

1 Adopted: 06/24/20
2 Effective: 07/11/20

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 ORDINANCE NO. 20-018

8
9 RELATING TO GROWTH MANAGEMENT, AMENDING CHAPTER 30.42A OF THE
10 SNOHOMISH COUNTY CODE TO UPDATE THE DECISION CRITERIA FOR THE
11 REVIEW OF SITE-SPECIFIC REZONES
12

13 WHEREAS, counties and cities that are required to plan under the Growth Management
14 Act (GMA), chapter 36.70A of the Revised Code of Washington (RCW), must ensure that the
15 adoption of comprehensive plans and development regulations support the processing of permits
16 in a timely and fair manner to ensure predictability; and
17

18 WHEREAS, on December 9, 2002, Snohomish County (the "County") adopted the
19 Unified Development Code (UDC) as Title 30 of the Snohomish County Code (SCC) to
20 consolidate and streamline county land use and development codes and to eliminate duplication,
21 inconsistency, and ambiguity; and
22

23 WHEREAS, the County adopted chapter 30.42A SCC of the UDC to provide review
24 procedures and decision criteria for site-specific rezones; and
25

26 WHEREAS, SCC 30.42A.100 currently includes three decision criteria the hearing
27 examiner must consider when reviewing site-specific rezoning proposals; and
28

29 WHEREAS, the site-specific rezoning decision criteria dictate that a rezoning may only be
30 approved if it consistent with the comprehensive plan, it bears a substantial relationship to the
31 public health, safety, and welfare, and, where applicable, it meets the minimum zoning criteria in
32 chapters 30.31A through 30.31F; and
33

34 WHEREAS, in addition to the application and consideration of a local jurisdiction's
35 rezoning criteria, certain Washington State courts have applied the common law rezoning principle
36 that a site-specific rezoning must be supported with a showing that changed circumstances since
37 the last zoning action justify the rezoning; and
38

39 WHEREAS, the Snohomish County Hearing Examiner, who under Title 30 SCC is
40 tasked with reviewing site-specific rezoning applications currently applies the rezoning decision
41 criteria codified in chapter 30.42A SCC and considers the common law changed circumstances
42 requirement when reviewing site-specific rezoning applications; and
43

44 WHEREAS, the goals of the Growth Management Act and the policies of the County's
45 comprehensive plan support a predictable development code for applicants and amending the

1 decision criteria in chapter 30.42A SCC to include the common law changed circumstances
2 requirement will further predictability for applicants; and
3

4 WHEREAS, the Snohomish County Planning Commission (“Planning Commission”)
5 held a public hearing on February 26, 2019, to receive public testimony concerning the code
6 amendments contained in this ordinance; and
7

8 WHEREAS, at the conclusion of the Planning Commission’s public hearing, the
9 Planning Commission voted 8-0 to adopt the code amendments contained in this ordinance, as
10 shown in its recommendation letter dated February 26, 2019; and
11

12 WHEREAS, on June 24, 2020, the County Council held a public hearing after proper
13 notice, and considered public comment and the entire record related to the code amendments
14 contained in this ordinance; and
15

16 WHEREAS, following the public hearing, the County Council deliberated on the code
17 amendments contained in this ordinance;
18

19 NOW, THEREFORE, BE IT ORDAINED:
20

21 Section 1. The County Council adopts the following findings in support of this
22 ordinance:
23

- 24 A. The foregoing recitals are adopted as findings as if set forth in full herein.
- 25
- 26 B. This is a proposal to amend SCC Title 30 to add change of circumstances to the decision
27 criteria for site-specific rezones.
- 28
- 29 C. This ordinance is consistent with RCW 36.70A.020(7) and maintains consistency with GMA.
30
- 31 D. The proposed code amendments will better achieve, comply with, and implement the
32 following goals, objectives, and policies set forth in the Snohomish County Countywide
33 Planning Policies (CPP) by harmonizing the site-specific rezone criteria with the common law
34 changed circumstances rezone principle and provide increased predictability and coordination in
35 the review and processing of site-specific rezone applications. This proposal is consistent with
36 Economic Development (ED) Goal 2, Objective ED 2.A, Policy ED 2.A.1, Policy ED 2.A.2, for
37 the reasons set forth below:
38

39 (1) Economic Development (ED) Goal 2: Provide a planning and regulatory environment
40 which facilitates growth of the local economy.
41

42 Regulations that are transparent and understandable facilitate growth in the local economy by
43 increasing predictability.
44

1 (2) Objective ED 2.A: Develop and maintain a regulatory system that is fair,
2 understandable, coordinated, and timely.

3
4 Consolidating and codifying the common law changed circumstances requirement with the
5 existing rezone criteria provides clarity and greater predictability for rezone applicants.
6

7 (3) Policy ED 2.A.1: Snohomish County shall work to ensure that the Snohomish County
8 Code is an understandable, accessible, and user friendly document.
9

10 Codifying the common law changed circumstances requirement for site-specific rezones
11 provides a code that is more understandable and user friendly as rezone applicants are informed
12 of all applicable review criteria.
13

14 (4) Policy ED 2.A.2: Snohomish County should stress predictability but maintain enough
15 flexibility in the comprehensive plan and development codes to allow for timely response to
16 unanticipated and desirable developments.
17

18 The amendment supplements the existing site-specific rezone criteria and process. The rezone
19 process promotes development by allowing changes to the underlying zoning of a property based
20 on an applicant's demonstration of a change in circumstances since the last zoning action.
21

22 E. Procedural requirements.
23

24 (1) State Environmental Policy Act (SEPA) requirements with respect to this non-project
25 action have been satisfied through the completion of an environmental checklist and the issuance
26 of a determination of non-significance on February 8, 2019.
27

28 (2) The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
29

30 (3) Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was
31 transmitted to the Washington State Department of Commerce for distribution to state agencies
32 on January 24, 2019.
33

34 (4) The public participation process used in the adoption of this ordinance has complied
35 with all applicable requirements of the GMA and the SCC.
36

37 (5) The Washington State Attorney General last issued an advisory memorandum, as
38 required by RCW 36.70A.370, in September of 2018 entitled "Advisory Memorandum:
39 Avoiding Unconstitutional Takings of Private Property" to help local governments avoid the
40 unconstitutional taking of private property. The process outlined in the State Attorney General's
41 2018 advisory memorandum was used by Snohomish County in objectively evaluating the
42 regulatory changes proposed by this ordinance.
43

44 F. This ordinance is consistent with the record.
45

1 (1) This ordinance codifies the requirement rooted in common law that a proponent of a
2 site-specific rezone must demonstrate a change of circumstance from the time of the last zoning
3 action to justify the rezone.
4

5 (2) This ordinance promotes predictability and clarity in the review of site-specific
6 rezone applications by consolidating the common law changed circumstances requirement with
7 the current codified review criteria for site-specific rezones, which include whether the site-
8 specific rezone: is consistent with the comprehensive plan; bears a substantial relationship to
9 public health, safety, and welfare; and, where applicable, minimum zoning criteria found in
10 chapters 30.31A through 30.31F SCC are met.
11

12 Section 2. The County Council makes the following conclusions:
13

14 A. This ordinance is necessary to harmonize the SCC with Washington State law and current
15 practice.
16

17 B. The proposal is consistent with the goals, objectives and policies of the Snohomish County
18 General Policy Plan (GPP).
19

20 C. The proposal is consistent with Washington State law and the SCC.
21

22 D. The County has complied with all SEPA requirements in respect to this non-project action.
23

24 E. The regulations proposed by this ordinance do not result in an unconstitutional taking of
25 private property for a public purpose.
26

27 Section 3. The Snohomish County Council bases its findings and conclusions on the
28 entire record of the County Council, including all testimony and exhibits. Any finding, which
29 should be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby
30 adopted as such.
31

32 Section 4. Snohomish County Code Section 30.42A.100, last amended by Amended
33 Ordinance No. 14-073, on 10/27/2014, is amended to read:
34

35 **30.42A.100 Decision criteria.**
36

37 The hearing examiner may approve a rezone only when all the following criteria are met:

38 (1) The proposal is consistent with the comprehensive plan;

39 (2) The proposal bears a substantial relationship to the public health, safety, and welfare;

40 ~~and~~

41 (3) The proposal is justified based on a change of circumstance since the site was
42 previously zoned; and

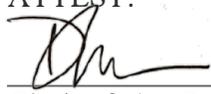
43 (4) Where applicable, minimum zoning criteria found in chapters 30.31A through 30.31F
44 SCC are met.
45

1 Section 5. Severability and Savings. If any section, sentence, clause or phrase of this
2 ordinance shall be held to be invalid by the Growth Management Hearings Board (Board), or
3 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall
4 not affect the validity or constitutionality of any other section, sentence, clause or phrase of this
5 ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is
6 held to be invalid by the Board or court of competent jurisdiction, then the section, sentence,
7 clause or phrase in effect prior to the effective date of this ordinance shall be in full force and
8 effect for that individual section, sentence, clause or phrase as if this ordinance had never been
9 adopted.

10
11
12 PASSED this 24th day of June, 2020.

13
14
15 SNOHOMISH COUNTY COUNCIL
16 Snohomish County, Washington

17
18 
19 _____
20 Council Chair

21
22 ATTEST:

23 _____
24 Clerk of the Council

- 25
26 (X) APPROVED
27 () EMERGENCY
28 () VETOED

29
30 DATE: 7/1/2020

31

32 _____
33 County Executive

34
35 ATTEST:
36 *Melissa Geraghty*

37 Approved as to form only:

38 
39 _____
40 Deputy Prosecuting Attorney

D-34