

AGENDA
LACEY PLANNING COMMISSION MEETING
Tuesday, April 7, 2015 – 7:00 p.m.
Lacey City Hall Council Chambers, 420 College St. SE

Call to Order: 7:00 p.m.

- A. Roll Call
- B. Approval of Agenda & Consent Agenda Items*
Approval of the March 3, 2015, Planning Commission Meeting Minutes

*Items listed under the consent agenda are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Public Comments: 7:01 p.m.

Commission Members Reports: 7:03 p.m.

Director's Report: 7:05 p.m.

New Business: 7:10 p.m.

North Thurston Public Schools Update: John Bash, Chief Operations Officer, NTPS. The Planning Commission will be briefed on the status of ongoing and planned projects in the North Thurston School District and give an update on District-wide growth issues.

Puget Sound Energy: Amy Tousley, Utility Planner, PSE. The Planning Commission will be briefed on Puget Sound Energy's future planned infrastructure improvements in Lacey and the Lacey UGA associated with the update to the Utilities Element of the Comprehensive Plan.

Central Business District 7 Zoning Text Amendment: Ryan Andrews, Planning Manager. Staff will present an introductory briefing on a private applicant-initiated zoning text amendment within the Central Business District 7 zoning district. The proposal would revise the current code to allow multi-family residential and espresso stands as a permitted use in the CBD 7 zone.

Development Agreement Zoning Text Amendment: Christy Osborn, Associate Planner. Staff will present a draft of proposed Lacey Municipal Code 16.82 which would authorize the use of development agreements and establish the process associated with their use.

Communications and Announcements: 8:55 p.m.

Next Meeting: April 21, 2015.

Adjournment: 9:00 p.m.

MINUTES

Lacey Planning Commission Meeting
Tuesday, March 3, 2015 – 7:00 p.m.
Lacey City Hall Council Chambers, 420 College Street SE

Meeting was called to order at 7:00 p.m. by Gail Madden.

Planning Commission members present: Gail Madden, Carolyn Cox, Cathy Murcia, Mike Beehler, Jason Gordon, Sharon Kophs, Albert de Santis, and Paul Enns. Staff present: Ryan Andrews, Rick Walk, Christy Osborn, George Smith, and Leah Bender. Also present: Graeme Sackrison.

Gail Madden noted a quorum present.

Carolyn Cox made a motion, seconded by Sharon Kophs, to approve the agenda for tonight's meeting. All were in favor, the motion carried. Mike Beehler made a motion, seconded by Carolyn Cox, to approve the minutes of the February 17, 2015, meeting. All were in favor, the motion carried.

1. **Public Comments:** None.

2. **Commission Member's Report:** None.

3. **Director's Report:**

- Rick Walk noted that Ryan Andrews distributed a flyer regarding the upcoming short course on planning from 6:15 to 9:15 p.m., Thursday, April 2, in the City of Lakewood council chambers.
- Ryan went over the Planning Commission work schedule and noted that there will be no Planning Commission meeting on March 17. Ryan reminded Commissioners about the form-based code charrette that will take place March 23 through March 26. The charrette will conclude with a public meeting to be held on Thursday, March 26 from 5:00 to 6:30 p.m. in the City Council chambers.
- Rick asked for feedback after the joint Council meeting.
 - A couple of commissioners said they felt like it was not a joint meeting, but seemed more like a regular council meeting, and that there weren't really any issues for Planning Commission to participate in.
 - More than one commissioner noted their surprise that current interest is in developing larger homes and the majority of interest in developing the northeast area of Lacey.
 - A suggestion was made to brief the person running future meetings and ask that they involve commissioners in the meeting.
 - It was noted that it was not a negative experience, but lacked dialog directly between the commission and council.

4. **New Business:**

Economic Development Update:

- Rick Walk introduced Economic Development Coordinator George Smith.
- George noted that his position is a temporary two-year position. He gave a PowerPoint presentation that outlined economic development program objectives and how they will be executed to ensure continuation in the future.

Environmental Protection and Resource Conservation Element:

- Christy Osborn gave some background information and noted that the original Environmental Protection and Resource Conservation Element was adopted in 1992.
- Christy went over the draft amendments.
- Questions were raised related to agricultural lands of long-term significance and mineral lands within the UGA. Staff stated that there are no agricultural lands of long-term significance in the UGA but there are mineral resource lands. Mineral resource lands will continue until such time a mine reclamation plan has been completed.
- The Planning Commission suggested adding a section to recognize issues associated with the Mazama pocket gopher within the document.
- A suggestion was made to be consistent with the use of terms "Growth Management Act" and "GMA" within the document.

5. **Communications and Announcements:** Ryan said that information regarding the Woodland District Form-Based Code charrette will be sent out as soon as it is available. He also stressed the importance of attending the evening session on Thursday, March 26.

6. **Next meeting:** April 7, 2015.

7. **Adjournment:** 8:55 p.m.

CITY OF LACEY PLANNING COMMISSION WORK SCHEDULE

<p>Planning Commission Meeting April 7, 2015</p> <p>Packets due: April 2nd</p>	<ol style="list-style-type: none"> 1. Worksession: Utilities Element, Amy Tousley, Puget Sound Energy 2. Worksession: NTPS Update, John Bash, Chief Operations Officer 3. Worksession: Development Agreement Zoning Text Amendment 4. Worksession: CBD 7 Private Text Amendment
<p>Planning Commission Meeting April 21, 2015</p> <p>Packets due: April 16th</p>	<ol style="list-style-type: none"> 1. Worksession: 2015 Comprehensive Plan Amendment Private Applications 2. Worksession: Land Use Element Chapter 3 Topic Sections; CO: Common Elements, Joint Planning, Parks & Open Spaces, Utilities and Capital Facilities; RA: UGA
<p>Planning Commission Meeting May 5, 2015</p> <p>Packets due: April 30th</p>	<ol style="list-style-type: none"> 1. Public Hearing: 2015 Comprehensive Plan Amendment Private Applications 2. Public Hearing: Development Agreement Zoning Text Amendment 3. Public Hearing: CBD 7 Private Text Amendment 4. Worksession: Market Study Briefing 5. Worksession: Envision Lacey Outreach
<p>Planning Commission Meeting May 19, 2015</p> <p>Packets due: May 14th</p>	<ol style="list-style-type: none"> 1. Worksession: Land Use Element Chapter 3 Topic Sections; CO: Commercial, Industrial; RA: Residential, Infill, Urban Design, Subareas 2. Worksession: Front Yard Setbacks for SFR's/Housekeeping

Pending items:

June 2nd: Discussion on Intercity Transit with Jeff Gadman



PLANNING COMMISSION STAFF REPORT

April 7, 2015

SUBJECT: Carpenter Crest LLC Zoning Text Amendment Application. Project no. 14-263.

RECOMMENDATION: Call for a public hearing for May 5th to consider the Carpenter Crest LLC Zoning Text Amendment Request for the Central Business District 7 zone.

TO: Lacey Planning Commission

STAFF CONTACTS: Rick Walk, Director of Community Development *RW*
Ryan Andrews, Associate Planner *RA*

ATTACHMENT(S):

1. Zoning Text Amendment Application
2. Proposed Draft CBD 7 Zoning Text
3. Map of Existing Zoning
4. Map of Existing Drive-Thru Coffee Establishments

**PRIOR COUNCIL/
COMMISSION/
COMMITTEE REVIEW:** None.

BACKGROUND:

The Community Development Department received a private applicant-initiated zoning text amendment request. The request is to amend Table 16T-06 of Chapter 16.25 of the Lacey Municipal Code to allow multi-family residential and espresso stands as permitted uses in the Central Business District 7 zoning district.

The application request is to amend specific text within the zoning code and does not require the need to amend any policies within the Comprehensive Plan. These applications are received periodically and are not subject to the docketing or annual Comprehensive Plan amendment timelines because amendment of the Comprehensive Plan is unnecessary.

The Central Business District (CBD) 7 Zone (see attached zoning map) is bordered by College Street to the west, Martin Way to the north, Carpenter Road to the east and St. Martin's University and the Lacey Historic Neighborhood to the south. The Lacey City Hall complex is located in CBD 7 as well as a significant amount of property owned by St. Martin's Abbey. Woodland Creek bisects the CBD 7 zone as it crosses Martin Way in the area commonly known as the "Martin Way Dip."

Most of the developable parcels are centered on the intersection of Martin Way and Carpenter Road which contains a variety of uses including a furniture shop, medical supply shop, landscape services, the LOTT wastewater treatment plant, and the Carpenter Crest apartments located south of the Martin/Carpenter intersection. Surrounding zoning varies but much of it is generally commercial in nature except for St. Martin's and the Lacey Historic Neighborhood to the south.

Multi-Family Residential Amendment Request

First, the request is to allow multi-family residential in the district. Currently, the CBD 7 zoning district does not list multi-family residential as a permitted use. The applicant is interested in pursuing the amendment to potentially expand the existing Carpenter Crest apartment complex onto an adjacent property.

The intent statement of the Central Business District 7 zoning classification states the CBD 7 District is to "provide an area for a broad range of business park-type activities, along with mixed-use activities, office complexes, hotels, limited general commercial, and public facilities." Additionally, the Comprehensive Plan states that the CBD zone is to attract shopping, office, specialty retail, urban residential, hotel and institutional uses. Both the intent statement of the zoning code and the Comprehensive Plan make reference to this zone allowing for a mix of uses and both support urban residential.

The Comprehensive Plan also currently contains Goals and Policies that support the request. A major emphasis of the Plan is mixed use and higher density and particularly infill within the core area. The proposal is aligned with both of these objectives. The zoning text amendment would also achieve many of the goals and policies within the Plan of promoting mixed use, higher density and urban infill within the CBD area. Also, the proximity to Martin Way with 15-minute transit service, and the business services available in this area would make this proposal an asset to the area.

Staff has included an attached draft of the amended zoning text in Table 16T-06 which states that multi-family residential of five or more units would be a permitted use in the CBD 7 zone, provided that the density and other standards of the High Density Residential zoning district (LMC 16.18) would apply including the minimum density of 6 to 20 units per acre.

Espresso Stand Amendment Request

Second, the request also includes a proposed amendment to allow espresso stands as permitted uses. Currently, espresso stands are only allowed as permitted uses in the CBD 5 zone under the provisions in Table 16T-06 for drive-thru fast food restaurants. While nothing in the intent statement of the code nor in the Comprehensive Plan directly addresses this request, there are several reasons why this may not be the best use for the CBD 7 zone.

Staff did a windshield survey of all drive-thru coffee establishments in the vicinity and found that there are 14 existing drive-thru facilities within two miles of the CBD 7 zone (see the attached map). With such a high volume of existing drive-thru coffee locations, including one directly at the intersection of Martin Way and Carpenter Road at the existing Shell service station in the Lacey UGA, this may not be a location where additional stands should be permitted.

Additionally, espresso stands are usually very small, have no restroom facilities and are have issues associated with their access especially when accessed by high volume streets. This also is

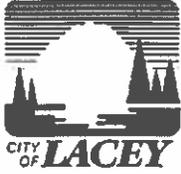
problematic for when it comes to some of the key intersections in the district including the intersection of Martin Way and Carpenter Road.

What may be more appropriate, would be the allowance for “coffee shops” in our existing code which are already permitted in all CBD zones. This would allow for those coffee uses that have a sit-down component as the primary use to also have an associated drive thru. It would also mean that the proposal would need to have amenities associated with those types of facilities including restrooms, seating, and other amenities that would make the use an asset for the area.

Staff has attached the draft Table 16T-06 which reflects staff’s recommendation to allow “Eating and Drinking Places” as permitted uses (also including coffee shops with drive-thrus as permitted uses) and clarifying that Fast Food Restaurants with Drive-Thrus and Espresso Stands are only permitted in CBD 5.

RECOMMENDATION:

Staff will provide an introductory briefing related to the request. The full staff analysis will be presented at the Planning Commission public hearing scheduled for May 5th. Public notice of the hearing will be published in *The Olympian* and directly mailed to all property owners within the Central Business District 7 zoning district. The applicant will also be available at the April 7th meeting to provide their insight and answer any questions.



CITY OF LACEY
 Community Development Department
 420 College Street SE
 Lacey, WA 98503
 (360) 491-5642

OFFICIAL USE ONLY

Case Number: _____

Date Received: _____

By: _____

Related Case Numbers:

**ZONING TEXT AMENDMENT
 APPLICATION**

SECTION I

APPLICANT NAME: Carpenter Crest LLC

MAILING ADDRESS: 3065 NE 2nd Ave

CITY, STATE, ZIP: Camas, WA 98607-2312

TELEPHONE: 360-835-1782

REPRESENTATIVE NAME: * Doug Probstfeld

MAILING ADDRESS: 3065 NE 2nd Ave

CITY, STATE, ZIP: Camas, WA 98607-2312

TELEPHONE: 360-835-1782

* The representative is the person whom staff will contact regarding the application, and to whom all notices and reports shall be sent, unless otherwise stipulated by the applicant.

SECTION II

A. GENERAL DESCRIPTION OF PROPOSAL; DESCRIBE THE INTENT AND REASON FOR PROPOSING A CHANGE TO THE TEXT OF THE ZONING CODE

1 Change text of Zone 7, Central Business District, to include multifamily residential housing. This will allow existing apartments such as Carpenter Crest Apartments at 201 Carpenter Road SE and allow consideration for constructing new apartments on parcels 11815230201, 11815230202 and 11815230300.

2 Change text of Zone 7, Central Business District, to include drive-thru coffee (beverage) stands to allow consideration of a drive-thru coffee stand on parcel 11815230300.

B. GENERAL PURPOSE OF THE ZONE TO BE CHANGED? CONSIDER WHAT FUNCTION THE ZONE SERVES AS DESCRIBED IN THE COMPREHENSIVE LAND USE PLAN AND HOW THAT FUNCTION OR PURPOSE MIGHT BE IMPACTED BY THE PROPOSED CHANGE

Per Clause 16.25.010D, CBD 7 is to include mixed use facilities such as additional apartments and a drive-thru coffee stand. This change would favorably support the intent of this district.

C. TEXT CHANGE REQUESTED

CURRENT ZONING LANGUAGE:

TABLE 16T-06, Division K: Multi Family (5+ Units) not permitted in CBD 7.

TABLE 16T-06, Division F/G: Drive-thru coffee stands not defined. (Ref. SIC Code 58A, Fast Food Restaurants with Drive-in Windows)

REQUESTED NEW ZONING LANGUAGE:

TABLE 16T-06, Division K: Multi Family (5+ Units), add "P3" to CBD 7 (P3: Must comply with Chapter 16.18 LMC).

TABLE 16T-06, Division F/G: Add "Drive-thru coffee stands" and add "C" to CBD 7. (Conditional: Must comply with the requirements of 16.24.030B.)

D. DOES THE PROPOSED AMENDMENT AFFECT BOTH THE CITY AND THURSTON COUNTY? IS THE ZONE TO BE CHANGED IN BOTH INCORPORATED AND UNINCORPORATED AREAS; LACEY AND LACEY'S GROWTH AREA? (PLEASE EXPLAIN):

Confined within the boundaries of the City of Lacey

E. WAS THIS ISSUE, THE ZONES SPECIFIC ALLOWED USES OR STANDARDS PROPOSED FOR CHANGE, DISCUSSED DURING THE COMPREHENSIVE PLAN AND ZONING REGULATIONS REVIEW AND ADOPTION PROCESS? IF SO, PLEASE EXPLAIN:

Previous discussions unknown. Discussed at a Presubmission Conference held on 28 Jan 2015

F. IS THE PRESENT ZONING LANGUAGE THE RESULT OF A MISTAKE? WHAT KIND OF MISTAKE (i.e., ACCIDENTAL OMISSION, INTENT NOT CLARIFIED)? PLEASE EXPLAIN:

The Applicant is not qualified to answer this question. However, it appears that current and foreseeable future use of most of CBD 7 prohibits the intent

specified in Clause 16.25.010D. Also, the west side of Carpenter Road included within CBD 7 appears sufficiently separated from the rest of CBD 7 by access

usage and natural features to warrant consideration for rezoning, along with the vacant lots to the north, as MHDC or CBD 6.

G. HOW MANY ACRES OF DEVELOPED AND UNDEVELOPED PROPERTY IN THIS ZONING DESIGNATION COULD BE IMPACTED BY THE CHANGE?

DEVELOPED: 0.31 Acres

UNDEVELOPED: Approx. 0.61 Acres

WHAT ZONES ARE LOCATED ADJACENT TO THESE AREAS?

MD, OS-1, MHDC

II. WHAT POTENTIAL LAND USE CONFLICTS COULD RESULT FROM THE PROPOSED CHANGE? CONSIDER ALL LAND IN THE ZONE TO BE CHANGED AS WELL AS EXISTING AND PLANNED LAND USES IN ADJACENT ZONES. DO NOT LIMIT CONSIDERATION ONLY TO THE SPECIFIC PARCEL(S) THAT YOU ARE INTERESTED IN. REMEMBER, A TEXT AMENDMENT WILL IMPACT ALL PROPERTY WITHIN THAT ZONE AND COULD POTENTIALLY IMPACT PROPERTY IN ADJACENT ZONES AS WELL.

Allowing drive-thru coffee (beverage) stands may jeopardize the intent of CBD 7 in other areas. The Applicant foresees no other conflicts.

SECTION III

EXPLAIN HOW THE AMENDMENT IS CONSISTENT WITH THE FOLLOWING:

- State Growth Management Act (GMA):
- County-Wide Planning Policies (CWPP):
- Lacey Comprehensive Plan:
- Regional Transportation Plan (RTP):
- Other Applicable City Plans or Documents:
- Neighboring Jurisdictions' Comprehensive Plan (when your proposal affects multiple jurisdictions):

SUPPLEMENTAL INFORMATION

THIS APPLICATION MUST BE ACCOMPANIED BY THE FOLLOWING INFORMATION:

- 1- Environmental checklist (must include 2 CD's containing .pdf copies of all submittal materials, including applications)
- 2- Supplemental information and/or special reports may be required including:
 - a. Environmental issues;
 - b. Anticipated impacts from a change in uses or standards of the zone;
 - c. Other.

INITIATED BY:

Planning Commission. Date of Initiation: _____

City Council. Date of Initiation: _____

Property owners as follows:

I (We) understand and agree with the above explained need for the map change and are current owners of the property within the City of Lacey.

_____ Signature	Doug Probstfeld _____ Printed Name
ADDRESS: 3065 NE 2nd Ave Camas, WA 98607 2312	_____
_____ Signature	_____ Printed Name
ADDRESS: _____	_____
_____ Signature	_____ Printed Name
ADDRESS: _____	_____

TABLE 16T-06

GENERALIZED LAND USES IN THE CITY OF LACEY

CENTRAL BUSINESS DISTRICT (C.B.D.) AND ST. MARTIN’S UNIVERSITY ZONE

BY STANDARD INDUSTRIAL CLASSIFICATION CODES (S.I.C. CODE)

S.I.C. Codes are divided into 11 Divisions, which are listed A thru K. Under each division is a list (ing) of Major Groups(s), which are listed 01 thru 99. And listed below these are subclassifications of Auxiliary Establishments, which are usually 3 or 4 digit numbers. These correspond to major group numbers.

S.I.C. Codes are those according to the Standard Industrial Classification Manual, 1987, published by the Executive Office of the President, Office of Management and Budget, for the City of Lacey C.B.D.

The following is a list of abbreviations used on the tables:

P = Permitted Use

C = Conditional Use

A = Accessory Use

NEC = Not Elsewhere Classified

Bolded 2 Digit SIC Code = Entire Major Group

In using the following chart, the reader should also refer to notes at the end of the chart that provide specific requirements or qualifications for uses under specific categories.

NOTE: If a business in Central Business District 4 or 5 becomes a non-conforming use under the revised listing, it shall be allowed to continue operation. Additionally, the said use shall be allowed to expand and enlarge through the conditional use permit process of Chapter 16.87 LMC provided that all other zoning code requirements can be satisfied.

CHART 16.25.020(1)

GENERALIZED LAND USES IN CBD ZONES

Ord. 1395 §3 (Exh. A), 2012; Ord. 1380 §2, 2012; Ord. 1355 §5, 2010; Repealed Ord. 1355 §4, 2010; Amended by Ord. 1131 §9, 2000; Ord. 1098 §20, 1999; Ord. 1080 § 17, 1998

...

DIVISION F/G. WHOLESALE & RETAIL TRADE (all uses subject to note 1)

SIC CODES	MAJOR GROUP/ESTABLISHMENTS	CBD 4	CBD 5	CBD 6	CBD 7	SMU
58	Eating & Drinking Places	P	P	P	P	P
58A	Fast Food Restaurants with Drive-thru Windows and Espresso Stands		P			

...

DIVISION K. RESIDENTIAL (Not Listed in SIC Codes)

SIC CODES	MAJOR GROUP/ESTABLISHMENTS	CBD 4	CBD 5	CBD 6	CBD 7	SMU
	Single Family	P1				
	Multi Family (2-4 Units)	P2				
	Multi Family (5+ Units)	P2	P3	P	<u>P2</u>	
	Other Households		P3			
	Other Residential					

NOTES TO GENERALIZED LAND USES IN CBD ZONE

Land Use Code Category/Division

- A. Agriculture, Forestry, and Fishing**
- B. Mining**
- C. Construction**
- D. Manufacturing**

Notes applicable to all manufacturing activities in CBD zones:

1. Manufacture of flammable, dangerous or explosive materials are excluded in CBD districts.
2. Office space is permitted only if accessory and subordinate to a manufacturing use in CBD-5. No more than twenty-five percent (25%) of the gross floor area of the structure shall be devoted to non-manufacturing uses.

E. Transportation & Public Utilities

Notes specific to those uses as notated in the chart:

1. Permitted only as a subordinate use to a permitted or conditional use.

F./G. Wholesale & Retail Trade

Notes specific to those uses as notated in the chart:

1. Display and sales only; limited on-site inventory storage.
2. Permitted only as a subordinate use to commercial parking lots and garages.

H. Finance, Insurance, and Real Estate

I. & J. Services & Public Administration

Notes applicable to all Services and Public Administration uses in CBD districts:

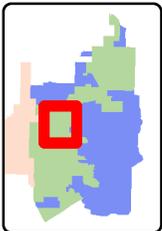
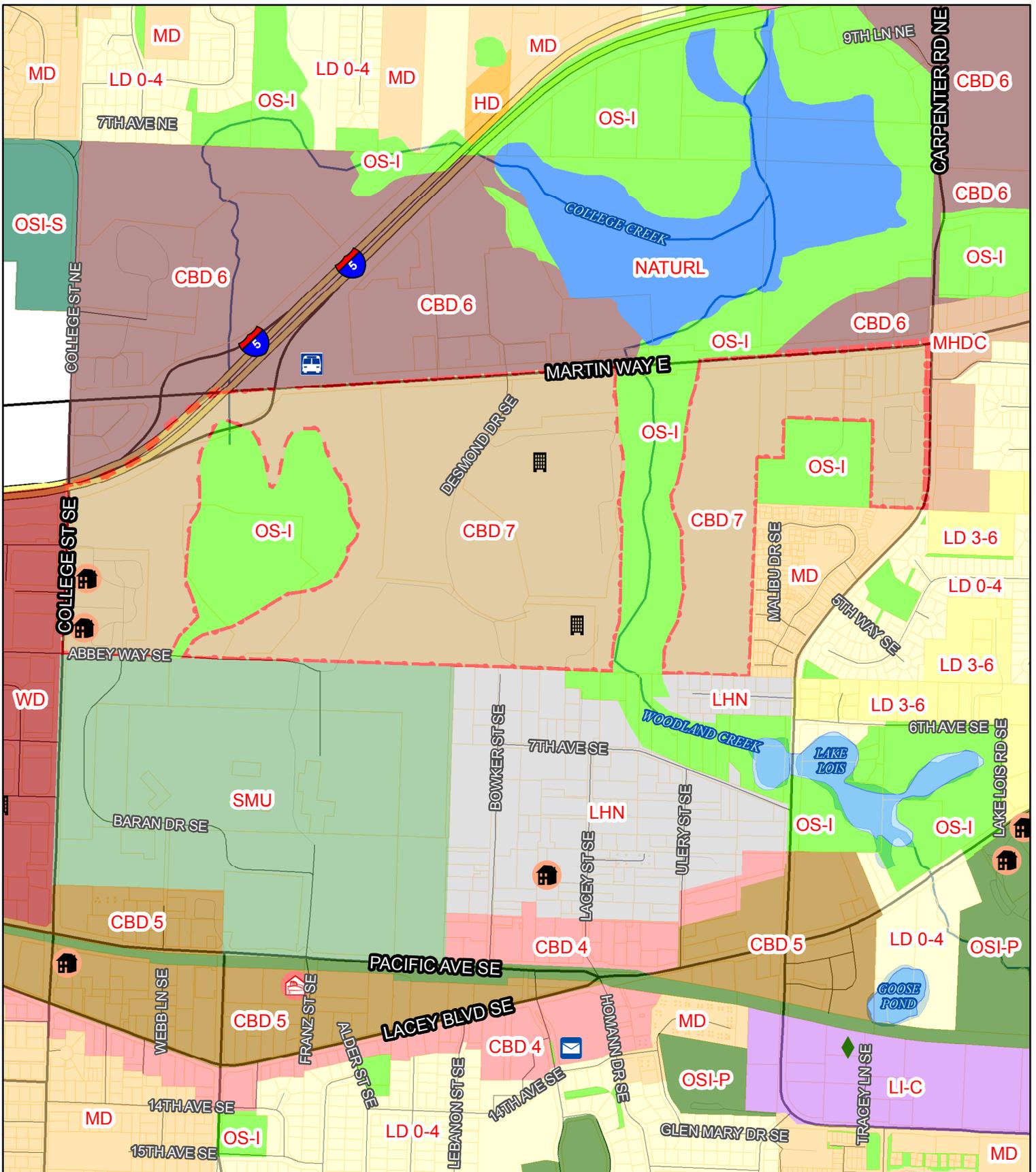
1. Permitted only as a subordinate use to a permitted use.
2. Commercial lots and garages are those lots which provide vehicular parking for the public generally for a fee and do not include lots and garages which provide the required parking for other uses.

3. The location of any off-site parking facility must be approved by the Enforcing Officer and/or Site Plan Review Committee.
4. All types of commuter pooling facilities shall be regulated as a park-and-ride. A park-and-ride providing no more than twenty-five (25) parking spaces, and utilizing the parking area of an existing use, shall be regulated as an accessory use. Any other park-and-ride requires a conditional use permit.
5. Excludes zoos.
6. Excludes drive-in theaters.
7. To reserve prime retail commercial buildings and sites for retail commercial use, Government offices shall not be permitted in binding site plans, subdivisions or building complexes designed for commercial retail use unless the original design specifically included a mixed use concept anticipating such use. Provided, however, the city may consider government offices in commercial retail buildings and sites through a conditional use permit process if it can be demonstrated the use is complementary to adjacent commercial retail activity, enhances the retail environment and will develop strategies for the zone in which it is located. Provided further existing structures that have been used for government offices shall be considered to have been determined appropriate for such use under original approvals and will require only normal site plan review approval when new government tenants are proposed.”

K. Residential

Notes specific to those uses as notated in the chart:

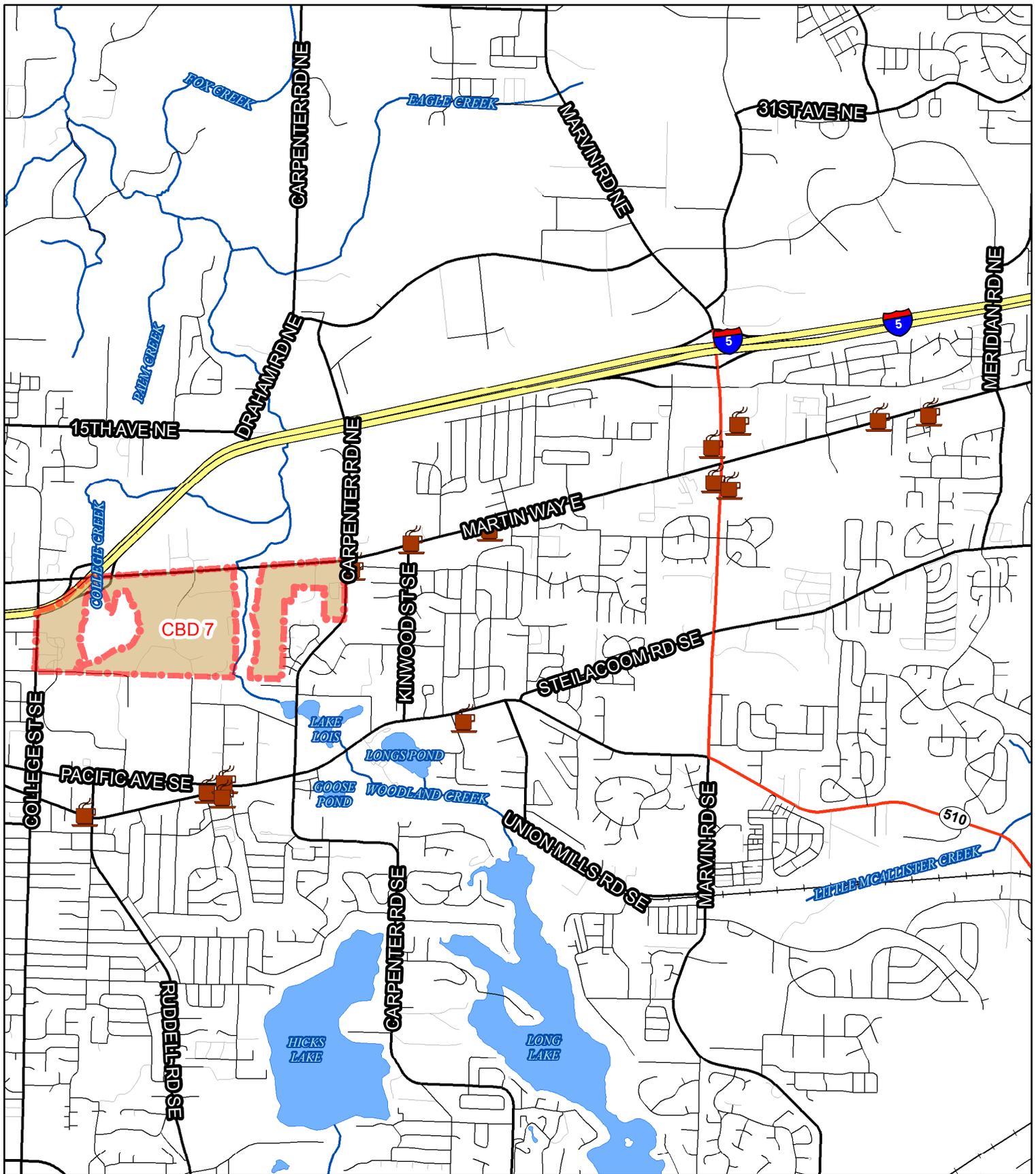
1. Density and standards must comply with Chapter 16.15 LMC.
2. Density and standards must comply with Chapter 16.18 LMC.
3. Standards must comply with Chapter 16.18 LMC. Density will be limited only by maximum floor area permitted.



Central Business District 7 Existing Zoning

Date: 3/19/2015
1 inch = 1,000 feet





Existing Drive-Thru Coffee Locations

Date: 3/19/2015
 1 inch = 2,800 feet

Legend

-  Drive-Thru Coffee
-  Central Business District 7





PLANNING COMMISSION STAFF REPORT

April 7, 2015

SUBJECT: Municipal Code Provisions to Authorize Development Agreements, Chapter 16.82 LMC

RECOMMENDATION: Review proposed content of draft municipal code language authorizing development agreements and set date to hold public hearing.

TO: Lacey Planning Commission

STAFF CONTACTS: Rick Walk, AICP, Community Development Director *RW*
Ryan Andrews, Planning Manager *RA*
Christy Osborn, Associate Planner *CO*

ATTACHMENT(S): 1. Draft Chapter 16.82 LMC, Development Agreements

**PRIOR COUNCIL/
COMMISSION/
COMMITTEE REVIEW:**

The draft development agreement chapter has not been previously reviewed.

BACKGROUND:

The lack of predictability in the development process may result in an inefficient use of public and private resources which can in turn escalate costs and discourage investment and master planning of development projects envisioned by the City's Comprehensive Plan. Predictability in the development review process can encourage development and redevelopment of property, which is particularly important for large-scale or multiphase projects that can take years to complete and require substantial commitment of both public and private resources. The City has the authority under RCW 36.70B to enter development agreements with project applicants to enhance certainty in the development process.

A development agreement is a contract between a local jurisdiction and a person who owns or controls property within the jurisdiction that specifies the standards and conditions that will govern the development of the property. The development agreement provides the developer with vested rights by freezing existing zoning and development regulations and vesting development rights. In turn, a local jurisdiction can get commitments from the developer for high quality site and building design elements, dedication of parks and open space, coordination of public infrastructure or other facilities, and ensure that development will proceed in a timely fashion. Development agreements also allow for flexibility and innovation in land use and design techniques provided that they are in compliance with the Comprehensive Plan.

These agreements are voluntary, but once made are binding on the parties and their successors for the time period established in the agreement. The City Council is the decision making authority for these agreements.

Constitutional and statutory law establishes the authority to regulate the use of property, and also defines the limitations of that authority. The Local Project Review Act (Chapter 36.70B RCW) provides specific authority and direction for development agreements. Further, the Washington Administrative Code (WAC 365-196-845) establishes specific code provisions to implement and explain the intent of the law.

The authority to enter into a development agreement must be clearly set forth in a jurisdiction's development regulations. The City's 2014 Annual Review and Audit by the Washington Cities Insurance Authority (WCIA) contained a mandatory audit requirement to adopt provisions in our code for development agreements during the 2015 calendar year.

A draft Chapter 16.82, Development Agreements, is attached for your review. The content of the draft code provisions were guided by review of the applicable RCW's and WAC's, and support from WCIA and the Municipal Research and Services Center. Background research also included the review of case law, Growth Management Hearings Board decisions, and code provisions from other local jurisdictions across the state.

Proposed Chapter 16.82 is divided into eight sections. The various sections contain mandatory requirements contained in statutory law and procedures that will be used for required content, terms and review of development agreements.

RECOMMENDATION:

The Planning Commission will review the proposed draft provisions for development agreements and provide input and comments for recommended changes. The Planning Commission will also be requested to set a public hearing to hear testimony related to the draft ordinance. Staff recommends May 5, 2015, as the public hearing date. The draft has been forwarded to the city attorney for legal review and his comments will be incorporated into the briefing materials for the Planning Commission to consider as part of the public hearing.

Chapter 16.82

DEVELOPMENT AGREEMENTS

Sections:

16.82.005	Authority
16.82.010	Purpose
16.82.020	Development Standards
16.82.030	Content of a Development Agreement
16.82.040	Effect and Vesting
16.82.050	Procedure
16.82.060	City Council Action
16.82.070	Term of Agreement

16.82.005 Authority

A. This chapter applies to development agreements authorized pursuant to RCW 36.70B.170 – 36.70B.210, as a legislative action, between the City of Lacey and a person having ownership or control of real property within its jurisdiction. The execution of a development agreement is a proper exercise of City police power and contract authority.

B. The City may enter into a development agreement for real property outside its boundaries as part of a proposed annexation, or a service agreement.

C. The provisions of this chapter not apply to or affect the validity of any contract rezone, concomitant agreement, annexation agreement or other agreement in existence on or before the effective date of this chapter, or adopted under separate authority, even though such agreements may also relate to development standards, mitigation, and other regulatory requirements.

D. The City may enter into development agreements pursuant to this chapter. The decision whether to enter into a development agreement is discretionary with the City Council. The development agreement shall provide for the scope and timing of the project, applicable regulations and requirements, mitigation requirements and other matters relating to the development process.

16.82.010 Purpose

The purpose of development agreements are:

1. The lack of certainty in the approval of development projects can result in a waste of public and private resources escalate housing costs for consumer and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public.
2. Assurance in the development review process can significantly encourage development or redevelopment of real property. This certainty is especially important for large-scale or multiphase developments that take years to complete and that require substantial financial commitments at an early stage.
3. A development agreement promotes the general welfare by balancing the public and private interests, providing reasonable certainty for a development project, and addressing other matters, including funding or providing services, infrastructure, or other facilities.

16.82.020 Development Standards

A. Any person intending to propose a development agreement shall first meet with the Director of Community Development or their designee for purposes of understanding the parameters of the proposal and applicable procedures.

B. In order to encourage innovative land use techniques and to further achieve public benefits, a development agreement adopted pursuant to this chapter may impose development standards that differ from the standards of the Lacey Municipal Code and the Lacey Development Guidelines and Public Works Standards that are otherwise applicable to a proposed development: infrastructure requirements, street standards, performance standards, and duration of approvals. All development standards imposed must achieve public benefits, respond to changing community needs, and require modifications which provide the functional equivalent or adequately achieve the purposes of otherwise applicable City standards. Any development standard imposed by the development agreement must be consistent with and further the stated intent of the comprehensive plan.

C. The development standards as approved through a development agreement shall apply to and govern the development and implementation of the subject site in lieu of any conflicting or different standards or requirements elsewhere in the Lacey Municipal Code. A development agreement shall reserve authority to impose new or different regulations to the extent required by serious threat to public health and safety.

D. Notwithstanding the foregoing, the International Building Code, International Fire Code, and other construction codes in effect in the State of Washington, and as adopted by the City of Lacey, on the date of filing a complete building permit application or other construction application for a building on the subject site shall apply; except that no changes to such codes taking effect after the date of the development agreement shall require redesign or modification of then-existing project utilities, facilities, or other infrastructure that were installed in accordance with the development agreement.

16.82.030 Contents of a Development Agreement

A. A development agreement must set forth the development standards and other provisions that shall apply to, govern, and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.

B. For purposes of this chapter, the term “development standards” means and includes, but is not limited to the following items. In approving a development agreement, conditions of approval shall at a minimum establish:

1. A site plan for the entire project, showing locations of sensitive areas and buffers, required open spaces, perimeter buffers, location of residential development, and location of non-residential development;
2. Project elements such as permitted uses, residential densities and nonresidential densities; range of uses authorized for any non-residential development; intensities; and building sizes;
3. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of State law, any reimbursement provisions, other financial contributions by the property owner, or dedications;
4. Mitigation measures, development conditions, and other requirements under Chapter 14.24LMC, Environmental Policy, and Chapter 43.21C RCW;
5. Design standards such as maximum heights, setbacks, streets, drainage and water quality requirements, landscaping, and other development features;
6. Sewer, water, stormwater and other utility plans;
7. Parks and open space preservation;
8. Phasing;
9. Review procedures and standards for implementing decisions;
10. A build-out or vesting period for applicable standards; and
11. Any other development requirement or procedure deemed appropriate by the City Council.

C. Nothing in this Chapter is intended to authorize the City to impose impact fees, inspection fees, or dedications or to require any other financial contributions or

mitigation measures except as expressly authorized by other applicable provisions of law.

16.82.040 Effect and Vesting

A. Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period of the project specified in the agreement, and the project may not be subject to an amendment to a zoning ordinance, or development standard, or regulation adopted after the effective date of the agreement. A permit or approval issued by the City after the execution of the development agreement must be consistent with the development agreement.

B. Under subsection (A), a development agreement provides an alternative to vesting rights provided in Section 1B.060 of the Lacey Development Guidelines and Public Works Standards.

C. The tenure of the approval of a development agreement shall not exceed a twenty year time period. At the expiration date of a development agreement, application of a new agreement would be required as provided in the provisions contained in the Lacey Municipal Code.

D. A development agreement may reserve capacity in the transportation system for the proposed developments trip generation and, in such case, the proposed development shall be deemed to have achieved transportation concurrency under the concurrency rules and regulations in effect on the effective date of the development agreement. The term for the concurrency determination shall be set forth in the development agreement.

16.82.050 Procedure

A. If a development agreement is not proposed in conjunction with an action requiring 'quasi-judicial review' or 'legislative review' under Chapter 1, City of Lacey Development Guidelines and Public Works Standards, the development agreement shall be presented to City Council at a public hearing for approval by ordinance or resolution.

B. If the development agreement is proposed in conjunction with an action requiring "quasi-judicial review," the development agreement shall be presented to the City Council for final approval by ordinance or resolution, after a public hearing with the Hearing Examiner. The Hearing Examiner shall make a recommendation of approval or denial on the applications and the development agreement to the City Council.

C. If the development agreement is proposed in conjunction with an action requiring 'legislative review,' the development agreement shall be presented to the City Council for final approval by ordinance or resolution, after a public hearing with the Planning Commission. The Planning Commission shall make a recommendation of approval or denial on the applications and the development agreement to the City Council.

D. Prior to the required public hearing, the Director or their designee shall issue a public hearing notice in accordance with Section 1C, City of Lacey Development Guidelines and Public Works Standards.

16.82.060 City Council Action

A. The City Council shall consider the proposed development at and following the public hearing. The City Council may approve and enter into a proposed development agreement if the Council finds, in its sole discretion, that a proposed agreement is consistent with the comprehensive plan and the purposes of this chapter. The decision of the City Council on a development agreement is the final decision of the City.

B. Notice of the final decision by the City Council shall be mailed to the applicant, to any person who submitted public comments, and to any other person who has specifically requested it.

C. The development agreement shall be recorded with the Thurston County Auditor prior to the effective date of any development proposal that was submitted and reviewed concurrently with the development agreement.

D. The appeal of a final decision of the City Council shall be timely filed as a judicial appeal pursuant to Section 1D.0740, City of Lacey Development Guidelines and Public Works Standards.

16.82.070 Term of Agreement

A. A development agreement pursuant to RCW 36.70B and this chapter shall be binding on the parties and their successors during the term of the development agreement and enforceable during its term by a party to the agreement, unless the agreement is amended or terminated. The City reserves the right to modify or terminate the development agreement upon discovering noncompliance by the developer after review and consideration by the City Council.

B. Amendments to the terms of the development agreement shall be done only by a written instrument executed by all parties pursuant to the procedures of this article, or as may be amended. The City will process and decide upon application of an

amendment upon payment of applicable fees, as if it were an application for a new development agreement.