1. Agenda

    Documents:

        3-26-18 PC AGENDA.PDF

2. Meeting Materials

    Documents:

        MINUTES OF MARCH 26, 2018.PDF
        MISCELLANEOUS CODE EDITS TO TITLE 16 AND 17.PDF

PLANNING COMMISSION AGENDA

Monday April 23, 2018 – 6:30PM

Stanwood Fire Station (8117 267th Pl NW)

1. Call to Order
2. Roll Call
3. Public Requests and Comments
4. Minutes of March 26, 2018
5. New Business

    Miscellaneous Code Edits to Title 16 and 17

6. Old Business

    Heritage Park Master Plan Update

7. Miscellaneous Business
8. Public Comments
9. Recent Council Action on Commission Items
10. Upcoming Items
11. Adjourn

For information about this agenda, contact the Community Development Department at 360-629-2181 ext. 4512.

SPECIAL ACCOMMODATIONS: The City of Stanwood strives to provide accessible meetings for people with disabilities. Please contact the Planning Commission Clerk at 360-629-2181 ext. 4512 two business days prior to the meeting.

STANWOOD PLANNING COMMISSION MINUTES

March 26, 2018

Call to Order

Chair Utgard called the meeting to order at 6:30PM with the following Commissioners present: Kelly McGill, Steve Shepro, Marcus Metz, Lance Dennis and Randy Heagle. Commissioner Susan Ronken was excused. Staff present; Community Development Director Ryan Larsen, Community Development Senior Planner Amy Rusko, Planning Commission Clerk Devin Sola. Elected Officials in attendance: Councilmember Judy Williams. Known public in attendance: Ry McDuffy, Cathy and Michael Wooten, Jil Fewell, Andy and Julie Johnson, Bryan Hanson, Christa Lyford, R.Dupree, Mike Satterfield, Tim Schmitt, Aleph Fackenthall, Kate Hansen, Amy Sellers, Darren Sellers, Nancy Hansen, Anna Hansen, Debbie Klein, Scott Amundson, Peggy Kitting, Eric Pilkington, Gary Williams, Nancy Williams, Kathleen Shepro, Cliff Grant, Tim Cooper, Caprice DeGuzman, Ryan Oting, Margie Dubree, Karen Palmer, Wade Grant, Dottie Gorsuch, Melissa Hutsell, Katie Farrey, Fel Farrell, Mike Braley, Tim Poetzl, John Brazier, Erika Lervick, Karin Brazier.

Public Requests or Comments

Cathy Wooten, 27828 84th Ave NW, Stanwood, Mrs. Wooten stated that during the March 8th Community Development Committee meeting there was discussion about changing the bed and breakfast permitting process from a conditional use permit to an administrative conditional use permit. It would cost a citizen $500 to appeal to the hearing examiner an administrative conditional use permit plus potential additional costs. Changing from a conditional use permit to an administrative conditional use permit limits citizen involvement, and expenses should be the responsibility of the permit applicant.

Minutes

The minutes of the February 26 and March 12, 2018 meetings were approved as presented.

New Business

Trailside 15 Lot Preliminary Plat Public Meeting

City Administrator Ryan Larsen stated that this is an informational meeting for the commissioners to review this application and to provide suggestions for the project. No official action is necessary this evening.

Senior Planner Amy Rusko stated that the plat includes 15 single family residential units. There was a street modification request allowing for a drop curb within the cul-de-sac area only, and regular curb, gutter, and sidewalk everywhere else. The property is zoned multi-family residential. The property is 2.61 acres. The applicant could have done 52 multi-family units on the site, but instead is doing 15 single-family units.

Ry McDuffy – 3605 Colby Ave Everett. Mr. McDuffy spoke on behalf of the applicant, stating that they are doing improvements from 96th to 271st. They are going to look at the drainage system and improving the ditch along Heritage Trail.

Staff answered inquiry from Planning Commission regarding mention of a detention pond. It was clarified that on the north side of the property, there is a trail along the south side of Heritage Park. The applicant will improve the ditch along the south side of the park by widening it and creating a pump system to pump that into our existing drainage. There is no physical detention pond.

Mr. McDuffy answered a question regarding trees shown along Heritage Trail. They will be removing seven trees along the south side in order to move the ditch onto public property.

Staff answered inquiry from Planning Commission regarding pump system. Staff responded this is a city owned pump, and will also help entire downtown drainage system.

Planning Commission asked whether the large tree in the front yard of lot 13 will be removed. Staff and Mr. McDuffy responded that has not been determined yet.

Public Comment:

Cathy Wooten, 27828 84th, Dr., Stanwood, Mrs. Wooten asked if there will still be parking on both sides of the street where the currently paved strip is in front of the library. She would rather give up that parking for safety. She is also wondering if there could be a cross-walk added to the off-site parking lot.

City Administrator Ryan Larsen said he has not seen a physical map so he does not know yet if that parking will still be there.

Julie Johnson, 27126 96th Ave NW, Stanwood, Mrs. Johnson is concerned about drainage and safety. She is wondering if the plan will tax the current drainage system, and if it takes flood events into account. She commented that the traffic study didn't take into account extra traffic during weekends created by sporting events at the sports fields and library traffic. Does the city need a residential development in the downtown flood plain? She made suggestions for improvements to the plan.

Judy Williams, 10520 Saratoga Dr, Stanwood, Councilmember Williams commented that Stanwood is a place for families, and right now we do not have the homes for that. It's important to look at our options. There will be impact anywhere a development is built. Flood insurance is the responsibility of the buyer, so the buyer will be aware of that before the purchase of a home.

Mr. McDuffy stated traffic, drainage, and parking concerns will be taken into consideration and will be discussed at the public hearing.

Public Hearing: Zoning Edits to Title 17 related to Retail Marijuana
Chair Utgard opened the public hearing.

City Administrator Ryan Larsen gave the staff report on edits to Title 17 related to retail marijuana. The City Council in January asked staff to look at the issue of retail marijuana. Some rules in the proposed ordinance include a limit of two retail businesses in Stanwood, and a 1,000 foot distance from any parcel containing an elementary school or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older. Shops

may not locate within 2,500 feet of each other. Customer parking rules were discussed, as well as front façade materials consistent with design standards in that zone. Design standards could apply if located in a zone that does not have them. The proposed zoning locations include Mainstreet Business I and II, and the General Commercial Zone. City staff has contacted several cities and have found a range of approximately $25,000 to $45,000 annually in retail sales and tax revenue. Some part of distribution is based on excise tax on retail sales.

Planning Commission discussed:

- Once a retail shop is approved downtown, it's to the exclusion of any other establishment in that area, creating a monopoly
- Requested names of cities contacted regarding their revenue dollars – will need to discuss with legal counsel to see if those can be disclosed because revenue sales are proprietary within city
- Do those cities have more than one retail establishment? Only one

Public Comment:

Scott Amundson, 27210 103rd Dr NW Stanwood, Mr. Amundson is owner of Amundson Auction's. As a local business owner, he is all for any additional revenue that the city can obtain within a respectable manner, however, he does not believe it should be on mainstreet in our tourism area. Those that partake in recreational marijuana who live in Stanwood are currently bringing their dollars outside the city.

Cathy Wooten, 27828 84th Ave NW Stanwood, Mrs. Wooten stated she is not speaking for or against marijuana. She is concerned that staff is proposing to add retail sales as an administrative use permit not a conditional use, which would mean a public hearing would not be required.

Commission and City Administrator discussed language in the staff report from the February 26th meeting and from today's meeting and determined there was a typo regarding administrative use permit instead of administrative conditional use permit in today's staff report.

Amy Sellers, 27820 73rd Ave NW, Stanwood, Mrs. Sellers is not in favor of a retail marijuana store. She shared statistics from a report done by the Rocky Mountain High Intensity Drug Traffic Force who have done five in depth reports in Colorado. She asked that the Commission research this issue more. The safety of the community is more important than revenue.

Kate Hansen, 28714 75th DR NW, Mrs. Hansen read a summary of Ordinance 1376 passed in 2014 which included reasons why the council decided against marijuana at that time. She believes all of these reasons still apply and does not see a reason to make this sudden change regarding this topic. She suggested we wait to hear more about the topic before acting.

Commission asked that in the future if there is an ordinance that speaks directly to an issue that it be sited somewhere in the staff report.

Mike Satterfield, 30400 15th Ave NE, Stanwood, Mr. Satterfield stated that it was decided just a couple years ago that marijuana would not be allowed, so assurances regarding buffer

zones don't mean anything to him. He stated that marijuana is not harmless and listed harmful side effects of the drug. He also stated THC content in marijuana is increasing.

Peggy Kitting, 7229 286th PL NW, Stanwood, Mrs. Kitting opposes a marijuana retail shop in Stanwood. Her main concern is the abuse of marijuana and youth using marijuana. She asked if we really want a pot shop in the heart of Stanwood. She asked that this be brought to a public vote.

Michael Wooten, 27828 84th AVE NW, Stanwood, Mr. Wooten stated we are looking at a very small zoning area for a shop to go. He pointed out on a map where the recommended zones are located. The most likely spot for a shop to locate within the proposed zones is on mainstreet. He believes people are feeling disenfranchised.

Karen Brazier, 26517 Fox Hill Dr N, Stanwood, Mrs. Brazier stated she is using marijuana for medical issues. She used to be on pain medication that is no longer prescribed due to abuse of opioids. When she is in the Bud Hut buying marijuana, most of the other customers are also purchasing marijuana for medical reasons. Children are going to get it, and it's all about educating children. It would be great to just allow medical marijuana, but we don't have that option.

Dottie Gorsuch, 27519 80th Dr NW, Stanwood, Mrs. Gorsuch stated that when she was growing up, the council supported whatever the parents supported. The goal was to raise children in a safe environment. She asked that the commission slow this process down and take time to think about what has been shared.

Commissioner Shepro asked if Mrs. Gorsuch was on council when Ordinance 1376 was passed and asked who the author of the ordinance was. Mrs. Gorsuch responded she was on council at the time but is not aware who the author was.

Caprice DeGuzman, 2315 Blanch Way, Camano Island, Mrs. DeGuzman is not in support of marijuana in Stanwood. She understands it's all about revenue. Her family was directly affected by marijuana. Stanwood has a long history of losing youth, and she asked why bring one more thing into the city that will affect our youth.

Ed Farrey, 27313 Pioneer Hwy, Stanwood, Mr. Farrey spoke in favor of marijuana. He doesn't think having a store downtown will affect black market pot that is already available to children. By the time kids are in middle school and high school, we need to be supporting kids in learning how to protect themselves. We have elected a council, and if you do not like how they vote, vote them out.

Katie Farrey, 27313 Pioneer Hwy, Stanwood, Mrs. Farrey stated we need to teach our kids to be responsible and we cannot do this by isolating them. She is a retired teacher, and taught in Stanwood for 30 years. She uses marijuana for severe arthritis in her hand, and was impressed with security in a marijuana shop in Seattle.

Aleph Fackenthall, 6108 284th, Stanwood, Mr. Fackenthall stated we may soon have a solution for medical marijuana patients who are homebound. The City Council should not consider a decision without public support. He suggested the Planning Commission recommend an advisory vote, or form a sub-committee to study what has worked well for

other cities. He also stated there would be more support if this was allowed in Light Industrial instead of mainstreet.

Bryan Hanson, 28714 75th Dr NW, Stanwood, Mr. Hanson stated his wife and daughter were verbally berated at a hearing a couple years ago on the marijuana issue. He has not seen the rational for the 180 degree change from the previous ordinance on marijuana. Not enough time has passed since marijuana has been legal for enough research to have been conducted. He would like to see a sub-committee formed to look at this more thoroughly.

Cliff Grant, 8201 283rd St NW, Stanwood, Mr. Grant stated that the proposal for retail marijuana appears to be in conflict with the city's comprehensive plan, including the vision for the city and the downtown plan. He is also concerned with the permit method. He would like the Planning Commission to reconsider creating a sub-committee to discuss options.

Tim Schmitt, 27308 101st Ave NW, Stanwood, Mr. Schmitt is against an advisory vote because of the cost to put the issue on the ballot, and because people have already had the chance to voice their concerns, and this is what the Planning Commission is for.

Christa Lyford, 27928 80th Ave, Stanwood, Ms. Lyford is a college student and is not in support of marijuana. She works here and is involved with youth ministries here. She is concerned that one proposed location is near her church. Having a marijuana shop in downtown will normalize it.

Mike Braley, 28003 85th Dr NW, Stanwood, Mr. Braley stated he was not here to take a side either way, but believes we should have an advisory vote on the issue. He stated that the MRSC.org website has a section that can estimate tax revenue.

Commissioner McGill asked if Mr. Braley has seen a correlation between marijuana and encampments. Mr. Braley declined to comment on that, he came to the meeting as a citizen.

Erika Lervik, 28921 64th Ave NW, Stanwood, Mrs. Lervik stated that she does not mind going out of town to buy her underwear, therefore it shouldn't be a problem to go out of town to buy marijuana. Stanwood is a small hometown and shouldn't conform.

Tim Poetzl, 28448 71st Dr NW, Stanwood, Mr. Poetzl stated the biggest issue is zoning. He doesn't think downtown is the best place for a shop.

Judy Williams, 10520 Saratoga Dr, Stanwood, Councilmember Williams asked how many people are planning to go home and have a glass of wine tonight. She commented that everyone seems to be fine with that. She thinks this is an emotional issue, but we have to not be fearful in the decisions that we make. Alcohol is just as deadly as marijuana.

Commissioner McGill stated that he believes alcohol is far worse than marijuana. The issue for him is where we put a shop. Is there a way we can forge a compromise where people in this town in need can get marijuana?

Commissioner Dennis stated that when there is an issue we are against, we tend to show up in force. He encouraged everyone to put as much consideration into working to do positive things in the community in a proactive way as opposed to a defensive way.

Chair Utgard closed the public hearing.

Commissioner Shepro made a motion to refer the matter to a special committee. Motion seconded.

Chair Utgard clarified there is a motion and second to form a sub-committee of the Planning Commission members to study this issue further. Dennis-abstain, Metz-no, McGill-yes, Utgard-no, Shepro-yes, Heagle-no. Motion failed.

Commissioner Heagle made a motion to move this along to City Council for a vote. Motion seconded.

Chair Utgard clarified there is a motion and second to refer this issue back to the City Council without a recommendation. Dennis-yes, Metz-yes, McGill-abstain, Utgard-yes, Shepro-no, Heagle-yes. Motion passes.

No Old Business

No Miscellaneous Business & Upcoming Items

Adjourn

The meeting adjourned at 8:30 PM.

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Devin M. Sola, City of Stanwood

MEMORANDUM

City of Stanwood
10220 270th St NW
Stanwood, WA 98292
360-629-4577

COMMUNITY DEVELOPMENT DEPARTMENT

TO: PLANNING COMMISSION

FROM: Ryan C. Larsen, Community Development Director

SUBJECT: Miscellaneous Code Edits to Title 16 and 17

DATE: APRIL 23, 2018

ATTACHMENT: A. List of other Code Sections from jurisdictions pertaining to LI and GI Air Quality, Odor and Dust

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Staff is providing the Planning Commission with a list of proposed edits Commission for review and consideration. Topics include: Final Plat changes; LI and GI zoning purpose statement, Park Open Space changes, separating and making separate ordinances for Parks, Traffic, and Fire Impact Fee, monument signage, edits to reconsideration for hearing examiners decision, and potential need for additional changes to the cell tower rules.

FINAL PLATS

The State Legislature has recently change the rules surrounding the recording of Final Plats for subdivision. Currently, all final plats for subdivision require City Council approval prior to recording. The rule change would allow for Final Plats to be done administratively. Short Plat (9 lots or less) are already done administratively.

LI and GI ZONING AIR QUALITY, ODOR and DUST

There has been a suggestion to make changes to the LI and GI zone surrounding air quality, odor, and dust. The GI zone is intended for heavy industrial types of uses such as manufacturing and food processing. It was suggested that the same language contained in 17.50.020 relating to the LI zone be added to the GI zone.

17.10.020 Purpose and intent of zoning districts

(11) LI (Light Industrial) Zone. The general intent and purpose of this zoning designation is to:

(a) Provide for the development of areas in which certain types of light industrial activities may be located;

(b) Protect residential and other nonindustrial areas from adverse and damaging impacts emanating from activities in the light industrial area;

(c) Protect light industrial areas from other uses that may interfere with the purpose and efficient operations in the light industrial areas;

(d) Provide standards for the development of a light industrial area; and

(e) Provide for the location and grouping of light industrial enterprises in light industrial parks, and provide for activities involving manufacturing, assembly, fabrication, processing, bulk handling and storage, research facilities, warehousing, trucking and certain uses, though perhaps inherently commercial, that are best suited to light industrial areas of the city.

This zone implements the light industrial land use designation of the Comprehensive Plan, and the civic commons overlay.

(12) GI (General Industrial) Zone. The purpose of this zoning district is to provide opportunities for major employment areas within the city and to allow heavy industrial uses including manufacturing, warehousing, storage, distribution, food processing, trucking and related uses in locations that are environmentally suitable for these activities. This zone also provides a location for major utilities including the sewage treatment plant. Additionally, this designation provides a location for the adult entertainment overlay. This zone implements the general industrial and the existing public facilities land use designations and the adult entertainment overlay designation in the Comprehensive Plan. (Ord. 1294 § 2, 2011).

The language regarding odor and other issues are contained in the following section below and is only in the LI zone:

Chapter 17.50
ADDITIONAL STANDARDS – LI (LIGHT INDUSTRIAL) ZONING DISTRICT

17.50.020 Prohibited uses

Uses other than those identified or described in SMC 17.30.040 are prohibited, including but not limited to:

(1) Air Quality. No visible or invisible noxious, toxic, or corrosive fumes or gases or particulate emissions, or suspended particles or fugitive dust emissions, shall be discharged into the atmosphere except such as are common to the normal operation of a heating plant or gasoline or diesel engines in cars, trucks, or railroad engines. Where such emission could be produced as a result of accident or equipment malfunction, adequate safeguards standard for safe operation in the industry involved shall be taken. This shall not be construed to prohibit spraying of pesticides or herbicides on public or private property.

(2) Vibrations. Every use shall be so operated that any air or ground vibration generated from equipment other than vehicles is not perceptible without instruments at any point on or beyond the light industrial zone.
(3) Waste Storage and Disposal. The storage or disposal of industrial waste shall be subject to the regulations of the State Health Department and shall comply with the requirements of the Washington Pollution Control Commission.
(4) Electrical Interference. Provisions must be made for necessary shielding or other preventive measures against interference caused by mechanical, electrical, or nuclear equipment uses or processes with electrical apparatus in nearby buildings or use areas.
(5) Noise. The noise resulting from any activity other than noise produced by vehicles and other transportation facilities and construction and maintenance of buildings and grounds shall not be audible at any point on or beyond the light industrial zone.
(6) Fire and Explosive Hazards. The manufacture, use, processing or storage of flammable liquids or materials, liquids or gases which produce flammable or explosive vapors or gases shall be permitted in accordance with the regulations of the Uniform Building and Fire Codes, SMC Title 14.
(7) Steam. Any use producing humidity in the form of steam or moist air shall be carried on in such a manner that humidity is not perceptible at or beyond the light industrial zone.
(8) Heat. Any use producing heat shall be carried on in such a manner that heat is not perceptible at or beyond the light industrial zone.
(9) Odors. Any use producing odors shall be carried on in such a manner that offensive or obnoxious odor shall not be perceptible at or beyond the light industrial zone.
(10) Glare. Artificial lighting shall be hooded or shaded so that direct light of high intensity lamps will not result in glare when viewed from surrounding areas.
(11) Examples of prohibited uses are:

(a) Animal slaughtering;

(b) Sale of livestock, poultry or similar animals;

(c) Storage, manufacturing or sales of highly volatile or otherwise extremely hazardous substances or materials.

SUPPORTING INFORMATION
(Also See Attachment A)

CITY OF ANACORTES

Chapter 17.15HEAVY MANUFACTURING USE DISTRICT (HM)

17.15.020Permitted uses.

Any industrial, research and development, office, repair, warehouse, processing, shipping terminal uses, adult concessions (only located north of S. March Point Road and east of Reservation Road), commercial parking, private parking, and public parking provided that such uses are of such a nature that they do not inflict upon neighboring districts smoke, dirt, noise, vibrations, odor, glare, or other nuisances or hazards detrimental to the health, welfare, and safety of persons occupying or visiting the district or adjacent districts. Retail floor space existing in or adjacent to the HM zone boundary as of May 1, 1995, that is determined to be nonconforming under these regulations may be increased by up to one hundred percent. (Ord. 2881 § 4, 2012; Ord. 2812 § 1 (Att. A), 2010; Ord. 2794 § 1 (Att. A), 2008; Ord. 2614 Att. A (part), 2003; Ord. 2592 App. A

Chapter 17.16INDUSTRIAL DISTRICT

17.16.020Permitted uses.

Any industrial, research and development, office, repair, warehousing, processing, and shipping terminal uses, adult concessions, commercial parking, private parking, and public parking provided that such uses are of such a nature that they do not inflict upon neighboring districts smoke, dirt, noise, vibrations, odor, glare, or other nuisances or hazards detrimental to the health, welfare, and safety of persons occupying or visiting the district or adjacent districts. (Ord. 2964 § 4, 2015; Ord. 2888 § 3, 2012; Ord. 2881 § 5, 2012; Ord. 2812 § 1 (Att. A), 2010; Ord. 2794 § 1 (Att. A), 2008; Ord. 2521 Att. A § 3 (part), 2000: Ord. 2353 § 1 (part), 1995: Ord. 2316 (part), 1994)

Chapter 17.18LIGHT MANUFACTURING USE DISTRICT (LM)

17.18.020Permitted uses.

Any light manufacturing use or uses involving processing or storage of goods provided the processes or equipment employed, or goods stored, processed or sold shall be limited to those uses which are not objectionable by reason of hazards, odor, dust, smoke, cinders, fumes, noise, vibration, refuse matter or water carried waste; marinas together with related uses such as ship buildings, boat repair, boat sales, restaurants and accessory sales; shipping and terminal facilities; commercial parking, private parking, public parking; and parks. Retailing other than accessory sales is not permitted except for neighborhood grocery stores through the conditional use process.

CITY OF LYNNWOOD

21.50.150 PERFORMANCE STANDARDS – LIGHT INDUSTRIAL ZONE.

All environmental or operational characteristics of a permitted use shall comply with the standards established in this section.

A. Noise. The noise emanating from a premises used for industrial activities shall be muffled so as to not become objectionable due to intermittent beat, frequency or shrillness and shall not exceed those standards contained in Chapter 10.12LMC.

B. Lighting. Industrial lighting and outdoor lighting shall not be used in such a manner that produces glare on public highways and neighboring highways and neighboring property. See Chapter 21.17 LMC, Outdoor Lighting Standards, for specific regulations pertaining to Light Industrial uses. Arc welding, acetylene torch cutting or similar processes shall be performed so as not to be seen from any point beyond the outside of the property.

C. Fire and Safety Hazards. The storage and handling of inflammable liquids, liquefied petroleum, gases, and explosives shall comply with rules and regulations falling under the jurisdiction of the fire chief, the laws of the state and other local ordinances.
D. Electrical Interference. Provisions must be made for necessary shielding or other preventive measures against interferences occasioned by mechanical, electrical, electronic, and nuclear equipment use, or processes with electrical apparatus in nearby buildings or land uses.
E. Odors. The emission of obnoxious odors of any kind shall not be permitted nor the emission of any toxic or corrosive fumes or gases. Dust created by an industrial operation shall not be exhausted or wasted directly into the atmosphere.
F. Smoke or Particulate Matter.

1. The emission of smoke or particulate matter of a density equal to or greater than number three on the Ringlemann Chart, as currently published and used by the U.S. Bureau of Mines, is prohibited at all times.
2. Dust and other types of air pollution borne by the wind from such sources as storage areas and roads shall be minimized by landscaping, paving, oiling or other acceptable means.
3. Emission of particulate matter in excess of 0.2 grain per cubic foot of conveying gas or air measured at any property line is prohibited.
4. The rate of emission of particulate matter from all sources on any property shall not exceed a net weight of one pound per acre of property during any one hour.

G. Liquid and Solid Wastes. Storage of animal or vegetable waste which attracts insects or rodents or otherwise create a health hazard shall be prohibited. No waste products shall be exposed to view from eye level from any property line.
H. Open Storage. All storage shall be located within an area no closer to the street right-of-way line than designated in LMC 21.50.200 and shall be enclosed with a heavy wire fence or of a similar type, with the top of the fence not to be less than six feet above the adjoining street level, or by an attractive hedge or board fence at least six feet high.
In case of the open storage of lumber, coal or other combustible material, a roadway shall be provided, graded, surfaced, and maintained from the street to the rear of the storage area to permit free access of fire trucks at any time.

CITY OF ARLINGTON

- **20.44.208 - Obligation to comply.**

(a) All uses in any zoning district must continually comply with the performance/ operation standards of this Part.
(b) If the city has reasonable doubt that a use is, or can be, conducted within the limits of the above performance standards, it may require that the user or proposed user retain, at his expense, an independent, qualified, testing laboratory or expert to make an analysis of the use to determine its compliance with the standards and make the results of such analysis available to the city. If the site operator does not provide the required analysis within thirty days of the request, the city shall initiate such investigation and bill all expenses thereto the site operator, and the operator shall pay the city for such expenses within ten days after demand. The city may place a lien against the property if the operator refuses to pay such expenses within sixty days on receipt of bill.
(Ord. 1309 § 5(part), 2003)

- **20.44.210 - Noise.**

(a) No use in any zoning district may generate noise that tends to have an annoying or disruptive effect upon (i) uses located outside the immediate space occupied by the use if that use is one of several located on a lot, or (ii) uses located on adjacent lots.
(b) For the purpose of interpreting Subsection (a), and except as provided in Subsection (d), WAC 173-60, as may be amended, is hereby adopted and incorporated by reference in its entirety.
(c) Pursuant to WAC 173-60-030 (2), the following zones are designated to conform to the EDNAs (see WAC) as provided:

(1) SR, RLMD, RMD, RHD, and OTR - Class A EDNA
(2) NC, OTB, GC, and HC - Class B EDNA
(3) BP, A, LI, and I - Class C EDNA

(4) P/SP - shall conform to the EDNA that conforms to the zoning designation that predominately surrounds the P/SP parcel.

(d)
The following provisions of WAC 173-60 are amended:

(1) WAC 173-60-050 (2)(b) (certain existing industrial uses) is specifically not adopted.

(2) Wherever WAC 173-06 speaks to the department of ecology enforcing said regulations, the city may also act to enforce them pursuant toChapter 20.28 (Enforcement and Review) of this title.

(Ord. 1393 § 10, 2006; Ord. 1309 § 5(part), 2003)

- ## 20.44.220 - Vibration.

(a) Except as modified by Subsection (b), no use in any zoning district may generate any ground-transmitted vibration that causes property damage or is perceptible to the human sense of touch measured at (i) the outside boundary of the immediate space occupied by the enterprise generating the vibration if the enterprise is one of several located on a lot, or (ii) the lot line if the enterprise generating the vibration is the only enterprise located on a lot.

(b) No 4.000 classification use in a Light Industrial (LI) or General Industrial district (GI) may generate any ground-transmitted vibration in excess of the limits set forth in Subsection (e). Vibration shall be measured at any adjacent lot line or residential district line as indicated in the table set forth in Subsection (e).

(c) The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.

(d) The vibration maximums set forth in Subsection (e) are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed based on displacement and frequency. When computed, the following formula shall be used:

PV = 6.28 F x D

Where:

PV = Particle velocity, inches-per-second

F = Vibration frequency, cycles-per-second

D = Single amplitude displacement of the vibration, inches.

The maximum velocity shall be the vector sum of the three components recorded.

(e) Table 20.44-2 is the Table of Maximum Ground-Transmitted Vibration.

(f) The values stated in Subsection (e) may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second in duration and having a pause of at least one second between pulses.

(g) Vibrations resulting from temporary construction activity that occurs between seven a.m. and ten p.m. shall be exempt from the requirements of this section.

Table 20.44-2: Table of Maximum Ground-Transmitted Vibration

(Ord. 1309 § 5(part), 2003)

- ## 20.44.230 -Odors.

(a) For purposes of this section, the "odor threshold" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that is found to be overwhelming and a nuisance to the olfactory systems of a majority of a panel of five healthy observers.

(b) No use in any district may generate any odor that:

(1) Reaches the odor threshold, measured at:

(A) The outside boundary of the immediate space occupied by the enterprise generating the odor.

(B) The lot line if the enterprise generating the odor is the only enterprise located on a lot.

(2) Exceeds any state or federal thresholds.

(Ord. 1309 § 5(part), 2003)

- ## 20.44.240 - Smoke and air pollution.

(a) Any use that emits any "air contaminant" as defined in Regulations 1, 2, or 3 of the Puget Sound Clean Air Agency shall comply with applicable state standards concerning air pollution, as set forth in Regulations 1, 2, or 3 of the Puget Sound Clean Air Agency.
(b) No zoning, special use, or conditional use permit may be issued with respect to any development covered by Subsection (a) until the Puget Sound Clean Air Agency has certified to the permit-issuing authority that the appropriate state permits have been received by the developer, or that the developer will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.
(Ord. 1309 § 5(part), 2003)

- ## 20.44.250 - Disposal of liquid and hazardous wastes.

(a) No use in any district may discharge any waste contrary to the provisions of RCW 70.105 (Hazardous Waste Management) or RCW 90.48 (Water Pollution Control).
(b) No use in any district may discharge into either the city of Arlington's or the city of Marysville's sewage treatment facilities any waste that cannot be adequately treated by biological means or in a manner inconsistent with the requirements and sewer service policies of either jurisdiction.
(Ord. 1309 § 5(part), 2003)

PARK OPEN SPACE CHANGES

One of the issues that has been difficult to administer in subdivisions is the open space requirements especially for smaller projects. Our recreation requirements are outdated and can be very difficult to complete for smaller projects. For example, a project is required to provide 110 square feet per person and a three bedroom house has 4.5 persons (per code). So if you are completing a 15 lot plat with three bedroom houses that would be 7,425 square feet required. Section SMC 17.147.040 is the section that discusses required recreation facilities requirements. If you review the list below it would be very difficult to do any of these requirements with the potential exception for section 17.147.040(1)(b) Picnic area, consisting of at least five picnic tables with benches, five barbecues, and five secured in-place trash containers. This picnic area shall have shade trees. Although a project could do this it would be too much for such a tiny area.

It might also make some logic in certain situations to eliminate the requirement for open space and have the applicant provide comparable dollar value in an existing city park. This would be a benefit to improving what we have and providing a better park experience.

SUPPORTING INFORMATION

17.147.040 RECREATIONAL FACILITY REQUIREMENTS.

(1) The purpose of the recreation areas is to provide adequate recreational facilities to serve the residents of the development. Each new residential development of 10 units or more shall provide, at a minimum, facilities from the following list. The number of facilities that must be provided from this list shall be based on the number of dwelling units that are to be built in the development, as provided in subsection (2) of this section. A development may not provide two or more of the same facility unless more than five facilities are provided.

(a) Playground area that meets ASTM standards, consisting of four pieces of playground equipment including swings, slide, and climber, or a single piece of equipment that provides at least four different activities;

(b) Picnic area, consisting of at least five picnic tables with benches, five barbecues, and five secured in-place trash containers. This picnic area shall have shade trees;

(c) Asphalt-paved hiking, jogging, and/ or biking trails, at least one mile in length to city of Stanwood requirements;

(d) Softball field to Amateur Softball Association of America requirements;

(e) Multipurpose court to city of Stanwood requirements;

(f) A tennis court constructed to United States Lawn Tennis Association requirements or a pickleball court;

(g) A swimming pool area with a minimum of an 800-square foot pool, a 3,200-square foot deck, and, as a minimum, a six-foot high perimeter fence;

(h) A one-quarter mile running track to National Collegiate Athletic Association requirements;

(i) Two volleyball courts;

(j) A soccer field to United States Youth Soccer Association requirements;

(k) Two handball courts to United States Handball Association requirements;
(l) Exercise course to city of Stanwood requirements;
(m) Historical site with interpretive signage.

(2) The number of required recreational facilities shall be dependent on the total number of dwelling units approved for the residential project. The following table indicates the number of required recreational facilities relative to the size of the residential project:

Minimum Recreational Facility Requirements in Residential Developments

Number of Approved Dwelling Units in Project	Minimum Number of Required Recreational Facilities
10 – 50	1
51 – 100	2
101 – 150	3
151 – 200	4
201 – 250	5
251 – 300	6
301 – 350	7
351 – 400	8
401 – 450	9
more than 450	10

(3) Notwithstanding the above table, certain facilities shall be suggested when the number of dwelling units reaches specified levels in residential developments. In these developments, the suggested facilities may be counted toward the required recreational provisions enumerated in subsections (1)(a) through (1)(m) of this section.

The following table indicates those facilities that are suggested for the various types of residential developments and at what dwelling unit provision level they may be required:

Suggested Recreational Facility Requirements in Residential Developments

	Minimum Dwelling Unit Recreational Facility Provision Levels
Baseball or Softball Field	100 (Single-Family, Duplex or Combination of Single-Family and Duplex Projects only)
Tennis or Basketball Courts (2)	75 (All Residential Developments)
Multipurpose Court	50 (All Residential Developments)
Swimming Pool	200 (All Residential Developments)

(4) If an applicant wishes to provide recreational facilities in a manner that is not consistent with these standards, this shall be allowed, if, in the opinion of the planning director, the proposed deviation from these standards will be equivalent to the

requirements contained herein. (Ord. 1098 § 2, 2001; Ord. 948, 1996; Ord. 929 Ch. 10(M)(4), 1995).

SAMPLE – CITY OF SULTAN

16.62.070 On-site recreation facility requirements.

A. In lieu of providing on-site recreation improvement, the applicant may pay a voluntary fee in addition to the park impact fee. A fee in lieu of on-site recreation improvements will be permitted when:

1. The applicant complies with the open space requirement per SMC16.62.060; and

2. The payment of the fee will provide greater benefit to the residents of the project by providing needed capital improvements to an existing park or for the development of a new park in the existing neighborhood or city.

B. The fee shall be based on the number of lots within the proposed subdivision. For subdivision over 10 lots the fees are calculated below:

1. First 25 lots will be at a rate of $1,500 per lot.

2. Lots 26 to 50 will be at a rate of $1,250 per lot.

3. Lots 51 to 75 will be at a rate of $1,000 per lot.

4. Lots 76 to 100 will be at a rate of $750.00 per lot.

5. 100 plus lots will be at a rate of $500.00 per lot.

C. Fee collected per the provisions of the section shall be used by the city for installation of capital improvements to an existing or new park in the existing neighborhood or city. Such fees shall be paid prior to final plat approval or divided among the lots and paid at time of building permit issuance.

SEPARATE ORDINANCES FOR PARKS, TRAFFIC, AND FIRE IMPACT FEE

The change to all three of these ordinance would be to create separate ordinances for each of these impact fees. Currently they are all contained in one ordinance and should be placed in separate ordinances as a standalone item.

MONUMENT SIGNAGE

The Planning Commission has asked to consider a change to the sign code to allow for off-sight monument signage for businesses. For example, this would allow a business or group of businesses who do not front a main road like 271st St NW to provide signage for their business to be visible. Another option might be to modify the A-board signage requirements to meet this request as well.

EDITS TO CONSIDER FROM OUR HEARING EXAMINERS

During our recent hearing for the Stanwood School District, our hearing examiner had a chance to review the Stanwood Municipal Code and is suggesting a few changes for consistency purposes. Here is a list below of suggested edits.

H.E. SUGGESTIONS 1

I am suggesting five minor changes that would be common to both alternatives. First, I have changed "date of the hearing examiner's decision" to "date the hearing examiner's decision is issued" in both alternatives. My concern is that it might occur that your distribution of a decision could lag the date on my decision; I don't think the time period for filing a reconsideration request should inadvertently be shortened should that happen. (I always try to e-mail decisions to your staff before noon of the date on the decision and I am quite confident that your staff tries to get the decision issued the same day they get it. But unforeseen things can happen.)

Second, I changed the word "petition" in the one place that it occurs to "request" so that all references to reconsideration requests use the same wording.

Third, although it's in different places in the two alternatives, I have changed the wording so that the time period for actions starts at the close of the reconsideration period, rather than when a request is filed. This change would allow me to consolidate multiple requests rather than having to deal with each separately: If the timeline runs from the filing of the request, and if a request were filed very early in the reconsideration period, I could not afford to wait for the end of the period before doing something. I am sure that facilitating consolidation of requests would benefit me timewise, save the City money, and make life easier for your staff.

Fourth, I have deleted the word "affected" as a modifier of "parties of record". I think it is unnecessary and could lead to procedural disputes over which parties of record are "affected" by a decision. I think you'd be better off just saying that parties of record may comment.

Fifth, I have added a new subsection (c) which essentially says that there can be only one round of reconsideration. I have this limitation in our present Rules of Procedure and I think, although some might argue that it is intuitively obvious, that it is worth saying that reconsideration cannot be an endless loop.

As to the alternatives themselves, Alternative A merely incorporates the five above changes into the text. It makes no substantive changes to the subsection.

Alternative B makes a substantive change: It eliminates the mandatory comment period for every request for reconsideration. I have found in other jurisdictions that often there is no need to lengthen the process to ask for comments from parties of record or staff. I have sought comments in some cases, but not always. In some cases I know from the hearing what parties of record and staff would likely think about changes contained in a request for reconsideration. Or, sometimes, the request seeks a change that is so obviously needed or a change that I know I will be unwilling to make that to spend 14 days inviting comments would be a waste of time.

H.E. SUGGESTIONS 2

I'm still poring through the new code – and I just came to SMC 17.81B.710(5)(b)(iii) regarding reconsideration of my decisions on Type I and II appeals. This one is much shorter – and doesn't provide for parties of record comments. It does, however, say that me action on a request must be made with 14 days of the filing of the request.

If the City decides to amend the other reconsideration section to have the time period for my action run from the end of the reconsideration period, I would ask that this subsection be amended to match.

On a different note: I see that while I have 15 days after the hearing to issue my decision on a Type III application [SMC 17.81B.350(4)], I only have 14 days to issue me decision on a Type I or II appeal [SMC 17.81B.710(5)(b)(i)]. It would be nice if they were both the same.

H.E. SUGGESTIONS 3

I am unsure whether the Examiner still has a role in the review of development Agreements. SMC 17.81A.210(4), Table 17.81A-I says that I hold a hearing and forward a recommendation to the Council. SMC 17.81B.505 seems (in somewhat broken verbiage) to say the same thing. But SMC 17.81B.535 and .540 noticeably omit the Examiner from any role in the review process. Can you clarify?

CELL TOWER RULES

Our city attorney has been working with other cities on the issue of small cell deployment over the last year or so. Our current cell tower rules including those from 2016 do not address small cell deployment. It is suggested that the city create rules that address this matter.

Small cells or small cellular base stations encompass a number of different technologies but one could describe them as anything that's not a typical macro site. They are deployed to solve network capacity issues in a relatively small area, like a hot spot or an important zone that is a subset of the umbrella macro site coverage.

Occupying less space, they help ensure seamless connectivity. Operators can easily replace large cell sites in crowded urban areas with several smaller cell sites or even augment cell sites using small cells solutions. By shrinking and/or breaking the size of each cell, operators can support more users per square mile. This means fewer blocked calls and more consistent data speeds in dense Indian metro cities. There are several ways that small cells can be deployed to expand capacity.

PRD – CUL-SAC

The PRD code pertaining to cul-de-sacs does not appear to allow for temporary cul-de-sac as identified in section 17.95.455 Street Standards and may eliminate the opportunity to provide connectivity to adjacent properties. Staff would like to still require connectivity to adjacent lots but still maintain the requirement of providing a through street.

17.95.455 STREET STANDARDS.

PRDs shall be subject to the street and utility standards (Chapter 14.14 SMC), with the following exceptions:

(1) All PRDs shall provide through-streets to streets. Cul-de-sacs, hammerheads, and other dead-ends shall not be permitted.

(2) Cottage PRDs may propose alternate street sections for approval by the public works director.

(3) The public works director may require provisions for future connections to adjoining developments. (Ord. 1356 § 23, 2013; Ord. 1164 § 4, 2004).

Snohomish County Regulations.

30.28.093 Odor prevention requirements.

SHARE

(1) Purpose.

(a) The purpose of this section is to prevent certain detectable odors by establishing performance standards for hydrogen sulfide and ammonia emissions in order to prevent nuisance odor emissions, promote the health, safety, and welfare of the community and to maintain compatibility of surrounding land uses. This section is not to be construed to conflict with any applicable federal or state air emission standard or regulation.

(b) This section is not intended to prevent a single odor emission released as a direct result of necessary facility maintenance.

(2) Exemptions. This section does not apply to:

(a) agricultural activities as defined in SCC 30.91A.090, occurring on lands where agriculture is a legal use;

(b) solid waste facilities including landfills, transfer stations, drop boxes and refuse, leachate and landfill gas systems;

(c) side sewer systems;

(d) wastewater collection and conveyance system pipes under 24 inches in size;

(e) permitted yard waste processing facilities.

(f) wastewater treatment facilities with treatment plant capacity of less than 25 million gallons per day (MGD); and

(g) wastewater conveyance, collection and treatment systems, including treatment plants, or upgrades to such systems, in existence prior to December 31, 2004.

(3) Applicability. This section applies to:

City of Burlington

8.12.020 Types of nuisances.

Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the enforcement officer determines that any of these conditions exist upon any premises, whether residential, commercial or industrial, or in any lake, river, stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter:

S. The existence of any strong or offensive odor at the property line, including but not limited to rotting or decaying fish or other dead animals, rotting garbage, animal manure, strong chemical smells, and other strong or offensive odors.

Mt. Vernon, WA.

17.56.070 Performance standards – Violation deemed nuisance.

All commercial and industrial business uses are permitted in this district, provided their performance is of such nature that they do not inflict upon the surrounding permitted land uses smoke, dirt, glare, odors, vibration, noise, excessive hazards or water pollution detrimental to the health, welfare, or safety of the public occupying or visiting such areas. The maximum permissible limits of these detrimental effects shall be defined in this section, and upon exceeding these limits shall be considered a nuisance and declared in violation of the regulations of this zoning title and shall be ordered abated. It shall be the responsibility of the operator and/or proprietor of any permitted use to provide such reasonable evidence and technical data as the enforcing officer may require to demonstrate that the use or activity is or will be in compliance with the performance standards of this chapter.

Air pollution shall be controlled by the operator and/or proprietor of any land use or activity permitted by this chapter. The ambient air quality standards specified by the Northwest Air Pollution Authority shall apply to all air contaminants listed therein. *15 years ago NWAPA required additional engineering controls at a coffee roasting plant.*

8.08.040 Nuisances specifically defined (also could see #9 Publicv peace morals, welfare)

H. The erection or continuance of use of any building, room, or other place in the city for exercise of any trade, employment, or manufacture which, by emitting noxious exhausts, particulate matter, offensive **odors**, or other related annoyances, is discomforting, offensive, or detrimental to the health of individuals or of the public.

Whiting, Maine.

A. Odor Nuisance

It shall be a violation of this ordinance to create or permit dissemination of an odor nuisance as defined below.

1. Nuisance Defined: An odor nuisance shall exist when three (3) odor complaints arise from a given area or neighborhood during a forty-eight (48) hour interval. The three (3) complaints must originate from three (3) different households in an area considered residential and may be communicated by telephone to the Code Enforcement Officer (CEO) or the Town Clerk. Complainants shall be prepared to formalize their concern by written statement to the Board of Selectmen.

2. Nuisance Confirmation: When the number of complaints received equals three, the Whiting Code Enforcement Officer, or other designated official, shall visit the affected area to determine existence of a detectable odor. The CEO or other official shall interview two or more complainants to verify that the detected odor is the source of complaint. The complainants verifying the odor nuisance shall confirm that fact by submitting a completed copy of the attached sample complaint form.

- **City of Seattle - Chapter 10.50 - OFFENSIVE BUSINESSES[24]**

- **10.50.010 - Offensive businesses designated.**

  It shall be unlawful for any person, firm or corporation within the limits of the City to conduct any of the following businesses or to use any building or premises for any of the following uses, unless the businesses shall at all times be so conducted as to create no offense or nuisance:

A. Cement, lime, gypsum or plaster of paris manufacture;

B. Chlorine or hydrochloric, nitric, picric, sulphurous, or sulfuric acid manufacture;

C. Distillation of bones; D. Fat, tallow, or lard rendering; E. Fertilizer manufacture from organic materials or minerals; F. Glue, size or gelatine manufacture; G. Hair factory;

H. Petroleum refining; I. Potash refining; J. Reduction of garbage, offal, dead animals or refuse; K. Slaughterhouses or packing plants; L. Smelting of copper, tin, zinc, or iron ores; M. Stockyards; N. Tannery; O. Wool pulling or scouring;

P. Any other trade, industry or use which is or is likely to become similarly objectionable by reason of the emission of dangerous, unwholesome, foul, nauseous or offensive gases, odors or fumes.

(Ord. 45312 § 1, 1923.)

- **10.50.020 - Control of odors, gases and fumes.**

  All dangerous, unwholesome, nauseous or offensive odors, gases or fumes arising from or incidental to any of the businesses or uses enumerated in Section 10.50.010 or any part thereof shall be condensed or destroyed by some effective means and no such odors, gases or fumes shall be allowed to escape into the open air in such amounts as to be at any time disagreeably noticeable more than two hundred feet (200') from the building or premises whence said odors, gases or fumes emanated.

City of Redmond.

6.34.040 Odor emissions.

(A) This section shall only apply to uses established after December 24, 1998, or buildings constructed after December 24, 1998.

(B) Recurrently generated offensive odors shall not be perceptible by a person of ordinary sensitivity, without instruments, at any point of any boundary line of the lot or lots on which the use or structure is located. Odors from temporary construction activities and vehicles that leave the lot (such as trucks, trains, airplanes and helicopters) are excluded. (Ord. 2589 § 2 (part), 2011).

City of Enumclaw.

19.22.050 Emission of obnoxious odors and dust.

The emission of obnoxious odors of any kind is not permitted nor the emission of any toxic or corrosive fumes or gases. Dust created by an industrial operation shall not be exhausted or wasted into the air. (Ord. 1960 § 3, 1998).

19.22.060 Air pollution.

The emission of smoke or particulate matter of a density equal to or greater than number 3 on the Ringlemann Chart as currently published and used by the U.S. Bureau of Mines is prohibited at all times. Dust and other types of air pollution borne by the wind from such sources as storage areas and roads shall be minimized by appropriate landscaping, paving, oiling or other acceptable means. Emission of particulate matter shall comply with the standards and regulations of the Washington State Air Pollution and Puget Sound Air Pollution Agencies. (Ord. 1960 § 3, 1998).

Washington State RCW.

The Revised Code of Washington (RCW9.66.010). You can find the definition of "Nuisance" under MMC 6.24.020 and the State's enforcement section under RCW 9.66.010, "Public Nuisance." The governing section states in part, "A public nuisance is a crime against the order and economy of the state. Every act unlawfully done and every omission to perform a duty which act (1) Shall annoy, injure or endanger the safety, health, comfort or repose of any considerable number of persons; or, (4) Shall in any way render a considerable number of persons insecure in life or the use of property; Shall be a public nuisance."