 25 percent or less.
- (7) The community development director may authorize the following low impact uses and activities, provided they are consistent with the purpose and function of the wetland buffer and do not detract from its integrity: viewing platforms and interpretive signage; uses permitted within the buffer shall be located in the outer 25 percent of the buffer.
- (8) Trails and Open Space. For walkways and trails, and associated open space in critical buffers located on public property, or on private property where easements or agreements have been granted for such purposes, all of the following criteria shall be met:
 - (a) The trail, walkway, and associated open space shall be consistent with the comprehensive parks, recreation, and open space master plan. The city may allow private trails as part of the approval of a site plan, subdivision or other land use permit approvals.
 - (b) Trails and walkways shall be located in the outer 25 percent of the buffer, i.e., the portion of the buffer that is farther away from the critical area. Exceptions to this requirement may be made for:
 - (i) ~~Trail~~ trail segments connecting to existing trails where an alternate alignment is not practical and where public access points to water bodies are spaced periodically along the trail.

- (c) Enhancement of the buffer area is required where trails are located in the buffer. Where enhancement of the buffer area adjacent to a trail is not feasible due to existing high quality vegetation, additional buffer area or other mitigation may be required.
 - (d) Trail widths shall be a maximum width of 10 feet. Trails shall be constructed of permeable materials; provided, that impervious materials may be allowed if pavement is required for handicapped or emergency access, or safety, or is a designated nonmotorized transportation route or makes a connection to an already dedicated trail, or reduces potential for other environmental impacts.
- (9) Utilities may be allowed in wetlands or wetland buffers if limited to the pipelines, cables, wires and support structures of utility facilities within utility corridors when the following standards are met:
- (a) There is no alternative location with less adverse impact on the critical area and critical area buffer;
 - (b) New utility corridors are not located over habitat used for salmonid rearing or spawning or by a species listed in MMC 22E.010.170(1)(a) unless the department determines that there is no other feasible crossing site;
 - (c) To the maximum extent practical utility corridors are located so that:
 - (i) The width is minimized;
 - (ii) The removal of trees is minimized;
 - (iii) An additional, contiguous and undisturbed wetland buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the wetland;
 - (d) To the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary, the following standards are met:
 - (i) To the maximum extent practical the width of the maintenance road is minimized and in no event greater than 15 feet; and
 - (ii) The location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;
 - (e) The utility corridor or facility will not adversely impact the overall wetland hydrology;
 - (f) The utility corridor serves multiple purposes and properties to the maximum extent practical;
 - (g) Bridges or other construction techniques that do not disturb the wetlands are used to the maximum extent practical;
 - (h) Bored, drilled or other trenchless crossing is laterally constructed under a wetland; provided, that the activity does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist shall be conducted to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column could be disturbed.
- (10) Storm water management facilities, such as biofiltration swales and dispersion facilities, may be located within the outer 25 percent of wetland buffers only if they will have no negative effect on the functions and purpose the buffers serve for the wetland or on the

hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated beneficial uses.

- (11) For subdivisions and short subdivisions, the applicable wetland and associated buffer requirements for any development or redevelopment of uses specifically identified in, and approved as part of, the original subdivision or short subdivision application shall be those requirements in effect at the time that the complete subdivision or short subdivision application was filed; provided, that for subdivisions this provision shall be limited to final plats reviewed and approved under Ordinance No. 1928, "Sensitive Areas," adopted December 14, 1992, or as amended at the time of final plat approval. However, at the discretion of the community development director a buffer enhancement plan may be required in accordance with subsection (3) of this section if the wetland or buffer has become degraded or is currently not functioning or if the wetland and/or buffer may be negatively affected by the proposed new development.
- (12) Minor additions or alterations, such as decks and minor additions less than 120 square feet, interior remodels, or tenant improvements which have no impact on the wetland or wetland buffer, are exempt from the buffer enhancement requirements.
- (13) Required buffers shall not deny all reasonable use of property. A variance from buffer width requirements may be granted by the hearing examiner for the city of Marysville upon showing by the applicant that:
 - (a) There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from buffer width requirements; and
 - (b) Such buffer width variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of special circumstances is denied to the property in question; and
 - (c) The granting of such buffer width variance will not be materially detrimental to the public welfare or injurious to the property or improvement; and
 - (d) The granting of the buffer width variance will not materially affect the subject wetland.
 - (e) Best available science, as set forth in MMC 22E.010.040, shall be taken into consideration in the granting of a buffer width variance.

Section 3. Amendment of Municipal Code. MMC Section 22A.010.160, entitled "Amendments," is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City's Unified Development Code (all unchanged provisions of MMC 22A.010.160 remain unchanged and in effect):

"22A.010.160 Amendments.

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

<u>Ordinance</u>	<u>Title (description)</u>	<u>Effective Date</u>
_____	Critical Areas Ordinance Update	_____, 2017"

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent

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

Section 5. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2017.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)

Dear Angela Gemmer,

This comment email is in reference to an amendment to Critical Areas Management MMC Ch 22E.010. The proposal lowers buffer requirements for Category I & II wetlands in the Marysville CAO. The Washington State Department of Transportation (WSDOT) would like to know if the proposed changes were coordinated and concurred with by the Department of Ecology. WSDOT acquires many different permits on their projects and we want to prevent permitting conflicts with other agencies when discussing buffers. WSDOT also has some questions and concerns about the changes.

The City Memorandum bases a substantial part of rationale for buffer reductions on the 1994 report (Desbonnets et al.). There have been many reports published since 1994 that would argue a reduction in wetland buffer causes a decrease in the quantity and quality of functions provided. We were unable to find the other referenced document (Use of Best Available Science in City of Marysville Buffer Regulations, October 28, 2004). It would be helpful to identify other reference that would support these proposed changes.

The Desbonnets et al. study does not account for the fact that WSDOT mows vegetation adjacent to our State roadways, reducing the effectiveness of these wetlands to remove sediment and pollutants and slow water movement. Thus, further reducing the area available will further reduce these systems' ability to function. WSDOT does not see these code changes affecting our current maintenance operations.

WSDOT has concern the proposal to reduce the buffers purely based on habitat score ignores other factors. Wetlands provide far more function than just wildlife habitat. Category I and II wetlands with low habitat scores are still rated so highly because they provide equally important functions including water quality improvements and flood control. The other functions that are assessed can be argued are more important in an urban setting than high quality wildlife habitat. For Category I wetlands that rate so high that they score 23 or higher, even with a low habitat score, the water quality and flood control functions are likely impossible to replace.

WSDOT has concerns that there will be an increase in potential flooding on our roadways. Flood control is a primary function of many Category I and II wetlands. The size, shape, and location of a wetland determines its ability to diminish flooding downslope and to nearby systems. Marysville is in a low-lying area that was historically a large floodplain; thus, many of the areas within the City limits may be susceptible to flooding. A further reduction in the amount of wetland buffer area available to help infiltrate and control flooding and slow water flows may only lead to more flooding issues in the City, especially as the City grows and continues to add more development and impervious surfaces.

WSDOT has concerns that this change in buffer may affect future mitigation site opportunities and the city should make consideration in their code for flexible mitigation and the use of mitigation banking. The availability of sites for wetland mitigation opportunities is decreasing in the region while the demand for such locations and the costs of mitigation are steadily increasing. The Puget Sound basin has lost 70 percent of its wetlands. The current cost of wetland mitigation is approximately \$1 to \$1.5 million per acre in freshwater systems. Reducing buffer sizes to allow for more development in areas currently protected as wetland buffer only increases the need for wetland and buffer mitigation within the City.

Thank you for the opportunity to review the City of Marysville's CAO update. WSDOT does not need any additional time to review these proposed updates.

John Maas
WSDOT NWR Environmental Compliance Services Manager
Office (206) 440-4545
Cell (206) 999-3696



November 29, 2017

The Honorable Jon Nehring
Marysville City Council
1049 State Avenue
Marysville, WA 98270

RE: Proposed Amendments for Critical Areas, Residential Density Incentives, and Administrative Approval of Final Plat or Subdivisions

Dear Mayor Nehring, and Councilmembers:

Thank you for the opportunity to provide comment on the proposed amendments for critical areas, residential density incentives, and the administrative approval of final plat or subdivisions. On behalf of more than 2,900 member companies of the Master Builders Association King and Snohomish County (MBA), our members have a deep understanding of bringing affordable options to the new home market. We applaud those jurisdictions that recognize the need for innovative solutions and create predictability and certainty for home builders and consumers alike.

Jurisdictions are required to regularly update their critical areas ordinances, however, those that have updated to the most current Ecology guidelines have also experienced an unintentional reduction in commercial and residential capacity. Marysville's proposed critical areas amendment was reviewed by MBA members who expressed great concern about its current form. We encourage the City to be mindful in order to protect its valuable, diminishing supply of buildable lands.

Members of the MBA support code amendments to include all wetland categories for buffer enhancement incentives. This also requires amendments to update an additional section 22E.010.100(5) and (6), where MBA consultants have experienced it to be near impossible to achieve a wetland buffer habitat value of less than 5 points throughout all jurisdictions. The language proposed in MMC Section 22E.010.100(6) Option C, addresses this problem which would otherwise trigger an automatic 25% buffer width increase on all projects. The MBA supports the adoption of Option C relative to this code section.

The MBA has been working with Marysville to develop residential density incentives intended to create desirable public benefits including capital improvements, environmental or green building, and benefit for wetland buffer enhancement. The proposed language for capital improvements and environmental development incentives appear to be valuable given current market conditions.



In the City of Marysville many development sites have degraded buffers where buffer enhancement is desirable, and subsequently incurred costs are passed on to homebuyers. These costs include not only the initial capital expense, but also additional dollars associated with the monitoring and bonding of these required site improvements. The MBA has expressed a desire for an incentive to partially offset the cost of these improvements at one density bonus per ½ acre of buffer enhancement. This is proportionate to the total cost, including capital, monitoring, and bonding project investments and would encourage investment in environmental improvements.

The final amendment being considered, would delegate approval of final plat or subdivisions to the Community Development Director and Public Works Director as is current process for final approval of short subdivisions. Revision to Marysville RCW 58.17.100, 58.17.170, and 58.17.190 would be consistent with Senate Bill 5674, where local jurisdictions have the option to adopt the provision. This change would preserve current opportunities for public comment, reduce burden on staff in preparing for council hearing, and reduce incurred project costs waiting weeks for council approval. Other jurisdictions that have adopted this legislation are Snohomish County and Lynnwood, and the MBA strongly encourages the Council to adopt the proposed language.

The amendments brought before you represent a significant amount of work and collaboration on behalf of your city staff and the development community. The MBA is sincerely appreciative for the opportunity to collaborate with the City of Marysville on solutions that benefit all interests.

Thank you for your consideration. If you have any questions, please feel free to contact me at asievers@mbaks.com or (425) 460-8204.

Sincerely,

Angie Sievers
Snohomish County Manager
Master Builders Association of King and Snohomish Counties

cc: Gloria Hirashima, City Administrator; Dave Koenig, Community Development Director; Angela Gemmer, Senior Planner; Chris Holland, Planning Manager

From: [Angie Sievers](#)
To: [Angela Gemmer](#)
Cc: [David Koenig](#); [Chris Holland](#)
Subject: RE: Critical areas mitigation RDI
Date: Friday, October 6, 2017 12:33:41 PM

Hi Angela,

Thank you for the explanation, that makes sense.

Chris and I previously discussed the chart staff developed "Wetland Mitigation Costs for Projects within the City of Marysville." It reflects the mitigation work investment in the chart, and the monitoring and maintenance in the footnotes. At the Planning Commission meeting a few weeks ago, the mitigation work costs were discussed and the monitoring and maintenance costs were not, in many cases this doubles the cost of the required improvements.

Builders incorporate the aggregate cost into their project. Similar to someone considering the purchase of a home, they not only have the mortgage payment, but also the maintenance and utility costs over time.

The building community and MBA members appreciate the City's consideration of establishing Residential Density Incentives that will make a difference as the cumulative effect adds to the cost of individual dwellings.

I'm interested to hear your thoughts,
Angie

Angie Sievers

Snohomish County Manager
Master Builders Association of King & Snohomish Counties

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From: Angela Gemmer [mailto:agemmer@marysvillewa.gov]
Sent: Friday, September 29, 2017 3:27 PM
To: Angie Sievers <ASievers@mbaks.com>
Cc: David Koenig <dkoenig@marysvillewa.gov>; Chris Holland <CHolland@marysvillewa.gov>
Subject: Critical areas mitigation RDI

Hi Angie,

Dave and I spoke briefly about your discussion regarding whether habitat scores (4 points, 5 points, etc.) would have any bearing on the eligibility of a residential development to pursue the proposed residential density incentive (RDI) for buffer enhancement/restoration. It would not. The habitat scores are considered when determining the category of a wetland, and whether a buffer should be

decreased or increased. On the proposed RDI provisions, if the buffer is degraded, and it is enhanced as required by code, the RDI may be pursued proportional to the improvement provided regardless of the wetland's habitat score. Please let us know if you have any questions or concerns.

Thank you,

Angela Gemmer, Senior Planner
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September 6, 2017

Marysville Planning Commission
1049 State Avenue
Marysville, WA 98270

Re: Proposed Residential Density Incentives and Critical Areas Ordinance (CAO):
Wetland Delineation Manual and Rating Systems References Updates, and Proposed
Wetland Buffer Reductions

Dear Commissioners,

On behalf of the Master Builders Association of King and Snohomish Counties (MBA) and its nearly 2,800 member companies, we appreciate the opportunity to work with City staff and the opportunity to provide comment on MMC Chapter 22C.090 RDI-DRAFT3 and Critical Areas Ordinance (CAO): Wetland Delineation Manual and Rating Systems References Updates, and Proposed Wetland Buffer Reductions as outlined below.

Residential Density Incentives

- In 22C.090.0300 Chart, Benefit 8: MBA politely requests inclusion of Built Green Residential Standards (BG) at 0.25 or 0.33 bonus units per certified BG unit. Utilization of LEED certification is cost intensive for residential, however widely recognized and utilized for commercial projects. ESDS standards are required for affordable housing development and have a lower threshold for certification in comparison to BG standard. Thus, to incentivize utilization of green development in residential market rate product, an increase to 0.25 or 0.33 would encourage desired utilization.
- In 22C.090.0300 Chart, Benefit 11: Critical Areas Buffer Enhancement. To encourage effective restorative efforts where wetland enhancement could cost upwards of \$25,000. An adjustment from one bonus unit per one acre of restoration to one bonus unit per $\frac{1}{4}$ or $\frac{1}{2}$ acre would reduce barriers to utilization of this incentive.

Additionally, this section requires buffer enhancement when the “existing wetland buffer area plantings provide minimal vegetative cover and cannot provide the minimum water quality or habitat functions, buffer enhancement is required.” If buffer enhancement is required, then buffer width reductions should be allowed up to 25 percent outright and without subject to the requirements of subsection (5)b.



Critical Areas Ordinance (CAO): Wetland Delineation Manual and Rating Systems Reference Updates, and Proposed Wetland Buffer Reductions.

Multiple MBA members expressed concern relevant to the proposed draft incentive provided by City staff in early August. Incentives will not be utilized as drafted as it has been experienced by builders, that under the new wetland ratings, habitat scores are a minimum of 5 pts, thus ineligible for utilization of wetland buffer reductions scoring 1-4 points. MBA recognizes jurisdictions reference Department of Ecology to determine appropriate scoring guidelines. We kindly request the following adjustments to the drafted amendments, to allow for incentive utilization:

- Critical Area Buffer Reduction, Page 2, Paragraph 3 (v): wetland scores change from 4 to 5.
- 22E.010.100 Wetland buffer areas, Page 4, (5)(b)(v): The wetland scores 19 points (drafted to 4), requested change to 7 in place of 4.
- 22E.010.100 Wetland buffer areas, Page 5, (6)(a): When the qualified scientific professional determines, based upon a site-specific wetland analysis, that for Category III and IV wetlands the habitat value equals or exceeds 20 (drafted change to 5), requested change to 6-7. And for Category II wetlands the habitat value equals or exceeds 29 points (drafted change to 8), requested change to 5-8.

Thank you again for the opportunity to comment on the proposed amendments for residential development enhancements. Please feel free to contact me with any questions you might have, asievers@mbaks.com or 425-460-8204.

Warm regards,
Angie Sievers



Snohomish County Manager

Cc: Dave Koenig, Chris Holland, Angela Gemmer, Cheryl Dungan, Amy Hess, Gloria Hirashima

Enclosures: MMC Chapter 22C.090 RDI-DRAFT3 and Document, 20170724095430849



EXECUTIVE DEPARTMENT
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December 20, 2016

Angie Sievers
Snohomish County Master Builder's
335-116th Avenue SE
Bellevue, WA 98004

Subject: Builder/Developer meeting on 12/6/16

Dear Angie,

In follow up to our meeting, I wanted to summarize the status of several items that were discussed that afternoon. Many of these items are under review, or underway in the various departments (Public Works, Community Development, Fire).

a. Road Issues

(1) Road - Private road access

This issue was raised over the past two years by MBA as a concern. We understood that the basis of this concern is primarily cost-driven as public road ROW and sidewalks consume buildable area and drive construction costs through the road and stormwater improvements. CD convened at least 3 meetings with local developers to discuss the issue and reviewed various codes of local jurisdictions (Snohomish County, Everett, MLT) as potential examples of reduced standards. Staff did not support overall changes to our public or private road standards on that basis. City staff were willing to look at alternate standards in a redevelopment scenario (small sites) as that was identified as an example of where our standards could impede the city's goal of promoting redevelopment of smaller parcels. The reports that I received from CD staff, were that they held two meetings with developers in follow up to the initial MBA request, and that examples of projects which used the standards which the developers desired were not provided. The desire by CD staff was to see how the standards worked in actual projects and the experience of other communities in allowing such standards. As a result, CD staff indicates that this issue was dropped due to inaction by MBA and the development community. Staff was not initially supportive of a proposed change to road standards, and the lack of follow up suggests that this is not a priority of the development community either.

In addition, the issue of inadequate road widths and lack of on-street parking due to narrow road widths was identified by City Council, City Traffic Safety Committee and community members this past spring as a concern and staff reviewed/responded to those issues by recommending the codes and standards be maintained (as opposed to increased parking ratios and infrastructure standards). In balancing the needs of community members and elected officials with development cost concerns, it appears that this issue is not a strong candidate for current revisions. Staff would not be recommending or advocating a change, and there is no indication that our elected officials would support reducing road standards at this time. As a result, our formal response to your inquiry is that this is not a review priority at this time and it is not a productive use of staff time to continue to convene meetings and discussions rehashing the same concern. While we are always open to “new information”, I am not aware of any new information that has been made available to the City staff on this subject since the original topic was raised by MBA two years ago.

(2) Complete Streets/PRD/Right of way

It is my understanding that this item is basically the same as item 2 above. MBA indicated a desire to have the city allow reduced road standards (in some cases narrower ROW, no sidewalks, etc.) in subdivisions. This would enable more private roads or reduced public road standards. Our answer to this is the same as in item 2 above that we do not support wholesale changes to current standards. I should clarify however that staff is willing to review situations on a site-by-site basis. We recognize that site conditions may warrant alternative standards, and staff is willing to conduct a variance review if needed.

Public Streets through Fee Simple Townhome projects.

It is my understanding that this item is similar to items 2 and 3 above. The MBA indicated a desire to reduce public road standards currently required in fee simple townhome projects and potentially allow private roads with a reduced standard. We reviewed Everett, MLT and Snohomish County codes in response to this earlier request. Our answer is the same as in item 2 above.

b. Fire and Water Pressure Issues

(1) Water Pressure – update on 83rd Street booster pump station.

You inquired about status on the 83rd Street booster pump. To recap the situation – an area around 83rd Avenue NE was identified through recent modelling efforts as being substandard for domestic water pressure for new developments. During development review, it was identified that a new booster pump was necessary to serve the area. After discussion last August on whether this should proceed through a private development LID project (which was the original concept), or public capital project, the city determined that it would take over project management and construction to address the situation and facilitate development in progress that are dependent on the new pump station. We updated the MBA on this decision in our August 2017 meeting, and provided an estimate of September 2017 as a potential

completion date. We also emphasized that with the City's decision to assume the capital project; cooperation of the development community through assistance on a location for the pump station was critical to maintaining schedule.

Since that time, the City has proceeded with design of the new station and has been working with a local developer to locate the pump station. Staff has reported that a site has been identified within one of the plats under development (Autumn Meadows), but that an agreement must be reached on construction of the booster pump. Engineering staff reports that design, permitting, site location and agreement, are all moving along with the goal of purchasing equipment to install for operation by late summer of 2017. The schedule is contingent upon the plat construction as the pump will be located adjacent to the plat detention facility, which must be sequenced prior to the booster pump installation. Based on discussions with the plat developer, we do anticipate staying on the September 2017 timeline.

(2) Exemption for Fire Sprinkler Requirement on Plats with Future Connectivity

This issue was raised regarding sprinkler requirements for new subdivisions. A particular concern was identified for the plat of Hannah's Vista. I met with employees of the Marysville Fire District (MFD) - Fire Marshal Maloney and Fire Chief McFalls last week to review the situation and understand the interpretation of fire codes relating to new subdivisions.

MFD is the fire agency that provides service and fire code review for the City of Marysville. The City and MFD closely coordinate to review and serve new development needs in our growing community. In the case of plats, where there are more than 30 dwelling units on a dead-end (cul de sac) and access from two directions cannot be assured, then sprinklers are likely to be required. If a situation arises, where there is over 30 lots and only one access into the development, then the fire official reviews the connections and identifies the at-risk lots. In reviewing a specific plat scenario with the fire officials (Hannah's Vista), this does not mean that all lots within the plat will need to have sprinklers. Instead, the fire marshal generally does a site-by-site review to determine the lots at greatest risk for fire safety. In the case of Hannah's Vista, MFD identified 6 of the 39 lots that would need to have sprinklers installed. While this plat does show a future connection, the adjacent property is not under development review so there is no specific timeline for the connection to be made. As a result, the fire official did not consider the connection in his review of the required sprinklers.

We have reviewed/responded to the question of whether plat phasing would constitute certainty on a future connection. The answer is yes, we do consider the future connection in this review if the project is part of an approved subdivision, with project phasing identified. In the case of road connections being shown as part of a larger plat phasing, the city and MFD recognizes this as a future development connection.

(3) General Comment on sprinklers in single family dwellings-

There are situations that would necessitate installation of fire sprinklers in single family homes. Among these situations are limited road access as described above in MBA Summary_122016

#2, and three story homes (including daylight basements). When a residential structure (one and two family) exceeds 3,600 square feet it is required to meet fire flow of 1,500 gallons per minute. In cases where this pressure cannot be achieved, the homes are required to install sprinklers in order to allow a reduced fire flow of 500-1000 GPM. City staff has heard the concerns from developers relating to costs of the sprinkler systems. Staff is currently working to obtain information concerning contractor costs of sprinkler installation as we understand costs are variable depending on the installer. Also, City staff is supportive of reducing the meter costs for installation of a sprinkler and we will be proposing a fee reduction to address this.

(4) 83rd Avenue Water Main

In August 2016, the city also determined that the 83rd Avenue water main capital project would be moved up in the current schedule based on concerns relating to current development and fire officials that this high-growth and densely planned area had inadequate water pressures for fire service, the City prioritized this for a June 2017 completion. The project involves installation of 7000 lf of 12-inch water main (currently 8 inch) from Soper Hill Road to north of Sunnyside School Road. It will provide a minimum 1000 gpm at 20psi residual for the residential zone along 83rd Avenue NE. As we noted at the MBA meeting in August, the City does not install all planned capital projects –some are identified for developer installation and others for public construction.

c. Environmental

(1) Bio-retention credits

As described at the 12/6/17 meeting, this issue relates to credit for land devoted to bioretention swales. The developers present asked if the city would consider changing the calculation of net area to include land for swales, which they argued could be usable area as they were not generally inundated with water. City staff will review this item, concurrent with the review of item 2 below (over the next 3 months) to see if any action should be recommended to the review and legislative bodies as it would entail a code change.

(2) Buffer reduction credits for wetland/buffer restoration enhancements.

Staff has reviewed the CAO codes and compared the treatment of buffer restoration reductions to other jurisdictions. It is my understanding that this issue is handled in various ways by jurisdictions. At a CD staff level, there has not been interest in opening up these standards. I think it warrants further review and discussion, so will be reviewing this item with the department over the next 3 months, concurrent with the bioswale issue above.

- (3) Issue of gross versus net density on subdivisions (counting of road right of way). Developers indicated at our 8/24/17 meeting that the City's method of calculation was cumbersome and required onerous calculations in order to determine lot yield.

CD staff surveyed communities to review how other communities calculated net density for the purposes of lot yield in plats. They also reviewed recent plats in Marysville to see net versus actual density and lot yields. Staff is recommending a change to the code to allow the option of the developer using the option of either deducting actual right-of-way, access easements, and private roads from the net density or an alternative of a straight 20% deduction for these access areas. This code change will be moved forward next year.

d. Development Regulations

(1) Daylight Basement Height Restrictions

CD staff reviewed the way building heights are calculated in the MMC. The problem identified is that on sloped lots the current way to calculate height at times does not allow for a daylight basement. A daylight basement is a part of the house which is open to the backyard and is livable space so the house ends up being three stories on at least one side. The building height in single family zones R 4.5, 6.5, 8 is 30 feet and when you calculate the average height of the four sides of the building it can go over the height requirement on sloped lots. Staff is recommending that the code be revised to allow for two stories and up to 25 feet height for the uphill side of the home, at the entrance to the home, facing the street. Then up to ten feet of height for a daylight basement on the backside for a total of 35 feet of height on the side of the house facing away from the street. This is seen as a reasonable approach to allow the daylight basements on sloped lots when they face the backyard. This code change is anticipated to be sent to Planning Commission early next year.

(2) Retaining wall and rockery requirements

Retaining walls and rockeries which are taller than four feet which are visible from the street or adjacent property are to be terraced so that no individual segment is taller than four feet; provided that where adjacent properties are not adversely affected or the retaining wall is minor in nature, the community development director may reduce or waive these standards (MMC 22D.050.030(4)(e)). The MMC provides flexibility and gives administrative discretion to the CD director to reduce or waive standards in many situations. The focus of the code is on external impact to adjacent properties. This seems like an appropriate code standard to give consideration to external properties that are affected by the development. This code was specifically constructed after situations arose where developments were not considerate of adjoining properties and subsequently created walled developments, leaving the

adjacent property owners in a hole, or with potential for drainage and grade issues as a result of the adjacent development next to their property. The City had little recourse to correct these situations given the lack of code direction or standards controlling it. As a result, this section was created to solve an ongoing problem. Staff believes there is adequate discretion provided in the current code to enable reduction or waiver of the section if it can be shown that adjacent properties are not adversely affected.

(3) Utility Undergrounding

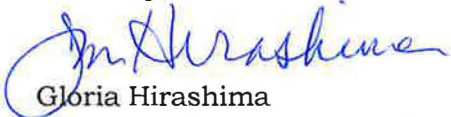
This issue will take more significant review as it involves looking at entire corridors as a decision cannot be made on undergrounding parcel by parcel (as was suggested by some at the MBA meeting). Power lines must be assessed, involving cost discussions with PUD as well as considerations of overall aesthetic impact to developing areas within the City. We will commit to reviewing this item in 2017.

(4) LID and NPDES update

As discussed at the meeting, we are updating our stormwater standards in accordance with our NPDES requirements in 2017. Staff will continue to review situations where LID works or doesn't work with practical considerations in mind. As recommended by staff, hiring of a good geotech to evaluate soil considerations will expedite reviews. City staff are always open to feedback relating to implementation of new standards or codes, so if concerns arise through administration of these standards, please feel free to bring them to our attention so we can try to address the situation, whether by a code revision or an interpretation.

I have tried to summarize the City's review/response on topics discussed at the 8/24 and 12/6/16 meetings. Thank you very much for bringing these issues to our attention. Please let me know if you have any questions. Have a great holiday season!

Sincerely,



Gloria Hirashima

Chief Administrative Officer

cc: Kevin Nielsen, PW Director
Jeff Laycock, City Engineer
Dave Koenig, CD Director
Tom Maloney, Fire Marshal
Martin McFalls, Fire Chief
Mayor Nehring