ORDINANCE NO. 17-0500

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING A NEW PERMANENT 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, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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

WHEREAS, Section 36.70A.390 of the Revised Code of Washington authorizes the City Council to adopt an interim zoning ordinance; and

WHEREAS, the City Council approved the interim zoning ordinance at the February 28, 2017 regular Council meeting and established a date for a Public Hearing before themselves on March 28, 2017; and

WHEREAS, the City’s SEPA responsible official determined that the zoning ordinance update was exempt from SEPA pursuant to WAC 197-11-800(19) as a procedural type code change without effect on the environment; and

WHEREAS, through the interim ordinance, the Planning Commission reviewed the interim regulations at the March 20, 2017 regular Planning Commission meeting; and

WHEREAS, the Planning Commission recommended that the regulations be adopted as permanent regulations following public testimony at a public hearing on April 3, 2017; and

WHEREAS, the City Council reviewed the Planning Commission recommendation and DRAFT permanent zoning ordinance regulations at the May 2, 2017 Study Session; and

WHEREAS, the City Council moved forward the first reading of the Ordinance at the May 9, 2017 regular Council meeting; and

WHEREAS, the City Council held a public hearing May 23, 2017 to receive public testimony regarding the DRAFT permanent zoning ordinance; and

WHEREAS, this Ordinance was presented to the City Council for second reading on May 23, 2017; and
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO 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 Section 18.40.110 of the Edgewood Municipal Code is hereby repealed.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:

18.40.114 Criteria for Approval of Quasi-Judicial Map Amendment.

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.** Repeal. The interim zoning ordinance, No. 17-0494 is repealed on the date that this
ordinance is effective.

**Section 11.** 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 12.** Publication. This Ordinance shall be published by an approved summary consisting
of the title.

**Section 13.** 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.

**PASSED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD THIS 23RD DAY
OF MAY, 2017.**

Daryl Eidinger, Mayor

AUTHENTICATED:

Rachel Pitzel, City Clerk
APPROVED AS TO FORM:

Carol Morris, City Attorney

PASSED BY THE CITY COUNCIL: 05/23/17
PUBLISHED: 05/25/17
EFFECTIVE DATE: 05/30/17
ORDINANCE NO: 17-0500