

ORDINANCE NO. 1650

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY RELATED TO DECISIONS BY THE HEARINGS EXAMINER AND THE CITY COUNCIL'S ROLE IN THE QUASI-JUDICIAL PROCESS, AMENDING SECTIONS 2.30.010-030, 2.30.060, 2.30.070, 2.30.090, 2.30.100, 2.30.160, 14.32.072, 15.10.090, 15.10.100, 15.10.120, 15.10.130, 15.10.140, 15.10.170, 15.20.020, 16.66.070 and 16.66.100, REPEALING SECTIONS 2.30.110-150, 2.30.170, 2.30.180, 2.30.210, 15.10.110, AND 15.20.040, ALL OF THE LACEY MUNICIPAL CODE, AMENDING SECTIONS 1C.050, 1D.010, 1D.030(H), 1D.070 AND REPEALING SECTION 1D.060, ALL OF THE CITY OF LACEY DEVELOPMENT GUIDELINES AND PUBLIC WORKS STANDARDS AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, in 1979 the Lacey City Council implemented a land use permitting system authorized by Chapter 35A.63 RCW in which a Hearings Examiner replaced the Board of Adjustment as the hearings body for most land use permits; and

WHEREAS, when adopting the Hearings Examiner system, the City Council chose a process in which the Examiner made a recommendation to City Council on certain project permits. The Council could decide the matter on the record before the Examiner or create its own record by requesting additional evidence or holding a public hearing before the Council; and

WHEREAS, in 1995 the Regulatory Reform Act was enacted into law at Chapter 36.70B RCW; and

WHEREAS, the Regulatory Reform Act established limitations on how local governments could process project permits including a requirement that the decision be based on development regulations and the allowance of a single open record (public) hearing, and

WHEREAS, the Lacey City Council incorporated the requirements of Chapter 36.70B RCW into the Lacey Municipal Code (Ordinance 1035) in part by having the Examiner hold the open record (public) hearing and making a recommendation for Council's final action; and

WHEREAS, Council's role for final action is similar to an appellate court with a ~~closed record hearing in which no new testimony or evidence can be considered; and~~

WHEREAS, the Appearance of Fairness Doctrine limits any decision maker in this quasi-judicial project permit process from ex-parte contact during the pendency of the process; and

WHEREAS, this current project permit process therefore significantly limits the Council's ability to interact with their constituents during the project review process; and

WHEREAS, the City Council recognizes that Hearings Examiners are professionally trained in reviewing and making objective decisions in land use matters; and

WHEREAS, the City Council desires to separate itself from the project review process so that it can be more responsive to the concerns of its constituents and spend more time concentrating on policymaking.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, AS FOLLOWS:

Section 1. Section 2.30.010 of the Lacey Municipal Code is hereby amended as follows:

2.30.010 Creation of land use hearings examiner.

Pursuant to Chapter 35A.63 RCW, the office of land use hearings examiner, hereinafter referred to as "examiner," is created. The examiner shall interpret, review and implement land

use regulations as provided ~~in this chapter or by other ordinance~~ in the Lacey Municipal Code. In addition, the examiner shall hear appeals relating to potentially dangerous or dangerous dogs pursuant to Chapter 7.04 LMC 7.04.070, ~~and~~ the city's construction codes as described in Chapter 14.18 LMC-14.18.030, ~~and other matters as authorized under the Lacey Municipal Code~~. Unless the context requires otherwise, the term "examiner," as used in this chapter, shall include deputy examiner and examiners pro-tem.

Section 2. Section 2.30.020 of the Lacey Municipal Code is hereby amended as follows:

2.30.020 Appointment and term.

The ~~city council shall choose and appoint, by professional services contract, an~~ examiner and any deputy examiners ~~shall be appointed by the mayor and confirmed by the city council after receipt of recommendation from the joint hearings 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~~ city council 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.

Section 3. Section 2.30.030 of the Lacey Municipal Code is hereby amended as follows:

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.~~

Section 4. Section 2.30.060 of the Lacey Municipal Code is hereby amended as follows:

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.~~

Section 5. Section 2.30.070 of the Lacey Municipal Code is hereby amended as follows:

2.30.070 Organization.

The operation of the hearings examiner's office shall be under the administrative supervision of the examiner and said office shall be separate and not a part of the community and economic development department or any other department providing staff planning services.

Section 6. Section 2.30.090 of the Lacey Municipal Code is hereby amended 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 and throughout the Lacey Municipal Code. The decision of the hearings examiner on all matters shall be final.:~~

~~A. The decision of the hearings examiner on the following matters shall be final unless such decision is appealed to the city council pursuant to LMC 2.30.160:~~

~~1. Appeals of decisions made pursuant to limited administrative review as defined in Section 1.030 of the City of Lacey Development Guidelines and Public Works Standards;~~

~~2. Appeals of decisions made pursuant to full administrative review as defined in Section 1.030 of the City of Lacey Development Guidelines and Public Works Standards;~~

~~3. Variance requests;~~

~~4. Preliminary plat approval extension requests;~~

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

~~15. Preliminary plat applications;~~

~~26. Preliminary plat modification requests;~~

~~37. Shoreline substantial development, shoreline variance and shoreline conditional use permits and permit revisions;~~

~~48. Planned residential development applications;~~

59. ~~Conditional use permit applications.~~

~~C. The decision of the hearings examiner on any matters relating to potentially dangerous or dangerous dogs pursuant to LMC 7.04.070 or the duties described in LMC 14.18.030 for the building construction and life safety codes shall be final. Appeals of such determinations by the city hearings examiner shall be appealable to Thurston County superior court. An appeal of the hearings examiner decision must be filed with Thurston County superior court within twenty calendar days from the date the hearings examiner decision was mailed to the person to whom the notice of civil penalty was directed.~~

Section 7. Section 2.30.100 of the Lacey Municipal Code is hereby amended as follows:

2.30.100 Applications for permits or approvals.

Applications for permits or approvals within the jurisdiction of the hearings examiner shall be presented to the community and economic development department for review as set forth in Chapter 1 of the City of Lacey Development Guidelines and Public Works Standards. ~~The department shall accept such applications only if applicable filing requirements set forth in Section 1B.050 of the City of Lacey Development Guidelines and Public Works Standards 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 Section 1C.050 of the City of Lacey Development Guidelines and Public Works Standards.~~

Section 8. Section 2.30.110 of the Lacey Municipal Code is hereby repealed.

Section 9. Section 2.30.120 of the Lacey Municipal Code is hereby repealed.

Section 10. Section 2.30.130 of the Lacey Municipal Code is hereby repealed.

Section 11. Section 2.30.140 of the Lacey Municipal Code is hereby repealed.

Section 12. Section 2.30.150 of the Lacey Municipal Code is hereby repealed.

Section 13. Section 2.30.160 of the Lacey Municipal Code is hereby amended as

follows:

2.30.160 Appeal from examiner's decision.

The decision of the examiner ~~as to those applications listed in LMC 2.30.090(A)~~ shall be final and conclusive unless a Land Use Petition is timely filed with the Thurston County Superior Court within fourteen 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 in accordance with Chapter 1D of the City of Lacey Development Guidelines and Public Works Standards and applicable state laws.

Provided:

A. Appeals from the examiner's decision on shoreline permits shall be governed by the provisions of Chapter 90.58 RCW; and

B. Appeals from the examiner's decision on any matters relating to potentially dangerous or dangerous dogs pursuant to LMC 7.04.070, the duties described in LMC 14.18.030 for the building construction and life safety codes and related to civil violations and abatement under LMC 14.40 shall be to Thurston County Superior Court. Such appeals must be filed with Thurston County Superior Court within twenty calendar days from the date the hearings examiner decision was mailed to the person to whom the notice of civil penalty was directed.

Section 14. Section 2.30.170 of the Lacey Municipal Code is hereby repealed.

Section 15. Section 2.30.180 of the Lacey Municipal Code is hereby repealed.

Section 16. Section 2.30.210 of the Lacey Municipal Code is hereby repealed

Section 17. Section 14.32.072 of the Lacey Municipal Code is hereby amended as

follows:

14.32.072 Historical tree(s).

A. Purpose. The purpose of the historical tree designation is to protect trees with a historical significance and to establish a register of these trees. Historical trees require protection due to their special value in that they are irreplaceable. They may be associated with historic figures, events, or properties; or be rare or unusual species; or they may have aesthetic value worthy of protection for the health and general welfare of the residents of this city.

Therefore, the purpose of this section is:

1. Protection and maintenance. To provide for the protection and proper maintenance of historical trees, to minimize disturbance to the trees, and to prevent other environmental damage from erosion or destruction of wildlife habitat;
2. Health, safety, welfare. To protect the health, safety and general welfare of the public;
3. Goals and objectives. To implement the goals and objectives of the city's Urban Forest Management Plan.

B. Historical Tree Registration. The city shall prepare and thereafter maintain a list of historical trees within the city limits. The inventory may include a map identifying the location of the trees and a brief narrative description of each historical tree. The historical tree inventory shall be prepared and amended at any time following the procedures established below.

1. Nomination. A tree may be nominated for historical tree status by the property owner, a neighborhood organization, or any person by submitting a map, a photograph, and a narrative description including the location, species, approximate age, and the characteristics on which the nomination is based;
2. Review. The director, upon receipt of a nomination, shall review the nomination and confer with the city tree protection professional and other city staff as may be appropriate. Notice of the nomination shall be mailed to the property owner and shall be

posted by the city on the subject site for a period of ten days. The director shall inspect the tree, consider public comments, and decide in each case whether or not the tree is to be designated a historical tree. The city shall place each designated historical tree on the historical tree register. In the event the owner of the tree does not approve of its designation as a historical tree, the nomination will be disapproved;

3. Notification of the director's decision. Notice of the director's decision shall be mailed to the property owner and shall be posted by the city on the subject site for a period of ten days;

4. Appeal. Any person may appeal the director's decision to the hearing examiner pursuant to section 1D of the City of Lacey Development Guidelines and Public Works Standards;

~~5. Hearing examiner. The hearing examiner shall hold a public meeting on the appeal pursuant to the procedures specified in section 1.C.050 (Quasi-Judicial Review of Applications) of the City of Lacey Development Guidelines and Public Works Standards. The hearing examiner will make a decision which will constitute a recommendation to the city council. All recommendations of the hearing examiner will be considered by the city council at the next available council meeting;~~

56. Notification of registration. Each property owner who has one or more registered historical trees shall be notified by first class mail of the designation within thirty days of designation;

67. Recording of historical tree covenant. Each property owner who has one or more registered historical trees shall execute a historical tree covenant in a form agreeable to the city. The historical tree covenant shall require that the tree be maintained in a manner which is consistent with the provisions of this chapter. The historical tree covenant shall be recorded by the county auditor. Recording fees shall be paid by the applicant;

78. Duration of covenant. The historical tree covenant shall be effective from the date of recording until such a time that a tree removal permit has been issued by the director pursuant to this section;

89. Education benefits. From time to time the city may prepare public information programs on historical trees and provide qualified professional tree care advice to owners of the historical trees;

C. Limitation on removal. Subject to the exceptions enumerated in subsection D of this section, no person shall remove, or cause to be removed, any historical tree.

D. Removal Procedures. Historical trees shall not be removed except through the procedures established in this section.

1. Permit Required. No Historical tree shall be removed without first applying for and receiving a land clearing permit. The applicant for the permit shall be the property owner or the city. An application for a tree removal permit shall be submitted on a form provided by the city. The applicant must state the justification for removal on the tree removal application;

2. Review. If justification for removal is based upon health of the tree, and a visual inspection by the director cannot establish that the tree is dead, diseased, or hazardous, the applicant shall pay for the city tree protection professional to make a determination. If it is determined by the tree protection professional that the tree is dead, diseased, or otherwise hazardous and cannot be saved, the director may approve the removal. If the tree is determined to be healthy, or with treatable infestation or infection, the director may deny the permit.

If justification is due to reasons other than health of the tree, the director shall confer with other city personnel as may be appropriate in evaluating the justification and make a decision pursuant to the procedures and requirements of section 1E.030 (Limited Administrative Review of Applications) of the Development Guidelines and Public Works Standards;

3. Notification. If the director decides that a permit is justified, notice of the director's decision shall be mailed to the applicant, all parties of record, and posted by the city on the subject site for a period of ten days, during which no work shall commence. No work shall commence during the notice periods or when appeals are pending disposition;

4. Appeal. The property owner or any person residing or owning property within three hundred feet of the tree may appeal the director's decision to the hearings examiner pursuant to section 1D of the City of Lacey Development Guidelines and Public Works Standards, whether that decision is positive or negative. Appeals must be submitted in writing within ten days of the posting of the director's decision;

~~5. Hearing examiner. The hearing examiner shall hold a public meeting on the appeal pursuant to the procedures specified in section 1K.050 (Quasi-Judicial Review of Applications) of the Development Guidelines and Public Works Standards. The hearing examiner will make a decision which will constitute a recommendation to the city council. All recommendations of the hearing examiner will be considered by the city council at the next available council meeting. The city council decision shall be final. No work shall commence during the notice periods or when appeals are pending disposition;~~

56. Permit for tree removal timing. Any tree removal permit granted under this chapter shall be valid for one year. In addition to the permit, the property owner will execute a revocation of covenant in a form agreeable to the city. The revocation of covenant shall be recorded by the county auditor. Recording fees shall be paid by the property owner.

Section 18. Section 15.10.090 of the Lacey Municipal Code is hereby amended as follows:

Preliminary plat hearings examiner review procedure.

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

A. To assure conformance of the proposed subdivision to the general purposes of this chapter, all elements of the Comprehensive Plan and implementing legislation including the Zoning Code (LMC Title 16), the Development Guidelines and Public Works Standards, and other applicable planning standards, specifications and policies adopted by the city council shall be considered;

B. To inquire into the public use and interest proposed to be served by the establishment of the subdivision and/or dedication, the examiner shall determine if appropriate provisions are made for, but not limited to, the following:

1. *Prevention of overcrowding.* Consideration shall be given to designations of the Comprehensive Plan and Zoning Code, and the requirements of the Development Guidelines and Public Works Standards in consideration of 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.

2. Conformance with the Transportation Plan and Development Guidelines and Public Works Standards to 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 pedestrians and vehicles and reduce the possibility of crashes. Traffic calming techniques and other standards of the Development Guidelines and Public Works Standards will be required. Key pedestrian intersection improvements for pedestrians will be considered where so designated on the Comprehensive Plan Map.

3. Meeting requirements of the Zoning Code (LMC Title [16](#)) and Design Review (Chapter [14.23](#) LMC) to provide adequate light air and privacy by meeting setbacks, dimensional standards, yard areas and design principles. Assurance that the plat is arranged in such a way that all lots have adequate light, air, and opportunity for privacy.

4. Satisfying principles, goals and policies of the Comprehensive Plan and Parks and Recreation Comprehensive Plan for proper arrangement and provision of easements and pathways and other bicycle-pedestrian paths, etc. Adequate provisions for pathways, sidewalks and other pedestrian features connecting various parts of a subdivision shall be an emphasis of design. Goals and policies of the Comprehensive Plan for key pedestrian intersections and improvements shall be used when designing pedestrian movement and circulation. Consideration shall be given to key focus areas in every neighborhood, particularly considering local grade schools and open space, and how each subdivision relates to these areas and provides connectivity to key sites within each neighborhood. Provisions for trail systems in areas conducive to such (along creeks, rivers, scenic areas, etc.) shall also be considered.

5. Conformance with goals, policies and standards of the Parks and Recreation Comprehensive Plan and standards of this title for provision of adequate recreation and open space and buffers. Sufficient guaranteed open space and recreational areas shall be designed and provided to adequately serve the subdivision. Plans for connectivity

between subdivisions and throughout neighborhood areas shall be provided to residents of the subdivision and shall be implemented in the design of each subdivision. This shall include trail systems, key pedestrian intersection concepts, sensitive area buffers and corridors with trails systems and other global circulation concepts (including more than just the local circulation of the individual subdivision) for the neighborhood and community.

C. To consider the physical characteristics of the proposed subdivision site. The hearings examiner may recommend disapproval because of flood, inundation or wetland or other sensitive area conditions pursuant to the standards of LMC Title 14. The 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:

1. All such proposals are consistent with the need to minimize flood damage;
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;
3. Adequate drainage is provided so as to reduce exposure to flood hazards; and
4. Other purposes as described in the implementing legislation of LMC Title 14 are achieved.

The hearings 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.~~

Section 19. Section 15.10.100 of the Lacey Municipal Code is hereby amended as follows:

15.10.100 Preliminary plat hearings examiner decision ~~report to city council.~~

~~The hearings examiner shall prepare a recommendation to the city council according to the process outlined in Section 1C.050 of the City of Lacey Development Guidelines and Public Works Standards.~~ The hearings examiner shall submit such issue a written decision ~~and which contains findings of fact and conclusions of law~~ recommendations to the city council. The hearings examiner may approve, approve with conditions, or disapprove the proposed subdivision. ~~recommend that the proposed plat be approved, conditionally approved or~~

~~disapproved. In the event that a decision cannot be reached by the hearings examiner, the preliminary plat shall be forwarded to the city council with no recommendation.~~

Section 20. Section 15.10.110 of the Lacey Municipal Code is hereby repealed.

Section 21. Section 15.10.120 of the Lacey Municipal Code is hereby amended as

follows:

15.10.120 Preliminary plat council record.

A record of all public meetings of the ~~council~~ hearings examiner shall be kept by the city clerk and shall be made available to the public upon request.

Section 22. Section 15.10.130 of the Lacey Municipal Code is hereby amended as

follows:

15.10.130 Preliminary plat notice of final decision.

Upon approval, disapproval or modification of the preliminary plat by the hearings examiner~~council~~, the assigned planner shall so notify the applicant ~~by mail~~ pursuant to the notice requirements of the Development Guidelines and Public Works Standards Section 1C.070 within ten days of said action. The action of the ~~council~~ hearings examiner shall be noted on two copies of the preliminary plat, including reference to any attached documents describing conditions imposed ~~by the council~~. The planner shall return one copy to the subdivider and retain one copy for the permanent file.

Section 23. Section 15.10.140 of the Lacey Municipal Code is hereby amended as follows:

15.10.140 Preliminary plat duration of approval.

A. Approval of the preliminary plat shall be effective for five years from the date of approval

by the ~~city council~~hearings examiner, 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.

B. An applicant who files a written request with the community and economic development department at least thirty days before the expiration of this five-year period shall be granted a one-year time extension by the director upon showing that the applicant has attempted in good faith to submit the final plat within the five-year period.

C. An applicant who files a written request with the community and economic development department prior to the expiration of the one one-year time extension may be granted additional extension(s) for not more than one year at a time by the director. If this additional extension of time is approved, the preliminary plat shall be subject to all new and amended regulations, requirements, policies or standards which are adopted or in effect at the time the additional extension is granted.

D. Knowledge of the 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, although it may notify an applicant of the date of expiration. All requests for an extension of time must be submitted prior to expiration of the preliminary plat or any prior extensions, whichever is applicable.

Section 24. Section 15.10.170 of the Lacey Municipal Code is hereby amended as follows:

15.10.170 Final plat specific requirements.

The following shall be shown or accompany the final plat at the time it is submitted to the department of community development:

- A. A certificate of title by a recognized title insurance company, dated not to exceed thirty days prior to submitting a plat for final approval, showing the names of all persons whose consent is necessary to dedicate roads, streets and other easements shown upon the map;
- B. Names, addresses, and phone numbers of the owner, subdivider, engineer, and/or surveyor;
- C. A copy of any deed restrictions applicable to the subdivision;
- D. A copy of any dedication requiring separate documents;
- E. A certificate by the city engineer that the subdivider has complied with one of the following:
 - 1. All improvements have been installed in accordance with the requirements of these regulations and with the action of the ~~council~~ hearings examiner giving conditional approval with approval of the preliminary plat;
 - 2. An agreement has been executed as provided for in LMC 15.20.020 to assure completion of required improvements.
- F. The date, scale, north arrow, legend, controlling topography and existing features such as highways and railroads. The basis for bearings shall be the Lacey Coordinate System;
- G. Legal description of the tract boundaries;
- H. Reference points and lines of existing surveys identified, related to the plat as follows:
 - 1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;

2. Adjoining corners of adjoining subdivisions;
 3. City or county boundary lines when crossing or adjacent to the subdivision;
 4. Section and donation land claim lines within and adjacent to the plat;
 5. Whenever the county or a city has established the centerline of a street adjacent to or within the proposed subdivision, the location of this line and monuments found or reset;
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6. All other monuments found or established in making the survey of this subdivision or required to be installed by provisions of this title.
- I. Mathematical boundary closures of the subdivision showing the error of closure, if any;
 - J. The mathematical lot closures and street centerline closures, and square footage of each parcel;
 - K. The exact location and width of streets and easements intersecting the boundary of the tract;
 - L. Tract, block, and lot boundary lines and street rights-of-way and centerlines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings. Tract boundaries, lot boundaries and street bearings shall be shown to the nearest second with basis of bearings. All distances shall be shown to the nearest one-hundredth foot;
 - M. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the width on each side of the centerline. For streets on curvature, curve data shall be based on the street centerline. In addition to the centerline dimensions, the radius and central angle shall be indicated;
 - N. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. The width of the easement, its length and bearings, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication;
 - O. Lot numbers beginning with number "1" and numbered consecutively without omission or duplication throughout the plat. The numbers shall be solid, of sufficient size and thickness to stand out, and so placed as not to obliterate any figure. Lot numbers in an addition to a

subdivision of the same name shall be a continuation of the numbering in the original subdivision;

P. Land parcels to be dedicated for any purpose, public or private, shall be distinguished from lots intended for sale;

Q. The following certificates may be combined where appropriate:

1. A certificate signed and acknowledged by all parties with any record title interest in the land subdivided, consenting to the preparation and recording of the plat;
2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map intended for any public use except those parcels which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants;
3. A certificate with the seal of and signed by the engineer or the surveyor responsible for the survey and final map;
4. Other certifications now or hereafter required by law.

R. Lots containing one acre or more shall show net acreage to nearest hundredth, whenever possible;

S. Each and every plat, or replat, of any property filed for record shall:

1. Contain a statement of approval from the city engineer or by a licensed engineer acting on behalf of the city as to the survey data, the layout of streets, alleys, and other rights-of-way, design of bridges, sewage and water systems, and other structures. No engineer who is connected in any way with the subdividing and platting of the land for which subdivision approval is sought shall examine and approve such plats on behalf of the city;
2. Be accompanied by a complete survey of the section or sections in which the plat or replat is located, or as much thereof as may be necessary to properly orient the plat within such section or sections. The plat and section survey shall be submitted with complete field and computation notes showing the original or reestablished corners with descriptions of the same and the actual traverse showing error of closure and method of balancing. A sketch showing all distances, angles, and calculations required to determine

corners and distances of the plat shall accompany this data. The allowable error of closure shall not exceed one foot in five thousand feet;

3. Be acknowledged by the person filing the plat before the auditor, or any other officer who is authorized by law to take acknowledgment of deeds, and a certificate of the acknowledgment shall be enclosed or annexed to such plat and recorded therewith;

4. ~~Contain a certification from the Thurston County treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.~~

T. Final application shall include information necessary to determine whether all conditions of approval have been met.

Section 25. Section 15.20.020 of the Lacey Municipal Code is hereby amended as follows:

15.20.020 Variance--Determination.

A. The hearings 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 based on LMC [16.90.005](#) and the specific requirements for which the variance is requested;

B. If a variance is in conjunction with a preliminary plat, binding site plan, or short subdivision it shall proceed in accordance with Chapter 1B of the City of Lacey Development Guidelines and Public Works Standards. A separate hearing shall be held for all other requests for variances.

Section 26. Section 15.20.040 of the Lacey Municipal Code is hereby repealed.

Section 27. Section 16.66.070 of the Lacey Municipal Code is hereby amended as follows:

16.66.070 When granted.

A conditional use permit may be granted by the ~~city council~~hearings examiner, after public hearing and review, for those uses requiring such permits as provided for in this title.

Section 28. Section 16.66.100 of the Lacey Municipal Code is hereby amended as follows:

16.66.100 Action by hearings examiner.

In reviewing a conditional use permit, the hearings examiner 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. The hearings examiner shall ~~recommend~~establish a time limit, within which, action for which the conditional use is required shall be begun, completed, or both.

Section 29. Section 1C.050 of the City of Lacey Development Guidelines and Public Works Standards is hereby amended as follows:

1C.050 Quasi-Judicial Review of Applications

The review procedure under Quasi-Judicial Review shall be as follows:

- A. If the proposed development is subject to the State Environmental Policy Act (SEPA), the threshold determination shall be made after the closing of the public comment period associated with the Notice of Application.
- B. The community development department shall distribute copies of the complete application to agencies and departments affected by the proposal or with review authority. The community development department shall set a date for return of findings and recommendations from each commenting agency or department.
- C. Upon the completion of the application comment period, the issuance of an environmental determination and of the environmental appeal period, the department shall schedule a hearing with the City of Lacey Hearing Examiner, when applicable.
- D. At least ten (10) days before the date of a public hearing the department shall issue public notice of the date, time, location and purpose of the

hearing by posting the subject site and the nearest intersection, posting at city hall, publishing notice in the official city newspaper and mailing notice to property owners of record located within a minimum of 300 feet of the subject property. If the applicant owns adjoining land, the distance of notification shall be measured from outside of the applicant's ownership. Failure to receive a public hearing notice shall not invalidate the hearing.

- E. At least ten (10) days before the date of the public hearing, the department shall issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall ~~mail~~provide a copy of the staff report and recommendation to the applicant or the applicant's designated representative. The department shall make available a copy of the staff report, subject to payment of a reasonable charge, to other parties who request it.
- F. Public hearings shall be conducted in accordance with the rules of procedure adopted by the hearing examiner. A public hearing shall be recorded on either audio or audio-visual tape. If for any reason the hearing cannot be completed on the date set in the public notice, it may be continued during the public hearing to a specified date, time and location without further public notice required.
- G. ~~Within ten (10) working days after the date the public record closes, the hearing examiner shall issue a written recommendation to the city council regarding the application(s).~~
- H. ~~The hearings~~ examiner may ~~recommend~~approve~~al~~, approve~~al~~ with conditions or denial~~of~~ the application ~~to the Lacey City Council~~ and shall provide written notice of its ~~recommendation~~decision to the council, department, applicant, the applicant's designated representative, the property owner(s), and any other parties of record within fourteen (14) days of the close of the public hearing. The final decision of the hearings examiner shall include:
1. A statement of the applicable criteria, standards and law;
 2. A statement of the findings the hearing examiner made showing the proposal does or does not comply with applicable approval criteria and assurance of compliance with applicable standards;
 3. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for

review. The notice shall list the place, days and times when the case file is available for review and the name and telephone number of the department representative to contact to arrange for a review.

~~I. Following the public hearing and in accordance with RCW 36.70A.035, the recommendation of the Hearing Examiner shall be forwarded to the City Council. Upon receiving the recommendation of the Hearing Examiner, the City Council shall set a public meeting to consider the proposal. This meeting shall take place no later than 30 days from the date of the Hearing Examiner decision. The Council may accept, modify or reject the recommendation. Village Center projects require mailings to property owners within 1000 feet of the subject project.~~

~~J. The City Council may accept, modify or deny the project.~~

~~K. The final decision of the City Council shall be in writing and include:~~

~~1. A statement of applicable criteria and law;~~

~~2. A statement of the findings indicating the application's or proposed development's compliance or non-compliance with each applicable approval criteria;~~

~~43.~~ A statement that the decision is final unless appealed, pursuant to Section 1D "Appeals", to Superior Court within twenty-one days of the issuance of the decision. The appeal closing date shall be listed.

~~54.~~ A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for inspection. The notice shall state the place, days and times when the case file is available for inspection and the name and telephone number of the department's representative to contact to arrange inspection.

Section 30. Section 1D.010 of the City of Lacey Development Guidelines and

Public Works Standards is hereby amended as follows:

1D.010 Appeals

- A. An administrative appeal of a decision of the department after Limited and Full Administrative Review shall be filed with the department by the applicant or any party of record pursuant to Section 1D.030. The

Hearing Examiner at a public hearing shall hear the administrative appeal as an open record appeal.

- B. An appeal of a ~~quasi-judicial-final~~ decision by the Hearing Examiner shall be timely filed as a judicial appeal pursuant to Section 1D.070~~with the department, by the applicant or any party of record pursuant to Section 1D.060. The appeal shall be heard as a closed record appeal by the City Council.~~
- C. An appeal of a final decision of the City Council shall be timely filed as a judicial appeal pursuant to Section 1D.070.
- D. The City shall have no obligation to the applicant or to any party to defend an appeal of a decision of the department, Hearing Examiner or the City Council.
- E. An aggrieved person, agency or department with standing may appeal a decision made by the City of Lacey. A person, agency or department with standing is one who is a party of record, as defined in Section 1D.030.

Section 31. Section 1D.030(H) of the City of Lacey Development Guidelines and

Public Works Standards is hereby amended as follows:

- H. Building Code Appeals. All appeals filed in accordance with LMC 14.18.030 shall be heard by the Hearing Examiner. Such appeals shall follow the procedures contained herein ~~except that the decision of the Hearing Examiner shall be final pursuant to LMC 2.30.090 (C).~~

Section 32. Section 1D.060 of the City of Lacey Development Guidelines and

Public Works Standards is hereby repealed.

~~1D.060 — Appeals to City Council~~

- ~~A. All decisions of the Hearing Examiner which have been timely appealed pursuant to this chapter and Section 2.30.160 shall come before the City Council for consideration in an open public meeting no longer than thirty days from the date an appeal is filed. The City Council shall consider the matter based upon the written record before the Examiner, the Examiner's decision and the written appeal. The written appeal shall contain the information required in 1D.030 (B) and~~

~~shall be accompanied by the appropriate fee submitted to the Department.~~

~~B. The City Council may accept, modify or reject the Examiner's decision, or any findings or conclusions therein. A decision by the City Council to modify or reject shall be supported by findings and conclusions. The Council's decision shall be rendered within twenty-one days after consideration in open public meeting unless all parties affected agree to an extension of such date.~~

~~C. The action of the Council approving, modifying, or rejecting a decision of the Hearing Examiner shall be conclusive, unless within twenty-one (21) calendar days from the date of the final Council action an aggrieved party or person files a land use petition with the Superior Court of Washington for Thurston County for the purpose of review of the action taken.~~

Section 33. Section 1D.070 of the City of Lacey Development Guidelines and

Public Works Standards is hereby amended as follows:

1D.070 Judicial Appeals of ~~City Council~~Final Decisions

- A. Appeals of an action of the City, with respect to an application for which all administrative appeals specifically authorized have been timely exhausted, shall be filed in the Thurston County Superior Court and served on all necessary parties within twenty-one (21) days after the date of issuance of the Notice of Final Decision, as determined pursuant to RCW 36.70C.040.
- B. Notice of the appeal and any other pleadings required to be filed with the Superior Court shall be served on the City Manager, the City Attorney, and the Director of Community Development within the twenty-one (21) day time period.
- C. The appellant may arrange for transcription of any hearings held on the application and copies from the file. All costs of transcribing the record, copying the file, and preparing the record on appeal shall be paid by the appellant. The appellant shall, prior to the department's preparation of the record, pay an advance deposit to the department in an amount determined by the department's fee schedule for copying materials. The fee schedule shall represent the department's reasonable costs of duplicating the record. Any excess advance deposit shall be promptly refunded to the appellant.

D. The action of the City Council approving Comprehensive Plan amendments shall be final and conclusive, unless appealed to the Growth Management Hearings Board as provided under the Revised Code of Washington. The cost of preparing and certifying the transcript of records ordered by the Board shall be borne by appellant.

~~E. Appeals of a decision to grant, deny or rescind a shoreline permit shall be governed by the provisions of Chapter 90.58 of the Revised Code of Washington.~~

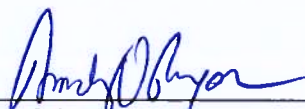
Section 34. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 35. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 36. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, at a regularly-called meeting thereof, held this 7th day of
December, 2023.

CITY COUNCIL

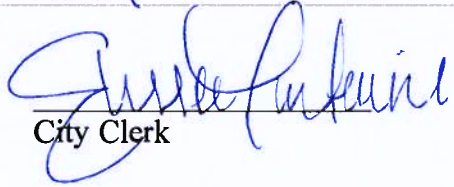
By: 
Mayor

Approved as to form:



City Attorney

Attest:



City Clerk

SUMMARY FOR PUBLICATION
ORDINANCE NO 1650
CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on December 7, 2023, Ordinance No. 1650, entitled AN ORDINANCE OF THE CITY OF LACEY RELATED TO DECISIONS BY THE HEARINGS EXAMINER AND THE CITY COUNCIL'S ROLE IN THE QUASI-JUDICIAL PROCESS, AMENDING SECTIONS 2.30.010-030, 2.30.060, 2.30.070, 2.30.090, 2.30.100, 2.30.160, 14.32.072, 15.10.090, 15.10.100, 15.10.120, 15.10.130, 15.10.140, 15.10.170, 15.20.020, 16.66.070 and 16.66.100, REPEALING SECTIONS 2.30.110-150, 2.30.170, 2.30.180, 2.30.210, 15.10.110, AND 15.20.040, ALL OF THE LACEY MUNICIPAL CODE, AMENDING SECTIONS 1C.050, 1D.010, 1D.030(H), 1D.070 AND REPEALING SECTION 1D.060, ALL OF THE CITY OF LACEY DEVELOPMENT GUIDELINES AND PUBLIC WORKS STANDARDS AND APPROVING A SUMMARY FOR PUBLICATION.

The main points of the Ordinance are described as follows:

1. The Ordinance amends Chapter 2.30 of the Lacey Municipal Code related to the Land Use Hearings Examiner.
2. The Ordinance amends Chapter 14.32 of the Lacey Municipal Code related to Hearings Examiner decisions for Historical Trees.
3. The Ordinance amends Chapter 15.10 of the Lacey Municipal Code related to Hearings Examiner decisions for Preliminary plats.
4. The Ordinance amends Chapter 15.20 of the Lacey Municipal Code related to Hearings Examiner decisions for Variances.
5. The Ordinance amends Chapter 16.66 of the Lacey Municipal Code related to Hearings Examiner decisions for Conditional Use Permits.
6. The Ordinance amends Section 1C.050 of the City of Lacey Development Guidelines and Public Works Standards related to Quasi-Judicial review of land use applications.
7. The Ordinance amends Chapter 1D of the City of Lacey Development Guidelines and Public Works Standards related to Appeals of land use decisions.
8. The Ordinance approves this summary for publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: December 11, 2023.