MEMO

To: City Council
From: Mayor Kwarsick
Date: December 12, 2012

Re: Ordinance on Commercial Development Adjacent to Single-Family Zoning Districts

Background

The Planning Advisory Board held a public hearing on December 10, 2012 to consider a new ordinance addressing special standards for commercial development adjacent to single-family residential zoning districts including regulations for premises licensed to serve alcohol for on-site consumption. The proposed ordinance also repeals interim ordinance 979 passed by the council in 2012.

The only two members of the public that attend the hearing were Maureen Cooke and Bob Trenchard, co-owners of Mo’s Pub and Eatery. Both Ms. Cooke and Mr. Trenchard spoke briefly in support of the proposal.

Following the close of the public hearing the PAB unanimously supported recommending the city council adopt the ordinance as presented. Thomas Gill was the only PAB member absent at the public hearing, but Thomas expressed his support for the ordinance to city staff prior to the public hearing.

Adoption Timeline and New Amplified Music Provision

One of the provisions in the new ordinance is an allowance for live amplified music on properties adjacent to a single family residential zoning district up to six times per year with a special permit granted by the city council. One of the businesses that may benefit from this allowance is Mo’s Pub and they would like to have live amplified music on New Years Eve.
The council has cancelled the December 17th meeting, but even if the ordinance were adopted by the council at that meeting it would not take effect until 5 days after it is published (RCW 35A.12.130), which wouldn’t likely occur until Saturday December 22, 2012.

**Recommendation**

*Ordinance*

The Mayor and City staff supports adoption of the ordinance. However, the Mayor and staff support an outright limit of 500 square feet for the size of the allowable age restricted lounge area as opposed to the PAB’s recommended standard based on the size of the customer service area of the principal use.

*Live Amplified Music – New Years Eve*

Given the strong recommendation from the PAB and support from interested parties it appears likely the ordinance will be passed early next year. Given this reality I am asking for the council’s support to authorize live amplified music until 1am at Mo’s Pub on New Years Eve via a special permit.

**Attachments:**
- Recommended Draft Ordinance
- Signed Findings of Fact from Public Hearing
- Public Hearing Minutes
- Public Hearing Notice
ORDINANCE NO. ______

AN ORDINANCE OF THE CITY OF LANGLEY, WASHINGTON, ADOPTING
NEW SECTION 18.22.095, AMENDING SECTIONS 18.01.040, 18.16.020, AND
18.18.020 OF TITLE 18 OF THE LANGLEY MUNICIPAL CODE ADDRESSING
COMMERCIAL DEVELOPMENT ADJACENT TO SINGLE-FAMILY
RESIDENTIAL ZONING DISTRICTS, REPEALING INTERIM ORDINANCE
979 AND SECTION 18.16.085, PROVIDING FOR SEVERABILITY, AND
ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City’s adopted Comprehensive Plan includes nine goals deemed
to be essential in maintaining a satisfactory quality of life for Langley; and

WHEREAS, one such goal is the encouragement of changes that promote
livability, pedestrian orientation, and thoughtful design, and limit stress factors such as
noise and air pollution and traffic congestion; and

WHEREAS, certain development and potential development may occur in a
manner that conflicts with one or more policies or other provisions of the adopted
Comprehensive Plan; and

WHEREAS, the City of Langley intends by this ordinance to better implement
the following Comprehensive Plan Policies, and to ensure that the City’s Comprehensive
Plan remains consistent with its adopted development regulations:

2.5 Continue the conservation of housing through public investment in the
infrastructure needed to service the community (water, sewer, storm
drainage, streets, and pathways) and in development regulations necessary
to prevent incompatible land use;

3.8 Require buffers (vegetation, fences, etc.) between certain land uses to
minimize the impact of one use upon another, such as businesses adjacent
to residences; and

3.9 Prevent incompatible land uses or blighting of residential
neighborhoods through active code enforcement of available regulatory
measures;

WHEREAS, the lack of sufficient regulations controlling and conditioning
commercial development on sites adjacent to residentially zoned properties may
potentially allow for incompatible land uses; and

WHEREAS, a vibrant downtown with opportunities for arts and entertainment is
in the city’s interest and supports the economic viability of the community; and

WHEREAS, the SEPA Responsible Official has determined that this ordinance is
exempt from SEPA review as a non-project action that is required for consistency with
the comprehensive plan; and
WHEREAS, the city was granted expedited review from the Department of Commerce on September 11, 2012 in satisfaction of the review requirements of the Growth Management Act; and

WHEREAS, the Planning Advisory Board held a public hearing on December 10, 2012 to consider the proposal and accept public comment. Following the close of the public hearing the Planning Advisory Board unanimously recommended the city council adopt the ordinance as presented.

NOW, THEREFORE, be it ordained by the City Council of the City of Langley, Washington, as follows:

Section 1. A new section 18.22.095 of the Langley Municipal Code is hereby created to read as follows:

18.22.095 – COMMERCIAL DEVELOPMENT ADJACENT TO SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS

1. Purpose. The special standards set forth below for commercial development adjacent to properties zoned single-family residential serve the following purposes:

A. In adopting these regulations, the City Council finds that commercial establishments adjacent to residential neighborhoods and in particular those uses selling alcoholic beverages, within the City of Langley may present problems that negatively affect adjacent residential neighborhoods.

B. Problems which can result include, but are not limited to, crime, littering, loitering, public intoxication, disturbance of the peace, discouragement of more desirable and needed commercial uses, and other similar problems connected primarily with the regular congregation of persons around establishments engaged in the sale of alcoholic beverages for consumption on the premises.

C. The City Council further finds that the existence of such problems may create a serious and negative impact on the peace, health, safety and welfare of residents of nearby areas including the devaluation of property and negatively impacting the quality of life of adjacent residents.

D. These regulations are intended to ameliorate the types of problems identified above by restricting the location of establishments selling alcoholic beverages in relation to their adjacency to residential neighborhoods.

E. The conditional use permit process is a means to review the effects of establishments selling alcoholic beverages on adjacent residential uses on a case by case basis, and to prevent the undesirable impacts on the community stemming from such uses by the imposition of reasonable conditions upon the operation of such uses.

2. Special Standards
A. **Scope.** These standards apply to all commercial development proposed adjacent to a single-family residential zoning district regardless of the underlying zoning district for the proposed commercial development.

B. Taverns, cocktail lounges and any establishment that is entirely restricted to those 21 and over are prohibited as a principal use. Age-restricted areas within licensed premises shall be allowed only as authorized below. Restaurants must meet food service requirements of the Washington State Liquor Control Board.

C. All premises licensed to sell alcohol for on-site consumption shall require a conditional use permit to establish, modify or expand the existing use. For hotels/motels/inns that contain a licensed premise, conditional use permit approval is only required to establish, modify or expand the licensed service area.

D. With a conditional use permit, an age-restricted lounge may be allowed as a secondary use within licensed premises. The size of the lounge shall be limited to 500 square feet of the customer service area (exclusive of service areas, but inclusive of the lounge area) for establishments that contain up to 2,500 square feet of customer service area. For establishments exceeding 2,500 square feet of customer service area, the lounge shall not exceed 25% of the customer service area. The principal use shall not be age-restricted at any time unless associated with a special events permit as authorized below and in compliance with the Washington State Liquor Control board laws.

E. All licensed premises are subject to a 30’ buffer from all property lines adjacent to a single family residential zoning district, as measured from the common property line to the nearest point of the licensed premises (e.g., exterior wall, or any outside seating associated with the licensed premises) including all gross square footage associated with the establishment. The conditional use permit may include a requirement that the buffer area be landscaped to minimize adverse impacts on the adjacent residential area including impacts caused by changes in topography between the residential and commercial zones. Pre-existing uses that do not meet the buffer distance requirement may expand with a conditional use permit provided that the expansion meets all applicable requirements including setback and buffer requirements and does not encroach further towards the common boundary with any single-family residential zoning district. The city may allow, with conditional use permit approval, minor expansions within the buffer that do not expand customer service areas. Such expansions may include kitchen, bathroom or storage space.

F. Live amplified music is prohibited without a special events permit issued by the City Council. No exterior live amplified music shall be permitted. In order to obtain a special events permit, the applicant shall be required to demonstrate to the satisfaction of the City Council reasonable temporary or permanent means used to attenuate noise impacts to adjacent residential properties. A maximum of six special live amplified music permits may be issued in a calendar year. Live
music in a non-age restricted dining area shall require approval of the Washington State Liquor Control Board and a copy must be provided to the City prior to approval. Amplified live music associated with a special events permit shall cease at 10:00 p.m. Sunday through Thursday nights and 11:00 p.m. on Friday and Saturday nights. On New Year’s Eve, such amplified live music must cease by 1:00 a.m.

G. **Setbacks:** A standard setback of 15’ is required from all single family zoning district boundaries. The setbacks may be reduced to those required in the underlying zoning district with a Conditional Use Permit and following approval of the Design Review Board.

H. **Location of parking:** Parking shall be located on the side of the property opposite from the residential zoning or in the rear of the property. If the parking is in the rear of the property, screening is required to buffer the parking area from the residential property.

I. **Building design:** Building development shall be compatible in scale and character with the residential buildings in the vicinity. New or expanded buildings must include noise attenuation that addresses all potential noise impacts, including, but not limited to live music. Outside seating should only be allowed on the side of a building opposite the residential zone.

J. **Special Conditional Use Standards** – In addition to the required conditional use permit findings set forth in LMC 18.28.044 the following findings must also be made as part of any conditional use permit approval under this section:

   a. The establishment has adequately mitigated impacts through the design and operation of the licensed premises on the surrounding residential neighborhood including, but not limited to, screening, location of parking, design and locations of entrances and exits, design and location of outdoor seating and service areas, noise emanating from the establishment including building infrastructure, and other measures to minimize noise impacts from customers leaving the establishment.

**Section 2.** Section 18.01.040 of the Langley Municipal Code is hereby amended to add the following definitions, to read as follows:

**LMC 18.01.040 - Definitions**

“Adjacent” means having a common endpoint or border where the extension of the property lines of the licensed premises contacts that common border.
“Licensed Premises” means any establishment licensed to sell alcoholic beverages for consumption on the premises at any time.

"Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

“Lounge" means the portion of a restaurant or other principal use that is used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge.

“Night club” shall mean any alcoholic beverage sales commercial activity which engages in the sale of alcoholic beverages in conjunction with providing live entertainment (including the playing of recorded music) or dancing between the hours of 6:00 p.m. to 2:00 a.m. regardless of whether such establishment is simultaneously offering restaurant meal service.

“Restaurant” means an establishment with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public.

“Service Area” means the area of a licensed premise where customers may order and consume alcoholic beverages.

"Tavern" means an establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

Section 3. Section 18.16.020 of the Langley Municipal Code is hereby amended to read as follows:

LMC 18.16.020 Secondary uses.

Secondary uses in the CB zone are:
A. Dwelling units in principal buildings, provided that commercial uses shall occupy the first and/or street level of the building;
B. Consumer goods repair;
C. On-site hazardous waste treatment and storage facilities, provided that such facilities comply with the state siting criteria adopted in accordance with RCW 70.105.210, or its successor.
D. In-home family day care.
E. Adult Family Home.
F. Wireless Communication Antenna Arrays.
G. Lounges.

Section 4. Section 18.18.020 of the Langley Municipal Code is hereby amended created to read as follows:

LMC 18.18.020 Secondary uses.

Secondary uses in the NB zone are:
A. Accessory uses and structures;
B. Home occupations;
C. Foster homes;
D. Home day care;
E. Guest Houses. Guesthouses are added as a secondary use under this subsection but only if the principal use of the subject property under this section is a single-family dwelling;
F. In-home family day care;
G. Adult Family Home;
H. Wireless Communication Antenna Arrays.
I. Lounges.


Section 6. Severability. If any section, paragraph, subsection, clause or phrase of this ordinance is held invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED BY THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, and approved by the Mayor at a regular meeting held this ____ day of ____________________, 2013.

______________________________
Larry Kwarsick, Mayor
ATTEST:

___________________________________________________
Debbie L. Mahler, Director of Finance/City Clerk

APPROVED AS TO FORM:

________________________________________
Michael R. Kenyon, City Attorney
Planning Advisory Board Findings of Fact and Conclusions of Law and Recommendation to the Langley City Council

December 10, 2012

From: Roger Gage, Vice-Chair of the City of Langley Planning Advisory Board (PAB)
To: Mayor and City Council
Subject: Amendments to Title 18: Commercial Development Adjacent to Single-Family Residential Zoning Districts

A. The Findings of Fact and Conclusions of Law were prepared by the PAB for the proposals heard by the PAB in an open public hearing on December 10, 2012:

2. Repeal Interim Ordinance 979 and LMC 18.16.085

B. The proposals are consistent with the following Compressive Plan Goals and Policies:

1. General Planning Direction
   Ensure that development within the Langley planning area preserves and enhances the qualities that make Langley such a desirable place to live and visit, including the rural, small town, marine atmosphere; scenic natural setting; waterfront; center of cultural activity; and the rural, early northwest character of the downtown area with a mix of services and activities for both residents and visitors to the community.

2. Distribution of Land Uses
   Encourage the distribution and general location of land-use densities and intensities to coincide with growth projections, subarea plans, and availability of public services.

3.10 Encourage the primary commercial development to locate in the downtown core area.

3.11 Encourage development that promotes livability, pedestrian orientation, and quality design and limits stress factors such as noise pollution and traffic congestion.

3. Diverse and Stable Economy
   Support the local economy by providing a predictable development atmosphere, emphasize diversity in the range of goods and services, and make every effort to see that employment opportunities are balanced with a range of housing opportunities.

3.8 Require buffers (vegetation, fences, etc.) between certain land uses to minimize the impact of one use upon another, such as businesses adjacent to residences.

4.1 Encourage development of a wide range of commercial uses to support local residents as well as the needs of the visiting public.
C. The PAB supports balancing a vibrant downtown economy with minimizing impacts on adjacent residents from high intensity commercial uses including premises licensed to sell alcohol for on-site consumption.

D. Certain commercial uses, including those that serve alcohol for on-site consumption, may cause negative impacts on adjacent single-family residential zones including noise, littering, and parking impacts.

E. By requiring a conditional use permit for the establishment, expansion or modification of licensed premises adjacent to single-family residential zoning districts the city will ensure that these establishments are properly sited and designed to minimize impacts on adjacent single family residences.

F. The prohibition on age restricted taverns and cocktail lounges, as a principal use will minimize undue adverse impacts on adjacent residential neighborhoods.

G. The arts, including live music, is an important cultural element in Langley and contributes to a vibrant and economically viable downtown that is in the city’s interest.

H. Residents are entitled to a high quality of life in their residential neighborhoods and should not be significantly negatively impacted from adjacent commercial uses.

I. Pursuant to SB 6406, the SEPA Responsible Official has determined that this ordinance is exempt from SEPA review as a non-project action that is required for consistency with the comprehensive plan

J. The city was granted expedited review from the Department of Commerce on September 11, 2012 in satisfaction of the requirements of the Growth Management Act.

RECOMMENDATION

Following their own deliberations and based upon its review of the requirements of Chapter 36.70A RCW and the proposals with revisions, the recommended findings on review, and the public comments received, the PAB found and declared that the review and the revisions have been prepared in conformance with applicable law, including Chapter 36.70A RCW, Chapter 43.21C RCW, and the PAB approves a motion to forward the amendments specified herein to the City Council with their recommendation of approval. Pursuant to RCW 36.70A.130 each local comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city planning commission so that their recommendations are consistent with the comprehensive plan and deemed necessary so that the Comprehensive Plan responds to new information, changed growth philosophies, citizen initiatives or other identified needs.

Roger Gage
Vice Chair – Planning Advisory Board

12-13-12
The meeting was called to order at 3:03 pm.

ATTENDANCE:

Members present: Jim Anderson, Roger Gage, Gail Fleming, Dominique Emerson, Kathleen Waters (alternate)

Members absent: Thomas Gill

Staff present: Jeff Arango

APPROVAL OF MINUTES

Motion by Dominique Emerson to approve the minutes with changes as noted. Seconded by Kathleen Waters. Motion passes 4-0.

PUBLIC HEARING – COMMERCIAL DEVELOPMENT ADJACENT TO SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS

Public Hearing – entered at 3:04 PM.

Maureen Cooke, owner of Mo’s Pub and Eatery at 317 Second Street stated she supports adoption of the ordinance as written.

Bob Trenchard, owner of Mo’s Pub and Eatery at 317 Second Street also stated he supports adoption of the ordinance as written.

There was not further public comment.

The public hearing was closed at 3:10 pm.

Motion by Dominique Emerson to recommend adoption to the City Council. Seconded by Kathleen Waters. Motion passes 5-0.

COMPREHENSIVE PLAN AMENDMENTS

Jeff Arango stated that the comprehensive plan must be amended in the near future as a result of the Shoreline Master Program Update. Since comprehensive plan amendments are limited to once per calendar year the city should take the opportunity to make other needed amendments to address current planning priorities. Jeff stated that the city will embark on a major update to the comprehensive plan prior to adoption in 2016 that will address the size of the city’s urban growth boundary and other more
substantive issues with the comprehensive plan. The proposed amendments for next year will be limited in scope. Jeff reviewed the list of proposed amendments as outlined in the staff memo.

Roger gage stated he has concerns regarding traffic flow into the RV park from the corner of Fairgrounds Road and Langley Road.

The PAB stated that while they believe the fairgrounds may be the best location, the comp plan should include support for an all seasons RV park and multiple parks at any appropriate locations within the city limits.

The PAB questioned whether it is possible to amend the ingress/egress to the fair so it's not through the proposed RV park location.

Jim Anderson stated that the vision/intro section of the comp plan should be rewritten.

The PAB expressed a desire to have a work plan for 2013. Jeff Arango stated he would provide a draft work plan for the PAB at the January meeting.

**CAPITAL PLAN ILLUSTRATIONS**

Jeff Arango reviewed a set of maps and illustrations for the 2013 capital plan.

**AUDIENCE INPUT**

No audience input.

**ADJOURN**

Meeting adjourned at 4:40 PM
IN THE SUPERIOR COURT OF
THE STATE OF WASHINGTON
COUNTY OF ISLAND

AFFIDAVIT OF PUBLICATION

In the Matter of PAB Public Hearing

STATE OF WASHINGTON
SS.
COUNTY OF ISLAND

The undersigned, being first duly sworn, on oath deposes that she is principal clerk of the WHIDBEY NEWS-TIMES/SOUTH WHIDBEY RECORD a bi-weekly newspaper. That said newspaper has been approved as a legal newspaper by the Superior Court of Island County and it is now and has been for more than six months prior to the date of publication herein after referred to, published in the English language continually as a bi-weekly newspaper in Island County, Washington, and it is now and during all of the said time was printed in an office maintained by said newspaper.

That the annexed is a true copy of all advertisement, with publication dates, as it was published in regular issues (and not in supplemental form) of said newspaper commencing with the issue of December 1, and ending with the issue of December 1, 2012.

That said newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is the sum of $ 93.45

[Signature]

Subscribed and sworn to me this 10 day of December 2012

[Signature]

Public in and for the State of Washington Residing at Oak Harbor
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