

CITY OF LACEY

AN ORDINANCE CREATING THE OFFICE OF LAND USE HEARING EXAMINER, ESTABLISHING THE POWERS OF SUCH OFFICE, SETTING PROCEDURES FOR THE PROCESSING AND DETERMINATION OF LAND USE APPLICATIONS, ADDING A NEW CHAPTER, 2.30, TO THE LACEY MUNICIPAL CODE, AMENDING SECTION 2.32.020 AND SECTIONS CONTAINED WITHIN TITLES 14, 15 AND 16 OF SAID CODE AND REPEALING SECTIONS 2.32.040, 15.24.090, 15.24.100, 15.32.070, 15.32.080, 16.68.060, 16.72.040 AND 16.80.020 OF SAID CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. There is hereby added to the Lacey Municipal Code a new chapter, 2.30, to read as follows:

"2.30.010. Creation of Land Use Hearing Examiner.

Pursuant to Chapter 35A.63 RCW, the office of Land Use Hearing Examiner, hereinafter referred to as 'examiner,' is hereby created. The examiner shall interpret, review and implement land use regulations as provided in this chapter or by other ordinance. Unless the context requires otherwise, the term 'examiner' as used herein shall include deputy examiner and examiners pro tem.

"2.30.020. Appointment and Term. The examiner and any deputy examiners shall be appointed by the mayor and confirmed by the city council after receipt of recommendation from the Joint Hearing Examiner Committee established by interlocal agreement between the Cities of Lacey and Olympia and Thurston County for terms which shall initially expire one year following the date of original appointment and thereafter expire four years following the date of each reappointment. The mayor may also by professional service contract appoint in the same manner for terms and functions

deemed appropriate, examiners pro tem to serve in the event of absence or inability to act of the examiner and deputy examiners.

"2.30.030. Qualifications. Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon them. Examiners shall hold no other elective or appointive office or position in the governmental structure of Thurston County or the Cities of Lacey or Olympia.

"2.30.040. Removal. An examiner may be removed from office for cause by majority vote of the city council.

"2.30.050. Freedom From Improper Influence. No person, including city or county officials, elective or appointive, shall attempt to influence an examiner in any matter pending before the examiner, except at a public hearing duly called for such purpose, or to interfere with an examiner in the performance of the examiner's duties in any other way; provided that this section shall not prohibit the city attorney or county prosecuting attorney from rendering legal services to the examiner upon request.

"2.30.060. Conflict of Interest. No examiner shall conduct or participate in any hearing, decision or recommendation in which the examiner has a direct or indirect substantial financial or familial interest, or concerning which the examiner has had substantial prehearing contacts with proponents or opponents. No member of the city council or planning commission who has such

an interest or has had such contacts shall participate in the consideration of an appeal from or a review of an examiner's decision.

"2.30.070. Organization. The operation of the hearing examiner's office shall be under the administrative supervision of the examiner and said office shall be separate and not a part of the planning department or any other department providing staff planning services.

"2.30.080. Rules. The examiner shall have the power to prescribe rules not in conflict with this chapter for the scheduling and conduct of hearings and other procedural matters related to the duties of this office.

"2.30.090. Powers of the Examiner. The examiner shall receive and examine all available information, conduct public hearings and prepare a record thereof and enter decisions as provided for herein.

"A. The decision of the hearing examiner on the following matters shall be final unless such decision is appealed to the city council pursuant to Section 2.30.160:

- "1. Short plat modification or variance requests,
- "2. Short plat appeals,
- "3. Site plan review appeals,
- "4. Shoreline variance permit appeals,
- "5. Administrative zoning appeals,
- "6. Preliminary plat approval extension requests,
- "7. Non-platted street application appeals.

"B. The decision of the hearing examiner on the following matters shall constitute a recommendation to the city council:

- "1. Rezone applications; provided, that rezone applications initiated by the city or county to implement a newly adopted or amended comprehensive plan shall be heard by the planning commission,
- "2. Preliminary plat applications,
- "3. Preliminary plat modification requests,
- "4. Shoreline substantial development and shoreline conditional use permits and permit rescissions,
- "5. Planned residential development applications.
- "6. Conditional use applications.

"2.30.100. Applications for Permits or Approvals.

Applications for permits or approvals within the jurisdiction of the hearing examiner shall be presented to the planning department. The department shall accept such applications only if applicable filing requirements are met. The department shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the statute or ordinance governing the application.

"2.30.110. Master Applications. Any person proposing a land use project which would require more than one of the permits or approvals listed in Section 2.30.090 may submit a master application to the planning department on forms furnished by the department containing all necessary information. The master application shall thereafter be processed by the examiner subject

to the longest time limitation applicable to any one of the required permits or approvals included in said master application.

"The planning department may prescribe a reduced fee schedule for master application reflecting cost savings realized through unified processing.

"2.30.120. Report of Planning Department. The planning department shall coordinate and assemble the reviews of other city or county departments and governmental agencies having an interest in the subject application and shall prepare a report summarizing the factors involved and the department's findings and recommendations. At least seven calendar days prior to the scheduled hearing the report shall be filed with the examiner and copies thereof shall be mailed to the applicant and made available for public inspection. Copies thereof shall be provided to interested parties upon payment of reproduction costs.

"2.30.130. Public Hearing. Prior to rendering a decision on any application, the examiner shall hold at least one public hearing thereon. Notice of the time and place of the public hearing shall be given as provided in this code for the particular permit or approval which forms the subject matter of the public hearing. At the commencement of the hearing, the examiner shall give oral notice regarding the register provided for in Section 2.30.150.

"2.30.140. Examiner's Decision. Within ten working days of the conclusion of a hearing, unless a longer period is agreed to in writing by the applicant, the examiner shall render a written decision which shall include at least the following:

"A. Findings based upon the record and conclusions therefrom which support the decision. Such findings and conclusions shall also set forth the manner by which the decision would carry out and conform to the city's comprehensive plan, other official policies and objectives, and land use regulatory enactments.

"B. A decision on the application which may be to grant, deny or grant with such conditions, limitations, modifications and restrictions as the examiner finds necessary to make the application compatible with its environment, the comprehensive plan, other official policies and objectives, and land use regulatory enactments.

"C. A statement that either, (1) the decision constitutes a recommendation to the city council or planning commission together with the date, time and place for consideration by said body and the deadline for submitting written comments thereon as provided in Section 2.30.170, or (2) the decision will become final in fourteen calendar days unless appealed to the city council together with a description of the appeal procedure prescribed in Section 2.30.160.

"2.30.150. Notice of Examiner's Decision. Not later than three working days following the rendering of a written decision, copies thereof shall be mailed to the applicant and to other parties of record in the case. 'Parties of record' shall include the applicant and all other persons who specifically request notice of decision by signing a register provided for such purpose at the public hearing. If the effect of the decision is a recommendation

to the city council or planning commission, the original thereof shall be transmitted to that body.

"2.30.160. Appeal From Examiner's Decision. The decision of the examiner as to those applications listed in Section 2.30.090(A) shall be final and conclusive unless within ten working days following rendering of such decision an appeal therefrom is filed with the office of the examiner by the applicant, the city council, a department of the city or county, or other interested person or agency. Such appeal shall be in writing, shall contain a brief statement of the reason why error is assigned to the examiner's decision and shall be accompanied by a fee of \$25.00; provided, that such appeal fee shall not be charged to the city council, a department of the city or county or to other than the first appellant.

"The timely filing of an appeal shall stay the effective date of the examiner's decision until such time as the appeal is adjudicated by the city council or is withdrawn.

"Within five working days following the timely filing of an appeal, notice thereof and of the date, time and place for city council consideration shall be mailed to the applicant and to all other parties of record. Such notice shall additionally indicate the deadline for submittal of written comments as prescribed in Section 2.30.170.

"2.30.170. City Council Consideration.

An examiner decision which constitutes a recommendation or which has been timely appealed pursuant to Section 2.30.160 shall

come on for city council consideration in open public meeting no sooner than ten nor longer than twenty working days from the date a decision constituting a recommendation was rendered or an appeal filed from a decision which is final unless appealed. The city council shall consider the matter based upon the written record before the examiner, the examiner's decision, the written appeal, if any, and any written comments received by the city before closure of city offices on a date three days prior to the date set for consideration by the city council; provided, that the city council may publicly request additional specific information from the applicant, the examiner, or city or county departments; and, provided further, if the city council determines that further testimony or argument other than such specific information requested is necessary prior to action by such body, the matter shall either be returned to the examiner or a public hearing shall be scheduled before the city council for the receipt of such testimony or argument.

"2.30.180. City Council Action.

The city council may accept, modify or reject the examiner's decision, or any findings or conclusions therein, or may remand the decision to the examiner for further hearing. A decision by the city council to modify, reject or remand shall be supported by findings and conclusions.

"The action of the city council in approving or rejecting a decision of the examiner shall be final

and conclusive unless within 30 days from the date of such action an aggrieved party obtains a writ of certiorari from the Thurston County Superior Court for the purpose of review of the action taken; provided, that appeals from a decision to grant, deny or rescind a Shoreline Permit shall be governed by the provisions of RCW Chapter 90.58.

"2.30.190. Examiner's Report to Planning Commission. The examiner shall report in writing to and meet with the planning commission at least annually for the purpose of reviewing the administration of the land use policies and regulatory ordinances. Such report shall include a summary of the examiner's decisions since the last planning commission report. The examiner may at any time on the examiner's own motion, request advice and counsel of the planning commission regarding interpretation of land use policies and ordinances.

"2.30.200. Examiner Services for Other Municipalities. The examiner may provide services similar to those prescribed herein for other municipalities when authorized by interlocal agreement.

"2.30.210. Planning Commission/Hearing Examiner Authority. In the event of the examiner's disqualification, incapacity or inability to timely process the volume of applications submitted, the planning commission may assume and carry the duties and responsibilities of the examiner in the manner prescribed by this Chapter; provided, that if, after considering the matter at public meeting, the city council deems a change in the planning commission's recommendation on a preliminary plat or rezone application is necessary, such change shall not be made until the city council shall conduct its own public hearing, giving notice thereof as required by law.

"The examiner may promulgate rules governing such transfer of applications; provided, that the examiner shall retain hearing jurisdiction over preliminary plat applications to the extent feasible."

Section 2. Section 2.32.020 of the Lacey Municipal Code is hereby amended to read as follows:

"The planning commission shall have all of the powers and perform each and all of the duties specified by this code ~~RCW-35.637-together-with-any-other-duties-or-authority-which-may hereafter-be-conferred-upon-them-by-laws-of-the-state, the performance of such duties and the exercise of such authority to be subject to each and all the limitations expressed in such legislative enactment or enactments.~~"

Section 3. Section 2.32.040 of the Lacey Municipal Code is hereby repealed.

Section 4. The following sections of Title 15 of the Lacey Municipal Code are hereby amended to read as follows:

"15.04.030. Subdivisions, subdivision plats, short subdivisions and streets or ways created for the purpose of partitioning land shall be reviewed by the ~~planning commission~~ land use hearing examiner and approved by the Lacey City Council in accordance with these regulations.

"15.04.060. Any map, plat, replat or plan hereafter made of proposed subdivision or any part thereof within the limits of the City of Lacey shall be presented for approval and be recorded as prescribed by this title. No such map, plat, replat or plans shall

be recorded or have any validity unless or until it shall have the recommendation of the ~~planning-commission~~ land use hearing examiner and the approval of the city council and such other approval as required by this title.

"15.08.020 Definitions.

"23. 'Preliminary approval' means the official action taken on the preliminary plat, subdivision or dedication, by the city council subsequent to the ~~planning-commission~~ land use hearing examiner's recommendation.

"15.12.020. Subsequent to the presubmission conference, the subdivider shall prepare a preliminary plat and environmental assessment together with improvement plans and other supplementary material required to indicate the subdivider's general program and objectives and shall submit a minimum of ~~seventeen~~ 17 copies of the preliminary plat and supplementary data to the office of the planner at least ~~twenty-one~~ 21 days prior to the ~~planning-commission-meeting~~ land use hearing examiner hearing at which consideration of the plat is desired. The preliminary plat need not be a finished drawing but it should show all pertinent information to scale in order that the ~~planning-commission~~ hearing examiner may properly review the proposed development. The planner, on behalf of the ~~planning-commission~~, hearing examiner, shall assign the subdivision a permanent file number.

"15.12.050. Upon receipt of a preliminary plat and all required data, the planner shall set a date for public hearing before the ~~planning-commission~~ land use hearing examiner.

"15.12.060. Notice of the date, time and place of the public hearing before the ~~planning-commission~~ land use hearing examiner shall be given as follows:

"~~1.~~ A. Notice of hearing shall be sent by the planning department through the United States mail not less than ten days prior to the date of hearing to the adjacent landowners as follows:

"~~a.~~ 1. Notice shall be given to all of the owners of land within ~~three-hundred~~ 300 feet of the exterior boundary of the proposed plat.

"If the applicant owns adjoining land, the distance of notification shall be measured from the outside of his ownership. Names and addresses for such property owners shall be as shown on the latest records of the county assessor and shall be supplied to the ~~planner~~ by the applicant. Failure of any person to receive the notice shall not invalidate the hearing.

"~~2.~~ B. Notice of such hearing shall be given by publication at least once, not less than ten days prior to the date of hearing, in a newspaper of general circulation within the City of Lacey.

"~~3.~~ C. Notice to any town, city or county whose boundaries are adjacent to or within one mile of the proposed subdivision.

"~~4.~~ D. Notice to the State Department of Transportation on every proposed subdivision located within ~~three-hundred~~ 300 feet of the right-of-way of a state highway.

"~~5.~~ E. Notice to the State Department of Ecology, Division of Water Resources if the land is situated in a flood plain or flood control zone as provided in Chapter 86.10 RCW and to any

other federal, state or local agency as may be relevant to determine if the public use and interest may be served by the proposed subdivision.

"6- F. Notice to any city or town whose utilities are contemplated to be used by the proposed subdivision.

"7- G. Posting of the notice on or near the property in at least three conspicuous places. The notice must be viewable from a public right-of-way.

"All hearing notices shall include a legal description of the location of the proposed subdivision and either a vicinity location sketch or a locational description in nonlegal language.

"15.12.070. At the public hearing the ~~planning-commission~~ land use hearing examiner shall consider all relevant evidence to determine whether to recommend that the preliminary plat be approved or disapproved by the city council. Any hearing may be continued at the discretion of the ~~planning-commission~~ hearing examiner within the time limits allowed by law. The ~~planning-commission's~~ hearing examiner's obligation to review the preliminary plat shall be as follows:

"1- A. To assure conformance of the proposed subdivision to the general purposes of this ordinance, the comprehensive plan and to the planning standards, specifications and policies adopted by the city council.

"2- B. To inquire into the public use and interest proposed to be served by the establishment of the subdivision and/or

dedication, ~~it~~ the examiner shall determine if appropriate provisions are made for, but not limited to, the following:

- "a- 1. Prevention of Overcrowding. Consideration should be given to the physical characteristics of the land in relation to the number of persons, buildings or sites proposed to be located thereon, and also to the availability of public facilities such as water, sewers, fire protection, streets, schools, parks, etc., if not adequately provided for within the subdivision.
- "b- 2. Facilitate Traffic Circulation on the Streets and Highways. Proposed streets must be aligned or built in such a way as to best facilitate the movement of traffic and reduce the possibility of accidents. This may consider alignment of intersections, width and surfacing of streets, proper curbs, sidewalks or paths, radii of curves and sight vision at intersections, hills and private easements.
- "c- 3. Providing Adequate Light and Air. Assurance that the plat is arranged in such a way that all lots have adequate light and air.
- "d- 4. Proper Arrangement and Provision of Easements and Pathways and Other Bicycle-Pedestrian Paths, Etc. Assurance of conformance with existing layout of ways and streets and also to adopted plans for such. Adequate provisions for pathways connecting various parts of a subdivision should be considered in such a way that most of the pedestrian and nonmotorized vehicular traffic is diverted away from streets. Providing trail systems in areas conducive to such (along creeks, rivers, scenic areas, etc.).
- "e- 5. Provision of Adequate Recreation and Open Space or Buffers. Is there sufficient amount of guaranteed open space and recreational areas to adequately serve the subdivision? If it is determined that there is not adequate open space and recreational areas to adequately serve the subdivision, then it will be recommended that additional area as determined by the planning commission hearing examiner will be provided for these purposes.

"3- C. To consider the physical characteristics of the proposed subdivision site and may recommend disapproval because of flood, inundation or swamp conditions. The ~~planning-commission~~ hearing examiner may recommend the construction of protective improvements be required as a condition of approval, with such improvements to be noted on the final plat in order to assure that:

- "(a) 1. All such proposals are consistent with the need to minimize flood damage;
- "(b) 2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage, and
- "(c) 3. Adequate drainage is provided so as to reduce exposure to flood hazards.

"The ~~planning-commission~~ hearing examiner shall give due consideration to all of the above items. Written findings of fact on each item considered shall be submitted to the city council with the preliminary plat.

"15.12.080. All hearings shall be public. Records of the ~~planning-commission~~ land use hearing examiner hearings on preliminary plats shall be kept by the planning department and shall be made available to the public upon request.

"15.12.100. Not later than ~~fourteen~~ three working days following ~~planning-commission-action,~~ the rendering of a written decision by the land use hearing examiner, the ~~planning-commission~~ hearing examiner shall submit ~~its~~ such written ~~report~~ decision and findings of fact and recommendations to the city council. The ~~planning commission~~ hearing examiner may recommend that the proposed plat be

approved, conditionally approved or disapproved. In the event that a decision cannot be reached by the ~~planning-commission~~ hearing examiner, the preliminary plat shall be forwarded to the city council with no recommendation.

"15.12.110. Upon receipt of the recommendations on any preliminary plat, the city council shall at ~~its-next~~ a public meeting ~~set-the-date-for-the-public-meeting-where-it-may~~ held no sooner than ten nor longer than twenty working days from the date of the land use hearing examiner's decision adopt or reject the ~~planning-commission's~~ hearing examiner's recommendations. ~~If,~~ after-considering-the-matter-at-a-public-meeting, ~~the-city-council~~ deems-a-change-in-the-planning-commission's-recommendation-approving or-disapproving-any-preliminary-plat-is-necessary, ~~the-change-in~~ recommendation-shall-not-be-made-until-the-city-council-shall-conduct a-public-hearing-and-thereupon-adopt-its-own-recommendations-and approve-or-disapprove-the-preliminary-plat.

"The city, ~~town-or-county-legislative-body~~ council shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine if appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds, and shall consider all other relevant facts and determine whether the public interest will be served by the subdivision and dedication. If it finds that the proposed plat makes appropriate provisions for the public health, safety and general welfare and for such open spaces,

drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds and that the public use and interest will be served by the platting of such subdivision, then it shall be approved. If it finds that the proposed plat does not make such appropriate provisions or that the public use and interest will not be served, then the ~~legislative-body~~ city council may disapprove the proposed plat. Dedication of land to any public body may be required as a condition of subdivision approval and shall be clearly shown on the final plat.

"15.12.120. ~~Notice-for~~ If the council determines to hold a public hearing ~~before-the-city-council-as-required-by-Section~~ 15-12-110 notice of such hearing shall be advertised in the same manner as the hearing before the ~~planning-commission~~ land use hearing examiner. ~~In-making-a-decision-on-the-preliminary-plat-the-city~~ council-shall-consider-(but-not-be-limited-to)-items-1-through-3 ~~in-Section-15.12.070-and-enter-in-its-records-reasons-for-approval~~ or-disapproval.

"15.12.150. The preliminary plat shall show specifically and clearly all of the following features and information on one or more maps, drawings or application forms. Specific items may be waived if it is the opinion of both the planner and city engineer that they are not necessary.

"Accuracy for all data and information submitted on or with a preliminary plat shall be the responsibility of the applicant. Any proposed plat found to be inaccurate or misleading so as to

hamper the decision of the ~~planning-commission~~ land use hearing examiner and/or council shall be returned to the applicant with a letter stating that the plat must be corrected and returned to the staff. A fee of ~~twenty-five-dollars~~ \$25.00 will be charged if this procedure becomes necessary.

"15.12.170.

"~~1~~. A. Proposed name of the subdivision. This name shall not duplicate nor resemble the name of another subdivision in Thurston County and shall be approved by the ~~planning-commission~~ land use hearing examiner.

"~~2~~. B. The names and addresses of all landowners within the proposed subdivision, the developer if other than the owners, and the land surveyor and/or the professional registered engineer responsible for laying out the plat.

"~~3~~. C. The names and addresses of landowners as required by Section 15.12.060.

"~~4~~. D. The legal description of all lands included in the proposed subdivision.

"~~5~~. E. The plat scale, datum, north arrow and date.

"~~6~~. F. The boundary lines of the tract to be divided.

"15.12.230. Approval of the preliminary plat shall be effective for three years from the date of approval by the city council during which time a final plat or plats may be submitted. During this time the terms and conditions upon which the preliminary approval was given will not be changed.

"Upon the application of the subdivider the ~~planning commission~~ land use hearing examiner may ~~recommend-extending~~ extend

the approval period (not to exceed an additional three years) or ~~it~~ the examiner may ~~recommend-to-the-council~~ require that the preliminary plat be resubmitted as a preliminary plat. ~~The-council~~ ~~at-its-next-regular-meeting-shall-either-concur-with-the-planning~~ ~~commission's-recommendation-to-grant-an-extension-of-time-to-have~~ ~~the-plat-resubmitted-or-upon-its-own-motion,-may-modify-or-amend~~ ~~said-recommendation,--In-no-case-shall-the-council-grant-an~~ ~~extension-for-more-than-three-years.~~ If an extension of time is approved, the preliminary plat will be subject to all new and amended regulations, requirements, policies or standards which are adopted after the original date of approval, unless there has been substantial on-site work completed for the plat.

Knowledge of expiration date and initiation of a request for extension of approval time is the responsibility of the applicant. The city shall not be held accountable for notification notice, although it may notify an applicant of date of expiration. All requests for an extension of time must be submitted prior to expiration of the preliminary plat.

"15.28.020. The city council, upon recommendation of the ~~planning-commission~~ land use hearing examiner, may grant conditional variances to the requirements of this title. Application for a variance to this title shall be made by petition by the subdivider, stating fully the necessity of the variance and the specific requirements for which the variance is requested. Before a variance may be granted, ~~the-planning-commission-shall-first-determine~~ it shall be first determined:

"a. A. That special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other lands in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.

"b. B. That the special conditions and circumstances do not result from the actions of the applicant.

"c. C. That granting of the variance requested will not confer a special privilege to subject property that is denied other lands in the same district.

"d. D. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated.

"e. E. ~~The-planning-commission-shall-further-make-a~~
A finding shall further be made that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land.

"f. F. ~~The-planning-commission-shall-further-make-a~~
A finding shall further be made that the granting of the variance will be in harmony with the general purpose and intent of this title and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

"g- G. The fact that property may be utilized more profitably will not be an element of consideration ~~before-the planning-commission.~~

"h- H. Before granting any variance, ~~the-planning commission-may-prescribe~~ appropriate conditions and safeguards may be prescribed that will ensure that the purpose and intent of this title shall not be violated. Violation of such conditions and safeguards when made part of the terms under which the variance is granted, shall be deemed a violation of this title and punishable under Chapter 1.12.

"If a variance is in conjunction with a preliminary plat, it shall be so stated in the public notice of hearing. A separate hearing shall be held for all other requests for variances.

"15.28.030. In ~~granting~~ recommending a variance, the ~~planning-commission~~ land use hearing examiner shall make a written record of ~~its~~ findings and shall specifically describe the variance and any conditions which ~~it~~ the examiner may designate. The ~~planning-commission~~ hearing examiner shall keep the findings on file as a matter of public record.

"15.28.040. Upon receipt of the recommendation of the ~~planning-commission~~ land use hearing examiner, the council shall act upon the variance in the same manner as authorized in Section 15.12.110.

"15.32.150. Any person aggrieved by the decision of the planning department may request a review of that decision by the

~~city-council~~ land use hearing examiner. Such request must be made in writing, within ten working days from the date the planning department's written decision was made. ~~Such-appeals-shall-be heard-by-the-council-under-the-same-procedures-established-for hearings-on-preliminary-plats-and-the-decisions-of-the-planning department-shall-be-treated-and-processed-in-the-same-manner-as the-recommendations-of-the-planning-commission-on-a-preliminary plat.~~

"15.32.160. When the matter is referred to the ~~council~~, ~~it~~ land use hearing examiner, the examiner shall conduct a public hearing ~~under-the-procedure-established-for-hearings-on-preliminary plats~~ and thereupon adopt ~~its~~ recommendations and approve, disapprove or return the short plat to the applicant for modification, correction, construction of improvements or meeting conditions of approval.

"15.32.240. The written approval of the planning department or the ~~city-council~~ land use hearing examiner, if ~~it~~ the examiner renders the decision, shall be inscribed on the face of the short plat.

"15.32.290. If the ~~city-council~~ planning department finds unusual hardship or extraordinary difficulties, the minimum requirements may be modified to mitigate the hardship; provided, that the public use and interest is protected and the development is in keeping with the general spirit and intent of these regulations."

Section 5. Sections 15.32.270 and 15.32.280 of the Lacey Municipal Code are hereby repealed.

Section 6. The following sections of Title 16 of the Lacey Municipal Code are hereby amended to read as follows:

"16.32.070. The maximum lot coverage shall be thirty percent except by special permit as issued by ~~planning-commission~~ and the city council.

"16.44.130. A complete and detailed plot plan shall be submitted ~~to-the-planning-commission~~ for approval. The plan shall show the locations and dimensions of all contemplated buildings, structures, spaces, driveways and roads, recreational areas and other information that the planning commission may require to more adequately judge whether the proposed park meets all the above-mentioned conditions and if the park will be desirable development.

"16.56.100.

"~~{a}~~ A. Generally. The basic application for a PRD shall ~~follow-the-same-procedures-as-that-for-a-conditional-use permit-but-shall-be-designated-Planned-Residential-Development~~ and ~~shall~~ include all forms and plans as indicated below.

"If the PRD contains divided lands of lots, tracts and parcels, there shall be filed a preliminary plat as per Washington state statutes and any applicable city ordinance.

"~~{b}~~ B. Preliminary Plan. Application for a planned residential development shall be on forms as approved by the planning ~~commission~~ department and shall include the fee as established in Section 16.84.010.

"All applications shall have attached three sets of maps and plans at a minimum scale of one inch equals two hundred feet and shall show all of the following:

- "~~{1}~~ 1. Vicinity map (location);
- "~~{2}~~ 2. Site boundaries;
- "~~{3}~~ 3. Proposed streets;
- "~~{4}~~ 4. Proposed land uses;
- "~~{5}~~ 5. Open space plan;
- "~~{6}~~ 6. Building sites;
- "~~{7}~~ 7. Parking facilities;
- "~~{8}~~ 8. Circulation plan (pedestrian and vehicular);
- "~~{9}~~ 9. All proposed public dedication;
- "~~{10}~~ 10. Existing buildings and uses with notes regarding final disposition;
- "~~{11}~~ 11. Proposed utilities to serve development;
- "~~{12}~~ 12. Proposed covenants and homeowners' agreements.

"All applications and attachments shall be submitted to the city building inspector or other council-appointed official who shall circulate one application with attachments to each city official for comment and review; one to the city engineer and one shall be retained by the planning ~~commission~~ department ~~who~~ which shall, within ~~fifteen~~ 15 days after receipt, set a public hearing ~~as-provided-for-in-Section-16.68.070~~ before the land use hearing examiner.

"16.56.120.

"~~{a}~~ A. Final PRD applications shall include all final documents as in Section 16.56.100(b) and shall consist of indexed

drawings, maps, plans and typed documents, each with signature spaces and official seals for all parties involved and shall include:

"(1) 1. Final survey records and maps;

"(2) 2. Final engineering reports with indicated grading, utility design and street designs.

"(b) B. The final application and attached documents shall be submitted to the ~~planning-commission~~ land use hearing examiner for review and approval and shall be signed by the ~~chairman~~ hearing examiner who shall forward, within ~~fifteen~~ 15 days, to the city council for final approval and acceptance. No application shall be final until signed by the mayor, city attorney, and filed and signed by the city clerk.

"(c) C. Final approval as granted shall be binding upon development, developers and owners and each and all subsequent developers and owners of all or any part of the PRD area.

"(d) D. Any plan modifications and design variation from the approved plan must be resubmitted to the ~~planning commission~~ hearing examiner and city council.

"16.58.020. Upon receipt of a request to rezone property into a zone district listed in Section ~~16.58.020~~ 16.58.010, the ~~city-planning-commission~~ land use hearing examiner shall study and review the proposed development to be accommodated within such property, especially in light of present and probable future development of surrounding properties. When in the judgment of the ~~city-planning-commission~~ hearing examiner, the proposed development could be incompatible with such surrounding properties, the ~~city planning-commission~~ hearing examiner may recommend to the city

council conditions and standards upon such proposed development. Use of the provisions of the limited zone district may not be petitioned for. Where no conditions and standards are set, the requirements of the basic zone district shall apply.

"16.58.030. The following types of conditions and standards may be recommended by the ~~city-planning-commission~~ land use hearing examiner and applied to the proposed development as conditional to the granting of a proposed rezone:

"~~1~~ A. Screening. Reasonable requirements for visual screening of activities and areas of the proposed development from the surrounding properties may be established;

"~~2~~ B. Nuisance characteristics. Reasonable requirements to minimize the ~~effect~~ affect of noise, dust, odors and similar nuisance characteristics generated by the development and carrying to surrounding properties may be established;

"~~3~~ C. Landscaping. Reasonable requirements for plantings and maintenance or similar treatment to make the proposed development consistent with the general attractiveness of the development of surrounding properties may be established;

"~~4~~ D. Signs and lighting. Reasonable requirements to prevent unusual amounts or intensities of light from escaping the subject property and to assure that signs are compatible with surrounding properties may be established;

"~~5~~ E. Off-street parking and loading. Reasonable requirements regulating the amount, location and treatment of

on-site vehicular traffic and storage areas and facilities may be established;

"~~46~~ F. Development limitations. Reasonable limitations may be established on the use to which the property may be put and on the time period which the proposed development may be initiated and/or completed. Unless an extension is granted by the city council, the rezone shall lapse and the property shall revert to the former zone district after ~~ninety~~ 90 days have elapsed following expiration of a time-period limitation on the initiation of the proposed development.

"G. Access and traffic. Reasonable limitations may be placed upon access to and from the property from abutting roadways and reasonable requirements imposed to lessen or modify the impact of traffic to and from said development on the surrounding roadways.

"16.68.030. The planning ~~commission~~ department shall prescribe the forms to be used for amendments or rezones. The planning ~~commission~~ department may prepare and provide blanks for such purposes and prescribe the type of information to be provided. No application shall be accepted unless it complies with such requirements.

"16.68.040. ~~The-planning-commission-shall-held-at~~ At least one public hearing shall be held on any proposed amendment or rezone.

"16.68.070. The report and recommendations by the planning commission on proposed amendments not involving rezones and of the land use hearing examiner on rezones shall be advisory only and the action by the city council shall be final and conclusive.

"16.72.010. A conditional use permit may be granted by the ~~planning-commission, after public hearing and review,~~ city council for those uses requiring such permits as provided for in this title. A conditional use permit for a planned residential development must be heard by the city council as per Chapter 16.56.

"16.72.020. A written application for a conditional use permit shall be submitted to the planning ~~commission~~ department on forms as prescribed by the planning ~~commission~~ department and shall include such information as requested thereon. No application shall be accepted unless it complies with such requirements.

"16.72.030. ~~The planning commission shall hold at~~ At least one public hearing shall be held on any proposed conditional use permit.

"16.72.050. In granting a conditional use permit, the ~~planning-commission~~ city council shall impose all requirements for such use, as prescribed in this title and other conditions and safeguards as are necessary to secure adequate protection for the locality in which the use is to be permitted. Violation of such conditions and safeguards shall be grounds for revoking the permit and punishable as per Section 16.88.010. The ~~planning-commission shall~~ city council may prescribe a time limit within which action for which the conditional use is required shall be begun or completed, or both. Failure to begin and/or complete such action within the time limit set shall void the conditional use permit."

Section 7. Sections 16.68.060, 16.72.040 and 16.80.020 of the Lacey Municipal Code are hereby repealed.

Section 8. The following sections of Chapter 14.28 of the Lacey Municipal Code are hereby amended to read as follows:

"14.28.030 Filing and hearing. An application in completed form shall be filed for site plan review and approval with the department of public works. An application shall not be in completed form under this section if it fails to contain any of the information and material required under Section 14.28.060.

"The site plan review committee shall consist of the following members: Lacey staff planner, chairman; city manager; and the city director of public works; or their designees in their temporary absence.

"~~(1)~~ A. Review by the Site Plan Review Committee (SPRC).

"~~(a)~~ 1. The site plan review committee (SPRC) shall have the prerogative of refusing to rule on a site plan review if in the opinion of the SPRC the site plan is sufficiently complex that it should be reviewed by the planning commission land use hearing examiner under the provision of ~~subsection-(2)~~ paragraph B of this section. ~~Any-proposal-consistent with-the-zoning-ordinance-but-inconsistent with-the-Lacey-policy-plan-shall-routinely be-referred-to-the-planning-commission.~~ All decisions to refuse ruling and refer to the planning-commission land use hearing examiner shall be made by the SPRC within five working days after an application in completed form is filed.

"~~(b)~~ 2. The SPRC shall within ~~fifteen~~ 15 working days approve, disapprove or approve with conditions any site plan submitted to it and accepted for review. The action taken by the SPRC will be submitted to the building official for subsequent action on the building permit application. Failure to act within the specified period shall constitute

approval of the site plan and the applicant shall be entitled to apply for a building permit.

"Any time required to develop and review an environmental impact statement as required under the provisions of SEPA shall not be counted under the time constraints of this subsection.

"(e) 3. The SPRC shall review a site plan and approve, or approve with conditions, if it finds the site plan conforms to the standards, provisions, and policies of the City of Lacey as expressed in its various adopted plans and ordinances.

"Whenever the SPRC disapproves a site plan, it shall set forth in writing its findings which shall specify the particular standards, provisions and policies to which the site plan fails to conform and the reasons why it fails to conform.

"(d) 4. The decision of the SPRC shall be final unless appealed to the ~~city council~~ land use hearing examiner by the applicant, aggrieved citizen, the planning commission, or a city department, ~~etc. pursuant to Section 14.28.040~~ by filing a written notice of appeal with the planning department within 15 days after the date of the decision being appealed.

"(2) B. Review by the Planning Commission Land Use Hearing Examiner.

"(a) ~~--On all completed site plan applications referred to the planning commission, the commission, at its next regularly scheduled public hearing meeting, shall review and take action or pursuant to subsection (2)(b) set public hearing on the proposed site plan, but only if the application in completed form has been filed with the SPRC at least fifteen days prior to the meeting. --An application shall not be in completed form under this section if it fails to contain any of the information and material required under Section 14.28.060. --One week prior to the public hearing~~

meetings, the planning commission will hold a work session on any site plan review application.

"The completed site plan review application shall be routed to the city director of public works, building official, fire department and health department for review and comment.

"(b) -- The planning commission may, after its initial review, schedule a public hearing to solicit public comment regarding cases that the planning commission considers to be of particular importance. -- Notice of the public hearing shall be made as soon as possible in the same manner as that required for rezones.

"Any time required to develop and review an environmental impact statement as required under the provisions of SEPA shall not be counted under the time constraints of this subsection.

"(c) The planning commission land use hearing examiner shall, in accordance with Chapter 2.30, review a site plan applications referred or appealed to the examiner and approve, or approve with conditions, ~~if it finds the~~ site plans which conforms to the standards, provisions, and policies of the City of Lacey as expressed in its various plans and ordinances. Similarly, ~~it the~~ examiner shall disapprove a site plans which it finds does do not conform to such standards, provisions, and policies. ~~Whenever the planning commission disapproves a plan, it shall set forth in writing its findings which shall specify the particular standards, provisions and policies to which the site plan fails to conform and the reasons why it fails to conform.~~

"14.28.040 Appeal of decision to city council.

"(1) A. Appeals of all site plan review decisions of the

land use hearing examiner may be taken to the city council ~~by any person aggrieved~~ in accordance with Section 2.30.160. ~~Such appeals shall be filed in writing, in duplicate, with the city clerk within fifteen days of the date of the decision being appealed.~~

~~"(2) -- The city council shall consider the matter at its next regular meeting following the filing of the appeal.~~

~~"(3) -- If the city council affirms the decision of the planning commission or the SPRC, the city council's action shall be final and conclusive unless within ten days from the date of the action the original applicant or a party adversely affected applies to the superior court for an extraordinary writ.~~

~~"(4) -- If the city council decides at its initial consideration of an appeal to change the decision of the planning commission or the SPRC it shall schedule and hold a public hearing on the matter. -- Notice of the public hearing shall be given in the same manner as the public hearing notification prescribed for the planning commission consideration of a site plan.~~

"(5) B. The city council shall in accordance with Chapters 2.30.170 and 2.30.180 review a site plan and approve or approve with conditions if it finds the site plan conforms to the standards, provisions, and policies of the City of Lacey as expressed in its various plans and ordinances. Similarly, the city council shall disapprove a site plan which it finds does not conform to such standards, provisions, and policies. ~~The city council may refer a site plan back to the planning commission or SPRC for further study. In instances where the city council approves a site plan previously denied by the planning commission or SPRC, it shall set forth in~~

writing-its-findings-which-shall-include-the-reasons-why-the-site plan-does-satisfy-each-particular-standard, provision-and-policy which-the-planning-commission-or-SPRC-cited-in-its-findings-as reason-for-disapproval-and-why-the-planning-commission's-or-SPRC's interpretation-of-each-standard, provision-or-policy-is-rejected-by the-city-council.

"(6)--The-action-taken-by-the-city-council-in-reversing the-decision-of-the-planning-commission-or-SPRC-shall-be-final-unless application-is-made-to-the-superior-court-as-prescribed-in-subsection (3)-of-this-section.

"(7)--The-city-council-shall-not-approve-or-disapprove-a site-plan-different-from-that-approved-or-disapproved-by-the-planning commission.--The-intent-of-this-section-is-to-insure-that-the-city council-and-the-planning-commission-make-decisions-based-on-the-same set-of-plans.--If-the-city-council-receives-a-site-plan-different-from that-considered-by-the-planning-commission-or-by-the-SPRC, the-site plan-shall-be-referred-to-the-planning-commission-or-SPRC-for-further consideration.

"14.28.070 Additional information for review. The planning-commission land use hearing examiner, SPRC, or city council may require the applicant to submit any additional information or material which it finds is necessary for the proper review and hearing of the application.

"14.28.080 Amendment of site plan. A site plan granted approval by the planning-commission, land use hearing examiner, SPRC

or by the city council may be amended by the same procedures provided under this chapter for original site plan approval.

"14.28.100 Fees. The following fees shall be paid to the city for required site plan review:

"Review by site plan review committee only	\$ 30.00
" Review by planning commission with no public hearing required	75.00
"Review by <u>planning commission with a required public hearing</u> <u>land use hearing examiner</u>	200.00"

Section 9. The following sections of Chapter 15.24 of the Lacey Municipal Code are hereby amended to read as follows:

"15.24.040 Access. Each and every private street or road approved ~~by the council~~ shall connect to a public street or road which has been constructed and is maintained as such.

"15.24.070 Submission of proposed street. All proposals to create a street or extend an existing street shall be submitted to the ~~planner~~ planning department along with ten copies of the following information ~~at least twenty-one days prior to the planning commission meeting at which it is to be considered.~~

"~~1.~~ A. The names and addresses of all landowners within the proposed subdivision, the developer if other than owner, and the land surveyor and/or the professional registered engineer responsible for the road design.

"~~2.~~ B. The legal description of all lands included in the proposed subdivision.

"~~3.~~ C. A map, to scale, which shows the road and a general layout of the parcels of land to be divided.

"4- D. The scale, datum, north arrow, and date of the map.

"5- E. The boundary lines of the tract to be divided.

"6- F. A vicinity sketch indicating the boundary lines and names of adjacent subdivision, streets, and the relationship of the proposed development to major highways, schools and similar facilities.

"7- G. The location and direction of all watercourses, lakes and streams and the location of all areas subject to flooding. Watercourses and drainage ways shall be located within an easement which reserves to the city the right to enter such properties for the purpose of flood control or maintenance.

"8- H. The location, widths, and names of both unopened and open streets, easements, and other ways within or adjacent to the proposed development. The location of other important features such as water sources, power lines, telephone lines, railroads, city boundaries.

"9- I. The location, width, name and approximate grade and radii of curves of streets. The relationship of streets to any projected streets as shown on any comprehensive plan or street plan that has been adopted or as may be suggested by the planning commission in order to assure adequate traffic circulation.

"10- J. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed development showing the finished grade of streets and the nature and extent of street construction.

~~"11-~~ K. A proposal for domestic water supply if any, stating the source and a preliminary distribution system layout.

"The ~~planner~~ planning department shall distribute copies of the above information to the following:

"1- L. Public works or engineering department: Two copies;

"2- M. Thurston-Mason Health District: One copy;

"3- N. Appropriate telephone company: One copy;

"4- O. Puget Power: One copy;

"5- P. Washington Natural Gas Company: One copy;

"6- Q. Thurston County director of public works, when such plats are located within ~~three-hundred~~ 300 feet of a county road right-of-way: One copy;

"7- R. Department of ~~Highways~~, Transportation, when such roads are located within ~~three-hundred~~ 300 feet of a state highway right-of-way: One copy.

"15.24.080 ~~Planning-commission~~ Site Plan Review Committee review. All information required under Section 15.24.080 shall be submitted to the ~~planning-commission~~ Site Plan Review Committee by the ~~planner-at-a-public-meeting~~ planning department. The ~~planning commission~~ Site Plan Review Committee shall consider all relevant evidence ~~to-determine-whether-to-recommend-that-the-road-be-approved-or-disapproved-by-the-city-council~~ and approve, conditionally approve or disapprove the proposed street. ~~Any-meeting-may-be-continued-at-the-discretion-of-the-planning-commission-within-the-time-limits-allowed-for-preliminary-plats.~~ The ~~planning-commission's~~ Site Plan

Review Committee's obligation to review the proposed development shall be as follows:

"1. A. To assure conformance of the proposed development to the general purposes of this chapter, the comprehensive plan and to the planning standards, specifications and policies adopted by the city.

"2. B. To inquire into the public use and interest proposed to be served by the establishment of the road and/or dedication.

"3. C. To assure that the proposed lots are generally laid out in a manner that facilitates the most proper use of the land in regards to the natural terrain."

Section 10. Sections 15.24.090 and 15.24.100 of the Lacey Municipal Code are hereby repealed.

Section 11. There is hereby added to the Lacey Municipal Code a new section, 15.24.090, to read as follows:

"Appeal to Land Use Hearing Examiner. The decision of the Site Plan Review Committee shall be final unless appealed to the land use hearing examiner by the applicant, aggrieved citizen, the planning commission or a city department by filing a written notice of appeal with the planning department within ten working days after the date of the decision being appealed. The land use hearing examiner shall, in accordance with Chapter 2.30, review such appeals and approve, conditionally approve or disapprove of such proposed street after considering those standards set forth in Section 15.24.080."


Section 12. There is hereby added to the Lacey Municipal Code a new section, 15.24.100, to read as follows:

"Appeals of all non-platted street application decisions of the land use hearing examiner may be taken to the city council in accordance with Section 2.30.160. Upon the filing of such an appeal, the city council shall conduct its review in accordance with Sections 2.30.170 and 2.30.180 and approve, conditionally approve or disapprove such proposed street after considering those standards set forth in Section 15.24.080."

Section 13. This ordinance shall take effect on January 1, 1980, and all land use applications filed after that date shall be processed in accordance with this ordinance.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON THIS 15 DAY OF November, 1979.

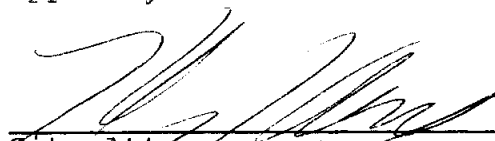
CITY COUNCIL

By 
Mayor

Attest:


City Clerk

Approved as to Form:


City Attorney

Passed: November 15, 1979

Published: November 21, 1979