



CITY OF SNOHOMISH

P.O. BOX 1589 | SNOHOMISH, WASHINGTON 98291 | (360) 568-3115 | WWW.SNOHOMISHWA.GOV

NOTICE OF REGULAR MEETING

PLANNING COMMISSION

WEDNESDAY
March 2, 2022
6:00p.m.

AGENDA ON NEXT PAGE

Remote On-Line/Telephone Access ONLY Via "Zoom"

Pursuant to City of Snohomish's **Resolution 1408** adopting procedures for holding public meetings consistent with State law, and in accordance with the Governor's Proclamation 20-25, "Stay Home Stay Healthy" order to reduce the risk of exposure and the spread of contagious viruses through social interactions, the March 2, 2022 meeting of the Planning Commission will be held utilizing remote access. The public is invited and encouraged to participate by calling in, and listening to the live meeting, or by accessing the audio recording that will be made available afterward. Instructions for calling into the live meeting are provided below.

We want to hear from you. The public is encouraged to submit written comments prior to the meeting by sending it to the Planning Director at: pickus@snohomishwa.gov before 5p.m. on Tuesday, March 1, 2022 to be included as part of the public record for that meeting.

To access the ONLINE Zoom remote meeting, please use the following link (external/internal speakers required): <https://us02web.zoom.us/j/86536194595>

Meeting ID: 865 3619 4595
Passcode: 598147

To PHONE-IN without a computer, or if your computer does not have an audio feature, dial:

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WEDNESDAY

March 2, 2022

6:00 p.m.

AGENDA

1. **CALL TO ORDER**
2. **FLAG SALUTE**
3. **ROLL CALL**
4. **APPROVAL OF AGENDA ORDER**
5. **APPROVAL** of the minutes of the January 5, 2022 regular meeting (P.3)
6. **GENERAL PUBLIC COMMENTS** on items not on the agenda
7. **DISCUSSION ITEMS:**
 - a. Uses in Commercial Zones and Updating Land Use Tables (P.9)
 - b. Title 14 Amendments Removing References to Deleted Chapter 14.205 (P.XX)
 - c. Fence Height Code Amendment (P.XX)
 - d. Rezoning Process Code Amendment (P.XX)
 - e. Update of SMC 14.215.125, Fee Simple Unit Lot Subdivision (P.XX)
 - f. Pilchuck District Equivalence Clarification Code Amendment (P.XX)
8. **DIRECTOR'S REPORT**
9. **ADJOURNMENT**

NEXT MEETING: The next regular meeting will be Wednesday, April 6, 2022, at 6:00 p.m. at a location to be determined.

Specialized accommodations will be provided with 5 days advanced notice. Contact the City Clerk's office at 360-568-3115. This organization is an Equal Opportunity Provider.

**CITY OF SNOHOMISH
REGULAR MEETING OF THE PLANNING COMMISSION
MEETING MINUTES
January 5, 2022**

NOTE: Due to the COVID-19 declared federal, state and local emergency, and pursuant to Governor Inslee's Proclamations 20-05 and 20-28, the Snohomish Planning Commission held its meeting via remote participation.

1. **CALL TO ORDER:** Chair Hank Eskridge opened the regular meeting of the Planning Commission at 6:03 p.m. on Wednesday, January 5, 2022. Mr. Pickus informed the Planning Commission that Commissioner Van Tormohlen had resigned.
2. **FLAG SALUTE**
3. **ROLL CALL**

COMMISSIONERS PRESENT:

Hank Eskridge, Chair
Nick Gottuso, Vice Chair
Gordon Cole
Mitch Cornelison
Terry Lippincott
Christine Wakefield Nichols

COMMISSIONERS ABSENT:

STAFF:

Glen Pickus, Planning Director
Brooke Eidem, Planner
Thomas Kreinbring, Assistant Planner

OTHERS PRESENT:

Lee Ann Burke, City Council Liaison
Judith Kuleta, City Council Liaison
Linda Redmon, Mayor
Steve Schuller, City Staff
Wendy Poischbeg, City Staff

4. **APPROVAL OF AGENDA ORDER:** Chair Eskridge asked for the agenda order to be approved as presented. Hearing no objections, the agenda order stood as presented.
5. **APPROVAL** of the minutes of the December 1, 2021, regular meeting. Commissioner Lippincott moved to approve the minutes of the December 1, 2021 meeting as written. Commissioner Cole seconded the motion, which passed 6-0.
6. **GENERAL PUBLIC COMMENTS:**

Morgan Davis asked if Van Tormohlen was on the Midtown Task Force, as well as what the voting records were of the Commissioners pertaining to the proposed Midtown District building heights. Mr. Pickus informed Mr. Davis that Mr. Tormohlen was a member of the Task Force. Chair Eskridge suggested Mr. Davis read the meeting minutes published on the City website for voting records.

Councilmember Burke introduced herself as one of the City Council liaisons to the Planning Commission.

7. **PUBLIC HEARING:** Midtown District Code Amendments and Rezone
 - a. Chair opens hearing. Chair Eskridge opened the public hearing. Mr. Pickus entered into the record public comments received, which included two that were part of the agenda

packet (December 14, 2021 letter from Garry Clark of Economic Alliance Snohomish County, and December 23, 2021 email from Morgan Davis), and an email received after the agenda packet was published (January 4, 2022 email from Kyle Ivarra).

- b. Staff presentation. Mr. Pickus presented background information regarding the Midtown District, the establishment of its Task Force through Ordinance 2403, and all pertinent work done by the Planning Commission after receiving the Task Force's recommendation.

Mr. Pickus then presented the Planning Commission's proposed code amendments, which were developed after considering the Midtown Task Force's recommendations, together with input and recommendations from staff and consultants. The proposals included:

- Adopting a new SMC Chapter 14.214 Midtown District Development Regulations.
- Amending SMC Chapter 14.25 Definitions.
- Amending SMC Chapter 14.30 Establishment of Zoning Districts.
- Amending SMC Chapter 14.207 Land Use Tables.
- Amending SMC 14.210.330, Dimensional Requirements, Table 1.
- Adopting a new section SMC 14.235.047 Parking Requirements for Existing and New Structures in the Midtown District.
- Rezoning the area along Avenue D from Sixth Street north to SR9 to "Midtown District" from "Commercial."

Mr. Pickus informed the Planning Commission that staff was making an additional recommendation not previously discussed with the Commission to require a minimum amount of commercial space in buildings fronting Avenue D to support a Task Force recommendation. That recommendation included adding new SMC sections 14.214.210(B) and 14.214.505 to required commercial space at street level on buildings fronting Avenue D that are at least 20 feet deep.

Mr. Pickus explained the proposed amendment to the definition of "Family" was not related to the Midtown project, but was proposed for consistency with Senate Bill 5235, recently passed legislation which preempts local regulations establishing a maximum number of unrelated occupants per dwelling unit.

Mr. Pickus presented photo simulations of three-, four- and five-story buildings on the former County public works shop site on the west side of Avenue D, and across the street at the Haggan's site, in order to provide a visual context for the different impacts the various building heights would have.

- c. Commission questions. Chair Eskridge asked if any Commissioners had questions for staff.

Commissioner Cornelison asked how mixed use development would relate to the minimum density. Mr. Pickus replied it pertained strictly to residential development. He then asked if development fronting Avenue D could be only residential. Mr. Pickus explained that would not be allowed as proposed.

Commissioner Lippincott questioned if development fronting Avenue D could have a limit to height regardless of whether the site is filled to grade or if buildings are set back from the property line. Mr. Pickus explained how building heights are measured already

addressed that issue. She also asked if the recommended new sections SMC 14.214.210(B) and SMC 14.214.505, meant the whole frontage on Avenue D must be commercial. Mr. Pickus explained that was not the intent. Commissioner Cole said it seemed that way, and Mr. Pickus offered that staff will make it more succinct given this feedback.

Commissioner Wakefield Nichols inquired about landscaping and tree requirements and how building articulations were measured.

Chair Eskridge asked about setbacks on Avenue D and how they were measured.

- d. Public testimony. Chair Eskridge then opened public testimony for the proposed Midtown District code amendments and rezone:

Megan Kemmett voiced support for the Task Force recommendation.

Randy Blair, Property Manager for the vacant Snohomish County Shop site, voiced support for the Task Force recommendation.

Mandi Roberts, OTAK representative on behalf of Snohomish County, voiced support for the Task Force recommendation.

Brian Vanneman, Leland Consulting on behalf of Snohomish County, voiced support for the Task Force recommendation.

Kyle Stevens, Task Force member, voiced support for the Task Force recommendation.

Kay Ditzenberger commented that the parcel #00451000001500 adjacent to School District's parcel at 1601 Avenue D be zoned undevelopable given Blackmans Lake's environmental issues.

Morgan Davis voiced opposition to the proposed Midtown District in general.

Garry Clark, Economic Alliance Snohomish County, voiced support for the Task Force recommendation.

Adam Dempsey voiced general support for the Task Force recommendation, but suggested limiting building heights to 35' on Avenue D and allowing taller buildings toward Bonnevill Avenue.

Karen Crowley voiced support for the Task Force recommendation, and recommended lowering the parking standard as an incentive to allow for more density.

Ray Cook, Task Force member, voiced support for the Task Force recommendation.

Chris Peterson voiced support for the Task Force recommendation.

- e. Close hearing. Chair Eskridge moved to close the public testimony for the proposed Midtown District code amendments and rezone. Commissioner Gottuso seconded the motion, which passed 6-0.

- f. Deliberations. The Planning Commission began deliberations.

Commissioner Cole commented that the proposed design standards will increase the cost of construction, although they should not be abandoned. He asked a clarifying point on the proposed 10% increase to floor area and whether the code applied to the new area or the entire development. Mr. Pickus confirmed that only the new area would need to meet the design standards. Commissioner Cole recommended to leave it to the market for what percentage of space needed to be commercial fronting on Avenue D and that one row of parking and an access parking lane should be allowed between the building and the street on Avenue D. Chair Eskridge agreed, as did Commissioner

Gottuso, because the City continued to be automotive-centric. Commissioners Lippincott and Wakefield Nichols offered their view points, as did Mr. Pickus.

Commissioner Cole moved to amend the recommendation to allow a single row of parking in front of any commercial development on Avenue D. Commissioner Lippincott seconded, which passed 6-0.

Commissioner Cole moved to amend the recommendation to remove SMC 14.214.210(B) and SMC 14.214.505 pertaining to required commercial space on the ground level of development fronting Avenue D. Commissioner Cornelison seconded, which passed 4-1, with Commissioners Cole, Gottuso, Eskridge and Cornelison voting in favor, Commissioner Lippincott voting against, and Commissioner Wakefield Nichols abstaining.

The Commission discussed the 12' minimum ground-floor ceiling height requirement at the behest of Commissioner Gottuso and determined it was best to leave it as-is.

Commissioner Cole alerted Mr. Pickus to typos in the draft document and they were all noted for correction. He then noted a concern regarding the required public open space but did not suggest any changes to the proposed code.

Commissioner Cole moved to amend the recommendation regarding SMC 14.214.510 found on page 50 of the agenda packet to exempt "signage or easily removed or converted features" from the prohibition on corporate architecture. Commissioner Lippincott seconded, which passed 5-1 with Commissioners Cole, Eskridge, Cornelison, Lippincott and Wakefield Nichols voting in favor, and Commissioner Gottuso voting against.

Commissioner Cole moved to define "flat roof" as 1:12 or less in Chapter 14.25 SMC. Commissioner Wakefield Nichols seconded, which passed 4-1 with , with Commissioners Cole, Lippincott, Eskridge and Wakefield Nichols voting in favor, Commissioner Cornelison voting against, and Commissioner Gottuso abstaining.

Commissioner Gottuso stated he was glad the Multi Family Tax Exemption program would be addressed at the City Council level. Commissioner Lippincott agreed.

Commissioner Gottuso moved to have City Council investigate Ms. Ditzenberger's public comment regarding Blackmans Lake and its potential environmental issue. Commissioner Cornelison seconded, which passed 6-0.

Commissioner Gottuso opened discussion on SMC 14.210.330, found on page 86 of the agenda packet. He stated his wish in keeping building heights as drafted by the Planning Commission. Commissioner Lippincott moved to amend the table to match the Task Force's recommendation of 55-foot heights in the North overlay and 45-foot heights in the South overlay, and stated her support to plan for the future, provide affordable housing through increased heights, and make Snohomish a place that would support welcoming an increase in population. Commissioner Cole seconded the motion and stated the design standards would only work in tandem with an increase in height. The motion failed 2-4, with Commissioners Lippincott and Cole voting for the motion, and Commissioners Gottuso, Eskridge, Wakefield Nichols and Cornelison voting against.

Commissioner Cornelison stated buildings taller than three stories is against Snohomish character as there are so few currently in town. Commissioner Lippincott countered that it was necessary to increase density through increased building heights somewhere and the proposed Midtown District was a perfect place to allow it. Chair Eskridge stated that there was a height increase to 45' in the draft recommendation for future developments fronting on Bonneville Avenue. Mr. Pickus provided the City Council's goal and intent for creating the Midtown District.

Commissioner Wakefield Nichols moved to recommend amending SMC 14.21.330 as drafted which sets a 35' maximum building height in both the North and South Overlays, with the exception of allowing 45' buildings if they faced Bonneville Avenue. Commissioner Cornelison seconded, which passed 4-2 with Commissioners Gottuso, Eskridge, Wakefield Nichols and Cornelison voting in favor, and Commissioners Cole and Lippincott voting against.

Commissioner Cole moved to recommend City Council approval to amend Title 14 SMC to create a new Chapter 14.214 Midtown District Development Regulation, as modified during discussion. Commissioner Lippincott seconded, which passed 6-0.

Chair Eskridge moved to recommend City Council approval to amend SMC Chapter 14.25 Definitions, as discussed. Commissioner Lippincott seconded, which passed 6-0.

Chair Eskridge moved to recommend City Council approval to amend SMC Chapter 14.30 Establishment of Zoning Districts, as presented. Commissioner Wakefield Nichols seconded, which passed 6-0.

Chair Eskridge moved to recommend City Council approval to amend SMC Chapter 14.207 Land Use Tables, as presented. Commissioner Wakefield Nichols seconded, which passed 6-0.

Commissioner Cole moved to recommend City Council approval to amend SMC 14.235.047 Parking Requirements, as presented. Commissioner Wakefield Nichols seconded, which passed 6-0.

Commissioner Lippincott moved to recommend City Council approval of rezoning the area along Avenue D from Sixth Street north to SR 9 to "Midtown District" from "Commercial". Commissioner Cornelison seconded, which passed 6-0.

Commissioner Lippincott moved to recommend City Council to adopt the Findings of Fact Conclusions as presented and discussed. Commissioner Wakefield Nichols seconded, which passed 6-0.

8. DIRECTOR'S REPORT

The February 2, 2022 Planning Commission meeting will be canceled because the Commission will meet with the City Council at a joint workshop on February 15 at 5 p.m. After discussion with the City Administrator, it will be held remotely.

Mr. Pickus provided an updated on the Undesirable Uses code amendment and informed the Commission the public hearing on it will be held in April instead of March as originally planned, so the Commission can discuss it in detail prior to the public hearing.

9. **ADJOURNMENT:** The meeting adjourned at 9:02 p.m.

Approved this 2nd day of March 2022.

By: _____
Commissioner Hank Eskridge, Chair

Date: March 2, 2022

To: Planning Commission

From: Glen Pickus, AICP, Planning Director

Subject: Uses in Commercial Zones and Updating Land Use Tables

SUMMARY: The City Council adopted interim zoning regulations to prevent new undesirable uses from being established in commercial zones in the City. The Planning Commission will discuss potential permanent regulations to address the issue.

BACKGROUND: The City Council was concerned that a buyer of the former Snohomish County Public Works yard site on Avenue D could submit a development application and become vested to develop the site in a manner inconsistent with the Midtown District development regulations and standards before they were adopted. To prevent that from happening, interim regulations were adopted that prohibited certain specified uses currently allowed that may be undesirable in any or all of the City's commercial zones.

Interim zoning regulations are provided for by RCW 35A.63.220 and RCW 36.70A.390. The process allowed the City Council to adopt temporary zoning regulations without going through the Planning Commission; however, the RCWs require adoption of permanent regulations, through the normal development code amendment process, within six months of adoption of the interim regulations.

During the Planning Commission discussion of this issue at the December 2021 meeting, the Commission's direction was to minimize the changes to existing permitted uses.

PROPOSAL: To address this issue, land use tables in Chapter 14.207 SMC must be amended.

The City's commercial zones are:

- Commercial
- Neighborhood Business (currently just a place holder)
- Historic Business District
- Business Park
- Midtown District

For this analysis, staff considered uses as not being supportive of the intent of the zone if they:

- Do not generate adequate tax revenue;
- Do not provide for living wage jobs;
- Do not provide for housing options;
- Detract from the pedestrian experience;
- Do not provide any public amenities;
- Require large impervious areas for the buildings and parking lots; or
- Do not provide services to the community.

Following the Planning Commission's direction, staff analyzed potentially undesirable uses currently allowed in commercial zones with the intent of minimizing changes and treating each commercial zone individually rather than using a broad-brush approach.

Commercial: For the Commercial zone--which is intended to provide shopping areas offering a wide range of convenience and general merchandise goods and services--staff is recommending the following uses no longer be permitted as not being supportive of the purpose of the zone:

- Farm product refrigeration/storage
- Farm product warehousing
- Freight and cargo service
- Self-service storage
- Trucking and courier service
- Warehousing and wholesale trade
- Heavy machinery and equipment
- Industrial and commercial machinery
- Recreational vehicle park
- Raising livestock, small animals
- Jail

Historic Business District: Staff is recommending minimal changes to the allowed uses in the Historic Business District, recommending only the following two uses no longer be allowed:

- Freight and cargo service
- Trucking and courier service

Business Park: Staff is also recommending minimal changes to the uses allowed in the Business Park zone, as that zone is intended to be a hybrid commercial/industrial zone different from the Commercial zone. The only uses currently allowed in Business Park that staff recommends no longer be allowed are:

- Raising livestock, small animals
- Mineral extraction (which was allowed with a Conditional Use Permit)

Midtown District: Since the permitted uses in the Midtown District were already addressed with the adoption of the Midtown District code amendments, staff only has one new use recommendation for Commissioners to consider: not allowing places of worship. Churches, synagogues, temples, mosques and the like, especially if very large, can negatively impact a commercial zone by not generating any tax revenue for the City, do not provide many living-wage jobs, and typically are not pedestrian-friendly.

Other Proposal: Because the main proposal regarding undesirable uses in commercial zones involves amending the land use tables in Chapter 14.207 SMC, staff also recommends taking advantage of this opportunity to simplify the entire chapter by reducing the number of tables from nine to five, and the number of uses listed from 189 to 132 (a 30% reduction). The five recommended consolidated tables (Attachments A-E) are:

- Residential Uses
- Commercial Uses
- Industrial Uses
- Recreational, Community, and Public Uses
- Utility Uses

These tables correspond closely to the designation of future land uses in the Comprehensive Plan and on the Future Land Use Map.

Much of the recommended reduction in the number of uses listed was achieved by consolidating similar uses with similar impacts into more general terms. For instance, using

“office” rather than specifying individual types of offices such as medical, professional, etc.; using “retail” rather than splitting retail up by the type of products being sold; and using “manufacturing, light”, and “manufacturing, heavy” to encompass all types of manufacturing processes rather than categorizing into the type of items being manufactured.

Some uses are proposed to be eliminated. Four, which were only allowed in the Urban Horticulture zone, are removed because there no longer is an Urban Horticulture zone. Also eliminated is “Jail,” which was only allowed in the Commercial zone, and “Limited agriculture uses,” which was allowed in residential zones but is unnecessary as having gardens in residential zones is allowed as an accessory use.

Staff is also proposing adding two new uses to the Recreational, Cultural, and Community Uses table to fill in gaps in the list of uses:

- Fitness center
- Membership organization (a group that holds meetings for social and charitable activities)

This proposal will also include amending SMC Chapter 14.25 Definitions, primarily to include definitions for the two new uses above.

RECOMMENDATION: That the Planning Commission ask questions, discuss the issues, and direct staff as necessary to pursue the adoption of permanent regulations.

NEXT STEPS: The Planning Commission will hold a public hearing on proposed code amendments at its next meeting on April 6, 2022.

ATTACHMENTS:

- A. SMC 14.207.070 Residential Uses *draft*
- B. SMC 14.207.080 Commercial Uses *draft*
- C. SMC 14.207.090 Industrial Uses *draft*
- D. SMC 14.207.100 Recreational, Community, & Public Uses *draft*
- E. SMC 14.207.110 Utility Uses *draft*

REFERENCE: [Chapter 14.207 Snohomish Municipal Code](#)

ATTACHMENT A

14.207.070 Residential Uses

USE	SINGLE-FAMILY	MULTI-FAMILY			COMMERCIAL					INDUSTRIAL		PUBLIC	
	SFR	LDR	MDR	HDR	C	NB	HBD	PIL ¹	BP	MID	I	AI	POP
Accessory dwelling units	p2	p2	p2	p2	p2	p2	p2			p2			
Accessory structures	p	p	p	p						p			
Accessory uses	p10	p10	p10	p10						p			
Adult family home	p	p	p	p	p					p			
Animal keeping (see Ch. 7.04 SMC)													
Bed and breakfast	c4	p	p	p	p		p						
Caretaker residence						p11			p5		p5		
Community residential facility-CRF		c	c	c	c		c			c			
CRF-prisoner release											c		
Foster home	p	p	p	p	p					p			
Home occupation	p3	p3	p3	p3	p3		p3		p3	p3			
Manufactured home	p	p	p	p						p			
Mobile home park		c8	c8	c8									
Multi-family		p	p	p	p9		p		c6	p			
Single-family detached	p7	p	p	p	p12		p		p12				
Single-family attached	p13	p	p	p	p9		p		p6	p14			
Student Housing		c	c	c						p			
Roomers/boarders	p7	p7	p7	p7			p7		p7		p7		

14.207.075 Residential Uses: Regulations.

1. See SMC 14.212.410 Allowed Uses, for the permitted and provisional uses in the Pilchuck District.
2. Accessory dwelling units must meet the following conditions:
 - a. One ~~(4)~~ unit must be owner occupied.
 - b. The design of any exterior alteration or new structure necessary for the unit must comply with the City's design standards adopted in Chapters 14.225 and 14.230 SMC.
 - c. One ~~(4)~~ additional on-site parking space must be provided.
 - d. If the accessory unit is in a separate structure, it must be no greater than ~~eight hundred (800)~~ square feet or half the floor area of the ~~existing primary~~ structure, whichever is less.
 - e. Occupancy of the accessory unit, together with all roomers or boarders permitted under SMC 14.207.075(8), shall not exceed three ~~(3)~~.

3. Home occupations must meet the following conditions:
 - a. The occupation shall be conducted within an enclosed building.
 - b. No indication of the occupation, such as outdoor storage areas, abnormally higher traffic volumes, noise, vibration, dust, smoke or odors, shall be evident from outside the building in which the occupation is located.
 - c. The occupation shall not produce ground water pollution or introduce objectionable waste into the City sewer system.
 - d. Not more than one ~~(1)~~ person outside the immediate family group residing on the premises shall engage in such occupation.
 - e. Signing must comply with Chapter 14.245 SMC.
 - f. The occupation cannot exceed ~~twenty-five (25)~~ percent of the home square footage.
 - g. The occupation must have a City business license.
 - h. The premises must be occupied by the occupation owner.

4. Bed and breakfast (B&B) establishments must meet the following conditions:
 - a. The residence must be owner-occupied.
 - b. The Design Review Board must review the plan for off-street parking and, if the property is located within the Historic District, the design of the sign.
 - c. No more than four ~~(4)~~ B&B rooms per residence.
 - d. One ~~(1)~~ on-premises parking space must be provided per B&B room, in addition to parking required for the residence.
 - e. B&B rooms must be located in the structure of the principal residence.
 - f. No meals other than breakfast shall be provided, and no meals shall be sold to non-renters.
 - g. No room shall be rented to the same person or persons for more than ~~thirty (30)~~ days per year.
 - h. No rooms shall be rented on a permanent basis, and no other business activity may be conducted on the premises.
 - i. The B&B must maintain a City business license.

5. Employee living quarters as an accessory use shall meet the following conditions:
 - a. Living quarters shall be restricted to the use of caretakers, watchmen, and special employees in training.
 - b. Living quarters may be a separate building, manufactured home, or a portion of another building.
 - c. Only two ~~(2)~~ dwelling units shall be used for employee living quarters.

6. Multi-family housing is allowed in conjunction with commercial use as a mixed use.
 - a. The gross square footage of multi-family housing must not exceed the gross square footage of commercial use.
 - b. Multiple family density may not exceed ~~eighteen (18)~~ units/acre, in accordance with Chapter 14.210 SMC.

7. Up to three ~~(3)~~ roomers or boarders may reside in an owner-occupied, single-family home, or accessory dwelling unit associated with the owner-occupied, single-family home, irrespective of the definition of family in Chapter 14.25 SMC; provided, that with the exception of an approved accessory dwelling unit, the property contains only one ~~(1)~~ dwelling unit, and provided that any nonfamily members occupying the accessory dwelling unit shall be counted against the limit of three ~~(3)~~ roomers or boarders.

8. Must meet mobile home park design requirements set forth in SMC 14.210.220.

9. Except where a higher density is permitted by SMC 14.285.060 for low-income senior housing, multi-family residential density may not exceed ~~eighteen (18)~~ units per acre, in accordance with SMC 14.210.210.
10. Signs, fences, landscaping and screening in compliance with SMC Title 14.
11. Employee and/or accessory living quarters as an accessory use shall meet the following conditions:
 - a. Living quarters must be on the second floor above the primary commercial use on the site.
 - b. The density of the employee and/or accessory living quarters shall not exceed the density of the highest density adjacent residential designation.
12. Permitted only through the unit lot subdivision process in SMC 14.215.125 and only where in compliance with the standards in SMC 14.210.215.
13. Permitted only in conjunction with a planned residential development under the provisions of Chapter 14.220 SMC.
14. Attached units shall be a minimum of three separate dwelling units. Duplexes are not permitted.

ATTACHMENT B

14.207.080 Commercial Uses

USE	SINGLE-FAMILY	MULTI-FAMILY			COMMERCIAL						INDUSTRIAL		PUBLIC
	SFR	LDR	MDR	HDR	C	NB	HBD	PIL ¹	BP	MID	I	AI	POP
Adult uses											p8		
Animal grooming w/o kenneling/boarding					p		p		p		p		
Auction house					p		p				p		
Automotive parking					p		c		p		p	p	
Automotive rental and leasing					p		p12		p		p	p	
Automotive and boat dealer					p		p		p		p		
Automotive service and repair					p		p2		p2		p	p2	
Automotive supply store					p4		p4		p4		p		
Building supply, hardware, and garden materials					p		p		p		p		
Cemetery, columbarium or mausoleum					p		p		p		p		
Childcare					p3	p3			p				
Childcare, family – 12 children or less					c		c						
Childcare, family – 6 children or less					p		p						
Commercial accessory use					p10		p10		p10		p	p	
Congregate care/assisted living	c7	c	p	p	p		p		p				
Department and variety stores					p		p		p				
Equipment rental					p	p	p12		p		p	p	
Fitness center					p	p	p		p		p		
Funeral home					p		p		p	p	p		
Gasoline service station					p		p		p		p	p	
Grocery store					p	p6/9	p		p		p		
Hotel/motel					p		p		p		p		
Kennel or animal boarding, commercial	p5										p		
Medical/dental lab					p		p		p		p		

USE	SINGLE-FAMILY	MULTI-FAMILY			COMMERCIAL						INDUSTRIAL		PUBLIC
	SFR	LDR	MDR	HDR	C	NB	HBD	PIL ¹	BP	MID	I	AI	POP
Nursing/convalescent home	c7	c	p	p	p		p		p		p		
Office					p11	p	p11		p		p	p	
Outdoor advertising service					p12		p12		p12		p	p	
Passenger transportation service					p11		p11		p		p	p	
Personal medical supply stores					p		p		p		p		
Personal services					p		p		p		p	p	
Pet store					p	p6	p		p		P		
Research, development, and testing					p		p		p		p	p	
Restaurant					p	p	p		p		p		p14
Restaurant, drive-thru/walk-up					p		p		p		p	p	
Retail					p	p6	p		p		p		
Self-service storage									p		p	p	
Social services					p		p		p		c		
Supervised drug injection facility													
Transportation and taxi					p11		p11		p		p	p	
Veterinary clinic					p5		p5		p5		p		
Winery/brewery/distillery	p13				p		p		p		p		
Trucking and courier service											p	p	

14.207.085 Commercial Uses: Regulations

1. See SMC 14.212.410 Allowed Uses, for the permitted and provisional uses in the Pilchuck District.
2. Except tire retreading. See Industrial Land Uses Table.
3. Subject to a child drop off and pick up system that meets DSHS standards and subject to design features for use of outside play areas that will protect adjacent uses from significant noise levels.
4. Only the sale of new or reconditioned automobile supplies is permitted.
5. Animal cremation services are not permitted.

6. Store size shall be limited to 3,000 gross square feet.

7. Subject to the following conditions:
 - a. Minimum contiguous site area of three acres.
 - b. Parking areas shall be screened from adjacent streets and residential uses.
 - c. All structures shall be offset from property lines a minimum of 20 feet.
8. Adult uses will be allowed in the area designated for Industry located between Bonneville Avenue, Highway 9 and Seventh Street.
9. No gasoline sales.
10. Storage limited to accessory storage of commodities sold at retail on the premises or materials used in the fabrication of commodities sold on the premises.
11. Limited to office use and related parking for vehicles and equipment.
12. No outdoor storage unless it is screened.
13. Only as a home occupation.
14. When ancillary to a recreational land use.

ATTACHMENT C

14.207.090 Industrial Uses

USE	SINGLE-FAMILY	MULTI-FAMILY			COMMERCIAL						INDUSTRIAL		PUBLIC
	SFR	LDR	MDR	HDR	C	NB	HBD	PIL ¹	BP	MID	I	AI	POP
Aircraft, boats, and auto assembly					c7						p	p	
Airport/heliport/landing field												p	
Asphalt paving mixture plant											c		
Automobile dismantling, wrecking, and scrap metal											c5		
Bus base									p		p		
Crops, growing and harvesting													p
Construction yard					p10		p10		p10		p	p	
Equipment rental									p		p	p	
Farm product refrigeration/ storage/ warehousing											p	p	
Food processing							p3		p3		p3	p3	
Freight and cargo service									p		p	p	
Fuel dealer											p	p	
Hatchery/fish preserve													p2
Heavy equipment and truck repair									p		p	p	
Heavy machinery and equipment manufacturing									p		c	p5	
Industrial accessory use					p9		p9		p9		p	p	
Industrial launderer									p		p		
Livestock and small animal raising											p4	p4	
Log storage												p	
Manufacturing, light					p5/6				p		p	p	
Manufacturing, heavy											p	p	
Movie production/distribution							p		p		p		
Mineral extraction											c		
Printing and publishing					p		p		p		p		
Tire retreading											c		
Warehousing									p5		p	p	

USE	SINGLE-FAMILY	MULTI-FAMILY			COMMERCIAL					INDUSTRIAL		PUBLIC	
	SFR	LDR	MDR	HDR	C	NB	HBD	PIL ¹	BP	MID	I	AI	POP
Wholesale sales and trade									p7		p	p	

14.207.095 Industrial Uses: Regulations.

1. See SMC 14.212.410 Allowed Uses, for the permitted and provisional uses in the Pilchuck District.
2. May be subject to the provisions of the City's Shoreline Master Program, shoreline development regulations, and floodplain regulations.
3. Except slaughterhouses.
4. The keeping of animals shall conform to the provisions of Title 7 SMC.
5. Only within enclosed buildings with no outdoor activities or storage.
6. Retail sales of manufactured products required on site.
7. Boat building or water related manufacturing uses are allowed in the shoreline management area of the Snohomish River in accordance with the City's Shoreline Management Master Program and shoreline development regulations as set forth in Chapter [14.250](#) SMC.
8. Outdoor storage must be screened.
9. Storage limited to accessory storage of commodities sold at retail on the premises or materials used in the fabrication of commodities sold on the premises.
10. Limited to office use and related parking for vehicles and equipment.

ATTACHMENT D

14.207.100 Recreational, Cultural, and Community Uses

USE	SINGLE-FAMILY	MULTI-FAMILY			COMMERCIAL						INDUSTRIAL		PUBLIC
	SFR	LDR	MDR	HDR	C	NB	HBD	PIL ¹	BP	MID	I	AI	POP
Amusement arcade					p		p		p		p		
Bowling alley					p				p				
Campground													p
College/university					p		p		p		p	p	
Community-based theater	c8												
Community Garden					p	p			p				p
Community stable													c
Conference center					p		p		p		p	p	p5
Court					p		p		p		p		
Destination resort					p		p					p	p
Fire facility	c2	c2	c2	c2	p		p		p		p	p	c2
<u>Fitness center</u>					<u>p</u>		<u>p</u>		<u>p</u>		<u>p</u>		
Golf facility												c	c
Hospital					p		p		p		p		
Library	c	c	c	c	p		p						p5
Marina					p		p						p
<u>Membership organization</u>					<u>p</u>		<u>p</u>		<u>p</u>				<u>c</u>
Museum	c	c	c	c	p		p		p		p		p5
Park, trail, and arboretum	p	p	p	p	p		p		p		p	p	p
Place of Worship	c6	c	c	c			p		p		p	p	
Police facility					p		p		p		p		
Public agency animal control facility					p				p				
Public agency training facility											p4		
Public agency yard					p		p		p		p	p	
Recreational center					p				p				p
Recreational vehicle park											c3	c3	c3
School	c	c	c	c	p				p				
School, district support facility		c	c	c	p		p		p		p		

USE	SINGLE-FAMILY	MULTI-FAMILY			COMMERCIAL						INDUSTRIAL		PUBLIC
	SFR	LDR	MDR	HDR	C	NB	HBD	PIL ¹	BP	MID	I	AI	POP
School, vocational and specialized instruction		c	c	c	p		p		p			p	c
Shooting range											c7		
Sports club					p		p				p		p
Stadium/arena					p								c
Theater					p		p		p				p
Transit park and ride lot					p				p			p	
Work release facility											c		
Zoo/wildlife exhibit													c

14.207.105 Recreational, Cultural, and Community Uses: Regulations

1. See SMC 14.212.410 Allowed Uses, for the permitted and provisional uses in the Pilchuck District.
2. Fire facilities shall meet the following conditions:
 - a. All buildings and structures shall maintain a minimum distance of ~~twenty (20)~~ feet from adjoining residential property lines.
 - b. Any buildings from which fire-fighting equipment emerges onto a street shall maintain a distance of ~~thirty-five (35)~~ feet from such street.
 - c. No outside storage.
3. Recreational vehicle parks are subject to the following conditions and limitations:
 - a. The maximum length of stay of any unit shall not exceed 180 days.
 - b. The minimum distance between recreational vehicle pads shall be no less than ten ~~(10)~~ feet.
 - c. Sewage disposal shall be by sewer service obtained from the City of Snohomish sanitary sewer utility.
4. Except for outdoor ranges.
5. Uses permitted when related to the history, purpose, or function of the public park.
6. Site must be located less than 300 feet from a street designated as a collector or arterial.
7. Subject to the following conditions:
 - a. Minimum contiguous site area of three acres.
 - b. Parking areas shall be screened from adjacent streets and residential uses.
 - c. All structures shall be offset from property lines a minimum of 20 feet.

ATTACHMENT E

14.207.110 Utility Uses

USE	SINGLE-FAMILY	MULTI-FAMILY			COMMERCIAL						INDUSTRIAL		PUBLIC
	SFR	LDR	MDR	HDR	C	NB	HBD	PIL ¹	BP	MID	I	AI	POP
Earth station											c		
Energy resource recovery facility											c		
Hazardous waste storage & recycling											c		
Natural gas/electrical power generating facility											c		
Non-hydroelectric generation facility											p		
Sub regional utility	c	c	c	c	c		c		c		c	c	c
Transfer station											c		
Water and wastewater facility											p		

14.207.115 Utility Uses: Regulations.

1. See SMC 14.212.410 Allowed Uses, for the permitted and provisional uses in the Pilchuck District.

Date: March 2, 2022
To: Planning Commission
From: Glen Pickus, AICP, Planning Director
Subject: Change References to SMC Chapter 14.205 Code Amendment

SUMMARY: Leftover references to repealed SMC Chapter 14.205 Permitted Land Uses, need to be changed or deleted.

BACKGROUND: When the Land Use Element of the Comprehensive Plan and the Land Use Development Code (Title 14 SMC) were amended last year to re-establish their proper relationship, SMC Chapter 14.205 Permitted Land Uses, was repealed since it comprised of policy language rather than regulatory.

However, several sections in Title 14 SMC still refer to the now-repealed chapter, and need to be changed or deleted. In addition, SMC 14.205.055 included some regulatory language that needs to be restored.

PROPOSALS: The following sections refer to Chapter 14.205 or a section of that chapter:

SMC 14.207.010(B) Guide to Land Use Tables: Change the reference to new Chapter 14.30 Establishment of Zoning Districts. Much of Chapter 14.30 mimics what was in Chapter 14.205, but uses regulatory language rather than policy language.

SMC 14.210.090 Non-Contiguous Lots: Change the reference from SMC 14.205.055 to SMC 14.30.040(C)(5). This section addresses non-contiguous lots in the Business Park zone and meeting parking requirements. The new reference is to the new section created last year that establishes the Business Park zone and its requirements.

SMC 14.210.230 Business Park and Airport Industry: Delete the reference to Chapter 14.205 so the section only refers to Chapter 14.207 Land Use Tables. Also, delete all references to the Business Park zoning district; the regulations in this section applicable to the Business Park zone will be included in the new Chapter 14.211 SMC described below.

SMC 14.235.210 Parking for Manufacturing Land Uses, Table 5: Change the reference from Chapter 14.205 to Chapter 14.207 Land Use Tables. Table 5 establishes parking requirements for manufacturing land uses. The reference to a section of Chapter 14.205 would be changed to refer to the new Industry Land Use Table (SMC 14.207.090).

New SMC Chapter 14.211 Business Park: Create a new Chapter 14.211 SMC to consolidate all special regulations for development in the Business Park zoning district into one chapter, including the regulatory language that was deleted with the repeal of Chapter 14.205.

Therefore, included in this proposed new chapter are the regulations:

- that were specific to the Business Park zone in Chapter 14.205 SMC but were deleted when the chapter was repealed;

- from SMC 14.210.230 Business Park and Airport Industry that are applicable to the Business Park zone; and
- currently found in SMC 14.207.075(6) that limits multi-family residential development to 18 dwelling units per acre and to not exceed the gross square footage of the associated commercial uses in mixed use developments.

Also proposed is to change all current references of “land use designation” in the above sections to “zoning district.”

RECOMMENDATION: No action by the Commission is required as this is merely a briefing to the Commission on staff’s work on the code amendment. Commissioners should provide staff direction as to how the code should be amended.

NEXT STEPS: Following the Planning Commission’s direction, staff will draft a code amendment to present during a public hearing at the Commission’s April 6, 2022 meeting.

ATTACHMENTS:

- A. SMC 14.207.010 *draft*
- B. SMC 14.210.090 *draft*
- C. SMC 14.210.230 *draft*
- D. SMC 14.235.210, Table 5 *draft*
- E. New SMC Chapter 14.211 Business Park *draft*

ATTACHMENT A

14.207.010 Guide to Use of Land Use Tables.

- A. The use of a property is considered permanent when that use has been in continuous operation for more than sixty days. A use for less than sixty days is considered a temporary use (see Chapter [14.60](#) SMC).
- B. The land use tables in SMC [14.207.120](#) through [14.207.160](#) determine whether a use is allowed in a land use designation. The ~~land-use designations~~ [zoning districts](#) set forth in Chapter ~~14.205-14.30~~ SMC relate to the tables' columns while the land uses relate to the tables' rows.
- C. If no symbol appears in the box at the intersection of the column and the row, the use is not allowed in that [zoning](#) district, except for certain temporary uses.

ATTACHMENT B

14.210.090 Non-Contiguous Lots.

Non-contiguous lots, which are owned by the same individual but physically separated by a street, alley, river, or some other form of manmade or natural barrier, shall not be used jointly to satisfy the requirements of any ~~land use designation zoning district~~ except for off-street parking as described in Chapter [14.235](#) SMC and Business Parks as described in SMC ~~14.205.055~~ [14.30.040\(C\)\(5\)](#).

ATTACHMENT C

14.210.230 ~~Business Park and~~ Airport Industry.

- A. Chapters ~~14.205 and~~ 14.207 SMC governs permitted land uses in the ~~business park and~~ airport industry ~~designations~~ zoning district.
- B. *Minimum Area*. A minimum of five acres will normally be required for a business park development; however, existing smaller parcels that cannot be aggregated together to establish a five-acre project will be allowed, subject to appropriate review and conditions.
- C. *Setbacks*. Structures shall be a minimum distance of 50 feet from any property line abutting a residential land use designation. Where not abutting a residential designation, the minimum setback shall be zero, subject to compliance with the landscape screening requirements in Chapter 14.240 SMC.
- D. *Landscaping and Open Space*.
1. The site shall consist of not less than 20 percent landscaping and/or open space, which open space may consist of undisturbed vegetation or water and will include the five percent area of required landscaping. ~~In addition, any parking lot of over 20 cars must provide a minimum of one contiguous 100-square-foot landscaped island within the parking area for each 10 spaces. Up to 50 percent of the landscaping and open space requirement for a business park development may be provided by permanent dedication of a conservation easement to the City, a land trust, or another entity acceptable to the City of Snohomish, which easement shall restrict property to remain in open space in perpetuity within the same business park designation as the development in question.~~
 2. At least five percent of the site must be in formal developed landscaping no less than 2,000 square feet in area and oriented towards the main entrance and public right-of-way.
 3. ~~Landscaping Adjacent to Streets~~. All uses which adjoin Developments adjoining a street will also provide a landscape corridor of trees, planted no more than 50 feet on center. Landscape plant materials used in low impact development facilities may also be considered. Such landscaping shall not obscure the sight distance for traffic and pedestrians at the intersection of streets or driveways.
 4. Any parking area in excess of 20 cars shall provide a minimum of one contiguous, 100-square-foot landscaped island within the parking area for each ten spaces.
- E. ~~Access~~.
1. ~~Access Limitation~~. Business Parks shall have access to at least one major arterial. ~~Access to the adjacent arterial and other streets will be provided in accordance with City traffic plans and will be constructed per Public Works Design and Construction Standards.~~
 2. ~~Access Assurance to Adjacent Properties~~. At the time of permit review the City may require as a condition of approval either:
 - a. ~~That a frontage road or marginal access street be constructed to provide access to the arterial for adjacent properties.~~

~~b. That the applicant grants to adjacent properties the right to use the applicant's arterial access.~~

FE. *Height Limitation.* Standard b Building heights shall not exceed 45 feet. One additional foot of building height may be added for each additional foot of setback on all sides provided that the total building height shall not exceed 60 feet.

ATTACHMENT D

14.235.210 Parking for Manufacturing Land Uses.

Table 5.

Land Use	Parking Requirement	Supplemental Requirements
Manufacturing land uses (see Table 14.205.110 14.207.090 for list)	1 space per employee on maximum shift, or 1 space per 1,000 sf of gfa	if If in commercial area or generates walk-in trade: 1 space per 200 sf of gfa

ATTACHMENT E

Chapter 14.211 BUSINESS PARK

Sections:

14.211.010	Purpose
14.211.020	General Requirements
14.211.030	Dimensional Requirements

14.211.010 Purpose

The purpose of this chapter is to identify regulations specific to the Business Park zoning district in order ensure the purpose of the zoning district, as established in SMC 14.30.040(C)(5), is achieved. The objective of these regulations it to broaden the array of developable areas to include those with environmental constraints.

14.211.020 General Requirements

- A. Business Parks shall have access to a minor arterial, however direct access shall be taken from the lower classification of roadway, if an option is available. Access to shall be provided in accordance with City traffic plans and constructed per Public Works Design and Construction Standards.
- B. Criteria for approval of the site development plan shall include the prevention of strip commercial development and the protection of environmentally critical areas.
- C. A minimum of five acres will normally be required for a Business Park development; however, existing smaller parcels that cannot be aggregated together to establish a five-acre project will be allowed subject to appropriate review and conditions.
- D. Townhouse and apartment styles of multi-family residential use are permitted in conjunction with commercial use on the same site provided:
 1. The gross square footage of the residential uses does not exceed the gross square footage of the commercial uses; and
 2. The residential density does not exceed 18 dwelling units per acre.
- E. Two or more noncontiguous parcels in the Business Park zoning district may be determined to constitute one development site when all of the following conditions are satisfied:
 1. The parcels are within 0.25 mile, measured between nearest property lines, so that land development conditions and issues are substantially similar.
 2. The parcels are in common ownership throughout the permitting and construction process.
 3. Construction activity upon all parcels is requested, reviewed, and permitted through one land use development application.
 4. Signs, structures, and other improvements on all parcels exhibit common architectural design features.

5. The names given to development on the noncontiguous parcels have common words and themes.
 6. The parcels are connected by pedestrian walkway.
- F. Development in the Business Park zone shall be subject to design review using the General Design Standards per Chapter 14.230 SMC.

14.21.030 Dimensional Requirements

- A. *Minimum Area.* A minimum of five acres will normally be required for a business park development; however, existing smaller parcels that cannot be aggregated together to establish a five-acre project will be allowed, subject to appropriate review and conditions.
- B. *Setbacks.* Structures shall be a minimum distance of 50 feet from any property line abutting a residential zone. Where not abutting a residential zone, the minimum setback shall be zero, subject to compliance with the landscape screening requirements in Chapter [14.240](#) SMC.
- C. *Landscaping and Open Space.*
1. The site shall consist of not less than 20 percent landscaping and/or open space, which open space may consist of undisturbed vegetation or water and will include the five percent area of required landscaping. Up to 50 percent of the landscaping and open space requirement for a business park development may be provided by permanent dedication of a conservation easement to the City, a land trust, or another entity acceptable to the City of Snohomish, which easement shall restrict property to remain in open space in perpetuity within the same business park zone as the development in question.
 2. At least five percent of the site must be in formal developed landscaping no less than 2,000 square feet in area and oriented towards the main entrance and public right-of-way.
 3. Developments adjoining a street will also provide a landscape corridor of trees, planted no more than 50 feet on center. Landscape plant materials used in low impact development facilities may also be considered. Such landscaping shall not obscure the sight distance for traffic and pedestrians at the intersection of streets or driveways.
 4. Any parking lot in excess of 20 cars shall provide a minimum of one contiguous, 100-square-foot landscaped island within the parking area for each ten spaces.
- D. *Height Limitation.* Standard building heights shall not exceed 45 feet. One additional foot of building height may be added for each additional foot of setback on all sides provided that the total building height shall not exceed 60 feet.

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Date: March 2, 2022
To: Planning Commission
From: Glen Pickus, AICP, Planning Director
Subject: Fence Height Code Amendment

SUMMARY: Staff will introduce proposed code amendments to SMC 14.240.060 Fence and Freestanding Wall Regulations, to:

1. correct an omission when regulations for fences were updated in 2017; and,
2. remove a limit on retaining wall/rockery height when located in a setback area.

BACKGROUND: In 2017, regulations for fences were updated primarily to address an ambiguity in the code about fences in the right-of-way. At that time, staff identified other parts of the code that could be clarified. One such “clarifying” amendment was to reformat SMC 14.240.060, subsections D-G, to standardize the format for fence requirements in the different zones. In doing so, in subsection D--which regulates fences in the Single-Family, Residential, and Parks, Open Space & Public zones--the height limit for fences in rear setback areas was not addressed; effectively meaning there is no limit to backyard fence heights.

At the same time, subsection H was amended to clarify regulations for retaining walls and rockeries: a height limit of six feet was placed on retaining walls and rockeries located in setback areas. The height limit has proven to be problematic, as the height of such structures is determined by the topography and what their purpose is so cannot be arbitrarily limited if they are to function properly.

PROPOSALS:

Fence Height in Rear Yards: SMC 14.240.060(D)(2) addresses fence heights allowed in the front yard setback area (3 feet for solid fences; 5 feet for open fences). Subsection (D)(3) addresses the maximum fence height allowed in the side yard setback area (6 feet for all fences). However, nowhere in 14.240.060(D) is the height of fences in the rear yard setback area addressed.

To resolve the omission, subsection (D)(3) should be amended to address both the rear and side yard setback areas. In doing so, the maximum fence height allowed in the rear yard setback area would be the same as that allowed in the side yard setback area: 6 feet.

Retaining Wall and Rockery Height in Setback Areas: SMC 14.240.060(H) establishes the maximum heights for retaining walls and rockeries. Pursuant to 14.240.060(H)(1)(a), there is no maximum height limit for retaining walls and rockeries located in the buildable area of a lot, but they must be the lowest height necessary to achieve their intended functional purpose.

However, for retaining walls and rockeries located in a setback area, the maximum allowed height is six feet pursuant to SMC 14.240.060(H)(1)(b). This arbitrary height limit does not take into account surrounding topography and the function the wall/rockery is providing. Therefore, the proposal is to treat all retaining walls and rockeries the same, regardless of where they are located on a lot, and require them to be no higher than necessary to be functional. This is

achieved by deleting 14.240.060(H)(1)(b) and rewording 14.240.060(H)(1)(a) to be applicable to all retaining walls and rockeries.

RECOMMENDATION: No action by the Commission is required as this is merely a briefing to the Commission on staff's work on the code amendment. Commissioners should provide staff direction as to how the code should be amended.

NEXT STEPS: Following the Planning Commission's direction, staff will draft a code amendment to present during a public hearing during the Commission's April 6, 2022 meeting.

ATTACHMENTS:

- A. SMC 14.240.060(D) *draft*
- B. SMC 14.240.060(H) *draft*

REFERENCE: [SMC 14.240.060 – Fence and Freestanding Wall Regulations](#)

ATTACHMENT A

14.240.060 Fence and Freestanding Wall Regulations.

...

D. *Fences and Decorative Freestanding Walls in Single-Family, ~~Multi-Family, Residential, Parks, Open Space~~ and Public Future Land Use Designation Areas.* Fences/freestanding walls constructed in Single-Family, ~~Multi-Family, Residential, Parks, Open Space~~ and Public future land use designation areas shall comply with the following requirements:

1. Electrical fences and fences with barbed wire, razor wire, concertina wire, or similar products are prohibited.
2. Within front yard setback area.
 - a. Solid Fence. No higher than three feet unless it connects side fences to the structure.
 - b. Open Fence. Up to five feet if it does not create a sight obstruction.
3. If located within a side yard or rear yard setback area the maximum allowed height shall be six feet except fences located in a side yard setback area on the street side of a corner lot shall also be required to meet the sight clearance requirements for intersections as set forth in SMC 14.210.160

ATTACHMENT B

14.240.060 Fence and Freestanding Wall Regulations.

...

H. Retaining Walls and Rockeries.

1. Retaining wall and rockery installations in all land use designation areas shall comply with the adopted City of Snohomish Design Standards and development regulations which are applicable to the area where the retaining wall is located, ~~except that:~~
 - ~~a. There shall not be a maximum height limit on retaining walls and rockeries located in the buildable area of a lot. However, the height of retaining walls and rockeries in the buildable area of a lot shall be the lowest necessary to achieve its intended functional purpose. If the proposed wall or rockery height exceeds the maximum building height limitation for the land use designation zone area where it is located it must be reviewed and approved by the Planning Director or designee on a project-by-project basis.~~
 - ~~b. The maximum height limit on retaining walls and rockeries located in a setback area shall be six feet.~~
2. Except as otherwise provided below, retaining wall permits shall be required for all retaining walls. The permit application shall include a site plan, drawn to scale, which shows:
 - a. The entire project site and all property lines; and
 - b. Areas within 50 feet of the proposed retaining wall/rockery even if that includes adjacent properties; and
 - c. All structures, including existing retaining walls and rockeries, within 50 feet of the proposed wall/rockery; and
 - d. Existing topography with contour lines at two-foot vertical intervals. Topographical data obtained from public records is acceptable; and
 - e. The materials proposed for use in construction; and
 - f. The location of the proposed wall/rockery with all dimensions necessary to describe its location, depth, and height; and
 - g. A cross section showing the wall/rockery and provisions for drainage.
3. If the Building Official determines it is necessary, structural calculations and/or a geotechnical report prepared by a licensed professional engineer legally entitled to practice in the State of Washington shall be submitted with the application.
4. A Type 1 retaining wall permit shall be required for retaining walls/rockeries four feet or less in height.
 - a. Only retaining walls/rockeries that do not require structural calculation and/or a drainage system are eligible for a Type 1 permit.

- b. If a series of retaining walls/rockeries four feet or less in height where the slope measured from the bottom of the lowest retaining wall/rockery to the top of the highest retaining wall/rockery is greater than 1.5 feet horizontal to 1.0 feet vertical, then a Type 2 retaining wall permit shall be required.
5. A Type 2 retaining wall permit may be required for all retaining walls/rockeries greater than four feet in height.
 - a. Type 2 retaining wall permits shall require submittal of a:
 - i. Geotechnical report; and
 - ii. Structural calculations; and
 - iii. Drainage system behind wall.
 - b. The City Engineer may require additional submittals for Type 2 retaining wall permits.
6. Private retaining walls/rockeries shall not be located in City rights-of-way except as may be otherwise provided in the Snohomish Municipal Code.
7. The height of a retaining wall/rockery shall be measured from the lowest part of the wall/rockery or wall/rockery footing to the highest part of the wall/rockery at every location along the wall/rockery.
8. No part of a retaining wall/rockery may extend into an adjacent lot.
9. Guardrails required to be placed at the top of retaining walls/rockeries, pursuant to the City-adopted building codes, shall be permitted as part of the wall/rockery, and shall not be considered to be a fence or part of the wall/rockery height.
10. A retaining wall may terminate at a property line; provided, that it must abut a retaining wall on the adjacent property and is structurally independent from such wall.
11. *Exemptions.*
 - a. Permits shall not be required for fences or freestanding walls two feet or less in height.
 - b. The City may waive the requirement for a retaining wall permit when:
 - i. Every part of the wall/rockery is set back at least five feet from all property lines; and
 - ii. The wall/rockery is no greater than four feet in height; and
 - iii. The wall/rockery is not load bearing; and
 - iv. The wall/rockery does not affect the structural integrity of adjacent structures; and
 - v. Such waiver is made in writing by the Planning Director or designee.
 - c. Permits shall not be required for retaining walls within new plats that are reviewed and approved by the City as part of the plat improvements.

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Date: March 2, 2022
To: Planning Commission
From: Glen Pickus, AICP, Planning Director
Subject: Rezone Process Code Amendment

SUMMARY: With the creation of zoning districts through last year's Title 14 SMC amendments, a procedure for processing rezone applications needs to be codified.

BACKGROUND: When the Land Use Element of the Comprehensive Plan and the Land Use Development Code (Title 14 SMC) were amended last year to re-establish their proper relationship, a new Chapter 14.30 SMC, Establishment of Zoning Districts, was created. In doing so, it is now possible to rezone property without amending the Comprehensive Plan or Future Land Use Map.

SMC Chapter 14.15 Amendments to the Comprehensive Plan, Land Use Map and Development Code needs to be amended to provide for a rezone process.

PROPOSALS: Chapter 14.15 SMC, Amendments to the Comprehensive Plan, Land Use Map and Development Code, regulates the amendment process for the Comprehensive Plan and Title 14 SMC, the Land Use Development Code, consistent with the requirements of the Washington State Growth Management Act. SMC 14.15.020, subsections B and C, establishes the procedures and criteria for amending the Comprehensive Plan and Title 14.

Staff is proposing to add a new subsection D to codify a rezone procedure that is independent of the Comprehensive Plan amendment process. This rezone procedure can only be used if the rezone proposal is consistent with the current Future Land Use designation.

The proposed procedures only allow property owners and the City to initiate a site-specific rezone. All rezones would be processed as a Type 5 permit, which requires a public hearing and extensive noticing to ensure adequate opportunities for public participation.

The proposal also includes criteria to use when considering proposed rezones. For a rezone to be approved, it would have to:

- Be compatible with surrounding uses and zoning.
- Serve the general public health, safety, and welfare.
- Be suitable for the proposed use.
- Provide, in the case of a downzone, a relative gain to the public welfare that outweighs the hardship imposed on the property owner.
- Not preclude the reasonable economic use of the land in the case of a down zone.

Staff also proposes non-substantive changes to the entire chapter to use language consistent with current code, especially as it was amended just last year.

RECOMMENDATION: No action by the Commission is required as this is merely a briefing to the Commission on staff's work on the code amendment. Commissioners should provide staff direction, if any, as to how the code should be amended.

NEXT STEPS: Following the Planning Commission's direction, staff will draft a code amendment to present during a public hearing at the Commission's May 4, 2022 meeting.

ATTACHMENT: Chapter 14.15 SMC *draft*

ATTACHMENT

Chapter 14.15 AMENDMENTS TO THE COMPREHENSIVE PLAN, FUTURE LAND USE MAP, AND DEVELOPMENT CODE AND REZONES

Sections:

14.15.010	Early and Continuous Public Participation
14.15.020	Amendment <u>and Rezone</u> Procedures
14.15.040	Threshold Determination, Scheduling of Hearing, and Notice
14.15.050	Reconsideration of DNS
14.15.060	Forward to City Council and Planning Commission
14.15.070	State Review
14.15.080	Hearing
14.15.090	Criteria - Findings and Recommendation
14.15.100	Council Action
14.15.105	Amendments to the Development Code's <u>Future</u> Land Use <u>Designation</u> Map
14.15.110	Appeals

14.15.010 Early and Continuous Public Participation.

The City encourages early and continuous public participation in the comprehensive planning, and development regulation, and rezone process and to that end has established notification procedures in SMC 14.20.130, which are consistent with the requirements of RCW 36.70A.130, 140, and 470. Procedures, timelines, and application forms are available from the Planning and Development Services Department.

14.15.020 Amendment and Rezone Procedures.

A. *Purpose.* The purpose of this section is to:

1. Create procedures, consistent with the requirements of RCW 36.70A.130, 36.70A.140, and 36.70A.470, for processing proposals to amend the City's Comprehensive Plan, Future Land Use Designation Map, and Land Use Development Code, and to rezone property;
2. Provide a process for the public and interested parties to propose amendments to the Comprehensive Plan and to the Land Use Development Code; and
3. Provide the public and interested parties with opportunities to participate in the amendment rezone process.

B. *Comprehensive Plan and Future Land Use Designation Map Amendments.* The City, in carrying out its Comprehensive Plan review function, may find instances where it is necessary to amend all or part of the Plan's text and/or maps. The following procedural steps shall govern all amendments to the Comprehensive Plan or Future Land Use Designation Map:

1. The City's Comprehensive Plan shall be subject to continuing evaluation and review by the City. Any amendment or revision to the Comprehensive Plan shall conform to Chapter 36.70A RCW.

2. *Initiation of Amendments.*

- a. Site-specific Future Land Use Designation Map amendment proposals shall only be initiated by a person with ownership interest in at least a portion of the affected site, the City Council, City of Snohomish Planning Commission, or City staff.
 - b. Comprehensive Plan amendment and areawide Future Land Use Designation Map amendment proposals may be initiated by citizens, any interested person, the Planning Commission, City staff, and City Council, ~~the City's designated Hearing Examiner and staff of other agencies.~~
 - c. The proposed amendments or revisions to the Comprehensive Plan and Future Land Use Map shall be docketed and considered by the City no more frequently than once every calendar year except that amendments may be considered more frequently under the circumstances provided for in RCW 36.70A.130(2)(a)(i) through (2)(a)(v).
3. The Planning Director shall establish an annual docketing process whereby any interested person, the Planning Commission, City staff, City Council, City's designated Hearing Examiner and staff of other agencies may submit applications to amend the City's Comprehensive Plan. That process shall include, but not be limited to, an:
- a. Annual application period August 1st through September 30th;
 - b. Application form and a checklist of required information to be submitted with the application; and
 - c. Public outreach program during the annual application period to ensure public awareness of the docketing process and the ability for the public to submit applications proposing amendments to the Comprehensive Plan, Future Land Use Designation Map, and Land Use Development Code.
4. After the application deadline, the Planning Director shall compile a preliminary docket consisting of a listing of all docket applications that were determined to include all of the required submittal items. The preliminary docket shall include a:
- a. Brief description of the proposed amendment;
 - b. Preliminary staff analysis of the proposal as to whether it is in the interest of the public health, safety, and welfare of Snohomish residents; and
 - c. Staff recommendation as to whether it should be placed on the final docket.
 - d. If no applications are received, compiling a preliminary docket is not required.
5. The City Council, at an annual docket public hearing held in October or November, shall consider all of the proposals on the preliminary docket and decide which, if any, shall be placed on the final docket. Criteria the City Council may use in considering the application may include, but are not limited to, whether the proposal is consistent with their vision for the City and whether there are adequate staff resources to properly evaluate and process the proposal. Decisions by the City Council on which items to place on the final docket are legislative and discretionary. If no applications are received the City Council shall not hold an annual docket public hearing and a final docket will not be approved for that year.
6. The Planning Director shall research and analyze all items placed on the final docket by the City Council. The Planning Director shall process each item as a Comprehensive Plan or Future Land Use Designation Map amendment to be brought to the City Council, with a Planning Commission recommendation, for their consideration during an annual

Comprehensive Plan amendment public hearing. All final docket items shall be processed or reported on within one ~~(1)~~ calendar year of when the item was placed on the final docket. This time limit may be extended with City Council approval.

7. Only amendment proposals placed on the final docket may be forwarded to the Planning Commission for consideration. All amendment proposals to be considered in a calendar year shall be considered concurrently so the cumulative effect of the various proposals can be ascertained. However, pursuant to RCW 36.70A.130(2)(a)(i) through (2)(a)(v), certain amendments to the Comprehensive Plan or Future Land Use Map that are not on the final docket may be forwarded to the Planning Commission--at any time during the year and independent of other amendments--even if it means amending the Comprehensive Plan more than once a year.
8. It is the responsibility of the Planning Director to review and oversee the preparation of all materials to express, explain, or depict the various aspects or elements of the text or map amendments including the documentation required by the State Environmental Policy Act. The Planning Director may require applicants to provide materials and studies as deemed necessary to understand the proposal and its implications.
9. The Planning Director may request other City boards or agencies or other governmental entities to provide comments and recommendations on Comprehensive Plan amendments. In proposing any changes to its Comprehensive Plan, the City shall notify the Department of Commerce of its intent to adopt such amendments at least ~~sixty (60)~~ days prior to final adoption. The City shall transmit a complete and accurate copy of approved amendments to the Department of Commerce in accordance with state law.
10. Letters of support or objection to a proposed Comprehensive Plan amendment may be filed by any interested party. The letters must be filed by the date of the City Council public hearing unless an extension of time is granted.
11. The City may use any or all of the following techniques to provide for early and continuous public participation in the development and/or amendments of the City's Comprehensive Plan. Techniques not listed may also be used.
 - a. Provide for an opportunity to submit written comments;
 - b. Hold informational public meetings to explain the proposed amendment;
 - c. Use the City's website and social media to provide information, documents, and to announce all public meetings related to the proposed amendment.
12. The Planning Commission shall consider proposed amendments placed on the final docket at a public hearing then make written findings of fact and conclusions and a recommendation to the City Council on each proposed amendment. The Commission shall make one ~~(1)~~ of four ~~(4)~~ decisions in considering amendments:
 - a. Approval in the form submitted for public hearing;
 - b. Approval with changes;
 - c. Approval in part;
 - d. Disapproval.
13. *City Council Action.*
 - a. After receipt of the Planning Commission's findings and recommendations on proposed Comprehensive Plan or Map amendments, the Council shall consider the

proposed amendments at a public meeting. The Council shall make one ~~(4)~~ of the following decisions in considering amendments:

- i. Approval in accordance with the findings and recommendations submitted by the Planning Commission;
 - ii. Approval with modifications; provided, that the Council shall hold its own public hearing before making any substantial modification to any Comprehensive Plan amendment recommended by the Planning Commission;
 - iii. Refer all or part of the Plan text or map amendment proposal back to the Planning Commission for further consideration;
 - iv. Disapprove.
- b. If the Council's decision is the alternative in subsection (B)(13)(a)(iii) of this section, the Council must specify which matters it wishes reconsidered by the Planning Commission.

14. *Notice of Public Hearing.* Notice of all public hearings shall be made in accordance with state and local laws.

15. *Appeals of Decisions.* All requests for review by a Growth Management Hearings Board shall be initiated by filing a petition in accordance with Chapter 36.70A, 43.21C or 90.58 RCW. Only parties of record may initiate an appeal of the City Council's final decision.

C. *Development Regulation Code Amendments.* From time to time, it may be necessary to amend development regulations within the code to allow for the implementation of the Comprehensive Plan. Petitions or applications for Development Regulation Code amendments shall be evaluated on their compatibility with the goals, objectives, policies and recommendations of the Comprehensive Plan.

1. Development Regulation Code amendments may be initiated by the City at any time.
2. Development Regulation Code amendments shall be initiated by citizens, the Planning Commission, or any interested party including applicants, hearing examiners, and staff of other agencies pursuant to the annual docketing procedure described in subsection (B)(2) of this section.
3. Proposed Development Regulation Code amendments shall only be forwarded to the Planning Commission for consideration if:
 - a. Initiated by the City; or
 - b. Placed on a final docket by the City Council, pursuant to subsection (B)(2) of this section. Proposed Development Regulation Code amendments do not have to be considered concurrently with other proposed amendments and may be enacted at any time. Unlike Comprehensive Plan amendments, they are not subject to the requirement for concurrent review and cumulative effect analysis and once-a-year limitation.

4. *Processing of Development Regulation Amendments.*

- a. The City may use any or all of the following techniques to provide for early and continuous public participation in the development and/or amendments of the City's Comprehensive Plan. Techniques not listed may also be used.
 - i. Provide for an opportunity to submit written comments;

- ii. Hold informational public meetings to explain the proposed amendment;
 - iii. Use the City's website and social media to provide information, documents, and to announce all public meetings related to the proposed amendment.
- b. A public hearing shall be held by the Planning Commission on the proposed Development Regulation Code amendment after the proposed amendment has been reviewed for consistency with the Comprehensive Plan. Upon completion of the public hearing, the Planning Commission shall issue findings of fact and conclusions and make a recommendation to the City Council on the proposed Development Regulation Code amendment.
- c. Upon receipt of a Development Regulation Code amendment recommendation from the Planning Commission, the City Council shall consider the matter at a public meeting, and may take the following actions:
- i. Concur with the Planning Commission's recommendation and adopt the code amendment substantially in the form as presented;
 - ii. Remand the matter to the Planning Commission with instructions regarding the City Council's concerns and direction; or
 - iii. Conduct another public hearing prior to making any substantial change in the Development Regulation Code amendment recommended by the Planning Commission.

D. Rezones. To allow for implementation of the Comprehensive Plan, rezones may occur outside of the Comprehensive Plan amendment procedures provided the rezone is consistent with the most recently adopted Comprehensive Plan and Future Land Use Map. If a rezone request is inconsistent with the adopted Comprehensive Plan or Future Land Use Map, the applicant must also request an amendment to the Comprehensive Plan and Future Land Use Map as outlined in subsection B of this section and both proposals shall be processed simultaneously.

1. Applications for rezones shall be evaluated on the following criteria:

- a. How does the proposed rezone relate to the existing land uses and zoning of the surrounding or nearby properties?
- b. How does the rezone serve the general public health, safety and welfare?
- c. In the case of unimproved property, is the property suitable for the purpose for which it has already been zoned and is it suitable for the purpose for which it is proposed to be zoned?
- d. In the case of a downzone, what is the relative gain to the public as compared to the hardship imposed on the individual property owner and how does the downzone promote the public health, safety and welfare?
- e. In the case of a downzone, will the consequent restrictions preclude all reasonable economic use of that land?

2. The following procedures shall govern the consideration of a rezone application:

- a. Initiation of Rezones. Applications for site-specific rezones may only be submitted by the property owner or their assigned agent, the Planning Commission, city staff or the City Council provided the request is consistent with the adopted Comprehensive Plan and the Future Land Use Map.

- b. Review of Rezones. All site-specific rezone applications shall be processed as a Type 5 permit accordance with Snohomish Municipal Code Chapter 14.20, Permit Classifications and Development Review Process.
 - c. A public hearing shall be held by the Planning Commission on the proposed rezone after the proposal has been reviewed by staff for consistency with the Comprehensive Plan and Future Land Use Map. Upon completion of the public hearing, the Planning Commission shall issue findings of fact and conclusions and make a recommendation to the City Council on the proposed rezone.
 - d. Upon receipt of a rezone recommendation from the Planning Commission, the City Council shall consider the matter at a public meeting, and may take the following actions:
 - i. Concur with the Planning Commission's recommendation and rezone the property as proposed; or
 - ii. Deny the rezone.
3. Zoning Map. If a rezone is approved by the City Council the Planning Director shall amend the Zoning Map, as provided for in SMC 14.30.030, to reflect the new zoning designation for the affected parcel(s).

14.15.040 Threshold Determination, Scheduling of Hearing, and Notice.

- A. Amendments to the Comprehensive Plan or Development Code and rezones may be requested utilizing a form provided by the Planning and Development Services Department subject to payment of prescribed fees. The Planning Director shall verify completeness and shall docket complete requests.
- B. Once a proposed amendment to the Comprehensive Plan or Development Code has been drafted or a rezone proposal received, the Planning Director shall:
 - 1. Perform a threshold determination regarding the proposal in accordance with Chapter 197-11 WAC Part Three;
 - 2. If a determination of significance (DS) is issued, determine the scope of the environmental impact statement (EIS) and prepare the draft EIS;
 - 3. Schedule a public hearing before the Planning Commission for a date that conforms to the following notice requirement; and
 - 4. Publish between 15 and 30 days before the hearing a notice of hearing in the official newspaper (see Chapter 14.20 SMC); provided, that:
 - a. If a determination of nonsignificance (DNS) has been issued, the notice shall state that if timely comments are received the Planning Director will reconsider the DNS.
 - b. If WAC 197-11-340(2) applies (i.e., City cannot take final action until 14 days after issuing a DNS), the Planning Director shall also send the notice of hearing/DNS and environmental checklist to the agencies listed in WAC 197-11-340(2).
 - c. If a DEIS has been prepared, the notice shall state that comments on the DEIS will be accepted until and at the hearing.
 - d. If the proposal is a site-specific amendment to the Future Land Use Map or is a rezone proposal, the publication requirement shall be that of a Type 5 permit.

- e. The Planning Director, at his or her discretion, may publicize a given legislative proposal more broadly than stated herein to gather more public input. Minor errors in amendment procedures, such as unintended inaccuracies in any public notice, shall not invalidate an amendment proceeding.

14.15.050 Reconsideration of DNS.

If a DNS is issued and timely comments are received, the Planning Director shall reconsider the DNS in accordance with WAC 197-11-340(2)(f) and (3).

14.15.060 Forward to City Council and Planning Commission.

The Planning Director or designee shall forward a staff report to the Planning Commission and City Council, which report shall include a summary of the environmental review for the proposal. If a determination of significance has been issued, the Planning Director shall distribute copies of the draft and final EIS to the Planning Commission, City Council, and other affected agencies.

14.15.070 State Review.

The City shall comply with RCW 36.70A.106 regarding review by the Department of ~~Community, Trade, and Economic Development~~ Commerce of proposed amendments to the Comprehensive Plan or Development Code.

14.15.080 Hearing.

- A. One or more public hearings shall be conducted in accordance with this section.
- B. If directed by the City Council, the Planning Commission shall hold a public hearing, which may be at a joint meeting of the Planning Commission and City Council at the discretion of the City Council.
- C. The City Council may conduct its own public hearing, in addition to or in lieu of any public hearing conducted by the Planning Commission.
- ~~D. In the case of site specific amendments to the Development Code's Land Use Designation Map, the only public hearing shall be the one conducted by the Hearing Examiner pursuant to Chapter 14.20 SMC.~~

14.15.090 Criteria - Findings and Recommendation.

- A. The Planning Commission shall adopt written findings referencing the following criteria, and shall make a recommendation consistent with those findings to the City Council.
- B. The approval criteria for amendments to the Comprehensive Plan and Development Code shall be that the amendment:
 - 1. Is internally consistent with the Comprehensive Plan (for Comprehensive Plan amendments) or is consistent with the Comprehensive Plan (for Development Code amendments);
 - 2. Is consistent with the Growth Management Act and the State Environmental Policy Act; and
 - 3. Is in the interest of the public health, safety, and welfare of Snohomish residents.

C. A rezone shall be approved only if the following criteria are met:

1. The rezoned parcel(s) will be compatible to the existing land uses and zoning of the surrounding or nearby properties.
2. The rezone serves the general public health, safety and welfare.
3. The property is suitable for the purpose for which it is proposed to be zoned.
4. In the case of a downzone, the relative gain to the public in promoting the public health, safety, and welfare outweighs the hardship imposed on the individual property owner.
5. In the case of a downzone, the consequent restrictions do not preclude all reasonable economic use of that land.

14.15.100 Council Action.

The City Council, if it elects to amend the Comprehensive Plan or Development Code, shall revise the findings if necessary and adopt said amendment by ordinance. Any substantive changes to the amendment considered at the public hearing shall be processed in accordance with the public participation requirements of RCW 36.70A.035.

14.15.105 Amendments to the Development Code's and Future Land Use ~~Designation~~ Map.

Amendments to the Development Code's and Future Land Use ~~Designation~~ Map shall be consistent with the Growth Management Act, and shall be in the public interest.

14.15.110 Appeals.

Amendments of the Comprehensive Plan or Development Code and rezone decisions may be appealed to the Growth Management Hearings Board in accordance with RCW 36.70A.290.

Date: March 2, 2022

To: Planning Commission

From: Glen Pickus, AICP, Planning Director

Subject: Fee Simple Unit Lot Subdivisions & Detached Condominiums and Cottage Housing Update

SUMMARY: Cross-references between SMC 14.215.125 Fee Simple Unit Lot Subdivisions and SMC 14.210.215 Detached Condominiums and Cottage Housing are contradictory and unclear. Staff will present proposals to amend both code sections to remove contradictions and inconsistencies to clarify and simplify administering the code.

BACKGROUND: During the recent processing of a preliminary unit lot subdivision application, the contradictions and inconsistencies between SMC 14.215.125 Fee Simple Unit Lot Subdivisions and SMC 14.210.215 Detached Condominiums and Cottage Housing became apparent and resulted in the Hearing Examiner's decision being appealed.

SMC 14.215.125 Fee Simple Unit Lot Subdivisions (ULS), establishes an alternative subdivision process for specified housing types where traditional subdivision is not possible due to conflicts between the type of development and dimensional standards. One purpose of this section is to provide an alternative type of ownership to condominiums.

Despite this direct reference of providing an alternative to condominium ownership, the fee simple unit lot subdivision code also refers to complying with SMC 14.210.215, whose purpose is to regulate specific types of condominium development. This conflict creates an ambiguity as to when the fee simple unit lot subdivision process can be used.

PROPOSAL: The proposal is amend both SMC 14.215.125 Fee Simple Unit Lot Subdivisions and SMC 14.210.215 Detached Condominiums and Cottage Housing to remove conflicts and inconsistencies to improve the clarity of both code sections, including removing the word "condominium" throughout SMC 14.210.215.

SMC 14.215.125 Fee Simple Unit Lot Subdivisions: Staff recommends amending the "applicability" section of the code to clarify when the unit lot subdivision process can be used. It would specifically state it could only be used for the following types of developments:

- attached single-family buildings;
- townhouses;
- detached single-family buildings pursuant to SMC 14.210.215 Detached Condominiums and Cottage Housing; and
- manufactured homes parks pursuant to SMC 14.210.220 Mobile Home Requirements.

The proposal would allow a unit lot subdivision to happen either:

- after a project has been constructed; or
- before it is built if there is an approved Site Development Plan.

Staff also recommends amending the section addressing parking requirements to clarify which requirements are applicable in cases where parking for a dwelling unit is on a different lot than the dwelling unit (which is specifically provided for in unit lot subdivisions).

SMC 14.210.215 Detached Condominiums and Cottage Housing: The primary proposal is to remove the word “condominium” from this code section. It would be retitled “Detached Dwelling Units and Cottage Housing on a Single Lot,” and all references to detached condominiums in the section would be changed to “detached dwelling units”.

Staff is also proposing non-substantive changes to the entire chapter to use language consistent with current code, especially as it was amended just last year.

RECOMMENDATION: No action by the Commission is required as this is merely a briefing to the Commission on staff’s work on the code amendment. Commissioners should provide staff direction, if any, as to how the code should be amended.

NEXT STEPS: Following the Planning Commission’s direction, staff will draft code amendments to present at a public hearing at the Commission’s May 4, 2022 meeting.

ATTACHMENTS:

- A. SMC 14.215.125 *draft*
- B. SMC 14.210.215 *draft*

ATTACHMENT A

LEGISLATIVE VERSION SHOWING ~~DELETIONS~~ AND ADDITIONS

14.215.125 Fee Simple Unit Lot Subdivisions.

- A. *Purpose.* The purpose of this section is to allow subdivision of certain housing types listed as allowed uses in Chapter [14.207](#) SMC where subdivision is not otherwise possible due to conflicts between characteristics of the development type and applicable dimensional standards in Chapter [14.210](#) SMC. In such cases, the unit lot subdivision process provides opportunities for fee simple ownership of land as an alternative to condominium ownership. Unit lot subdivision applies the dimensional standards in Chapter [14.210](#) SMC to the overall site, the “parent lot,” while allowing flexibility in the dimensional standards for the subordinate “unit lots.” This section is not intended to permit uses or densities that are not otherwise allowed in the land use designations in which a unit lot subdivision is proposed.
- B. *Applicability.* ~~Except for any site containing a detached accessory dwelling unit pursuant to SMC 14.207.075(2), lots developed or proposed to be developed with attached single-family buildings, detached single-family buildings permitted according to SMC 14.210.215, and manufactured home parks permitted according to SMC 14.210.220 may be subdivided into individual unit lots pursuant to this section. Parent lots may be subdivided into individual lots pursuant to this section only if:~~
1. They are already developed with attached single-family buildings, townhouses, detached single-family buildings pursuant to SMC 14.210.215, or manufactured home parks pursuant to SMC 14.210.220; or
 2. For an undeveloped lot, only if a Site Development Plan pursuant to Chapter 14.65 SMC has been approved for development of attached single-family buildings, townhouses, detached single-family buildings pursuant to SMC 14.210.215, or manufactured home parks pursuant to SMC 14.210.220.
 3. For previously developed lots, eligibility for unit lot subdivision shall be subject to compliance with all standards applicable to the parent lot and proposed unit lots. Inconsistency of existing development with the provisions of this section shall not constitute justification for a variance under Chapter [14.70](#) SMC.
- C. *Deviation from Dimensional Standards.* The overall development on the parent lot proposed for subdivision shall maintain consistency with the development standards applicable to the ~~land use designation zoning district~~ and the land use type at the time the application is vested, as specified by the applicable code provisions and this section. Subsequent additions or modification to the structure(s) shall not create any nonconformity of the parent lot. Deviation from setback, lot width, and lot area standards in Chapter [14.210](#) SMC may be approved for individual unit lots through a unit lot subdivision, subject to any limitations in this section. Structures on unit lots and structures divided by unit lots that conform to a recorded unit lot subdivision shall not be considered nonconforming under Chapter [14.80](#) SMC.
- D. *Subdivision of Cottage Housing and Detached Condominium Dwelling Unit Development on a Single Lot.* ~~Development proposed pursuant to SMC 14.210.215 shall be eligible for unit lot subdivision.~~ Setbacks from the perimeter property lines of the parent lot shall conform to

the setbacks for the ~~single-family land-use designation underlying zone where the development is proposed~~. Unit lots shall comply with all other provisions of SMC [14.210.215](#), except that lot lines shall be used in place of internal boundaries of exclusive use.

~~E. *Mobile Home Parks.* Mobile home parks shall be eligible for unit lot subdivision where consistent with the criteria and standards in SMC 14.210.220, except that the unit lot subdivision and administrative development plan shall serve in lieu of the recorded development plan.~~

~~F.E. *Approval Process.* Unit lot subdivisions of four (4) or fewer lots shall be processed in the same manner as short plats pursuant to the associated permit type in Chapter [14.20](#) SMC. Unit lot subdivisions of five (5) or more lots shall be processed as plats pursuant to the associated permit types in Chapter [14.20](#) SMC.~~

~~G.F. *Approval Criteria.* In addition to any other standards and approval criteria applicable to a unit lot subdivision proposal, including but not limited to criteria in Chapters [14.65](#), [14.210](#), and [14.215](#) SMC, proposals shall be subject to the following:~~

1. Each unit lot shall have individual sewer service, water service, and a power meter specific to that unit.
2. Private usable open space of at least ~~four hundred (400)~~ square feet, exclusive of required parking, shall be provided for each dwelling unit on the same unit lot as the dwelling unit it serves. Such areas shall have a minimum dimensions of ~~fifteen (15)~~ feet and shall be usable.
3. Parking shall be calculated and designed for each lot in compliance with Chapter [14.235](#) SMC, although parking required for a dwelling may be provided on a different lot or tract within the parent lot as long as the right to use that parking is formalized by an easement declared on the plat. ~~Where parking for detached single-family buildings is provided on a different lot or tract, parking allowances for detached single-family residences in Chapter 14.235 SMC, including tandem parking and backing into a street, shall not apply. When parking is provided on a different lot or tract the following sections of Chapter 24.235 SMC shall not apply:~~
 - ~~a. [SMC 14.235.070 Joint Uses of Parking Facilities](#)~~
 - ~~b. [SMC 14.235.080 Conditions Required for Joint Use](#)~~
 - ~~c. [SMC 14.235.090 Location of Parking Spaces](#)~~
 - ~~d. [SMC 14.235.130\(G\) Backing into Streets](#)~~
 - ~~e. [SMC 14.235.130\(M\) Tandem Parking](#)~~
 - ~~f. [SMC 14.235.150 Access to Parking from Alleys](#)~~
4. Access and utility easements, joint use and maintenance agreements, and covenants, conditions, and restrictions identifying the rights and responsibilities of property owners and/or the homeowners association shall be executed for use and maintenance of common garage, parking, and vehicle access areas; drainage facilities, underground utilities; common open space (such as common courtyard open space); exterior building facades and roofs; and other similar features, and shall be recorded with the Snohomish County Auditor.

5. Subdivision of common wall or zero-lot-line development such as townhouses shall provide a 5-foot wide building maintenance easement for external walls, eaves, chimneys, and other architectural features that rest directly on the lot line. The maintenance easement shall be shown on the face of the plat.
6. The final plat shall note all conditions of approval, that unit lots are not buildable lots independent of the overall development, and that additional development of the individual unit lots, including but not limited to reconstruction, remodel, maintenance, and addition, shall comply with conditions of approval and may be limited as a result of the application of development standards to the parent lot or other applicable regulations.
7. The application for unit lot subdivisions shall include a detailed, scaled site plan ~~with building footprints~~. Adequate information shall be provided to determine compliance with all applicable criteria.

CLEAN VERSION

14.215.125 Fee Simple Unit Lot Subdivisions.

- A. *Purpose.* The purpose of this section is to allow subdivision of certain housing types listed as allowed uses in Chapter [14.207](#) SMC where subdivision is not otherwise possible due to conflicts between characteristics of the development type and applicable dimensional standards in Chapter [14.210](#) SMC. In such cases, the unit lot subdivision process provides opportunities for fee simple ownership of land as an alternative to condominium ownership. Unit lot subdivision applies the dimensional standards in Chapter [14.210](#) SMC to the overall site, the “parent lot,” while allowing flexibility in the dimensional standards for the subordinate “unit lots.” This section is not intended to permit uses or densities that are not otherwise allowed in the land use designations in which a unit lot subdivision is proposed.
- B. *Applicability.* Parent lots may be subdivided into individual lots pursuant to this section only if:
1. They are already developed with attached single-family buildings, townhouses, detached single-family buildings pursuant to SMC 14.210.215, or manufactured home parks pursuant to SMC 14.210.220; or
 2. For an undeveloped lot, only if a Site Development Plan pursuant to Chapter 14.65 SMC has been approved for development of attached single-family buildings, townhouses, detached single-family buildings pursuant to SMC 14.210.215, or manufactured home parks pursuant to SMC 14.210.220.
 3. For previously developed lots, eligibility for unit lot subdivision shall be subject to compliance with all standards applicable to the parent lot and proposed unit lots. Inconsistency of existing development with the provisions of this section shall not constitute justification for a variance under Chapter [14.70](#) SMC.
- C. *Deviation from Dimensional Standards.* The overall development on the parent lot proposed for subdivision shall maintain consistency with the development standards applicable to the zoning district and the land use type at the time the application is vested, as specified by the applicable code provisions and this section. Subsequent additions or modification to the structure(s) shall not create any nonconformity of the parent lot. Deviation from setback, lot width, and lot area standards in Chapter [14.210](#) SMC may be approved for individual unit lots through a unit lot subdivision, subject to any limitations in this section. Structures on unit lots and structures divided by unit lots that conform to a recorded unit lot subdivision shall not be considered nonconforming under Chapter [14.80](#) SMC.
- D. *Subdivision of Cottage Housing and Detached Dwelling Unit Development on a Single Lot.* Setbacks from the perimeter property lines of the parent lot shall conform to the setbacks for the underlying zone where the development is proposed. Unit lots shall comply with all other provisions of SMC [14.210.215](#), except that lot lines shall be used in place of internal boundaries of exclusive use.
- E. *Approval Process.* Unit lot subdivisions of four or fewer lots shall be processed in the same manner as short plats pursuant to the associated permit type in Chapter [14.20](#) SMC. Unit lot subdivisions of five or more lots shall be processed as plats pursuant to the associated permit types in Chapter [14.20](#) SMC.

- F. *Approval Criteria.* In addition to any other standards and approval criteria applicable to a unit lot subdivision proposal, including but not limited to criteria in Chapters [14.65](#), [14.210](#), and [14.215](#) SMC, proposals shall be subject to the following:
1. Each unit lot shall have individual sewer service, water service, and a power meter specific to that unit.
 2. Private usable open space of at least 400 square feet, exclusive of required parking, shall be provided for each dwelling unit on the same unit lot as the dwelling unit it serves. Such areas shall have minimum dimensions of 15 feet and shall be usable.
 3. Parking shall be calculated and designed for each lot in compliance with Chapter [14.235](#) SMC, although parking required for a dwelling may be provided on a different lot or tract within the parent lot as long as the right to use that parking is formalized by an easement declared on the plat. When parking is provided on a different lot or tract the following sections of Chapter 24.235 SMC shall not apply:
 - a. SMC 14.235.070 Joint Uses of Parking Facilities
 - b. SMC 14.235.080 Conditions Required for Joint Use
 - c. SMC 14.235.090 Location of Parking Spaces
 - d. SMC 14.235.130(G) Backing into Streets
 - e. SMC 14.235.130(M) Tandem Parking
 - f. SMC 14.235.150 Access to Parking from Alleys
 4. Access and utility easements, joint use and maintenance agreements, and covenants, conditions, and restrictions identifying the rights and responsibilities of property owners and/or the homeowners association shall be executed for use and maintenance of common garage, parking, and vehicle access areas; drainage facilities, underground utilities; common open space (such as common courtyard open space); exterior building facades and roofs; and other similar features, and shall be recorded with the Snohomish County Auditor.
 5. Subdivision of common wall or zero-lot-line development such as townhouses shall provide a 5-foot wide building maintenance easement for external walls, eaves, chimneys, and other architectural features that rest directly on the lot line. The maintenance easement shall be shown on the face of the plat.
 6. The final plat shall note all conditions of approval, that unit lots are not buildable lots independent of the overall development, and that additional development of the individual unit lots, including but not limited to reconstruction, remodel, maintenance, and addition, shall comply with conditions of approval and may be limited as a result of the application of development standards to the parent lot or other applicable regulations.
 7. The application for unit lot subdivisions shall include a detailed, scaled site plan. Adequate information shall be provided to determine compliance with all applicable criteria.

ATTACHMENT B

LEGISLATIVE VERSION SHOWING ~~DELETIONS~~ AND ADDITIONS

14.210.215 Detached ~~Condominiums~~ Dwelling Units and Cottage Housing on a Single Lot.

- A. The purpose of this section is to:
1. Allow for the development of multiple detached dwellings units on the same lot without the subdivision of land in ~~land use designations~~ zoning districts where multi-family dwellings are allowed;
 2. Provide for innovative development of detached dwellings units as an alternative to conventional attached multi-family dwellings or conventional single-family dwellings ~~upon~~ individual lots;
 3. Provide additional options for achievement of urban densities within the City;
 4. Implement the Washington State Growth Management Act and the City of Snohomish Comprehensive Plan; and
 5. Protect and advance the public's health, safety, and welfare.
- B. The development of more than one detached dwelling unit per lot within the Low Density Residential, Medium Density Residential, High Density Residential, Commercial, ~~Mixed Use,~~ Business Park, and Historic District ~~land use designations~~ zones is permitted only ~~as detached condominium or cottage housing development pursuant to the provisions of this section of the SMC.~~
- C. Detached ~~condominium~~ dwelling units and cottage housing on a single lot shall conform to the provisions of this section.
- D. All applicable development regulations required by the Snohomish Municipal Code shall apply, including but not limited to off-street parking, provisions for utilities, and emergency access. Where a conflict occurs, the provisions of this section shall control.
- E. On a lot to be used for a detached ~~condominium~~ dwelling unit or cottage housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased.
- F. Maximum residential density shall not exceed the density allowed in the zoning district.
- G. Detached ~~condominium~~ dwelling units and cottage housing development on a single lot shall adhere to applicable design standards for multifamily development and for Planned Residential Developments (PRD).
- H. Structures and accessory structures shall exhibit and embody an architectural style. Architectural detailing shall be provided on all facades. More than one architectural style may be used within a detached condominium development.

- I. Accessory dwelling units ~~are~~ shall not ~~be~~ permitted in detached ~~condominium dwelling unit~~ or cottage housing developments on a single lot.
- J. Detached ~~condominium dwelling units on a single lot~~ developments shall conform to the following provisions:

...

CLEAN VERSION

14.210.215 Detached Dwelling Units and Cottage Housing on a Single Lot.

- A. The purpose of this section is to:
 - 1. Allow for the development of multiple detached dwelling units on the same lot without the subdivision of land in zoning districts where multi-family dwellings are allowed;
 - 2. Provide for innovative development of detached dwelling units as an alternative to conventional attached multi-family dwellings or conventional single-family dwellings on individual lots;
 - 3. Provide additional options for achievement of urban densities within the City;
 - 4. Implement the Washington State Growth Management Act and the City of Snohomish Comprehensive Plan; and
 - 5. Protect and advance the public's health, safety, and welfare.
- B. The development of more than one detached dwelling unit per lot within the Low Density Residential, Medium Density Residential, High Density Residential, Commercial, Business Park, and Historic District zones is permitted only pursuant to the provisions of this section of the SMC.
- C. Detached dwelling units and cottage housing on a single lot shall conform to the provisions of this section.
- D. All applicable development regulations required by the Snohomish Municipal Code shall apply, including but not limited to off-street parking, provisions for utilities, and emergency access. Where a conflict occurs, the provisions of this section shall control.
- E. On a lot to be used for a detached dwelling unit or cottage housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased.
- F. Maximum residential density shall not exceed the density allowed in the zoning district.
- G. Detached dwelling units and cottage housing development on a single lot shall adhere to applicable design standards for multifamily development and for Planned Residential Developments (PRD).
- H. Structures and accessory structures shall exhibit and embody an architectural style. Architectural detailing shall be provided on all facades. More than one architectural style may be used within a detached condominium development.
- I. Accessory dwelling units shall not be permitted in detached dwelling unit or cottage housing developments on a single lot.
- J. Detached dwelling units on a single lot developments shall conform to the following provisions:

...

Date: March 2, 2022
To: Planning Commission
From: Glen Pickus, AICP, Planning Director
Subject: Pilchuck District Cleanup Code Amendment

SUMMARY: Staff will introduce proposed minor amendments to SMC Chapter 14.212 Pilchuck District Development Regulations, to improve the clarity of the chapter.

BACKGROUND: New policies and regulations were adopted in 2011 to create the Pilchuck District in an attempt to provide a unified vision for the area around the Centennial Trail south of Sixth Street and north of Wood/Rainier Streets; regulations that would result in a cohesive and identifiable neighborhood.

The Pilchuck District development regulations have several unique regulatory aspects that are not used anywhere else in the City. One such process is found in SMC Section 14.212.170 to deviate from the code without going through the typical variance process pursuant to Chapter 14.70.

Another unique aspect of the District's regulations is the subdivision of the district into the following four zones (SMC 14.212.220):

- Pilchuck Single-Family
- Townhouse
- Center
- Civic

PROPOSAL: Staff proposes a minor amendment to SMC 14.212.170 to improve clarity, and another amendment applicable to the entire Chapter but which is still a minor change.

SMC 14.212.170 – Deviation from Code Requirements and Determination of Equivalence

This section provides for a process whereby a developer can request deviations from code requirements if the proposed deviation is determined to be equivalent to the code requirement. This is an administrative process where the Planning Director is the decision-making authority. The section allows the developer to apply for a variance pursuant to SMC 14.70 only if the Planning Director denies a deviation request.

However, subsection A misuses the word “and.” By using the word “and,” the subsection requires deviation requests to go through both the administrative determination of equivalence process and the normal variance process that goes to the City's Hearing Examiner. The code amendment would merely replace the “and” with “or” to clarify there is a choice in processes.

Correcting References in the Chapter to the Zones

In 2018, the Pilchuck District Development Regulations were modified in an attempt to stimulate development and redevelopment activity. At that time, staff also proposed simplifying the chapter by removing the word “Neighborhood” that appeared as the first word in the title of each zone (e.g. Neighborhood Single Family Zone, Neighborhood Townhouse Zone, Neighborhood Center Zone, and Neighborhood Civic Zone).

Unfortunately, the 2018 removal of the word “neighborhood” in each zones’ title was not done throughout the chapter (i.e. SMC 14.212.850-.880, SMC 14.212.550(C) Tables V-1 through V-4, etc.) Staff is recommending that this code amendment finish that task.

RECOMMENDATION: No action by the Commission is required as this is merely a briefing to the Commission on staff’s work on the code amendment.

NEXT STEPS: The Planning Commission will hold a public hearing on the proposed code amendments at its next meeting on April 6, 2022.

ATTACHMENT: SMC 14.240.060(D) *draft*

REFERENCE: [Chapter 14.212 – Pilchuck District Development Regulations](#)

ATTACHMENT

14.212.170 Deviation from Code Requirements and Determination of Equivalence

- A. Deviation from the requirements of this chapter may be approved by variance as provided by Chapter [14.70](#) SMC, ~~and~~ or by determination of equivalence according to the criteria in this section.
- B. A permit applicant may request in writing that the City Planner determine that a proposed deviation from the strict provisions of this chapter is equal in kind, extent, purpose, and impact as compliance with the applicable development regulation. A separate written request and determination shall be made for each such determination of equivalence. The City Planner's decision upon a requested determination of equivalence shall be made in writing as a Type 1 permit.
- C. The City Planner's decision to approve a requested determination of equivalence shall be appealable to the Hearing Examiner as provided by Chapters [14.20](#) and [14.90](#) SMC.
- D. The City Planner's decision to deny a requested determination of equivalence shall not be subject to appeal. Upon the denial of a requested determination of equivalence, the applicant may submit an application for a variance to the subject development regulation as provided by Chapter [14.70](#) SMC.
- E. The City Planner may approve a requested determination of equivalence when all of the following criteria are satisfied:
 - 1. The request constitutes an equivalent and alternative method of achieving the purpose and intent of the subject development regulation.
 - 2. The extent to which the proposed land development implements the purpose and intent of this chapter is not compromised or diminished.
 - 3. No adverse environmental or land use impact would result.
 - 4. The approved deviation is the minimum necessary to achieve the requested relief.
- F. In approving a requested determination of equivalence, the City Planner may impose conditions of approval as necessary to ensure that the decisional criteria above are satisfied. The decision to impose conditions shall be appealable to the Hearing Examiner as provided by Chapters [14.20](#) and [14.90](#) SMC.