SUBMITTAL CHECKLIST

Applications must include the items on this checklist, and the checklist, to be complete

This submittal checklist and application is for formal requests to change the comprehensive plan or development regulations pursuant to state law (RCW 36.70A.470) and Everett Planning Director Interpretation 2023-01.

For questions, or to submit an application, contact Karen Stewart at kstewart@everettwa.gov.

For all amendments

1. Meeting with Planning Staff

A pre-application meeting is required with Planning staff (Long Range Division) prior to submitting this application. To schedule a meeting contact Karen Stewart at **(425) 257-7186** or kstewart@everettwa.gov.

2. Applicant name and address

Wayne Seibel 606 Warren Avenue, Everett, WA 98201

3. Other contacts (if applicable)

Marian Gonzales

3. Amendment category

Highlight all that would require amendment as part of the proposal:

- Comprehensive plan – text, goals, objectives, policies
- Comprehensive plan – land use map
- Development regulations – Title 19 EMC
- Development regulations – Zoning map
- Development regulations – Maximum building height map

Development regulations – Street designation map

4. Narrative Statement and criteria

Written statement describing the exact request, the reason for the request, and how the request meets applicable criteria. **Use Attachment A.**

5. Environmental Checklist

Submit **one** completed and signed copy of the SEPA Environmental Checklist **and** Optional Worksheet for Non-Project Review, available on Ecology's website: https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-document-templates

For site-specific amendments

A. Map of Site (for location-specific amendments)

For location-specific amendments, a map clearly showing the area the request would apply to.

B. Property owner name(s) and address(es)

Wayne Seibel and Marian Gonzales/606 Warren Avenue, Everett WA 98201

Signature

Applicant signature

Wayne Seibel

Attachment A

Narrative Statement and Evaluation Criteria

All applications must be accompanied by a narrative statement describing how the proposal is consistent with the following applicable criteria. Staff can only recommend that a proposal advance if it meets the applicable criteria.

Description of the exact request

Please make reference to the application of Kristin Hall:
Amend Section 19.17 of the EMC to remove all references to a Port Compatibility Overlay or Port Compatibility Area, including removal of the Port Compatibility Area from Map 17-2.

Reason for the request

Inadequate public notice.

The 2020 revisions to Chapter 19.17 EMC adding a Port Compatibility Area were adopted without adequate public notice. In 2018, a proposal to establish a Port Compatibility Overlay was withdrawn in response to neighborhood concerns (explained below). Residents assumed that if the proposal were to be brought forward again, they would

receive public notice and have a meaningful opportunity to explain their concerns. But in the last several months Rucker Hill residents have learned that the proposal, with minor revisions, was brought forward again in 2020, approved, and incorporated into the zoning code. An informal survey of Rucker Hill residents has not identified a single homeowner, including homeowners who expressed strong interest in this issue in 2018, who was aware this had happened. Because of the lack of public notice, many Rucker Hill residents are still unaware of this development (and thus will miss the deadline for applying for a zoning change); those who are aware are shocked and disappointed and feel deceived by the City and the Port.

Repealing the Port Compatibility regulations and map designation will allow affected residents a meaningful opportunity to explain their concerns and offer an alternative approach that accomplishes the fundamental purpose of the regulations but avoids the significant unintended consequences to homeowners.

Neighborhood concerns

The main concern of affected residents is that the regulations and map imply that the historic Rucker Hill neighborhood is now nothing more than an industrial buffer zone intended to absorb the Port's negative impacts. This is the reason the proposal was withdrawn in 2018. It was understood that this was an unintended consequence. This concern was apparently overlooked after 2018 with the nearly total turnover of planning staff and a new planning director. Although we hesitate to impugn the integrity of Port management, it is difficult to avoid the conclusion that the Port took advantage of that turnover to push the proposal through without giving the public the opportunity to voice the concerns that caused the proposal to be withdrawn only two years earlier.

The primary purpose of the Port Compatibility Overlay was to ensure that developers of new multifamily projects incorporate noise mitigation measures into construction to

avoid conflict with the Port (i.e., so new residents would not complain about Port noise). But the effect of the regulations is that homeowners now find the following description of their neighborhood codified in the EMC:

Your real property is located within the Port Compatibility Area (PCA). Occupants of properties within the PCA many be subject to inconveniences or discomforts arising from marine activities, including but not limited to noise, odors, glare, fumes, dust, construction activity, smoke traffic, hours of operations, low overhead flights and other maritime activities. . . . The City of Everett has adopted PCA regulations in

Chapter 10.17 EMC which may affect you and your land.

Together with the map, this will have two unintended and unfair results. First, the impact on the resale value of homes in this otherwise desirable and sought-after neighborhood is obvious and significant. Any potential buyer will see the neighborhood described as essentially an industrial zone. Second, it will thwart the neighborhood's longstanding efforts to persuade the Port to take commercially reasonable steps to minimize noise and other impacts on the neighborhood. Any such effort will be met with, "what are you complaining about – you're in a Port Compatibility Area." The Port provides a regional economic benefit, but that benefit should not come at the expense of sacrificing one of Everett's charming and historic residential neighborhoods.
Chapter 19.17 EMC does not accurately reflect existing law or the intent of the Comprehensive Plan.

The Port Compatibility regulations imply that port compatibility is a one-way street, i.e., that the Port has no responsibility to minimize its impacts on existing residences. While it is prudent to require new multi-family developments to take Port impacts into consideration, neither the law nor the Comprehensive Plan, nor common sense and fairness, relieve the Port of its responsibility to take commercially reasonable measures to control its negative impacts on nearby, existing residential neighborhoods. 2
Marine Port Core Area Goal 11.1.1(b) refers to protecting marine uses "while respecting the rights of all property owners." [Emphasis added.] The Port Compatibility Area does not respect the rights of all property owners; to the contrary, it significantly diminishes the value of residential properties.

Policy 11.1.5, Compatibility, states that development standards should be adopted "to protect the livability of adjacent areas." Port impacts, especially but not limited to noise, have had a devastating impact on the quality of life of neighborhood residents. Ample research shows the significant adverse effects that noise pollution and sleep deprivation have on the mental and physical well-being of affected individuals. Neighborhood residents describe the ever-increasing port noise as like "trying to sleep with an alarm clock going off all night." Keeping the PCA in place will discourage the Port from taking commercially reasonable measures to mitigate these impacts.
Policy 11.1.6, Noise, states that marine activities must comply with Sections 20.08.040

and 20.08.050 of the City's noise regulations. In other words, the Port is not exempt from noise regulations, contrary to the implication of chapter 19.17 EMC that neighbors

simply have to put up with noise whether or not it complies with noise regulations. This inaccurate portrayal of the Port's responsibility to comply with noise regulations is reflected in chapter 10.19.110.B.1, which states: "Provisions of EMC 20.08 provide that noise exemptions apply to "[noise] noise created by watercraft [and floatplanes] in operation." To the extent this language is intended to imply that all port operations are exempt, that is incorrect. The exemption is for "watercraft . . . in operation," not the onshore activities associated with loading and unloading vessels already docked, which are the main source of the noise that plagues the neighborhood during the day and, more distressingly, throughout the night.

In 2006, the Port's Shoreline Management Act Shoreline Substantial Development permit for its newly installed cranes included a condition that loading and unloading vessels would not occur between the hours of 10p.m. and 7 a.m. "except in cases of business necessity." 3 This further supports the recognition of the Port's obligation to minimize impacts on the neighborhood, which seems to be ignored in chapter 19.17 EMC, and which the Port has increasingly ignored.

Numerous other comprehensive plan policies concerning livability, preserving the character of existing neighborhoods, and the health, safety, and welfare of Everett's residents, also support the request in this application.

Clearly and completely address the factors below for each amendment category selected in question 3

Comprehensive plan – text, goals, objectives, policies

EMC 15.03.400(E) The following factors shall be considered in reviewing proposed amendments to comprehensive plan policies.

1. Have circumstances related to the subject policy changed sufficiently since the adoption of the plan to justify a change to the subject policy? If so, the circumstances that have changed should be described in detail to support the proposed amendment to the policy.

[Insert comments here]

2. Are the assumptions upon which the policy is based erroneous, or is new information available that was not considered at the time the plan was adopted, that justify a change to the policy? If so, the erroneous assumptions or new information should be described in detail to support the proposed policy amendment.

[Insert comments here]

3. Does the proposed change in policy promote a more desirable growth pattern for the community as a whole? The manner in which the proposed policy change promotes a more desirable growth pattern should be described in detail.

[Insert comments here]

4. Is the proposed policy change consistent with other existing plan policies, or does it conflict with other plan policies? The extent to which the proposed policy change is consistent with or conflicts with other existing policies should be explained in detail.

[Insert comments here]

EMC 15.03.400(D) The following factors shall be considered in reviewing requests to amend the comprehensive plan land use map.

1. The proposed land use designation must be supported by or consistent with the existing policies of the various elements of the comprehensive plan.

[Insert comments here]

2. Have circumstances related to the subject property and the area in which it is located changed sufficiently since the adoption of the land use element to justify a change to the land use designation? If so, the circumstances that have changed should be described in detail to support findings that a different land use designation is appropriate.

[Insert comments here]

3. Are the assumptions upon which the land use designation of the subject property is based erroneous, or is new information available which was not considered at the time the land use element was adopted, that justify a change to the land use designation? If so, the erroneous assumptions or new information should be described in detail to enable the planning commission and city council to find that the land use designation should be changed.

[Insert comments here]

4. Does the proposed land use designation promote a more desirable land use pattern for the community as a whole? If so, a detailed description of the qualities of the proposed land use designation that make the land use pattern for the community more desirable should be provided to enable the planning commission and city council to find that the proposed land use designation is in the community's best interest.

[Insert comments here]

5. Should the proposed land use designation be applied to other properties in the vicinity? If so, the reasons supporting the change of several properties should be described in detail. If not, the reasons for changing the land use designation of a

single site, as requested by the proponent, should be provided in sufficient detail to enable the planning commission and city council to find that approval as requested does not constitute a grant of special privilege to the proponent or a single owner of property.

[Insert comments here]

6. What impacts would the proposed change of land use designation have on the current use of other properties in the vicinity, and what measures should be taken to assure compatibility with the uses of other properties in the vicinity?

[Insert comments here]

7. Would the change of the land use designation sought by the proponent create pressure to change the land use designation of other properties in the vicinity? If so, would the change of land use designation for other properties be in the best long-term interests of the community in general?

[Insert comments here]

Comprehensive plan – land use map

EMC 15.03.400(D) The following factors shall be considered in reviewing requests to amend the comprehensive plan land use map.

1. The proposed land use designation must be supported by or consistent with the existing policies of the various elements of the comprehensive plan.

[Insert comments here]

2. Have circumstances related to the subject property and the area in which it is located changed sufficiently since the adoption of the land use element to justify a change to the land use designation? If so, the circumstances that have changed should be described in detail to support findings that a different land use designation is appropriate.

[Insert comments here]

3. Are the assumptions upon which the land use designation of the subject property is based erroneous, or is new information available which was not considered at the time the land use element was adopted, that justify a change to the land use designation? If so, the erroneous assumptions or new information should be described in detail to enable the planning commission and city council to find that the land use designation should be changed.

[Insert comments here]

4. Does the proposed land use designation promote a more desirable land use pattern for the community as a whole? If so, a detailed description of the qualities of the proposed land use designation that make the land use pattern for the community more desirable should be provided to enable the planning commission and city council to find that the proposed land use designation is in the community's best interest.

[Insert comments here]

5. Should the proposed land use designation be applied to other properties in the vicinity? If so, the reasons supporting the change of several properties should be described in detail. If not, the reasons for changing the land use designation of a single site, as requested by the proponent, should be provided in sufficient detail to enable the planning commission and city council to find that approval as requested does not constitute a grant of special privilege to the proponent or a single owner of property.

[Insert comments here]

6. What impacts would the proposed change of land use designation have on the current use of other properties in the vicinity, and what measures should be taken to assure compatibility with the uses of other properties in the vicinity?

[Insert comments here]

7. Would the change of the land use designation sought by the proponent create pressure to change the land use designation of other properties in the vicinity? If so, would the change of land use designation for other properties be in the best long-term interests of the community in general?

[Insert comments here]

Development regulations – Title 19 EMC

EMC 15.03.300(C)(4) The city may amend the text of the unified development code if it finds that:

a. The proposed amendment is consistent with the applicable provisions of the Everett comprehensive plan; and

[Insert comments here]

b. The proposed amendment bears a substantial relation to public health, safety or welfare; and

[Insert comments here]

c. The proposed amendment promotes the best long-term interests of the Everett community

[Insert comments here]

Development regulations – Zoning map

EMC 15.03.300(B)(4) The review authority may approve an application for a site-specific rezone if it finds that:

a. The proposed rezone is consistent with the Everett comprehensive plan; and

[Insert comments here]

b. The proposed rezone bears a substantial relation to public health, safety or welfare; and the proposed rezone promotes the best long-term interests of the Everett community; and

[Insert comments here]

c. The proposed rezone mitigates any adverse impact(s) upon existing or anticipated land uses in the immediate vicinity of the subject property.

[Insert comments here]

d. If a comprehensive plan amendment is required in order to satisfy subsection (4)(a) of this section, approval of the comprehensive plan amendment is required prior to or concurrently with the granting of an approval on the rezone.

[Insert comments here]

Development regulations – Maximum building height map

EMC 15.03.300(B)(4) The review authority may approve an application for a site-specific rezone if it finds that:

a. The proposed rezone is consistent with the Everett comprehensive plan; and

[Insert comments here]

b. The proposed rezone bears a substantial relation to public health, safety or welfare; and the proposed rezone promotes the best long-term interests of the Everett community; and

[Insert comments here]

c. The proposed rezone mitigates any adverse impact(s) upon existing or anticipated land uses in the immediate vicinity of the subject property.

[Insert comments here]

d. If a comprehensive plan amendment is required in order to satisfy subsection (4)(a) of this section, approval of the comprehensive plan amendment is required prior to or concurrently with the granting of an approval on the rezone.

[Insert comments here]

Development regulations – Street designation map