CITY OF EDGEWOOD, WASHINGTON
ORDINANCE NO. 17-0494

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING AN INTERIM ZONING ORDINANCE RELATING TO QUASI-JUDICIAL MAP AMENDMENTS, REPEALING SECTION 18.40.110 OF THE EDGEWOOD MUNICIPAL CODE; DESCRIBING THE ELEMENTS OF A COMPLETE APPLICATION, THE CRITERIA FOR APPROVAL, DEADLINE FOR ISSUANCE OF A FINAL DECISION, AND EXPIRATION OF THE APPROVAL, SAID INTERIM ZONING REGULATIONS SHALL BE IN EFFECT UNTIL THE CITY ADOPTS "PERMANENT" ZONING REGULATIONS ON THE SAME SUBJECT, THIS INTERIM ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY, SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE INTERIM ZONING ORDINANCE, AND ESTABLISHING THE DATE OF A PUBLIC HEARING ON THE INTERIM ZONING ORDINANCE

WHEREAS, the City's regulations relating to quasi-judicial rezones in Edgewood Municipal Code (EMC) Section 18.40.110 are unclear and require modification; and

WHEREAS, Section 36.70A.390 of the Revised Code of Washington authorizes the City Council to adopt an interim zoning ordinance, to be effective for a period of up to six months provided that a public hearing is held within at least sixty days of its adoption; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDGEWOOD DOES ORDAIN AS FOLLOWS:

Section 1. Section 18.40.110 of the Edgewood Municipal Code is hereby repealed.

Section 2. A new Section 18.40.110 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.110 Quasi-judicial Map Amendments -- Purpose. The purpose of Sections 18.40.110 through 18.40.117 is to establish procedures for amendment of the City's Official Zoning Map. The Official Zoning Map is the map of the City which depicts the zoning designations on property, and implements or gives effect to the Comprehensive Plan. Quasi-judicial amendments are those amendments of the Official Zoning Map that involve the application of existing policy to a specific development application, and do not involve the adoption of new policy (which occurs through legislative decisions).
Section 3. A new Section 18.40.111 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.111 Administration of Quasi-Judicial Map Amendments.

A. Quasi-Judicial Map Amendments, Generally. The Director is authorized and directed to administer the provisions of this Chapter relating to Quasi-Judicial Map Amendments. The authority to hold a public hearing and provide a final recommendation is granted to the Hearing Examiner and the City Council has the authority to make the final decision after a closed record hearing. If approved, the City Council will adopt an ordinance amending the City’s Official Zoning Map.

B. Development Agreement. The City shall not process any Quasi-Judicial Map Amendments with Development Agreements under the interim zoning ordinance.

Section 4. A new Section 18.40.112 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.112 Procedure for Quasi-Judicial Map Amendments. The following steps shall be followed in the processing of Quasi-Judicial Amendments.

A. Determination of Complete Application;
B. Notice of Application;
C. SEPA;
D. Determination of Consistency;
E. Notice of Public Hearing;
F. Preparation of Staff Report;
G. Public Hearing; and
H. Issuance of Recommendation to City Council;
I. City Council Closed Record Hearing
J. If Quasi-Judicial Map Amendment is adopted, an ordinance is adopted to change the Official Land Zoning Map.

Section 5. A new Section 18.40.113 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.113 Requirements for a Complete Quasi-Judicial Map Amendment Application. The following materials shall be submitted to the City for a complete Quasi-Judicial Amendment (site specific rezone):

A. Application Form: Seven (7) copies of the completed application form;
B. Date, name, address, telephone number and e-mail of the applicant;
C. Name, address, telephone number and e-mail of the owner of the property identified in the application;
D. Legal description of the subject property;
E. Identification of all sections of the comprehensive plan policies and map addressing the property subject to the application, including identification of the comprehensive plan map designation;
F. Description of any proposed development of the property under the proposed zoning designation;
G. Any plans, information and/or studies that accurately depict existing and proposed use(s) and improvements;
H. An explanation of the rationale for the proposed amendment;
I. An explanation of how the proposed amendment and associated development proposal(s), if any, conform to, conflict with, or relate to the criteria set forth in Section 18.40.114, as applicable;
J. A completed SEPA checklist including the supplement sheet for nonproject actions; and
K. A title report dated within 30 days of submittal for the subject property.
L. The application fee, as established by the City.

Section 6. A new Section 18.40.114 is hereby added to the Edgewood Municipal Code, which shall read as follows:


A. The following general rules apply to Quasi-Judicial Map Amendment applications:

1. There is no presumption of validity favoring the action of rezoning;
2. The proponents of the rezone have the burden of proof to demonstrate that conditions have changed since the original zoning; and
3. The rezone must bear a substantial relationship to the public health, safety, morals or welfare.

B. Implementation of the general rules in subsection A above involves analysis of the following criteria in order to approve a Quasi-Judicial Map Amendment:

1. Consistency with the existing comprehensive plan (the comprehensive plan that has been approved and is in place at the time the application was submitted);
2. Consistency with the purpose of the proposed zoning district;
3. Consistency between zone criteria and area characteristics;
4. Zoning history and precedential effect. Previous and potential zoning changes both in and around the area identified in the application shall be examined;

5. The impact of more intense zones on less intense zones or industrial and commercial zones on other zones shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred. Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:
   a. Natural features including but not limited to topographical breaks, lakes, streams, and ravines;
   b. Major traffic arterials and railroad tracks;
   c. Distinct change in street layout and block orientation;
   d. Open space and greenspaces.

6. Zone boundaries.
   a. In establishing boundaries, the following element shall be considered:
      i. Physical buffers as described in subsection A(5) above; and
      ii. Platted lot lines.
   b. Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses.

7. Height limits. In general, height limits greater than thirty five (35) feet should be limited to areas where higher height limits would be consistent with the comprehensive plan or where the designation would be consistent with the existing built character of the area;

8. Impact Evaluation. The evaluation of the changes that would result from approval of the application shall consider the possible negative and positive impacts on the affected area and its surroundings. Factors to be examined include, but are not limited to, the following:
   a. Housing;
   b. Public services;
   c. Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows and energy conservation;
   d. Pedestrian safety;
   e. Manufacturing activity;
   f. Employment activity;
   g. Character of areas recognized for architectural or historic value;
   h. Shoreline view, public access and recreation;
i. Service capacities. Development which can be reasonably anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including: street access to the area; street capacity in the area; transit service; parking capacity; utility and sewer capacity; shoreline navigation.

9. Changed Circumstances. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone designations in the Zoning Code;

10. Critical Areas. If the area is located in or adjacent to a critical area, the effect of the rezone on the critical area shall be considered.

Section 7. A new Section 18.40.115 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.115 Conditioning. A Quasi-Judicial Map Amendment may be conditioned based on the criteria set forth in 18.40.114 and RCW 43.21C.060 (SEPA). Conditions shall be included in a Development Agreement recorded against the subject property.

Section 8. A new Section 18.40.116 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.116 Deadline for Final Decision. A Quasi-Judicial Map Amendment shall be approved, approved with conditions or denied within one hundred-twenty (120) days after the application has been determined complete.

Section 9. A new Section 18.40.117 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.117 Expiration.

A. A Quasi-Judicial Amendment approval with or without a development agreement shall expire three years from the effective date of the approval, unless;
   1. If, prior to the end of the three-year period, a complete application is filed for a building permit that is subsequently issued; or
   2. Another time for expiration is specified in the final decision or development agreement.

B. When a Quasi-Judicial Amendment expires, the Official Land Use Map shall be amended so that the zoning designation in effect immediately prior to the approval shall re-apply to the subject property, except as otherwise expressly provided in the original ordinance adopting the Quasi-Judicial Amendment.
Section 10. Purpose of Interim Zoning Ordinance. The purpose of this Interim Zoning Ordinance is to allow the City to consider and process applications for Quasi-Judicial Map Amendments during the interim period until the City drafts and considers a new "permanent" or interim zoning ordinance adopting "permanent" regulations on the same subject. The City will consider adoption and enforcement of such an ordinance during the next six months, while this Interim Zoning Ordinance is in effect.

Section 11. Interim Ordinance Adopted. This Interim Ordinance is immediately adopted for a period of six months in order to provide the City adequate time to:

A. Review a new interim or "permanent" zoning ordinance to regulate Quasi-Judicial Map Amendments. It is likely that the City Staff will begin work starting with this Ordinance.

B. During the interim period, the City expects to hold a public hearing(s) on the draft ordinance, perform SEPA, obtain public input on such ordinances, allow the Planning Commission to make recommendations to the City Council, for the City Council to review the draft ordinance and, if desired, to adopt new regulations on Quasi-Judicial Map Amendments. This work will begin immediately.

Section 12. Effect of Interim Zoning Ordinance. This Interim Zoning Ordinance will allow the City, during the next six months, to accept applications for Quasi-Judicial Map Amendment applications and to process them under the regulations in this ordinance. Those applications conforming to the regulations in this ordinance may be approved and those that are not consistent with this ordinance may be denied. Issuance of permits and/or appeals of any decisions under this Interim Zoning Ordinance shall proceed in the same manner as set forth in chapter 18.40 EMC.

Section 13. Duration of Interim Zoning Ordinance. This Interim Zoning Ordinance shall be immediately effective upon adoption. As long as the City holds a public hearing on the Interim Zoning Ordinance and adopts findings and conclusions in support of the Interim Zoning Ordinance (as contemplated by Section 14 herein), the Interim Zoning Ordinance shall not terminate until six (6) months after the date of adoption, unless repealed earlier by the Council, or at the time when all of the events described in Section 11 have been accomplished, whichever is sooner.

Section 14. Public Hearing on Interim Zoning Ordinance. Pursuant to RCW 36.70A.390 and RCW 35.63.200, the City Council shall hold a public hearing on this interim zoning ordinance within sixty (60) days of its adoption, or before April 25, 2017. During the next Council meeting immediately following the public hearing, the City Council shall adopt findings of fact on the subject of this interim zoning ordinance and either justify its continued imposition or repeal this ordinance.

Section 15. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this interim zoning ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum. If this interim zoning ordinance is not adopted immediately, applications for
Quasi-Judicial Map Amendments zone may be submitted with applications for permits subject to the vested rights doctrine. If this occurs, the City may be required to consider both applications as vested, and process them under the City’s old regulations, leading to confusion and possible incompatibility of regulations/development. Therefore, the interim zoning ordinance must be adopted immediately as an emergency measure to protect the public health, safety and welfare, and to allow the submission of applications to the City for Quasi-Judicial Map Amendments while the City is working on “permanent” regulations covering this subject.

Section 16. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful 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 17. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 18. Effective Date. This Ordinance shall take effect and be in full force immediately upon passage, having received the vote of a majority plus one of the entire Council.


[Signature]
Daryl Eidinger, Mayor

AUTHENTICATED:

[Signature]
Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

[Signature]
Carol Morris, City Attorney