

TO: Everett City Council
FROM: David Stalheim, Interim Planning Director
DATE: October 22, 2020
RE: Rethink Zoning
Response to Councilmember Roberts

Thank you to Councilmember Roberts for the comments, questions and suggestions in the October 19, 2020 memo. Following this memo, Councilmember Roberts, Deputy Mayor Harper and myself met to review this memo and our response.

Our recommendations regarding the need for process and procedure improvements were done after extensive deliberation. Our planning staff has been reduced by five (5) FTEs in the past five years. Our administrative staff has been reduced by more than 50%. Our permitting staff are experiencing 2-5 months in the review of land use projects.

Our objective as your planning staff is to ensure professional staff have adequate time for review of complex development and long range planning challenges. We need help in the development codes to make some process improvements in order to meet that objective.

We support the need for transparency in land use actions. Toward that end, we have made many improvements over the past couple of years, including access to [online permit applications](#), [online maps](#) and access to [public records](#).

In our meeting with Councilmember Roberts, we demonstrated an enhanced online mapping for land use actions that will be deployed by the end of this year. This system will enable anyone to see active and completed land use projects, with links to the application and staff contacts. I would encourage any council member with interest to contact me and I will provide a demonstration of this new platform that will improve transparency in land use actions in the city.

You can reach me at 425-257-8736, by email at dstalheim@everettwa.gov or a meeting through Teams.

C: Cassie Franklin, Mayor
Nick Harper, Deputy Mayor

Attachments:

- Response to Councilmember Roberts October 19th memo

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The following is a response to Councilmember Roberts input. The sections paraphrase CM Roberts.

1. Single family standards including height

CM Roberts: These should be clarified or removed from this ordinance and included in Rethink Zoning

2.0. Examples include:

- 19.22.100 Modification of Building Heights - measurements in or adjacent to residential zones
- 19.06.080 Land Divisions - Exception to Minimum Lot Area, Width, Depth, Frontage and Lot Coverage Standards - Section 19.06.080 B.
- 19.06.110 Density and Lot Size - Attached Housing in Single-Family Zones - with revisions
- Definitions of Housing Types Elimination of Definition of Single-Family dwelling and revised definition of Multiple Family dwelling
- Merger clause

RESPONSE:

- 19.12.100 Building heights – Any modification request would require three things: 1) public notice (posting site and mailing to adjacent property owners); 2) a view analysis (see [19.22.100.B](#)); and 3) must meet the modification criteria set forth in [EMC 15.03.060](#). The alternative would require a variance, which would require public hearings, additional costs and longer permit processing. The proposed standards provide adequate protective measures in staff’s opinion.
- 19.06.080 and .110 The new code consolidates cluster subdivision and unit lot subdivisions into one section. Repealing this section could be problematic if the city continues to want to encourage cluster subdivisions for situations where we are working to protect critical areas and their buffers, or for other housing types such as co-housing or cottage housing. This section provides that flexibility but requires four things: 1) public notice (posting site and mailing to adjacent property owners [Ch. 15.02.070.B](#)); 2) meeting the evaluation criteria for modification of development standards ([19.06.080.B.2](#)); 3) meeting the ULS standards in [Ch. 19.27](#); and 4) meeting the ULS evaluation criteria in [Ch. 19.25](#).
- Definitions - The definitions are integral to the organization of the UDC. Any development that is not multifamily (5+ units) or in a multifamily zone follows standards in [Ch. 19.08](#). MF development, including townhouses of less than 5 units, follows standards in [Ch. 19.09](#).
- Merger clause – there are no changes in merger clause from current standards. The changes were removed from the planning commission recommendation. This is a future Rethink 2.0 discussion tied to infill in single-family neighborhoods.

2. Shorelines

CM Roberts: The Hearing Examiner (HE) should continue to be the decision maker for larger shoreline permits.

RESPONSE:

- Generally, we believe that the planning director can be fair in the application of the same standards and criteria as the hearing examiner. However, we understand CM Roberts concerns and offer the language below as an amendment to move these shoreline permits back to the hearing examiner, consistent with current procedures.

15.02.070 Review Process II: Planning director Review.

B. REV II decisions included

The following permit applications are included as REV II decisions:

8. Shorelines. The following shoreline permit applications are included as REV II decisions:
 - ~~a.~~ ~~The development has one acre or more of the project footprint within shoreline jurisdiction and does not require a shoreline variance or shoreline conditional use permit;~~
 - ~~b.~~a. The development will include new construction or additions to buildings within 200 feet of the ordinary high water mark which are in excess of 35 feet in height; or
 - ~~c.~~b. The development will include the construction of docks or other in-water facilities, including fill, which could interfere with the public's use of shorelines of the state.

15.02.080 Review Process III: Hearing examiner Review.

B. REV IIIA and REV IIIB decisions included

There are two types of REV III review processes:

1. REV IIIA. These are actions for which the hearing examiner issues a final decision on the application after an open public hearing.
 - a. d. Shorelines. The following shoreline permit applications are included as REV IIIA decisions:
 - i. Shoreline variance applications;
 - ii. Shoreline conditional use applications;
 - iii. See subsection B.1.a.ii above regarding additional heights in industrial zones along marine shorelines;
 - iv. Shoreline development with one acre or more of the project footprint within shoreline jurisdiction.

3. Provide Public Notice when development standards are modified

CM Roberts: The proposed ordinance should be changed to require public notice when development standards are modified including: Sec. 15.03.060 A & B, Sec. 19.12.100, and Sec. 19.12.300 utilizing review process II. Proposed modifications to these provisions should be included in Rethink Zoning 2.0.

RESPONSE:

- In writing the code, staff is trying to find the proper balance between staffing reductions and public transparency. Most modifications where the public would be most concerned with do require public notice, such as changes in building heights or changes in ADU design standards. Any modification request, even without public notice, must meet the criteria in [Ch. 15.03.060](#) that demonstrates the request does not create an impact or nuisance and the result is development that is equivalent or superior.
- As I showed in our meeting, staff is preparing to launch an online map that will allow the public to see all land use applications that are pending or have been approved. We will also create an electronic notification system to let people know about pending land use applications, even where notice to adjacent property owners and posting of the site is not required by ordinance. This provides the transparency for all land use actions.

4. Public notice and SEPA

CM Roberts: SEPA and public notification requirements should not be eliminated or significantly reduced in this ordinance. The ordinance draft should be revised, restoring the public notice provisions under SEPA. There likely are circumstances where SEPA thresholds should be increased (meaning projects exempted from procedural SEPA compliance where they meet City regulatory requirements).

RESPONSE:

- There are no changes in public notice provisions for SEPA. What is proposed is to allow for additional exemptions from SEPA as allowed by state law for infill development. Those changes are limited to those areas where we want and anticipate development, including the UR4 zone and the Mixed Urban zone. These exemptions from SEPA provide the incentives for development where we have frequent transit and helps achieve our Climate Action Strategy goals for infill development.

5. Private streets

CM Roberts: The issue of private streets, construction standards, street maintenance, and assurance mechanisms for private streets should be examined in a Rethink Zoning 2.0 proposal. Private streets are often built to lessor, cheaper standards than public streets. They deteriorate more rapidly and cost more to maintain. If there are systems in place to maintain them (home owners associations, LIDs etc.) they are often poorly funded and/or managed. As streets deteriorate, residents look to the City to step in. Since home owners or occupants change over time, they may not know or appreciate the distinction or history. This becomes a burden for future administrations and Councils.

RESPONSE:

- The change to mainly private streets is a reflection of what the City has been requiring for the last decade plus and not a recent change in the current economy. The code update now captures standard practice. The City will not allow substandard improvements to be installed for anything less than what is deemed appropriate from a traffic engineering analysis standpoint based on the traffic impact anticipated. There are different levels of City standards based on the type of road classification, but the pavement thickness does not differ; it is instead the required width based on how many vehicles would be served. Each land division has ownership and maintenance requirements spelled out on the face of the recorded plat map that must be upheld, otherwise code enforcement action can be taken. Land divisions with private drives are for non-thru City streets. Anything that has a thru City street will be a public street. All private drives are signed appropriately as a private drive, so anyone purchasing a house off of a private drive will be made aware prior to their agreement to purchase through signage as well as the conditions on the plat map as their title should be clouded with ownership/maintenance/HOA requirements.
- [Ch. 19.26](#) has mechanisms to help protect the city. First, all private access drives must be designed and constructed to city Design and Construction Standards and Specifications. (See 19.26.050.B.3) Second, there is a requirement added to the codes to require associations to be established to maintain private improvements, including a requirement that covenants be submitted to the city and that the improvements be maintained in perpetuity. (See 19.26.120)
- In review of these comments, additional discussion with Ryan Sass, Public Works Director took place. We did find some issues where an amendment is warranted. First, any land division creating ten or more lots for detached housing should have public streets as a first priority, rather than private streets. Second, in review of Ch. 19.26, we are finding that we may have

missed clearly calling out street standards for non-residential development. For these two issues, we recommend the following changes:

19.26.050 Vehicle access requirements ~~for residential development.~~

Table 26-1: Vehicle Access Road Types – Residential Land Divisions

Type of Access	Potential Number of Dwelling Units Served ⁽¹⁾	Length of Access Road	Access Road Classification per DCSS 300 Series Standard Drawings
Private Access Drive C	10 or more dwelling units ⁽³⁾	More than 150'	Private Drive Standard C (26' fire lane) -walkway required-

⁽³⁾ Private access drive is not allowed for any land division which creates ten (10) or more lots, except if approved through the Unit Lot Subdivision process set forth in EMC 19.27.

B. Development Standards for Private Access Drives.

- Where permitted. Private access drives are allowed to provide access to dwellings and off-street parking areas within any land division authorized under chapters 19.24 - 19.27 and this title, provided, however that any land division which creates ten (10) or more lots not authorized by EMC 19.27 is required to provide a public street as set forth in subsection (C) below. Under certain circumstances, the city may require installation of a public street, rather than a private access drive (see Section 26.050.C). As an alternative to the private access drive, the applicant may provide a public street meeting the city design and construction standards, subject to approval by the city engineer.

C. Public Streets.

These standards are applicable to all land divisions that extend an existing public street or install a new public street.

- When required. ~~The Installation city may require installation~~ of a new public street or improvements of an existing street is required for all land divisions except for Boundary Line Adjustments or as allowed under EMC 19.26.050.A, or if the applicant can demonstrate to ~~when~~ the city engineer ~~determines~~ that none any of the following applies:

D. Development Standards for Non-Residential Zones.

Street standards applicable to commercial, industrial and other non-residential zones shall follow EMC 16.68 and the city's Design and Construction Standards and Specifications (DCSS).

6. Historic Commission notice

CM Roberts: It appears notice for Historic Commission action is being eliminated - or at least there is confusion on this point. The Commission's role does not appear to be changed, but the public will not be notified. If this is the case, it should not be part of this proposal.

RESPONSE:

- There are no changes in notice for Historical Commission meetings. These are subject to the Open Public Meetings Act and we provide notice of all meetings to anyone that is interested in following their actions.
- The following historical commission recommendations are subject to public notice (posting site and mailing): demolition of a historic building, construction of 3 or more dwelling units, any new clinic, commercial building or place of worship, and any deviation from historic standards and guidelines.