

**CITY OF MONROE
ORDINANCE NO. 004/2019(SUB)**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, REPEALING ORDINANCE NO. 016/2015; REAFFIRMING AND READOPTING THE OFFICIAL ZONING MAP DESIGNATION OF CERTAIN PROPERTY LOCATED NORTH OF US-2 NEAR THE EASTERN CITY LIMITS, COMMONLY KNOWN AS THE EAST MONROE AREA, AS LIMITED OPEN SPACE (LOS); ADOPTING SUPPORTIVE FINDINGS; SETTING FORTH AND EFFECTUATING THE CITY'S COMPLIANCE APPROACH TO THE CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD'S ORDER FINDING CONTINUING NONCOMPLIANCE AND DETERMINATION OF INVALIDITY IN CPSGMHB CASE NO. 14-3-0006c; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE

WHEREAS, the Monroe City Council adopted Ordinance No. 016/2015, approving a citizen-initiated amendment of the City's official Zoning Map (RZ2012-01) that rezoned the East Monroe area from Limited Open Space (LOS) to General Commercial (GC); and

WHEREAS, on April 1, 2016, the Central Puget Sound Growth Management Hearings Board (GMHB) issued its Order Finding Continuing Noncompliance in CPSGMHB Case No. 14-3-0006c, concluding that the City's adoption of Ordinance No. 016/2015 was noncompliant with the Growth Management Act (GMA) and reaffirming the GMHB's previous determination of invalidity against the City; and

WHEREAS, the GMHB's Order Finding Noncompliance established a new compliance schedule, which was subsequently updated by GHMHB order on October 8, 2018; and

WHEREAS, the GMHB's compliance schedule requires the City to take action to achieve compliance by April 10, 2019, but does not specify or otherwise dictate a particular compliance method; and

WHEREAS, the Monroe City Council has opted to achieve compliance by restoring the *status quo ante*, specially: (i) formally repealing Ordinance No. 016/2015; (ii) acknowledging the invalidity of any and all prior enactments and/or references indicating a General Commercial designation for the East Monroe area; (iii) reaffirming and readopting the City's historic Limited Open Space designation for the East Monroe area on the City's official Zoning Map; and (iv) terminating and discontinuing any further consideration and processing of the underlying citizen-initiated rezone application (RZ2012-01), as set forth in this ordinance; and

WHEREAS, the City complied with all applicable City of Monroe zoning map amendment procedures, including without limitation the procedures set forth in Title 18 MMC, Chapter 21.50 MMC and all other applicable federal, state and local regulations; and

WHEREAS, on February 21, 2019, the City's SEPA Responsible Official issued a Determination of Nonsignificance (DNS) with respect to the relevant substance of this ordinance, and no timely appeals of said DNS were filed; and

WHEREAS, the City provided appropriate notices regarding the relevant substance of this ordinance on the City's webpage, through direct mailing, posting, and publication of hearing notices in the Monroe Monitor; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the relevant substance of this ordinance on March 11, 2019, and subsequently voted to recommend adoption by the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repealer; Acknowledgment of Invalidity. Ordinance No. 016/2015 is hereby repealed in its entirety. The City Council further acknowledges that Ordinance No. 024/2013 was invalidated by the Central Puget Sound Growth Management Hearings Board as set forth in the Board's August 26, 2014 Final Decision and Order in CPSGMHB Case No. 14-3-0006c, and that the amendments so invalidated in said ordinance are null and void.

Section 2. Readoption and Reaffirmation of Limited Open Space Zoning Map Designation for East Monroe Area. The Monroe City Council hereby reaffirms and readopts the official Zoning Map designation of certain property located north of US-2 near the eastern city limits, commonly known as the East Monroe Area, and consisting of tax 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, as depicted on Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full. Pursuant to MMC 18.04.020, the Mayor or his designee is hereby authorized to take any and all necessary and appropriate measures to verify and ensure that the official Zoning Map accurately reflects the directives of this section.

Section 3. Termination of East Monroe Rezone Application (RZ2012-01). The rezone application submitted by Heritage Baptist Church, requesting redesignation of the East Monroe Area from Limited Open Space to General Commercial (RZ2012-01), is hereby terminated. The Monroe City Council hereby directs the Planning Commission and City staff to immediately cease and discontinue any and all further consideration and/or processing of said application.

Section 4. Findings. In support of this ordinance, the Monroe City Council hereby adopts the above recitals, the content of Agenda Bill Nos. 19-055 and 19-069, and the Planning Commission Findings and Conclusions dated March 11, 2019, as

shown on the attached Exhibit B, and incorporated by this reference as if set forth in full. Without prejudice to forgoing, the City Council further expressly finds as follows:

A. This ordinance is consistent with and will implement the relevant goals and policies of the City's Comprehensive Plan.

B. This ordinance has a substantial relationship to, and will serve, the public health, safety and welfare.

C. This ordinance is consistent with all relevant MMC provisions.

D. This ordinance has been processed in material compliance with all applicable procedural requirements, including without limitation all applicable requirements codified at Title 18 MMC and Chapter 21.50 MMC.

Section 5. Intent; Superseding Effect. It is the express legislative intent of the City Council that this ordinance shall function as a savings clause by restoring all references to the East Monroe area in the City's development regulations to the Limited Open Space designation in effect prior to the City's adoption of Ordinance No. 024/2013. It is further the express legislative intent of the City Council that the provisions of this ordinance shall supersede and take precedence over any prior enactments of the City to the extent of any inconsistency. The Mayor or his designee shall perform, or cause to be performed, an audit of the City's development regulations in order to effectuate the directives of this section, and shall promptly require the City's code publisher to remove and/or replace any inconsistent references therein.

Section 6. Compliance with GMHB Order. The purpose of this ordinance is to address and comply with the GMHB's April 1, 2016 Order Finding Continued Noncompliance in CPSGMHB Case No. 14-3-0006c. The Monroe City Council hereby expresses its intent to achieve compliance by restoring the *status quo ante*, specifically: (i) Repealing Ordinance No. 016/2015; (ii) acknowledging the invalidity of any and all prior enactments and/or references indicating a General Commercial designation for the East Monroe area; (iii) reaffirming and readopting and the City's historic Limited Open Space designation for the East Monroe area on the City's official Zoning Map; and (iv) terminating and discontinuing any further consideration and processing of the underlying citizen-initiated rezone application (RZ2012-01), as provided in this ordinance. The Mayor and the City Attorney are hereby authorized and directed to take any and all measures reasonably necessary and appropriate to convey this ordinance to the GMHB, to obtain an order from the GMHB finding the City in compliance and rescinding the GMHB's prior determination of validity.

Section 7. Copy to Department of Commerce. Pursuant to RCW 36.70A.106, a complete and accurate copy of this ordinance shall be transmitted to the Department of Commerce within ten (10) days of adoption.

Section 8. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or

constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 9. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

ADOPTED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 26th day of March, 2019.

First Reading: March 19, 2019
Final Reading: March 26, 2019
Published: March 29, 2019
Effective: April 3, 2019

CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:



Elizabeth M. Adkisson, MMC, City Clerk



J. Zachary Lell, City Attorney



ZONING

ZONING DISTRICTS

- (DC) - Downtown Commercial
- (GC) - General Commercial
- (MUNC) - Mixed Use Neighborhood Commercial
- (MUC) - Mixed Use Commercial
- (SC) - Service Commercial
- (PO) - Professional Office
- (GI) - General Industrial
- (LI) - Light Industrial
- (LOSA) - Limited Open Space-Airport
- (LOS) - Limited Open Space
- (PS) - Public Open Space
- (MR6000) - Multi-Family Residential
- (UR6000) - Urban Residential
- (UR9600) - Urban Residential
- (R4) - Residential 4 Dwellings Per Acre
- (SR15000) - Suburban Residential

OVERLAY ZONES

- North Kelsey Planning Area (ORD 009/2010)
- North Kelsey Planned Dev Area (ORD 009/2010)
- Downtown Planning Area (ORD 036/2008)
- Airport Overlay Zone (ORD. 026-2006)
- AEO-SOB Boundary (ORD 029/2003)

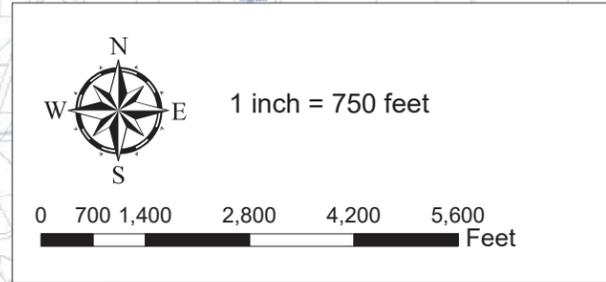
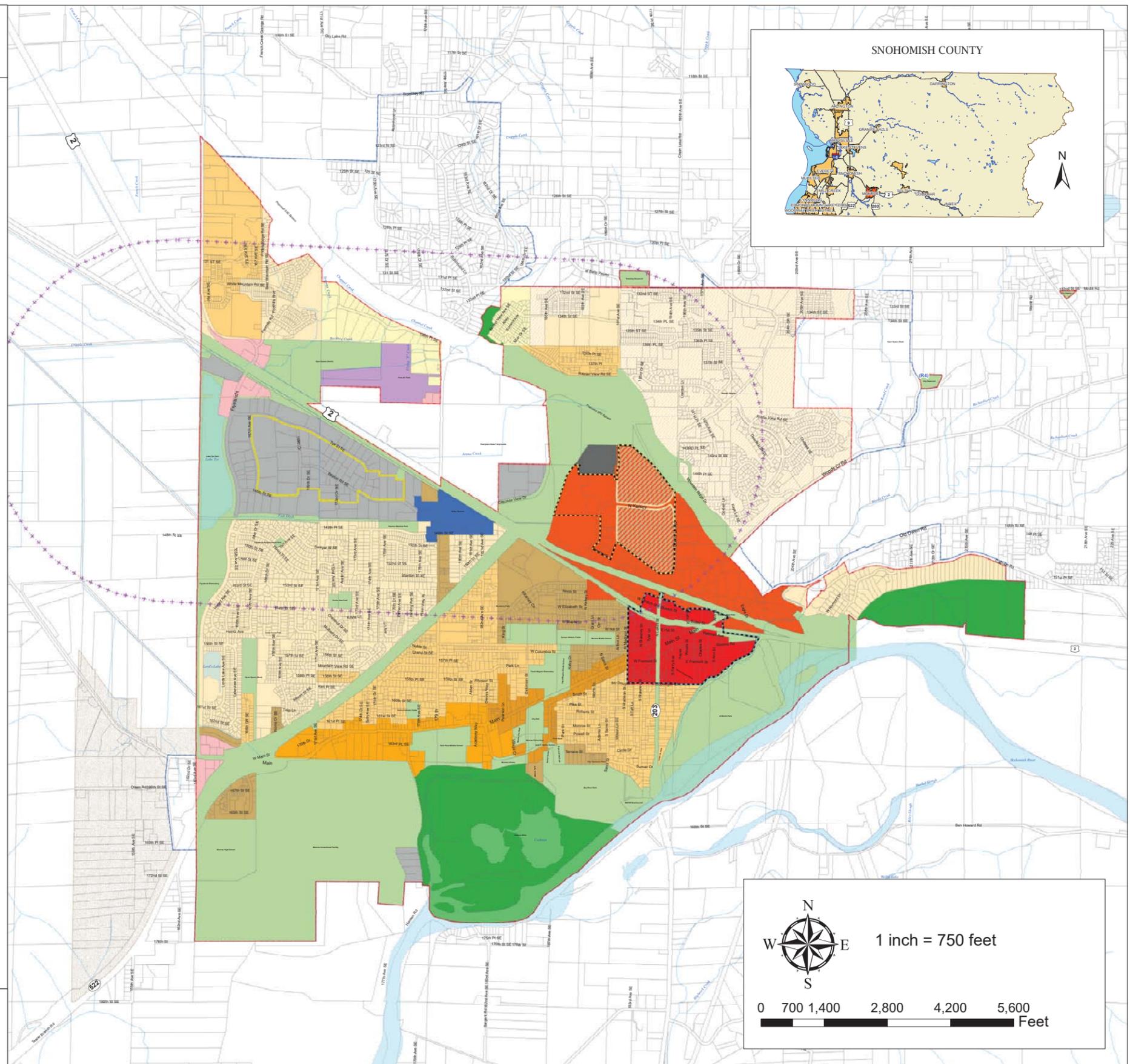
BOUNDARIES

- Southwest Study Area
- Urban Growth Area
- Monroe City Limits

This is to certify that this is the official zoning map referred to in the zoning ordinance of the city of Monroe, Washington.

Adopted
(Signed Copy in City Records)

Map data shown is the property of the City of Monroe & Snohomish County. Inaccuracies may exist and the City of Monroe & Snohomish County imply no warranties or guaranties regarding any aspect of data depiction. No real estate decisions are to be made using this map. Please contact the City of Monroe Planning and Permitting Department to verify the designation(s).



Attachment 3
City of Monroe
Findings of Fact and Conclusions of Law
Staff Report and Recommendation

A. GENERAL APPLICATION INFORMATION

File Number(s):	CPA2018-01/ RZ2018-01 (associated with SEPA2018-07)
Project Summary:	The proposal is a non-project action to reaffirm and readopt the Limited Open Space comprehensive plan designation and zoning of the East Monroe Property
Applicant:	City of Monroe
Location:	Sections 5 and 6, Township 27N, Range 07E, W.M. Tax parcel numbers 270706-001-025-00, 270705-002-061-00, 270705-002-062-00, 270705-002-063-00, and 270705-002-064-00
Public Hearing Date:	Monday, March 11, 2019 at 7:00 PM Monroe City Hall Council Chambers 806 West Main Street Monroe, WA 98272
Staff Contact:	Ben Swanson, Community Development Director City of Monroe 806 West Main Street Monroe, WA 98272 (360) 863-4540 bswanson@monroewa.gov
Attachments	1. Staff Report

B. BACKGROUND AND DESCRIPTION OF PROPOSAL

1. Proposal

The proposal would reaffirm and readopt the subject properties' historic zoning and comprehensive plan designation as Limited Open Space (LOS) in order to clarify and confirm the land use classification for that area. The purpose of this actions to comply with the Central Puget Sound Growth Management Hearings Board (CPSGMHB) order of invalidity and obtain compliance with the Growth Management Act. The CPSGMHB does not provide specific guidance and direction to municipalities with respect to the methods by which to achieve compliance; therefore, City staff discussed the potential compliance options with the City Council. Based on the impending compliance deadline established by the CPSGMHB and the potential loss of grant opportunities due to noncompliance, the City Council directed staff to pursue the option of reaffirming and readopting the subject properties' historic zoning and comprehensive plan designation as Limited Open Space (LOS).

2. Background

In response to citizen-initiated applications (CPA2011-01 and RZ2012-001) filed by the landowner, Heritage Baptist Church, on December 26, 2013, the City of Monroe adopted Ordinance Nos. 022/2013 and 024/2013 changing the Comprehensive Plan land use map and zoning map designations of the properties commonly known as “East Monroe” from Limited Open Space to General Commercial. The ordinances were subsequently appealed to the CPSGMHB. The CPSGMHB found that the Final Environmental Impact Statement (FEIS) prepared in conjunction with the ordinances did not adequately identify and evaluate the potential environmental impacts associated with the rezone and reclassification. The CPSGMHB ultimately issued an Order of Noncompliance and invalidated Ordinance Nos. 022/2013 and 024/2013.

The City and the applicant attempted to address the CPSGMHB’s environmental concerns by preparing a Supplemental Environmental Impact Statement (SEIS) and readopting the General Commercial classification/designation for the East Monroe property through the enactment of two subsequent ordinances: Ordinance No. 015/2015 and Ordinance No. 016/2015. However, on April 1, 2016, the CPSGMHB issued an Order Finding Continuing Non-Compliance with the Growth Management Act for the East Monroe Comprehensive Plan Map amendment and Zoning Map amendment (GMHB Case No. 14-3-0006c). The applicant appealed the CPSGMHB to the Washington Court of Appeals. A compliance stay was granted by the Court of Appeals to allow time for the judicial process to run its course. On March 12, 2018, Division One of the Court of appeals issued its published opinion denying Heritage Baptist Church’s appeal of the CPSGMHB Order. The Church’s subsequent motion for reconsideration was also denied on April 30, 2018, by the Washington State Court of Appeals.

During the stay granted by the Washington State Court of Appeals the City of Monroe formally reaffirmed the continued LOS designation for the subject parcels through a series of interim enactments. On May 3, 2016, the Monroe City Council passed Ordinance No. 003/2016, which adopted interim zoning pursuant to RCW 36.70A.390, RCW 36.70A.302, and RCW 35A.63.220.

Ordinance No. 003/2016 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 CPSGMHB Case No. 14-3-0006c; adopted supportive findings; provided for severability; declared an emergency; and provided for an immediate effective date. The continued LOS Zoning designation was shown on Ordinance No. 003/2016.

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 on October 11, 2016. On April 11, 2017, City Council authorized an additional six-month extension under Ordinances No. 007/2017 followed by Ordinance No. 023/2017 and Ordinance No. 012/2018. Ordinance No. 022/2018 effectuated another six-month extension of the interim zoning designation and was adopted by the City Council on October 23, 2018. The extension effectuated by

Ordinance No. 022/2018 is scheduled to expire automatically on May 3, 2019 unless the underlying interim zoning regulations are further extended by Council action.

3. Site Description

The subject properties were annexed into the City of Monroe 43 years ago in 1970. The subject properties, totaling approximately 43 contiguous acres, are currently undeveloped and have remained vacant for a number of years. They have not been used for productive agricultural pursuits since being purchased by the current property owner, although long-time city residents recall some grazing and hay production in the past.

The subject properties are not currently served by public water and sewer service, although the area is included in the water and sewer service areas of the City of Monroe. Access is currently provided by a pullout driveway from US 2. Critical areas do exist in the area (see SEPA checklist).

C. REVIEW PROCESS

1. Overview

Chapter 18.99 MMC and MMC 21.20.040 establish the rezone procedures and requires that the Planning Commission shall review and make recommendations:

Following a hearing before the planning commission, the commission shall make a recommendation to the city council.

MMC 21.20.040 requires that the Planning Commission review and make recommendations on:

Amendments to the comprehensive plan.

The required public hearing in front of the Planning Commission is scheduled for March 11, 2019. Following the close of the public hearing, the Planning Commission will forward a recommendation to the City Council. No earlier than March 19, 2019, the City Council will hold a first reading to consider the Commission's recommendation. In accordance with MMC 21.50.050(B)(1), the Council shall take one of the following actions on the Planning Commission's recommendation:

- Approve as recommended;
- Approve with conditions;
- Modify, with or without the applicant concurrence;
- Deny (reapplication or resubmittal is permitted);
- Deny with prejudice (reapplication or resubmittal not allowed for one year); or
- Remand back to the Planning Commission for clarification.

Per MMC 21.50.120, the Council's decision is the City's final action on rezones and comprehensive plan amendments. The decision may be challenged in the Growth

Management Hearings Board.

2. Public Notification and Comments

- a. **Department of Commerce:** The substance of the proposed amendments were transmitted to the Washington State Department of Commerce for state agency review in accordance with RCW 36.70A.106 on July 2, 2018. No comments were received from the Department of Commerce or other state agencies that received notification through the Department of Commerce.
- b. **Notice of Public Hearing:** Notice of Public Hearing was provided in accordance with MMC 21.40.020 by posting the notice at City Hall, the subject site, Monroe Library, and publishing the notice in the Monroe Monitor on February 21, 2019. The notice was mailed to property owners within 500 feet of the site and all parties of record involved in the CPSGMHB appeal. No public comments were received as of the date this staff report was drafted.

3. State Environmental Policy Act (SEPA) Review

Pursuant to WAC 197-11-704, the proposal is classified as a nonproject action under the State Environmental Policy Act. Nonproject actions involve “decisions on policies, plans, or programs,” which specifically includes the adoption of zoning ordinances [WAC 197-11-704(b)(ii)]. A SEPA Determination of Non-Significance (DNS) was issued on the proposal on February 22, 2019. The public comment period for the DNS ended at 5:00 PM on January 24, 2017, with a subsequent appeal deadline of 5:00 PM on March 7, 2019. No comments were received on the SEPA Threshold Determination. Because the proposal simply reaffirms and readopts the subject properties’ historic zoning and comprehensive plan designation as Limited Open Space, there are no new impacts to review.

4. Public Hearing

The public hearing on this matter is scheduled in front of the Planning Commission on March 11, 2019, at 7:00 PM in the City of Monroe Council Chambers. Public hearings shall be conducted according to MMC 21.50.060 and generally observe the following sequence of events:

- a. Staff presentation, including submittal of any administrative reports. Members of the hearing body may ask questions of the staff.
- b. Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the applicant.
- c. Testimony or comments by the public germane to the matter. Questions directed to the staff or the applicant shall be posed by the chair at its discretion. The chair/hearing examiner shall have discretion as to what constitutes germane testimony.

- d. Rebuttal, response, or clarifying statements by the staff and the applicant.
- e. The evidentiary portion of the public hearing shall be closed thereafter and the hearing body shall deliberate on the matter before it.

5. Compliance with the Growth Management Hearings Board

GMHB Case No. 14-3-0006c invalidated the General Commercial zoning and comprehensive plan designation for tax parcel numbers 270706-001-025-00, 270705-002-061-00, 270705-002-062-00, 270705-002-063-00, and 270705-002-064-00. The CPSGMHB does not provide specific guidance and direction to municipalities with respect to the methods by which to achieve compliance.

The proposed method of compliance, as directed by the City Council, is to pursue the reaffirmation and readoption the subject properties' historic zoning and comprehensive plan designation as LOS. The proposed reaffirmation and readoption will be in accordance with the City's Municipal Code, as described in Section C. The proposed reaffirmation and readoption of the comprehensive plan designation will be in accordance with City's Municipal Code, as described in Section C, and RCW 36.70A.130(2)(b):

... city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following **Findings of Fact** have been made about the proposed reaffirmation and readoption of the subject properties' historic zoning and comprehensive plan designation as Limited Open Space, and the resultant **Conclusions of Law** were established from the Findings of Fact:

1. Findings of Fact regarding consistency with the City of Monroe 2015-2035 Comprehensive Plan:

- a. Table 3.07 - Land Use Designations, in Chapter 3 of the Comprehensive Plan describes the LOS zone as the following:

This designation shall provide for residential uses at a maximum density of one dwelling unit per five acres. Land in this category is appropriate for very low-intensity development because it may lack availability of public services and be impacted by critical areas. Limited Open Space areas can be suitable for buffers between development types or as a low-intensity land use along the edge of the urban growth area. Limited open space areas can also provide for enhanced recreational facilities and linkages to existing or proposed trails and open space systems.

The subject properties are consistent with the LOS designation criteria in Table

3.07. The subject properties are impacted by critical area buffers as approximately 10.5 acres, of the cumulative 43 acres, are unencumbered by critical areas or the associated buffers.

The subject properties are not currently served by City sewer or water. The closest connection point for water and sewer is near the intersection of US 2 and East Main Street. Under the existing configuration, the subject properties are served by a single point of access from US 2. Based on the current vehicle access, WSDOT classified the subject properties as a “limited access facility” and would not approve access for a commercial land use.

b. The following policies are consistent with the reaffirmation and readoption the subject properties’ comprehensive plan designation as LOS:

i. *P.010 Manage land use development to reduce downstream urban flooding.*

The subject properties were identified by the City as a frequently flooded area. Continuing to limit the level of development allows for increased opportunity for flood storage and potentially limit runoff.

ii. *P.018 Maintain parkland, facilities and open space areas in a manner that:*

- *Preserves natural habitat*
- *Promotes community pride*
- *Exhibits cleanliness and security*
- *Reduces or mitigates public liability*

Continuing to limit the level of development allowed on the undeveloped subject properties will aid in the preservation of the existing natural habitat.

iii. *P.039 Promote site development and construction practices that minimize impact on natural systems.*

The development limitations identified by the LOS designation will minimize the impacts on the natural systems.

iv. *P.043 Identify, inventory, classify and protect fish and wildlife habitats, providing special consideration to fish which migrate for spawning.*

The subject properties contain a diverse compilation of a Class I salmon bearing oxbow channel, and 7 acres of riparian wetlands which provide critical off-channel refugia for fish during high flow events.

v. *P.044 Identify and designate areas where a contiguous system would provide greater benefit than a series of isolated areas, including but not limited to:*

- *Open space corridors*
- *Connecting environmentally sensitive areas*
- *View-sheds*
- *Recreational and wildlife corridors*

Continuing the LOS designation supports this policy by requiring very

low-intensity development.

- vi. *P.045 Participate in regional efforts to recover species listed under the Endangered Species Act through activities including watershed planning and restoration.*

The subject properties contain a diverse compilation of a Class I salmon bearing oxbow channel, and 7 acres of riparian wetlands which provide critical off-channel refugia for fish during high flow events.

- vii. *P.052 Develop procedures to acquire open space, conservation land, working with public agencies, private sector and conservation groups.*

The City is currently in negotiations to purchase the subject properties in cooperation with public and private sector funding sources and with the direct involvement of a conservation group. If successful, the site would be used for restoration opportunities and passive recreation.

- viii. *P.056 Maintain natural hydrological functions within ecosystems and watersheds and seek restoration opportunities identified in the Shoreline Master Program.*

Portions of the subject properties are located in the Shoreline. The reaffirmation and readoption the subject properties' historic comprehensive plan designation as LOS is consistent with the preservation of the natural hydraulic functions.

- ix. *P.199 Develop procedures to acquire open space, conservation land, working with public agencies, private sector and conservation groups.*

The City is currently in negotiations to purchase the subject properties in cooperation with public and private sector funding sources and with the direct involvement of a conservation group. If successful, the site would be used for restoration opportunities and passive recreation.

Conclusions of Law:

The proposed reaffirmation and readoption the subject properties' historic comprehensive plan designation as LOS is consistent with applicable elements, policies, and goals of the Comprehensive Plan.

2. Findings of Fact regarding consistency with the requirements and intent Monroe Municipal Code:

- a. Monroe Municipal Code (MMC) 18.10.045 identifies the purpose of the LOS as:

The purpose of the limited open space zoning district is to provide for low-density residential uses on lands that lack the full range of public services and facilities necessary to support urban development and that are severely impacted by critical areas. This zone also provides a buffer between urban areas and transitional land uses on the urban growth boundaries of the city, and/or may also provide for enhanced recreational facilities and linkages to existing trails or open space systems.

The subject properties are consistent with the purpose of the LOS zone

described in MMC 18.10.045. The subject properties are impacted by critical area buffers as only approximately 10.5 acres, of the cumulative 43 acres, are unencumbered by critical areas or the associated buffers.

The subject properties are not currently served by City sewer or water. The closest connection point for water and sewer is near the intersection of US 2 and East Main Street. Under the existing configuration, the subject properties are served by a single point of access from US 2. Based on the current vehicle access, WSDOT classified the subject properties as a “limited access facility” and would not approve access for a commercial land use.

- b. MMC 18.10.080 establishes the minimum lot area in the LOS zone at five acres. The subject properties are currently undeveloped and have the potential to support low-density residential uses while preserving the functions and values of the critical areas.
- c. MMC 18.10.160 establishes minimum limited open space zone setbacks. The subject properties are currently undeveloped and have the potential to support low-density residential uses while meeting the required setbacks.
- d. Pursuant to MMC 21.50.040(C)(2), a finding is made that the proposal is beneficial to the public health, safety and welfare and is in the public interest for numerous reasons, including without limitation the following:
 - The subject properties were identified by the City as a frequently flooded area. Continuing to limit the level of development to that allowed under the LOS designation allows for increased opportunity for flood storage and potentially limits storm runoff.
 - The subject properties are undeveloped and unimproved. Continuing to limit the level of development to that allowed under the LOS designation will help to preserve the existing natural habitat on the site.
 - Retaining the development limitations applicable under the LOS designation will minimize the impacts to on-site and off-site natural systems.
 - The subject properties contain a diverse compilation of a Class I salmon bearing oxbow channel, and seven acres of riparian wetlands which provide critical off-channel refugia for fish during high flow events. Retaining the development limitations applicable under the LOS designation will help to preserve these functions.
 - Portions of the subject properties are located in the Shoreline. The reaffirmation and readoption the subject properties’ historic comprehensive plan and zoning designation as LOS is consistent with and will help to preserve the site’s natural hydraulic functions.
 - The subject properties are not currently served by City sewer or water. The closest connection point for water and sewer is near the intersection of US 2 and East Main Street. Under the existing configuration, the subject properties are served by a single point of access from US 2. Based on the current vehicle access, WSDOT has classified the subject properties as a “limited access facility” and has expressed its intent not to approve access for a

commercial land use. Retaining the historic LOS designation would appropriately reflect the utility and access constraints of the site.

Conclusions of Law:

The proposed reaffirmation and readoption the subject properties' historic zoning designation as LOS do not modify the intent of the City's existing regulations; would continue to be consistent with the purpose of the LOS zone; and therefore, meets the requirements and intent of the MMC.

3. Findings of Fact regarding consistency with the State Environmental Policy Act [MMC Chapter 20.04, Washington Administrative Code (WAC) Chapter 197-11, and Revised Code of Washington (RCW) Chapter 43.21C]:

- a. An environmental checklist and supplemental non-project review sheet were submitted for environmental review on February 19, 2019.
- b. The SEPA Responsible Official issued a Determination of Non-significance on February 21, 2019.
- c. The Determination of Non-significance and SEPA checklist were emailed to the City's SEPA distribution list on February 23, 2019. The SEPA distribution list is comprised of interested parties and tribes, including the Department of Ecology.
- d. Notice of the SEPA Threshold Determination was published in the Monroe Monitor and posted at City Hall and the Monroe Library on February 22, 2019.
- e. The SEPA comment period expired at 5:00 PM on March 7, 2019. No comments were received. No appeals of the DNS were filed.

Conclusions of Law:

The proposal is consistent with the requirements of the State Environmental Policy Act, pursuant to Chapter 20.04 MMC, Chapter 197-11 WAC, and Chapter 43.21C RCW.

4. Findings of Fact regarding consistency with the Washington State Growth Management Act (RCW Chapter 36.70A):

Based on the CPSGMHB's Order of Noncompliance and invalidation of Ordinance Nos. 015/2015 and 016/2015 (and previously, Ordinance Nos. 022/2013 and 024/2013), the City of Monroe is not in compliance with the Growth Management Act. The purpose of the reaffirmation and readoption the subject properties' historic zoning and comprehensive plan designation as Limited Open Space is to comply with the CPSGMHB Order of Invalidity and ultimately achieve compliance with GMA.

- a. The proposal addresses the following Planning Goals listed in RCW 36.70A.020: Urban Growth, Reduce Sprawl, Housing, Economic Development, and Public Facilities and Services.
- b. On July 2, 2018, the proposed amendments were transmitted to the State of Washington Department of Commerce (Material ID # 25077) for state agency review in accordance with RCW 36.70A.106.
- c. The 60 review period ended with no comments from state agencies.

Conclusions of Law:

The processing of the proposal is consistent with the requirements of the Growth Management Act in accordance with RCW 36.70A.

5. Findings of Fact regarding consistency with Public Notice Requirements (Chapter 21.40 MMC):

- a. Notice of the initial February 25, 2019, public hearing date was provided in accordance with MMC 21.40.020. On February 14, 2019, the Notice of Public Hearing was: 1) published in the Monroe Monitor; 2) emailed to parties of record and required agencies; and 3) posted at City Hall and the Monroe Library. However, this public hearing was cancel due to a snow event.
- b. The public hearing date was rescheduled and noticed for March 11, 2019, in accordance with MMC 21.40.020. On February 22, 2019, the Notice of Public Hearing was: 1) published in the Monroe Monitor; 2) emailed to parties of record and required agencies; and 3) posted at City Hall and the Monroe Library.

Conclusions of Law:

The proposal has met noticing requirements detailed within MMC 21.40.

6. Findings of Fact regarding consistency with the Review and Approval Process (Chapter 21.50 MMC):

- a. MMC 21.20.040 requires that the Planning Commission shall review and make recommendations on the following:
 - *Amendments to the subdivision code, zoning code, and environmental code (MMC Titles 17 through 20)*
 - *Amendments to the comprehensive plan.*

The Planning Commission public hearing and final action by City Council will satisfy the requirements in MMC 21.20.040.

- b. Planning Commission briefing to discuss the proposed code amendments were held on January 28, 2019.
- c. A public hearing in front of the Planning Commission to consider the amendments and draft a recommendation to the City Council was held on March 11, 2019.
- d. In accordance with MMC 21.50.040(C)(1), a finding is made that the proposal is consistent with the City of Monroe Comprehensive Plan and meets the intent of this code.
- e. Pursuant to MMC 21.50.040(C)(2), a finding is made that the proposal is beneficial to the public health, safety and welfare and is in the public interest as more thoroughly explained above.

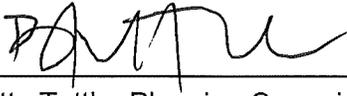
Conclusions of Law:

The proposal complies with the Review and Approval Process requirements in Chapter 21.40 MMC.

E. PLANNING COMMISSION RECOMMENDATION

The Planning Commission **ADOPTS** the Findings of Fact and Conclusions of Law contained in Attachment 3 to the Planning Commission agenda bill, **AUTHORIZES** the Planning Commission Chair to sign the Findings on behalf of the Commission, and **RECOMMENDS** that the Monroe City

Council **APPROVE** the proposed amendments to Monroe Municipal Code Section 17.16.030.



Bridgette Tuttle, Planning Commission Chair

3/11/2019

Date