# CITY OF MARYSVILLE AGENDA BILL

## EXECUTIVE SUMMARY FOR ACTION

## CITY COUNCIL MEETING DATE: February 7, 2022

| **AGENDA ITEM:** | |
|---|---|
| Modifications to the Administration of the Unified Development Code (UDC) (PA21031) | |
| **PREPARED BY:** | **DIRECTOR APPROVAL:** |
| Haylie Miller, Community Development Director | Haylie Miller |
| **DEPARTMENT:** | |
| Community Development | |
| **ATTACHMENTS:** | |
| 1. Staff Memorandum<br>2. PC Recommendation<br>3. PC Minutes (02.23.21, 06.08.21, and 07.13.21)<br>4. Adopting Ordinance | |
| **BUDGET CODE:** | **AMOUNT:** |
| N/A | N/A |

**SUMMARY:** Staff has collectively noticed that on occasion MMC Title 22 *Unified Development Code* (UDC) lacks clarity and flexibility to permit certain property uses that are not listed in the use tables that seem appropriate given other permitted uses allowed in the zone; and the UDC does not allow modifications to development standards when an alternative standard may meet the intent of the code, or provide other public benefits.

Staff is proposing amendments to the UDC that will assist in administering the code with more flexibility, and where applicable, provide more opportunity for public involvement. The list of changes below represent amendments to existing text within the UDC including adoption of new administrative provisions:

1. Amending MMC 22A.010.070 Interpretation – Land Use
2. Adding a new section 22A.010.075 Promulgation of Rules, Procedures and Interpretation
3. Adding a new section 22C.010.055 Modification of Use Regulations in Residential Zones
4. Adding a new section 22C.020.055 Modification of Use Regulations in Non-Residential Zones
5. Adding a new section 22C.010.075 Adaptive Reuse of Nonresidential Buildings in Residential Zones
6. Adding a new section 22C.020.075 Adaptive Re-Use of Buildings in Non-residential zones

The Planning Commission held a duly noticed public hearing on July 13, 2021 and recommended the City Council approval the Modifications to the Administration of the UDC.

**RECOMMENDED ACTION** Affirm the Planning Commission Recommendation adopting the amendments and additions to the Unified Development Code.

**RECOMMENDED MOTIONs:**

Move to adopt Ordinance No. ____, approving the amendments and additions to MMC Title 22 *Unified Development Code*.

MARYSVILLE
COMMUNITY
DEVELOPMENT

# MEMORANDUM

**TO**: City Council

**FROM**: Haylie Miller, Community Development Director

**DATE**: February 7, 2022

**SUBJECT**: Modifications to the Administration of MMC Title 22 *Unified Development Code*

**CC**: Gloria Hirashima, CAO
Chris Holland, Planning Manager

## BACKGROUND

*Process Background*

The City Council was provided with an introduction to this topic on October 25, 2021. The City Council requested this item be placed on hold until the Planning Retreat with Council could be held to discuss review processes and decision making authority in more detail.

The Planning Commission held a duly noticed public hearing on July 13, 2021 and recommended the City Council approve the Modifications to the Administration of MMC Title 22 *Unified Development Code* (UDC).

*Code Change Background:*

Staff has collectively noticed that on occasion the UDC lacks either the clarity or flexibility to:

- Permit certain property uses that were not listed in the use tables that seemed appropriate given other permitted uses; and
- Consider allowing some modification to development standards when an alternative standard may meet the intent of the code, or provide other public benefits.

## Proposed Amendments:

Staff is proposing amendments to the UDC that will assist in administering the code with more flexibility, and where applicable, provide more opportunity for public involvement. The list of changes below represent amendments to existing text within the code including new code:

1. Amending MMC 22A.010.070 Interpretation – Land Use

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2. Adding a new section 22A.010.075 Promulgation of Rules, Procedures and Interpretations
3. Adding a new section 22C.010.055 Modification of Use Regulations in Residential Zones

4. Adding a new section 22C.020.055 Modification of Use Regulations in Non-Residential Zones
5. Adding a new section 22C.010.075 Adaptive Reuse of Nonresidential Buildings in Residential Zones
6. Adding a new section 22C.020.075 Adaptive Re-Use of Buildings in Non-residential zones

**Revised Draft Code Text**

This section includes the proposed amendments, followed by the reasoning for the amendment.

*1. Amending MMC 22A.010.070[1] Interpretation – Land Use*

This section of the UDC already directs the Community Development Director to determine whether a proposed land use is allowed in a zone. However, it uses the Standard Industrial Classification (SIC) Manual prepared by the US Office of Management and Budget, as well as a specific book of illustrated development definitions to guide the director in making decisions. The proposed amendment would delete reference to these two sources. The SIC was not established to be a guide for determining how to regulate local land uses, though it is commonly used in local zoning codes. More recent codes, when using a classification system, commonly use the NAICS (North American Industry Classification System). Although both systems group related types of commercial or industrial activities into similar categories, they do not take into account land use characteristics and impacts as their primary focus. The following explains briefly the purpose of the NAICS.

> The North American Industry Classification System (NAICS, pronounced Nakes) was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the U.S.
>
> NAICS was developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997 to replace the old Standard Industrial Classification (SIC) system.
>
> For more information, see the following link: https://www.naics.com/

The illustrated book of development definitions is not readily available to the public, and is not closely aligned with the land use terms used in the Marysville UDC.

[1] This existing section was renumbered to MMC 22A.010.75.

The proposed amendment gives staff the discretion to consider an unlisted use to be permitted if it is similar in nature to a use that is listed as a permitted use in a specific zone classification. This approach is common in local zoning codes. This approach allows more flexibility in the administration of the UDC. For example, the current UDC lists many different types of retail uses in the Use Tables of 22C.020.060 (department stores, food stores, drug stores, florist shops, book stores, video stores, etc.), but not every conceivable type of indoor retail use. If a proposed retail business is not listed in the Use Table or in the SIC, it is not clear in the current section 22A.010.075 that it would be permitted, even if similar to a listed type of retail store.

2. *Adding a new section 22A.010.095 Promulgation of Rules, Procedures and Interpretations*

To further allow for staff to effectively administer the UDC, it is necessary at times for the director to generate interpretations for how the code is to be used. For example, if a court case dictates that a city is bound by federal or state law (such as the Federal Fair Housing Act or Americans with Disabilities Act) to allow a specific type of use, or occupancy of a building, even if inconsistent with the local land use code, it may be necessary to provide an administrative determination for how the court case is to be applied under the local land use code. This type of interpretation is often an interim measure that will provide guidance for staff and the public until the local code can be amended.

3. *Adding a new section 22C.010.050 Modification of Use Regulations in Residential Zones*

MMC 22C.010.070 contains the development conditions for the numbered notations that appear in the residential zone Use Table. Such conditions state additional regulations that may apply to a use listed in a specific zone, or refers the reader to another section of the UDC for more detailed regulations applicable to the use. The proposed addition to the code would allow for an applicant to request a modification of a regulation contained in the Development Conditions, which would be considered by the director following notice to contiguous property owners. This process would be limited in its application to proposals where the applicant can meet the intent of the standard being modified by some other means. For example, in the case of the following development condition in the residential zone Use Table:

(13) Golf Facility.
(a) Structures, driving ranges and lighted areas shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.

A modification to a setback for a golf driving range could be considered, and approved if it met the criteria in the proposed code amendment. This would differ from the more rigorous hardship criteria for a variance. If a proposed modification under this new section would not meet the criteria, the variance process may still be used by the applicant. The key to approval under the proposed code amendment would be the applicant proving that the alternative proposed is

"equivalent or superior" to meeting the standard stated in the code (see draft code amendment excerpt below).

> *The director shall not approve a request for modification unless the proposal provides design elements or other appropriate mitigation equivalent or superior to what would likely result from compliance with the use regulations which are proposed to be modified.*

4. *Adding a new section 22C.020.055 Modification of Use Regulations in Non-Residential Zones*

Similar to the previous proposed amendment for residential zones, the same process would be allowed for modification of Use Regulations in non-residential zones. The same language about the proposed alternative providing "equivalent or superior" treatment or mitigation is included in this proposed addition.

5. *Adding a new section 22C.010.060 Adaptive Reuse of Nonresidential Buildings in Residential Zones*

This is similar to the previous proposed amendment, only it pertains to buildings in residential zones. For example, a church building that is vacated by the previous congregation, but unable to secure another congregation, would become vacant without some flexibility to be repurposed for another type of use not otherwise permitted in the residential zone. This proposed amendment identifies a number of potential uses, some of which are listed in the UDC as conditional uses in certain residential zones. For those uses that the UDC already lists as conditional uses, there would be no change in the review process. For the other uses listed in the proposed amendments, a change of use would require notice to contiguous property owners. The review criteria focus on compatibility with surrounding land uses.

6. *Adding a new section 22C.020.065 Adaptive Re-Use of Buildings in Non-residential zones*

A challenge that staff and building owners encounter from time to time relates to buildings, usually older buildings in commercial areas, that were constructed for one purpose but due to changes to codes or economic conditions, the building is not well suited for uses that are permitted by the current zoning. While nonconforming use regulations may provide some relief for uses that have not been discontinued but are no longer permitted in a zone, there are occasions when buildings that do not lend themselves to uses permitted by the current zoning remain empty or underutilized (often with dead storage). This proposed amendment would allow such a building in a non-residential zone to be considered for another use, with notice provided to contiguous property owners. The evaluation criteria focus on compatibility with, and minimizing or mitigating impacts on, surrounding uses.

**EXHIBIT 1**

**Proposed Amendments to the Unified Development Code**

**Item 1: 22A.010.070 Interpretation – Land use.**

(1) If a use is not specifically or generally listed in the Permitted Uses table in MMC 22C.010.060 or MMC 22C.020.060, ~~T~~the community development director shall determine whether a proposed land use is allowed in a zone. ~~The Standard Industrial Classification Manual (SIC), current edition, prepared by the United States Office of Management and Budget, and the New Illustrated Book of Development Definitions, prepared by Moskowitz and Lindbloom, will be used as reference guides in the classification and/or interpretation of a proposed use.~~
~~(2)~~ The community development director's determination shall be based on whether or not permitting the proposed use in a particular zone is consistent with the purposes of this title and the zone's purpose as set forth in Chapter 22A.030 MMC, by considering the following factors:

(a) The physical characteristics of the use and its supporting structures~~,~~ (including but not limited to scale, traffic and other impacts, and hours of operation), are of the same basic nature as a use or uses specifically or generally listed in the applicable zoning district;

(b) ~~Whether or not~~ The use complements or is compatible with other uses permitted in the zone~~; and.~~

~~(c) The SIC classification, if any, assigned to the business or other entity that will carry on the primary activities of the proposed use.~~

(~~3~~ 2) 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.

**Item 2: New Section**

**22A.010.095 Promulgation of Rules, Procedures and Interpretations.**

The community development director is authorized to promulgate administrative rules, procedures and interpretations consistent with the terms of this title. Appeals of any such rule, procedure, interpretation or other administrative determination made by the director shall be made to the hearing examiner in accordance with the appeal procedures as set forth in Chapter 22G.010 MMC, Article VIII, Appeals.

**Item 3: New Section**

**22C.010.055 <u>Modification of Use Regulations in Residential Zones</u>.**

A. **Use Regulations that May be Modified**. An applicant may propose, and the director may approve, deny or conditionally approve a modification of the special regulations and notes in MMC Section 22C.010.070.

B. **Review Process**

1. An applicant shall submit a request for modification, providing such information as is required by the director, including application fees.
2. Notice of the proposed modification shall be provided to contiguous property owners.

**C. Evaluation Criteria**. Any proposal to modify use regulations shall not undermine the intent of the standards. The director shall not approve a request for modification unless the proposal provides design elements or other appropriate mitigation equivalent or superior to what would likely result from compliance with the use regulations which are proposed to be modified. The director shall consider the following criteria in making a decision.

1. The request for modification meets the intent of the standards being modified.
2. The request for modification does not create any impacts or nuisances that cannot be mitigated, such as access points which are unsafe, noise, dust, odor, glare, visual blight or other undesirable environmental impacts.
3. The request for modification meets any additional modification criteria for specific uses in MMC Title 22.C.

**Item 4: New Section**

**22C.020.055 <u>Modification of Use Regulations in Non-Residential Zones</u>.**

A. **Use Regulations that May be Modified**. An applicant may propose, and the director may approve, deny or conditionally approve a modification of the special regulations and notes in MMC Section 22C.020.070.

B. **Review Process**

1. An applicant shall submit a request for modification, providing such information as is required by the director, including application fees.
2. Notice of the proposed modification shall be provided to contiguous property owners.

**C. Evaluation Criteria**. Any proposal to modify use regulations shall not undermine the intent of the standards. The director shall not approve a request for modification unless the proposal provides design elements or other appropriate mitigation equivalent or superior to what would likely result from compliance with

the use regulations which are proposed to be modified. The director shall consider the following criteria in making a decision.

1. The request for modification meets the intent of the standards being modified.
2. The request for modification does not create any impacts or nuisances that cannot be mitigated, such as access points which are unsafe, noise, dust, odor, glare, visual blight or other undesirable environmental impacts.
3. The request for modification meets any additional modification criteria for specific uses in MMC Title 22.C.

**Item 5: New Section**

**22C.010.075 <u>Adaptive Reuse of Nonresidential Buildings in Residential Zones.</u>**

**A. Purpose**. The purpose of this subsection is to allow for adaptive reuse of nonresidential buildings in residential zones that are functionally obsolete in order to improve the economic feasibility of a property by considering uses that are not otherwise permitted, but which, if properly designed and managed, would not create unacceptable impacts on surrounding properties or the immediate vicinity in general. This process differs from the unlisted use process listed in MMC 22A.010.070 in that uses that are not specifically authorized in the residential zone may be considered using the process described herein.

**B. Procedures.** Any request for adaptive reuse of nonresidential buildings shall be reviewed as a conditional use.

**C. Circumstances**. The city may allow a use in a residential zone that is not specifically allowed in that zone if it is necessary to encourage adaptive reuse of a building under the following circumstances:

1. It is unlikely that the primary building on the subject property could be preserved if only uses permitted in the underlying zone were allowed.
2. Allowing a different use would enhance the character of the building and immediate vicinity.
3. The use would not have a detrimental effect upon surrounding properties or the immediate vicinity. Uses

**D. Uses that May be Allowed**. The following uses may be considered for adaptive reuse of an existing building in a residential zone, provided that where a use listed below is allowed as either a permitted or conditional use in MMC Section 22C.010.060, it shall be reviewed in accordance with said section:

1. Dwelling units. Density based on underlying zoning plus one additional dwelling unit;
2. Assisted living facilities;

3. Libraries;
4. Museums and art galleries;
5. Social service facilities;
6. Public services;
7. Artist studios;
8. Music venues;
9. Cafes and bistros;
10. Live-work units;
11. Bed and breakfast inn;
12. Other uses not listed above if determined through the review process to be compatible with surrounding properties and the immediate vicinity.

**E. Review Criteria**. The following criteria shall be used as the basis for determining compatibility with surrounding uses and approving, denying, or conditionally approving a request to allow the adaptive reuse of a non-residential building in a residential zone:

1. The adaptive reuse would promote or aid in the preservation or rehabilitation of the primary building.
2. No significant impacts to public safety.
3. Compliance with noise, building and fire codes.
4. Hours of the day of proposed use or activity are compatible with surrounding uses.
5. Proposed management and operational procedures to minimize and mitigate potential impacts.
6. Other factors not specified herein that would create a conflict with the surrounding uses, or uses that are permitted in the zone.
7. Expansions to the primary building shall not exceed ten percent of the existing footprint or five hundred square feet, whichever is greater, and will not detrimentally affect the outside character of the building. Expansions shall comply with the bulk and dimensional standards of the underlying zone.

**F. Actions Authorized**.

**1**. Approval. The City may approve a proposal that is found to be compatible with surrounding land uses.

**2**. Denial. Any proposal that would be incompatible with or adversely affect properties in the immediate vicinity shall be denied.

3. Revocation. The city shall retain the right to revoke an approval issued under this section that fails to comply with any conditions of said approval, or which operates in a manner inconsistent with representations made in the application.

**Item 6: New Section**

**22C.020.075 Adaptive Re-Use of Buildings in Non-residential zones**.

**A. Purpose**. The purpose of this section is to allow existing buildings located in non-residential zones to be considered for uses that are not otherwise permitted, but which, if properly designed and managed, would not create negative impacts on surrounding properties or the area in general. Existing buildings that, due to their location or configuration are not readily usable for permitted uses, as determined by the director, may be considered using the process described herein. This process differs from the unlisted use process listed in Section 22A.010.070 in that uses that are not specifically authorized in the zone may be considered using the process described herein.

**B. Review Process**

1. An applicant shall submit a request for modification, providing such information as is required by the director, including application fees.
2. Notice of the proposed modification shall be provided to contiguous property owners.

**C**. **Review Criteria**. The following criteria shall be used as the basis for approving, denying, or conditionally approving a request to allow the use of existing building space for a use not otherwise permitted in the zone.

1. Traffic generated by the proposed use.
3. Impacts from odor, noise, vibration, dust or other nuisances.
4. Aesthetic character and quality of the proposed use.
5. Public safety impacts.
6. Compliance with building and fire codes.
7. Hours of the day of proposed use or activity.
8. Proposed management and operational procedures to minimize and mitigate potential impacts.
9. Other factors not specified herein that would create a conflict with the uses that are permitted in the zone.

**D**. **Actions Authorized**.

**1**. Approval. The City may approve a proposal that is found to be compatible with surrounding land uses.
2. Denial. Any proposal that would adversely affect properties in the immediate vicinity or give the outward appearance of a use or activity that is incompatible with the intent and purpose of the zone in which it is located shall be denied.

3. Revocation. The city shall retain the right to revoke an approval issued under this section for a use that fails to comply with any conditions of said approval,

or which operates in a manner inconsistent with representations made in the application.

**PC Recommendation – Modifications to the Administration of the Unified Development Code (UDC)**

The Planning Commission (PC) of the City of Marysville, held a public hearing on July 13, 2021 in review of NON-PROJECT action amendments of the Marysville Municipal Code (MMC), proposing amendments to Section 22A.010.070 – *Interpretation – Land Use* and adding new sections, 22A.010.075 – *Promulgation of Rules, Procedures and Interpretations*, 22C.010.055 - *Modification of Use Regulations in Residential Zones*, 22C.020.055 - *Modification of Use Regulations in Non-Residential Zones,* 22C.010.075 - *Adaptive Reuse of Nonresidential Buildings in Residential Zones* and 22C.020.075 - *Adaptive Re-Use of Buildings in Non-residential zones.*

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 proposing Modifications to the Administration of the Unified Development Code (UDC) to the community on February 23, 2021.

2. The proposal was submitted to the State of Washington Department of Commerce for 14-day expedited review on March 19, 2021, in accordance with RCW 36.70A.106.

3. The PC held a public work session to review the NON-PROJECT action amendments proposing Modifications to the Administration of the Unified Development Code (UDC) to the community on June 8, 2021

4. The PC held a duly-advertised public hearing on July 13, 2021 and received testimony from city staff and the public.

5. At the public hearing, the PC reviewed and considered the Modifications to the Administration of the Unified Development Code (UDC).

**CONCLUSION:**

At the public hearing, held on July 13, 2021, the PC recommended **APPROVING** the Modifications to the Administration of the Unified Development Code (UDC).

**RECOMMENDATION:**

Forwarded to City Council as a Recommendation of **APPROVAL** of the NON-PROJECT action known as Section 22A.010.070 – *Interpretation – Land Use,* and adding new sections *22A.010.075 – Promulgation of Rules, Procedures and Interpretations*, 22C.010.055 - *Modification of Use Regulations in Residential Zones*, 22C.020.055 - *Modification of Use Regulations in Non-Residential Zones,* 22C.010.075 - *Adaptive Reuse of Nonresidential Buildings in Residential Zones* and 22C.020.075 - *Adaptive Re-Use of Buildings in Non-residential zones.*, this ***July 13, 2021.***

See attached document for signature.

By: _____
Stephen Leifer, Planning Commission Chair

MARYSVILLE
COMMUNITY DEVELOPMENT

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Community Development
80 Columbia Avenue
Marysville, WA 98270

MARYSVILLE
COMMUNITY
DEVELOPMENT

2021 in review of NON-PROJECT action amendments of the Marysville Municipal Code (MMC), proposing amendments to Section 22A.010.070 – *Interpretation – Land Use* and adding new sections, 22A.010.075 – *Promulgation of Rules, Procedures and Interpretations*, 22C.010.055 - *Modification of Use Regulations in Residential Zones*, 22C.020.055 - *Modification of Use Regulations in Non-Residential Zones,* 22C.010.075 - *Adaptive Reuse of Nonresidential Buildings in Residential Zones* and 22C.020.075 - *Adaptive Re-Use of Buildings in Non-residential zones.*

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 proposing Modifications to the Administration of the Unified Development Code (UDC) to the community on February 23, 2021.

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4. The PC held a duly-advertised public hearing on July 13, 2021 and received testimony from city staff and the public.

5. At the public hearing, the PC reviewed and considered the Modifications to the Administration of the Unified Development Code (UDC).

**CONCLUSION:**

At the public hearing, held on July 13, 2021, the PC recommended **APPROVING** the Modifications to the Administration of the Unified Development Code (UDC).

**RECOMMENDATION:**

Forwarded to City Council as a Recommendation of **APPROVAL** of the NON-PROJECT action known as Section 22A.010.070 – *Interpretation – Land Use,* and adding new sections *22A.010.075 – Promulgation of Rules, Procedures and Interpretations*, 22C.010.055 - *Modification of Use Regulations in Residential Zones*, 22C.020.055 - *Modification of Use Regulations in Non-Residential Zones,* 22C.010.075 - *Adaptive Reuse of Nonresidential Buildings in Residential Zones* and 22C.020.075 - *Adaptive Re-Use of Buildings in Non-residential zones.*, this ***July 13, 2021.***

By: _____
Stephen Leifer, Planning Commission Chair

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Community
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80 Columbia Avenue
Marysville, WA 98270

**Planning Commission**

**1049 State Avenue**
**Marysville, WA 98270**

**Meeting Minutes**
**February 23, 2021**

**CALL TO ORDER / ROLL CALL**

Chair Leifer called the February 23, 2021 Planning Commission meeting to order via Zoom at 5:00 p.m. Planning Manager Chris Holland called the roll.

**Present:**

| | |
|---|---|
| Commissioner: | Chair Steve Leifer, Vice Chair Jerry Andes, Commissioner Kevin Johnson, Commissioner Kristen Michal, Commissioner Roger Hoen, Commissioner Brandon Whitaker |
| Excused: | Commissioner Tom Thetford |
| Staff: | Planning Manager Chris Holland, Interim Community Development Director Allan Giffen, Project Specialist Janis Lamoureux |

**APPROVAL OF MINUTES**

**February 9, 2021 Planning Commission Minutes**

Commissioner Hoen referred to the second to last paragraph on page 3 and stated he had raised a concern about the zoning maps for special types of housing (like sex offenders, Adult Family Homes, assisted living, etc.) not being in alignment with the proposed zoning map for ESFs. A reference to this discussion should be included to provide clarity to his comments.

Commissioner Hoen referred to the second bullet on page 4. He asked to clarify that Adult Family Homes in single-family zones are already allowed by state law to convert to ESFs even though it is extremely unlikely that a facility of six or less would want to convert. He had commented that he didn't want to potentially be in conflict with state law.

Commissioner Michal referred to page 4, bullet point 3 and clarified that she had referenced the zoning that was identified in Alternative 3, but did not necessarily speak in support of Alternative 3.

Planning Manager Holland indicated staff would make changes as indicated and bring the minutes back to the next meeting.

**AUDIENCE PARTICIPATION**

Chair Leifer solicited audience participation on items not on the agenda. There was none.

**PUBLIC HEARING**

**Mini-storage uses in Community Business (CB) and General Commercial (GC) Zones**

Interim Community Development Director Giffen gave background information regarding this item as contained in the Memorandum to the Planning Commission in the packet. The revised draft code text provides for an alternative to buildings having a minimum height of three stories and also lists two options concerning outdoor storage. Option 1 prohibits any outdoor storage while Option 2 allows a limited amount of outdoor storage subject to screening. The revised draft code text also includes some minor amendments to the current regulations related to screening and removal of a redundant noise standard based on discussion at the last meeting. He reviewed a map showing areas that would be impacted by the proposed code and further discussed the proposed code amendments.

Commissioner Michal referred to the solid screening and asked how high a solid fence could be. Planning Manager Holland replied that GC and CB zones allow for an 8-foot high fence.

Vice Chair Andes commented that an 8-foot fence would not screen an RV the size of a bus. Director Giffen, agreed and stated the developer would have to design the project so that outdoor storage of larger vehicles would not be visible by the arrangement of buildings or the location of the storage area.

Commissioner Michal commented that the language in Option 2 is pretty broad and could likely allow construction and other types of large equipment. She wondered how this would work with respect to section (77)2 which states that vehicular access is limited on the site. She appreciates the need for some flexibility to make the project more viable but expressed concern about larger vehicles coming and going. Director Giffen explained that it is intended to be longer term storage where vehicles being stored would not be coming and going often. Planning Manager Holland suggested adding “as determined by the City Engineer” to section (77)2 to alleviate concerns.

Public Comments:

The public hearing was opened at 5:28 p.m.

Aaron Metcalf, Belmark,12409 State Avenue, Marysville, WA 98271, thanked staff for presenting this to the Planning Commission. He agrees with the staff recommendation and concurs with focusing on the beautification and making sure the facility fits in that particular area. He requested as much flexibility as possible to match the market while still making it look nice. He noted that the approval would not allow the developer to go forward without a building permit and a site plan approval. They will still have to have approval by all the relevant city departments.

Vice Chair Andes asked Mr. Metcalf if he thought a Ram crew cab with a 35-foot long fifth wheel could they go in and out of that intersection safely. Mr. Metcalf believed that they could. There have been examples of large vehicles such as vactor trucks and other manufacturing vehicles going to that site. He commented that the development process with the City would weed out uses that would not be appropriate for the site. He emphasized that any large vehicles would be stored there and would not be coming and going every day.

**Motion** to close the public hearing at 5:36 p.m. moved by Vice Chair Andes seconded by Commissioner Whitaker.
**AYES: ALL**

General Discussion:

Chair Leifer stated that he had been advised that he did not need to recuse himself from this topic so was able add some comments. He spoke to the general planning principle of using land for its highest and best use. He sees mini-storage and vehicle-storage as a dilution of that concept and stressed that this use would be departing philosophically from what they should be doing. In order to keep the values up as much as possible, he suggested, as an example, they could have a formula where if a three-story building was added then vehicle storage could be allowed on the property. If only one-story buildings were constructed, then vehicle storage would not be allowed.

Commissioner Whitaker expressed appreciation for the comments and ideas raised by Chair Leifer, but noted that the number of properties they are talking about is very low, so it is not necessarily a huge departure from the overall goals of the City.

Vice Chair Andes noted there are only seven properties in total that would be impacted that really can't be built on aside from mini storage. On a different note he raised a concern that there was some interest in this property three years ago, and those developers weren't given the option that Mr. Belmark has been given.

**Commented [CH1]:** 7 properties that could be impacted by code change but could not be built as mini-storage due to acreage.

Mr. Metcalf not Mr. Belmark

Commissioner Hoen agreed with the planning principle of highest value, but compared this project with the big old red barn sitting there for years. To him this use is a big improvement.

Commissioner Johnson pointed out that there is also an option of doing nothing. Planning Manager Holland agreed that was an option. Commissioner Johnson commented that if they were going to allow this use he would be in support of allowing outdoor storage with appropriate screening. He asked where the 3-story standard came from. Interim Director Giffen explained the intent was to maintain higher value developments. Commissioner Johnson stated that he wasn't a fan of this kind of development in this area, but between the two options he was more favorable to Option 2 which would allow outdoor storage with screening.

Option 1 v. Option 2 Preferences:

- Commissioner Whitaker expressed support for Option 2.
- Commissioner Hoen expressed support for Option 2 with good screening.
- Commissioner Michael commented that improving this property is better than what exists now. She expressed concern about the broad language in Option 2, but if things really can't be visible from the street she would be in favor of option 2.
- Vice Chair Andes spoke in support of Option 1 noting that this is an unusually strange site and doesn't seem to be the appropriate place for boats and RVs.
- Commissioner Johnson spoke in support of Option 2 if outdoor storage is not visible.

Chair Leifer asked staff how they could be assured that the outdoor storage would not be visible. Interim Director Giffen replied that the language in Option 2 already addresses that. It would be accomplished through the design of the building and location of the storage area so it was not visible form the exterior of the site. It would be reviewed on a site-by-site basis.

**Motion** to recommend approval of the mini storage amendments subject to Option 2 related to outdoor storage moved by Commissioner Whitaker, seconded by Commissioner Hoen.
**Ayes – Michal, Whitaker, Hoen, Andes**
**Nay – Johnson**
**Abstain - Leifer**
**Motion passed.**

**Chapter 70.97 RCW – Enhanced Services Facilities (ESF) (6:01 p.m.)**

Attendees related to this topic: Mike Anbesse, Residential Care Services; Sondra Silverman, Policy Division; Bea Rector, Home and Community Services; Amy Abbott, Home and Community Services; Sondra Silverman, DSHS Policy Division; Justin

DeFour, DSHS, Home and Community Services Division; Gibriel Mbowe; Ismail Mohammad

Interim Director Giffen reviewed three alternatives that had originally been considered related to Enhanced Service Facilities (ESFs). He also discussed the Planning Commission's direction to staff on February 9 to prepare revised regulations based on Alternative 2 and to make a distinction between ESFs for six (6) or fewer residents, and ESFs with more than six (6) up to sixteen (16) residents.

Option 1:

The proposed regulations would make a distinction between smaller and larger ESFs with definitions for "Enhanced Services Facilities 1" and "Enhanced Services Facilities 2". It would also allow "Enhanced Services Facilities 1" (six or fewer residents) in all zones allowing single family dwellings as a permitted use, subject to compliance with State licensing requirements. He noted that DSHS staff had stated there are currently none of the smaller ESFs and that it is highly unlikely there would ever be any ESFs with six or fewer residents due to the financial non-viability.

Under the proposed regulations "Enhanced Services Facilities 2" would be permitted as a permitted use in two multi-family zones (R-18 and R-28) and five commercial zones (CB, CB-WR, GC, DC and MU), subject to new regulations to be codified as MMC 22C.280 Regulations for Enhanced Services Facility 2. The proposed new regulations in MMC 22C.280 would also require notice to surrounding property owners prior to filing a land use application with the City; filing of a facility management plan to provide for public safety and communication with neighbors; and, in the R-18 and R-28 zones, would require proximity to transit routes or zones that allow for commercial or social services.

Pointing to DSHS's emphasis on the extremely low likelihood that smaller facilities (six or fewer residents) would be created, staff also proposed an alternative to the above option.

Option 2:

- Amend the MMC definition of ESFs to be identical to the State definition in RCW 70.97.010, as follows:
  - "Enhanced services facility" means a facility that provides support and services to persons for whom acute inpatient treatment is not medically necessary.

- Not allow ESFs, regardless of size, in single family zones, but allow ESFs as a conditional use in the R-18 and R-28 residential zones, and a permitted use in the CB, CB-WR, GC, DC and MU commercial zones. Under State law, the maximum size for an ESF is 16 residents.

Public Comments:

The public hearing was opened at 6:13 p.m.

Bea Rector, DSHS, thanked the City for the work they have done. She encouraged them not to remove the option for smaller facilities (six or fewer residents) even though it is not likely. She noted that things may change in the future, and in some situations a smaller setting may be a better option.

Commissioner Hoen expressed concern about the city duplicating or interfering with state regulations regarding things like staffing levels and management plans. Interim Director Giffen indicated that it was not the intent of staff to be redundant or get involved with matters where they are not experts. The intent of the language of the draft code would be to require the applicant to think about how they would provide for community safety and establish a communication plan so neighbors can contact the facility if there are any concerns.

Commissioner Hoen expressed concern about not allowing these smaller facilities in single-family zones if the state allows it. Interim Director Giffen noted that this is a new set of regulations, and the Mayor had recommended the approach they take should be more conservative at first. The code could amended at a future time if desired.

**Motion** to close the public hearing at 6:22 p.m. moved by Vice Chair Andes, seconded by Commissioner Michael.
**Motion passed unanimously.**

Discussion:

Commissioner Whitaker noted that the February 20 memo answered a lot of his questions. He spoke in support of Option 2 with the knowledge that if the smaller facilities become viable in the future they can reconsider. There was general support by the rest of the Commission for Option 2.

**Motion** to approve and recommend Option 2 related to Enhanced Service Facilities which would not allow ESFs of any size in single family zones and which incorporates the input from the Mayor's office to make ESFs a conditional use in the R-18 and R-28 zones made by Commissioner Whitaker, seconded by Vice Chair Andes.
**Motion passed unanimously.**

**NEW BUSINESS**

**MMC Title 22 Unified Development Code – Administration Code Amendments**

Interim Director Giffen reviewed the proposed amendments which would provide flexibility in the administration of the code in six different sections.

1. Amending MMC 22A.010.070 Interpretation – Land Use – This section would be simplified by deleting the reference to the two outside resources (Standard Industrial Classification and the Illustrated Book of Development Definitions and give staff the ability to consider an unlisted use to be permitted if it is similar in nature to a use that is listed as a permitted use in a specific zone classification.

2. Adding a new section 22A.010.075 Promulgation of Rules, Procedures and Interpretations in order to allow staff to generate interpretations for how the code is to be used.

3. Adding a new section 22C.010.055 Modification of Use Regulations in Residential Zones. This would allow for an applicant to request a modification of a regulation contained in the Development Conditions under limited circumstances, which would be considered by the director following notice to contiguous property owners. The proposed alternative must show that it will provide "equivalent or superior" treatment or mitigation.

4. Adding a new section 22C.020.055 Modification of Use Regulations in Non-Residential Zones. This is similar to item 3 above, but for non-residential zones.

5. Adding a new section 22C.020.075 Adaptive Re-Use of Buildings in Non-residential zones. This proposed amendment would allow older buildings and other buildings not suited for uses that are permitted by zoning in a non-residential zone to be considered for another use, with notice provided to contiguous property owners. Decision criteria would focus on compatibility with the area and minimizing or mitigating impacts on surrounding uses.

6. Adding a new section 22C.010.075 Adaptive Reuse of Nonresidential Buildings in Residential Zones. This is similar to item 5 above, but would apply to residential zones. Decision criteria would focus on compatibility with surrounding land uses.

Discussion:

Chair Leifer commended staff on the proposals which he sees as quite visionary. Vice Chair Andes and Commissioner Whitaker also spoke in support of the proposed amendments. Commissioner Michal agreed, and asked if there are any proposals in the pipeline that would benefit from some of these reuses. Interim Director Giffen was not aware of anything. He indicated staff would bring back more information about this topic in the near future.

**2021Comprehensive Plan Amendment Docket–Smokey Point Comprehensive Plan Map Amendment**

Interim Director Giffen reviewed background on a large area of land located between 152nd Street NE and the Arlington city limits, east of I-5 and west of Hayho Creek which is zoned General Commercial (GC). He solicited feedback on initiating a review of this

area to consider rezoning a portion of the area back to Light Industrial (LI) zoning. He also raised the question of the type of design standards desired for this area.

Commissioner Whitaker asked if the impetus for this had to do with the success of the Cascade Industrial Center. Interim Director Giffen did not think so; it has to do with over-zoning of this area for General Commercial. Planning Manager Holland reviewed some proposed uses in the area that would not currently be allowed. He added that everything west of Hayho Creek is within the basin to discharge to Marysville's storm water management facility.

Chair Leifer commented that rezoning seems reasonable, but he thinks it is important to maintain General Commercial along Smokey Pt. Blvd to some depth. He spoke in support of continued discussion on this topic.

**Upcoming topics:**

Planning Manager Holland commented that staff was planning on bringing the Downtown Master Plan to the next meeting.

**ADJOURNMENT**

**Motion** to adjourn at 7:05 p.m. moved by Vice Chair Andes, seconded by Commissioner Whitaker.
**AYES: ALL**

_____
Laurie Hugdahl, Recording Secretary

**Next Meeting - Tuesday, March 9, 2021**

**Planning Commission**

**1049 State Avenue**
**Marysville, WA 98270**

**Meeting Minutes**
**June 8, 2021**

## CALL TO ORDER / ROLL CALL

Chair Leifer called the June 8, 2021 Planning Commission meeting to order via Zoom at 5:00 p.m. Planning Manager Chris Holland called the roll.

**Present:**

| | |
|---|---|
| Commissioner: | Chair Steve Leifer, Vice Chair Jerry Andes, Commissioner Kristen Michal, Commissioner Brandon Whitaker, Commissioner Tom Thetford |
| Absent: | Commissioner Kevin Johnson, Commissioner Roger Hoen |
| Staff: | Community Development Director Haylie Miller, Planning Manager Chris Holland, Project Specialist Janis Lamoureux, Minute Taker Laurie Hugdahl |

Community Development Director Haylie Miller introduced herself to the Planning Commission**.**

## APPROVAL OF MINUTES

### March 9, 2021 Planning Commission Minutes

**Motion** to approve the March 9, 2021 Planning Commission Minutes as presented moved by Commissioner Whitaker, seconded by Commissioner Michal.
**Ayes: Leifer, Andes, Michal, Whitaker**
**Nay: None**
**Abstain: Thetford**
**Motion passed.**

## AUDIENCE PARTICIPATION

Chair Leifer solicited audience participation on items not on the agenda. There were no comments.

## NEW BUSINESS

### A. Boundary Line Adjustment

Director Miller discussed issues and challenges associated with the way boundary line adjustments (BLAs) are being used by some applicants. Staff is proposing to require certain improvements for subdivisions or projects that would normally trigger it. She explained that the original intent of BLAs was to provide a legal method between property owners to make minor adjustments to their property boundaries. She reviewed examples of BLA situations which demonstrate how the current process is not always being used as originally intended. Instead it is sometimes used as a means to facilitate development and in some cases avoiding frontage improvements. If the frontage improvements are not made by the applicant, those costs would fall onto the taxpayer. The proposed changes would remedy this loophole and also provide consistency between applicants.

Chair Leifer expressed concern that this could be regressive and interfere with projects. Planning Manager Holland agreed that it is a balance in determining how much the development community should pay and how much should be left to the public. Chair Leifer commented that an argument could be made that those who are going to be receiving the common good should be the ones to pay for it.

Director Miller continued to review different examples of BLAs and their impacts on frontage improvements. Staff is proposing that if the lot line adjustment reduces a property's street frontage by 20% or less or up to 40 feet then the conditions for BLAs would apply. If it is being used as intended then there won't be any issues or frontage improvements required.

Chair Leifer asked about staff's response to Dylan Sluder's letter to the City on behalf of Master Builders. Director Miller replied that staff worked closely with the City's legal team on this, and they feel that this proposal is consistent with state law.

Commissioner Andes commented that "owner convenience" has been used in the past and currently to do a BLA. Director Miller agreed, but noted she did not believe the intent was to allow BLAs for development purposes; instead it was created to allow for minor adjustments. Commissioner Andes noted there is another RCW about Boundary Line Agreements which seem to him to be for the cases where simple boundary line adjustments need to be made. He questioned the City changing its philosophy on the way BLAs are used. Director Miller offered to bring this up again with the legal team for review. She noted that Marysville is not the first city to address this; staff reached out to many cities in this process.

Chair Leifer commented that this has been used for more than minor adjustments for a long time. He wondered if that makes a difference in how they address this. He expressed concern about the impact this could have on the marketplace.

Commissioner Whitaker asked about the number of examples that may have taken place over the past 15 years or so where the code has been circumvented. Director Miller stated that staff could follow up with that information.

Commissioner Michal asked for information about who it is that is using this in a way that is not intended. Director Miller indicated staff could bring that information back. Commissioner Michal asked if there is flexibility now for staff to deny those boundary line adjustments. Director Miller explained that this is limited to when someone tries to add a lot, make a nonconforming lot, or other specific circumstances.

Commissioner Andes discussed a scenario of a couple who might want to move boundary lines on their property to create short plats for their children. Director Miller replied that the way the code is written now is if the property frontage is adjusted more than 40 feet or greater than 20% the requirements would be triggered. She noted that staff does have built in discretion.

Commissioner Andes commented that it seems like the City is basically doing away with BLAs. Director Miller explained that if someone is using the BLA process to circumvent requirements that would otherwise be required, the City is asking that they not use the BLA process. Commissioner Andes thought this could be detrimental to development. There was some discussion about previous scenario he brought up.

Commissioner Whitaker commented that he is leaning towards staff's recommendation. He would like to know if the proposed code recommendations would be in line with what other municipalities are doing or if the City would be on the cutting edge with these changes.

Director Miller indicated she would bring back more info about previous examples, the numbers of times this has been used, who is using this, and trends they are seeing.

Chair Leifer referred to Exhibit 1, item 3(d) and asked about examples of split zones Director Miller explained how this could happen. Planning Manager Holland showed examples of places in the city where there used to be split zones on properties. He thought that all the split zones had been reconciled with the 2015 update, and this wouldn't be an issue in the future.

Public Comments:

Dylan Sluder, Snohomish County Manager, Master Builders Association, expressed concerns about the legality of this, but noted that some progress had been made since he had written his letter. He commented on the housing availability crisis and the price sensitive nature of development. He disagreed that BLAs are generally being used to circumvent requirements. He recommended following the state code regarding BLAs and having some flexibility within that.

Chair Leifer expressed hope that there might be some kind of compromise to satisfy both interests. He thought that a mitigation fund might be a way to fill in the gaps and also to provide consistency in frontage improvement costs for development.

Staff indicated they would come back with information that had been requested.

## B. Administration of MMC Title 22 *Unified Development Code*

Director Miller introduced this item which had been started by the Interim Community Development Director Allan Giffen. She stated that she had reviewed and agreed with the proposed changes. She briefly gave an overview of the proposed changes.

Chair Leifer stated that he fully supports this. Other commissioners concurred. There was consensus to schedule this item for a public hearing.

## C. Sign Code – Downtown Master Plan

Planning Manager Holland reviewed the proposed changes as summarized in his memo to the Planning Commission dated June 2, 2021.

Chair Leifer questioned the restrictions for signage and the 10-foot setback requirement for signs on construction sites. Planning Manager Holland explained that staff isn't proposing any changes to that section of the code, and there haven't been any problems with this.

Commissioner Michal asked about height limitations for pole signs. Planning Manager Holland replied that anything under 12 feet is considered a monument sign. Anything over 12 feet is considered a pole or pylon sign. The table on page 21 shows the height limits in the different zones.

## ADJOURNMENT

**Motion** to adjourn at 6:47 p.m. moved by Whitaker, seconded by Commissioner Andes.
**AYES: ALL**

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

**Next Meeting – June 22, 2021**

**Planning Commission**

**1049 State Avenue**
**Marysville, WA 98270**

**Meeting Minutes**
**July 13, 2021**

## CALL TO ORDER / ROLL CALL

Chair Leifer called the July 13, 2021 Planning Commission meeting to order via Zoom at 5:00 p.m. Director Miller called the roll.

**Present:**

Commissioner: Chair Steve Leifer, Vice Chair Jerry Andes, Commissioner Kristen Michal, Commissioner Roger Hoen, Commissioner Brandon Whitaker, Commissioner Tom Thetford

Staff: Community Development Director Haylie Miller, Project Specialist Janis Lamoureux

## APPROVAL OF MINUTES

### June 22, 2021 Planning Commission Minutes

**Motion** to approve the June 22, 2021 Planning Commission Minutes as presented made by Commissioner Thetford, seconded by Commissioner Hoen.
**AYES: LEIFER, MICHAL, HOEN, WHITAKER, THETFORD**
**ABSTAIN: ANDES**

## AUDIENCE PARTICIPATION

Chair Leifer solicited audience participation on items not on the agenda. There was none.

## PUBLIC HEARING

### Administration of MMC Title 22 Unified Development Code

Director Miller introduced this item and reviewed proposed amendments to the Unified Development Code.

- Amending MMC 22A.010.070 Interpretation – Land Use - Staff is proposing allowing the director to consider uses that are similar in nature. This leaves room for flexibility as long as the use is similar to other uses in the code. The reference to other documents that the City looks at would provide more transparency with the public.
- Adding a new section 22A.010.075 Promulgation of Rules, Procedures and Interpretations – This would enable the director to generate interpretations for how the code is to be used. This would be useful especially as an interim measure that could provide guidance for staff and the public until the code can be amended.
- Adding a new section 22C.010.055 Modification of Use Regulations in Residential Zones – The proposed addition to the code would allow for an applicant to request a modification of a regulation contained in the Development Conditions, which would be considered by the director following notice to contiguous property owners. This process would be limited in its application to proposals where the applicant can meet the intent of the standard being modified by some other means.
- Adding a new section 22C.020.055 Modification of Use Regulations in Non-Residential Zones – Similar to above, but for Non-Residential Zones
- Adding a new section 22C.010.075 Adaptive Reuse of Nonresidential Buildings in Residential Zones - Similar to above, but would apply to the use of Non-Residential buildings in Residential zones.
- Adding a new section 22C.020.075 Adaptive Re-Use of Buildings in Non-residential zones - This proposed amendment would allow such a building in a non-residential zone to be considered for another use, with notice provided to contiguous property owners. The evaluation criteria focus on compatibility with, and minimizing or mitigating impacts on, surrounding uses.

The public hearing was opened at 5:12 p.m., and comments were solicited. Seeing none, the hearing was closed at 5:13 p.m.

**Motion** to close the hearing at 5:13 p.m. made by Commissioner Andes, seconded by Commissioner Whitaker. **Motion** passed unanimously.

**Motion** to forward this to the City Council with a recommendation for approval made by Commissioner Whitaker, seconded by Commissioner Andes. **Motion** passed unanimously.

**NEW BUSINESS**

**MMC Chapter 3.103 *Multifamily Housing Property Tax Exemption***

Director Miller reviewed this item. Staff is proposing two changes to the chapter:

- Modify the Residential Target Area boundaries to match the proposed Downtown Master Plan Area boundaries
- Reduce the minimum threshold of 20 units to eight units or less. As a starting point the City of Everett has been used as an example. Staff believes that smaller multifamily projects may be more feasible at this time for development in the downtown area.

Discussion:

Chair Leifer asked if Everett limits this to a certain part of the city. Director Miller replied that it is limited to a certain area which is common when a city wants to incentivize a certain area. Chair Leifer referred to the Manufacturing Industrial Center and noted that this could be an area they might want to consider applying this to.

Commissioner Whitaker expressed concern about how this would work with the City's goals for the downtown area. He wondered if the lower number of residential numbers would be enough to draw the retail uses they want to see there. Also, he asked if the City is aiming to move up downtown or move out downtown with these units. Director Miller responded that the plan is to go up and not out in the downtown area even though they have recently expanded the area. She encouraged the group to consider the pros and cons of this. Just because the minimum is 8 doesn't mean the applicant has to do 8. Staff is hoping this can help as a catalyst for the first development in that area. Commissioner Whitaker expressed concern about low density could make the commercial uses less appealing.

Commissioner Andes asked what is included in the property tax exemption. Director Miller replied it applied to school district, fire district, city, county and state taxes. She calculated it came up to about $1100 a year per unit in savings. Regarding the suggestion to apply this to the north end, she noted that there doesn't seem to be a problem getting development in the north end near the MIC, but there is in the downtown area. The taxes are capped 8 years for a market rate development and 12 years for development that offers affordable housing opportunity. Chair Leifer acknowledged that there are challenges for developers who want to develop in the downtown area.

Commissioner Hoen discussed the need to make State Avenue a more attractive place for people to mingle and live, similar to what Arlington is doing. Director Miller concurred. She thought there was something in the Downtown Master Plan regarding landscaping. She offered to check on this. Commissioner Andes commented that this was brought up several years ago. Most of the retailers and businesses there didn't support the idea.

Commissioner Michal wondered what Bothell did to encourage their substantial downtown mixed use development. Director Miller offered to look into that.

Chair Leifer reiterated that there are some issues with downtown, and he believes they will have to do everything they can to get things moving in that area. For this reason he would support a lower number of units to get things started.

Commissioner Andes thought it was worth a try to change things since what they have been doing for the past 12 years hasn't worked.

Commissioner Whitaker was hesitant to drop the numbers significantly because of its impact on the long-term goal.

Chair Leifer agreed with Commissioner Whitaker. He noted that they could readjust the numbers once they get a project or two started.

Commissioner Hoen asked how the industry would get notice of a change like this. Director Miller replied that the City tries to advertise as best as they can. They also share information with the Master Builders Association.

Director Miller asked for general direction about the number of units. She noted she was hoping to hold a public hearing in August or September.

Commissioner Whitaker remarked he was comfortable with an adjustment to 10 and reconsidering in a year. There was general consensus on this.

## OLD BUSINESS

### MMC 22C.160.230(1) –Construction Signs

Director Miller explained that the Planning Commission had asked staff to look at this more closely. So far there haven't been any recommendations for changes except for wording changes to item E. The revised verbiage states: "No sign shall be located closer than 10 feet to an internal property line unless attached to a fence. Signs attached to fences shall not extend higher than the fence and shall not create sight distance obstruction or any other safety hazard."

Chair Leifer commented that on big jobs subcontractors often like to get signs out. He didn't think a 4x8 sign on the road was adequate for their signage needs. Director Miller noted they could look at that later if desired.

## OTHER

Commissioner Hoen said he had a conversation with Director Miller about how to access agenda documents online while also being online with Zoom. Chair Leifer agreed that this is an issue. He explained he ends up printing everything and making his notes on them as they go. He spoke in support of the City continuing to print things out and get them to commissioners. Commissioner Whitaker agreed it is nice to have a hard piece of paper to read before meetings and take notes on during the meetings. He

prefers getting the paper copy in the mail. Chair Leifer noted it is important to keep the paper copies in order to be able to refer back to that. Commissioner Andes noted that if the commissioners end up printing everything out it's not actually going paperless, it's just a matter of who pays for it. Commissioner Michal said she prefers paper, but she is trying to adapt. Director Miller replied that staff would continue to print documents for the commissioners. She suggested they could also look into getting some sort of electronic device for commissioner to assist in going paperless.

Director Miller asked everyone's comfort level with returning to in-person meetings. Most commissioner expressed interest in returning to in-person meetings. There was discussion about the potential time with various opinions. It seemed that 6:00 p.m. was the consensus. Director Miller indicated they would tentatively shoot for an in-person meeting at 6:00 p.m. starting in August.

Director Miller reported that a new planning commissioner had been selected, but not formally announced yet.

**ADJOURNMENT**

**Motion** to adjourn at 6:14 p.m. moved by Hoen, seconded by Commissioner Thetford.
**AYES: ALL**

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

**Next Meeting – July 27, 2021**

# CITY OF MARYSVILLE
# Marysville, Washington

## ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING TITLE 22 OF THE MARYSVILLE MUNICIPAL CODE BY AMENDING SECTION 22A.010.070 AND ADDING NEW CODE SECTIONS 22A.010.075, 22C.010.055, 22C.020.055, 22C.010.075 AND 22C.020.075.**

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

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

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

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

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

**WHEREAS**, the development code amendment is consistent with the following required findings of MMC 22G.010.520:

(1) The amendment is consistent with the purposes of the comprehensive plan;

(2) The amendment is consistent with the purpose of MMC Title 22;

(3) There have been significant changes in the circumstances to warrant a change;

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

**WHEREAS**, on July 13, 2021, the Marysville Planning Commission held a duly-advertised public hearing, and recommended that the City Council adopt the proposed amendments to the City's development regulations; and

**WHEREAS**, at a public meeting on February 14, 2022, the Marysville City Council reviewed and considered the Marysville Planning Commission's Recommendation and proposed amendments to the City's development regulations; and

**WHEREAS**, the City of Marysville has submitted the proposed amendments to the City's development regulations to the Washington State Department of Commerce on March

19, 2021 seeking expedited review under RCW 36.70A.106(3)(b) and in compliance with the procedural requirements of RCW 36.70A.106; and

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

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

**Section 1**. **Amendment of Municipal Code**. MMC Section 22C.010.070, entitled "Interpretation – Land Use," is hereby added as follows:

**22A.010.070 Interpretation – Land use.**

(1) If a use is not specifically or generally listed in the Permitted Uses table in MMC 22C.010.060 or MMC 22C.020.060, ~~T~~the community development director shall determine whether a proposed land use is allowed in a zone. ~~The Standard Industrial Classification Manual (SIC), current edition, prepared by the United States Office of Management and Budget, and the New Illustrated Book of Development Definitions, prepared by Moskowitz and Lindbloom, will be used as reference guides in the classification and/or interpretation of a proposed use.~~

~~(2)~~ The community development director's determination shall be based on whether or not permitting the proposed use in a particular zone is consistent with the purposes of this title and the zone's purpose as set forth in Chapter 22A.030 MMC, by considering the following factors:

(a) The physical characteristics of the use and its supporting structures~~,~~ (including but not limited to scale, traffic and other impacts, and hours of operation)~~;~~ are of the same basic nature as a use or uses specifically or generally listed in the applicable zoning district;

(b) ~~Whether or not t~~The use complements or is compatible with other uses permitted in the zone~~; and~~

~~(c) The SIC classification, if any, assigned to the business or other entity that will carry on the primary activities of the proposed use.~~

(~~3~~2) 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.

**Section 2**. **Amendment of Municipal Code**. MMC Section 22A.010.075, entitled "Promulgation of Rules, Procedures and Interpretations," is hereby added as follows:

**22A.010.075 Promulgation of Rules, Procedures and Interpretations.**

The community development director is authorized to promulgate administrative rules, procedures and interpretations consistent with the terms of this title. Appeals of any such

rule, procedure, interpretation or other administrative determination made by the director shall be made to the hearing examiner in accordance with the appeal procedures as set forth in Chapter 22G.010 MMC, Article VIII, Appeals.

**Section 3**. **Amendment of Municipal Code**. MMC Section 22C.010.055, entitled "Modification of Use Regulations in Residential Zones," is hereby added as follows:

**22C.010.055 Modification of Use Regulations in Residential Zones.**

A. Use Regulations that May be Modified. An applicant may propose, and the director may approve, deny or conditionally approve a modification of the special regulations and notes in MMC Section 22C.010.070.

B. Review Process

1. An applicant shall submit a request for modification, providing such information as is required by the director, including application fees.
2. Notice of the proposed modification shall be provided to contiguous property owners.

C. Evaluation Criteria. Any proposal to modify use regulations shall not undermine the intent of the standards. The director shall not approve a request for modification unless the proposal provides design elements or other appropriate mitigation equivalent or superior to what would likely result from compliance with the use regulations which are proposed to be modified. The director shall consider the following criteria in making a decision.

1. The request for modification meets the intent of the standards being modified.
2. The request for modification does not create any impacts or nuisances that cannot be mitigated, such as access points which are unsafe, noise, dust, odor, glare, visual blight or other undesirable environmental impacts.
3. The request for modification meets any additional modification criteria for specific uses in MMC Title 22.C.

**Section 4**. **Amendment of Municipal Code**. MMC Section 22C.020.055, entitled "Modification of Use Regulations in Non-Residential Zones," is hereby added as follows:

**22C.020.055 Modification of Use Regulations in Non-Residential Zones.**

A. Use Regulations that May be Modified. An applicant may propose, and the director may approve, deny or conditionally approve a modification of the special regulations and notes in MMC Section 22C.020.070.

B. Review Process

1. An applicant shall submit a request for modification, providing such information as is required by the director, including application fees.
2. Notice of the proposed modification shall be provided to contiguous property owners.

C. Evaluation Criteria. Any proposal to modify use regulations shall not undermine the intent of the standards. The director shall not approve a request for modification unless the proposal provides design elements or other appropriate mitigation equivalent or superior to

what would likely result from compliance with the use regulations which are proposed to be modified. The director shall consider the following criteria in making a decision.

1. The request for modification meets the intent of the standards being modified.
2. The request for modification does not create any impacts or nuisances that cannot be mitigated, such as access points which are unsafe, noise, dust, odor, glare, visual blight or other undesirable environmental impacts.
3. The request for modification meets any additional modification criteria for specific uses in MMC Title 22.C.

**Section 5**. **Amendment of Municipal Code**. MMC Section 22C.010.075, entitled "Adaptive Reuse of Nonresidential Buildings in Residential Zones," is hereby added as follows:

**22C.010.075 Adaptive Reuse of Nonresidential Buildings in Residential Zones.**

A. Purpose. The purpose of this subsection is to allow for adaptive reuse of nonresidential buildings in residential zones that are functionally obsolete in order to improve the economic feasibility of a property by considering uses that are not otherwise permitted, but which, if properly designed and managed, would not create unacceptable impacts on surrounding properties or the immediate vicinity in general. This process differs from the unlisted use process listed in MMC 22A.010.070 in that uses that are not specifically authorized in the residential zone may be considered using the process described herein.

B. Procedures. Any request for adaptive reuse of nonresidential buildings shall be reviewed as a conditional use.

C. Circumstances. The city may allow a use in a residential zone that is not specifically allowed in that zone if it is necessary to encourage adaptive reuse of a building under the following circumstances:

1. It is unlikely that the primary building on the subject property could be preserved if only uses permitted in the underlying zone were allowed.
2. Allowing a different use would enhance the character of the building and immediate vicinity.
3. The use would not have a detrimental effect upon surrounding properties or the immediate vicinity.

D. Uses that May be Allowed. The following uses may be considered for adaptive reuse of an existing building in a residential zone, provided that where a use listed below is allowed as either a permitted or conditional use in MMC Section 22C.010.060, it shall be reviewed in accordance with said section:

1. Dwelling units. Density based on underlying zoning plus one additional dwelling unit;
2. Assisted living facilities;
3. Libraries;
4. Museums and art galleries;
5. Social service facilities;

6. Public services;
7. Artist studios;
8. Music venues;
9. Cafes and bistros;
10. Live-work units;
11. Bed and breakfast inn;
12. Other uses not listed above if determined through the review process to be compatible with surrounding properties and the immediate vicinity.

E. Review Criteria. The following criteria shall be used as the basis for determining compatibility with surrounding uses and approving, denying, or conditionally approving a request to allow the adaptive reuse of a non-residential building in a residential zone:

1. The adaptive reuse would promote or aid in the preservation or rehabilitation of the primary building.
2. No significant impacts to public safety.
3. Compliance with noise, building and fire codes.
4. Hours of the day of proposed use or activity are compatible with surrounding uses.
5. Proposed management and operational procedures to minimize and mitigate potential impacts.
6. Other factors not specified herein that would create a conflict with the surrounding uses, or uses that are permitted in the zone.
7. Expansions to the primary building shall not exceed ten percent of the existing footprint or five hundred square feet, whichever is greater, and will not detrimentally affect the outside character of the building. Expansions shall comply with the bulk and dimensional standards of the underlying zone.

F. Actions Authorized.

1. Approval. The City may approve a proposal that is found to be compatible with surrounding land uses.
2. Denial. Any proposal that would be incompatible with or adversely affect properties in the immediate vicinity shall be denied.
3. Revocation. The city shall retain the right to revoke an approval issued under this section that fails to comply with any conditions of said approval, or which operates in a manner inconsistent with representations made in the application.

**Section 6**. **Amendment of Municipal Code**. MMC Section 22C.020.075, entitled "Adaptive Reuse of Buildings in Non-residential Zones," is hereby added as follows:

**22C.020.075 Adaptive Reuse of Buildings in Non-residential zones.**

A. Purpose. The purpose of this section is to allow existing buildings located in non-residential zones to be considered for uses that are not otherwise permitted, but which, if properly designed and managed, would not create negative impacts on surrounding properties or the area in general. Existing buildings that, due to their location or

configuration are not readily usable for permitted uses, as determined by the director, may be considered using the process described herein. This process differs from the unlisted use process listed in Section 22A.010.070 in that uses that are not specifically authorized in the zone may be considered using the process described herein.

B. Review Process

1. An applicant shall submit a request for modification, providing such information as is required by the director, including application fees.
2. Notice of the proposed modification shall be provided to contiguous property owners.

C. Review Criteria. The following criteria shall be used as the basis for approving, denying, or conditionally approving a request to allow the use of existing building space for a use not otherwise permitted in the zone.

1. Traffic generated by the proposed use.
3. Impacts from odor, noise, vibration, dust or other nuisances.
4. Aesthetic character and quality of the proposed use.
5. Public safety impacts.
6. Compliance with building and fire codes.
7. Hours of the day of proposed use or activity.
8. Proposed management and operational procedures to minimize and mitigate potential impacts.
9. Other factors not specified herein that would create a conflict with the uses that are permitted in the zone.

D. Actions Authorized.

1. Approval. The City may approve a proposal that is found to be compatible with surrounding land uses.
2. Denial. Any proposal that would adversely affect properties in the immediate vicinity or give the outward appearance of a use or activity that is incompatible with the intent and purpose of the zone in which it is located shall be denied.

3. Revocation. The city shall retain the right to revoke an approval issued under this section for a use that fails to comply with any conditions of said approval, or which operates in a manner inconsistent with representations made in the application.

**Section 7**. **Amendment of Municipal Code**. MMC Section 22A.010.160, entitled "Amendments," is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City's Unified Development Code (all unchanged provisions of MMC 22A.010.160 remain unchanged and in effect):

"**22A.010.160 Amendments**.

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

| Ordinance | Title (description) | Effective Date |
|---|---|---|

_____ Unified Development Code Administration _____, 2022"

**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**. **Corrections**. 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

_____, 2022.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
DEPUTY CITY CLERK

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)