

ORDINANCE 560

CITY OF LACEY

AN ORDINANCE TRANSFERRING THE FUNCTION OF HEARING ADMINISTRATIVE APPEALS AND APPLICATIONS FOR VARIANCE FROM THE BOARD OF ADJUSTMENT TO THE HEARING EXAMINER, AMENDING SECTION 2.30.090, REPEALING CHAPTER 2.40 AND ADDING A NEW CHAPTER 2.40 TO THE LACEY MUNICIPAL CODE AND ESTABLISHING AN EFFECTIVE DATE.

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

Section 1. Section 2.30.090 of the Lacey Municipal Code is hereby amended to read as follows:

"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,
- "8. The variance requests from the terms of Title 16, Zoning."

Section 2. Chapter 2.40 of the Lacey Municipal Code is hereby repealed.

Section 3. There is hereby added to the Lacey Municipal Code a new chapter, 2.40, to read as follows:

"2.40.010. Appeals may be taken to the Land Use Hearing Examiner by any person aggrieved, or by any officer, department, board or commission of the city affected by any decision of an administrative official relating to zoning. Such appeal shall be filed in writing with the Planning Department within 20 days of the date of the action being appealed. All such appeals shall set forth fully the grounds therefore and the facts deemed to justify the reversing of said decision by the Land Use Hearing Examiner.

"2.40.020. The filing of an appeal shall stay all proceedings and futherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Land Use Hearing Examiner after the notice of the appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of such official, cause imminent peril to life and property. In such case the proceedings shall not be stayed unless the Land Use Hearing Examiner specifically orders such a stay.

"2.40.030. The appeal shall be processed in conformance with Chapter 2.30 of this code and in exercising the powers granted in this chapter the Land Use Hearing Examiner may reverse or affirm the decision in whole or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination that should be made and, to that end, shall have all the powers of the administrative official

from whom the appeal is taken, insofar as the decision on the particular issue is concerned.

"2.40.040. Any property owner may make application to the Land Use Hearing Examiner pursuant to Chapter 2.30 of this code for a variance from the terms of Title 16, Zoning, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of Title 16 would result in unnecessary hardship.

"2.40.050. A Land Use Hearing Examiner shall not grant a variance unless the examiner makes the following findings:

"A. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and

"B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surrounding of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

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

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

"2.40.060. The following fees shall be paid upon the filing of an appeal from an administrative zoning decision or upon the filing of an application for a variance and such fee shall not

be refundable for any reason.

"Variance and appeals: \$100.00"

Section 4. This ordinance shall take effect on January 1, 1980, and all administrative zoning appeals and all applications for variance filed after that date shall be processed in accordance with this ordinance.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this 20<sup>th</sup> day of December, 19    .

CITY COUNCIL

By Karen R. Traver  
Mayor

Attest:

Timothy McGuire  
City Clerk

Approved as to Form:

[Signature]  
City Attorney

Passed: 12-20-79

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