ORDINANCE NO. 3460-15

AN ORDINANCE Specifying Issues that Must Be Addressed in Written Findings for Subdivisions as Part of the 2-15-2035 Comprehensive Plan Update, Amending Ordinance Nos. 2328-98 and 2530-01

WHEREAS, RCW 36.70A.130 (5) requires that cities in Snohomish County take action on or before June 30, 2015 to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of the Growth Management Act; and

WHEREAS, on June 24, 2015, City Council adopted Resolution No. 6872 concluding that the City had completed a great majority of the substantive steps necessary to complete the 2015 update and establishing a schedule for adoption of the Comprehensive Plan update and related regulations by October 28, 2015 provided that the schedule is subject to change as necessary to ensure public review and comment and thorough review by the City Council; and

WHEREAS, the update must include review of new state laws and, if needed, revision to policies and regulations; and

WHEREAS, the Comprehensive Plan Update, Williams map amendment and rezone, Draft Environmental Impact Statement and related regulations were submitted to the Washington Department of Commerce for 60-day review on July 17, 2015 in accordance with RCW 36.70A.106; and

WHEREAS, following a public involvement process that included issuance of a Determination of Significance and scoping for an environmental impact statement on the update, on December 18, 2013 City Council approved Resolution No. 6685 adopting a Comprehensive Plan Audit and Public Involvement Plan for the update in accordance with RCW 36.70A.130(2); and

WHEREAS, Everett has followed its adopted Public Involvement Plan and provided many opportunities for public comment; and

WHEREAS, the City issued a Draft Environmental Impact Statement under State Environmental Policy Act requirements that evaluated the impacts of the proposals on July 20, 2015 and a Final Environmental Impact Statement responding to the comments received on September 4, 2015; and

WHEREAS, the Planning Commission held a public workshops on June 2, 2015 and August 18, 2015 to take public comments on the proposal to specify issues that must be addressed in written findings for subdivisions and held a public hearing on September 15, 2015 to take public testimony and recommended that City Council approve the proposed amendments; and

WHEREAS, the purpose of the proposed amendments is to comply with RCW 58.17.110(2); and

WHEREAS, the City Council of the City of Everett finds that the proposed amendments to EMC Title 18 and EMC Title 15

1. Are consistent with the applicable provisions of the Everett Comprehensive Plan;
2. Bear a substantial relation to public health, safety or welfare; and
3. Promote the best long term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

SECTION 1: Section 7A of Ordinance 2328-98, as amended (EMC 18.28.010), which currently reads as follows:

General evaluation criteria—Subdivision, short subdivision, cluster alternative, and alteration or vacation.

An application that complies with all of the following general evaluation criteria listed below, the requirements of this title, and applicable city standards shall be approved. An application that does not comply with these criteria shall be denied by the city.

A. Public Use and Interest. The proposed project and design shall promote the public use and interest in accordance with the standards established by the state, city, and this title;

B. Public Health, Safety, and General Welfare. The proposed project and design shall promote the public health, safety and general welfare in accordance with the standards established by the state, city, and this title;

C. Comprehensive Plan. The proposed project and design is consistent with the city's comprehensive plan policies and land use map;

D. Existing Zoning. The proposed project and design shall meet the requirements of the Everett zoning code;

E. Natural Environment. The proposed project and design shall meet the requirements of environmentally sensitive area regulations of the Everett zoning code and Title 20 of this code, Environment, and the State Environmental Policy Act, Chapter 197-11 WAC;

F. Drainage. The proposed project and design shall meet the requirements of the city's drainage regulations;

G. Open Space and On-Site Recreation. The proposed project and design shall meet the requirements for open space and on-site recreation as defined in the design and development standards sections of this chapter;

H. Public Services. The proposed project shall be designed to meet the following:

1. Adequate water supply to city standards;
2. Adequate sewage disposal to city standards;
3. Appropriate surface water management to city standards;
4. Adequate fire protection and hydrants to city standards;
5. Appropriate access designed to meet city standards for anticipated uses within the project;
6. Provisions for all appropriate deeds, dedications, and all other easements; and
7. Provisions made for access to and maintenance of all common facilities;

I. Existing Public Facilities and Services. The proposed project shall be designed to not adversely impact the following public facilities and services:

1. Existing streets and other transportation systems;
2. Existing utilities system; and
3. Police, fire, parks, and schools;

J. Floodplain. The proposed project and design shall meet the requirements of the Everett zoning code and floodplain overlay districts and regulations;

K. Landscaping Standards. The proposed project and design shall meet the landscaping standards as established by this title.

is hereby amended to read as follows:

General evaluation criteria—Subdivision, short subdivision, cluster alternative, and alteration or vacation.

An application that complies with all of the following general evaluation criteria listed below, the requirements of this title, and applicable city standards shall be approved. In any such approval, the City shall make written findings that the application has made appropriate provisions in accordance with the requirements of this Section. An application that does not comply with these criteria shall be denied by the city.

A. Public Use and Interest. The proposed project and design shall promote the public use and interest in accordance with the standards established by the state, city, and this title;

B. Public Health, Safety, and General Welfare. The proposed project and design shall promote the public health, safety and general welfare in accordance with the standards established by the state, city, and this title;

C. Comprehensive Plan. The proposed project and design is consistent with the city's comprehensive plan policies and land use map;

D. Existing Zoning. The proposed project and design shall meet the requirements of the Everett zoning code;

E. Natural Environment. The proposed project and design shall meet the requirements of environmentally sensitive area regulations of the Everett zoning code and Title 20 of this code, Environment, and the State Environmental Policy Act, Chapter 197-11 WAC;

F. Drainage. The proposed project and design shall meet the requirements of the city's drainage regulations;

G. Open Space and On-Site Recreation. The proposed project and design shall meet the requirements for open space and on-site recreation as defined in the design and development standards sections of this chapter;

H. Public Services. The proposed project shall be designed to meet the following:

1. Adequate water supply to city standards;
2. Adequate sewage disposal to city standards;
3. Appropriate surface water management to city standards;
4. Adequate fire protection and hydrants to city standards;
5. Appropriate access designed to meet city standards for anticipated uses within the project;
6. Provisions for all appropriate deeds, dedications, and all other easements; and
7. Provisions made for access to and maintenance of all common facilities;
8. Provisions have been made for all necessary streets, alleys, sidewalks, transit stops, and safe walking routes to schools and school-grounds.

I. Existing Public Facilities and Services. The proposed project shall be designed to not adversely impact the following public facilities and services:

1. Existing streets and other transportation systems;
2. Existing utilities system; and
3. Police, fire, parks, and schools;

J. Floodplain. The proposed project and design shall meet the requirements of the Everett zoning code and floodplain overlay districts and regulations;

K. Landscaping Standards. The proposed project and design shall meet the landscaping standards as established by this title.

SECTION 2: Chapter 4 Section 3(C) of Ordinance 2530-01, as amended (EMC 15.16.090), which currently reads as follows:

Action taken.

A. For all Review Process II Applications. All Review Process II administrative decisions shall be issued in writing and shall state the final SEPA determination on the proposed project. The director or his designee shall review the application for consistency and compliance with the applicable evaluation criteria and development standards. The director may attach to any permit approval such conditions as may be necessary to assure compliance with this title, other applicable city ordinances and regulations, or any regulations administered by local or other agencies. Action taken on the application shall be one of the following:

1. Permit issuance or approval, which may include any conditions or requirements on the project deemed necessary by the director; or
2. Permit denial explaining the reasons the permit was not approved.

Issuance of a permit by the city does not excuse the applicant of a requirement to obtain all required permits and approvals from local or other agencies prior to proceeding with construction.

An administrative appeal to the examiner is provided. Any appeals shall be in accordance with the appeals section of this title (see Chapter 15.24, Article IV).

B. Supplemental Considerations for Land Divisions. For land division decisions under Review Process II:

1. If the director and city engineer find that the proposed land division is consistent with the land division evaluation criteria and development standards in Title 18 and other applicable city ordinances and city standards, the application shall be approved.
2. If the director and city engineer find that the proposed land division is not consistent with these standards, the director and city engineer may disapprove the application stating reasons for disapproval, or return it to the applicant for modification or correction with specific conditions or revisions that must be met for approval.
3. Decisions on all Review Process II land divisions shall include findings of fact and conclusions.
4. Approval of a proposed land division shall constitute authorization for the applicant to develop the land division as required in the approved application. Development shall be in accordance with the plans and specifications as approved by the city subject to compliance with all conditions and requirements of the preliminary approval. A preliminary land division approval under Review Process II requires a final land division approval under Review Process I or VI, as required by this chapter.

is hereby amended to read as follows:

Action taken.

A. For all Review Process II Applications. All Review Process II administrative decisions shall be issued in writing and shall state the final SEPA determination on the proposed project. The director or his designee shall review the application for consistency and compliance with the applicable evaluation criteria and development standards. The director may attach to any permit approval such conditions as may be necessary to assure compliance with this title, other

applicable city ordinances and regulations, or any regulations administered by local or other agencies. Action taken on the application shall be one of the following:

1. Permit issuance or approval, which may include any conditions or requirements on the project deemed necessary by the director; or
2. Permit denial explaining the reasons the permit was not approved.

Issuance of a permit by the city does not excuse the applicant of a requirement to obtain all required permits and approvals from local or other agencies prior to proceeding with construction.

An administrative appeal to the examiner is provided. Any appeals shall be in accordance with the appeals section of this title (see Chapter 15.24, Article IV).

B. Supplemental Considerations for Land Divisions. For land division decisions under Review Process II:

1. If the director and city engineer find that the proposed land division is consistent with the land division evaluation criteria and development standards in Title 18 and other applicable city ordinances and city standards, the application shall be approved.
2. If the director and city engineer find that the proposed land division is not consistent with these standards, the director and city engineer may disapprove the application stating reasons for disapproval, or return it to the applicant for modification or correction with specific conditions or revisions that must be met for approval.
3. Decisions on all Review Process II land divisions shall include findings of fact and conclusions that include the following, as applicable:
   (a) Appropriate provisions, consistent with City development standards, are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
   (b) the public use and interest will be served by the platting of such subdivision and dedication.
4. Approval of a proposed land division shall constitute authorization for the applicant to develop the land division as required in the approved application. Development shall be in accordance with the plans and specifications as approved by the city subject to compliance with all conditions and requirements of the preliminary approval. A preliminary land division approval under Review Process II requires a final land division approval under Review Process I or VI, as required by this chapter.

SECTION 3: Chapter 4 Section 4(D)(8) of Ordinance 2530-01 (EMC 15.16.210), which currently reads as follows:

Examiner's decision and recommendation—Findings required.
When the examiner renders a decision or recommendation, the examiner shall make and enter written findings and conclusions from the record on all issues presented to the examiner, which

support such recommendation or decision. Unless the applicant agrees to an extension or the examiner is hearing an appeal, the examiner shall render a decision or recommendation, as applicable, within ten working days of the conclusion of a hearing.

is hereby amended to read as follows:

Examiner's decision and recommendation—Findings required.
When the examiner renders a decision or recommendation, the examiner shall make and enter written findings and conclusions from the record on all issues presented to the examiner, which support such recommendation or decision. Unless the applicant agrees to an extension or the examiner is hearing an appeal, the examiner shall render a decision or recommendation, as applicable, within ten working days of the conclusion of a hearing.

For Land Division applications, findings and conclusions required herein shall address the following, as applicable:

1. Appropriate provisions, consistent with City development standards, are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school-grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
2. The public use and interest will be served by the platting of such subdivision and dedication.

SECTION 4: Authority. In addition to the authority provided by Chapter 36.70A RCW, the City adopts the Written Findings for Subdivisions amendments set forth in this Ordinance under its general land use authority, Washington State Constitution, Article XI, Section 11 and Chapter 35.63 RCW.

SECTION 5: Pending actions. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending before the City or in any court.

SECTION 6: Severability. Should any section, paragraph, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

SECTION 7: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

SECTION 8: Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

SECTION 9: General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provisions or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Ray Stephanson, Mayor

ATTEST:

CITY CLERK

Passed: 10/21/2015

Valid: 10/26/2015

Published: 10/30/2015

Effective Date: 11/10/2015