

ORDINANCE NO. 3750

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, PURSUANT TO MOUNT VERNON MUNICIPAL CODE CHAPTERS 14.05 (PROCEDURES) AND 17.111 (AMENDMENTS AND RECLASSIFICATIONS) COMPLETING AN AREA WIDE REZONE FOLLOWING ADOPTION OF THE SOUTH KINCAID SUBAREA PLAN

WHEREAS, RCW 36.70A.040 requires the City’s development regulations implement its Comprehensive Plan; and,

WHEREAS, the City adopted the South Kincaid Subarea Plan with Ordinance 3748; and,

WHEREAS, the City adopted amendments to Chapter 17.45 of the Mount Vernon Municipal Code with Ordinance 3749 creating a new zoning designation named the C-1c district created to implement portions of the South Kincaid Subarea Plan; and,

WHEREAS, the MVMC Chapter 14.05.080(D) states, “The Planning Commission shall hold hearing(s) and make recommendations to the city council on the following:…3. Area-wide zoning changes”.

WHEREAS, all requirements provided in the Mount Vernon Municipal Code for reclassification of property within the City Limits of Mount Vernon have been met; and,

WHEREAS, the City utilized the State Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for evaluating constitutional issues, in conjunction with and to inform its review of the Ordinance. The City has utilized the process, a process protected under Attorney-Client privilege pursuant to law including RCW 36.70A.370(4), with the City Attorney's Office which has reviewed the Advisory Memorandum and discussed this Memorandum, including the "warning signals" identified in the Memorandum, with decisions makers, and conducted an evaluation of all constitutional provisions potentially at issue and advised of the genuine legal risks, if any, with the adoption of this Ordinance to assure that the proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2).

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION ONE. The City Council does hereby adopt the above listed recitals as set forth fully herein.

SECTION TWO. PLANNING COMMISSION’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION ADOPTED. The City Council adopts the Planning Commission’s findings of fact and conclusions of law, outlined below, in their entirety.

A. PLANNING COMMISSION’S FINDINGS OF FACT:

1. A Threshold Determination of Non-significance (DNS) and Notice of Adoption of Existing Environmental Documents for the area-wide rezones was issued on March 14, 2018 and published on March 16, 2018. The comment period for this determination tolled on March 27, 2018; and the appeal period tolled on April 6, 2018 with no comments or appeals on the determination.
2. Notice of adoption of the proposed area-wide rezones has been duly transmitted in compliance with RCW 36.70A.106(1). The Department of Commerce has acknowledged the City has met this procedural requirement with Commerce’s Material ID #: 24638.

3. The City of Mount Vernon has followed its adopted public participation program contained in Resolution 491. The Western Washington Growth Management Hearings Board reviewed Resolution 491 setting forth the City's Public Participation Program finding that the City's program satisfies the requirements of Washington State's Growth Management Act in *Citizens v. City of Mount Vernon*, WWGMHB Case No. 98-2-0006c (Compliance Order, May 28, 1999). Following is a list of the public participation items that were completed leading up to the Council's hearing on April 25, 2018:

- a. The Mount Vernon City Council passed Resolution 928 on March 8, 2017 that, in part, docketed the South Kincaid Subarea Plan as required per RCW 36.70A.130.
- b. Community workshop/meetings were held to solicit input from the public and interested parties on the South Kincaid Subarea Plan. Below is a table listing information on each of these workshops/meetings:

DATE	PLACE	PUBLIC NOTICE SUMMARY
May 25, 2017	Mount Vernon Fire Station #1 (901 South Second Street)	<ul style="list-style-type: none"> • Published in Skagit Valley Herald on May 22, 2017. • Special Meeting Notice consistent with RCW 42.30 distributed May 18, 2017. • Meeting notices mailed to all property owners inside and within 300-feet of the subarea boundaries. • Meeting information placed in the Mayor's newsletter (distribution > 650). • Meeting notice and supplemental information placed on the City's website.
September 20, 2017	Mount Vernon Police and Court Campus (1805 Continental Place)	<ul style="list-style-type: none"> • Published in Skagit Valley Herald on September 13, 2017. • Special Meeting Notice consistent with RCW 42.30 distributed September 12, 2017. • Meeting notices mailed to all property owners inside and within 300-feet of the subarea boundaries. • Meeting notice and supplemental information placed on the City's website.
November 30, 2017	Mount Vernon Police and Court Campus (1805 Continental Place)	<ul style="list-style-type: none"> • Published in Skagit Valley Herald on November 9, 2017 and November 23, 2017. • Special Meeting Notice consistent with RCW 42.30 distributed November 6, 2017. • Meeting notice and supplemental information placed on the City's website. • Meeting information placed in the Mayor's newsletter (distribution > 650).
April 2, 2018	Mount Vernon Police and Court Campus (1805 Continental Place)	<ul style="list-style-type: none"> • Published in Skagit Valley Herald on March 22, 2018. Special Meeting Notice consistent with RCW 42.30 distributed March 19, 2018. • Meeting notices mailed to all property owners inside and within 300-feet of the subarea boundaries. • Meeting notice and supplemental information placed on the City's website.

- c. On March 15, 2018 City Planner Rebecca Lowell completed an interview with a local radio station, KSVR-FM providing details on the South Kincaid Subarea Plan letting listeners know how to get involved with this process. KRVR-FM is radio channel 91.7 that provides talk and music in English and Spanish to the Skagit Valley Community.

4. The City's Planning Commission was invited to all of the public workshops/meetings held on May 25, 2017, September 20, 2017, November 30, 2017 and April 2, 2018. The Commission was also briefed by staff on the subarea plan on February 20, 2018, March 6, 2018, and March 20, 2018.
5. The City Council was invited to all of the public workshops/meetings held on May 25, 2017, September 20, 2017, November 30, 2017 and April 2, 2018. The Council was also briefed by staff on the subarea plan on January 18, 2017, March 15, 2017, June 21, 2017, February 21, 2018, March 21, 2018, and April 18, 2018.
6. On February 20, 2018 a letter was sent to all property owners within the South Kincaid Subarea that the City wished to include in the subject area-wide rezone. This letter contained detailed information with regard to the existing zoning versus the proposed C-1c zoning designation and invited property owners to come to meetings that were held on March 1, 2018 and March 8, 2018 from 4 pm to 6 pm on each date. City staff provided information to property owners who attended these meetings about the proposed rezones.
7. On March 30, 2018 a second letter was sent to property owners within the South Kincaid Subarea that the City wished to include in the subject area-wide rezone that had not responded to the first letter dated February 20, 2018. This letter (in part) stated, "Unless you object the City plans on rezoning your property such that it is consistent with the pending subarea plan. On February 20, 2018 you were sent a letter (and associated information) that provided detailed information regarding your existing zoning and the new zoning designation being proposed". This letter also provided detailed instruction on how property owners could obtain additional information about the proposed rezones and provided notice of the public meeting and hearings that would be held.
8. Notice of the Planning Commission's public hearing on April 17, 2018 and the City Council's public hearing on April 25, 2018 were mailed to property owners inside and within 300 feet of the subarea boundaries on March 14, 2018, was published in the Skagit Valley Herald on March 16, 2018, and was posted on the City's website on March 14, 2018.
9. The Planning Commission finds the area wide rezones within the South Kincaid Subarea implement portions of the South Kincaid Subarea plan.
10. The Planning Commission finds that the area wide rezones are compatible with the city's comprehensive plan and development goals and that public utilities, public facilities and other services are currently adequate to serve the properties being rezoned.
11. The Planning Commission finds that the area wide rezones will protect and promote the health, safety, and welfare of the general public.

B. PLANNING COMMISSION'S CONCLUSIONS OF LAW:

1. The requirements for public participation in the development of this subarea plan as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met.
2. The proposed area-wide rezones are found to be in compliance with the Mount Vernon Municipal Code and the State Growth Management Act.
3. The area-wide rezone complies with the approval standards found within MVMC 17.111.070.

C. PLANNING COMMISSION RECOMMENDATION TO THE CITY COUNCIL:

At their public hearing on April 17, 2018 after review of the materials presented by City staff and holding a public hearing the Planning Commission made a unanimous recommendation that the City Council adopt the Commission's Findings of Fact and Conclusions of Law and adopt the area-wide rezones found within this Ordinance.

SECTION THREE. The area-wide rezones mapped and described within the accompanying **APPENDIX A** are hereby adopted by reference as if set forth fully herein.

SECTION FOUR. If approved, the proposed rezoned would result in split zoning on parcels P54114 and P26788 that are both owned by ALFCO LLC. The Mount Vernon Municipal Code (MVMC) does not permit Boundary Line Adjustments to create parcels with split zoning (MVMC 16.36.020). To resolve this outcome a boundary line adjustment shall be completed that results in parcel and zoning boundaries that match before the rezone for these two parcels becomes effective.

SECTION FIVE. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

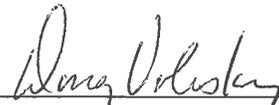
SECTION SIX. City staff are hereby directed to complete preparation of the final ordinance, including correction of any typographical or editorial edits.

PASSED AND ADOPTED this 25th day of April, 2018

SIGNED AND APPROVED this 26 day of April, 2018.



Jill Boudreau, Mayor



Doug Volesky, Finance Director

Approved as to form:

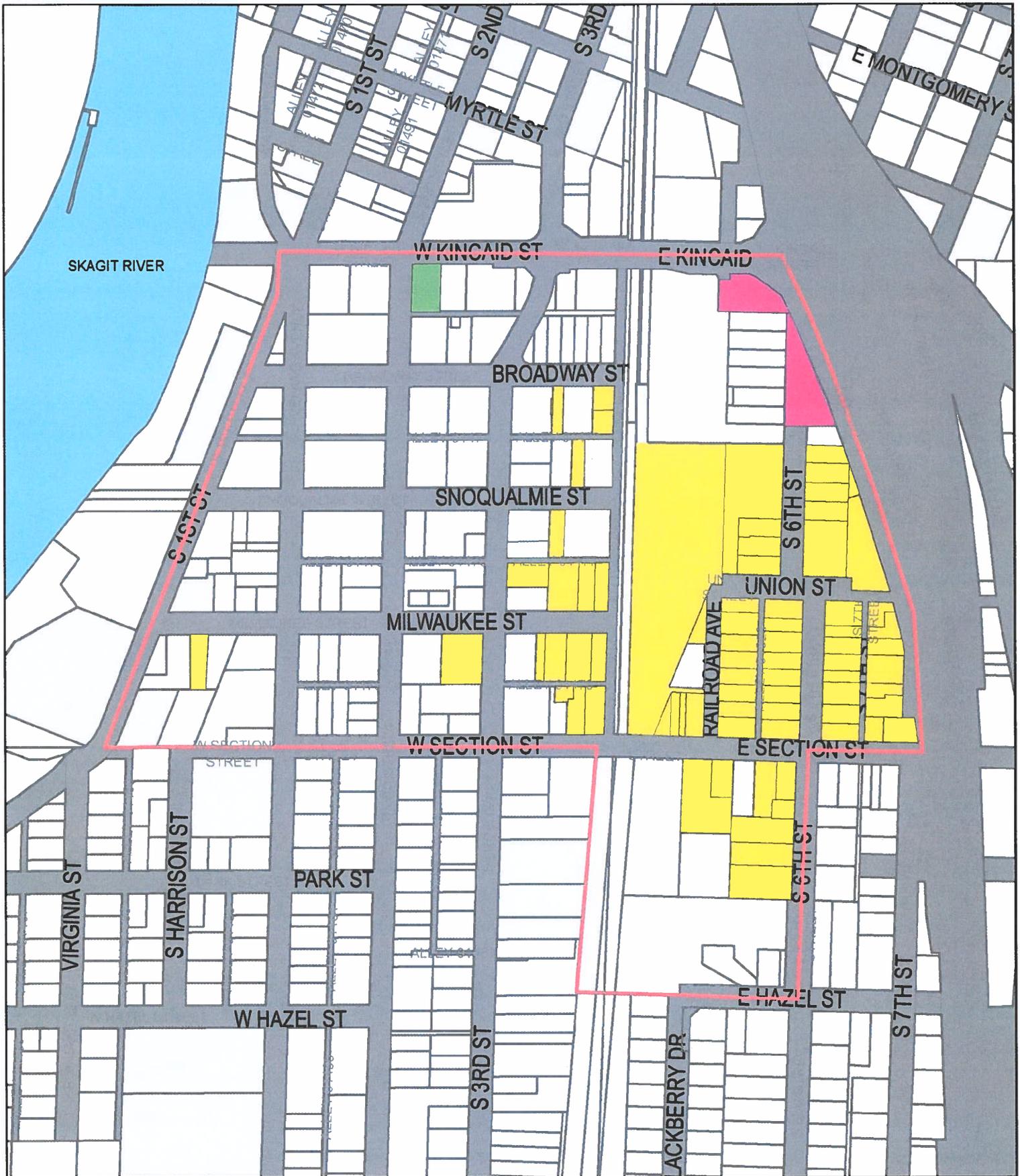


Kevin Rogerson, City Attorney

Published April 30, 2018

APPENDIX A

**AREA WIDE REZONES COMPLETED AS PART OF THE SOUTH KINCAID
SUBAREA PLAN**



Area-Wide Rezones to Implement the South Kicaid Sub-Area Plan

- Public
- General Commercial
- Central Business District



Identification of property subject to the area-wide rezones:

PARCEL NUMBER	ADDRESS	EXISTING ZONING	NEW ZONING
P54139	NA	Central Business (C-1)	Public (P)
P53372	NA	M-1	General Commercial (C-2)
P53379	NA	M-1	General Commercial (C-2)
P54160	112 Broadway Street	Public (P)	Central Business (C-1)
P54162	NA	M-1	Central Business (C-1)
P54163	NA	M-1	Central Business (C-1)
P54165	109 Snoqualmie Street	M-1	Central Business (C-1)
P53699	110 Snoqualmie Street	M-1	Central Business (C-1)
P53705	1016 South Third Street	M-1	Central Business (C-1)
P53703	NA	M-1	Central Business (C-1)
P53702	101Milwaukee Street	M-1	Central Business (C-1)
P53701	NA	M-1	Central Business (C-1)
P53707	NA	R-3	Central Business (C-1)
P53708	112 Milwaukee Street	R-3	Central Business (C-1)
P53709	106 Milwaukee Street	R-3	Central Business (C-1)
P53710	100 Milwaukee Street	R-3	Central Business (C-1)
P53713	107 West Section Street	R-3	Central Business (C-1)
P53712	105 West Section Street	R-3	Central Business (C-1)
P53711	101 West Section Street	R-3	Central Business (C-1)
P54195	1107 South 3 rd Street	R-3	Central Business (C-1)
P26501	420 Milwaukee Street	M-1	Central Business (C-1)
P53429	107 West Section Street	M-2	Central Business (C-1)
P53431	NA	M-2	Central Business (C-1)
P52447	1100 Railroad Ave	R-3	Central Business (C-1)
P52445	1104 Railroad Ave	R-3	Central Business (C-1)
P52444	1106 Railroad Ave	R-3	Central Business (C-1)
P52442	1120 Railroad Ave	R-3	Central Business (C-1)
P52441	1122 Railroad Ave	R-3	Central Business (C-1)

PARCEL NUMBER	ADDRESS	EXISTING ZONING	NEW ZONING
P52440	1126 Railroad Ave	R-3	Central Business (C-1)
P52439	1130 Railroad Ave	R-3	Central Business (C-1)
P52438	207 West Section Street	R-3	Central Business (C-1)
P107852	1103 South 6 th Street	R-3	Central Business (C-1)
P52428	1105 South 6 th Street	R-3	Central Business (C-1)
P52430	1115 South 6 th Street	R-3	Central Business (C-1)
P52432	1117 South 6 th Street	R-3	Central Business (C-1)
P52433	1121 South 6 th Street	R-3	Central Business (C-1)
P52434	1129 South 6 th Street	R-3	Central Business (C-1)
P52436	1131 South 6 th Street	R-3	Central Business (C-1)
P52437	1135 South 6 th Street	R-3	Central Business (C-1)
P52461	1102 South 6 th Street	R-3	Central Business (C-1)
P52460	1108 South 6 th Street	R-3	Central Business (C-1)
P52459	1114 South 6 th Street	R-3	Central Business (C-1)
P52458	1116 South 6 th Street	R-3	Central Business (C-1)
P52457	1118 South 6 th Street	R-3	Central Business (C-1)
P52456	1124 South 6 th Street	R-3	Central Business (C-1)
P52455	1130 South 6 th Street	R-3	Central Business (C-1)
P52454	1134 South 6 th Street	R-3	Central Business (C-1)
P52448	312 South 7 th Street	R-3	Central Business (C-1)
P122135	318 South 7 th Street	R-3	Central Business (C-1)
P122136	1113 South 7 th Street	R-3	Central Business (C-1)
P52450	1119 South 7 th Street	R-3	Central Business (C-1)
P122137	1125 South 7 th Street	R-3	Central Business (C-1)
P52451	NA	R-3	Central Business (C-1)
P52453	NA	R-3	Central Business (C-1)
P52452	319 West Section Street	R-3	Central Business (C-1)
P28262	116 West Section Street	R-3	Central Business (C-1)
P28272	202 West Section Street	R-3	Central Business (C-1)
P28420	216 West Section Street	R-3	Central Business (C-1)
P28607	220 West Section Street	R-3	Central Business (C-1)
P28415	1211 South 6 th Street	R-3	Central Business (C-1)
P28606	1217 South 6 th Street	R-3	Central Business (C-1)

PARCEL NUMBER	ADDRESS	EXISTING ZONING	NEW ZONING
P28289	1225 South 6 th Street	R-3	Central Business (C-1)
P28246	1227 South 6 th Street	R-3	Central Business (C-1)
P54120	NA	C-2	Central Business (C-1)
P54119	NA	C-2	Central Business (C-1)
P54118	NA	C-2	Central Business (C-1)
P54117	NA	C-2	Central Business (C-1)
P54116	NA	C-2	Central Business (C-1)
P26814	NA	R-3	Central Business (C-1)
P26812	309 Union Street	R-3	Central Business (C-1)
P54115	NA	C-2	Central Business (C-1)
P54113	NA	C-2	Central Business (C-1)
P53433	NA	C-2	Central Business (C-1)
P53430	NA	C-2	Central Business (C-1)
P53428	NA	C-2	Central Business (C-1)
Ptn. P54114*	NA	C-2	Central Business (C-1)
Ptn. 26788*	NA	C-2	Central Business (C-1)

* Only portions of these parcels are being rezoned – see the area wide rezone map to determine which part of these parcels are being rezoned.