

AGENDA

Lynnwood Planning Commission

Thursday, January 28, 2010 — 7:00 pm

City Council Chambers, 19100 – 44th Ave. W., Lynnwood WA

A. CALL TO ORDER

Chair WRIGHT
Commissioner AMBALADA
Commissioner AUBUCHON
Commissioner BRAITHWAITE
Commissioner DAVIES
Commissioner LARSEN, First Vice-chair
Commissioner WOJACK, Second Vice-chair

B. APPROVAL OF MINUTES:

Meeting of January 14, 2010

C. COUNCIL LIAISON REPORT

D. **CITIZEN COMMENTS** – on matters not on tonight's agenda.

E. PUBLIC HEARINGS

None

F. WORK SESSIONS

1. Permit Processing Procedures Code Amendment. Consideration of amendments to City regulations for processing and acting action on applications for development permits. Referral from City Council.

2. Meadowdale Gap MUGA Boundaries. Establishing a common boundary between the Municipal Urban Growth Areas (MUGAs) between the cities of Lynnwood and Mukilteo in the Meadowdale Gap – the area generally located west of 52nd Ave. W, south of 148th St. and Norma Beach Road and north of Lunds Gulch.

G. OTHER BUSINESS

None

H. DIRECTOR'S REPORT

I. COMMISSIONERS' COMMENTS

J. ADJOURNMENT

The public is invited to attend and participate in this public meeting. Parking and meeting rooms are accessible to persons with disabilities. Upon reasonable notice to the City Clerk's office (425) 670-5161, the City will make reasonable effort to accommodate those who need special assistance to attend this meeting.

Lynnwood Planning Commission
Meeting of January 28, 2010

Staff Report

Agenda Item: F-1
Code Amendment Related to Permit Processes

- Public Hearing
- Informal Public Meeting
- Work Session
- New Business
- Old Business
- Information
- Miscellaneous

Lynnwood Dept. of Community Development

ACTION

Discussion.

BACKGROUND

The Lynnwood Municipal Code (LMC) provides different decision-authorities and appeal processes for different land use permits (LMC 1.35). The intent of having different processes is to match the type of permit decision – such as a legislative land use policy decision for a large area or a parcel specific quasi-judicial decision on a conditional use permit – with the capabilities and roles of the decision-maker - City Council, Planning Commission, Hearing Examiner or department director. Recent processing of land use permits and appeals has shown that certain City permitting processes could be either clarified or reconsidered.

At the December 10, 2009 Planning Commission meeting, staff briefly introduced the topic of land use permit process code amendments. Planning Commission consideration of this topic is in response to City Council direction provided at its (City Council's) November 16, 2009 work session during which the City Council discussed permit processes. The City Council discussion focused on possible amendments to the municipal code that would change the manner in which certain land use applications would be processed. Following discussion, the City Council referred the matter to the Planning Commission for input/comment

Information provided to the City Council at its November 16, 2009 work session is attached (*Attachment A*). The range of potential code amendments identified in the information would generally either:

- Place increased open record public hearing and/or decision-making authority on quasi-judicial permits (*see subsequent discussion for definition of "quasi-judicial"*) with the Hearing Examiner. (*The City has a hearing examiner on contract who holds public hearings/public meetings on certain quasi-judicial land use actions and who, depending on the specific*

quasi-judicial land use action, may make a recommendation to City Council or issue the final decision); and/or,

- Eliminate the City Council's involvement in certain appeal processes and instead direct certain appeals to Court.

This topic recognizes that City Council involvement in quasi-judicial actions can be time consuming for the applicant, staff, as well as the City Council. As noted in the November 16, 2009 City Council packet materials, increased time does not necessarily result in improved decisions or projects.

There are several other reasons why a legislative body may wish to minimize its direct involvement in quasi-judicial permit decisions. Examples include:

- Allocate More Time to Focus on Policy Issues.
- More efficient Development Review Process.
- Reduced Liability Exposure.
- Cost (savings).

Each of these reasons is discussed in the attached materials (*Attachment A*).

Since the November 16, 2009 City Council meeting, staff has been researching how nearby cities process similar permits. That matrix, which is still subject to change and additional research, is attached (*Attachment B*). This matrix was one of the items the City Council requested be brought back to it along with input from the Planning Commission.

Effect on Planning Commission Role

One of the process changes identified in the November 16, 2009 City Council packet (*Attachment A*) would affect the Planning Commission.

Presently, LMC section 1.35.434 provides that quasi-judicial reclassifications (rezones) require an informal public meeting before the Planning Commission. The Planning Commission then makes a recommendation on the reclassification to the City Council. The City Council would then hold the "open record" public hearing and makes the final decision on the quasi-judicial reclassification request.

Specifically LMC 1.35.434 states,

"1.35.434 Quasi-judicial permits – Informal public meeting.
A. Reclassification of Property (Rezone). The planning commission shall hold an informal public meeting on a proposed rezone. This meeting shall be held at a regularly scheduled meeting of the planning commission, and the planning commission may receive public comment on the application. Following any public comments, the planning commission shall make a recommendation to the city council regarding the proposal and may recommend modifications to the proposal or conditions of approval that the planning commission believes are necessary to fulfill city requirements or other adopted policies regarding reclassifications of

property. Notice of this informal public meeting may be provided in the notice of application (see LMC 1.35.020)."

A *quasi-judicial reclassification* is typically parcel specific (or involves a limited number of parcels.) Quasi-judicial actions are defined by state statute to be:

"...those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding."

The alternative process described in the attachment (*Attachment A*) would have the Hearing Examiner conduct the "open record" public hearing on quasi-judicial reclassifications. The Hearing Examiner would then make a recommendation to the City Council, with the City Council making the final decision. There would therefore be no Planning Commission involvement.

This process change regarding quasi-judicial reclassifications *would not affect* the Planning Commission's role/responsibility in the following reclassification processes:

- A. A reclassification processed concurrently with a comprehensive plan amendment. A reclassification processed concurrently with a comprehensive plan amendment would still require a Planning Commission public hearing and recommendation to the City Council; and,
- B. Area wide reclassifications (reclassifications affecting several properties, such as neighborhood or subarea plans). Area wide reclassifications are legislative acts and would continue to be processed with a Planning Commission public hearing (with a recommendation to the City Council.)

RECOMMENDATION

Discussion.

This topic will be brought back to the Planning Commission for additional discussion before it is brought back to the City Council.

ATTACHMENTS

- A. November 16, 2009 City Council Work Session Materials.
- B. Draft Matrix - Permit Processes of Other Cities.

CITY COUNCIL ITEM C

CITY OF LYNNWOOD Community Development

TITLE: Permit Processes: Administrative and Examiner Approvals

SUMMARY:

The City of Lynnwood Municipal Code (LMC) establishes several processes that involve the City Council in quasi-judicial land use actions. City Council involvement in certain quasi-judicial land use actions is required under State law; others are not.

Involvement in quasi-judicial actions can be time consuming for the applicant, staff, as well as the City Council. The increased time does not necessarily result in improved decisions or projects. Should City Council wish to reduce its time commitment in quasi-judicial land use and other actions not otherwise required by State law - thereby allowing more to be focused on other matters - then an ordinance to that affect could be prepared for consideration.

Such an ordinance, if approved, would direct more responsibility to the Hearing Examiner -- who is legally trained in hearing quasi-judicial applications and in preparing findings to support a decision based on the record and decisional criteria.

ACTION:

None at this work session. An ordinance implementing some or all of the process changes identified in this report can be prepared and brought back for review and consideration by the City Council at a future work session.

BACKGROUND:

The City of Lynnwood Municipal Code (LMC) has several processes that involve the City Council in quasi-judicial land use actions. Quasi-judicial land use actions are permit decisions where the City Council sits as a "judge" and evaluates proposals based on decisional criteria. Examples include plats (subdivisions), site-specific rezones, appeals of variances, etc. Quasi-judicial land use decisions require adherence to legal requirements related to, as examples, the Appearance of Fairness Doctrine and ex-parte contact.

City Council involvement in certain land use actions is required by State law; however, the LMC does involve the City Council in certain permit decisions that it (Council) is not obligated to engage in based on State law.

There are several reasons why a legislative body may wish to minimize its direct involvement in quasi-judicial permit decisions. These include:

Allocate More Time to Focus on Policy Issues

As noted earlier, quasi-judicial hearings/proceedings can be time consuming. Reducing/minimizing time on quasi-judicial land use actions allows local legislative bodies to better concentrate and focus on policy-making responsibilities.

Efficient Development Review Process

Streamlining process creates a more efficient development review process for an applicant. Eliminating processes that are not otherwise required also makes it easier for the City to comply with the Growth Management Act's "Regulatory Reform" requirements. Among those requirements is that final decisions on land use permits be completed within 120 calendar days of active processing.

It must be noted that such amendments would in no way eliminate a requirement for a public hearing, nor does it affect the need to comply with the SEPA process. The ability of the public to interact with the project would not be compromised.

Reduced Liability Exposure

Streamlining land use processes and/or directing certain actions to the Hearing Examiner potentially reduces local government liability exposure. Public hearings/meetings increase exposure to procedural issues related to the appearance of fairness doctrine and/or ex parte contact. Directing more responsibility to the hearing examiner should provide for more consistent, legally-sustainable rendered quasi-judicial decisions. In addition, as noted earlier, more efficient processes facilitate the City's compliance with regulatory reform requirements. Failure to comply with such requirements exposes the City to liability.

Cost

Removing otherwise optional steps in the permit process reduces City time and costs associated with preparing materials, providing notice and organizing other related information/requirements.

PREVIOUS COUNCIL ACTIONS:

None.

FUNDING:

None.

KEY FEATURES:

The attached table outlines processes that could be modified that primarily provides more direct decision-making authority to the Hearing Examiner. The table identifies the process, summarizes the existing process, and then identifies an alternate process.

In general, the alternate processes would either:

- Place increased hearing and/or decision-making authority with the hearing examiner; and/or,
- Eliminate the City Council's involvement in certain appeal processes and instead directs certain appeals directly to Court.

Specific processes that are identified in the attached table relate to:

- Variance Appeals;
- Conditional Use Permit Appeals;
- Preliminary Plats;
- Rezones;
- SEPA Appeals; and,
- Business license appeals (NOTE: Business licenses are not a quasi-judicial land use action subject to regulatory reform but have been included as a possible amendment since many of the efficiency outcomes are the same.)

To accomplish the above, an ordinance would need to be adopted that amends:

- LMC Chapter 1.35 (Application Processing and Review);
- LMC Chapter 2.22 (Hearing Examiner);
- LMC Chapter 5.04 (Business Generally) (Specifically LMC section 5.04.030 Application for license – Approval or denial – Appeal);
- LMC Chapter 17.02 (State Environmental Policy Act);
- LMC Chapter 19.15 (Administration);
- LMC Chapter 19.20 (Preliminary Plat Procedure); and,
- LMC Chapter 19.25 (Final Plat Application Procedure).

ADMINISTRATION RECOMMENDATION:

For discussion only at this work session. Depending on Council comments, an ordinance can be drafted implementing council direction.

DOCUMENT ATTACHMENTS

Description:

Permit Process - Existing and Alternates

Type:

Backup Material

1
2
3

Existing and Potential Alternative Permit Processes

Process	Existing Process	Alternative Process
1. Variance Appeals	Appeal of a hearing examiner final decision on a variance is heard by the City Council (further appeals then go to Court.)	Appeal of a hearing examiner final decision on a variance would go directly to Court.
2. Conditional Use Permit (CUP) Appeals	Appeal of a hearing examiner final decision on a conditional use permit is heard by the City Council (further appeals then go to Court.)	Appeals of a hearing examiner final decision on a conditional use permit would go directly to Court.
3. Preliminary Plats	<p><u>Step 1</u> Informal public "meeting" before hearing examiner.</p> <p><u>Step 2</u> City Council Public Hearing (open record hearing).</p> <p><i>(NOTE: Approval of Final Plats currently rest with the City Council and would continue to do so.)</i></p>	<p>Hearing Examiner open record public hearing.</p> <p>Hearing Examiner renders final decision.</p>
4. Rezones (not concurrent with a comprehensive plan amendment)	<p><u>Step 1</u> Informal public "meeting" before Planning Commission.</p> <p><u>Step 2</u> City Council Public Hearing (open record hearing).</p>	<p><u>Step 1</u> Hearing examiner public hearing (open record hearing). Hearing examiner makes a recommendation to the City Council.</p> <p><u>Step 2</u> City Council action (but no public hearing required).</p>

<p>5. SEPA Appeals*</p>	<p><u>Procedural SEPA Appeal</u> Procedural SEPA appeals (i.e. whether a DNS or mitigated DNS is appropriate) are heard simultaneously with the public hearing on underlying application for a city permit. If underlying permit application does not include a public hearing, the SEPA appeal is heard by the hearing examiner. Municipal code says hearing examiner decision on SEPA appeal may be appealed to City Council.*</p> <p><i>* The City's hearing examiner has ruled that the current SEPA appeal process is not consistent with State law. Municipal code allows two local SEPA appeals; Hearing examiner has ruled State law limits local SEPA appeals to one appeal. This should be rectified regardless of whether other amendments discussed in this memorandum are pursued.</i></p> <p><u>Substantive SEPA Appeal</u> Heard by the City Council. (Substantive SEPA appeals relates to the City's use of policies to support/require specific mitigation measures.)</p>	<p>Removes the distinction between Procedural and Substantive SEPA appeals.</p> <p>SEPA appeals to be combined with the open record public hearing (if one exists) on the underlying permit – primarily the hearing examiner. Hearing examiner also would hear a SEPA appeal if there is no public hearing associated with an underlying permit.</p>
<p>6. Appeals of Denial of Business License Application</p>	<p>Appeal of business license denials requires a city council public hearing. (LMC 5.04.030)</p>	<p>Appeals of business license denials would be subject to Hearing Examiner public hearing/final decision.</p>

PERMIT PROCESS COMPARISON TABLE

DRAFT

City	Decision Process	Permit Type					
		Conditional Use Permit (CUP)	Full Subdivision (PLT) 1	Rezone (RZN) 1	Variance (VAR)	Environmental Review (SEPA)	Business Licensing
Lynnwood	Permit Decision	HE	HE	PC	HE	Admin	Admin
	1st Appeal	CC	Court	Court	CC	2: CC* or HE**	CC
	2nd Appeal	Court			Court	CC**	
Bothell	Permit Decision	3: HE	3: HE	PC	HE	4	Admin
	1st Appeal	Court	Court	Court	Court		CC
	2nd Appeal						Court
Edmonds	Permit Decision	HE	HE	PC	HE	Admin	Admin
	1st Appeal	CC	Court	Court	CC	HE	CC
	2nd Appeal	Court			Court	Court	
Everett	Permit Decision	HE	Admin	HE	HE	Admin	Admin
	1st Appeal	Court	Court	Court	Court	4	CC
	2nd Appeal					Court	
Mill Creek	Permit Decision	Admin	PC	PC	PC, 5	Admin	Admin
	1st Appeal	CC	CC	CC	CC	CC	
	2nd Appeal	Court	Court	Court	Court	Court	
Mountlake Terrace	Permit Decision	HE	PC	PC	HE	Admin	Admin
	1st Appeal	Court	Court	Court	Court	HE	HE
	2nd Appeal					Court	Court
Mukilteo	Permit Decision	HE	HE	PC	HE	Admin	Admin
	1st Appeal	Court	Court	Court	Court	4	CC
	2nd Appeal						Court
Shoreline	Permit Decision	Admin	Admin	PC	Admin	Admin	Admin
	1st Appeal	HE	HE	Court	HE	HE	HE
	2nd Appeal	Court	Court		Court	Court	Court

Admin = Administrative

CC = City Council

HE = Hearing Examiner

PC = Planning Commission (or equivalent)

Note 1: Preliminary decision hearing body; Council passes adopting legislation

Note 2: There are two types of appeals: substantive, which relate to the City’s use of policies to support/require specific mitigation measures, and procedural (such as whether a DNS or MDNS is appropriate).

* Procedural appeals are heard simultaneously with the public hearing on underlying application for a city permit by City Council.

** If the underlying permit application does not include a public hearing, the SEPA appeal is heard by the hearing examiner. Municipal code says the hearing examiner decision on SEPA appeal may be appealed to City Council. The City’s Hearing Examiner has ruled that the current SEPA appeal process is not consistent with State law. Municipal code allows two local SEPA appeals; Hearing examiner has ruled State law limits local SEPA appeals to one appeal. This should be rectified regardless of whether other amendments discussed in this memorandum are pursued.

Note 3: Unless delegated by the council to the planning commission or shoreline board, where applicable for specific applications involving new regulations.

Note 4: SEPA review is concurrent with the underlying permit and utilizes the appeal process of the underlying permit.

Note 5: Mill Creek is currently researching amendments to change this to a Planning Board or Hearing Examiner in the future. Variances for yard reductions are determined administratively.

Lynnwood Planning Commission
Meeting of July 9, 2009

Staff Report

Agenda Item: F-2

Meadowdale Gap MUGA Boundaries

- Public Hearing
- Joint Public Meeting
- Work Session
- Other Business
- Information
- Miscellaneous

Staff Contact: Kevin Garrett, Community Development Department

Introduction

As part of the Annexation Program, the Mayor and staff have been talking with Mukilteo about an agreement on a common Municipal Urban Growth Area (MUGA) boundary for the two cities in the area known as the “Meadowdale Gap”. This area is located west of 52nd Ave. W., south of 148th St. SW / Norma Beach Road, and north of Lunds Gulch. At present, this area is not included in any city’s MUGA.

On January 19, 2010, the City Council referred the matter to the Planning Commission for a recommendation on the common MUGA boundary. At this meeting, staff will review the history and status of the Gap and the discussions with the City of Mukilteo, and we will discuss a process for making a recommendation on a common MUGA boundary to the City Council.

Attachment

City Council Agenda Report – January 19, 2010

CITY COUNCIL ITEM D

CITY OF LYNNWOOD Community Development

TITLE: Interlocal Agreement with Mukilteo: Meadowdale Gap

SUMMARY:

The Meadowdale Gap is an unincorporated area on the north side of Lund's Gulch that is not included in any city's Municipal Urban Growth Area (MUGA). Both cities could provide municipal services to the area. The Cities have developed an option that would split the area roughly in half while supporting good planning, neighborhood preservation, service provision and protection of Lund's Gulch.

The Cities believe that it is their mutual advantage as well as the advantage of area residents, that they come to an agreement on how to divide and support this area. If this is accomplished, it will be possible to quickly have the agreement recognized by Snohomish County and support annexation in the near future. Failure to come to such an agreement would result in continued uncertainty for area residents, a protracted and possibly costly dispute that be difficult to resolve and continued status of the area as an unincorporated island that is difficult and expensive for the County to serve. Staff at the cities of Lynnwood and Mukilteo are recommending including half of the Gap in Mukilteo's MUGA and half in Lynnwood's MUGA. Including the area in the cities' MUGAs sets the stage for annexing it into the two cities.

ACTION:

Discussion only, at this work session.

BACKGROUND:

Over the last few years, the City has been considering annexing most of the City's Municipal Urban Growth Area (MUGA, or potential annexation area). Annexation of the Maple Precinct was completed last summer; the NES annexation is moving toward an annexation election later this year, and annexation of the remaining piece of the Perrinville area is pending completion of the building that's currently under construction. During discussion of these annexations with County staff, they asked the City (and the City of Mukilteo) to consider annexing an area known as the Meadowdale Gap. This residential area is located south of 148th St. SW, west of 52nd Ave. W and north of Lund's Gulch (see attached map). When the MUGAs were mapped (in 2001-2), this area was not included in the MUGA of either city. The City expanded our MUGA into the Meadowdale area in 2007, thereby indicating our interest in annexing all or part of this area. At that time, the City of Mukilteo also indicated an interest in annexing all or part of the Gap. Most of the land in the Meadowdale Gap is developed with single family residences. Stormwater run-off from the southern part of the area flows into Lund's Gulch; run-off from the rest of the area flows into the Puget Sound.

PREVIOUS COUNCIL ACTIONS:

On April 9, 2007, the City Council adopted Resolution 2007-14 initiating consideration of annexation of the City's MUGA. On September 24, 2007, the City Council adopted Ordinance No. 2695 adding the Meadowdale Gap to the City's MUGA.

KEY FEATURES:

During 2008-09, Lynnwood and Mukilteo Mayors and staff discussed including portions of the Meadowdale Gap in the MUGAs of both cities. Including a portion of the Gap in each city's MUGA would enable the cities to initiate annexation of the Gap. Identifying a boundary between the two cities' MUGAs was guided by following principles:

- Generally divide population and land area of Gap evenly between cities;
- Keep residences and local streets providing access to those residences in same city;
- Divide the area in a manner that recognizes existing neighborhoods and their orientation towards both cities;
- Support reasonable and efficient provision of urban services;
- Control any impact to Lund's Gulch through joint review of future development proposals in the Gap;
- Allow Lynnwood to continue its efforts to own and protect parcels comprising the Gulch and potentially for the City to assume responsibility for the County park should that become possible in the future;
- Equitable sharing of responsibility for maintenance of arterials providing access to the Gap (for example, 148th St. SW).

These discussions have produced a draft interlocal agreement (ILA) between the two cities (see attached). This ILA maps the future boundary between the two cities and provides for joint review of future private development and public projects in the Gap. At this work session staff will discuss this draft ILA with the City Council. Action on the ILA is scheduled for the January 25 regular business meeting.

During preparation of the maps for this agreement, staff identified a couple minor errors in the original Lynnwood MUGA boundary in this area. This agreement will correct those errors. Staff will identify these corrections at the work session.

ADMINISTRATION RECOMMENDATION:

Discussion only; at this work session.

DOCUMENT ATTACHMENTS**Description:**

- [Draft Interlocal Agreement](#)
- [Map of Meadowdale Gap and MUGAs](#)

Type:

- Backup Material
- Backup Material

**AN INTERLOCAL AGREEMENT BETWEEN
THE CITY OF LYNNWOOD
AND
THE CITY OF MUKILTEO
REGARDING ANNEXATIONS AND THE ESTABLISHMENT OF A
MUNICIPAL URBAN GROWTH AREA BOUNDARY FOR AN AREA
COMMONLY REFERRED TO AS THE MEADOWDALE GAP**

This AGREEMENT between the City of Lynnwood, a Washington municipal corporation (“Lynnwood”), and the City of Mukilteo, a Washington municipal corporation (“Mukilteo”) (collectively the “Cities”), is dated this ____ day of January, 2010.

Whereas, Lynnwood and Mukilteo have each identified Municipal Urban Growth Areas (MUGAs) adjacent to their corporate boundaries; and

Whereas, Snohomish County Tomorrow has included and adopted the Cities’ MUGAs in the Countywide Planning Policies; and

Whereas, Lynnwood and Mukilteo each intend to initiate annexations of territory within their respective MUGAs; and

Whereas, the historical delineation of Lynnwood’s and Mukilteo’s existing MUGAs resulted in the creation of an unincorporated “island” commonly called the “Meadowdale Gap” (also known as “Norma Beach Gap”), which area is not currently claimed by either of the Cities; and

Whereas, the Meadowdale Gap is located entirely within the Snohomish County Southwest Urban Growth Area; and

Whereas, under the Growth Management Act areas like the Meadowdale Gap should be annexed by cities as cities are the units of local government most logical and appropriate to provide a full range of urban services; and

Whereas, it is in the long term interests of the Cities, Snohomish County and residents of the Meadowdale Gap to include the Meadowdale Gap in the Municipal Urban Growth Areas of Mukilteo and Lynnwood; and

Whereas, the preservation of Lunds Gulch and its environmental features is of paramount importance to the Cities. Both Cities have extensive experience with managing development in and near gulches and with landslide, steep slope and related sewer and stormwater issues. Both Cities also have similar Critical Area Ordinances and stormwater codes that have regulations to protect gulches and both Cities have Comprehensive Plans with future land use designations that are intended to retain single-family land uses in the Meadowdale Gap area due to access and steep slope issues; and

Whereas, the location of Lunds Gulch drainage area, including its associated environmental features and upland areas, does not conform to future boundaries of the Cities and both Cities have mutual interests in the protection of the environmental lands in Lunds Gulch and the Meadowdale Gap; and

Whereas, the Cities desire to cooperate with each other and to facilitate each other's annexation proposals;

Now, therefore, the Cities agree as follows:

Section 1. Meadowdale Gap shall be incorporated into each City's respective MUGA in the manner represented by the map attached as Exhibit A and incorporated herein by this reference.

Section 2. Prior to the annexation of any portion of the area identified in Exhibit A, the Cities shall enter into an interlocal agreement providing for the shared maintenance, repair and improvement costs for 152nd St. upon annexation of the 152nd St. SW (from 52nd Avenue West to 60th Avenue West) and/or 52nd Ave., West (from 148th Street SW to 152nd Street SW). The agreement shall establish an equitable share of 50% (or nearly approximate to) of the rights-of-way into one and/or both of the Cities, and for the maintenance, repair and improvement costs incurred for the annexed right-of-way according to a street maintenance plan developed by the Cities.

The Cities agree to provide opportunities for staff review and input on proposed development activities within the area identified in Exhibit A. Said development activities shall include full subdivisions, short plats, shoreline substantial development permits (including shoreline conditional use permits, shoreline variances and shoreline exemptions), comprehensive plan amendments and rezones. Each City shall provide notice of these development activities to one another and shall consider the input of the other City in developing recommendations and making decisions. The Cities also agree to transmit to one another SEPA documents for non-exempt actions within the Meadowdale Gap area for review and comment prior to making a threshold determination for an action.

Section 3. The Cities will provide opportunities for staff review and input on public projects and proposed revisions to regulations that may reasonably be expected to have an effect on the environment of Lunds Gulch, including, but not limited to, critical areas regulations, stormwater regulations, and grading regulations. Each City shall provide notice of such projects and proposals to one another and shall consider the input of the other City in taking action on such proposals.

Section 4. The Cities will support each other's efforts to secure grant funding to acquire land and/or development rights and to undertake environmental restoration projects benefiting the Lunds Gulch drainage basin as generally depicted on Exhibit A.

Section 5. This Agreement shall be interpreted and construed according to the law of the State of Washington. The section numbers of this Agreement are for convenience or reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections. Any judicial action to enforce this Agreement shall be brought in Snohomish County, Washington.

Section 6. Any notice to be given, or document to be delivered by either party to the other, shall be delivered in person or mailed by certified mail and addressed to either City at the following addresses:

Lynnwood: Attn: City Clerk
 City of Lynnwood
 19100 44th Ave W.
 Lynnwood, WA 98036

Mukilteo: Attn: City Clerk
 City of Mukilteo
 11930 Cyrus Way
 Mukilteo, WA 98275

Either party may, by written notice to the other, designate a different address or designee.

Section 7. This Agreement shall not be construed to provide any benefits to third parties.

Section 8. Each party shall be solely responsible for the acts or failure to act of its employees occurring during or arising in any way out of the performance of this Agreement, and shall release, defend and indemnify the other party, its officers and employees, with respect to all claims, losses, expenses and damages incurred as a result of the party's acts or omission related to the performance of this Agreement.

Section 9. This Agreement shall take effect on the last date approved by both parties and shall remain in effect until modified by mutual written agreement of the parties.

Section 10. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Section 11. This Agreement constitutes the entire agreement between the parties with respect to the framework issues for annexations. It is anticipated that the parties will enter into further interlocal agreements on specific subject areas, as indicated in the text of the Agreement.

Section 12. This Agreement may not be amended, modified or changed, nor shall any provision hereof be deemed waived, except by an instrument in writing signed by the

party against whom enforcement of any such waiver, amendment, change, or modification is sought.

Section 13. This Agreement may be signed in counterparts and, if so signed, shall be deemed one integrated agreement.

IN WITNESS WHEREOF, the parties have signed this Agreement, effective on the latest date indicated below.

CITY OF MUKILTEO

CITY OF LYNNWOOD

By _____
Joe Marine, Mayor

By _____
Don Gough, Mayor

Date _____

Date _____

ATTEST:

ATTEST:

Christina J. Boughman, City Clerk

John Moir, Finance Director

Approved as to form:

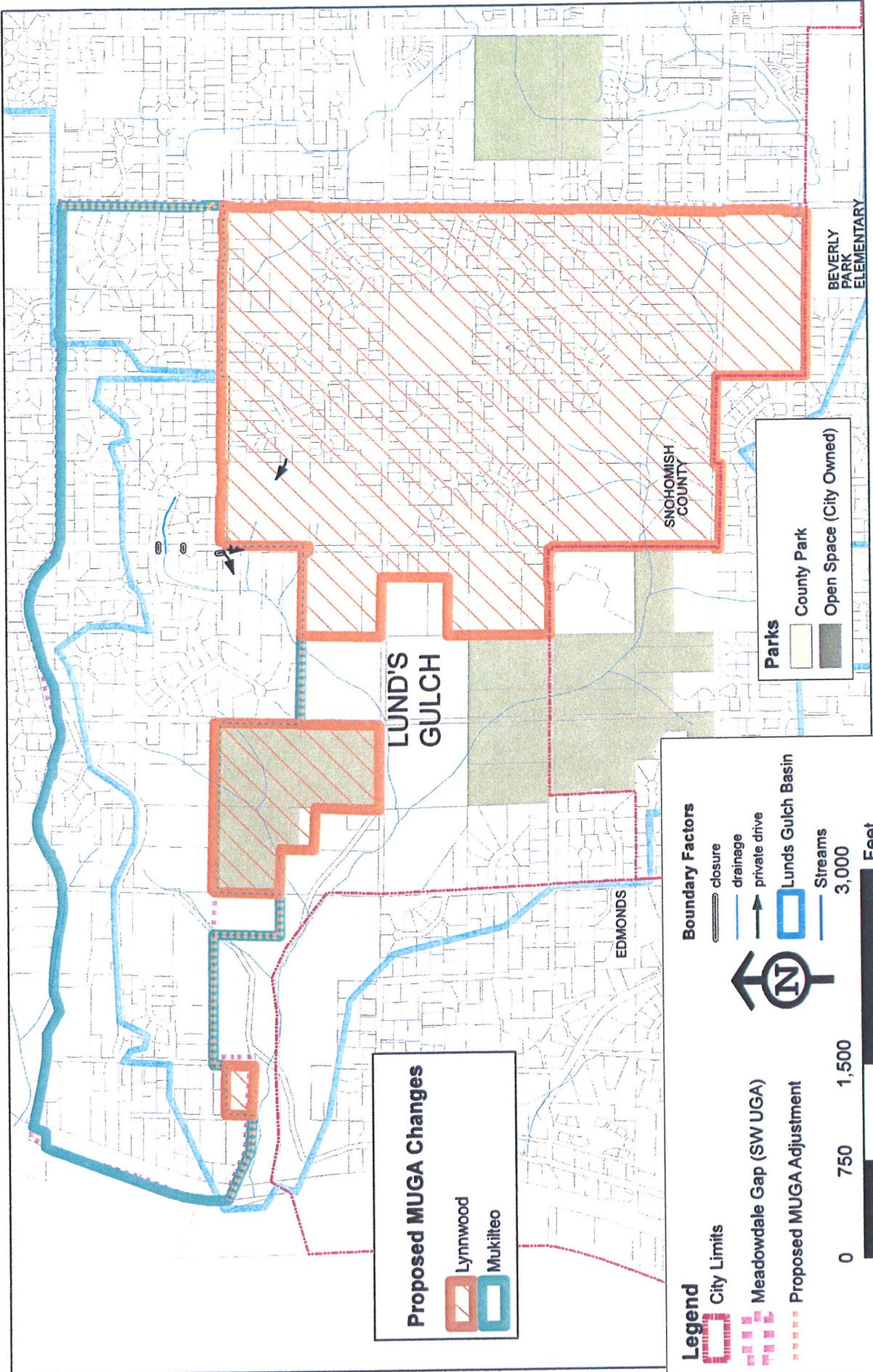
Approved as to form:

Office of the City Attorney

Office of the City Attorney

Attorney for the City of Mukilteo

Attorney for the City of Lynnwood



Proposed MUGA Changes

- Lynnwood
- Mukilteo

Legend

- City Limits
- Meadowdale Gap (SW UGA)
- Proposed MUGA Adjustment

Boundary Factors

- closure
- drainage
- private drive
- Lunds Gulch Basin
- Streams
- 3,000
- 1,500
- 0
- Feet

Parks

- County Park
- Open Space (City Owned)

SNOHOMISH COUNTY

LUND'S GULCH

EDMONDS

BEVERLY PARK ELEMENTARY