

ORDINANCE NO. 330

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, REPLACING TEXT INADVERTANTLY DELETED FROM TITLE 19 CHAPTER 85 OF THE UNIVERSITY PLACE MUNICIPAL CODE REGARDING VARIANCE CRITERIA AND RECOGNITION OF PREVIOUSLY GRANTED PERMITS FOR PUBLIC FACILITES.

WHEREAS, the University Place City Council adopted a GMA Comprehensive Plan on July 6, 1998 which became effective July 13, 1998; and,

WHEREAS, the Revised Code of Washington 36.70A.040 requires the City to adopt development regulations which are consistent with and implement the comprehensive plan; and

WHEREAS, the Planning Commission held more than 20 public meetings including two public hearings on the zoning code before recommending by resolution a zoning code which included the text which was latter inadvertently deleted to the City Council on August 16th 2000; and

WHEREAS, the proposed draft zoning code including the text that was latter inadvertently deleted was submitted for State agency 60-day review period pursuant to RCW 36.70A.106 that concluded November 30, 2000 and the City received no comments from state agencies; and

WHEREAS, state agencies and surrounding jurisdictions were provided a SEPA checklist for comment in accordance with SEPA requirements; and

WHEREAS, on November 27, 2000 the City issued a SEPA Determination of Nonsignificance with a 14-day comment period ending on December 4, 2000 and appeal deadline of December 18, 2000; and

WHEREAS, the City Council on January 16, 2001 held a public hearing to consider public comments and questions; **NOW THEREFORE**

THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Title 19 Chapter 85 Discretionary Land Use Permits

Section 19.85.030 University Place Municipal Code is hereby amended to include the full text of decision criteria 19.85.030(D)(3-7) (Exhibit "A").

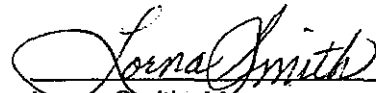
Section 2. Title 19 Chapter 85 Discretionary Land Use Permits Section 19.85.030 University Place Municipal Code is hereby amended to include the full text of Recognition of Previously granted permits for Public Facilities 19.85.050(G) (Exhibit "B").

Section 3. Copy to be Available One copy of this ordinance shall be available in the office of the City Clerk for use and examination by the public.

Section 4. Severability If any section, sentence, clause, or phrase of this ordinance shall 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 5. Publication and Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect five days after publication.

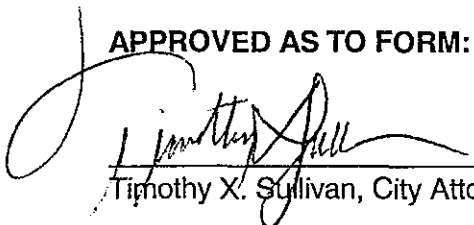
PASSED BY THE CITY COUNCIL ON DECEMBER 3, 2001


Lorna Smith, Mayor

ATTEST:


Catrina Craig, City Clerk

APPROVED AS TO FORM:


Timothy X. Sullivan, City Attorney

Date of Publication: 12-05-01

Effective Date: 12-10-01

EXHIBIT A

19.85.030 Variances.

- A. *Purpose.* The purpose of this section is to provide a means of altering the requirements of this code in specific instances where the strict application of those requirements would deprive a property of privileges enjoyed by other properties with the identical regulatory zone because of special features or constraints unique to the property involved.
- B. *Administrative and Examiner Variances.* There are two types of variances hereby established. A "minor" or administrative variance, and a "major" or Examiner variance. An administrative variance is one, which is within 25 percent of the standard contained in the code. An Examiner variance is one that is greater than 25 percent of the standard contained in the code. Both types are based on the same decision criteria, as found in subsection (D) below.
- C. *Granting of Variances.* The Director and the Examiner shall have the authority to grant a variance from the provisions of this code, when, in their opinions, the conditions as set forth in subsection (D) herein have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this code so that the spirit of this code shall be observed, public safety and welfare secured, and substantial justice done.
- D. *Decision Criteria.* Before any variance may be granted, it shall be shown that the applicant demonstrates all of the following:
1. That the granting of such variance will not adversely affect the comprehensive plan;
 2. That there are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to the other property or class of use in the same vicinity and zone;
 3. That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;
 4. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvement in such vicinity and zone in which the subject property is located;
 5. That strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
 6. That the need for the variance is not the result of deliberate actions of the applicant or property owner;

7. That the variance does not relieve an applicant from any of the procedural provisions of this title;
 8. That the variance does not relieve an applicant from any standard or provision that specifically states that no variance from such standard or provision is permitted;
 9. That the variance does not relieve the applicant from conditions of approval established during prior permit review;
 10. That the variance does not allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located;
 11. That the variance does not allow the creation of lots or densities that exceed the base residential density of the zone;
 12. That the variance is the minimum necessary to grant relief to the applicant; and
 13. That the variance does not relieve the applicant from any of the provisions of the critical areas code, except for the required buffer widths.
- E. *Burden of Proof.* The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection (D) of this section, Decision Criteria.
- F. *Approval.* The Director or Examiner may approve an application for a conditional use permit, approve with additional requirements above those specified in this code or require modification of the proposal to comply with specified requirements or local conditions.
- G. *Denial.* The Director or Examiner shall deny a conditional use permit if the proposal does not meet or cannot be conditioned or modified to meet subsection (D) of this section, Decision Criteria.

EXHIBIT B

19.85.050 Public Facilities Permit.

- A. *Purpose.* The purpose of this section is to establish decision criteria and procedures for the permitting of public facilities, and to provide coordinated review with local and state agencies. Certain public facilities provide necessary services to other uses but are deemed unique due to factors such as siting criteria, size, technological processes, and requirements for municipal comprehensive facility planning and budgeting. These uses require a special degree of review to incorporate and document consistency with the comprehensive plan, facility plans, or capital improvement programs, and to assure compatibility with adjacent uses.
- B. *Decision Criteria.* The Examiner shall review public facility permit applications (PFP) in accordance with the provisions of this section and may approve, approve with conditions, modify, modify with conditions, or deny the public facility permit. The Examiner may increase, reduce, or modify bulk requirements, off-street parking and loading requirements, and impose design standards as conditions of granting the permit.
1. *Required Findings.* The Examiner may approve a public facility permit only if all of the following findings can be made regarding the proposal and are supported by the record:
- a. That the granting of the proposed public facilities permit will not:
 - i. be detrimental to the public health, safety, and general welfare;
 - ii. be injurious to the property or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located; nor
 - iii. adversely affect the established character of the surrounding vicinity;
 - b. That the proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.
 - c. That the granting of the proposed public facilities permit is consistent and compatible with the intent of the goals, objectives and policies of the city comprehensive plan; comprehensive general or utility plans for sewage, storm water, water, solid waste, park and recreation, transportation or other facility plans; capital facility plan or capital improvement programs; and any implementing regulation;
 - d. That the facility site and environmental designs:
 - i. Meet local and state siting criteria and design requirements adopted as standard mitigation and as administrated by local and state agencies; and

- ii. Have been reviewed and commented upon by local and state agencies responsible for issuing permits;
 - e. That all conditions to mitigate the site specific impacts of the proposed use which were identified through SEPA review can be monitored and enforced;
 - f. That all yards, open spaces, landscaping, walls and fences, and other buffering features are properly provided to mitigate the impacts of the facility to make it compatible with character of the surrounding area; and
 - g. That the public facilities permit will be supported by, and not adversely affect, adequate public facilities and services or that conditions can be imposed to lessen any adverse impacts on such facilities and services.
- C. *Burden of Proof.* The applicant has the burden of proving that the proposed public facility meets all the criteria in subsection (B)(1) of this section.
- D. *Approval.* The Hearings Examiner may approve an application for a public facilities permit, approve with additional requirements above those specified in this code or require modification of the proposal to comply with specified requirements or local conditions.
- E. *Denial.* The Examiner shall deny a public facility permit if the proposal does not meet or cannot be conditioned or modified to meet the required findings in subsection (B)(1) of this section.
- F. *Remodels and Expansions.* For a facility with a public facility permit, remodeling, additions or expansions to the facility shall not require an amendment to the permit if the additions or expansions were included in the original public facility permit.
- G. *Recognition of Previously Granted Permits for Public Facilities.* Any previously granted development permit, zoning permit or otherwise lawfully established public facility and/or activity, which existed prior to the effective date of these regulations, are hereby acknowledged and reaffirmed by these provisions.

These previously granted authorities include but are not limited to unclassified use permit, conditional use permit, nonconforming use permit, planned development district, planned unit development, approved site plan, recorded memorandum of agreement, site plan review (SPR), administrative site plan review (ASPR), conditional change in zone, variances, and similar permits and approvals.

Each of these previously granted authorities are hereby defined as an existing and approved public facility permit under these regulations, subject to any specific conditions imposed on the approval of said authority. Any public facility and/ or activity which does not possess one of these authorities, but has been legally established prior to the effective date of these regulations, shall be defined as an existing and approved public facility permit, but shall be subject to the limitations imposed on all legally established uses under the bulk regulations

and special use design standards until the specific public facility permit is amended pursuant to these regulations.

Any facility or activity which possesses a public facility permit as established herein shall not be defined as a nonconforming use under these regulations. Existing state and federal permits, including, but not limited to, federal mining permits and leases, surface mine permits (SM), national pollution discharge elimination permits (NPDES), and solid waste permits may be used to aid in the establishment of a public facility permit for any existing facility or activity. The community development department shall establish and maintain a list of these public facility permits regulations are hereby