



MONROE PLANNING COMMISSION

SUBJECT:	<i>East Monroe Zoning and Comprehensive Plan Amendment</i>
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DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
1/28/19	Community Development	Ben Swanson	Ben Swanson	New Business #1

Discussion:

Public Hearing:

Attachments: 1. Subject Parcels

REQUESTED ACTION: None, this is informational only. A public hearing on this topic will take place at a later date.

POLICY CONSIDERATIONS

The Growth Management Hearings Board (GMHB) has established a compliance date of April 10, 2019. The GMHB did not specify a specific path to or method for compliance but allowed the City to determine the path.

The CPSGMHB does not provide specific guidance and direction to municipalities with respect to the methods by which to achieve compliance. The City Council has historically discussed compliance with the Growth Management Act through:

1. Reaffirming the subject properties' original zoning and comprehensive plan designation as Limited Open Space (LOS); or
2. Continue work on the Environmental Impact Statement (EIS) by correcting the deficiencies identified by the CPSGMHB, with the objective of re-designating the East Monroe area as General Commercial (GC).

There may be other alternatives by which the City may achieve compliance. These may potentially include, without limitation, re-designating the East Monroe Area as a classification other than LOS or GC. However, the City has never thoroughly analyzed any such option, and no formal proposal to this effect has been made.

DESCRIPTION/BACKGROUND

The subject property, located at the eastern end of the city limits north of US-2, was designated agricultural in the 1980 Comprehensive Plan prepared by Snohomish County. The City annexed the property in 1994, originally designated it Rural Residential and then amended the property to Limited Open Space. The record since 1994 includes a short plat for four lots in 2004 and consideration for docketing in 2005 and 2006. The citizen-initiated application for the 2005 docket requested an amendment for approximately 43 acres from Limited Open Space to General Commercial. Based on concerns about lack of consistency with the Comprehensive Plan and potential impacts to capital facilities, the Planning Commission recommended denial and City Council upheld the denial. In 2006 the City considered docketing the property for a sub-area plan.

Staff developed a scope of services and cost estimate for professional services, but the Planning Commission declined to docket the study and City Council did not support the work due to the costs of the study.

In 2010 the applicant expanded the project area to approximately 68 acres and submitted an application for the 2011 docket to amend the land use designation from Limited Open Space to General Commercial. The Planning Commission recommended denial for docketing, but the City Council voted to approve the application for the 2011 docket. On July 10, 2012, the City Council adopted an ordinance to amend the comprehensive plan land use designation from Limited Open Space to General Commercial. The EIS was subsequently found inadequate by the City's Hearing Examiner, and the 2012 Comprehensive Plan amendment was formally repealed by the City Council.

In 2013, the City again reclassified rezoned the properties from LOS to GC. The new Environmental Impact Statement (EIS) associated with this comprehensive plan amendment and rezone was subsequently appealed to the City's Hearing Examiner, who upheld the EIS. The appellants then appealed to the Growth Management Hearings Board (GMHB).

In 2014, the GMHB found the EIS inadequate. Based upon this determination, the GMHB issued a finding of noncompliance and an order of invalidity and remanded the ordinances back to the City. The City attempted to resolve the issues identified in the EIS by preparing a Supplemental EIS and adopting new ordinances that again reclassified the subject property as General Commercial; however, on April 1, 2016, the GMHB issued an Order Finding Continuing Non-Compliance for the East Monroe Comprehensive Plan Map amendment and Zoning Map amendment (GMHB Case No. 14-3-0006c). The GMHB Order Finding Continuing Non-Compliance originally set a compliance deadline of September 28, 2016.

On May 3, 2016, the Monroe City Council passed Ordinance No. 003/2016 (*Attachment 2*), which adopted interim zoning pursuant to RCW 36.70A.390, RCW 36.70A.302, and RCW 35A.63.220.

Specifically, Ordinance No. 003/2016 adopted and reaffirmed the continued zoning designation of the East Monroe area (consisting of Snohomish County tax assessor parcel numbers 270706-001-025-00, 270705-002-061-00, 270705-002-062-00, 270705-002-063-00, and 270705-002-064-00) as Limited Open Space (LOS) during the compliance remand period in CPSCGMHB Case No. 14-3-0006c; adopted supportive findings; provided for severability; declared an emergency; and provided for an immediate effective date. The LOS Zoning designation was shown on Ordinance No. 003/2016, Exhibit A, and incorporated as if set forth in full.

On June 21, 2016, the Monroe City Council held a public hearing on Ordinance No. 003/2016 as required by RCW 35A.63.220 and RCW 36.70A.390. Immediately following the June 21, 2016, public hearing, the Monroe City Council approved Resolution No. 008/2016 (*Attachment 3*), adopting legislative findings in support of Ordinance No. 003/2016 pursuant to RCW 35A.63.220 and RCW 36.70A.390.

The interim zoning originally adopted by Ordinance No. 003/2016 on May 3, 2016, was to automatically sunset six (6) months from its effective date unless terminated earlier or extended by subsequent City Council action. At the time of Ordinance No. 003/2016's passage, the GMHB Order Finding Continuing Non-Compliance compliance deadline was September 28, 2016.

After the April 1, 2016, GMHB Order Finding Continuing Non-Compliance, the Heritage Baptist Church filed a legal challenge of the GMHB Order in Superior Court. The Heritage Baptist Church also requested certification by the Superior Court for direct review by the Court of Appeals. That certification was granted. This means the case bypassed Superior Court and proceeded directly to adjudication by the Court of Appeals. Oral arguments in the Court of Appeals occurred on September 22, 2017.

By Notation Ruling dated September 16, 2016, the Washington State Court of Appeals granted the City's motion for an extension of the September 28, 2016, compliance schedule deadlines for CPSGMHB Case No. 14-3-0006c while judicial review of the underlying CPSGMHB order was pending. On October 25, 2016, the GMHB issued its own order staying the compliance schedule pending the outcome of the Court of Appeals' proceeding.

The Monroe City Council approved a six-month extension of the interim zoning originally adopted under Ordinance No. 003/2016 by enacting Ordinance No. 016/2016 (*Attachment 4*) on October 11, 2016. This was followed by a series of extensions until the GMHB could issue a new compliance schedule. The most recent extension was effectuated by the adoption of Ordinance No. 023/2018 on October 23, 2018.

On March 12, 2018, the Washington State Court of Appeals published its opinion siding with CPSGMHB and rejecting all of Heritage Baptist Church's appellate arguments. Subsequently, Heritage Baptist unsuccessfully filed a motion of reconsideration on April 2, 2018. Heritage Baptist Church did not file a petition for review to the Washington Supreme Court. On July 13, 2018, the Court of Appeals issued its Mandate, legally terminated the court's jurisdiction and review of the case. Following the Court of Appeals Mandate, the GMHB issued a new compliance schedule on October 8, 2018. The schedule established a compliance due date of April 10, 2019. This is the date by which the City is required to take legislative action that achieves compliance.

FISCAL IMPACT

The City is currently not in compliance with the Growth Management Act. Noncompliance jeopardizes the City's ability to obtain State grant funding.

TIME CONSTRAINTS

The City is required to meet the GMHB compliance date of April 10, 2019. Prior to this, the City must hold a public hearing and City Council must take final action.



Legend

 Potential Developable Area (Approx. 11.33 acres)

Figure 3

July 2014 - Summer Conditions

Source: Imagery from Google Earth