1. Agenda

   Documents:

   6-25-2018 PC AGENDA.PDF

2. Meeting Materials

   Documents:

   DRAFT FINAL PLAT CODE AMENDMENT.PDF
   INDUSTRIAL PERFORMANCE STANDARDS CODE AMENDMENT.PDF
   MINUTES OF JUNE 11, 2018.PDF

PLANNING COMMISSION AGENDA

Monday June 25, 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 June 11, 2018

5. New Business
   Draft Final Plat Code Amendment

6. Old Business
   Industrial Performance Standards Code Amendment

7. Miscellaneous Business

8. Public Comments

9. Recent Council Action on Commission Items
   Update on Marijuana Code Amendment
   Update on SMP Public Participation Plan Resolution

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.

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

MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

TO: PLANNING COMMISSION

FROM: Patricia Love, Community Development Director

SUBJECT: Final Plat Code Amendment

DATE: June 25, 2018

ATTACHMENT:
A. Draft Stanwood Municipal Code Amendments
B. SB 5674: Land Subdivisions – Final Plat Approval -- Delegation

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Issue:

Changes in state law recently granted local governments the authority to administratively approve final plats. Stanwood has historically required final plats (subdivisions of 10 or more lots) to be approved by the City Council. The new law allows a jurisdiction's administrative staff, such as the Community Development and Public Works Director, to approve final plats if the project conforms to the conditions of approval and the associated infrastructure is in place.

Background:

Subdivision of land occurs in three distinct phases: preliminary plat, plat construction and final plat. The land use law associated with each phase is also very distinct regarding a city's legal authority to regulate that process.

Platting Phase:	Process & Legal Authority
Preliminary Plat	Applications for preliminary plat are reviewed against the City's adopted subdivision, zoning, environmental, and development standards for compliance with land use regulations as well as for overall life, health, welfare requirements. Public comments are solicited several times during the review stage of the permit: open comment period, during environmental review process and at the public hearing.

Platting Phase:	Process & Legal Authority
	The Hearing Examiner makes a formal decision to either approve, approve with conditions, or deny the preliminary plat application at the conclusion of the public review process. Conditions may be attached to the approval which have a direct relationship to the projects impacts; this is call "nexus", and to the size of that impact, which is commonly referred to as "proportionality". Upon approval of a plat, all of the building, environmental, and site development issues have been resolved. The applicant now has a legal right to build without any further requirements imposed by the City.
Plat Construction	Applicants have between five and 10 years to construct their plat depending on the date of plat approval. Projects vest at the time of preliminary plat approval with the conditions required at that time. No new conditions can be added to the project. During this phase of the development, the applicant submits for final construction plan approval and builds out the plat per the approved plans and conditions of approval. At critical milestones in the development process, city and special district staff inspect the site improvements to ensure compliance with the approved plans and conditions. Typical site improvements include roads, utilities, storm water, environmental enhancements, and park improvements.
Final Plat	Once all of the site improvements have been constructed and inspected per the approved plan, the applicant can apply for final plat approval. At the final plat approval stage, the process is essentially administrative: the city verifies all conditions of preliminary plat have been met and site improvements are installed per plan approval. If the City finds that the plat conforms to the preliminary approval, the City must approve the final plat. Once the final plat has been approved, the developer can begin building out the lots or sell the property.

State law changed to ensure that the final plat process remains an administrative process. With final plats requiring approval by the City Council, elected officials have in the past tried to impose additional conditions on a project based on community comments or concerns. These types of actions have led to lawsuits and exposed cities to legal liability with the potential of paying financial damages to applicants.

Secondly, the process was also changed in simplify and streamline the final plat process. Because cities have no option but to approve a final plat if all the conditions of preliminary plat approval have been met, the process of obtaining City Council approval can be lengthy in some jurisdictions.

Comprehensive Plan Guidance:

Stanwood's Comprehensive Plan envisions a strong community that balances the needs of residents and business. Housing is an integral part of that balance. The Comprehensive Plan's economic development policies support streamlining the City's permit process to make it more efficient and expeditious.

EDP-6.1 Ensure that City licensing and permitting procedures and development regulations are coherent, fair, and expeditious.

EDP-6.4 Expedite permits for projects that further Economic Development, while still providing equitable service for all.

Simplifying the final plat process reduces time and cost to housing developers and it brings housing options on the market faster. By taking the focus off the end process, it emphases the importance of ensuring that all platting issues are properly addressed at the preliminary plat phase where the legal authority exists to mitigate any impacts.

Staff Recommendation:

As noted above, the purpose of final plat is to determine whether conditions of preliminary plat approval have been satisfied. Final plat approval is not discretionary. By having a final plat reviewed in a public meeting or hearing adds time and confusion to the process: the public and local officials think they have the opportunity to add conditions to a project when in fact there is no such authority by law. Staff recommends changing the code to allow administrative review of final plats.

While making this one change seems simple, several sections of the municipal code need amending, including:

- Title 16 – Subdivisions
    - Final Plat Approval
    - Duration of Approval
    - Filing of Record
    - Appeals

- Title 17 - Zoning
    - Permit Procedures
    - Permit Types

Attached for your review and consideration are several edits to the Stanwood Municipal Code changing the final plat approval process from the City Council to administrative staff.

Next Steps:

Based on the Planning Commission's review of this issue, staff will prepare the code amendment, circulate for public comment, and bring back to the Commission for a recommendation to the City Council.

Title 16 Subdivisions
Chapter 16.20 Final Plats

16.20.060 Approval.

(1) Upon receipt of the final plat and accompanying data, the public works director and planning director shall review the final map and documents to determine that the plan conforms with the approved preliminary plat, and that there is compliance with provisions of the law and of this code. The staff may make checks in the field to verify that the map is sufficiently correct on the ground, and may enter the property for this purpose.

(2) If the public works director and planning director determine that the final plat conforms fully with all applicable regulations and standards, they shall then affix their signatures thereto. See also SMC 17.102.080(3).

(3) ~~After being approved as required above, the final plat shall be presented to the city council.~~ After finding that the final plat has been completed in accordance with the provisions of this code, and that all required improvements have been completed or that arrangements or contracts have been entered into to guarantee that such required improvements will be completed, and that the interests of the city are fully protected, the mayor shall sign the final plat accepting such dedications and easements as may be included thereon, and the final plat shall be returned to the applicant for filing for record with the auditor.

(4) Final plats shall be approved, disapproved or returned to the applicant within 30 days from the date of filing with the planning director, unless the applicant consents to an extension of such time period. (Ord. 1032 § 7, 2002; Ord. 1110 § 2, 2002).

16.20.065 Duration of approval. [OR REPEAL ENTIRE SECTION: CITY ATTORNEY TO REVIEW]

Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of seven years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat and the statutes, ordinances, and regulations in effect at the time of approval under Chapter 16.15 SMC unless the city ~~council~~ finds that a change in conditions creates a serious threat to the public health or safety in the subdivision; provided, that this provision shall expire December 31, 2014, consistent with RCW 58.17.140 as amended by the 2010 State Legislature in SSB 6544, on which date the effective period for the final plat shall be five years. (Ord. 1266 § 4, 2010).

16.20.090 Filing for record.

The original of the final plat shall be recorded with the Snohomish County auditor. One paper copy and one digital copy on CD shall be provided to the planning director. Additional paper copies shall be filed with the Snohomish County assessor, community development director, and the fire chief. All required paper copies shall bear the auditor's recording data.

The county auditor shall refuse to accept any plat for filing and recording until approval of the plat has been given by the Stanwood ~~city council~~ Community Development Director. Should a plat or dedication be filed or recorded without such approval, the city attorney shall apply for writ of mandate in the name of and on behalf of the city ~~council~~ directing the auditor and assessor to remove from their files or records the unapproved plat or dedication of record. (Ord. 1398 § 2, 2015; Ord. 1110 § 2, 2002).

16.20.120 Appeal.

Any person aggrieved by the final decision of the ~~city council~~ Community Development Director may appeal the decision pursuant to SMC 17.81A.210(4) and 17.81A.265. (Ord. 1419 § 4, 2016).

Title 17 – Zoning
Chapter 17.81A Procedures

17.81A.210 Types of Review.

(1) The purpose of this section is to provide an overview of the ~~six~~ five levels of land use review. Land use and development decisions are classified into ~~six~~ five processes based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of input sought, and the type of appeal opportunity.

(2) Classification of Permits and Decisions.

(a) Type I Review – Administrative Decisions without Notice. A Type I process is an administrative review and decision by the appropriate department or division. Applications reviewed under the Type I process are minor administrative decisions and are exempt from certain administrative procedures, such as complete application review, noticing, and decision time frames. Appeals of Type I decisions are made to the hearing examiner, except shoreline permit appeals are made to the shoreline hearings board and

final plats are made to Snohomish County superior court. The permits and actions reviewed and decided as Type I are listed in the table in subsection (4) of this section.

(b) Type II Review – Administrative Decisions with Notice. A Type II process is an administrative review and decision with recommendation from staff, city departments or others and requiring public notice at the application and/or decision stages of the review. Appeals of Type II decisions are made to the hearing examiner, except shoreline permit appeals are made to the shoreline hearings board. The permits and actions reviewed and decided as Type II are listed in the table in subsection (4) of this section.

(c) Type III Review – Quasi-Judicial Decisions – Hearing Examiner. This Type III process is a quasi-judicial review and decision by the hearing examiner. The hearing examiner makes a decision based on a staff report. A public meeting may be held prior to the hearing examiner hearing with the planning commission. The hearing examiner considers public testimony received at an open record public hearing. Public notification is provided at the application, public hearing, and decision stages of application review. Appeals of hearing examiner decisions are made to Snohomish County superior court, except shoreline permit appeals are made to the shoreline hearings board. The permits and actions reviewed and decided as Type III are listed in the table in subsection (4) of this section.

(d) Type IV Review – Quasi-Judicial Decisions – City Council. A Type IV process is a quasi-judicial review and decision by the city council. Public notification is provided at the application, public hearing (if any), and decision stages of application review. There is no opportunity for an administrative appeal. Appeals of city council decisions are made to Snohomish County superior court. The permits and actions reviewed and decided as Type IV are listed in the table in subsection (4) of this section.

(e) Type V Review – Legislative Decisions – City Council with Planning Commission Recommendation. A Type V review is for legislative and/or nonproject decisions by the city council under its authority to establish policies and regulations regarding future private and public development and management of public lands. The planning commission makes a recommendation to the city council. The planning commission will conduct a public hearing to obtain public testimony on the proposed legislation. The city council may elect to conduct an additional public hearing. The actions reviewed and decided as Type V are listed in the table in subsection (4) of this section.

(3) Permits and Actions Not Listed. If a permit or land use action is not listed in Table 17.81A-I, the planning director shall make the determination as to the appropriate review procedure.

(4) Permit-Issuing Authority and Appeal Authority. The permit-issuing authority and appeal authority for permit applications and legislative actions are established in Table 17.81A-I. A detailed explanation for each review procedure is in Chapter 17.81B SMC under each article for each review type.

Table 17.81A-I: Classification of Permits and Decisions

Type of Application	Public Comment/Notice Period	Pre-Application Meeting	Public Meeting/ Recommendation	Open Record Hearing	Decision	Open Record Appeal	Closed Record Appeal	Non-City or Judicial Appeal
Type I:								
Administrative site development permit, grading permit, sign permit	No	No	No	No	CDD	HE	No	Yes
Home occupation permit	No	No	No	No	CDD	HE	No	Yes
Accessory dwelling unit	No	No	No	No	CDD	HE	No	Yes
Parcel combination	No	No	No	No	CDD	HE	No	Yes
Manufactured housing infill	No	No	No	No	CDD	HE	No	Yes
Boundary line adjustment	No	No	No	No	CDD	HE	No	Yes

Type of Application	Public Comment/Notice Period	Pre-Application Meeting	Public Meeting/ Recommendation	Open Record Hearing	Decision	Open Record Appeal	Closed Record Appeal	Non-City or Judicial Appeal
Administrative interpretation	No	No	No	No	CDD	HE	No	Yes
Encroachment permit	No	No	No	No	CDD/CE	HE	No	Yes
Final plat	No	No	No	No	CDD	No	No	Yes
Floodplain development permit	No	No	No	No	CDD	HE	No	Yes
Administrative decision, modification, adjustment to standards	No	No	No	No	CE	HE	No	Yes
Type V:								
Comprehensive plan amendment	NOA 10-day NOH	None	Yes	PC++	PC recommendation** 10-day HOH	No	No	Yes

Type of Application	Public Comment/Notice Period	Pre-Application Meeting	Public Meeting/ Recommendation	Open Record Hearing	Decision	Open Record Appeal	Closed Record Appeal	Non-City or Judicial Appeal
Development regulations amendments	10-day NOH	None	No	PC++	PC recommendation** CC decision**	No	No	Yes
Annexation	15-day NOA 10-day NOH	CDD, CE	No	CC/SCBRB	PC recommendation** CC decision**	No	No	Yes
~~Final plat~~	~~No~~	~~No~~	~~No~~	~~No~~	~~CC~~	~~No~~	~~No~~	~~Yes~~
Right-of-way vacation	10-day NOH	CE	No	CC	CC Committee Recommendation CC decision	No	No	Yes
Zoning map amendment	10-day NOH	CDD	No	PC	CC	No	No	Yes

CC City Council

CE City Engineer

PC Planning Commission.

HE Hearing Examiner

CDD Community Development Director

SCBRB Snohomish County Boundary Review Board

NOH Notice of Hearing (per SMC 17.81A.260) NOA Notice of Application (per SMC 17.81B.225) PWD Public Works Director

* The community development director shall have the option of referring the application to the hearing examiner for a public hearing and decision. In this case, an appeal of the hearing examiner's decision shall be heard in a closed record appeal as a judicial appeal.

** Either the planning commission or the city council may opt to hold one or more workshops or joint workshops on an application.

++ The city council may opt to hold the required public hearing(s).

(5) Associated Land Use Determinations. Associated land use determinations are decisions that need to be made as part of another land use action or permit review, as set forth in Table 17.81A-II. Each type of determination has a separate review process determined by the community development director or public works director.

Title 17 – Zoning
Chapter 17.81B Types of Land Use Review

17.81B.525 Public meetings.

A public meeting is required for all Type IV applications pursuant to SMC 17.81A.260. Staff may require the applicant to participate in the meeting to inform citizens about the proposal. If a public meeting is planned, it shall be held as early in the review process as possible for Type IV applications. Notice of the public meeting shall be provided in the same manner as required for notice of the application. The public meeting notice will be combined with the notice of application whenever possible. ~~Council action for a final plat is a public meeting rather than a public hearing.~~ (Ord. 1419 § 9, 2016).

17.81B.540 Notice of city council public hearing.

(1) Public notice of the date of the city council public hearing, ~~or for final plats a public meeting,~~ at which the city council will consider the application shall be published in a newspaper of general circulation. The public hearing shall be scheduled no sooner than 10 days following the date of publication of the notice. If a determination of significance was issued by the SEPA responsible official, the notice of staff recommendation shall state whether an EIS or supplemental EIS was prepared or whether existing environmental documents were adopted. The notice of the city council meeting shall also include the notice of the availability of the staff recommendation.

(2) The director shall mail or email notice of the city council public hearing or public meeting, the SEPA determination, and the notice of the availability of staff recommendation to all parties of record. (Ord. 1419 § 9, 2016).

17.81B.545 City council decision.

(1) Within five days of a decision, the planning director shall transmit to the city council a copy of the department file on the application including all written comments received prior to the city council meeting and information reviewed by or relied upon by staff. The file shall also include information to verify that the requirements for notice to the public (notice of application, notice of public hearing, and notice of SEPA determination) have been met.

(2) Any person may participate in the city council public hearing, ~~or public meeting for final plats,~~ on staff recommendation by submitting written comments to the department of community development prior to the hearing or by submitting written comments or making oral comments at the hearing.

(3) The city council shall, at the open record public hearing or public meeting, consider and take final action on each Type IV application. The final action may take place in the same meeting as the public hearing or public meeting, if any.

(4) The city council shall either:

(a) Approve the application;

(b) Approve the application with modifications;

(c) Remand the application to staff for an additional review limited to specific issues identified by the council; or

(d) Deny the application.

(5) Decision.

(a) Conditions. The city council may, based on the record, include conditions in any decision approving or approving with modifications an application, in order to ensure conformance with the approval criteria specified in the code or process under which the application was made.

(b) Findings of Fact. The city council shall include findings of fact and conclusions derived from those facts which support the decision of the council, including any conditions, in the decision approving or approving with modifications the application. The city council may by reference adopt some or all of the findings and conclusions recommended by staff. (Ord. 1419 § 9, 2016).

ATTACHMENT B:

STATE LAW REGARDING PROCESSING OF FINAL PLATS

CERTIFICATION OF ENROLLMENT

SENATE BILL 5674

Chapter 161, Laws of 2017

65th Legislature
2017 Regular Session

LAND SUBDIVISIONS--FINAL PLAT APPROVAL--DELEGATION

EFFECTIVE DATE: 7/23/2017

Passed by the Senate March 3, 2017
Yeas 44 Nays 0

CYRUS HABIB

President of the Senate

Passed by the House April 12, 2017
Yeas 55 Nays 43

FRANK CHOPP

Speaker of the House of Representatives

Approved April 27, 2017 11:21 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5674** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

April 27, 2017

Secretary of State
State of Washington

SENATE BILL 5674

Passed Legislature - 2017 Regular Session

State of Washington 65th Legislature 2017 Regular Session

By Senators Palumbo and Fain

Read first time 02/02/17. Referred to Committee on Local Government.

AN ACT Relating to the final approval of subdivisions of land; and amending RCW 58.17.100, 58.17.170, and 58.17.190.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 58.17.100 and 1995 c 347 s 428 are each amended to read as follows:

If a city, town or county has established a planning commission or planning agency in accordance with state law or local charter, such commission or agency shall review all preliminary plats and make recommendations thereon to the city, town or county legislative body to assure conformance of the proposed subdivision to the general purposes of the comprehensive plan and to planning standards and specifications as adopted by the city, town or county. Reports of the planning commission or agency shall be advisory only: PROVIDED, That the legislative body of the city, town or county may, by ordinance, assign to such commission or agency, or any department official or group of officials, such administrative functions, powers and duties as may be appropriate, including the holding of hearings, and recommendations for approval or disapproval of preliminary plats of proposed subdivisions.

Such recommendation shall be submitted to the legislative body not later than fourteen days following action by the hearing body.

Upon receipt of the recommendation on any preliminary plat the legislative body shall at its next public meeting set the date for the public meeting where it shall consider the recommendations of the hearing body and may adopt or reject the recommendations of such hearing body based on the record established at the public hearing. If, after considering the matter at a public meeting, the legislative body deems a change in the planning commission's or planning agency's recommendation approving or disapproving any preliminary plat is necessary, the legislative body shall adopt its own recommendations and approve or disapprove the preliminary plat.

Every decision or recommendation made under this section shall be in writing and shall include findings of fact and conclusions to support the decision or recommendation.

A record of all public meetings and public hearings shall be kept by the appropriate city, town or county authority and shall be open to public inspection.

Sole authority to ((~~approve final plats, and to~~)) adopt or amend platting ordinances shall reside in the legislative bodies. The legislative authorities of cities, towns, and counties may by ordinance delegate final plat approval to an established planning commission or agency, or to such other administrative personnel in accordance with state law or local charter.

Sec. 2. RCW 58.17.170 and 2013 c 16 s 2 are each amended to read as follows:

(1) When the legislative body of the city, town, or county, or such other agency as authorized by RCW 58.17.100, finds that the subdivision proposed for final plat approval conforms to all terms of the preliminary plat approval, and that said subdivision meets the requirements of this chapter, other applicable state laws, and any local ordinances adopted under this chapter which were in effect at the time of preliminary plat approval, it shall suitably inscribe and execute its written approval on the face of the plat. The original of said final plat shall be filed for record with the county auditor. One reproducible copy shall be furnished to the city, town, or county engineer. One paper copy shall be filed with the county assessor. Paper copies shall be provided to such other agencies as may be required by ordinance.

(2)(a) Except as provided by (b) of this subsection, any lots in a final plat filed for record shall be a valid land use

notwithstanding any change in zoning laws for a period of seven years from the date of filing if the date of filing is on or before December 31, 2014, and for a period of five years from the date of filing if the date of filing is on or after January 1, 2015.

(b) Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of ten years from the date of filing if the project is not subject to requirements adopted under chapter 90.58 RCW and the date of filing is on or before December 31, 2007.

(3)(a) Except as provided by (b) of this subsection, a subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of seven years after final plat approval if the date of final plat approval is on or before December 31, 2014, and for a period of five years after final plat approval if the date of final plat approval is on or after January 1, 2015, unless the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

(b) A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of ten years after final plat approval if the project is not subject to requirements adopted under chapter 90.58 RCW and the date of final plat approval is on or before December 31, 2007, unless the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

Sec. 3. RCW 58.17.190 and 1969 ex.s. c 271 s 19 are each amended to read as follows:

The county auditor shall refuse to accept any plat for filing until approval of the plat has been given by the appropriate legislative body, or such other agency as authorized by RCW 58.17.100. Should a plat or dedication be filed without such approval, the prosecuting attorney of the county in which the plat is filed shall apply for a writ of mandate in the name of and on behalf of the legislative body required to approve same, directing the auditor and assessor to remove from their files or records the unapproved plat, or dedication of record.

Passed by the Senate March 3, 2017.
Passed by the House April 12, 2017.
Approved by the Governor April 27, 2017.
Filed in Office of Secretary of State April 27, 2017.

--- END ---

MEMORANDUM

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

COMMUNITY DEVELOPMENT DEPARTMENT

TO: PLANNING COMMISSION

FROM: Patricia Love, Community Development Director

SUBJECT: Industrial Zones Performance Standards Code Amendment

DATE: June 25, 2018

ATTACHMENT:
A. Proposed Draft Code Amendment
B. Enforcement Process

At the June 11, 2018 Planning Commission meeting, the Commission considered potential changes to the Light Industrial and General Industrial performance standards to reduce negative impacts on surrounding commercial and residential properties. The Commission, after considering staff and public comments, requested the following changes:

1. Work to reduce and / or eliminate "vague" language in the code which could lead to conflicting interpretations or inconsistent enforcement; and
2. Address code enforcement.

In response to the Commissions comments, the following changes have been made to the draft code amendment:

- The tone of the chapter changed from outright prohibiting all uses to allowing uses identified in the permitted use matrix with the requirement to meet additional performance standards that mitigate impacts on adjacent commercial and residential properties.

- Revised the prohibited uses subsection, specific uses were identified and those uses that could not meet the performance standards.

- Revised the standards to apply to both the Light Industrial and General Industrial zones, as there were not significant differences between the two zones.

- Required that businesses meet performance standards within their property boundaries, not within the entire zone. The Commission may want to consider if it matters whether a use in the same zone affects another business.

- Added a new section exempting the water and sewer treatment plant from the performance standard requirement as it is an essential public facility.

- Added a new section: Submittal Requirements. This section puts the burden on the applicant to provide proof of compliance with the performance standards and gives the City authority to ask for special studies at the applicants cost if needed. It also gives the City the authority to recover any costs for peer review for technical expertise when needed to fully evaluate a proposal.

- Added a new section: Enforcement. This section provides that violations of the performance standards is subject to the City's enforcement procedures and that the City has the authority to issue either stop work or emergency notices halting any activity that violates the code until corrective actions are implemented.

Attached for your review and consideration is the proposed revised draft Industrial Performance Standards Code Amendment.

Chapter 17.50
ADDITIONAL STANDARDS – LI and GI (LIGHT AND GENERAL INDUSTRIAL) ZONING DISTRICTS

Sections:

17.50.005 Purpose of LI and GI Performance Standards
17.50.010 Light Industrial Parks.
17.50.020 Light Industrial and General Industrial District ~~Prohibited Uses~~ Performance Standards.
17.50.025 Exceptions to Performance Standards
17.50.030 Environmental Standards.
17.50.040 Submittal Requirements
17.50.050 Enforcement

17.50.005 PURPOSE OF ADDITIONAL LI AND GI PERFORMANCE STANDARDS [NEW SECTION]

(1) The City's LI and GI zoning districts in many cases are located directly adjacent to businesses and residents that could be negatively impacted by the unintended effects of industrial uses such as odors, noise, vibrations or other impacts that could cause interference with the general welfare of city residents.

(2) The City's comprehensive plan encourages industrial uses that do not adversely affect the health and safety of adjacent non-industrial and residential uses. Therefore, these additional development standards are required of all development in the LI and GI zoning districts to mitigate potential adverse impacts on abutting commercial and residential properties.

17.50.010 LIGHT INDUSTRIAL PARKS.

(1) ~~Purpose~~ Light Industrial Parks. ~~A~~ Light industrial parks ~~chapter~~ are allowed under ~~of~~ this title ~~is established~~ to:

(a) Encourage imaginative design by permitting greater flexibility in zoning requirements than is generally permitted by other chapters of this title;

(b) Preserve or create environmental amenities superior to those generally found in conventional development;

(c) Encourage comprehensive planning of large industrial sites in order to create a park like environment;

(d) Preserve to the greatest possible extent the natural characteristics of the land, including topography, natural vegetation, waterways, views, etc.;

(e) Provide for maximum efficiency in the layout of streets, utility networks, open space, landscaping requirements and other public improvements.

(2) Binding Site Plan. Application for a light industrial park use within the light industrial zone shall be permitted when accompanied with a master plan for the site. The master plan is intended to be used as a guide for the developer and city officials in meeting the purpose and provisions of this subsection and chapter. The master plan shall be submitted during the site plan review and include the required landscape plan (SMC 17.145.090). (Ord. 1294 § 16, 2011).

17.50.020 LIGHT INDUSTRIAL AND GENERAL INDUSTRIAL DISTRICT PERFORMANCE STANDARDS. ~~PROHIBITED USES.~~

Uses ~~other than those~~ identified or described in SMC ~~17.50.040~~ 17.50.030 ~~are prohibited, including but not limited to:~~ shall comply with the following performance standards so they mitigate any potential detrimental effects on adjacent properties and the general public.

(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. Equipment or vents that generate air emissions shall be located on the opposite side of the building from adjoining residentially designated properties.

(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~~ property boundaries.

(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~~ property boundaries. Equipment or vents that generate noise shall be located on the opposite side of the building from any adjoining residentially designated properties.

(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~~ property boundaries.

(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~~ property boundaries.

(9) Odors. To promote the health, safety and welfare of the community and to maintain compatibility of surround land uses, any use producing odors shall be carried on in such a manner that offensive or obnoxious odor shall not be perceptible by a minimum of five people with ordinary sensitivity without instruments, at or beyond the ~~light industrial zone~~ property boundaries. Facilities shall comply with the "no detectable odor emission" standard, which means: systems shall be designed to remove offensive odors and sized to handle worst-case operating conditions when combinations of meteorological conditions, such as inversions and stagnant air, coincide with peak odor releases from treatment processes. This is not intended to prevent a single odor emission released as a direct result of necessary facility maintenance.

(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. Lighting fixtures that conflict with the readability of traffic control devices, rotate or flash are prohibited.

(11) Ground Contamination. Materials used or produced in any manufacturing process shall be handled in such a manner as to prevent ground or soil pollution, which destroys or endangers natural and environmental resources as noted in SMC 17.50.030.

(12) The following uses are ~~Examples of~~ prohibited ~~uses are~~:

(a) Animal slaughtering with the exception of existing legal non-conforming uses or those established prior to September XX, 2018 (set date at expected Council action);

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

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

(d) Incineration or reduction of garbage, sewage, dead animals or refuse

(e) Septage treatment plants; and

(f) Uses that cannot meet and/or exceed the performance standards listed in this section

~~(e) Any other use not listed which, that produces offensive odor, dust, smoke, gas or noise to the olfactory systems of a majority of a five healthy observers.~~

17.50.025 EXCEPTIONS TO PERFORMANCE STANDARDS [NEW SECTION]

The existing City of Stanwood water and sewer treatment plant is an Essential Public Facility and is not subject to the performance standards listed in this Chapter.

17.50.030 ENVIRONMENTAL STANDARDS.

It shall be the responsibility of the operator and/or the 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 environmental performance standards of SMC Title 17 chapters:

17.115 Critical Areas – Geologically Hazardous Areas – Specific Standards

17.120 Critical Areas – Frequently Flooded Areas – Specific Standards

17.125 Critical Areas – Wetlands – Specific Standards

17.130 Critical Areas – Fish and Wildlife Habitat Conservation Areas – Specific Standards

17.135 Critical Areas – Critical Aquifer Recharge Areas – Specific Standards

17.140 Stormwater Management Performance Standards

17.149 State Environmental Policy Act (SEPA)

17.150 Shoreline Management Standards

(Ord. 1294 § 16, 2011).

17.50.040 SUBMITTAL REQUIREMENTS. [NEW SECTION]

(1) In addition to any other submittal requirements, all facilities and uses subject to this section shall submit information describing the facility or use, location, and potential mitigation measures to address each of the performance standards listed in SMC 17.50.030.

(2) If the City has reasonable doubt that a use is, or can be, conducted within the limits of the performance standards listed in SMC 17.50.030, it may require that the user or proposed user retain, at their expense, an independent, qualified, testing laboratory or expert to prepare an analysis of the use to determine its compliance with the performance standards established in this chapter. Such studies shall be submitted with the associated permit application and shall be approved by the City prior to any land use permit or building permit approval. The City shall have the right to require expert peer review of the studies and the cost of that review shall be the responsibility of the applicant.

17.50.050 ENFORCEMENT. [NEW SECTION]

(1) Industrial and manufacturing uses established per SMC 17.50.030 shall comply with this chapter to ensure compatibility with surrounding residential and commercial areas and to provide for the health, welfare, and safety of the public occupying or visiting such areas. Violations of this chapter shall be considered a nuisance and shall be abated. Violations shall be processed per SMC 13.01, Enforcement.

(2) The enforcing official shall have the authority to issue a stop work or emergency order and require that all activities causing a violation of this chapter cease until any corrective measures, as may be required to eliminate the offense, can be implemented.

(3) 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 official may require demonstrating the use or activity is or will be in compliance with the performance standards of this chapter.

STANWOOD PLANNING COMMISSION MINUTES

June 11, 2018

Call to Order

Chair Utgard called the meeting to order at 6:30PM with the following Commissioners present: Kelly McGill, Steve Shepro, Lance Dennis, Susan Ronken and Marcus Metz. Commissioner Randy Heagle was excused. Staff present; Community Development Director Patricia Love, Mayor Kelley and City Administrator Ryan Larsen. Known public in attendance: Cathy Wooten, Tim Schmidt and Peggy Wendell.

Mayor Kelley and Ryan Larsen both introduced Patricia Love as the new Community Development Director.

Public Requests or Comments

Tim Schmidt, 27308 101st Ave NW, Stanwood. Expressed disappointment that the Commission voted to make no recommendation on the recreational marijuana decision and requested they make a decision in the future.

Cathy Wooten, 27828 84th Ave NW, Stanwood. Stated that she had met with Ms. Love earlier in the week and it was very educational. Came away with the understanding that the place to make the change regarding odors is in the planning and zoning and that there are legal ramifications if the City tries to prevent something which the zoning allows. Understands that the best way to move forward is to be proactive in the planning and appreciates that Ms. Love will put together a power point on Planning 101 to educate the public. Regarding the Hearing Examiner decision on Landed Gentry and the impact fees for the Cedarhome Square project, Ms. Wooten expressed surprise that it was noted in the decision that impact fees may be paid upon final inspection and certificate of occupancy. Thanked the City staff and Planning Commission for their patience.

The Commission discussed:

- Timing of paying impact fees – State law
- Opportunities to propose changes to the municipal code or comprehensive plan
- Comprehensive Plan Docket, schedule, docket process

Cathy Wooten stated that she has been attending regular City Council and Planning Commission meetings and speaking on issues where the Comprehensive Plan and zoning code conflict. Ms. Wooten expressed frustration that at no time was she informed any process which could address these issues until Ms. Love recently explained this to her and she believes that City staff should inform citizens of these processes in the future.

Minutes

There were no minutes.

New Business

Shoreline Master Program

Ms. Love gave a brief background on her professional background and presented a power point on the Shoreline Master Plan and the required public participation process and schedule.

The Commission discussed the following:

- Public participation goals
- Budget for public participation
- Open House and staff attendance at local events: farmer's market, YMCA
- Shoreline zoning designation
- Groups to reach out to: park groups- PTAC and FOSPAT, high school youth advisory board/committee, etc.

Ms. Love asked the Commission to e-mail her any recommendations of organizations or citizens to contact directly.

Old Business

General Industrial Code Amendments

Ms. Love said it is her understanding that this was part of the 2017 Docket to review zoning standards in the industrial zone. When reviewing code amendments one should look back at the Comprehensive Plan and use that as a guide for future changes. The Comp Plan sets the vision for the City. Sometimes the Comprehensive Plan has no information and there is the opportunity to forge new ground. Ms. Love stated that Stanwood has a good Comprehensive Plan that specifies the Vision to promote and retain business in the downtown while preserving residential areas.

Ms. Love reviewed two policies from the Comprehensive Plan- Land Use Policies 13.1 and 13.2 as well as the industrial zone locations in the city and urban growth area. Ms. Love explained that it is appropriate to look at these types of codes. While you want your industries to be successful, you also do not want them in competition with your residential property owners. Ms. Love informed the Commission that she then took a look at the city's zoning code and explained that the section in the code titled Additional Development Standards addresses light and glare, etc. only when it applies to industrial parks. Ms. Love outlined her suggestion to modify this section of the code so it applies to both the industrial zone and took the General Industrial section and simplified that section of the code to address glare, noise, odor, etc. Ms. Love explained that she added extra items that may be worth consideration to add under prohibited uses such as reduction of garbage, sewer, and odors found to be offensive by a group of five people. Ms. Love asked the Commission for feedback from the Commission and stated that, depending on how the Commission would like the code drafted, these changes could move forward to public process and public hearing at a future date.

The following was discussed:

- Address enforcement issue with new code language
- Signage in the city, vacant business' signage still up
- Progressive discipline- letters, site visits, fines, etc.
- Nuisance ordinance
- Complaint-driven code enforcement
- Limited square feet in the city
- Stanwood business license- can this be frozen due to litigation issues, compliance issues addressed through permit process, mitigation process

- Restriction of odors beyond property line and how that is measured, City of Arlington code language
- Schenk packaging- in the city UGA, subject to Snohomish County zoning
- Twin City Foods and potential odors
- Prohibited uses
- Likes the use "5 healthy observer" language in draft code
- Remove olfactory verbiage from draft code

The Commission confirmed they wanted to move forward with this issue and Ms. Love stated that she would bring this back at an upcoming Commission meeting.

Miscellaneous Business

- Notice of Application for McDay property- brewery proposal in the upcoming issue of the Stanwood Camano News

Recent Council Action on Commission Items

- Status of Marijuana ordinance

Upcoming Items

None

Adjourn

The meeting adjourned at 7:42PM.

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Devin M. Sola, City of Stanwood