



A G E N D A

PLANNING COMMISSION

Connie Coleman-Lacadie • Don Daniels
Nancy Hudson-Echols • Ryan Pearson
James Guerrero • Paul Wagemann
• Christopher Webber

Regular Meeting

Wednesday, January 16, 2019

City Hall Council Chambers at 6:30 PM

6000 Main Street SW, Lakewood, Washington

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Minutes from December 5, 2018**
- 4. Agenda Updates**
- 5. Procedural Business**
 - Vote on 2019 Chair and Vice-Chair Positions
- 6. Public Comments**

(Each person will be allowed 3 minutes to speak, to a total of 15 minutes per topic. Groups with a designated speaker may have a total of 10 minutes to speak.)
- 7. Unfinished Business**
 - None
- 8. Public Hearings**
 - Quasi-Judicial Code Update (QJCU)
- 9. New Business**
 - Shoreline Master Program (SMP) Periodic Review
 - Title 18A Update
 - Annual Housing Report
- 9. Report from Council Liaison**
 - Mr. Mike Brandstetter
- 10. Reports from Commission Members & Staff**
 - Written Communications
 - Future Agenda Topics
 - Area-Wide Planning / Land Use Updates
 - Other

Enclosures

1. Draft Meeting Minutes from December 5, 2018
2. Election Process of Chair and Vice-Chair
3. Quasi-Judicial Code Update (QJCU) Memorandum
4. QJCU Resolution
5. SMP Periodic Review Memorandum
6. Title 18A Update Memorandum
7. Annual Housing Report

Members Only

Please email kdevereaux@cityoflakewood.us or call Karen Devereaux at 253.983.7767 no later than Tuesday at noon, January 15, 2019 if you are unable to attend. Thank you.



**PLANNING COMMISSION
REGULAR MEETING MINUTES
December 5, 2018
City Hall Council Chambers
6000 Main Street SW
Lakewood, WA 98499**

Call to Order

The meeting was called to order at 6:00 p.m. by Mr. Don Daniels, Chair.

Roll Call

Planning Commission Members Present: Don Daniels, Chair; Robert Estrada, Vice-Chair; James Guerrero and Christopher Webber and Connie Coleman-Lacadie

Planning Commission Members Excused: Paul Wagemann and Nancy Hudson-Echols

Planning Commission Members Absent: None

Staff Present: David Bugher, ACM Community Development; Tiffany Speir, Special Projects Planning Manager; and Karen Devereaux, Administrative Assistant

Council Liaison: Councilmember Mr. Michael Brandstetter

Approval of Minutes

The minutes of the meeting held on November 7, 2018 were approved as written by voice vote M/S/C Guerrero/Webber. The motion passed unanimously, 5-0.

Agenda Update

None

Public Comments

None

Unfinished Business

None

Public Hearings

None

New Business

Quasi-Judicial Process Code Amendments

Ms. Tiffany Speir explained that the current Lakewood Municipal Code includes different types of review and hearings for the varied types of land use applications. The amendments discussed in the staff report relate to clarifying when a quasi-judicial process must be used and then how such proceedings will be conducted by the City. There are five (5) proposed amendments to help clarify the process.

The Planning commission is being asked to review the proposed amendments in preparation of a public hearing on the Title 18A portions on January 16, 2019. The commission will then hold

a discussion on February 6th and is scheduled to take action on a recommendation regarding the Title 18A portions on February 20, 2019.

Title 18A (Land Use & Development Code) Updates Introduction

Ms. Tiffany Speir provided a high-level introduction on the scope of work the commissioners will be reviewing. The PowerPoint presentation provided an outline and overview of individual chapters the update will provide.

The majority of the proposed changes are technical and organizational amendments. Staff would like to make the Land Use and Development Code easier to understand for all users by updating the code sections by referencing code regulations with RCW's and WAC's, enhancing permitting predictability by clarifying requirements, improving readability with charts and tables, and increasing accountability with more transparency regarding deadlines, review, and authority.

Commissioners will begin focused discussions of chapters one at a time on January 16, 2019 through their anticipated action date of May 1, 2019. Several stakeholder group meetings are scheduled in January as well as a Commission public hearing on April 3, 2019.

Report from Council Liaison

Councilmember Mr. Michael Brandstetter updated the commissioners on the following Council actions:

Mr. Michael Brandstetter mentioned the Mayor concluded appointments to the different committees, advisory boards and commission at the December 3, 2018 City Council meeting. Mr. Brandstetter thanked all commissioners for their service over the past year and wished all a happy holiday as it will be the New Year before they meet again.

City Council has given consideration to the commissioner's list of recommendations in the 2019 Comprehensive Plan Amendment cycle as well as added an item to specifically increase the density for R2 zoned properties from 2.2 units per acre to 4.0 units per acre. There are 500+ acres zoned R2. Council feels this will help meet the goal of improved levels of middle-class housing in the City.

Council is glad to be back to the timeline of revision to Title 18A. Mr. Brandstetter commented that staff is well aware of Council's concerns that as Title 18A currently exists it is very complicated and difficult to understand.

Reports from Commission Members and Staff

City Council Actions

None

Written Communications

None

Future Agenda Topics

None

Area-Wide Planning / Land Use Updates

None

Next Regular Meeting: January 16, 2019 at 6:30 p.m. in Council Chambers

Meeting Adjourned at 7:21 p.m.

Don Daniels, Chair
Planning Commission 01/16/2019

Karen Devereaux, Recording Secretary
Planning Commission 01/16/2019

DRAFT



TO: Lakewood Planning Commission

FROM: David Bugher, Assistant City Manager/Community Development Director

DATE: January 16, 2019

SUBJECT: Election of Chair and Vice-Chair

I. Background

The Planning Commission Bylaws, Section 1, states that the Chair and Vice-Chair shall be elected each year for a one-year term at the first regular meeting of each calendar year.

II. Process for Making Nominations

1. The presiding officer opens the floor for nominations.
2. A Commissioner makes a nomination for a specific office.
3. Nominations do not require a second (and it is not out of order for members to second a nomination to signal their endorsement).
4. A Commissioner can nominate himself/herself.
5. A Commissioner should not offer more than one nomination until all other Commissioners have had the opportunity to make nominations.
6. The presiding officer can continue presiding, even if he/she is one of the nominees for the office.
7. A Commissioner can decline the nomination during the nomination process.
8. After each nomination, the presiding officer repeats the name of the nominee to the Commission and public.
9. Nominations are taken for successive offices in the order they are listed in the bylaws (Chair and Vice-Chair).
10. Motions to close nominations are unnecessary because the nomination process simply continues until no one wishes to make further nominations.

CITY OF LAKEWOOD PLANNING COMMISSION

Rules of Procedure, Regulations, and By-Laws

The Lakewood Planning Commission is established pursuant to City of Lakewood Ordinance No. 594, adopted September 15, 2014, and Lakewood Municipal Code (LMC) Section 02.90. The Lakewood Planning Commission shall consist of not more than seven (7) members, appointed by majority vote of the City Council, but a smaller number, not less than four (4) shall constitute a lawful Commission.

Pursuant to LMC 02.90.050, we, the members of the City of Lakewood Planning Commission do hereby adopt, publish and declare the rules, regulations and procedures set forth herein. These rules and procedures shall govern the conduct of meetings, maintenance of order, and order of business at regular meetings. In the event of a conflict between these rules and the express provisions of the municipal code, the municipal code shall prevail.

ARTICLE I – NAME

The name of this board is and shall be the CITY OF LAKEWOOD PLANNING COMMISSION hereinafter referred to as the "Planning Commission" or "Commission".

ARTICLE II – OFFICERS AND DUTIES

SECTION 1 OFFICERS

The Officers of the Planning Commission shall consist of a Chair and Vice-Chair. Officers shall be elected each year for a one-year term at the first regular meeting of each calendar year.

SECTION 2 CHAIR

The Chair shall preside over the meetings of the Planning Commission and exercise all the powers usually incident to the office, retaining, however, to himself/herself as a member of the Planning Commission, the full right to have his/her own vote recorded in all deliberations of the Commission. He/she shall enforce the by-laws and execute the will of the Commission. He/she shall appoint all committees and/or task force members.

SECTION 3 VICE CHAIR

The Vice-Chair, in the absence of the Chair from any meeting, shall perform all the duties incumbent upon the Chair. In the absence of the Chair and Vice-Chair, the members present shall elect, for that meeting only, a Chair Pro-Tem who shall have full powers of the Chair. (See Section 4)

SECTION 4 CHAIR PRO-TEM

In the absence of the Chair and the Vice-Chair, a Chair pro-tem shall be elected informally by the members present to conduct the meeting.

SECTION 5 SECRETARY

A Secretary shall be provided by the Community Development and Economic Department to prepare minutes and keep such records, attend to correspondence of the Commission, and perform such other duties as may be deemed necessary, including but not limited to:

- A. Take roll at regular, special and public meetings and hearings;
- B. Keep a record of all correspondence;
- C. Preserve all manuscripts and records;
- D. Keep a current roster of all members.
- E. Prepare and circulate the monthly agenda and staff reports regarding Planning Commission business;
- F. Record, transcribe and publish the minutes of all meetings of the Planning Commission; and
- G. Publish public notice of meetings.

SECTION 6 SPECIAL ELECTION OF OFFICERS

Should any officer resign, be removed, or otherwise vacate his office, his/her term shall be filled by result of an election at the next regular meeting or as soon as possible.

SECTION 7 TASK FORCES

- A. The Planning Commission may establish special task forces to investigate community issues within the scope of its authority. The Commission may initiate a task force on their own or at the direction of the City Council.
- B. Task forces will be composed of five (5) members. A maximum of three (3) members shall be from the Planning Commission.
- C. Task forces shall operate under the following Sections of the Planning Commission by-laws:

Article II Section 2	Chair
Article II Section 3	Vice-Chair
Article II Section 4	Chair Pro-Tem
Article II Section 5	Secretary
Article II Section 5	Attendance
Article II Section 6	Rules of Meeting
Article II Section 7	Voting/Parliamentary Procedures & Motions
Article II Section 11	Meeting Decorum
Article II Section 12	Debates

- D. Task forces are charged with researching the basic topic, identifying issues,

gathering information from experts, proponents, opponents, and the general public either in work sessions or public meetings.

- E. Task forces will make a clear, concise written report that includes alternatives and recommendations to the Planning Commission.

SECTION 8 STANDING OR TEMPORARY COMMITTEES

The Chair shall have full power to create standing or temporary committees of one or more members, charged with such duties of examination, investigation, and inquiry relative to one or more subjects of interest to the Commission, and within the scope of its authority. No standing or temporary committee shall have the power to commit the Commission to the endorsement of any plan or program prior to its submission to, and approved by the Planning Commission. Committee reports should be very brief, giving subject matter and date(s) during which the subject was discussed. Standing and temporary committees shall use the same rules and regulations of the Commission in their deliberations.

ARTICLE III – MEETINGS

SECTION 1 REGULAR MEETINGS

Regular meetings of the Planning Commission shall be held the first and third Wednesday of each month at 6:30 p.m. in Lakewood City Hall Council Chambers or at such other place as the Commission may determine. Any regular meeting may be canceled or rescheduled by the Chair, or in his absence, by the Vice-Chair. If, in any given month there is no business which requires Commission action, the regular meeting will be canceled. Every effort will be made to conduct each meeting as efficiently as possible in order to adjourn the meeting no later than 11 p.m.

SECTION 2 LEGAL HOLIDAYS

If a regular meeting falls on a legal holiday, that meeting shall be rescheduled or canceled by the Chair.

SECTION 3 SPECIAL MEETINGS

Special meetings of the Planning Commission may be called by any of the following: Chair, or in his absence, by the Vice-Chair; or by a majority vote of the Commission members. The scheduling and holding of all Planning Commission meetings is to be done in accordance with Washington State Law. Every effort shall be made to set up work sessions or special meetings with City of Lakewood City Council and other Advisory Boards in order to create effective communication between these bodies.

SECTION 4 QUORUM

A majority of the current membership of the Planning Commission shall constitute a quorum for the transaction of business. Any action taken by a majority of those present, when those present constitute a quorum, at any regular or special meeting of the Planning Commission shall be deemed the official

action of the Commission.

SECTION 5 ATTENDANCE

Attendance of regular and special meetings is expected of all Planning Commission members. Any member anticipating absence from a meeting should notify the Chair or the Community Economic Development Department in advance of any meeting.

If a member shall miss three consecutive meetings without there being reasonable cause, the Commission may recommend to the City Council the removal of the member.

SECTION 6 RULES OF MEETINGS

- A. Participation. In keeping with Parliamentary Procedures, discussion by the members should be concise, to the point, and relevant to the business pending before the Commission.
- B. Staff Participation. The Chair may call on a City employee, qualified to give expert testimony and/or a presentation on a matter, to address the Planning Commission.
- C. Public Participation. The Rules of Procedure for Public Participation are identified in Section 11. Time limits for the maximum duration of Audience Comments and Public Hearings at any one meeting may be imposed, if necessary, at the discretion of the Chair.
- D. Robert's Rules of Order, Newly Revised, shall govern the deliberations of the Commission except when in conflict with any of the rules contained herein.

SECTION 7 VOTING/PARLIAMENTARY PROCEDURES AND MOTIONS

VOTING:

- A. Each member present has a duty and obligation to vote on all questions put before the Commission unless that member has a conflict of interest or an appearance of fairness concern in the case of quasi-judicial matters. If a member does not vote on a question before the Commission (without a conflict of interest or appearance of fairness exclusion), the vote of such member shall be counted as a vote with the prevailing side. It is provided, however, that a new member to the Commission who is attending his or her first or second meeting may, at the member's discretion, be excused from voting on issues if the member believes he or she does not have sufficient information or background on the question to make an informed vote.
- B. Any time a member of the Planning Commission believes he or she may

have a conflict of interest or appearance of fairness concern which should or may disqualify that member from voting on a particular issue shall apprise the Chair of such potential conflict of interest or appearance of fairness concern, and the Chair shall determine whether or not the member is entitled to vote, provided that the decision of the Chair may be overruled by a majority of the remaining members of the Commission (excluding the member whose vote is subject of the decision).

- C. In advance of any quasi-judicial matter coming before the Planning Commission, the Chair shall request of the members present whether any of them believe they have an appearance of fairness concern or a conflict of interest which would disqualify them from participating in the quasi-judicial matter. Additionally, the Chair shall inquire of people in attendance of the quasi-judicial hearing whether any member of the public in attendance believes that a member of the Commission has a conflict of interest or an appearance of fairness concern which would disqualify such member from voting on the quasi-judicial matter. If any concerns or questions are raised regarding the eligibility of a member to vote, the decision shall be made on the member's eligibility to vote as set forth in Paragraph B, above.

PARLIAMENTARY PROCEDURES AND MOTIONS

- A. If a motion does not receive a second, it dies. Matters that do not constitute a motion include nominations, withdrawal of motion by the person making the motion, request for a roll call vote, and point of order or privilege, therefore a second is not needed.
- B. A motion that receives a tie vote is deemed to have failed.
- C. When making motions, be clear and concise and not include arguments for the motion within the motion.
- D. After a motion has been made and seconded, the Commission members may discuss their opinions on the issue prior to the vote.
- E. A motion may be withdrawn by the maker of the motion with agreement of the second prior to the calling of the question without the consent of the Commission.
- F. A motion to table is non-debatable and shall preclude all amendments or debates of the issue under consideration. A motion to table is to be used in instances where circumstances or situations arise which necessitate the interruption of the Planning Commission members' consideration of the matter then before them. A motion to table, if passed, shall cause the subject matter to be tabled until the interrupting circumstances or situations have been resolved, or until a time certain, if specified in the motion to table. To remove an item from the table in advance of the time certain requires a two-thirds' majority vote.
- G. A motion to postpone to a certain time is debatable, is amendable and may be reconsidered at the same meeting. The question being postponed

may be considered at a later time at the same meeting, or to a time certain at a future regular or special Planning Commission meeting.

- H. A motion to postpone indefinitely is debatable, is not amendable, and may be reconsidered at the same meeting only if it received an affirmative vote.
- I. A motion to call for the questions shall close debate on the main motion and is undebatable. This motion must receive a second and fails without a two-thirds' vote; debate is reopened if the motion fails.
- J. A motion to amend is defined as amending a motion that is on the floor and has been seconded, by inserting or adding, striking out, striking out and inserting, or substituting.
- K. Motions that cannot be amended include: Motion to adjourn, lay on the table, roll call vote, reconsideration and take from the table. A motion to amend an amendment is not in order.
- L. Amendments are voted on first, then the main motion as amended (if the amendment received an affirmative vote).
- M. Debate of the motion only occurs after the motion has been moved and seconded.
- N. The Chair's Secretary should repeat the motion prior to voting.
- O. The Secretary will take a roll call vote, if requested by the Chair, a Planning Commission member, or as required by law.
- P. When a question has been decided, any Commission member who voted in the majority may move for reconsideration, but no motion for reconsideration of a vote shall be made until the next Regular Planning Commission meeting.
- Q. A representative from the Community and Economic Development Department and/or the City Attorney shall act as the Commission's parliamentarian and shall decide all questions of interpretation of these rules which may arise at a Planning Commission meeting.

SECTION 8 AGENDA AND STAFF REPORTS

An agenda for every regular meeting shall be prepared and distributed by the Community and Economic Development Department to each Commission member not less than five (5) days prior to the date of the meeting at which such agenda is to be considered. The agenda shall be accompanied with a complete copy of the unapproved minutes of the previous meeting, staff reports, and such other material, illustrations, petitions, etc., as may pertain to the agenda.

SECTION 9 ORDER OF BUSINESS

- A. The order of business for each regular meeting of the Planning Commission shall be as follows:

1. Call to order.
2. Roll Call.
3. Approval of minutes of preceding meeting.
4. Agenda Update.
5. Public Comments.

Members of the audience may comment on items relating to any matter related to the Commission's business under the "Public Comments" period. Comments are limited to three (3) minutes per person. Groups who have at least three members present at the meeting may designate a speaker who may have a total of ten (10) minutes to speak on behalf of the group. The Chair shall determine the overall amount of time set for "Public Comments." Public comments sign-up forms will be available at each meeting for use of those citizens wishing to address the Commission. The Secretary shall serve as timekeeper.

In addressing the Commission, each person should stand, and after recognition, move to the podium, give his/her name, and unless further time is given by the presiding officer, shall limit his/her comments to three minutes. All remarks shall be made to the Commission as a body and not to any individual member.

No person shall be permitted to enter into any discussion from the floor without first being recognized by the presiding officer.

6. Public Hearings.

The public hearings section of the agenda allows for local citizens to submit testimony on projects where public notice provisions are required pursuant to the Lakewood Municipal Code. Testimony shall be received in the same manner for each project duly noticed and as outlined above under the public comments section.

7. Business Items.

The business items section deals with matters before the Planning Commission that do not require a Public Hearing.

8. Reports.

- a. City Council Actions: Staff will report on actions taken by the City Council that followed Planning Commission actions and other matters of interest.
- b. Written Communications: Staff will review pertinent written communication on planning related topics.
- c. Future Agenda(s): Planning Commission members may request items to be placed on future agendas. Staff may report on items planned for future agendas.
- d. Area Wide Planning/Land Use Updates: Staff will report on

actions taken by the Growth Management Coordinating Committee (GMCC), the Pierce County Regional Council (PCRC), the Pierce County Council, or the Puget Sound Regional Council (PSRC), on any planning or land use issues affecting Lakewood.

- e. Other: Staff will report on other topics relevant to the Planning Commission.

9. Reports of Standing or Temporary Committees.

10. Adjournment.

- B. Recess - The foregoing agenda may be interrupted for a stated time as called by the Chair to recess for any reason.

SECTION 10 MEETINGS OPEN TO THE PUBLIC

Any regular or special meeting of the Planning Commission shall be appropriately noticed per Washington State Statute, and be open to the public.

SECTION 11 MEETING DECORUM

To provide a fair and efficient form for the conduct of business at Planning Commission meetings, the following rules of decorum shall be observed:

- A. No person including Planning Commission members shall address the Commission or a presenter without first obtaining recognition from the Chair.
- B. The order of business shall be as prescribed on the agenda. Changes to the agenda order shall be approved by the Chair or by majority vote of Commission members present.
- C. In instances where a written staff report has been prepared, the staff representative, upon recognition by the Chair, shall present the staff report.
- D. Following the presentation of the staff report, the Commission shall be afforded the opportunity to question the staff regarding the material in the report.
- E. After questioning of the staff is completed, the Chair may recognize the applicant or proponent of that item to speak, if any. Following the proponent's remarks, any other person wishing to speak on the matter may be recognized by the Chair.
- F. Once any person has spoken in regard to a specific matter before the Planning Commission, he or she shall not be recognized to speak again until all persons wishing to speak have been given the first opportunity to do so.

SECTION 12 DEBATES

- A. Speaking to the Motion - No member of the Planning Commission, including the Chair, shall speak more than twice on the same motion except by consent of the majority of the Planning Commission members present at the time the motion is before the Commission.
- B. Interruption - No member of the Commission, including the Chair, shall interrupt or argue with any other member while such member has the floor, other than the Chair's duty to preserve order during meetings.
- C. Courtesy - All speakers, including all members of the Commission, in the discussion, comments, or debate of any matter or issue shall address their remarks to the Chair, be courteous in their language and deportment, and shall not engage in or discuss or comment on personalities, or indulge in derogatory remarks or insinuations in respect to any other member of the Planning Commission, or any member of the staff or the public, but shall at all times confine their remarks to those facts which are germane and relevant to the question or matter under discussion.
- D. Transgression - If a member of the Planning Commission shall transgress these rules on debates, the Chair shall call such member to order, in which case such member shall be silent except to explain or continue in order. If the Chair shall transgress these rules on debate or fail to call such member to order, any other member of the Commission may, under a point of order, call the Chair or such other member to order, in which case the Chair or such member, as the case may be, shall be silent except to explain or continue in order.
- E. Challenge to Ruling - Any member of the Planning Commission, including the Chair, shall have the right to challenge any action or ruling of the Chair, or member, as the case may be, in which case the decision of the majority of the Commission present, including the Chair, shall govern.

ARTICLE IV - REPORTS

SECTION 1 PLANNING COMMISSION REPORTS

Reports of official Planning Commission reviews or official recommendations based on public hearing shall be considered the majority report of the Commission. All Planning Commission reports shall include a finding of facts. The reports will be prepared by the Secretary of the Planning Commission and approved and forwarded to the City Council.

SECTION 2 ANNUAL REPORTS

In the first quarter of the calendar year, the Planning Commission shall prepare a written report to be forwarded to the Mayor and City Council containing, but not limited to:

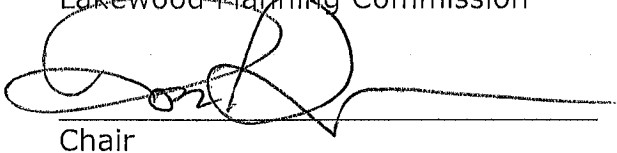
- A. A comparison of the adopted annual work program, objectives, and activities with actual or anticipated accomplishments.
- B. The extent to which unforeseen problems and opportunities have occurred.
- C. Proposals for any new short or long range programs to implement the policies of the Comprehensive Plan.

ARTICLE V – AMENDMENTS

These rules and regulations may be amended by a majority vote at a regular or special meeting.

The foregoing rules and regulations were approved and adopted at a regular meeting of the Planning Commission held on the 19th day of October, 2016.

Lakewood Planning Commission



Chair

1-9-17
Date



Secretary

1.9.17
Date



TO: Planning Commission

FROM: Tiffany Speir, Planning Manager, Special Projects

THROUGH: David Bugher, Assistant City Manager for Development Services

DATE: January 16, 2019

SUBJECT: Amending Lakewood Municipal Code regarding Quasi-Judicial Proceedings and Site-Specific Rezones

ATTACHMENTS: Article by Phil Olbrechts, Lakewood Hearing Examiner, re site-specific rezones; draft Resolution to recommend adoption of amendments to LMC Title 18A

The current Lakewood Municipal Code includes different types of review and hearings for different types of land use applications (see, e.g., LMC 18A.02.502); the amendments discussed in this memo relate to clarifying when a quasi-judicial process must be used, and then how such proceedings will be conducted by the City.

The proposed new code additions and current code amendments included herein are based on statute and case law:

- GMA (RCW 36.70A); Local Project Review (RCW 36.70B.020(4)); Land Use Petition Act (RCW 36.70C)
- All site-specific rezones for cities must be adopted by ordinance by a city council.
- Site-specific rezones are quasi-judicial and subject to appearance of fairness doctrine. All text amendments to a comprehensive plan or zoning code, as well as any “area-wide” rezones, are not quasi-judicial because those decisions are considered legislative.
- Site-specific rezones are a “project permit application” per Chapter RCW 36.70B and subject to Regulatory Reform Act (i.e., City holds one public hearing on a rezone and must issue a final decision within 120 days of the filing of a complete application.)

- Site-specific rezones are subject to LUPA (RCW 36.70C) (i.e., must be appealed to superior court within 21 days of issuance of the decision or appeal lost.)
- The courts require that the proponents of a rezone must establish that conditions have substantially changed since the original adoption and that the rezone must bear a substantial relationship to the public health, safety, morals or welfare. (If a rezone implements the comprehensive plan, a showing that a change of circumstances has occurred is not required.)
- The courts have also ruled that planned unit developments (PUDs) [or Planned Development Districts (PDDs)] that authorize the approval of densities and uses that are inconsistent with underlying zoning requirements are themselves considered zoning map amendments. As zoning map amendments, they must be adopted by ordinance and approved by the city council.

In summary, amendments proposed are as follows:

1. Amend LMC 1.36.280 “Review of final decisions” - add a new subsection “C” for site-specific zoning map amendments.
2. Add a new LMC Chapter 1.38 titled “Procedures for Quasi-Judicial Hearings.” This is where the bulk of the proposed amendments are located.
3. Amend LMC 18A.02.502 “Process Type-Permits - Table 3” in order to include site-specific zoning map amendments as a Process III permit.
4. Amend LMC 18A.40.520, .540, .610, .620, & .640 of the Planned Development District (PDD) Code Chapter to include language about site-specific zoning map amendments and complete some minor housekeeping.
5. Amend LMC 18A.50.221 “Applicability - Community Design” to clarify that single-family dwellings associated with a PDD are required to conform with the City’s design review provisions.
6. Amend 18A.90.200 to include a definition of site specific zoning map amendments or site-specific rezones derived from case law.

An article by Lakewood Hearings Examiner Phil Olbrechts is included herein as Attachment A for the Commission’s reference.

The proposed Resolution and amendments to LMC Title 18A are included as Attachment B on the following pages for the Commission’s review and adoption; sections of affected chapters with no changes are not included.

The Planning Commission is requested to hold a public hearing and make a recommendation to the City Council regarding the proposed amendments to Title 18A on January 16, 2019.

ATTACHMENT A

A Little Bit Pregnant: The Multi-Personalities of Site Specific Rezones - Or - A Cheat Sheet for Everything You Need to Know about Site-Specific Rezones

April 1, 2013 by [Phil Olbrechts](#)

Category: [Land Use Administration](#) , [Planning Advisor](#)

By Phil Olbrechts, Olbrechts and Associates, PLLC

We just can't help ourselves. We have to categorize everything. Put them into neat little boxes. We especially like to do that in the laws we pass. Land use laws are no exception. We start the boxing process for land use laws by throwing an issue in either the "legislative" or "permitting" box. That's usually an easy task. Except for site specific rezones. Sometimes site specific rezones act like a piece of legislation, other times a permit, and more often than not they're a little bit of each. This does not make the legislative bill writers happy, but does keep the lawyers busy and well fed. This article is your cliff notes on dispelling the mysteries and multiple personalities of the ubiquitous site specific rezone. Once you've digested its contents, you will be able to amaze your friends at cocktail parties¹ with your in-depth knowledge. Or you can just toss this article into an agenda packet as background material for those times your city council or planning commission is considering a site specific rezone.

A Site-Specific Rezone Must be Adopted by Ordinance by the City Council

All site specific rezones for cities must be adopted by ordinance adopted by a city council.

Ordinances are by definition legislative. They can only be adopted by a city council. Zoning maps are required by the Growth Management Act, [chapter 36.70A RCW](#), and all other city planning enabling legislation to be adopted by ordinance. You can only amend an ordinance by another ordinance. So if you want to amend a small piece of your zoning map (i.e. approve a site specific rezone), it must be approved by ordinance, which must be done by your city council. Planning commissions and hearing examiners can make recommendations on site specific rezones, but the final decision must be made by the city council.

Most people get this. What's not so apparent is that the courts have also ruled that planned unit developments (PUDs) that authorize the approval of densities and uses that are inconsistent with underlying zoning requirements are themselves considered zoning map amendments². As zoning map amendments, they must be adopted by ordinance and approved by the city council. A lot of cities don't get this and have PUD review processes that don't involve ordinances or the city council.

Site-Specific Rezones are Subject to Review Criteria Even if Your City Hasn't Adopted Any

The first hint of trouble in the legislative/permitting boxing process is that the courts will apply review criteria to site specific rezones whether the city has adopted some or not. Many city

codes, especially prior to the 1990s, had no review standards for site-specific rezones. The codes would simply provide that the planning commission was to make recommendations on site-specific rezones and the city council adopted them by ordinance. The code didn't say anything about under what circumstances the rezones should be approved. With some justification, cities simply believed that site specific rezones were purely legislative acts and no standards were necessary.

The courts, however, disagreed. They ruled that a site specific rezone was subject to review standards, regardless of whether or not a city had adopted their own. The courts require that the proponents of a rezone must establish that conditions have substantially changed since the original adoption and that the rezone must bear a substantial relationship to the public health, safety, morals or welfare³. If a rezone implements the comprehensive plan, a showing that a change of circumstances has occurred is not required.

So even if your city code has no standards for consideration of site specific rezones, you still have to meet the standards imposed by the courts. Be sure those standards are addressed in the findings and conclusions of your final decision.

A Site-Specific Rezone Is Subject to the Appearance of Fairness Doctrine

Site specific rezones are quasi-judicial⁴, which means they are subject to the appearance of fairness doctrine. For the uninitiated, the appearance of fairness doctrine requires hearings to appear to be fair so that the public can have faith in an impartial permitting process. It's beyond the scope of this article to get into the issue in any detail, but to keep it simple let's just say that there are scores of court opinions involving situations where land use decisions are thrown out because the review process didn't appear to be fair. For this reason, when you hold a hearing on a site specific rezone you can't participate as a decision maker if there's anything about you that could appear to be biased and you're not allowed to discuss the application outside of the public hearing.

Why is this odd? Because just about any other hearing regarding the adoption of an ordinance is not considered quasi-judicial. All text amendments to a comprehensive plan or zoning code, as well as any “area-wide” rezones are not quasi-judicial because those decisions are considered legislative⁵. You can be as biased as you want (excluding some instances of self-interest like bribery) and talk as much as you want to anyone you want outside the hearing process. Even more confusing, a comprehensive plan map amendment to a parcel of property is not subject to the appearance of fairness doctrine even though a site specific rezone for exactly the same parcel is quasi-judicial. The comprehensive plan map/site specific zoning map amendment dichotomy on the appearance of fairness highlights the most dysfunctional depths of the multiple personality of a site specific rezone.

Site Specific Rezones Must Be Decided within 120 Days and are Limited to One Hearing

You can only hold one public hearing on a rezone and you have to issue a final decision within 120 days of the filing of a complete application. The reason is that the Regulatory Reform Act, [chapter 36.70B RCW](#), defines a project permit application to include a site specific

rezone⁶ and project permits can only be subject to one public hearing and a final decision must be issued within 120 days of the submission of a complete application⁷.

Superior Courts have Exclusive Jurisdiction to Review Appeals of Site Specific Rezones

The Land Use Petition Act (“LUPA”), [Chapter 36.70C RCW](#), governs the judicial appeal of all site specific rezones⁸. This is a big deal because decisions subject to LUPA are appealed to superior court and the courts can toss those decisions out if an appeal isn't filed within 21 days of issuance of the decision. All other amendments to zoning and comprehensive plans, including area-wide rezones, have to be appealed to the Growth Management Hearings Board instead of superior court. You get 60 days to file that appeal.

The Courts can Make You Approve a Site Specific Rezone

The courts can make you approve a rezone that your city denied, or deny a rezone that your city approved. LUPA gives the courts the authority to reverse or remand any land use decision and as previously discussed, site specific rezones are subject to LUPA. This is in stark contrast to all other comprehensive plan and zoning code amendments. As noted previously, those amendments can only be appealed to the Growth Management Hearings Board. The Board has no authority to require a city to approve a proposed amendment. All they can do is invalidate or remand amendments.

Although site specific rezones behave very much like permit applications when it comes to judicial review, there are still some vestiges of its “legislativeness” given some respect by the courts. In a decision issued in 2011,⁹, the state supreme court recognized that it should give deference to the Growth Management Act policy choices made in a site specific rezone decision. This type of deference would probably not be granted for any other type of permit application, because the objective of all other types of land use permitting decision is to implement Growth Management Act policy choices that have already been made. That policy deference recognizes that there is still a bit of legislating going on when a site specific rezone is under consideration.

Bad Site Specific Rezone Decisions are Not Subject to 64.40 or Section 1983 Damages

Just when you get to the point where you're thinking that it's just a fluke that site specific rezones are adopted by ordinance and that they're really permit applications, they act just like legislation when it comes to permitting liability. At least sometimes.

Probably the two most common sources of permitting liability are “64.40” and “Section 1983 claims”. A “64.40” claim derives from RCW 64.40.010, which provides that a city will be held liable to owners of property for decisions on “an application for a permit” that are arbitrary, capricious, unlawful or exceed lawful authority. The courts recently ruled that a site specific rezone is not “an application for a permit” so 64.40 doesn't apply¹⁰.

A “Section 1983 claim” refers to a cause of action filed under 42 USC Section 1983. This federal statute allows plaintiffs to recoup damages against municipalities for violating their federal constitutional rights when that municipality is acting under color of state law. One of the key elements to a Section 1983 claim is that the municipality must have infringed upon a protected federal constitutional right. Our state supreme court ruled a few years ago that one of those

protected federal rights under the due process clause is to have a permit application processed under the laws that were in effect when a complete application was filed¹¹, i.e. if the permit application meets applicable permitting criteria, the permit holder has a due process right to have that permit approved. The courts recently ruled that applicants do not have a federal due process right to have a rezone application approved even if it meets local rezone criteria¹². This is because a rezone applicant isn't seeking to have a permit processed under the laws in effect; the applicant is seeking to change those laws (i.e. the zoning map). In essence, a site specific rezone isn't subject to Section 1983 damages because it fits in the legislative as opposed to permitting box.

Does this mean you can deny rezones with impunity? Absolutely not. There are other limited circumstances in which you can still be held liable. Most notably if a rezone meets your code criteria and the applicant makes it known to you that he or she has some purchasers for the property ready to write a check once the rezone is approved, you could be held liable for denying the application under “tortious interference with a business expectancy”. Courts often find some way to make cities pay when they act in disregard of their permitting requirements. Also, as discussed in the next section, if it's a really bad decision the courts will reverse your decision anyway.

You can Condition a Rezone

Like any other permit, you can condition a rezone. That's probably best done through the execution of a development agreement¹³. Unlike for a typical permit however, rezone conditions are usually a very bad idea. Typical permit conditions just govern how a specific development is to be constructed and then they disappear, except perhaps with some limitations on the operation of the development. Even under the latter circumstances, those conditions will disappear when the development project disappears (burns to the grounds, stops operating, etc.). Rezone conditions, however, linger. Since they usually address how property is to be used, they outlast whatever development the property owner initially had in mind and then show up 30 years later when they make absolutely no sense given how the property and the vicinity have developed. Just ask any 50+ year old city attorney about what they think of rezone agreements. They'll have fonder memories of their colonoscopy.

1. Do people still actually hold cocktail parties? I wouldn't know. No one has ever invited me for some reason.

2. See [Lutz v. City of Longview](#), 83 Wn.2d 566, 620 P.2d 1374 (1974) [Johnson v. City of Mount Vernon](#), 37 Wn. App. 214, 218, 679 P.2d 405 (1984); [Kenart v. Skagit County](#), 37 Wn. App. 295, 298, 680 P.2d 439 (1984); [Citizens for Mount Vernon v. City of Mount Vernon](#), 133 Wn.2d 861, 874, 947 P.2d 1208 (1997).

3. See [Ahmann-Yamane, LLC v. Tabler](#), 105 Wn. App. 103, 111 (2001).

4. See [Smith v. Skagit County](#), 75 Wn.2d 715 (1969)

5. See [RCW 42.36.010](#)

6. Technically, the site-specific rezone must be “authorized by a comprehensive plan or subarea plan” to qualify as a project permit. See [RCW 36.70B.020](#)(4).

7. See [RCW 36.70B.050](#); [36.70B.080](#)(1).

8. See [RCW 36.70C.020](#)(2); [RCW 36.70C.030](#).

9. See [Phoenix Development v. Woodinville](#), 171 Wn.2d 820 (2011).

10. *Manna Funding, LLC v. Kittitas County*, 295 P.3d 1197 (2013).

11. [Mission Springs v. City of Spokane](#), 134 Wn.2d 947 (1992).

12. *Manna Funding, LLC v. Kittitas County*, 295 P.3d 1197 (2013).

13. See [RCW 36.70B.170](#)

ATTACHMENT B

PLANNING COMMISSION RESOLUTION NO. 2019 - XX

A RESOLUTION OF THE CITY OF LAKEWOOD PLANNING COMMISSION RECOMMENDING ADOPTION OF AMENDMENTS TO TITLE 18A (LAND USE AND DEVELOPMENT CODE) RELATED TO ESTABLISHING A QUASI- JUDICIAL HEARING PROCESS IN THE LAKEWOOD MUNICIPAL CODE

I. RECITALS

WHEREAS, the City of Lakewood is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the State of Washington, and planning pursuant to the Growth Management Act (GMA), Chapter 36.70A RCW; and

WHEREAS, the City has adopted a Comprehensive Plan under the GMA and, as provided in RCW 36.70A.040 (3), is authorized to adopt development regulations to implement the Comprehensive Plan; and

WHEREAS, the City's Hearing Examiner System is regulated under Lakewood Municipal Code (LMC) Chapter 1.36 and the City's Land Use and Development is regulated under LMC Title 18A; and

WHEREAS, per RCW 35A.63 and LMC Chapter 2.90, the Lakewood Planning Commission has authority to make recommendations to the City Council regarding the provisions of LMC Title 18A; and

WHEREAS, after required public notice, the Planning Commission held a public hearing on proposed amendments to LMC Chapters 18A.02 (Administration), 18A.40 (Overlay Districts) and 18A.50 (Development Standards) related to establishing a Quasi-Judicial Hearing Process; and

WHEREAS, the Planning Commission reviewed the public record and made

a recommendation to the City Council on January 16, 2018; and

WHEREAS, pursuant to RCW 36.70A.370, the City has utilized the process established by the Washington State Attorney General so as to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, on December 7, 2018, the City provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendments to LMC Title 18A related to establishing Quasi-Judicial Hearing Procedures and considering site-specific rezone applications; and

WHEREAS, the Department of Commerce issued its acknowledgement letter on December 10, 2018 with Material ID #25573; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C, the City issued the Determination of Non-Significance (DNS) on December 7, 2018, which identifies the impacts and mitigation measures associated with the adoption of the proposed amendments; and

WHEREAS, pursuant to RCW 43.21C and WAC 197-11-508, on December 7, 2018, the City submitted information and a Determination of Non-Significance (DNS) to the Washington State Department of Ecology related to the establishment of Quasi-Judicial Hearing Procedures and considering site-specific rezone applications; and

WHEREAS, the Department of Ecology published the materials and DNS on December 7, 2018 under SEPA #201806850;

II. FINDINGS

The procedural and substantive requirements of the State Environmental Policy Act (RCW 43.21C) have been complied with.

The procedural requirements of the Growth Management Act (RCW 36.70A) have been complied with.

The proposed amendment is consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.

The proposed amendment is consistent with the City of Lakewood Comprehensive Plan.

The proposed amendments have been reviewed and processed in accordance with the requirements of Title 14 Environmental Protection, Title 14A Critical Areas, and Title 18A Land Use and Development of the City of Lakewood Municipal Code.

All of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

All necessary public meetings and opportunities for public testimony and comment have been conducted in compliance with State law and the City's municipal code.

The Lakewood Planning Commission finds and determines that the regulation of development and land use is within the City's regulatory authority.

The Lakewood Planning Commission finds and determines that approval of such amendments to the Comprehensive Plan and Land Use and Development Code is in the best interests of the residents of Lakewood, and will promote the general health, safety and welfare.

The Lakewood Planning Commission finds and determines that regulation of land use and development is subject to the authority and general police power of the City, and the City reserves its powers and authority to appropriately amend, modify and revise such land use controls in accordance with applicable law;

The documents and other materials that constitute the record of the proceedings upon which the Planning Commission's recommendations are based, which include, but are not limited to, the staff reports for the Project and all of the materials that support the staff reports for the Project, are located in the City of Lakewood, Community and Economic Development Department at 6000 Main Street SW, Lakewood, Washington, 98499-5027. The custodian of these documents is the Assistant City Manager for Development Services of the City of Lakewood;

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LAKEWOOD, WASHINGTON RECOMMENDS ADOPTION OF THE FOLLOWING BY THE LAKEWOOD CITY COUNCIL:

Section 1. Adoption of Amendments to Title 18A. The amendments, filed with the Community and Economic Development Department and attached hereto as **Exhibit A**, is adopted.

ADOPTED this 16th day of January, 2019 upon a motion of Commissioner

_____, seconded by Commissioner _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Chair

ATTEST:

KAREN DEVEREAUX, Secretary

EXHIBIT A

Draft amendments to 18A related to establishing Quasi-Judicial Hearing Processes and procedures to consider site-specific rezones.

Chapter 18A.02

ADMINISTRATION

18A.02.502 Process Types - Permits.

Permit Process Types. Permit applications for review pursuant to this section shall be classified as a Process I, Process II, Process III, or Process IV action. Process V actions are legislative in nature. Permit applications and decisions are categorized by process type as set forth in Table 3. The differences between the processes are generally associated with the different nature of the decisions and the decision-making body as described below.

TABLE 3: APPLICATION PROCESSING PROCEDURES

	Process I Administrative Action	Process II Administrative Action	Process III Hearing Action	Process IV Hearing Action	Process V Legislative Action
Permits	Zoning certification; Building permit; Design Review; Sign permit; Temporary Sign permit; Accessory Living Quarters; Limited Home Occupation; Temporary Use; Manufactured or Mobile Home permit; Boundary Line Adjustments; Minor modification of Process II and III permits; Final Site Certification; Certificate of Occupancy;	Administrative Uses; Short Plat; SEPA; Home Occupation; Administrative Variance; Binding Site Plans, Minor Plat Amendment, Major modification of Process II permits; Shoreline Conditional Use; Shoreline Variance; Shoreline Substantial Development Permits; Cottage Housing Development (may be	<u>Site-specific Zoning Map Amendments*</u> Conditional Use; Major Variance; Preliminary Plat; Major Plat Amendment; Major modification of Process III permits: Shoreline Conditional Use; Shoreline Variance; Shoreline Substantial Development Permit when referred by the	<u>Area Wide Zoning Map Amendments</u> ; Site-specific Comprehensive Plan map amendments; Specific Comprehensive Plan text amendments; Shoreline Redesignation, **Final Plat** , **Development Agreement** **No hearing required or recommendation made by Planning Commission**	Generalized or comprehensive ordinance text amendments; Area-wide map amendments; Annexation; Adoption of new planning-related ordinances;

	Process I Administrative Action	Process II Administrative Action	Process III Hearing Action	Process IV Hearing Action	Process V Legislative Action
	***Sexually Oriented Business extensions	considered together with residential binding site plan)	Shoreline Administrator; Public Facilities Master Plan;		
Impacts	Minimal or no effect on others, so issuance of permit is not dependent on others	Application of the standards may require some knowledge of impacts and effect upon others	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons
Notice & Comment	Participation of applicant only	Nearby property owners invited to comment on an application	In addition to applicant, others affected invited to present initial information	In addition to applicant, others affected invited to present initial information	Anyone invited to present information
Recommendation	NA	NA	Community Development Department Staff	Planning Commission, except for Final Plat and Development Agreement as noted ** above	Planning Commission
Decision-Making Body	Community Development Director	Community Development Director	Hearing Examiner	City Council	City Council
Appeal	Hearing Examiner Community Development Director's decision on permits noted *** above is appealable to Superior Court.	Hearing Examiner	<u>Superior Court</u> <u>* Site-Specific Zoning Map Amendments are appealed to the City Council</u>	Superior Court	Superior Court

Chapter 18A.40

OVERLAY DISTRICTS

18A.40.520 Application for a Planned Development District (PDD).

A. Process III. A PDD is a process III application type and subject to all the procedural requirements applicable to this application type.

B. PDD Applications. An application for approval of a PDD shall be submitted to the Community Development Department on forms provided by the Department along with established fees.

1. PDD with Subdivision. For those planned development districts that include the division of land, a PDD application shall only be accepted as complete if it is submitted concurrent with an application for preliminary plat approval that includes all information required pursuant to LMC Title [17](#) and other applicable City regulations. Seven copies of all associated application materials must be submitted in hard copy format. Digital application materials (e.g., CD copies) may fulfill a portion of the required hard copy applications as approved by the City.

2. PDD with No Subdivision. A binding site plan is required for all planned development districts that do not require the subdivision of land and associated preliminary plat. Requirements for the binding site plan shall include:

a. Existing Plat. All information recorded on the existing plat;

b. Structures. The location of all proposed structures;

c. Landscaping. A detailed landscape plan indicating the location of existing vegetation to be retained, location of vegetation and landscaping structures to be installed, the type of vegetation by common name and taxonomic designation, and the installed and mature height of all vegetation;

d. Schematic. Schematic plans and elevations of proposed buildings with samples of all exterior finish material and colors, the type and location of all exterior lighting, signs and accessory structures;

e. Conditions. Inscriptions or attachments setting forth the limitations and conditions of development, as well as an outline of the documents of the owners' association, bylaws, deeds, covenants and agreements governing ownership, maintenance and operation of the planned development district shall be submitted with the binding site plan. Planned development district covenants shall include a provision whereby unpaid taxes on all property owned in common shall constitute a proportioned lien on all property of each owner in common. The City may require that it be a third party beneficiary of certain covenants with the right but not obligation to enforce association-related documents; and

f. Conformity with Site Plan and Final Plat. Provisions ensuring the development will be in conformance with the site plan and shall include all the required certificates of a final plat. [Ord. 651 § 35, 2016.

3. PDD with a Site-Specific Rezone. For those planned development districts that include a site-specific rezone, a PDD application shall only be accepted as complete if it is submitted concurrent with an application for a site-specific rezone that includes all information required pursuant to LMC 18A.02.XXX and other applicable City regulations.

C. All PDD Applications. An applicant for a PDD shall submit the following items to the City, unless the director finds in writing that one or more submittals are not required due to unique circumstances related to a specific development proposal:

1. Narrative. A detailed narrative that includes:
 - a. Improvement. A description detailing how the proposed development will be superior to or more innovative than conventional development methods as allowed under the City's land use regulations and how the approval criteria set forth in LMC [18A.40.540](#) have been satisfied;
 - b. Public Benefit. A description of how the proposed PDD will benefit the public in a manner greater than that achieved if the project was to be developed using conventional land use regulations;
 - c. Density Table. A table illustrating the density and lot coverage of the overall development, with the proportion of the site devoted to open space clearly indicated;
 - d. Uses. A description of the types and numbers of dwelling units proposed and the overall land use density and intensity;
 - e. Open Space and Recreation. A description of the proposed open space and recreation areas including any proposed improvements, including specific details regarding the ownership and maintenance of such areas;
 - f. Landscaping. Detailed information regarding all proposed landscaping that is not included on an associated landscaping plan;
 - g. Modifications. A description of the specific City standards as set forth in the underlying zoning district that the applicant is proposing for modification in accordance with Chapter [18A.30](#) LMC; and
 - h. Impacts. A description of potential impacts to neighboring properties and how impacts have been mitigated through site design, screening, buffering and other methods;

2. Site Plan. A site plan with the heading “Planned Development District Site Plan” that includes any additional information that is not included on the standard preliminary plat map, including building footprints, proposed landscaping, open space and parks and/or recreational areas including trails and proposed setbacks;
3. Drawings. Elevation drawings illustrating facade and building design elements, including height, overall bulk/mass and density and proposed residential design features that will provide for a superior development;
4. Landscape Plan/Map. A conceptual landscape plan/map showing the proposed location and types of vegetation and landscaping. The landscape plan may also be incorporated into the PDD site plan and narrative;
5. Phases. A phasing plan, if the development will occur in distinct phases with a written schedule detailing the timing of improvements;
6. Development Agreement. A draft development agreement, if proposed by the applicant or as required by the City; and
7. Conditions. A draft of proposed covenants, conditions and restrictions demonstrating compliance with this chapter.

D. An applicant shall provide sufficient facts and evidence to enable the Hearing Examiner to make a decision. The established fee shall be submitted at time of application.

E. Notice of application shall be provided pursuant to LMC [18A.02.670](#).

* * *

18A.40.610 Binding Site Plan.

A binding [site plan](#) is required for all [planned development districts](#) and shall include:

- A. All information required on a [preliminary plat](#);
- B. The location of all proposed [structures](#);
- C. A detailed [landscape](#) plan indicating the location of existing vegetation to be retained, location of vegetation and [landscaping structures](#) to be installed, the type of vegetation by common name and taxonomic designation, and the installed and mature height of all vegetation;
- D. Schematic plans and elevations of proposed [buildings](#) with samples of all exterior finish material and colors, the type and location of all exterior lighting, signs and [accessory structures](#);
- E. Inscriptions or attachments setting forth the limitations and conditions of [development](#);
- F. An outline of the documents of the [owners'](#) association, bylaws, deeds, covenants and agreements governing [ownership](#), [maintenance](#) and operation of the [planned development district](#) shall be submitted with the binding [site plan](#). [Planned development district](#) covenants shall include a provision whereby unpaid taxes on all property owned in common shall constitute a proportioned lien on all property of each [owner](#) in common. The City may require that it be a third party beneficiary of certain covenants with the right but not obligation to enforce association-related documents; and

G. The provisions ensuring the development will be in conformance with the site plan. [Ord. 651 § 35, 2016.]

* * *

~~18A.40.640 Expiration.~~

~~Approval of a binding site plan expires unless recorded by the county auditor within three years from the date of approval. An applicant who files a written request with the City Clerk within 30 days of the expiration date shall be granted a one-year extension upon a showing of a good faith effort to file the site plan. [Ord. 651 § 38, 2016.]~~

Chapter 18A.50

DEVELOPMENT STANDARDS

18A.50.221 Applicability - Community Design.

This chapter shall apply to all new development, except single-family dwellings not associated with a Planned Development District (PDD), in any zoning district in the City. Additions and exterior remodels associated with existing buildings and site redevelopment projects are subject to those provisions of this chapter that are determined by the Community Development Director to be reasonably related and applicable to the development project. Projects that modify parking and landscaping areas shall be subject to site design standards for pedestrian access, safety and landscaping standards. The Community Development Director may, at his sole discretion, determine which, if any, additional design standards apply to projects that modify an existing building or site. Proposals that will not modify a building exterior or the site, such as interior tenant improvements and interior remodels are exempt from the community design standards.

Chapter 18A.90

DEFINITIONS

18A.90.200

SITE SPECIFIC ZONING MAP AMENDMENT means a site-specific rezone. A site-specific rezone occurs 'when there are specific parties requesting a classification change for a specific tract. A site-specific rezone requires three factors: (1) a specific tract of land, (2) a request for a classification change, and (3) a specific party making the request.

Quasi-Judicial Process Updates to Lakewood Municipal Code

Planning Commission

January 16, 2019

Tiffany Speir, Planning Manager, Special Projects



Quasi-Judicial Code Updates

The current Lakewood Municipal Code includes different types of review and hearings for different types of land use applications (see, e.g., LMC 18A.02.502.)

The amendments under consideration in this proposal relate to clarifying when a quasi-judicial hearing process must be used, and then how such proceedings will be conducted by the City.

“Site-Specific Rezones” are unique: Sometimes “site-specific rezones” act like a piece of legislation, other times a permit, and more often than not they're a little bit of each.

Quasi-Judicial Code Updates

New code additions and current code amendments regarding site-specific rezones based on statute and case law:

- GMA (RCW 36.70A); Local Project Review (RCW 36.70B.020(4)); Land Use Petition Act (RCW 36.70C)
- All site-specific rezones for cities must be adopted by ordinance by a city council.
- Site-specific rezones are quasi-judicial and subject to appearance of fairness doctrine. All text amendments to a comprehensive plan or zoning code, as well as any “area-wide” rezones, are not quasi-judicial because those decisions are considered legislative.
- Site-specific rezones are a “project permit application” per Chapter RCW 36.70B and subject to Regulatory Reform Act (i.e., City holds one public hearing on a rezone and must issue a final decision within 120 days of the filing of a complete application.)

Quasi-Judicial Code Updates

New code additions and current code amendments regarding site-specific rezones based on statute and case law:

- Site-specific rezones are subject to LUPA (RCW 36.70C) (i.e., must be appealed to superior court within 21 days of issuance of the decision or appeal lost.)
- The courts require that the proponents of a rezone must establish that conditions have substantially changed since the original adoption and that the rezone must bear a substantial relationship to the public health, safety, morals or welfare. (If a rezone implements the comprehensive plan, a showing that a change of circumstances has occurred is not required.)
- The courts have also ruled that planned unit developments (PUDs) that authorize the approval of densities and uses that are inconsistent with underlying zoning requirements are themselves considered zoning map amendments. As zoning map amendments, they must be adopted by ordinance and approved by the city council.

Quasi-Judicial Code Updates

In summary, the proposed amendments to the LMC include:

- Amend **LMC 1.36.280** “Review of final decisions” - adds a new subsection “C” for site-specific rezones.
- Add a **new LMC Chapter 1.38** titled “Procedures for Quasi-Judicial Hearings.” This is where the bulk of the proposed amendments are located.

Quasi-Judicial Code Updates

The proposed amendments to the LMC also include:

- Amend **LMC 18A.02.502** “Process Type-Permits - Table 3” in order to include site-specific zoning map amendments as a Process III permit.
- Amend **LMC 18A.40.520, .540, .610, .620, & .640** of the Planned Development District (PDD) Code Chapter to include language about site-specific zoning map amendments and complete some minor housekeeping.
- Amend **LMC 18A.50.221** “Applicability - Community Design” to clarify that single-family dwellings associated with a PDD are required to conform with the City’s design review provisions.
- Add definition of site-specific zoning map amendment (site-specific rezone) to **LMC 18A.90.200**.

Quasi-Judicial Code Update Proposed Schedule

January 16: Planning Commission public hearing and action on recommendation re Title 18A portions of proposal.

February 4: Set Council public hearing for QJCU amendments.

February 19: Council public hearing for QJCU amendments.

March 4, 2019: Council action on QJCU amendments.

Quasi-Judicial Code Update Proposed Schedule

Proposed Motion:

That the Planning Commission adopt Resolution 2019-01 recommending the adoption of amendments to Title 18A related to quasi-judicial hearings and site-specific rezones.

End of Presentation

Thank you!

PLANNING COMMISSION RESOLUTION NO. 2019 - XX

**A RESOLUTION OF THE CITY OF LAKEWOOD PLANNING COMMISSION
RECOMMENDING ADOPTION OF AMENDMENTS TO TITLE 18A (LAND USE AND
DEVELOPMENT CODE) RELATED TO ESTABLISHING A QUASI-JUDICIAL HEARING
PROCESS IN THE LAKEWOOD MUNICIPAL CODE**

I. RECITALS

WHEREAS, the City of Lakewood is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the State of Washington, and planning pursuant to the Growth Management Act (GMA), Chapter 36.70A RCW; and

WHEREAS, the City has adopted a Comprehensive Plan under the GMA and, as provided in RCW 36.70A.040 (3), is authorized to adopt development regulations to implement the Comprehensive Plan; and

WHEREAS, the City's Hearing Examiner System is regulated under Lakewood Municipal Code (LMC) Chapter 1.36 and the City's Land Use and Development is regulated under LMC Title 18A; and

WHEREAS, per RCW 35A.63 and LMC Chapter 2.90, the Lakewood Planning Commission has authority to make recommendations to the City Council regarding the provisions of LMC Title 18A; and

WHEREAS, after required public notice, the Planning Commission held a public hearing on proposed amendments to LMC Chapters 18A.02 (Administration), 18A.40 (Overlay Districts) and 18A.50 (Development Standards) related to establishing a Quasi-Judicial Hearing Process; and

WHEREAS, the Planning Commission reviewed the public record and made a recommendation to the City Council on January 16, 2018; and

WHEREAS, pursuant to RCW 36.70A.370, the City has utilized the process established by the Washington State Attorney General so as to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, on December 7, 2018, the City provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendments to LMC Title 18A related to establishing Quasi-Judicial Hearing Procedures and considering site-specific rezone applications; and

WHEREAS, the Department of Commerce issued its acknowledgement letter on December 10, 2018 with Material ID #25573; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C, the City issued the Determination of Non-Significance (DNS) on December 7, 2018, which identifies the impacts and mitigation measures associated with the adoption of the proposed amendments; and

WHEREAS, pursuant to RCW 43.21C and WAC 197-11-508, on December 7, 2018, the City submitted information and a Determination of Non-Significance (DNS) to the Washington State Department of Ecology related to the establishment of Quasi-Judicial Hearing Procedures and considering site-specific rezone applications; and

WHEREAS, the Department of Ecology published the materials and DNS on December 7, 2018 under SEPA #201806850;

II. FINDINGS

The procedural and substantive requirements of the State Environmental Policy Act (RCW 43.21C) have been complied with.

The procedural requirements of the Growth Management Act (RCW 36.70A) have been complied with.

The proposed amendment is consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.

The proposed amendment is consistent with the City of Lakewood Comprehensive Plan.

The proposed amendments have been reviewed and processed in accordance with the requirements of Title 14 Environmental Protection, Title 14A Critical Areas, and Title 18A Land Use and Development of the City of Lakewood Municipal Code.

All of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

All necessary public meetings and opportunities for public testimony and comment have been conducted in compliance with State law and the City's municipal code.

The Lakewood Planning Commission finds and determines that the regulation of development and land use is within the City's regulatory authority.

The Lakewood Planning Commission finds and determines that approval of such amendments to the Comprehensive Plan and Land Use and Development Code is in the best interests of the residents of Lakewood, and will promote the general health, safety and welfare.

The Lakewood Planning Commission finds and determines that regulation of land use and development is subject to the authority and general police power of the City, and the City reserves its powers and authority to appropriately amend, modify and revise such land use controls in accordance with applicable law;

The documents and other materials that constitute the record of the proceedings upon which the Planning Commission's recommendations are based, which include, but are not limited to, the staff

reports for the Project and all of the materials that support the staff reports for the Project, are located in the City of Lakewood, Community and Economic Development Department at 6000 Main Street SW, Lakewood, Washington, 98499-5027. The custodian of these documents is the Assistant City Manager for Development Services of the City of Lakewood;

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LAKEWOOD, WASHINGTON RECOMMENDS ADOPTION OF THE FOLLOWING BY THE LAKEWOOD CITY COUNCIL:

Section 1. Adoption of Amendments to Title 18A. The amendments, filed with the Community and Economic Development Department and attached hereto as **Exhibit A**, is adopted.

ADOPTED this 16th day of January, 2019 upon a motion of Commissioner

_____, seconded by Commissioner _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Chair

ATTEST:

KAREN DEVEREAUX, Secretary

EXHIBIT A

Exhibit A – Draft amendments to 18A related to establishing Quasi-Judicial Hearing Processes and procedures to consider site-specific rezones.

Chapter 18A.02 ADMINISTRATION

18A.02.502 Process Types - Permits.

Permit Process Types. Permit applications for review pursuant to this section shall be classified as a Process I, Process II, Process III, or Process IV action. Process V actions are legislative in nature. Permit applications and decisions are categorized by process type as set forth in Table 3. The differences between the processes are generally associated with the different nature of the decisions and the decision-making body as described below.

TABLE 3: APPLICATION PROCESSING PROCEDURES

	Process I Administrative Action	Process II Administrative Action	Process III Hearing Action	Process IV Hearing Action	Process V Legislative Action
Permits	Zoning certification; Building permit; Design Review; Sign permit; Temporary Sign permit; Accessory Living Quarters; Limited Home Occupation; Temporary Use; Manufactured or Mobile Home permit; Boundary Line Adjustments; Minor modification of Process II and III	Administrative Uses; Short Plat; SEPA; Home Occupation; Administrative Variance; Binding Site Plans, Minor Plat Amendment, Major modification of Process II permits; Shoreline Conditional Use; Shoreline Variance; Shoreline Substantial Development	<u>Site-specific Zoning</u> <u>Map Amendments*</u> Conditional Use; Major Variance; Preliminary Plat; Major Plat Amendment; Major modification of Process III permits: Shoreline Conditional Use; Shoreline Variance; Shoreline Substantial Development Permit when	<u>Area Wide Zoning</u> Map Amendments; Site-specific Comprehensive Plan map amendments; Specific Comprehensive Plan text amendments; Shoreline Redesignation, **Final Plat**; **Development Agreement** ***No hearing required or	Generalized or comprehensive ordinance text amendments; Area- wide map amendments; Annexation; Adoption of new planning-related ordinances;

	Process I Administrative Action	Process II Administrative Action	Process III Hearing Action	Process IV Hearing Action	Process V Legislative Action
	permits; Final Site Certification; Certificate of Occupancy; ***Sexually Oriented Business extensions	Permits; Cottage Housing Development (may be considered together with residential binding site plan)	referred by the Shoreline Administrator; Public Facilities Master Plan;	recommendation made by Planning Commission**	
Impacts	Minimal or no effect on others, so issuance of permit is not dependent on others	Application of the standards may require some knowledge of impacts and effect upon others	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons
Notice & Comment	Participation of applicant only	Nearby property owners invited to comment on an application	In addition to applicant, others affected invited to present initial information	In addition to applicant, others affected invited to present initial information	Anyone invited to present information
Recommendation	NA	NA	Community Development Department Staff	Planning Commission, except for Final Plat and Development Agreement as noted ** above	Planning Commission
Decision-Making Body	Community Development Director	Community Development Director	Hearing Examiner	City Council	City Council
Appeal	Hearing Examiner Community Development Director's decision on permits noted ***	Hearing Examiner	<u>Superior Court</u> <u>* Site-Specific</u> <u>Zoning Map</u> <u>Amendments are</u> <u>appealed to the</u>	Superior Court	Superior Court

	Process I Administrative Action	Process II Administrative Action	Process III Hearing Action	Process IV Hearing Action	Process V Legislative Action
	above is appealable to Superior Court.		<u>City Council</u>		

Chapter 18A.40 OVERLAY DISTRICTS

18A.40.520 Application for a Planned Development District (PDD).

A. Process III. A PDD is a process III application type and subject to all the procedural requirements applicable to this application type.

B. PDD Applications. An application for approval of a PDD shall be submitted to the Community Development Department on forms provided by the Department along with established fees.

1. PDD with Subdivision. For those planned development districts that include the division of land, a PDD application shall only be accepted as complete if it is submitted concurrent with an application for preliminary plat approval that includes all information required pursuant to LMC Title [17](#) and other applicable City regulations. Seven copies of all associated application materials must be submitted in hard copy format. Digital application materials (e.g., CD copies) may fulfill a portion of the required hard copy applications as approved by the City.

2. PDD with No Subdivision. A binding site plan is required for all planned development districts that do not require the subdivision of land and associated preliminary plat. Requirements for the binding site plan shall include:

a. Existing Plat. All information recorded on the existing plat;

b. Structures. The location of all proposed structures;

c. Landscaping. A detailed landscape plan indicating the location of existing vegetation to be retained, location of vegetation and landscaping structures to be installed, the type of vegetation by common name and taxonomic designation, and the installed and mature height of all vegetation;

d. Schematic. Schematic plans and elevations of proposed buildings with samples of all exterior finish material and colors, the type and location of all exterior lighting, signs and accessory structures;

e. Conditions. Inscriptions or attachments setting forth the limitations and conditions of development, as well as an outline of the documents of the owners' association, bylaws, deeds, covenants and agreements governing ownership, maintenance and operation of the planned development district shall be submitted with the binding site plan. Planned development district covenants shall include a provision whereby unpaid

taxes on all property owned in common shall constitute a proportioned lien on all property of each owner in common. The City may require that it be a third party beneficiary of certain covenants with the right but not obligation to enforce association-related documents; and

f. Conformity with Site Plan and Final Plat. Provisions ensuring the development will be in conformance with the site plan and shall include all the required certificates of a final plat. [Ord. 651 § 35, 2016.

3. PDD with a Site-Specific Rezone. For those planned development districts that include a site-specific rezone, a PDD application shall only be accepted as complete if it is submitted concurrent with an application for a site-specific rezone that includes all information required pursuant to LMC 18A.02.XXX and other applicable City regulations.

C. All PDD Applications. An applicant for a PDD shall submit the following items to the City, unless the director finds in writing that one or more submittals are not required due to unique circumstances related to a specific development proposal:

1. Narrative. A detailed narrative that includes:

- a. Improvement. A description detailing how the proposed development will be superior to or more innovative than conventional development methods as allowed under the City's land use regulations and how the approval criteria set forth in LMC [18A.40.540](#) have been satisfied;
- b. Public Benefit. A description of how the proposed PDD will benefit the public in a manner greater than that achieved if the project was to be developed using conventional land use regulations;
- c. Density Table. A table illustrating the density and lot coverage of the overall development, with the proportion of the site devoted to open space clearly indicated;
- d. Uses. A description of the types and numbers of dwelling units proposed and the overall land use density and intensity;
- e. Open Space and Recreation. A description of the proposed open space and recreation areas including any proposed improvements, including specific details regarding the ownership and maintenance of such areas;
- f. Landscaping. Detailed information regarding all proposed landscaping that is not included on an associated landscaping plan;
- g. Modifications. A description of the specific City standards as set forth in the underlying zoning district that the applicant is proposing for modification in accordance with Chapter [18A.30](#) LMC; and

h. Impacts. A description of potential impacts to neighboring properties and how impacts have been mitigated through site design, screening, buffering and other methods;

2. Site Plan. A site plan with the heading “Planned Development District Site Plan” that includes any additional information that is not included on the standard preliminary plat map, including building footprints, proposed landscaping, open space and parks and/or recreational areas including trails and proposed setbacks;

3. Drawings. Elevation drawings illustrating facade and building design elements, including height, overall bulk/mass and density and proposed residential design features that will provide for a superior development;

4. Landscape Plan/Map. A conceptual landscape plan/map showing the proposed location and types of vegetation and landscaping. The landscape plan may also be incorporated into the PDD site plan and narrative;

5. Phases. A phasing plan, if the development will occur in distinct phases with a written schedule detailing the timing of improvements;

6. Development Agreement. A draft development agreement, if proposed by the applicant or as required by the City; and

7. Conditions. A draft of proposed covenants, conditions and restrictions demonstrating compliance with this chapter.

D. An applicant shall provide sufficient facts and evidence to enable the Hearing Examiner to make a decision. The established fee shall be submitted at time of application.

E. Notice of application shall be provided pursuant to LMC [18A.02.670](#).

* * *

18A.40.610 Binding Site Plan.

A binding site plan is required for all planned development districts and shall include:

A. All information required on a preliminary plat;

B. The location of all proposed structures;

C. A detailed landscape plan indicating the location of existing vegetation to be retained, location of vegetation and landscaping structures to be installed, the type of vegetation by common name and taxonomic designation, and the installed and mature height of all vegetation;

D. Schematic plans and elevations of proposed buildings with samples of all exterior finish material and colors, the type and location of all exterior lighting, signs and accessory structures;

E. Inscriptions or attachments setting forth the limitations and conditions of development;

F. An outline of the documents of the owners' association, bylaws, deeds, covenants and agreements governing ownership, maintenance and operation of the planned development district shall be submitted with the binding site plan. Planned development district covenants shall include a provision whereby unpaid taxes on all property owned in common shall constitute a proportioned lien on all property of each owner in common. The City may require that it be a third party beneficiary of certain covenants with the right but not obligation to enforce association-related documents; and

G. The provisions ensuring the development will be in conformance with the site plan. [Ord. 651 § 35, 2016.]

* * *

18A.40.640 — Expiration.

Approval of a binding site plan expires unless recorded by the county auditor within three years from the date of approval. An applicant who files a written request with the City Clerk within 30 days of the expiration date shall be granted a one-year extension upon a showing of a good faith effort to file the site plan. [Ord. 651 § 38, 2016.]

Chapter 18A.50 DEVELOPMENT STANDARDS

18A.50.221 Applicability - Community Design.

This chapter shall apply to all new development, except single-family dwellings not associated with a Planned Development District (PDD), in any zoning district in the City. Additions and exterior remodels associated with existing buildings and site redevelopment projects are subject to those provisions of this chapter that are determined by the Community Development Director to be reasonably related and applicable to the development project. Projects that modify parking and landscaping areas shall be subject to site design standards for pedestrian access, safety and landscaping standards. The Community Development Director may, at his sole discretion, determine which, if any, additional design standards apply to projects that modify an existing building or site. Proposals that will not modify a building exterior or the site, such as interior tenant improvements and interior remodels are exempt from the community design standards.

Chapter 18A.90 DEFINITIONS

18A.90.200

SITE SPECIFIC ZONING MAP AMENDMENT means a site-specific rezone. A site-specific rezone occurs 'when there are specific parties requesting a classification change for a specific tract. A site-specific rezone requires three factors: (1) a specific tract of land, (2) a request for a classification change, and (3) a specific party making the request.



TO: Planning Commission

FROM: Tiffany Speir, Planning Manager, Special Projects

DATE: January 16, 2019

SUBJECT: Shoreline Master Program Periodic Update

ATTACHMENTS: None

Lakewood conducting a required “periodic review” of its 2014 Shoreline Master Program (SMP) in accordance with the Washington State Shoreline Management Act (SMA) and the Department of Ecology (ECY) SMP Guidelines.

The SMP is an element of the Lakewood Comprehensive Plan and the City’s development regulations. The SMP applies to shorelines of the state, generally including lakes greater than 20 acres and streams with a flow greater than 20 cubic feet per second, along with shorelands within 200 feet of the ordinary high water mark of these water bodies and associated wetlands (RCW 90.59.030). Within the City of Lakewood, the areas regulated under the SMP include:

- The shorelines of American Lake, Gravelly Lake, Lake Steilacoom, Waughop Lake, Lake Louise, Chambers Creek, and Clover Creek; and
- Associated wetlands within the Lakewood City limits.

(Please see the map included on page 5 herein.)

The City mailed a notice to SMP water-adjacent property owners in November 2018. It held its first open house about the periodic review on January 16, immediately before the Planning Commission meeting. The timeline for the remainder of the SMP periodic review is as follows:

February – April 2019: Complete Draft SMP Amendments and Evaluate Cumulative Impacts

- Project Status Sharing
 - Regularly post project status updates (including possible amendments to the current Lakewood SMP) and public meeting information at City Hall, the City’s website and facebook page.

- Post and advertise online public input and feedback opportunities (i.e., website comment pages, surveys.)
- Public Open House/Commission Study Session #2
 - Provide an in-person opportunity for community members, stakeholders, and the Planning Commission to hear about, and provide additional comments on, the draft SMP amendments.
 - Identify additional areas for refinement
- City Council Informational Update
 - Provide an update to the City Council members in a study session on feedback from the public and status of identifying amendments to the City’s SMP.
 - Update Council on key elements in emerging Draft SMP amendments.
- Complete staff revisions to SMP amendments based on internal analysis and public input received to date for consideration and action by the Planning Commission.

Based on correspondence with ECY, relatively minor amendments to the SMP are needed during the periodic review:

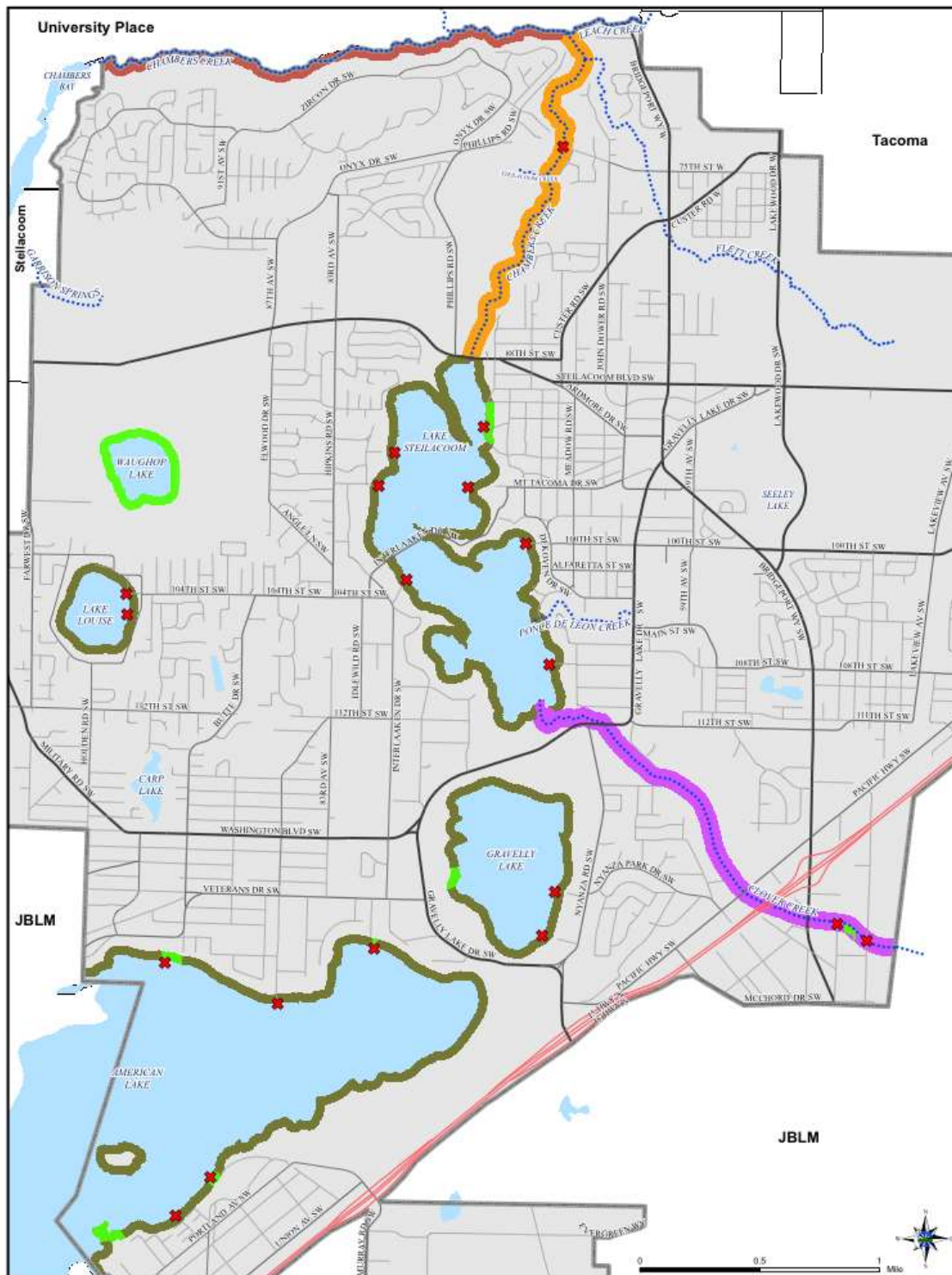
Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	2014 SMP, Chapter 7: Definition of Substantial Development includes reference to cost threshold of \$6,416 and contains language noting that this figure must be adjusted every five years.	Amend '14 SMP definition of “Substantial Development” to incorporate \$7,047
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	2014 SMP, Chapter 7, page 120: Definition of “development” references RCW 90.58.030(3a).	Verify that '14 SMP definition of “development” is consistent with ECY & RCW definitions
c.	Ecology clarified “default” provisions for nonconforming uses and development.	2014 SMP, Chapter 6.F. includes nonconformance regulations.	Verify '14 nonconformance regulations consistent with ECY/WAC/RCW
d.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews.	2014 SMP, Chapter 6.H. includes review provisions.	Verify '14 SMP consistency with ECY periodic review rule

e.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	2014 SMP, Chapter 6.H. contains amendment provisions that reference RCW 90.58 and WAC 173.26.	Verify '14 SMP consistency with ECY rule
2016			
a.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	2015 updates to City critical area ordinance (Title 14A) incorporate necessary language.	Amend '14 SMP to reflect '15 CAO update and ECY rating system guidance
2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).	2014 SMP, Chapter 5.C.5.b includes this provision.	The OFM recently updated replacement and freshwater dock thresholds to \$22,500 and \$11,200 (WSR 18-21-013) so the text at Chapter 5.c.5.b will need to be revised.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual.	2014 SMP, Chapter 3.B.3.a)3)h. contains reference to federal manual. 2015 updates to City critical area ordinances incorporate necessary language at Title 14A.162.020.	Amend '14 SMP to reflect '15 CAO update and ECY delineation rule.
2009			
a.	Ecology adopted a rule for certifying wetland mitigation banks.	2015 updates to City critical area ordinances, Title 14A.162.100 contain provisions.	Amend '14 SMP to reflect '15 CAO update and ECY rule
2007			
a.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	2014 SMP, Figure 1 contains a map listing streams and lakes. In addition to the map, SMP Chapter 2.C names the jurisdictional streams & lakes. No SMP amendment required, but City could consider re-formatting to a list to better meet WAC intent & ECY preference.	Consider amending to list

April – June 2019: Shoreline Master Program Adoption Process

- Project Status Sharing
 - Issue press release and post project updates describing issues to be addressed in SMP periodic review amendments. Include draft language on City's website for easy public and stakeholder access.

- Publish the timeline for Planning Commission and City Council study sessions and public hearings about, and adoption of, the SMP amendments.
- Hold series of City Council Meetings
 - Advertise study sessions, public hearings, and draft SMP amendments.
 - Draft SMP amendments adopted by City and sent to ECY by May 15, 2019 for state review process.
- Following City Council action, distribute to stakeholders the City Council's response to input and any final ECY comments and revisions prior to final adoption (by June 30, 2019)



City of Lakewood Shoreline Master Program Figure 1: Environment Designations

Legend

- Conservancy
- Natural Environment
- Shoreline Residential Environment
- Urban Park Environment
- Urban Stream Protection Environment
- ✖ Street End* (Urban Park Environment)
- Stream
- Aquatic Environment
- City Boundary
- Surrounding Jurisdictions



Shoreline jurisdiction and wetland boundaries depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.

This product was prepared with care by City of Lakewood Department of Finance and Information Systems GIS. City of Lakewood expressly disclaims any liability for any inaccuracies which may yet be present. This is not a survey. Data were collected at different accuracy levels by various sources. Call 253-512-2299 for further information.

Map created: January 26, 2010
Updated: July 30, 2014

*Waterfront Public Access or ROW.

Figure 1



Shoreline Master Program Periodic Review

January 16, 2019

Tiffany Speir, Project Manager, Special Projects

SMP Periodic Review

- The City of Lakewood is conducting a periodic review of its Shoreline Master Program in accordance with the Washington State Shoreline Management Act (SMA) and the Department of Ecology (ECY) Shoreline Master Program (SMP) Guidelines.
- The SMP is an element of the Lakewood Comprehensive Plan and the City's development regulations. Locally determined land uses, critical areas regulations and watershed plans will be factored into the SMP.

SMP Periodic Review

- www.lakewoodsm.org is live and will provide the most up to date information about the review as it proceeds.
- The SMP applies to shorelines of the state, generally including lakes greater than 20 acres and streams with a flow greater than 20 cubic feet per second, along with shorelands within 200 feet of the ordinary high water mark of these water bodies and associated wetlands (RCW 90.59.030).

SMP Periodic Review

- The SMP is required by Washington State law and Lakewood is required to follow the process and incorporate the requirements of the SMA and the ECY SMP Guidelines.
- The SMP is a partnership between the local governments and ECY. The SMP must be prepared and maintained by Lakewood, but it must be adopted by both the City and ECY.
- The goal of the SMP is to create a balanced plan for shoreline utilization and protection.

Focus of SMP Periodic Review

The SMP periodic review will focus on:

- Issues identified in ECY's Periodic Review Checklist (i.e., permitting and implementation, changes to Comprehensive Plan or Development Regulations, changes to local circumstances, new information, or improved data);
- Updating internal references to other city, state and federal environmental regulations;
- Updating the SMP per staff-identified issues; and
- Update of restoration plan

SMP Public Participation Plan (PPP)

- Outreach efforts to date
 - November, 2018 mailing to 1,220+ property owners adjacent to SMP-regulated water bodies in Lakewood
 - Correspondence with Chambers Clover Creek Watershed Council to gather information about projects completed since last SMP update
 - www.lakewoodsmp.org
 - January 16 Open House
 - Clearly identify the role of the SMA, scope of state law requirements and local influence on Lakewood's SMP.
 - Provide education on shoreline functions, impacts and preferred uses.
 - Seek input on SMP vision and public access.
 - Seek input on resource protection and restoration.
 - Seek public input on shoreline conditions, issues and opportunities.

SMP Periodic Review Timeline

February – April 2019: Complete Draft SMP Amendments and Evaluate Cumulative Impacts

- Public Open House/Commission Study Session #2 (date TBA)
 - Provide an in-person opportunity for community members, stakeholders, and the Planning Commission to hear about, and provide additional comments on, the draft SMP amendments.
 - Identify additional areas for refinement
- City Council Informational Updates
- Complete staff revisions to SMP amendments based on internal analysis and public input received to date for consideration and action by the Planning Commission.

SMP Periodic Review Timeline

April – June 2019: Shoreline Master Program Adoption Process

- Continued Project Status Sharing
- Hold series of City Council Meetings
 - Advertise study sessions, public hearings, and draft SMP amendments.
 - Draft SMP amendments adopted by City and sent to ECY by May 15, 2019 for state review process.
- Following City Council action, distribute to stakeholders the City Council's response to input and any final ECY comments and revisions prior to final adoption (by June 30, 2019)

SMP Periodic Review Checklist Items

Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	2014 SMP, Chapter 7: Definition of Substantial Development includes reference to cost threshold of \$6,416 and contains language noting that this figure must be adjusted every five years.	Amend '14 SMP definition of "Substantial Development" to incorporate \$7,047
b.	Ecology amended rules to clarify that the definition of "development" does not include dismantling or removing structures.	2014 SMP, Chapter 7, page 120: Definition of "development" references RCW 90.58.030(3a).	Verify that '14 SMP definition of "development" is consistent with ECY & RCW definitions
c.	Ecology clarified "default" provisions for nonconforming uses and development.	2014 SMP, Chapter 6.F. includes nonconformance regulations.	Verify '14 nonconformance regulations consistent with ECY/WAC/RCW
d.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews.	2014 SMP, Chapter 6.H. includes review provisions.	Verify '14 SMP consistency with ECY periodic review rule
e.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	2014 SMP, Chapter 6.H. contains amendment provisions that reference RCW 90.58 and WAC 173.26.	Verify '14 SMP consistency with ECY rule
2016			
a.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	2015 updates to City critical area ordinance (Title 14A) incorporate necessary language.	Amend '14 SMP to reflect '15 CAO update and ECY rating system guidance

SMP Periodic Review Checklist Items

2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).	2014 SMP, Chapter 5.C.5.b includes this provision.	The OFM recently updated replacement and freshwater dock thresholds to \$22,500 and \$11,200 (WSR 18-21-013) so the text at Chapter 5.c.5.b will need to be revised.
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a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual.	2014 SMP, Chapter 3.B.3.a)3)h. contains reference to federal manual. 2015 updates to City critical area ordinances incorporate necessary language at Title 14A.162.020.	Amend '14 SMP to reflect '15 CAO update and ECY delineation rule.
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Other SMP Periodic Review Items

- Consistency between 2015 Critical Areas Ordinance and 2014 SMP
- Consistency between Lakewood Comprehensive Plan, Development Regulations, and 2014 SMP
- Consistency between Flood Plain Maps and 2014 SMP
- Consistency between City's "Other Elements" and 2014 SMP
- Updating and adopting Lakewood's Shoreline Restoration Plan
- Recommended amendments by City staff to make SMP more user-friendly

SMP Periodic Review

www.lakewoodsmmp.org



TO: Planning Commission

FROM: Tiffany Speir, Planning Manager, Special Projects

THROUGH: David Bugher, Assistant City Manager for Development Services

DATE: January 16, 2019

SUBJECT: Lakewood Municipal Code Title 18A update

Background: The current version of Title 18A, the Land Use & Development Code, of the Lakewood Municipal Code (LMC) was adopted in 2001. Since 2001, the City has made amendments to many subsections of Title 18A in order to respond to changes in the law, building codes, and adapt to new land uses and development standards; however, no comprehensive review or update of the entire title has occurred. The City has drafted updates to Title 18A to be as accurate, brief, clear, and efficient as possible for both customers and staff.

What is being proposed?

- Reorganization** of current 18A sections & subsections;
- Retention** of some current 18A language;
- Rewrite** of some current 18A language;
- Elimination/Consolidation** of some current 18A sections;
- Addition** of some new 18A sections; and
- Incorporating** some administrative policies

The current version of Title 18A is composed of ten chapters; the proposed new Title 18A would reorganize existing and new text and tables into eleven different chapters. Many of the proposed changes are not substantive, meaning they do not change process or regulations; rather, they serve to make the code more readable and useable. While presenting the proposed new LMC Title 18A in 2019, staff will spend most of the time providing the Commission with information about the substantive changes proposed versus the technical, “scrivener’s” changes.

Public Outreach update: Lakewood has launched a website, www.lakewood18A.org, to provide the latest information to the public about this effort. In addition, two stakeholder meetings have been held to date, one on January 10 (industry) and the other on January 11

(general public.) The City will provide the Planning Commission with feedback from these sessions at its January 16 meeting.

Based on the feedback provided on January 10 and 11, the City will determine how to best seek and gather additional interested party input (e.g., additional stakeholder groups, electronic communications, open houses, website communications, etc.) prior to Planning Commission action this spring.

Current 2019 Title 18A Update Public Outreach and Planning Commission Schedule:

- January 16, February 6 & 20, March 6 & 20, April 3 & 17: Planning Commission discussions regarding proposed changes to Title 18A
- March: Public Open House will be held
- March 20: Planning Commission Public Hearing on proposed Title 18A updates
- April 17: Planning Commission Action on proposed Title 18A updates



TO: Lakewood Planning Commission

FROM: David Bugher, Assistant City Manager/Community Development Director

DATE: January 16, 2019

SUBJECT: Annual Housing Report

**TABLE 1
2018 NEW HOUSING, PERMITS ISSUED**

Type	Number of Permits/Units	Valuation	Average Valuation
New single family dwelling units	63	\$19,188,186.42	\$304,574.39
Accessory dwelling units	6	\$749,320.15	\$124,886.69
Duplex/triplex dwelling units issued	4/8	\$1,413,585.22	\$176,698.15
New Multifamily dwelling units issued	6/238	\$52,506,740.11	\$220,616.56
New Condominiums	n/a		
New manufactured housing	5	\$90,000.00	\$18,000.00
Total	84/320	\$73,947,831.90	\$231,086.97

**TABLE 2
2018 RESIDENTIAL REMODELS/ADDITIONS/ALTERATIONS, PERMITS ISSUED**

Type	Number of Permits	Valuation	Average Valuation
Single family dwelling	375	\$9,636,389.42	\$25,697.04
Accessory dwelling			
Duplex/triplex dwelling	3	\$80,698.00	\$26,899.33
Multifamily dwellings	43	\$1,149,788.08	\$26,739.26
Condominiums	n/a		
Manufactured housing			
Total	342	\$10,341,613.68	\$25,812.06

**TABLE 3
2018 DEMOLITIONS**

Type	Units/structures demolished
Single family dwellings	26
Accessory dwellings	1
Duplex/triplex dwellings	1
Multifamily dwelling units	12
Condominium units	n/a
Manufactured housing units	1
Other miscellaneous residential accessory structures	13
Commercial/industrial structures	11
Total	65

**TABLE 4
NEW LOTS – PENDING AND APPROVED**

Pending Short Plat Approvals					
Project No.	Name	Location	Acreage	No. of lots	
LU-18-00230	Davidson Short Plat	12820 Avenue Dubois SW	1.46	6	
LU-18-00216	Beyler Short Plat	315 Lake Louise Drive SW	0.7	2	
LU-18-00187	Puget Sound Surveying Short Plat	10423 Lake Steilacoom Drive SW	1.1	2	
LU-18-00157	Chung Short Plat	3411 90th Street S	2.2	2	
LU-18-00121	Atz Short Plat	9620 Maple Avenue SW	0.5	2	
LU-18-00268	Dekoven Short Plat	9012 Dekoven DR SW	0.3	2	
Subtotals			6.26	16	
Preliminary Short Plat Approvals					
Project No.	Name	Location	Acreage	No. of lots	Date Approved
LU-18-00003	Legacy Short Plat	10408 Idlewild Road SW	0.84	4	Mar 8 2018

**TABLE 4
NEW LOTS – PENDING AND APPROVED**

LU-18-00049	Johnson Short Plat	Johnson Short Plat	1.86	3	Jun 5 2018
LU-18-00133	Glastetter Short Plat	Glastetter Short Plat	0.66	2	Sep 4 2018
LU-18-00010	Sass Short Plat	6607 79th Street SW	1.05	2	Apr 30 2018
LU-18-00119	Kravchenko Short Plat	5308 111th Street SW	0.32	2	Jul 18 2018
Subtotals			4.73	13	

Final Short Plat Approvals

Project No.	Name	Location	Acreage	No. of lots	Date Approved
LU-18-00026	Habitat for Humanity Short Plat	14610 West Thorne Lane SW, 15018 Portland Ave SW, 15013 & 15011 Boat Street W	0.31	4	Jul 18 2018
LU-17-00246	Riordan Short Plat	9347 Dekoven DR SW	0.35	2	Feb 9 2018
LU-16-00183	Maldonado Short Plat	11420 Lake Steilacoom Drive SW	3.26	2	May 5 2018
LU-17-00197	Goodman Short Plat	12007 Clover Creek DR SW	2.59	4	Jan 19 2018
LU-15-00182	Beyler Short Plat	311 & 309 Lake Louise DR SW	0.69	2	Apr 2 2018
Subtotals			7.2	14	

Pending Preliminary Plats

Project No.	Name	Location	Acreage	No. of lots	
LU-18-00252	Oakbrook Park PDD	7701 Ruby Drive SW	2.88	16	
LU-18-00260	Thorne Lane PDD	8109 North Thorne Lane	6.56	21	

**TABLE 4
NEW LOTS – PENDING AND APPROVED**

		SW			
Subtotals			9.44	37	
Pending Final Plats					
Project No.	Name	Location	Acreage	No. of lots	
LU-18-00094	Windom Oaks	6139 88th Street SW	1.72	15	
Subtotals				15	
Total			29.35	95	