

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 5, 2020

AGENDA ITEM:	
Commercial permitted uses, and density and dimensional code amendments (PA20-015)	
PREPARED BY:	DIRECTOR APPROVAL:
Angela Gemmer, Senior Planner	
DEPARTMENT:	
Community Development	
ATTACHMENTS:	
<ol style="list-style-type: none"> 1. Toyer Strategic Advisors objection letter dated 9/28/2020 2. Memo to City Council dated 10/1/2020, including attachments: <ul style="list-style-type: none"> · White Barn pre-application comments dated 8/4/2020 · Toyer Strategic code interpretation request letter dated 8/4/2020 · CD Director Koenig interpretation letter dated 2/8/2016 · CD Director Thomas interpretation letter dated 9/3/2020 with Ord. 2696 3. Memo to City Council dated 9/17/2020 4. PC Recommendation dated 9/9/2020 5. PC Minutes dated 9/9/2020 6. Adopting Ordinance 	
BUDGET CODE:	AMOUNT:
N/A	N/A
SUMMARY:	

The Planning Commission (PC) held a public hearing on September 9, 2020 to review proposed amendments to Marysville Municipal Code Title 22, *Unified Development Code* pertaining to commercial permitted uses, and density and dimensional standards. Presently there is a disconnect between the adopted subarea plan for the East Sunnyside/Whiskey Ridge Area (Plan) and the Marysville Municipal Code (MMC). Specifically, the Plan does not contemplate residential uses in the Community Business-Whiskey Ridge (CB-WR) zone while the MMC permitted uses table incorrectly allows for residential uses. To remedy this disconnect, staff proposes to:

- Amend the zone description in MMC 22C.020.030 to distinguish between the Community Business (CB) and CB-WR zones, and clarify that residential uses are not allowed in CB-WR;
- Create a separate column in the permitted uses table in MMC 22C.020.060 for the CB-WR zoning district which would allow for all of the uses allowed in the CB zoning district except for multi-family, convalescent/nursing/retirement homes, and residential care facilities; and
- Make other minor amendments to the density and dimensional table in MMC 22C.020.080 for clarity and consistency.

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.

<p>RECOMMENDED ACTION: Staff recommends that City Council affirm the Planning Commission’s recommendation and adopt the Commercial Permitted Uses, and Density and Dimensional Amendments by Ordinance.</p> <p>RECOMMENDED MOTION: I move to adopt the Commercial Permitted Uses, and Density and Dimensional Amendments by Ordinance, and authorize the mayor to sign said Ordinance.</p>
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September 28, 2020

City Council
City of Marysville
80 Columbia Ave
Marysville, WA 98270

AGENDA ITEM #10

Dear Council members:

Our firm represents the contract purchaser for two parcels within the “East Sunnyside/Whiskey Ridge” subarea that are zoned Community Business (CB). Our client has spent several millions of dollars earlier this year after reviewing the zoning code and seeing that among the permitted uses the two project it had interested in the initial phase of this project: a medical office building and a senior apartment facility with a few units devoted to greater supervision of those with memory care issues.

We respectfully **OBJECT** to the adoption of Item 10, an ordinance amending commercial permitted uses, and density and dimensional code amendments (PA20-015) on the grounds that under RCW 36.70A.035(1)(c)¹ our Client should have been given adequate public notice of the Planning Commission hearing on this matter because our Client was seeking an administrative interpretation of the very section of code this ordinance seeks to amend.

City staff has known since at least May of this year that our Client is the developer of a project in the CB zone within the East Sunnyside/Whiskey Ridge subarea, which development was first discussed in relationship to how to allow development of apartments on the site without the requirement to be placed over ground floor retail space – a conversation that further evolved into discussing the allowance of senior apartments. During these conversations in May and early June, the City advised our Client that residential development was allowed in CB zone in Whiskey Ridge.

However, in June Staff reversed their opinion citing an inconsistency between the code and subarea plan (that has been in existence for years). The result being that our Client was now not permitted to develop the project as intended. We attempted to work with Staff to resolve the matter in favor of the permitted use matrix² as it exists in

¹ RCW 36.70A.035 (1) The public participation requirements of this chapter shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, group A public water systems required to develop water system plans consistent with state board of health rules adopted under RCW 43.20.050, and organizations of proposed amendments to comprehensive plans and development regulation. Examples of reasonable notice provisions include:

- (a) Posting the property for site-specific proposals;
- (b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;
- (c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;**
- (d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and
- (e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

² Since a comprehensive plan is a guide and not a document designed for making specific land use decisions, conflicts surrounding the appropriate use are resolved in favor of the more specific regulations, usually zoning regulations. A specific zoning ordinance will prevail over an inconsistent comprehensive plan. *874 Cougar Mountain Assocs. v. King County, 111 Wash.2d 742, 757, 765 P.2d 264 1988). If a comprehensive plan prohibits a particular use but the zoning code permits it, the use would be permitted. Weyerhaeuser v. Pierce County, 124 Wash.2d 26, 43, 873 P.2d 498 (1994). These rules require that conflicts between a general comprehensive plan and a specific zoning code be resolved in the zoning code's favor.

Citizens for Mount Vernon v. City of Mount Vernon, 133 Wn.2d 861, 873–74, 947 P.2d 1208, 1215 (1997)

code, which matrix reflected residential uses (including senior housing) were permitted in the CB zone. Further action was taken to file an administrative code interpretation on behalf of our Client on August 3rd. Staff issued an interpretation on September 3rd, which we received on September 8th.

At no time during any of the conversations or correspondence, or within the code interpretation itself, did City staff mention to our firm or its Client that it was already underway with expediting a code amendment through the Planning Commission. Such notification would have given our Client the opportunity to provide public comments against the amendment and/or propose an alternative solution that would enable our Client's development.

Staff indicated in late August that they may be willing to process a comprehensive plan amendment to allow residential uses in the CB zone, which our last understanding was Staff was discussing with legal if there was a way to more forward an amendment prior to the next docket cycle (given the economic impact to our client). Based on this information, we had been preparing an application for a comprehensive plan amendment and rezone behalf of our client. But such an amendment would now either need to be to a different land use designation and zone, or require our Client submit both amendments to the subarea plan and the zoning code. What staff has proposed (without addressing our other concerns) could make it procedurally more difficult for our Client to get resolution favorable to development of the site in a timely manner.

In sum, our Client made a substantial investment in property in the City of Marysville based on:

1. what was shown as allowed in the City's permitted use matrix
2. permitted uses that staff had confirmed were allowed

Given our Client has immediate, non-speculative economic development projects it could bring to the City of Marysville, we believe there should have be a broader discussion about the immediate economic impact to our Client and the City, which are both struggling to deal with the effects of a pandemic and recession.

We would respectfully request the City Council **DELAY** this ordinance, choosing to remand it to staff and Planning Commission for further discussion such that additional, appropriate public participation from interested and impacted parties such as our Client can be heard.

Thank you for your time and consideration.

TOYER STRATEGIC ADVISORS, INC.



DAVID K. TOYER
PRESIDENT



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

MEMORANDUM

DATE: October 1, 2020
TO: Marysville City Council
FROM: Chris Holland, Planning Manager
RE: Community Business – Whiskey Ridge (CB-WR) Permitted Use Amendments (PA 20015)
CC: Allan Giffen, Interim CD Director
Angela Gemmer, Senior Planner
Amy Hess, Associate Planner

At the September 28, 2020 City Council meeting, a letter was provided by Toyer Strategic Advisors respectfully objecting to the proposed permitted uses, and dimensional code amendments presented to City Council. The proposed amendments are intended to align the permitted uses outlined in Marysville Municipal Code (MMC) 22C.020.060 with the East Sunnyside – Whiskey Ridge Subarea Plan. As noted in the Agenda Bill the adopted East Sunnyside – Whiskey Ridge Subarea Plan did not analyze environmental impacts, or provide for residential uses within the CB-WR zone.

Staff has had an open dialogue with Toyer Strategic Advisors, and their client Land Pro Group, Inc., regarding permitted uses in the CB-WR zone. Specifically, a preliminary application for a NON-Project Action Binding Site Plan (commercial subdivision) was submitted by Natural 9 Holdings, LLC (applicant), on July 7, 2020. The pre-application cover letter, submitted by the applicant, requested an update related to whether or not assisted living facilities were permitted in the CB-WR zone. In the pre-application comments (attached), staff responded that assisted living facilities are not a permitted use in the CB-WR zone.

In addition to the pre-application comments, City Staff has been in continuous communication with Toyer Strategic Advisors and Land Pro Group, Inc, regarding the uses allowed in the CB-WR zone. This includes numerous conference calls, e-mails and written correspondence.

On August 4, 2020 Toyer Strategic Advisors submitted a Code Interpretation request to Community Development Director Thomas (attached), whether multi-family was a permitted use on Assessor's Parcel Numbers (APN) 00590700030500 and 00590700031800, which are zoned CB-WR. On September 3, 2020 Community Development Director Thomas issued a Code Interpretation (attached), notifying Toyer Strategic Advisors that multi-family is not a permitted use in the CB-WR zone. The Community Development Director's code interpretation provided for a 15-day appeal period and included instructions on filing an appeal. The 15-day appeal period tolled with no appeal filed.

As previously noted, the permitted uses matrices incorrectly lists residential uses as being allowed in the CB-WR zone. Residential uses were never planned for or contemplated in the CB-WR zone and the environmental impacts of residential uses have not been analyzed. The proposed code amendments are not site specific, rather they are city wide and intended to align MMC Title 22 *Unified Development Code* with the adopted Comprehensive Plan.

Correction of this error does not diminish the fact that there may be future analysis related to whether, or not, residential uses should be allowed in the CB-WR zone. If allowing residential uses in the CB-WR zone is the direction desired by City Council, additional analysis and a Comprehensive Plan amendment is needed. Specifically, analysis of environmental impacts, water and sewer capacity, and road network level of service is needed to ensure that environmental impacts are mitigated and adequate utility facilities and level of service for road networks can be provided.

Notice of Public Hearing

The Planning Commission's Public Hearing on the proposed code amendments were duly advertised in accordance with MMC 22G.010.110, *Notice of public hearing*. Toyer Strategic Advisors had expressed interest in the past in being placed on a notice list that the Community Development Department maintains for providing notice of legislative actions; therefore, Mr. Toyer should have received an email of the Agenda for the Public Hearing. Notice for Planning Commission public hearings are also provided as follows:

- Public notice is posted at City Hall, Marysville and Lakewood Post Offices, Marysville Library;
- Entered into MIRS (Marysville Information Retrieval System) which is linked to various locations on the City's website;
- Posted on Channel 21;
- Published in the Everett Herald;
- Agenda is placed on Civic Plus using a 'Notify' function that creates a notification link that disseminates to 266 registered recipients. David Toyer - davidtoyerstrategic.com is among the registered recipients; and
- All public hearing and/or other Planning Commission materials are available upon request.

Attachments: Planning Staff Pre-Application Comments, dated 08.04.20
Toyer Strategic Advisors Code Interpretation, dated 08.04.20
Director Thomas Code Interpretation, dated 09.03.20



August 4, 2020

Ryan Larsen
Land Pro Group, Inc.
10515 20th Street SE, Suite 202
Lake Stevens, WA 98258

Re: White Barn NON-Project Action BSP – *Pre-Application Comments*
PreApp 20021

Dear Ryan,

This letter is intended to summarize the Planning Divisions comments regarding the above referenced proposal. These comments are preliminary in nature and are based on the applicable development standards outlined in the Marysville Municipal Code (MMC). Preliminary comments do not vest an applicant to the existing MMC. Development conditions will be based on the most current MMC provisions in effect at the time a *Determination of Completeness* has been issued on a formal land use application.

APPLICANT'S QUESTION:

1. Is it possible to record the binding site plan before all improvements are complete by bonding the improvements?

It is my understanding that you are proposing a NON-Project Action BSP, essentially recording a surveyed subdivision with future development processed under a separate application. NON-Project Action BSP are not required to make on, or off-site improvements, as there is no impact for recording the NON-Project Action BSP.

2. What retaining wall limitation are place(d) along 87th and Soper due to the Whiskey Ridge subarea?

See the blank wall standards/treatments outlined in [Section E.3.4](#).

See the maximum wall height along public streets or sidewalks outlined in [Section F.2.1](#).

See [MMC 22D.050.030](#), which outlines minimum standards for grading and retaining walls.

3. Does the City require any review of the frontage improvements along Soper Hill or do we deal 100% with the City of Lake Stevens.

Yes, not all of the improvements are located within the City of Lake Stevens. See attached ILA.

4. What associated off-site water and sewer improvements would be required if any?

None required for a NON-Project Action BSP.

5. We are looking at Lot 8 being a potential assisted living facility. The building on the draft BSP show such a facility. Does the fire department require vehicle access around the entire building?

Assisted living facilities are not a permitted use in the WR-CB zone. See attached administrative interpretation.

6. It is my understanding David Toyer has been working with staff to address the potential development of Lot 8 being a potential assisted living facility. Is there any additional information on this front you can add?

No update. Assisted living facilities are not a permitted use in the WR-CB zone.

PRE-APPLICATION COMMENTS:

7. Turn the site plan layers off and only include what is outlined on the attached NON-Project Action BSP submittal checklist.
8. The following are permit processing fees for the proposed NON-Project Action Binding Site Plan (BSP):
 - . Preliminary BSP: \$5,000 + \$100 per lot
 - . Final BSP: \$1,000 + \$100 per lot
9. Future PROJECT-Action development will require individual development review pursuant to MMC Chapter 22G.120 *Site Plan Review* and the [East Sunnyside/Whiskey Ridge Design Standards and Guidelines](#).

Enclosed are copies of comments received from other City departments, and reviewing agencies. After you have had an opportunity to review, please let me know what pre-application comments you need clarification on. Once received I can set up a conference meeting with all of the applicable city and agency representatives. Most staff are currently teleworking, so the fastest way to communicate with me at this time is by e-mail: cholland@marysvillewa.gov.

Sincerely,

Chris Holland

Chris Holland
Planning Manager

cc: Jeff Thomas, CD Director



August 4, 2020

Jeff Thomas
Community Development Director
City of Marysville
80 Columbia Ave
Marysville, WA 98270

CODE INTERPRETATION

Dear Mr. Thomas:

Pursuant to MMC 22A.010.070, this letter serves as a request for an official code interpretation of the uses permitted for the development of tax parcels 00590700030500 and 00590700031800, designated and zoned Community Business. Specifically, we seek a two-part interpretation:

1. Whether the “multiple family” use is a permitted used in the Community Business zone.
2. Would the City’s February 9, 2016 code interpretation in the matter of the “Bonaventure Senior Living Continuing Care Retirement Community” [“Bonaventure”] apply the “Master Planned Senior Community” use in a case where the proposed use would be a “convalescent, nursing, retirement” facility with minor area of the facility set up to provide living spaces for residents with memory care issues.

Part 1 – Multiple Family in the Community Business Zone

The subject parcels are located within the “East Sunnyside/Whiskey Ridge” subarea and zoned Community Business. Per the permitted use matrix at MMC 22C.020.060, the “multiple-family” use is allowed in the Community Business zone. Three development conditions address this use, conditions (4), (5) and (63). Condition (4) requires that all units be located above street-level commercial, except that condition (5) allows for up to 20% or two units on the ground floor. Condition (63), which addresses the Community Business zone, expressly states “Permitted uses include Whiskey Ridge zones.” MMC 22C.020.070.

The “East Sunnyside/Whiskey Ridge” subarea plan was adopted in 2007. The City’s use matrix and development conditions, cited to above, have been updated multiple times since – giving the City ample opportunity to examine whether to change any allowed uses in the Whiskey Ridge area. Despite those various amendments, the City has retained multiple family as an allowed use for the CB Zone in this Whiskey Ridge subarea.

The East Sunnyside/Whiskey Ridge subarea plan identifies an existing population within the land capacity analysis (Table 4-25, page 3), but does not identify any “Additional Pop[ulation]” capacity. The subarea plan simple does not address residential development in the Community Business zone. Even though the plan is silent and the land capacity analysis does not identify additional population, page 4-14 of the plan states,

“Marysville was interested in ensuring a land use mix within this area to balance the largely single family residential growth occurring throughout the Sunnyside area and also to ensure that new neighborhoods were created as long-term neighborhoods.”

New residential developments in the Whiskey Ridge area should provide address site planning to integrate with the surrounding planned developments as well as provide attractive internal layout.

What this means is that new neighborhoods should enhance rather than diminish the surrounding area. This might occur through provision of transportation improvements that promote neighborhood walkability, population at a density to support transit and commercial services in the surrounding area, support of new facilities stretched by continuing population growth, retention of open space or parks within developing neighborhoods.

“Marysville is also committed to creation of a land use mix that provides both jobs and housing with commercial services in proximity the area’s growing residential community throughout the Sunnyside (Planning Area 3) and East Sunnyside/Whiskey Ridge (Planning Area 4) neighborhoods.”

Scrivener’s Error?

To date the department has provided us with “unofficial” guidance that a “scrivener’s error” in a prior code amendment incorrectly identifies multiple family uses as permitted in the Community Business zone, which use is not actually permitted. However, this “unofficial” guidance appears to be in direct conflict with the department’s 2016 administrative use interpretation in Bonaventure where is clearly and completely states that multiple family units are a permitted use in the Community Business zone. Further, as noted above, the City has had multiple opportunities over more than a decade to amend Code but continues to retain the multiple family use as permitted.

We have highlighted and marked two parts of the Bonaventure Interpretation as “A” and “B” for your reference. Further, we point out that within Bonaventure the department restates of MMC 22A.030.070 which establishes the purpose of the Community Business zone as three-fold, including:

(b) Allowing for a mix of housing and retail/service uses; and

We find no support in MMC 22A.030.070, 22C.020.060 and 22C.020.070 for the argument that housing, generally, and more specifically multiple-family housing as an expressly permitted use, could be a “scrivener’s” error, especially considering:

- 22A.030.070 was added in 2011 and has not be amended since
- 22C.020.060 was added in 2011 and has been amended more than a dozen times (last in 2019)
- 22C.020.070 was added in 2011 and has been amended ten times (last in 2019)

The zoning code in its entirety must be read for its plain meaning, which would include examination of the number of locations in which the multiple-family use is identified as permitted, the number of times those sections of code have been amended since 2011, and the 2016 code interpretation in Bonaventure which clearly found that the code is unambiguous in permitting multiple family in the Community Business Zone.

This would be consistent with the Supreme Court’s opinion in *Jongeward* which notes that legislators enact legislation in light of existing statutes. In other words, city councils enact ordinances in light of existing code. Since at least 2011 multiple family has been a permitted use in the Community Business zone despite more than a dozen ordinances amending that section of code in the intervening years. Further, the subarea plan in question was adopted in 2007. The legislative intent is unambiguous.

If a statute's meaning is plain on its face, we must “give effect to that plain meaning as an expression of legislative intent.” Campbell & Gwinn, 146 Wn.2d at 9-10. The plain meaning “is discerned from all that the Legislature has said in the statute.” Id. at 11. Plain meaning may also be discerned from “related statutes which disclose legislative intent about the provision in question.” Id. An examination of related statutes aids our plain meaning analysis

“because legislators enact legislation in light of existing statutes.” *Id.* (quoting 2A Norman J. Singer, *Statutes and Statutory Construction* § 48A:16, at 809-10 (6th ed. 2000)).

Jongeward v. BNSF Ry., 174 Wn.2d 586, 278 P.3d 157 (2012)

Inconsistency?

The department has further maintained that even if the zone's intent, use matrix, and development conditions are not a scrivener's error, multiple family could not be permitted because the zoning code would be inconsistent with the subarea plan.

We disagree. As evidence to that we call attention to the following cases:

*Since a comprehensive plan is a guide and not a document designed for making specific land use decisions, conflicts surrounding the appropriate use are resolved in favor of the more specific regulations, usually zoning regulations. A specific zoning ordinance will prevail over an inconsistent comprehensive plan. *874 Cougar Mountain Assocs. v. King County, 111 Wash.2d 742, 757, 765 P.2d 264 1988). If a comprehensive plan prohibits a particular use but the zoning code permits it, the use would be permitted. Weyerhaeuser v. Pierce County, 124 Wash.2d 26, 43, 873 P.2d 498 (1994). These rules require that conflicts between a general comprehensive plan and a specific zoning code be resolved in the zoning code's favor.*

Citizens for Mount Vernon v. City of Mount Vernon, 133 Wn.2d 861, 873–74, 947 P.2d 1208, 1215 (1997)

Accord and more recently:

*Generally, a specific zoning ordinance will prevail over an inconsistent comprehensive plan. Weyerhaeuser v. Pierce County, 124 Wash.2d 26, 43, 873 P.2d 498 (1994) (citing Cougar Mountain Assoc. v. King County, 111 Wash.2d 742, 757, 765 P.2d 264 (1988)). Because a comprehensive plan is a guide and not a document designed for making specific land use decisions, conflicts concerning a proposed use are resolved in favor of the more specific regulations. *895 Citizens for Mount Vernon v. City of Mount Vernon, 133 Wash.2d 861, 873, 947 P.2d 1208 (1997). Thus, **to the extent the comprehensive plan prohibits a use that the zoning code permits, the use is permitted.** Weyerhaeuser, 124 Wash.2d at 43, 873 P.2d 498. **Emphasis added.***

Lakeside Indus. v. Thurston Cty., 119 Wn. App. 886, 894–95, 83 P.3d 433, 437 (2004), as amended (Feb. 24, 2004)

Part 2 – Application of “Master Planned Senior Community”

We've additionally sought guidance from the department on the ability to locate a 150 bed facility in the Community Business zone which would primarily consist of a “convalescent, nursing and retirement” facility in which 130 units would be senior living units with a minimal amount of supportive care and assistance, meal preparation services, etc. along with 20 units which would serve the more intense needs of individuals requiring memory care. The city's code does not define “convalescent, nursing and retirement” collectively or individually.

To determine the ordinary meaning of an undefined term, our courts look to standard English language dictionaries. Boeing Co. v. Aetna Cas. & Sur. Co., 113 Wn.2d 869, 877, 784 P.2d 507 (1990).

According to the Meriam-Webster Dictionary:

“Convalescent” is an institution for the convalescing of people

--“Convalescing” is defined as “to recover health and strength gradually after sickness or weakness”

“Retirement home” is a place where retired people can live and sometimes be taken care of

“Nursing home” is a public or private residential facility providing a high level of long-term personal or nursing care for persons (such as the aged or the chronically ill) who are unable to care for themselves properly

Based on these definitions it is clear that a retirement home is consistent with what is also referred to by the City as independent senior living where the units are individual apartments but some care is available as needed (which may include meals, medical reminders, welfare checks, etc.). Further, memory care units would rightfully be consistent with the “nursing home definition” above.

It is our position that a 150 bed facility with +/- 130 independent senior living apartments are either a “retirement home” or “multiple-family” use (both are permitted) and a 20 bed memory care unit within such a facility would be an accessory “nursing home” use. MMC 22A.020.020 defines an “accessory use, commercial/industrial” as “a use that is subordinate and incidental to a commercial or industrial use.” A 20-bed memory care unit with a 150-bed facility would be an accessory use to the primary senior living apartments.

This is consistent with how the City defines “use” within MMC 22A.020.220:

“Use” means an activity or function carried out on an area of land, or in a building or structure located thereon. Any use comprising the sole or main use on the site is considered the primary use of the site. Any use subordinate or incidental to the primary use on a site is considered an accessory use.

However, in our prior discussions with the department, we have been provided with the Bonaventure interpretation from 2016 and informally advised by the department that a project featuring senior/retirement apartments and long-term memory care would be a “Master Planned Senior Community” as it would include a “*continuum of care that offers varying degrees of assistance for individuals as they are needed*” including residential living units or beds, congregate dining and on-site medical services.

We disagree and present the following:

1. “Convalescent, retirement, nursing” as it appears in the matrix is undefined anywhere in code. As written, it is poorly constructed and lacks the grammatical clarity of either “and” or “or” which would more conclusively indicate whether this is envisioned as single use or three types of similar uses.

Interpreting the matrix to read that “convalescent, nursing, and retirement” as a singular use would be absurd. If this were the case, it would appear duplicative of the “master planned senior community” use except for the lack of the latter use’s density incentive. Instead each should be read as a permitted use.

2. The key element of a “Master Planned Senior Community” is by its definition the presence of a “master plan for a site” that incorporates a range of care options. . .” The term “master plan” is defined in MMC 22A.020.170 as:

“Master plan” means a concept site plan, to scale, showing general land uses and zoning districts, proposed building pad concepts and orientation, public and private open space, sensitive areas, streets, pedestrian and vehicle connectivity to adjacent parcels, and other design features, required by applicable comprehensive plan and development regulations applying to the parcels.

The use of the phrase “concept site plan” is intended in most land use cases to be a plan for the gradual, multi-phase build-out of a bigger concept, such as multiple buildings, multiple-uses, etc.

A master plan’s concept site plan is different from that of a site plan, which is specific to a single use on a single site. And there is no definitive code statement that a combination of any two otherwise permitted uses are a master planned senior community.

A business performing two functions (two uses) within a single facility does not raise to a level of necessitating master plan. There are many examples of businesses with two uses in which one is a primary use and the other an accessory use. For example, a 2,000 square foot retail space for walk in business can be an accessory use to a 20,000 square foot wholesale distribution company; a 1,750 square foot tool rental business may be an accessory use to a 30,000 square foot hardware store; and a large auto-sales business (primary use) can operate a vehicle service center (accessory use). None of these require “master” planning, but they provide some “continuum” of service for their specific customer type.

We assert that the intent of the master planned senior community use is to incentivize the creation of projects of a particular size and significance (e.g. large acreage being developed, multiple buildings, multiple business or business units, and/or a multi-phased, multi-year project) that require they be located in limited areas and conditioned such that they achieve specific, measurable policy objectives.

3. A full and complete reading of the intent, purpose and applicability of MMC 22C.220 “Master Planned Senior Communities” does not identify any requirement (or limitation) that a senior housing project with a mix housing types be required to develop exclusively as a master planned senior community. In fact, it is clear throughout this chapter that the use is envisioned as an incentive to encourage a mix of senior housing uses, at higher densities, with services for aging in place to fulfill broader policy objectives under regional housing and regional planning policies¹. Thus, the use’s existence is not intended to limit or exclude other individually permitted uses or a combination of permitted uses (primary and accessory).

“This Chapter is intended to provide for developments that incorporate a variety of housing. . . To encourage active aging strategies. . . To permit higher densities for senior housing. . .” MMC 22C.220.010.

MMC 22C.220.020 Applicability – “An applicant may request to utilize the master planned senior community provisions if the site meets the site qualification criteria. . .”

4. Without the “master plan” distinction a retirement, nursing, or convalescent facility alone could be identified as a “Master Planed Senior Community” because each of these types of uses provides some range of services which could only be described as a “continuum of care” because every individual resident has differing needs for supervision, medical care, meal planning, rehabilitation, etc. For example in the case of a convalescent or nursing use the patients stay is variable based on a worsening or improving condition, and patients may include those recovering from strokes, others from hip replacements, and some who must be there because they simple cannot care for their own needs. Whereas in a retirement home, a retired couple may be living in a unit for convenience as one spouse can’t care for the other without help or someone may be there because they have a medical need which requires they be monitored even though they can live independently. Thus, “continuum of care” cannot be the exclusive factor to determine if the use is a “Master Planned Senior Community.”

¹ This is supported by the fact that the master planned senior community use is only allowed as a “conditional” use in two out of nine commercial and industrial zones (of which only one of these is a commercial zone – mixed use).

5. Further according to the Bonaventure interpretation (section underlined section "B"), if independent senior living apartments are not identified as a retirement home (group residence), then they would rightly be considered multiple family units whether or not concierge like activity coordination and/or access to medical staff were available.

Summary of Requested Interpretation

MMC 22A.010.070 provides authority for Code interpretation regarding allowed uses in a given zone. That interpretation, in turn, is required to be issued as a decision appealable to the Hearing Examiner under MMC Chapter 22G.010.

We believe we have provided sufficient legal and factual information to support our interpretation requests, and respectfully request the Director issue a code interpretation which concludes the following:

1. Multi-family is a permitted use in the Community Business zone
2. Independent senior living apartments are a multi-family use
3. A retirement home (group residence) is a permitted use and can include facilities which provide some access to concierge and/or medical services "as-needed" in accordance with the plain language definition (e.g. Meriam-Webster definition) for retirement homes
4. A single facility which included a retirement home (primary use) could have a portion of the facility dedicated to memory care (e.g. a skilled nursing component) as an accessory use.
5. A combination of a primary and accessory use does not rise to the level of a "Master Planned Senior Community"

Application & Fee

We could not locate a required application or fee in the information available online. Should there be an application or a fee, please alert us immediately and we will act to perfect this request. As you are aware, this property is slated for immediate development and we have been actively preparing application materials. Thus time is of the essence and we request the Department expeditiously review and provide its interpretation for further action either on an application or for further review by the City's hearing examiner under MMC Chapter 22G.010.

I am readily available at your earliest convenience to provide any further information or to discuss this request further.

TOYER STRATEGIC ADVISORS, INC.



DAVID K. TOYER
PRESIDENT



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

February 8, 2016

Mr. John Eld
Project Manager
Bonaventure Senior Living
3425 Boone Road SE
Salem, Oregon 97317

Dear Mr. Eld:

In response to your letter on a code interpretation for the "Bonaventure Senior Living Continuing Care Retirement Community" this letter has been drafted.

The City of Marysville passed an ordinance in 2011 with the intent to facilitate a full service continuum of care approach for seniors. It was named in the Marysville Municipal Code: "Master planned senior community" and is defined as: "a master plan for a site that incorporates a range of care options for senior citizens or disabled persons, including but not limited to independent senior housing, senior assisted living, and nursing homes. The proposed development must offer a continuum of care that offers varying degrees of assistance for individuals as they are needed. The community must include an integration of residential living units or beds, recreation, congregate dining, and on-site medical facilities/services."

The City Council later decided to reduce the areas of the city where master planned senior communities were allowed to locate because of their desire to keep commercially zoned land available for commercial uses. The master planned senior community use was removed as a conditional use from four commercial zones. These zones were the Neighborhood Business Zone - NB, Community Business Zone - CB, General Commercial Zone- GC and the Downtown Commercial Zone - DC.

It is our belief that the project you are proposing, as designed, comes under the definition above for master planned senior community. Your project is a "continuum of care" project which includes apartment suites for independent living, assisted living units with limited food preparation area and memory care suites. In reviewing the proposed project and your letter there are parts of the project which are allowed by the zoning code. Within MMC 22C.020.060 permitted uses under the Group Residences section of the code: convalescent, nursing, and retirement - group residences are allowed as permitted uses. The retirement word under Group Residences section of the code does not mean independent multiple family units. The section of the building you are proposing for memory care is allowed, and the section of the building which has independent living units / multiple family units is not allowed unless they are designed above a commercial use. Your proposed project does not have the commercial use on the first floor located at the street level as required by the code for multiple family units.

City Council in their goal of encouraging commercial use in the above commercial zones continues to allow multiple family uses when all units are located above a street-level commercial use. Mixed use buildings with commercial uses on the first floor and multiple family units on floors above are an allowed use in the Community Business Zone - CB.

"A"

Furthermore in reviewing the proposed use I reviewed if the use was consistent with the purposes of the zone set forth in Chapter 22A.030 MMC. The purpose of the Community Business Zone - CB in MMC is:

"The purpose of the community business zone (CB) is to provide convenience and comparison retail and personal services for local service areas which exceed the daily convenience needs of adjacent neighborhoods but which

cannot be served conveniently by larger activity centers, and to provide retail and personal services in locations within activity centers that are not appropriate for extensive outdoor storage or auto-related and industrial uses.

These purposes are accomplished by:

- (a) Providing for limited small-scale offices as well as a wider range of the retail, professional, governmental and personal services than are found in neighborhood business areas;
- (b) Allowing for a mix of housing and retail/service uses; and
- (c) Excluding commercial uses with extensive outdoor storage or fabrication and industrial uses."

Your proposed use, as designed, is a "Continuing Care Retirement Community" and is not consistent with the above defined purpose in Chapter 22A.030 MMC.

Your project could go ahead if it were a Group Resident facility without independent living units (multiple family units) or if it were designed as a mixed use building with commercial on the first floor and the independent living units (multiple family units) above the commercial street level use.

"B"

Based on the proposed use without the commercial component on the street level first floor it is not allowed in the community business zone (CB) zone and the use is not consistent with the purpose of the CB zone described above..

The decision of the community development director shall be final unless the applicant or an adverse party files an appeal to the hearing examiner pursuant to Chapter [22G.010](#) MMC, Article VIII, Appeals.

Sincerely yours



Dave Koenig
Community Development Director

Cc: Gloria Hirashima
Chris Holland



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

September 3, 2020

David K. Toyer
Toyer Strategic Advisors, Inc.
3705 Colby Avenue, Suite 1
Everett, WA 98201

Re: Code Interpretation Request

Dear David,

The City received your Code Interpretation request, dated August 4, 2020, which was a two-part request for the following:

1. Whether the "multiple family" use is a permitted use in the Community Business zone.
2. Would the City's February 9, 2016 code interpretation in the matter of the "Bonaventure Senior Living Continuing Care Retirement Community" ["Bonaventure"] apply the "Master Planned Senior Community" use in a case where the proposed use would be a "convalescent, nursing, retirement" facility with minor area of the facility set up to provide living spaces for residents with memory care issues.

Regarding the first point, multiple family use is permitted in the Community Business ("CB") zone (subject to certain conditions), however it is ultimately not an allowed use in the Whiskey-Ridge Community Business ("WR-CB") zone. This conclusion is based on the following:

- Ordinance No. 2696, dated May 14, 2007, officially amended the City of Marysville Comprehensive Plan by adopting the subarea plan for the East Sunnyside – Whiskey Ridge area and amended the City's development regulations by amending Chapter 19.12 (now MMC 22C.020.080 & 22C.020.090 after recodification) and 19.26 (now MMC 22C.090.020 after recodification). This subarea plan did not analyze or assign any residential density within the Whiskey Ridge – Community Business (WR-CB) zone.
- While Ordinance No. 2696 failed to amend MMC Chapter 19.08 *Permitted Uses* (now MMC 22C.020.060), it correctly did not assign any residential density within the WR-CB zone (as is reflected in Ordinance No. 2696 and in the currently adopted MMC 22C.020.080).
- Based on the WR subarea plan, Ordinance 2696, MMC 22C.020.060, and MMC 22C.020.080, multiple-family use is ultimately not an allowed use in the WR-CB zone.


Regarding your second point, while it is difficult to determine exactly what you are requesting interpretation on, it appears you are inquiring as to whether a 150-bed facility "made up of

130 senior living units with a minimal amount of supportive care and assistance, meal preparation services, etc., along with 20 units which would serve the more intense needs of individuals requiring memory care” would be considered a “Master Planned Senior Community” use. Based on the information provided, such a use would be a considered a Master Planned Senior Community use per MMC Chapter 22C.220.

Pursuant to MMC 22G.010.550 administrative interpretations may be appealed to the hearing examiner. A written appeal shall be filed within 14 days of the notice of decision and shall be accompanied with a \$500.00 filing fee. Grounds and contents of appeal are outlined in MMC 22G.010.550.

If you have any questions regarding the response to your code interpretation request, please contact me at 360.363.8211, or by e-mail at jthomas@marysvillewa.gov.

Sincerely,



Jeff Thomas
CD Director

cc: Gloria Hirashima, CAO
Jon Walker, City Attorney
Burton Eggertsen, Deputy City Attorney
Chris Holland, Planning Manager
Angela Gemmer, Senior Planner
Amy Hess, Associate Planner

Attached: Ordinance 2696

cc: Com Dev
Cook Pub
MASC

Orig. File

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. 2696

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING THE CITY'S COMPREHENSIVE PLAN BY ADOPTING THE INITIAL SUBAREA PLAN FOR THE EAST SUNNYSIDE/WHISKEY RIDGE AREA AND AMENDING THE CITY'S DEVELOPMENT REGULATIONS BY AMENDING CHAPTERS 19.12 AND 19.26 MMC.

WHEREAS, the City of Marysville has proposed under RCW 36.70A.130(2)(a)(ii) to amend its comprehensive plan by the initial adoption of a subarea plan for the East Sunnyside/Whiskey Ridge neighborhood; and

WHEREAS, any amendment or revision to a comprehensive land use plan must conform to RCW 36.70A.130; and

WHEREAS, the City of Marysville has met the spirit and intent of RCW 36.70A.130 by (1) providing for a public participation program set forth in Section 2 below, by (2) reviewing and identifying needed revisions to the Comprehensive Plan and development regulations, as described in Section 3 below, and by (3) adopting a subarea plan for the East Sunnyside/Whiskey Ridge neighborhood as set forth in the attached Exhibit A; and

WHEREAS, in taking the actions set forth in this Ordinance, the City of Marysville has made a good faith effort to comply with the recommendations of CTED and has submitted to CTED the proposed needed revisions to the City's Comprehensive Plan and development regulations as required by RCW 36.70A.106; and

WHEREAS, in taking the actions set forth in this Ordinance, the City of Marysville has complied with the requirements of the State Environmental Policy Act, Ch.43.21C RCW, (SEPA) by issuing an addendum on January 16, 2007 to the Final EIS for the City's Comprehensive Plan and Development Regulations; and

WHEREAS, the City received numerous comments on the revisions to the Comprehensive Plan and development regulations from citizens, environmental groups, developer organizations, and government entities, which comments the City has duly considered in adopting the needed revisions to the Comprehensive Plan and development regulations set forth in the

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subarea plan for the East Sunnyside/Whiskey Ridge area; and

WHEREAS, the Planning Commission held public hearings on December 11, 2006 and January 23, 2007; and

WHEREAS, the City Council held a public hearing on April 23, 2007, at which further public input was allowed on the subject of the proposed subarea plan recommended by the Planning Commission; and

WHEREAS, before adopting the needed revisions to the Comprehensive Plan and development regulations set forth in the subarea plan for the East Sunnyside/Whiskey Ridge area, the City Council has considered the public testimony, the report of staff and the Planning Commission;

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

Section 1. Public Participation Program.

The City of Marysville has established and implemented a public participation program for reviewing the proposed adoption of the subarea plan for the East Sunnyside/Whiskey Ridge area and the proposed revisions to the City's development regulations. The public participation program consisted of the meetings and hearings set forth below. The program has provided for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. Notice of the public meetings and hearings was given by:

- (a) mailing notices to property owners and residents;
- (b) publishing notices in newspapers of general circulation in the City and region;
- (c) notifying public and private groups with known interest in a certain proposal or type of proposal being considered;
- (d) posting notices at City buildings and the post office; and
- (e) making copies of the proposals and alternatives available for purchase or for review at the public library, City website, and City Hall.

Section 2. Review and Identification of Needed Revisions to the Comprehensive Plan and Development Regulations.

The City of Marysville has conducted a thorough review of the City's Comprehensive Plan and

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development regulations to identify revisions needed in the subarea plan to ensure compliance with the GMA and ensure internal consistency with policies and designations of the comprehensive plan. This review has been conducted by the City's Planning Commission, staff, and citizens and has utilized the public participation program set forth in Section 1 above.

Based on this review, the City has identified needed revisions to the Comprehensive Plan and development regulations as set forth in the subarea plan for the East Sunnyside/Whiskey Ridge area, which is set forth in the attached Exhibit A.

Section 3. Approval of Planning Commission's Recommendation and Adoption of Findings.

The City Council hereby approves the Planning Commission's recommendation with minor revisions as set forth in the attached Exhibit A.

Section 4. Adoption of Subarea Plan Amending the City of Marysville Comprehensive Plan.

The City Council hereby adopts the subarea plan for the East Sunnyside/Whiskey Ridge area, which is attached hereto as Exhibit A and is incorporated herein by this reference.

Section 5. Chapter 19.12 of the Marysville Municipal Code is hereby amended by adopting MMC 19.12.035 to read as follows:

Whiskey Ridge Subarea Plan zones. This chart supplements the existing zoning regulations in Chapter 19.12.030 Marysville Municipal Code)

(For implementing zones of Single Family High (R 6.5) and Multiple Family, Medium please refer to MMC 19.12.030.)

(1) Densities and Dimensions.

	Single Family High, R4-8 (24)	Multi-Family Low, R6-18 (15, 24)	Mixed Use MU (16, 24)	CB
Density: Dwelling unit/acre (6)	4.5 du/ac	6 du/ac (detached single family) 10 du/ac (attached multi family)	12 du/ac	--

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Maximum density: Dwelling unit/acre (1)	8	18 du/ac	18 du/ac	
Minimum street setback (3) (18)	20 ft (8)	20 ft (23)	20 ft (23)	None (19, 23)
Minimum side yard setback (3)	5 ft (10)	10 ft (10)	None (20)	25 ft. (18)
Minimum rear yard setback (3)	20 ft	25 ft	None (20)	25 ft. (18)
Base height	30 ft	35 ft (4)	45 ft.	55 ft.
Maximum building coverage: Percentage (5)	40%	40%	-	-
Maximum impervious surface: Percentage (5)	50%	70%	85%, 75% (22)	85%
Minimum lot area	5,000 sq. ft	-	None	None
Minimum lot area for duplexes (2)	7,200 sq. ft	-	-	-
Minimum lot width (3)	40 ft	70 ft	None	None
Minimum lot frontage on cul-de-sac, sharp curve, or panhandle (16)	20 ft	-	-	-
WCF height (17)	60 ft	60 ft	120 ft	120 ft

(2) Development Conditions.

1. a. The maximum density for Whiskey Ridge subarea plan zones may be achieved only through the application of residential density incentive provisions outlined in Chapter 19.26 MMC.
2. The minimum lot sizes for duplexes apply to lots or parcels

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which existed on or before the effective date of the ordinance codified in this chapter. All new duplex lots created through the subdivision or short subdivision process shall be a minimum of 7,200 square feet in size, must include a "duplex disclosure," and comply with the density requirements of the comprehensive plan (eight units per acre for the Single Family zone).

3. These standards may be modified under the provisions for zero lot line and townhome developments.

4. a. Height limits may be increased when portions of the structure which exceed the base height limit provide one additional foot of street and interior setback beyond the required setback for each foot above the base height limit; provided, that the maximum height may not exceed 60 feet.

b. Multiple-family developments, located outside of Planning Area 1, abutting or adjacent to areas zoned as single-family, or areas identified in the comprehensive plan as single-family, may have no more floors than the adjacent single-family dwellings, when single-family is the predominant adjacent land use.

5. Applies to each individual lot. Building coverage and impervious surface area standards for:

a. Regional uses shall be established at the time of permit review; or

b. Nonresidential uses in residential zones shall comply with MMC 19.12.200.

6. a. The densities listed for the single-family zones are net densities.

b. Mobile home parks shall be allowed a maximum density of eight dwelling units per acre, unless located in the SF, R-4.5 or R-6.5 zones, in which case they are limited to the density of the underlying zone.

7. The standards of the R-4.5 zone shall apply if a lot is less than 15,000 square feet in area.

8. On a case-by-case basis, the street setback may be reduced to 10 feet; provided, that at least 20 linear feet of driveway is provided between any garage, carport, or other fenced parking area and the street property line, or the lot takes access from an alley. The linear distance shall be measured in a straight line from the nearest point of the garage, carport or fenced area to the access point at the street property line. In the case of platted lots, no more than two consecutive lots may be reduced to 10 feet.

9. Residences shall have a setback of at least 50 feet from any

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property line if adjoining an agricultural zone either within or outside the city limits.

10. For townhomes or apartment developments, the setback shall be the greater of:

a. 20 feet along any property line abutting R-4.5 through R-8, and RU zones; or

b. The average setback of the R-4.5 through R-8 zoned single-family detached dwelling units from the common property line separating said dwelling units from the adjacent townhome or apartment development, provided the required setback applied to said development shall not exceed 60 feet. The setback shall be measured from said property line to the closest point of each single-family detached dwelling unit, excluding projections allowed per MMC 19.12.160 and accessory structures existing at the time the townhome or apartment development receives approval by the city.

11. On any lot over one acre in area, an additional five percent may be used for buildings related to agricultural or forestry practices.

12. The maximum building coverage shall be 10 percent where the lot is between 1.0 and 1.25 acres in area. The maximum shall be 15 percent where the lot is less than one acre in area.

13. The impervious surface area shall be:

a. Twenty percent when the lot is between 1.0 and 1.25 acres; and

b. Thirty-five percent when the lot is less than one acre in area.

14. Outside Planning Area 1, in the single-family high density zone, the small lot zone will be allowed through the PRD process with the minimum lot size being 5,000 square feet.

15. Single-family lots and units within the Whiskey Ridge MFL and R-12-28 zones shall utilize the dimensional requirements of the R-8 zone, except the base density.

16. Provided that the front yard setback shall be established as the point at which the lot meets the minimum width requirements. On a case-by-case basis, the street setback may be reduced to the minimum of 20 feet; provided, that the portion of the structure closest to the street is part of the "living area," to avoid having the garage become the predominant feature on the lot.

17. Heights may be increased to 160 feet on nonresidential land uses in R zones, including publicly owned facilities, if co-location is provided.

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18. A 25-foot setback only required on property lines adjoining residentially designated property, otherwise no specific interior setback requirement.

Section 6. Chapter 19.26 of the Marysville Municipal Code is hereby amended by amending MMC 19.26.020 to read as follows:

19.26.020 Permitted locations of residential density incentives.

Residential density incentives (RDI) shall be used only on sites served by public sewers and only in the following zones:

- (1) In R-12 through R-28 zones;
- (2) Planned residential developments; and
- (3) In MU, CB, GC and DC zones.
- (4) SF, MF, and MU zones within the Whiskey Ridge master plan. (Ord. 2411 § 1, 2002; Ord. 2131, 1997).

Section 7. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 8. Effective Date.

This Ordinance shall take effect five days after its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this 14th day of May, 2007.

CITY OF MARYSVILLE

By Dennis L. Kendall
DENNIS L. KENDALL, Mayor

ATTEST:

By [Signature]
City Clerk

ORDINANCE - 7
/wp/mv/ord.Comp Plan Update



MEMORANDUM

DATE: September 17, 2020
TO: City Council
FROM: Jeff Thomas, Community Development Director
Angela Gemmer, Senior Planner
RE: Marysville Municipal Code Sections 22.020.030, 22.020.060 & 22.020.080 -
Proposed Amendments
CC: Community Development – Planning Division

Introduction

The Community Development Department is committed to continuously improving the efficiency and effectiveness of its processes and regulations for staff, customers and citizens alike. A significant part of this commitment is proposing refinements and clarifications to development regulations as opportunities and challenges are identified.

Recently, disconnects were identified between the adopted subarea plan for the *East Sunnyside/Whiskey Ridge Area* ("Plan") and the Marysville Municipal Code ("MMC"). To remedy these disconnects, staff has drafted proposed amendments to MMC Sections 22.020.030 and 22.020.060. Additionally, other minor refinements and clarifications are proposed to MMC Section 22.020.080.

Legislative History

On May 14, 2007, the City of Marysville Comprehensive Plan was amended by the adoption of Ordinance No. 2696 which adopted the Plan. MMC Chapters 19.12 and 19.26 were concurrently amended by Ordinance No. 2696 for new development regulations within the subject Plan boundaries. Subsequent amendments by Ordinance No. 2728 to refine these development regulations were completed on December 10, 2007. On February 14, 2011, Ordinance No. 2852 was adopted to amend the MMC to create a Unified Development Code ("UDC"), MMC Title 22. The provisions of the UDC adopted in 2011 as relate to the Plan remain substantially intact today.

Analysis

The Plan, as it still exists today, does not provide for residential land uses within the Community Business zoning district. Unfortunately, the permitted uses table were not amended to address the Community Business-Whiskey Ridge (CB-WR) zone in 2007 with adopting Ordinance No. 2696. The permitted uses for CB-WR were also not addressed with the subsequent refinements adopted by Ordinance No. 2728. In 2011, the UDC amended the permitted use table and development conditions contained in MMC 22C.020.060 and 22C.020.070, and included the addition of footnote (63) to MMC 22C.020.070. This footnote applies to the Community Business (CB) zone and states that "permitted uses include Whiskey Ridge zones" thus combining the permitted uses for the CB and CB-WR zones. While the permitted uses table does appear to provide for residential development in the Community Business - Whiskey Ridge (CB-WR) zone, the density and dimensional standards table contained in MMC 22C.020.080 clearly and correctly assigns no residential base density nor residential maximum density for the CB-WR zoning district.

Proposed Amendments

To achieve the required proper alignment and consistency between the Plan and MMC as it relates to residential uses in the CB-WR zoning district, and to correct other minor

inconsistencies in the density and dimensional table, the following development regulation amendments are proposed for Planning Commission review and consideration:

- Amend the zone description in MMC 22C.020.030 to distinguish between the Community Business ("CB") and CB-WR zoning districts and clarify that residential uses are not allowed in the CB-WR zoning district;
- Create a separate column in the permitted uses table in MMC 22C.020.060 for the CB-WR zoning district which would allow for all of the uses allowed in the CB zoning district except for multi-family, convalescent/nursing/retirement homes, and residential care facilities; and
- Minor refinements and clarifications in the density and dimension table in MMC 22C.020.080.

Staff respectfully requests the City Council affirm the recommendation of the Planning Commission, and adopt the proposed commercial permitted uses and density and dimensional amendments by Ordinance.



MARYSVILLE
COMMUNITY
DEVELOPMENT

**PC Recommendation – Commercial Permitted Uses and
Density and Dimensional Standards**

The Planning Commission (PC) of the City of Marysville, held a public hearing on September 9, 2020 in review of NON-PROJECT action amendments of the Marysville Municipal Code (MMC), proposing amendments to Sections 22C.020.030 – *Characteristics of commercial, industrial, recreation and public institutional zones*, 22C.020.060 – *Permitted uses*, 22C.020.070 – *Permitted uses – Development conditions*, 22C.020.080 – *Densities and dimensions*, and 22C.020.090 – *Densities and dimensions – Development conditions*. Having considered the exhibits and testimony presented, PC does hereby enter the following findings, conclusions and recommendation for consideration by the Marysville City Council:

FINDINGS:

1. The Community Development Department held a public meeting to introduce the NON-PROJECT action Commercial Permitted Uses, and Density and Dimensional Standards Amendments to the community on September 9, 2020.
2. The proposal was submitted to the State of Washington Department of Commerce for 14-day expedited review on August 20, 2020, in accordance with RCW 36.70A.106.
4. The PC held a public work session to review the NON-PROJECT action amendments proposing adoption of the NON-PROJECT action Commercial Permitted Uses, and Density and Dimensional Standards Amendments as described above, on September 9, 2020.
5. The PC held a duly-advertised public hearing on September 9, 2020 and received testimony from city staff and the public.
6. At the public hearing, the PC reviewed and considered the Commercial Permitted Uses, and Density and Dimensional Standards Amendments.

CONCLUSION:

At the public hearing, held on September 9, 2020, the PC recommended **APPROVING** the Commercial Permitted Uses, and Density and Dimensional Standards Amendments.

RECOMMENDATION:

Forwarded to City Council as a Recommendation of **APPROVAL** of the NON-PROJECT action known as the Commercial Permitted Uses, and Density and Dimensional Standards Amendments, an amendment to Marysville Municipal Code Sections 22C.020.030 – *Characteristics of commercial, industrial, recreation and public institutional zones*, 22C.020.060 – *Permitted uses*, 22C.020.070 – *Permitted uses – Development conditions*, 22C.020.080 – *Densities and dimensions*, and 22C.020.090 – *Densities and dimensions – Development conditions*, this **September 9, 2020**.

By:



Stephen Leifer, Planning Commission Chair

(360) 363-8100

Community
Development
80 Columbia Avenue
Marysville, WA 98270

**Community
Development**



**1049 State Avenue
Marysville, WA 98270**

**Planning
Commission Meeting
Minutes
September 9, 2020**

CALL TO ORDER

Chair Leifer called the meeting to order and welcomed new commissioner Kevin Johnson. Introductions followed.

Present:

Commissioners: Chair Steve Leifer, Roger Hoen, Jerry Andes, Kevin Johnson, Kristin Michal, Brandon Whitaker, Tom Thetford

Staff: Planning Manager Chris Holland, Senior Planner Angela Gemmer, Program Specialist Janis Lamoureux

1. APPROVAL OF MINUTES

June 9, 2020 Planning Commission Minutes

Chair Leifer asked staff for clarification about the verbiage in note number 7, in the zoning matrix in 22C.020.070 related to not allowing mobile homes made prior to October 16, 2006. Senior Planner Gemmer explained that this refers to the distinction between mobile homes and manufactured homes. This note is saying that you can only do mobile homes in mobile home parks established prior to that date. Per state law, local jurisdictions are allowed to prevent mobile homes which are no longer built from being placed in new mobile home parks. Chair Leifer asked for confirmation that a developer could do a new mobile home park with the purpose of installing tiny homes, RVs, or factory homes. Staff affirmed this.

Motion to approve the June 9, 2020 Planning Commission Minutes moved by Jerry Andes seconded by Kristin Michal.

VOTE: Motion carried 5 - 0

AYES: Chair Steve Leifer, Jerry Andes, Kristin Michal, Brandon Whitaker, Tom Thetford

ABSTAIN: Roger Hoen, Kevin Johnson

July 14, 2020 Planning Commission Minutes

Commissioner Whitaker noted that the spelling of his last name should be corrected in the last paragraph on page 3 and also on page 4.

Motion to approve the July 14, 2020 Planning Commission Minutes as corrected by Commissioner Whitaker moved by Jerry Andes seconded by Brandon Whitaker.

VOTE: Motion carried 6 - 0

AYES: Chair Steve Leifer, Roger Hoen, Jerry Andes, Kristin Michal, Brandon Whitaker, Tom Thetford

ABSTAIN: Kevin Johnson

2. AUDIENCE PARTICIPATION (for topics not on the agenda)

None

3. PUBLIC HEARINGS

Item No. 1: Amendments to MMC Sections 22A.020.210 – “T” definitions, 22C.010.060 – Permitted uses, 22C.010.070 – Permitted uses – Development conditions, and 22C.180.030, Accessory dwelling unit standards to allow for tiny houses as accessory dwelling units.

Senior Planner Gemmer reviewed the proposed amendments to allow for tiny houses as accessory dwelling units as contained in the Planning Commission packet.

Commissioner Andes asked if temporary housing communities for homeless is addressed somewhere. Planning Manager Holland explained that transitory accommodations is addressed in the Temporary Use Code. The State Legislature enacted new rules related to transitory accommodations, therefore, these provisions will be coming back to the Planning Commission towards the end of the year or beginning next year.

Commissioner Hoen referred to Nina Weinstein's question about property owners being able to build and rent out tiny houses on their property which was raised in her letter. Senior Planner Gemmer replied that it would currently not be allowed if the property owner did not live on site. The accessory dwelling unit provision has always required that one of the units needs to be owner-occupied in order to preserve property values and pride of ownership.

Commissioner Johnson asked for clarification if tiny houses would be allowed in places other than mobile home parks. Senior Planner Gemmer explained they would be allowed in mobile home parks, but also as an accessory dwelling unit in

single-family residential zones or any zone where accessory dwelling units are allowed as long as one of the units is owner-occupied.

Commissioner Johnson asked if there are any conflicts with the City's building code to allow for smaller room sizes. Senior Planner Gemmer noted that the state has put out some regulations pertaining to tiny houses. The City's building department follows state requirements.

Public Comments: Chair Leifer solicited public testimony. There was none.

Motion to forward the tiny house code provisions to City Council for approval moved by Roger Hoen seconded by Tom Thetford.

AYES: ALL

Item No. 2: Amendments to MMC Sections 22C.020.030, Characteristics of commercial, industrial, recreation and public institutional zones, and 22C.020.060, Permitted uses, to prohibit multi-family residential, convalescent/nursing/retirement, and residential care facilities in the Community Business-Whiskey Ridge (CB-WR) zone

Planning Manager Holland explained that this is a legislative fix of an error that has been occurring for some time in the code. Senior Planner Gemmer reviewed the proposed amendments pertaining to the Community Business-Whiskey Ridge (CB-WR) zone. This would correct an error and eliminate multi-family residential, convalescent/nursing /retirement, and residential care facilities in the CB-WR zone as residential uses were not assigned to the zone.

Commissioner Johnson asked why residential would not be allowed in this zone. Planning Manager Holland explained that more analysis needs to be done regarding utilities and road impacts. Commissioner Johnson asked why car and boat dealers would be allowed in that zone, but not motorcycles. Senior Planner Gemmer explained that streamlining and updating the permitted uses matrices would be a future topic of discussion. Commissioner Johnson recommended also looking at manufacturing allowances for artisan manufacturers in order to make this a more vibrant area.

Public Comments: Chair Leifer solicited public comments. There were none.

Motion to approve amendments and forward to the City Council with a recommendation for approval moved by Jerry Andes seconded by Kristin Michal.

AYES: ALL

4. NEW BUSINESS

Mixed Use (MU) Zone Discussion

Senior Planner Gemmer introduced this topic for Commission discussion. With the current flexibility on uses in the MU zone, multi-family and commercial development is occurring in isolation rather than in the integrated manner intended by code. Upon Council direction, staff has proposed three options to consider to remedy this matter:

- Option 1: Require vertical mixed use in the MU zone. Vertical mixed use would require a combination of multi-family and commercial in the same building.
- Option 2: Require a commercial component to projects which propose a single building. If a project proposes multiple buildings, the buildings along the street frontages would either need to be vertical mixed use or commercial. Multi-family residential would be allowed interior to the site (behind the commercial or mixed use buildings).
- Option 3: No change. The Mixed Use zone would continue to allow for: exclusive multi-family, exclusive commercial, or a combination of multi-family and commercial, whether vertical or horizontal.

Commissioner Whitaker asked about the development climate related to true mixed use/vertical mixed use. Planning Manager Holland explained that the development community's response has been that it is not economically feasible for them to do vertical mixed use.

Commissioner Andes asked about the ratio of commercial to residential required for mixed use developments. Senior Planner Gemmer explained this would require more discussion; right now they are looking for general parameters. For the horizontal development, they would like to see commercial uses along arterial roadways and have multifamily be located behind the commercial. Vertical mixed use parameters are strict with commercial and residential being required in the same building.

Commissioner Johnson spoke in support of requiring a commercial component in some way. He believes it is best for the community. If it's not required, people are going to go elsewhere for their commercial needs.

Commissioner Andes concurred. He spoke in support of options 2 or 3 or a combination.

Commissioner Michal asked if they could require vertical mixed use just in certain areas like downtown and have flexibility in other areas. Planning Manager Holland explained that they are exploring a form-based code for the downtown area. There will likely be some different zoning districts for downtown. Commissioner Michal concurred with other commissioners about the need for more commercial options in Marysville.

Chair Leifer referred to a vertical mixed use building in Arlington which he finds very inviting. He thinks this is what should be happening in the mixed use zones. He noted that if the requirements are too rigid development just will not occur. He suggested an incentive for developers to build commercial along with their apartments. He has concerns about the commercial aspect being dictated to developers. Planning Manager Holland discussed the need to balance requirements with incentives. Commissioner Johnson agreed, but stressed the need for some sort of minimal commercial requirements or lose out on that possibility altogether.

Commissioner Thetford suggested looking at what surrounding jurisdictions have done and how that has worked. Senior Planner Gemmer noted that the prevailing theme is horizontal mixed use with vertical mixed use in downtown areas, but there is a huge diversity in the approaches. Defining the street wall with commercial uses is another prevailing theme along with robust connections between different uses and buildings. Planning Manager Holland noted that another thing other jurisdictions have done is to define amenities which are required on different streets.

Chair Leifer suggested considering a binding site plan option on a horizontal mixed use development which would allow the construction of the residential portion in the back first but then give some time before the street front commercial has to be developed. This would reserve that property for commercial construction at a later date and give the developer more time.

Commissioner Whitaker noted that Marysville may have some unique hurdles that prohibit this kind of development. Incentives may help to develop momentum. Planning Manager Holland concurred.

Commissioner Hoen suggested that there needs to be more Marysville exit signs off of I-5 South.

Commissioner Johnson cautioned against writing the code in a way that is focusing on someone buying multiple properties and combining them. He thinks what is most likely to happen is developers buying one property and developing that. The focus should be on how a single property is going to be developed.

Commissioner Andes agreed that there should be some minimums, but also flexibility.

Planning Manager Holland noted that staff would bring back some general information on what other jurisdictions have done and have more discussion on this.

Commissioner Michal asked about the timeline for the Downtown Master Plan. Planning Manager Holland replied that they are still in the initial phases of it. Staff is doing the initial environmental review portion right now. The grant says it needs to be adopted by the end of March, so it will be a tight timeline. He noted that there is a new tool on the website to gather feedback from the community. He thinks there will be an opportunity to have even more engagement than usual on this project because of increased online activity.

Commissioner Hoen asked if there be sidewalks on both sides of the new bridge down by Fred Meyer. Planning Manager Holland thought there would be, but indicated he would confirm that.

5. CITY COUNCIL AGENDA ITEMS and MINUTES

6. ADJOURNMENT

The meeting was adjourned at 6:43 p.m.

7. NEXT MEETING – Tuesday, September 22, 2020



Laurie Hugdahl, Recording Secretary

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, UPDATING
THE CITY'S DEVELOPMENT REGULATIONS AND AMENDING SECTIONS
22A.010.160, 22C.020.030, 22C.020.060, 22C.020.070, 22C.020.080, AND
22C.020.090 OF THE MARYSVILLE MUNICIPAL CODE.**

WHEREAS, the State Growth Management Act, Chapter 36.70A RCW mandates that cities periodically review and amend development regulations, including 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, on May 14, 2007, the Marysville City Council adopted Ordinance No. 2696 amending the City's Comprehensive Plan by adopting the initial subarea plan for the East Sunnyside/Whiskey Ridge Subarea (hereafter referred to as the "Whiskey Ridge Subarea"), and amending the City's development regulations; and

WHEREAS, on February 14, 2011, the Marysville City Council adopted Ordinance No. 2852 amending the City development regulations to create a Unified Development Code, Marysville Municipal Code ("MMC") Title 22; and

WHEREAS, the adoption of Ordinance No. 2852 (through MMC 22C.020) erroneously permitted certain residential land uses in the Whiskey Ridge Subarea by conflating the permitted uses in the Community Business zoning district within the Whiskey Ridge Subarea with the permitted uses in the Community Business zoning district throughout the rest of the city; and

WHEREAS, this erroneous permitting of certain residential land uses in the Community Business zoning district within the Whiskey Ridge Subarea went undetected until recent inquiries regarding the permitting of multiple-family dwelling units within this zoning district; and

WHEREAS, the City has determined that amendments MMC 22C.020 are necessary; 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 City of Marysville submitted the proposed amendments to MMC Section 22C.130.030 to the Washington State Department of Commerce on August 20, 2020, as required by RCW 36.70A.106; and

WHEREAS, the proposed amendments to MMC Section 22C.130.030 are exempt from State Environmental Policy Act review under WAC 197-11-800(19);

WHEREAS, after providing notice to the public as required by law, the Marysville Planning Commission held a Public Hearing on September 9, 2020 regarding the proposed amendments to MMC Sections 22C.020.030, 22C.020.060, 22C.020.070, 22C.020.080, and 22C.020.090; and

WHEREAS, the Planning Commission made a Recommendation to the City Council on September 9, 2020, recommending the adoption of the proposed amendments to MMC Sections 22C.020.030, 22C.020.060, 22C.020.070, 22C.020.080, and 22C.020.090; and

WHEREAS, at a public meeting on September 28, 2020 the Marysville City Council reviewed and considered the Planning Commission's Recommendation and the proposed amendments to MMC Sections 22C.020.030, 22C.020.060, 22C.020.070, 22C.020.080, and 22C.020.090; and

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

Section 1. Required Findings. In accordance with MMC 22G.010.520, the following findings are made regarding the proposed amendments to MMC Sections 22C.020.030, 22C.020.060, 22C.020.070, 22C.020.080, and 22C.020.090 which comprise this ordinance:

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

Section 2. Section 22C.020.030, Characteristics of commercial, industrial, recreation and public institutional zones, of MMC Chapter 22C.020, Commercial, Industrial, Recreation and Public Institutional Zones, is hereby amended to read as follows:

22C.020.030 Characteristics of commercial, industrial, recreation and public institutional zones

(1) Neighborhood Business Zone.

(a) The purpose of the neighborhood business zone (NB) is to provide convenient daily retail and personal services for a limited service area and to minimize impacts of commercial activities on nearby properties. These purposes are accomplished by:

- (i) Limiting nonresidential uses to those retail or personal services which can serve the everyday needs of a surrounding residential area;
- (ii) Allowing for a mix of housing and retail/service uses; and
- (iii) Excluding industrial and community/regional business-scaled uses.

(b) Use of this zone is appropriate in neighborhood centers designated by the comprehensive plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.

(2) Community Business and Community Business – Whiskey Ridge Zones.

(a) The purpose of the community business (CB) and community business – Whiskey Ridge (CB-WR) zones ~~(CB)~~ is to provide convenience and comparison retail and personal services for local service areas which exceed the daily convenience needs of adjacent neighborhoods but which cannot be served conveniently by larger activity centers, and to provide retail and personal services in locations within activity centers that are not appropriate for extensive outdoor storage or auto-related and industrial uses. These purposes are accomplished by:

- (i) Providing for limited small-scale offices as well as a wider range of the retail, professional, governmental and personal services than are found in neighborhood business areas;
- (ii) Allowing for a mix of housing and retail/service uses; provided that, housing is not allowed in the community business – Whiskey Ridge zone; and
- (iii) Excluding commercial uses with extensive outdoor storage or fabrication and industrial uses.

- (b) Use of this zone is appropriate in community business commercial areas that are designated by the comprehensive plan and are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.
- (3) General Commercial Zone.
- (a) The purpose of the general commercial zone (GC) is to provide for the broadest mix of commercial, wholesale, service and recreation/cultural uses with compatible storage and fabrication uses, serving regional market areas and offering significant employment. These purposes are accomplished by:
- (i) Encouraging compact development that is supportive of transit and pedestrian travel, through higher nonresidential building heights and floor area ratios than those found in CB zoned areas;
 - (ii) Allowing for outdoor sales and storage, regional shopping areas and limited fabrication uses; and
 - (iii) Concentrating large-scale commercial and office uses to facilitate the efficient provision of public facilities and services.
- (b) Use of this zone is appropriate in general commercial areas that are designated by the comprehensive plan that are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.
- (4) Downtown Commercial Zone.
- (a) The purpose of the downtown commercial zone (DC) is to provide for the broadest mix of comparison retail, service and recreation/cultural uses with higher density residential uses, serving regional market areas and offering significant employment. These purposes are accomplished by:
- (i) Encouraging compact development that is supportive of transit and pedestrian travel, through higher nonresidential building heights and floor area ratios than those found in GC zoned areas;
 - (ii) Allowing for regional shopping areas, and limited fabrication uses; and
 - (iii) Concentrating large-scale commercial and office uses to facilitate the efficient provision of public facilities and services.
- (b) Use of this zone is appropriate in downtown commercial areas that are designated by the comprehensive plan that are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.
- (5) Mixed Use Zone.
- (a) The purpose of the mixed use zone (MU) is to provide for pedestrian- and transit-oriented high-density employment uses together with limited complementary retail and higher density residential development in locations within activity centers where the full range of commercial activities is not desirable. These purposes are accomplished by:
- (i) Allowing for uses that will take advantage of pedestrian-oriented site and street improvement standards;
 - (ii) Providing for higher building heights and floor area ratios than those found in the CB zone;
 - (iii) Reducing the ratio of required parking to building floor area;
 - (iv) Allowing for on-site convenient daily retail and personal services for employees and residents; and
 - (v) Minimizing auto-oriented, outdoor or other retail sales and services which do not provide for the daily convenience needs of on-site and nearby employees or residents.
- (b) Use of this zone is appropriate in areas designated by the comprehensive plan for mixed use, or mixed use overlay, which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.
- (6) Light Industrial Zone.
- (a) The purpose of the light industrial zone (LI) is to provide for the location and grouping of non-nuisance-generating industrial enterprises and activities involving manufacturing, assembly, fabrication, processing, bulk handling and storage, research facilities, warehousing and limited retail uses. It is also a purpose of this zone to protect the industrial land base for industrial economic development and employment opportunities. These purposes are accomplished by:
- (i) Allowing for a wide range of industrial and manufacturing uses;
 - (ii) Establishing appropriate development standards and public review procedures for industrial activities with the greatest potential for adverse impacts; and

- (iii) Limiting residential, institutional, service, office and other nonindustrial uses to those necessary to directly support industrial activities.
 - (b) Use of this zone is appropriate in light industrial areas designated by the comprehensive plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.
- (7) General Industrial Zone.
 - (a) The purpose of the general industrial zone (GI) is to provide for the location and grouping of industrial enterprises and activities involving manufacturing, assembly, fabrication, processing, bulk handling and storage, research facilities, warehousing and heavy trucking and equipment but also for commercial uses having special impacts and regulated by other chapters of this title. It is also a purpose of this zone to protect the industrial land base for industrial economic development and employment opportunities. These purposes are accomplished by:
 - (i) Allowing for a wide range of industrial and manufacturing uses;
 - (ii) Establishing appropriate development standards and public review procedures for industrial activities with the greatest potential for adverse impacts; and
 - (iii) Limiting residential, institutional, service, office and other nonindustrial uses to those necessary to directly support industrial activities.
 - (b) Use of this zone is appropriate in general industrial areas designated by the comprehensive plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.
- (8) Business Park Zone.
 - (a) The purpose of the business park zone (BP) is to provide for those business/industrial uses of a professional office, wholesale, and manufacturing nature which are capable of being constructed, maintained and operated in a manner uniquely designed to be compatible with adjoining residential, retail commercial or other less intensive land uses, existing or planned. Strict zoning controls must be applied in conjunction with private covenants and unified control of land; many business/industrial uses otherwise provided for in the development code will not be suited to the BP zone due to an inability to comply with its provisions and achieve compatibility with surrounding uses.
 - (b) Use of this zone is appropriate in business park areas designated by the comprehensive plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.
- (9) Recreation Zone.
 - (a) The purpose of the recreation zone (REC) is to establish areas appropriate for public and private recreational uses. Recreation would permit passive as well as active recreational uses such as sports fields, ball courts, golf courses, and waterfront recreation, but not hunting. This zone would also permit some resource land uses related to agriculture and fish and wildlife management.
 - (b) This recreation zone is applied to all land designated as "recreation" on the comprehensive plan map.
- (10) Public/Institutional Zone.
 - (a) The purpose of the public/institutional (P/I) land use zone is to establish a zone for governmental buildings, churches and public facilities.
 - (b) This public/institutional zone is applied to all land designated as "public/institutional" on the comprehensive plan map.
- (11) Small Farms Overlay Zone.
 - (a) The purpose of the small farms overlay zone (-SF suffix to zone's map symbol) is to provide a process for registering small farms, thereby applying the small farms overlay zone and recording official recognition of the existence of the small farm, and to provide encouragement for the preservation of such farms, as well as encouraging good neighbor relations between single-family and adjacent development.
 - (b) Use of this zone is appropriate for existing and newly designated small farms.

Section 3. Section 22C.020.060, Permitted Uses, of MMC Chapter 22C.020, Commercial, Industrial, Recreation and Public Institutional Zones, is hereby amended to read as follows:

22C.020.060 Permitted uses.

Specific Land Use	NB	CB (63)	CB- WR	GC	DC	MU (63)	LI	GI	REC	P/I
Residential Land Uses										
Dwelling Units, Types:										
Townhouse					P6	P				
Multiple-family	C4	P4, C5		P4, C5	P4, P6	P				
Mobile home	P7	P7	<u>P7</u>	P7	P7	P7	P7	P7		
Senior citizen assisted	P					C				P
Caretaker's quarters (3)	P	P	<u>P</u>	P	P	P	P	P	P	P
Group Residences:										
Adult family home (70)	P	P	<u>P</u>	P	P	P				P
Convalescent, nursing, retirement	C	P			P	P				P
Residential care facility	P	P			P	P	P70	P70	P70	P
Master planned senior community (10)						C				C
Accessory Uses:										
Home occupation (2)	P8	P8, P9	<u>P8, P9</u>	P8, P9	P8, P9	P8, P9	P9	P9		
Temporary Lodging:										
Hotel/motel	P	P	<u>P</u>	P	P	P	P75			
Bed and breakfast guesthouse (1)										
Bed and breakfast inn (1)	P	P	<u>P</u>	P						
Recreation/Cultural Land Uses										
Park/Recreation:										
Park	P11	P	<u>P</u>	P	P	P	P	P	P11	P
Marina					P			P	C	P
Dock and boathouse, private, noncommercial					P			P	P16	P
Recreational vehicle park				C12			C12		C	P
Boat launch, commercial or public					P			P		P
Boat launch, noncommercial or private					P			P	P17	P
Community center	P	P	<u>P</u>	P	P	P	P	P	P	P
Amusement/Entertainment:										
Theater		P	<u>P</u>	P	P	P				
Theater, drive-in				C						
Amusement and recreation services		P18	<u>P18</u>	P18	P18	P19	P	C		
Sports club	P	P	<u>P</u>	P	P	P	P	P		

Specific Land Use	NB	CB (63)	CB- WR	GC	DC	MU (63)	LI	GI	REC	P/I
Golf facility (13)		P	<u>P</u>	P			P	P	C	
Shooting range (14)				P15			P15			
Outdoor performance center				C			C		C	C
Riding academy							P		C	
Cultural:										
Library, museum and art gallery	P	P	<u>P</u>	P	P	P	P	P	C	P
Church, synagogue and temple	P	P	<u>P</u>	P	P	P	P	P		P
Dancing, music and art center		P	<u>P</u>	P	P	P			C	P
General Services Land Uses										
Personal Services:										
General personal service	P	P	<u>P</u>	P	P	P	P	P		
Dry cleaning plant		P	<u>P</u>				P	P		
Dry cleaning pick-up station and retail service	P	P	<u>P</u>	P	P	P25	P76	P		
Funeral home/crematory		P	<u>P</u>	P	P	P26	P76	P		
Cemetery, columbarium or mausoleum	P24	P24	<u>P24</u>	P24 , C20			P	P		
Day care I	P70	P70	<u>P70</u>	P70	P70	P70	P21, 70	P70	P70	P70
Day care II	P	P	<u>P</u>	P	P	P	P21			
Veterinary clinic	P	P	<u>P</u>	P	P	P	P76	P		
Automotive repair and service	P22	C, P28	<u>C, P28</u>	P			P	P		
Electric vehicle (EV) charging station (64)	P	P	<u>P</u>	P	P	P	P	P	P	P
EV rapid charging station (65), (66)	P	P	<u>P</u>	P	P67	P67	P	P		
EV battery exchange station				P			P	P		
Miscellaneous repair		P	<u>P</u>	P			P	P		
Social services		P	<u>P</u>	P	P	P				P
Kennel, commercial and exhibitor/breeding (71)		P	<u>P</u>	P			P	P		
Pet daycare (71), (72)		P	<u>P</u>	P	P	P	P76	P		
Civic, social and fraternal association		P	<u>P</u>	P	P	C		P		P
Club (community, country, yacht, etc.)								P		P
Health Services:										
Medical/dental clinic	P	P	<u>P</u>	P	P	P				P
Hospital		P	<u>P</u>	P	P	C				C
Miscellaneous health	P68	P68	<u>P68</u>	P68	P68	P68				P68
Supervised drug consumption facility										

Specific Land Use	NB	CB (63)	CB- WR	GC	DC	MU (63)	LI	GI	REC	P/I
Education Services:										
Elementary, middle/junior high, and senior high (including public, private and parochial)		C	<u>C</u>	C	C	C	P	C		C
Commercial school	P	P	<u>P</u>		P	P27				C
School district support facility	C	P	<u>P</u>	P	P	P	P	P		P
Vocational school		P	<u>P</u>	P	P	P27				P
Government/Business Service Land Uses										
Government Services:										
Public agency office	P	P	<u>P</u>	P	P	P	P	P		P
Public utility yard				P			P			P
Public safety facilities, including police and fire	P29	P	<u>P</u>	P	P	P	P			P
Utility facility	P	P	<u>P</u>	P		C	P	P		P
Private storm water management facility	P	P	<u>P</u>	P	P	P	P	P		P
Public storm water management facility	P	P	<u>P</u>	P	P	P	P	P		P
Business Services:										
Contractors' office and storage yard				P30	P30	P30	P	P		
Interim recycling facility		P23	<u>P23</u>	P23			P			P
Taxi stands		P	<u>P</u>	P			P	P		
Trucking and courier service		P31	<u>P31</u>	P31			P	P		
Warehousing and wholesale trade				P			P	P		
Mini-storage (36)							P76	P		
Freight and cargo service				P			P	P		
Cold storage warehousing							P	P		
General business service and office	P	P	<u>P</u>	P	P	P30	P	P		
Commercial vehicle storage							P	P		
Professional office	P	P	<u>P</u>	P	P	P	P			
Miscellaneous equipment rental		P30, 37	<u>P30, 37</u>	C38		P30, 37	P	P		
Automotive rental and leasing				P			P	P		
Automotive parking	P	P	<u>P</u>	P	P	P	P	P		
Research, development and testing				P			P	P		
Heavy equipment and truck repair							P	P		
Automobile holding yard				C			P	P		
Commercial/industrial accessory uses (73)	P39, 40	P39	<u>P39</u>	P39	P39, 40	P39, 40	P	P		
Adult facility								P33		
Factory-built commercial building (35)	P	P	<u>P</u>	P	P		P	P		

Specific Land Use	NB	CB (63)	CB- WR	GC	DC	MU (63)	LI	GI	REC	P/I
Wireless communication facility (32)	P, C	P, C	<u>P, C</u>	P, C	P, C	P, C	P, C	P, C		P, C
State-Licensed Marijuana Facilities:										
Marijuana cooperative (69)										
Marijuana processing facility – Indoor only (69)										
Marijuana production facility – Indoor only (69)										
Marijuana retail facility (69)										
Retail/Wholesale Land Uses										
Building, hardware and garden materials	P47	P	<u>P</u>	P	P	P47	P76	P		
Forest products sales		P	<u>P</u>	P			P			
Department and variety stores	P	P	<u>P</u>	P	P	P	P76			
Food stores	P	P	<u>P</u>	P	P	P45	P76			
Agricultural crop sales		P	<u>P</u>	P		C	P76			
Storage/retail sales, livestock feed							P76	P		
Motor vehicle and boat dealers		P	<u>P</u>	P			P	P		
Motorcycle dealers		C	<u>C</u>	P	P49		P	P		
Gasoline service stations	P	P	<u>P</u>	P	P		P76	P		
Eating and drinking places	P41	P	<u>P</u>	P	P	P46	P46	P		
Drug stores	P	P	<u>P</u>	P	P	P	P76	P		
Liquor stores		P	<u>P</u>	P						
Used goods: antiques/secondhand shops		P	<u>P</u>	P	P	P				
Sporting goods and related stores		P	<u>P</u>	P	P	P				
Book, stationery, video and art supply stores	P	P	<u>P</u>	P	P	P				
Jewelry stores		P	<u>P</u>	P	P	P				
Hobby, toy, game shops	P	P	<u>P</u>	P	P	P				
Photographic and electronic shops	P	P	<u>P</u>	P	P	P				
Fabric and craft shops	P	P	<u>P</u>	P	P	P				
Fuel dealers				P43			P43	P43		
Florist shops	P	P	<u>P</u>	P	P	P				
Pet shops	P	P	<u>P</u>	P	P	P				
Tire stores		P	<u>P</u>	P	P		P76	P		
Bulk retail		P	<u>P</u>	P			P76			
Auction houses				P42			P76			
Truck and heavy equipment dealers							P	P		
Mobile home and RV dealers				C			P	P		

Specific Land Use	NB	CB (63)	CB- WR	GC	DC	MU (63)	LI	GI	REC	P/I
Retail stores similar to those otherwise named on this list	P	P	<u>P</u>	P	P	P48	P44, 76	P44		
Automobile wrecking yards							C	P		
Manufacturing Land Uses										
Food and kindred products		P50, 52	<u>P50</u> <u>, 52</u>	P50			P50	P		
Winery/brewery		P53	<u>P53</u>	P	P53	P53	P	P		
Textile mill products							P	P		
Apparel and other textile products				C			P	P		
Wood products, except furniture				P			P	P		
Furniture and fixtures				P			P	P		
Paper and allied products							P	P		
Printing and publishing	P51	P51	<u>P51</u>	P		P51	P	P		
Chemicals and allied products							C	C		
Petroleum refining and related industries							C	C		
Rubber and misc. plastics products							P	P		
Leather and leather goods							C	C		
Stone, clay, glass and concrete products							P	P		
Primary metal industries							C	P		
Fabricated metal products				C			P	P		
Industrial and commercial machinery							C	P		
Heavy machinery and equipment							C	P		
Computer and office equipment				C			P			
Electronic and other electric equipment				C			P			
Railroad equipment							C	P		
Miscellaneous light manufacturing				P54 , 74	P54		P	P		
Motor vehicle and bicycle manufacturing							C	P		
Aircraft, ship and boat building							C	P		
Tire retreading							C	P		
Movie production/distribution				P			P			
Resource Land Uses										
Agriculture:										
Growing and harvesting crops							P	P	P	
Raising livestock and small animals							P	P	P	
Greenhouse or nursery, wholesale and retail				P			P	P	C	
Farm product processing							P	P		

Specific Land Use	NB	CB (63)	CB- WR	GC	DC	MU (63)	LI	GI	REC	P/I
Forestry:										
Growing and harvesting forest products							P			
Forest research							P			
Wood waste recycling and storage							C	C		
Fish and Wildlife Management:										
Hatchery/fish preserve (55)							P	P	C	
Aquaculture (55)							P	P	C	
Wildlife shelters	C	C	<u>C</u>						P	
Mineral:										
Processing of minerals							P	P		
Asphalt paving mixtures and block							P	P		
Regional Land Uses										
Jail		C	<u>C</u>	C			C			
Regional storm water management facility		C	<u>C</u>	C	C		C	C		P
Public agency animal control facility				C			P	P		C
Public agency training facility		C56	<u>C56</u>	C56		C56	C57			C57
Nonhydroelectric generation facility	C	C	<u>C</u>	C			C	C		C
Energy resource recovery facility							C			
Soil recycling/incineration facility							C	C		
Solid waste recycling								C		C
Transfer station							C	C		C
Wastewater treatment facility							C	C		C
Transit bus base				C			P			C
Transit park and pool lot	P	P	<u>P</u>	P	P	P	P	P		P
Transit park and ride lot	P	P	<u>P</u>	P	P	P	P	P		C
School bus base	C	C	<u>C</u>	C			P			C58
Racetrack	C59	C59	<u>C59</u>	C			P			
Fairground							P	P		C
Zoo/wildlife exhibit		C	<u>C</u>	C						C
Stadium/arena				C			C	P		C
College/university	C	P	<u>P</u>	P	P	P	P	P		C
Secure community transition facility								C6 0		
Opiate substitution treatment program facilities		P61, 62	<u>P61 , 62</u>	P61 , 62	P61, 62		P62	P62		

Section 4. Section 22C.020.070, Permitted uses – Development conditions, of MMC Chapter 22C.020, Commercial, Industrial, Recreation and Public Institutional Zones, is hereby amended to read as follows:

22C.020.070 Permitted uses – Development conditions. 

- (1) Bed and breakfast guesthouses and inns are subject to the requirements and standards contained in Chapter 22C.210 MMC, Bed and Breakfasts.
- (2) Home occupations are subject to the requirements and standards contained in Chapter 22C.190 MMC, Home Occupations.
- (3) Limited to one dwelling unit for the purposes of providing on-site service and security of a commercial or industrial business. Caretaker's quarters are subject to the provisions set forth in Chapter 22C.110 MMC, entitled "Temporary Uses."
- (4) All units must be located above a street-level commercial use.
- (5) Twenty percent of the units, but no more than two total units, may be located on the street level of a commercial use, if conditional use permit approval is obtained and the units are designed exclusively for ADA accessibility. The street-level units shall be designed so that the units are not located on the street front and primary access is towards the rear of the building.
- (6) Permitted on the ground floor in the southwest sector of downtown vision plan area, as incorporated into the city of Marysville comprehensive plan.
- (7) Mobile homes are only allowed in existing mobile home parks established prior to October 16, 2006.
- (8) Home occupations are limited to home office uses in multifamily dwellings. No signage is permitted in townhouse or multifamily dwellings.
- (9) Permitted in a legal nonconforming or conforming residential structure.
- (10) Subject to Chapter 22C.220 MMC, Master Planned Senior Communities.
- (11) The following conditions and limitations shall apply, where appropriate:
 - (a) Parks are permitted in residential and mixed use zones when reviewed as part of a subdivision or multiple-family development proposal; otherwise, a conditional use permit is required;
 - (b) Lighting for structures and fields shall be directed away from residential areas; and
 - (c) Structures or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.
- (12) Recreational vehicle parks are subject to the requirements and conditions of Chapter 22C.240 MMC.
- (13) Golf Facility.
 - (a) Structures, driving ranges and lighted areas shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.
 - (b) Restaurants are permitted as an accessory use to a golf course.
- (14) Shooting Range.
 - (a) Structures and ranges shall maintain a minimum distance of 50 feet from property lines adjoining residential zones;
 - (b) Ranges shall be designed to prevent stray or ricocheting projectiles or pellets from leaving the property; and
 - (c) Site plans shall include safety features of the range; provisions for reducing noise produced on the firing line; and elevations of the range showing target area, backdrops or butts.
- (15) Only in an enclosed building.
- (16) Dock and Boathouse, Private, Noncommercial.
 - (a) The height of any covered over-water structure shall not exceed 20 feet as measured from the line of ordinary high water;
 - (b) The total roof area of covered, over-water structures shall not exceed 1,000 square feet;
 - (c) The entirety of such structures shall have not greater than 50 percent of the width of the lot at the natural shoreline upon which it is located;
 - (d) No over-water structure shall extend beyond the average length of all pre-existing over-water structures along the same shoreline and within 300 feet of the parcel on which proposed. Where no such pre-existing structures exist within 300 feet, the pier length shall not exceed 50 feet;
 - (e) Structures permitted hereunder shall not be used as a dwelling; and

- (f) Covered structures are subject to a minimum setback of five feet from any side lot line or extension thereof. No setback from adjacent properties is required for any uncovered structure, and no setback from water is required for any structure permitted hereunder.
- (17) Boat Launch, Noncommercial or Private.
- (a) The city may regulate, among other factors, required launching depth, and length of docks and piers;
 - (b) Safety buoys shall be installed and maintained separating boating activities from other water-oriented recreation and uses where this is reasonably required for public safety, welfare and health; and
 - (c) All site improvements for boat launch facilities shall comply with all other requirements of the zone in which it is located.
- (18) Excluding racetrack operation.
- (19) Amusement and recreation services shall be a permitted use if they are located within an enclosed building, or a conditional use if located outside. In both instances they would be subject to the exclusion of a racetrack operation similar to other commercial zones.
- (20) Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.
- (21) Permitted as an accessory use; see MMC 22A.020.020, the definition of "Accessory use, commercial/industrial."
- (22) Only as an accessory to a gasoline service station; see retail and wholesale permitted use table in MMC 22C.020.060.
- (23) All processing and storage of material shall be within enclosed buildings and excluding yard waste processing.
- (24) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.
- (25) Drive-through service windows in excess of one lane are prohibited in Planning Area 1.
- (26) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.
- (27) All instruction must be within an enclosed structure.
- (28) Car washes shall be permitted as an accessory use to a gasoline service station.
- (29) Public Safety Facilities, Including Police and Fire.
- (a) All buildings and structures shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
 - (b) Any buildings from which fire-fighting equipment emerges onto a street shall maintain a distance of 35 feet from such street.
- (30) Outdoor storage of materials or vehicles must be accessory to the primary building area and located to the rear of buildings. Outdoor storage is subject to an approved landscape plan that provides for effective screening of storage, so that it is not visible from public right-of-way or neighboring properties.
- (31) Limited to self-service household moving truck or trailer rental accessory to a gasoline service station.
- (32) All WCFs and modifications to WCFs are subject to Chapter 22C.250 MMC including but not limited to the siting hierarchy, MMC 22C.250.060. WCFs may be a permitted use or a CUP may be required subject to MMC 22C.250.040.
- (33) Subject to the conditions and requirements listed in Chapter 22C.030 MMC.
- (34) Reserved.
- (35) A factory-built commercial building may be used for commercial purposes subject to the following requirements:
- (a) A factory-built commercial building must be inspected at least two times at the factory by the State Building and Electrical Inspector during the construction process, and must receive a state approval stamp certifying that it meets all requirements of the International Building and Electrical Codes. At the building site, the city building official will conduct foundation, plumbing and final inspections; and
 - (b) A factory-built commercial building cannot be attached to a metal frame allowing it to be mobile. All structures must be placed on a permanent, poured-in-place foundation. The foundation shall be structurally engineered to meet the requirements set forth in Chapter 16 of the International Building Code.
- (36) Mini-storage facilities are subject to the development standards outlined in Chapter 22C.170 MMC.

- (37) Except heavy equipment.
- (38) With outdoor storage and heavy equipment.
- (39) Incidental assembly shall be permitted; provided, it is limited to less than 20 percent of the square footage of the site excluding parking.
- (40) Light industrial uses may be permitted; provided, there is no outdoor storage of materials, products or vehicles.
- (41) Excluding drinking places such as taverns and bars and adult entertainment facilities.
- (42) Excluding vehicle and livestock auctions.
- (43) If the total storage capacity exceeds 6,000 gallons, a conditional use permit is required.
- (44) The retail sale of products manufactured on site shall be permitted; provided, that not more than 20 percent of the constructed floor area in any such development may be devoted to such retail use.
- (45) Limited to 5,000 square feet or less.
- (46) Eating and Drinking Places.
 - (a) Limited to 4,000 square feet or less.
 - (b) Drive-through service windows in excess of one lane are prohibited in Planning Area 1.
 - (c) Taverns, bars, lounges, etc., are required to obtain a conditional use permit in the mixed use zone.
- (47) Limited to hardware and garden supply stores.
- (48) Limited to convenience retail, such as video, and personal and household items.
- (49) Provided there is no outdoor storage and/or display of any materials, products or vehicles.
- (50) Except slaughterhouses.
- (51) Limited to photocopying and printing services offered to the general public.
- (52) Limited to less than 10 employees.
- (53) In conjunction with an eating and drinking establishment.
- (54) Provided there is no outdoor storage and/or display of any materials, products or vehicles.
- (55) May be further subject to the provisions of city of Marysville shoreline management program.
- (56) Except weapons armories and outdoor shooting ranges.
- (57) Except outdoor shooting ranges.
- (58) Only in conjunction with an existing or proposed school.
- (59) Except racing of motorized vehicles.
- (60) Limited to land located along east side of 47th Avenue NE alignment, in the east half of the northeast quarter of Section 33, Township 30N, Range 5E, W.M., and in the northeast quarter of the southeast quarter of Section 33, Township 30N, Range 5E, W.M., and land located east side of SR 529, north of Steamboat Slough, south and west of Ebey Slough (a.k.a. TP No. 300533-002-004-00) and in the northwest and southwest quarters of Section 33, Township 30N, Range 5E, W.M., as identified in Exhibit A, attached to Ordinance No. 2452.
- (61) Opiate substitution treatment program facilities permitted within commercial zones are subject to Chapter 22G.070 MMC, Siting Process for Essential Public Facilities.
- (62) Opiate substitution treatment program facilities, as defined in MMC 22A.020.160, are subject to the standards set forth below:
 - (a) Shall not be established within 300 feet of an existing school, public playground, public park, residential housing area, child-care facility, or actual place of regular worship established prior to the proposed treatment facility.
 - (b) Hours of operation shall be restricted to no earlier than 6:00 a.m. and no later than 7:00 p.m. daily.
 - (c) The owners and operators of the facility shall be required to take positive ongoing measures to preclude loitering in the vicinity of the facility.
- (63) Permitted uses include Whiskey Ridge zones.
- (64) Level 1 and Level 2 charging only.
- (65) The term "rapid" is used interchangeably with Level 3 and fast charging.
- (66) Rapid (Level 3) charging stations are required to comply with the design and landscaping standards outlined in MMC 22C.020.265.
- (67) Rapid (Level 3) charging stations are required to be placed within a parking garage.
- (68) Excepting "marijuana (cannabis) dispensaries," "marijuana (cannabis) collective gardens," and "marijuana cooperatives" as those terms are defined or described in this code and/or under state law; such facilities and/or uses are prohibited in all zoning districts of the city of Marysville.
- (69) No person or entity may produce, grow, manufacture, process, accept donations for, give away, or sell marijuana concentrates, marijuana-infused products, or usable marijuana within commercial,

industrial, recreation, and public institution zones in the city. Provided, activities in strict compliance with RCW 69.51A.210 and 69.51A.260 are not a violation of the Marysville Municipal Code.

(70) Permitted within existing legal nonconforming single-family residences.

(71) Subject to the requirements set forth in MMC 10.04.460.*

(72) Pet daycares are restricted to indoor facilities with limited, supervised access to an outdoor fenced yard. Overnight boarding may be permitted as a limited, incidental use. Both outdoor access and overnight boarding privileges may be revoked or modified if the facility is not able to comply with the noise standards set forth in WAC 173-60-040.*

(73) Shipping/cargo and similar storage containers may be installed on commercial or industrial properties provided they are screened from public view pursuant to MMC 22C.120.160, Screening and impact abatement.

(74) Tanks, generators, and other machinery which does not generate nuisance noise may be located in the service/loading area. Truck service/loading areas shall not face the public street and shall be screened from the public street.

(75) Hotels/motels are prohibited within Arlington Airport Inner Safety Zones (ISZ) 2, 3, and 4. Hotel/motels that are proposed to locate within Arlington Airport Protection Subdistricts B and C shall be required to coordinate with the Arlington Municipal Airport to ensure that height, glare, and other aspects of the hotels/motels are compatible with air traffic and airport operations.

(76) Use limited to properties that have property frontage along State Avenue/Smokey Point Boulevard.

Section 5. Section 22C.020.080, Densities and dimensions, of MMC Chapter 22C.020, Commercial, Industrial, Recreation and Public Institutional Zones, is hereby amended to read as follows:

22C.020.080 Densities and dimensions. 

(1) Interpretation of Tables.

(a) Subsection (2) of this section contains general density and dimension standards for the various zones and limitations specific to a particular zone(s). Additional rules and exceptions, and methodology, are set forth in MMC 22C.020.090.

(b) The density and dimension table is arranged in a matrix format and is delineated into the commercial, industrial, recreation and public institutional use categories.

(c) Development standards are listed down the left side of the table, and the zones are listed at the top. The matrix cells contain the minimum dimensional requirements of the zone. The parenthetical numbers in the matrix identify specific requirements applicable either to a specific use or zone. ~~A blank box indicates that there are no specific requirements.~~ If more than one standard appears in a cell, each standard will be subject to any applicable parenthetical footnote set forth in MMC 22C.020.090.

(2) General Densities and Dimension Standards.

Standards	NB	CB	GC	DC	MU (12)	LI	GI	BP	REC	P/I	WR- MU (15)	WR- CB (15)
Base density: Dwelling unit/acre	<u>None</u> (18)	12	12	12	28 (1)	- <u>0</u>	- <u>0</u>	- <u>0</u>	- <u>0</u>	- <u>0</u>	12	- <u>0</u>
Maximum density: Dwelling unit/acre	- <u>None</u> (18)	None (13)	None (13)	None	34 (2)	- <u>0</u>	- <u>0</u>	- <u>0</u>	- <u>0</u>	- <u>0</u>	18 (13)	- <u>0</u>
Minimum street setback (3)	20 feet	None (7)	None (7)	None (7)	None (7, 8)	None (7)	None (7)	None (7)	20 feet	None (7, 8)	None (7, 8, 14)	None (7, 14)
Minimum interior setback	10 feet (side)	None (4)	None (4)	None (4)	<u>None</u> 5-feet (9)	None (4)	None (4)	- <u>None</u> (4)	None (4)	None (4)	5 feet (9, 16, 17)	None (4)

Standards	NB	CB	GC	DC	MU (12)	LI	GI	BP	REC	P/I	WR- MU (15)	WR- CB (15)
	20 feet (rear)					50 feet (5)	50 feet (5)					
Base height (6)	25 feet	55 feet	35 feet, 85 feet (19)	85 feet	45 feet, 65 feet (10)	65 feet	65 feet	45 feet	35 feet	45 feet	45 feet	55 feet
Maximum impervious surface: Percentage	75%	85%	85%	85%	85%, 75% (11)	85%	85%	75%	35%	75%	85%, 75% (11)	85%

Section 6. Section 22C.020.090, Densities and dimensions – Development conditions, of MMC Chapter 22C.020, Commercial, Industrial, Recreation and Public Institutional Zones, is hereby amended to read as follows:

22C.020.090 Densities and dimensions – Development conditions.



- (1) These densities are allowed only through the application of mixed use development standards.
- (2) These densities may only be achieved in the downtown portion of Planning Area 1 through the application of residential density incentives. See Chapter 22C.090 MMC.
- (3) Gas station pump islands shall be placed no closer than 25 feet to street front lines. Pump island canopies shall be placed no closer than 15 feet to street front lines.
- (4) A 25-foot setback is required on property lines adjoining residentially designated property.
- (5) A 50-foot setback only required on property lines adjoining residentially designated property for industrial uses established by conditional use permits, otherwise no specific interior setback requirement.
- (6) Height limits may be increased when portions of the structure or building which exceed the base height limit provide one additional foot of street and interior setback beyond the required setback for each foot above the base height limit.
- (7) Subject to sight distance review at driveways and street intersections.
- (8) A 20-foot setback is required for multiple-family structures outside of the downtown portion of Planning Area 1.
- (9) A 15-foot setback is required for (a) commercial or multiple-family structures on property lines adjoining single-family residentially designated property, and (b) a rear yard of a multi-story residential structure, otherwise no specific interior setback requirement. Interior setbacks may be reduced where features such as critical area(s) and buffer(s), public/private right-of-way or access easements, or other conditions provide a comparable setback or separation from adjoining uses.
- (10) The 65-foot base height applies only to the downtown portion of Planning Area 1. The 45-foot base height applies to the southeast sector of the downtown vision plan area, as incorporated into the city of Marysville comprehensive plan.
- (11) The 85 percent impervious surface percentage applies to commercial developments, and the 75 percent rate applies to multiple-family developments.
- (12) Reduced building setbacks and height requirements may be approved on a case-by-case basis to provide flexibility for innovative development plans; provided, that variance requests which are greater than 10 percent of the required setback shall be considered by the hearing examiner.
- (13) Subject to the application of the residential density incentive requirements of Chapter 22C.090 MMC.
- (14) Required landscaping setbacks for developments on the north side of Soper Hill Road are 25 feet from the edge of sidewalk.
- (15) Projects with split zoning (two or more distinct land use zones) may propose a site plan to density average or adjust the zone boundaries using topography, access, critical areas, or other site characteristics in order to provide a more effective transition.

- (16) Townhome setbacks are reduced to zero on an interior side yard setback where the units have a common wall for zero lot line developments.
- (17) Townhome setbacks are reduced to five feet on side yard setbacks, provided the buildings meet a 10-foot separation between structures.
- (18) There is no minimum or maximum density for this zone. Residential units are permitted if located above a ground-level commercial use.
- (19) The 85-foot base height applies only within the boundaries of the Downtown Master Plan area, bounded by 8th Street to the north, Ebey Slough to the south, Alder Avenue to the east, and Interstate 5 to the west.

Section 7. Section 22A.010.160, Amendments, of the Marysville Municipal Code is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City’s Unified Development Code:

“22A.010.160 Amendments.

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

<u>Ordinance</u>	<u>Title (description)</u>	<u>Effective Date</u>
_____	Commercial Permitted Uses & Dimensional Amendments	_____, 2020”

Section 8. 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 9. Upon approval by the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including scrivener’s errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

Section 10. 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 _____, 2020.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
TINA BROCK, DEPUTY CITY CLERK

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)