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SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

ORDINANCE NO. 03- 068

RELATING TO THE UNIFIED DEVELOPMENT CODE, MAKING NECESSARY CORRECTIONS TO CHAPTER 30.10 SCC TO REFER TO RECENT COMPREHENSIVE PLAN UPDATES, TO CHAPTER 30.23 SCC RELATING TO SETBACK REQUIREMENTS, TO CHAPTER 30.61 SCC RELATING TO PUBLIC NOTICE OF STATE ENVIRONMENTAL POLICY ACT DETERMINATIONS, AND TO CHAPTER 30.71 SCC RELATING TO PUBLIC NOTICE OF ADMINISTRATIVE DECISIONS; DECLARING AN EMERGENCY

WHEREAS, on December 9, 2002, the County adopted the Unified Development Code (UDC) in Title 30 SCC to consolidate and streamline county land use and development codes to eliminate duplication, inconsistency, and ambiguity; and

WHEREAS, several UDC provisions have resulted in unintended consequences that require immediate correction; and

WHEREAS, amendments related to recent comprehensive plan amendments, setback requirements, public notice and appeal provisions for State Environmental Policy Act determinations, and public notice of administrative decisions are necessary to properly implement the UDC.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The Snohomish County Council makes the following findings of fact and conclusions:

1. Comprehensive plan updates. The Unified Development Code (UDC), in SCC 30.10.060, purports to list every amendment to the County's Growth Management Act Comprehensive Plan (GMACP) since it was adopted in Amended Ordinance No. 94-125 on June 28, 1995. Because this list of GMACP amendments was not updated for several months prior to UDC adoption, SCC 30.10.060 must be amended to reflect ordinances adopted during that period that amended the GMACP.

2. Lot aggregation amendment. The UDC, in SCC 30.23.250, replaced the lot combination concept of the former SCC 18.42.090(2) relating to setbacks with a more specific lot aggregation provision. SCC 30.23.250 now provides that when a structure is placed over a lot line, "the lots shall be considered a single lot." The intent of this revision was to continue to allow the placement of a building on a lot line and to require compliance with setback requirements for the combined lots taken as a whole. The new language could, however, be interpreted to mean that the lot line is no longer in existence, which was not the intended result. Chapter 30.23 SCC must be amended to clarify its limited application to setback requirements.

3. Notice of DNSs. The public notice provisions in SCC 30.61.110 for a determination of non-significance (DNS) are inconsistent with the notice requirements in the Washington Administrative Code (WAC). The optional DNS procedure in WAC 197-11-355 allows a notice of intent for a DNS to be combined with a notice of application. If such notice is provided, subsequent notice is not required, except to commenting parties and agencies. SCC 30.61.110, however, requires full public notice of a DNS, regardless of whether earlier notice was provided. SCC 30.61.110 should be amended to eliminate this unnecessary, burdensome requirement.

4. Appeal of building and grading permits. The purpose of SCC 30.61.300(5) is to create an administrative appeal opportunity for State Environmental Policy Act (SEPA) determinations made for commercial building permits and for grading permits not associated with single family residential development. The current text of subsection (5) is written broadly and could be interpreted to apply to all building and grading permits, which was not intended. SCC 30.61.300(5) should be amended to allow only appeals for commercial building permits and grading permits not associated with single family residential development.

5. Notice of decision. SCC 30.71.040 is intended to provide notice of administrative decisions to parties that have a right to appeal. The notice publication requirement in SCC 30.71.040 is inconsistent with the provision that limits administrative appeals to "parties of record," and suggests that nonparties may appeal, which was not the intended result. SCC 30.71.040 should be amended to eliminate the publication requirement.

6. Immediate adoption of the corrections outlined above is necessary to implement the UDC as intended by the County Council. This ordinance constitutes an emergency action under SCC 30.73.090, and public notice has been provided pursuant to SCC 30.73.090(4).

Section 2. Snohomish County Code Section 30.10.060, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.10.060 Comprehensive Plan

Snohomish County has adopted a comprehensive plan as follows:

(1) Amended Ordinance No. 94-125, adopted on June 28, 1995 (General Policy Plan (GPP) and future land use map, transportation element, capital facilities element, resource lands designations, comprehensive park and recreation plan);

(2) Amended Ordinance No. 93-036, adopted on June 9, 1993 - amending the Shoreline Management Master Program;

(3) Amended Ordinance No. 94-113, adopted June 28, 1995 - establishing Darrington UGA;

(4) Amended Ordinance No. 94-114, adopted June 28, 1995 - establishing Gold Bar UGA;

(5) Amended Ordinance No. 94-115, adopted June 28, 1995 - establishing Granite Falls UGA;

- (6) Amended Ordinance No. 94-116, adopted June 28, 1995 - establishing Index UGA;
- (7) Amended Ordinance No. 94-117, adopted June 28, 1995 - establishing Lake Stevens UGA;
- (8) Amended Ordinance No. 94-119, adopted June 28, 1995 - establishing Monroe UGA;
- (9) Amended Ordinance No. 94-120, adopted June 28, 1995 - establishing Arlington, Marysville and Unincorporated Smokey Point Area UGA;
- (10) Amended Ordinance No. 94-121, adopted June 28, 1995 - establishing Snohomish UGA;
- (11) Amended Ordinance No. 94-122, adopted June 28, 1995 - establishing Stanwood UGA;
- (12) Amended Ordinance No. 94-123, adopted June 28, 1995 - establishing Southwest Cities UGA (Bothell, Brier, Edmonds, Everett, Lynnwood, Mill Creek, Mountlake Terrace, Mukilteo, and Woodway);
- (13) Amended Ordinance No. 94-124, adopted June 28, 1995 - establishing Sultan UGA;
- (14) Amended Ordinance No. 95-117, adopted on January 10, 1996 - amendment to GPP: common siting process for essential public facilities;
- (15) Amended Ordinance No. 96-073, adopted November 27, 1996 - establishing Unincorporated Maltby Industrial Area UGA subarea plan;
- (16) Amended Ordinance No. 96-074, adopted November 27, 1996 - amendment to GPP text and future land use map upon remand by Central Puget Sound Growth Management Hearings Board in Sky Valley case;
- (17) Amended Emergency Ordinance No. 96-078, adopted October 14, 1996 - amendment to GPP future land use map (portion of Arlington, Smokey Point, and Marysville UGA);
- (18) Ordinance No. 97-034, adopted June 2, 1997 - amendment to Gold Bar UGA;
- (19) Ordinance No. 97-036, adopted June 2, 1997 - adoption of Gold Bar UGA Subarea Plan and repeal of portions of Skykomish Valley Area Comprehensive Plan;
- (20) Ordinance No. 97-056, adopted July 2, 1997 - amendment to GPP future land use map to add lands to commercial forest land designation;
- (21) Ordinance No. 97-076, adopted September 15, 1997 - amendment to Arlington, Marysville, and Unincorporated Smokey Point Area UGA and to establish separate UGAs for Arlington and Marysville;
- (22) Amended Ordinance No. 98-035, adopted July 22, 1998 - adoption of Snohomish UGA subarea plan;
- (23) Amended Ordinance No. 98-036, adopted July 22, 1998 - amendment to Snohomish UGA;
- (24) Amended Ordinance No. 98-051, adopted August 3, 1998 - adoption of Mill Creek UGA subarea plan;
- (25) Amended Ordinance No. 98-068, adopted September 9, 1998 - amendment to Arlington UGA;
- (26) Amended Ordinance No. 98-069, adopted September 9, 1998 - amendment to GPP future land use map to change plan designations in the Island Crossing area;
- (27) Amended Ordinance No. 98-071, adopted September 9, 1998 - amendment

to Southwest Cities UGA;

(28) Amended Ordinance No. 98-072, adopted September 9, 1998 - amendment to GPP future land use map to change plan designations in the Smith and Spencer Islands areas;

(29) Amended Ordinance No. 98-112, adopted December 16, 1998 - amendment to GPP text and future land use map (1996 docket);

(30) Ordinance No. 98-114, adopted December 16, 1998 - amendment to Arlington and Marysville UGA (1996 docket);

(31) Ordinance No. 98-115, adopted December 16, 1998 - amendment to Sultan UGA;

(32) Amended Ordinance No. 98-119, adopted December 16, 1998 - amendment to GPP future land use map and text regarding rural commercial/industrial land uses (1996 docket);

(33) Ordinance No. 98-126, adopted December 2, 1998 - adoption of school district capital facilities plans;

(34) Ordinance No. 98-142, adopted January 11, 1999 - amendment to Marysville UGA to add Strawberry Fields Regional Park site;

(35) Amended Ordinance No. 99-005, adopted March 3, 1999 - adoption of GPP text and future land use map amendments in Darrington area;

(36) Ordinance No. 99-027, adopted on May 24, 1999 - adoption of the 1999-2004 Capital Plan;

(37) Ordinance No. 99-028, adopted May 17, 1999 - amendment to GPP text and future land use map (repeal of land use designation and land use policy on specific property on Cavalero Hill pursuant to Central Puget Sound Growth Management Hearings Board decision in Kelly case);

(38) Amended Ordinance No. 99-031, adopted July 21, 1999 - adoption of GPP text and future land use map amendments for Tulalip subarea plan;

(39) Amended Ordinance No. 99-092, adopted on November 22, 1999 - adopting the 2000-2005 Capital Plan;

(40) Amended Ordinance No. 99-099, adopted December 22, 1999 - adoption of GPP text and future land use map amendments regarding Arlington/Marysville UGA - reconciliation of future land use designations (1999 consolidated docket);

(41) Amended Ordinance No. 99-100, adopted December 22, 1999 - adoption of GPP text and future land use map amendments (1999 consolidated docket);

(42) Emergency Ordinance No. 00-050, adopted July 26, 2000 - amendment to Arlington UGA (addition of school district high school site);

(43) Ordinance No. 00-055, adopted September 6, 2000 - adopting the 2000-2005 Capital Improvement Plans for the Arlington, Marysville, Monroe, and Mukilteo school districts;

(44) Amended Ordinance No. 00-074, adopted on November 21, 2000 - adopting the Year 2000 Capital Facilities Plan Update and the 2001-2006 Capital Improvement Program;

(45) Ordinance No. 00-075, adopted November 21, 2000 - adopting amendments to the Capital Facilities chapter of the GPP;

(46) Amended Ordinance No. 00-091, adopted December 20, 2000 - adopting map and text amendments to the GPP - (2000 consolidated docket , including

Transportation Element amendments);

(47) Ordinance No. 00-094, adopted December 20, 2000 - revising the existing Maltby UGA (2000 consolidated docket);

(48) Ordinance No. 00-098, adopted December 6, 2000 - adopting 2000-2005 Capital Improvement Plans for Darrington, Edmonds, Everett, Granite Falls, Lake Stevens, Lakewood, Northshore, Snohomish, Stanwood, Sultan school districts;

(49) Amended Ordinance No. 01-040, adopted June 27, 2001 - adopting the December 2000 amendments to the Transportation Element of the GMA comprehensive plan;

(50) Emergency Ordinance No. 01-047, adopted July 23, 2001 - notifying, readopting, and repealing certain portions of Emergency Ordinance No. 00-050 (amendment to Arlington UGA);

(51) Amended Ordinance No. 01-073, adopted November 7, 2001 - adopting the Lake Stevens UGA plan;

(52) Amended Ordinance No. 01-074, adopted November 7, 2001 - adopting modifications to the Lake Stevens UGA boundary;

(53) Amended Ordinance No. 01-089, adopted November 20, 2001 - adopting the 2002-2007 Capital Improvement Plan;

(54) Amended Ordinance No. 01-090, adopted November 20, 2001 - adopting the Year 2001 Update to the Capital Facilities Plan;

(55) Amended Ordinance No. 01-106, adopted December 19, 2001 - adopting map and text amendments (2001 docket);

(56) Ordinance No. 01-108, adopted December 19, 2001 - adopting the 2001 Comprehensive Park and Recreation Plan;

(57) Amended Ordinance No. 01-111, adopted December 19, 2001 - amending the Year 2001 Capital Facilities Plan (and Amended Ordinance No. 01-090);

(58) Amended Ordinance No. 01-133, adopted February 6, 2002 - adopting map and text amendments (Clearview remand); ((and))

(59) Amended Ordinance No. 02-011, adopted May 30, 2002 - adopting the Mill Creek East UGA plan;

(60) Amended Ordinance No. 02-051, adopted November 20, 2002 - adopting the 2003-2008 Capital Improvement Program;

(61) Amended Ordinance No. 02-052, adopted November 20, 2002 - adopting the School Districts' 2002-2007 Capital Facilities Plans;

(62) Amended Ordinance No. 02-092, adopted December 18, 2002 - adopting map and text amendments to the Lake Stevens UGA plan;

(63) Amended Emergency Ordinance No. 03-001, adopted January 27, 2003 - adopting map and text amendments to the GPP (2002 consolidated docket);

(64) Emergency Ordinance No. 03-005, adopted January 27, 2003 - revising the Arlington UGA; and

((59)) (65) Ordinance No. 03-033, adopted April 9, 2003 - adopting the Mukilteo School District's Amended 2002-2007 Capital Facilities Plan.

Section 3. Snohomish County Code Section 30.23.250, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is hereby repealed.

Section 4. A new Section is added to Chapter 30.23 of Snohomish County Code to read:

30.23.150 Setback exception for lots combined as a single building site.

If two or more lots are built upon as one unit, and are held under common ownership, the boundary line separating the two or more lots may be covered by a building or permitted group of buildings. Such lots shall constitute a single building site, and the setbacks required by this chapter shall apply to the aggregate of the lots.

Section 5. Snohomish County Code Section 30.61.110, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.61.110 Public notice.

(1) The county shall give public notice of the issuance of a DNS, a determination of significance (DS), a draft EIS, and a draft supplemental EIS for site specific project actions by posting, publishing, and mailing as provided in SCC 30.70.045, except that, when the optional DNS process of WAC 197-11-355 is used, notice shall be given by mailing a copy of the DNS to the department of ecology, agencies with jurisdiction, persons who commented, and any person who requests a copy. Notice of environmental documents for nonproject actions, including but not limited to, comprehensive plan adoption and amendments, and development regulation adoptions and amendments shall be given by publication pursuant to SCC 30.70.045(2).

(2) Whenever a DS is issued under WAC 197-11-360(3), the scoping procedures for the proposal shall be included as required in WAC 197-11-408.

Section 6. Snohomish County Code section 30.61.300, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.61.300 SEPA appeals - general.

(1) An aggrieved party of record may file an appeal of a DNS, MDNS, DS, or the adequacy of a final EIS as set forth in this section and SCC 30.71.050.

(2) An appeal made pursuant to this section is processed as an appeal of a Type 1 decision in accordance with chapter 30.71 SCC, except as otherwise provided in this section.

(3) An appeal of a DNS, MDNS, or EIS adequacy associated with an underlying Type 1 decision shall be combined with appeal of the underlying Type 1 decision and considered together at a combined appeal hearing, except as provided in SCC 30.61.300(10).

(4) An appeal of a DNS, MDNS, or EIS adequacy associated with an underlying Type 2 application shall be considered at an appeal hearing that is combined with the open record hearing for the Type 2 application, except as provided in SCC 30.61.300(10).

(5) An appeal of a DNS, MDNS, or EIS adequacy associated with a commercial building or grading permit not related to single family residential development shall be processed as an appeal of a Type 1 decision.

(6) An appeal of a DS associated with a project permit application shall be adjudicated prior to a decision on the project permit, and for a Type 2 application, prior to convening an open record hearing for the Type 2 application.

(7) There is no administrative appeal of a DNS, MDNS, DS, or EIS adequacy associated with a Type 3 or other legislative decision.

(8) Administrative appeals shall be limited to one review of a threshold determination and to one review of the adequacy of a final EIS. An appeal shall not be allowed following remand from an appeal under this chapter, except that an appeal challenging the adequacy of a final EIS shall be allowed if the adequacy of a final EIS was not the subject of the prior appeal.

(9) Appeals of intermediate steps under this chapter, including but not limited to, lead agency determination, scoping, and draft EIS adequacy shall not be allowed.

(10) Appeal of a DNS, MDNS, or EIS adequacy related to a Type 1 or Type 2 shoreline substantial development, shoreline variance and shoreline conditional use permit shall be submitted to the state shorelines hearings board together with appeal of the underlying permit.

(11) An appeal of the conditioning or denial of a proposal pursuant to RCW 43.21C.060 shall not be made to the county council as a separate appeal under this chapter but may be considered as part of an underlying permit appeal filed pursuant to SCC 30.72.070.

Section 7. Snohomish County Code Section 30.71.040, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.71.040 Type 1 notice of decision.

(1) Written notice of a department decision on a Type 1 application shall be ~~((published and))~~ mailed to the applicant and all parties of record in the manner prescribed in SCC 30.70.045. The notice may include a written staff report if one has been prepared.

(2) The notice shall specify the appeal process and time period for filing an appeal.

(3) The county may provide additional public notice of a decision by notifying the news media and community organizations, placing notices in appropriate regional, neighborhood, ethnic, or trade journals or neighborhood/community newspapers, or by publishing notice in agency newsletters or on the county or department web page.

PASSED this 9th day of July, 2003

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ATTEST:

Shirley McCallister
Clerk of the Council

George D. Nelson
Chairperson

APPROVED
 EMERGENCY
 VETOED

DATE: 7/18/03

ATTEST:

Pamela L. Pandorf

Robert J. Drewel
Robert J. Drewel,
County Executive

Approved as to form only:

[Signature] 4/30/03
Deputy Prosecuting Attorney

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