



**STAFF REPORT TO THE PLANNING COMMISSION**

**IN THE MATTER OF CASE NO. CPA2019-0009/LUA2019-0016, A CITY-INITIATED PROPOSAL TO AMEND CITY OF LIBERTY LAKE DEVELOPMENT CODE AND RIVER DISTRICT DEVELOPMENT CODE TO ALLOW FOR ADDITIONAL EXTENSIONS FOR THE BUILDOUT OF PHASED SUBDIVISIONS**

**HEARING DATE:** August 14, 2019 @ 4:00 p.m.

**PROPOSAL COORDINATOR:** Lisa D. Key, Director of Planning, Engineering & Building Services

<b>PROPOSAL SUMMARY:</b>	
<b>Location</b>	Citywide
<b>Applicant(s)</b>	City of Liberty Lake
<b>Proposal Information</b>	2019 Development Code Amendment CPA2019-0009/LUA2019-0016
<b>Code Chapter / Section</b>	<b>Proposed City Development Code &amp; River District Development Code Amendment</b>
<b>§10-4D-3D, Subdivision Modifications and Extensions; and, §10-4D-3E, Phased Development</b>	<p>Amend City &amp; River District Development Code §10-4D-3 to allow additional extensions if the developer meets the standards of approval, and has platted at least one phase in the previous extension, to allow the full buildout of large, phased subdivisions.</p> <p>Proposed Amendments to §10-4D-3:</p> <p>D. <u>Modifications and Extensions</u>. The applicant may request changes to the approved preliminary plat or short plat or conditions of approval following the procedures and criteria provided in Article 10-4F - Modifications. The Director may, upon written request by the applicant and payment of the required fee, grant <del>one</del> <u>one</u> extension of the approval period not to exceed three (3) years; provided that:</p> <ol style="list-style-type: none"> <li>1. Any changes to the preliminary plat or short plat follow the procedures in Article 10- 4F;</li> <li>2. The applicant has submitted written intent to file a final plat or short plat within the extension period;</li> <li>3. An extension of time will not prevent the lawful development of</li> </ol>

	<p>abutting properties;</p> <ol style="list-style-type: none"><li>4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat or short plat application shall be required;</li><li>5. The extension request is made before expiration of the original approved plan; and</li><li>6. The extension request has been routed to agencies with jurisdiction for comment and the opportunity for the City or other reviewing agency to modify the original Conditions of Approval was available.</li></ol> <p><u>Additional extensions may be granted for phased subdivisions (as may be approved in accordance with paragraph F, below), provided that the above criteria have been met, and at least the one phase of the subdivision has been final platted during the previous extension period.</u></p> <p><u>E. Phased Development.</u></p> <ol style="list-style-type: none"><li>1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any subdivision, binding site plan, or short plat be greater than 5 years, <u>unless an extension has been approved in accordance with the provisions of paragraph D, above;</u></li><li>2. The criteria for approving a phased land division proposal are:<ol style="list-style-type: none"><li>a. Public facilities shall be constructed in conjunction with or prior to each phase;</li><li>b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 10-4D-9. A temporary public facility is any facility not constructed to the applicable City or district standard;</li><li>c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and</li><li>d. The application for phased development approval shall be reviewed concurrently with the preliminary plat, BSP, or short plat application and the decision may be appealed in the same manner as the preliminary plat, BSP, or short plat.</li></ol></li></ol>
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## STATE OF WASHINGTON REGULATORY FRAMEWORK, AUTHORITY & REQUIREMENTS:

### **RCW 36.70A: Growth Management Act (GMA):**

*Liberty Lake is mandated to plan under GMA. The City's Comprehensive Plan and Development Regulations were developed in accordance with the requirements of GMA. Development Regulations are required to implement the City's Comprehensive Plan, and any amendments to City Development Code must be consistent with the City's adopted Comprehensive Plan. The City must provide reasonable public notice of proposed amendments and opportunities for public participation.*

### **RCW 58.17: Plats—Subdivisions—Dedications**

*Regulations regarding the division of land must be consistent with these state requirements, and must be administered in a consistent manner by cities, towns and counties throughout the state. RCW 57.17.140 specifically establishes an approval period of five years for preliminary plats approved after January 1, 2015, however it also states:*

*“Nothing contained in this section shall act to prevent any city, town, or county from adopting by ordinance procedures which would allow extensions of time that may or may not contain additional or altered conditions and requirements.”*

### **WAC 365-196: Growth Management -- Procedural Criteria for Adopting Comprehensive Plans and Development Regulations**

*Development code amendments must comply with procedures established in WAC 365-196, including rules regarding internal consistency, interjurisdictional coordination, public participation requirements, and notification to the Department of Commerce of “intent to adopt” proposed code amendments at least 60 days prior to final adoption.*

### **WAC 197-11: State Environmental Policy Act (SEPA) Rules:**

*Development code amendments are subject to SEPA review as a non-project action, in accordance with procedures established in WAC 197-11.*

## CITY OF LIBERTY LAKE REGULATORY FRAMEWORK & PROCEDURAL REQUIREMENTS:

### **City Code §10-4B-5: Type IV Projects:**

*Comprehensive Plan and Development Code Amendments are classified as Type IV Projects in the City of Liberty Lake Development Code and are considered legislative decisions. The procedural requirements and decision criteria are detailed in City Development Code §10-4B-5.*

### **SEPA REVIEW:**

SEPA Checklists were completed for the proposed annual amendments to the City of Liberty Lake's Comprehensive Plan and Development Regulations. The City of Liberty Lake Planning, Engineering & Building Services has determined that the proposal, as a non-project review, will have no significant adverse environmental impacts and issued a Determination of Non-Significance (DNS) and Adoption of Existing Environmental Documents on July 19, 2019. The City adopted the Spokane County Final Supplemental Environmental Impact Statement for the Spokane County Comprehensive Plan that was prepared on November 22, 2000 and was previously adopted for the original City of Liberty Lake

Comprehensive Plan and Development Code, as well as the Final Environmental Impact Statement for the City of Liberty Lake Urban Growth Area Boundary Alternatives that was prepared on December 13, 2006. The Notice of Availability, SEPA Checklist and Threshold Determination, and Amendment Document were routed to agencies on or before July 23, 2019, and a Notice of Availability was posted at the Liberty Lake Municipal Library and at City Hall, as well as being published in the July 19, 2019 edition of the Valley News Herald. On or before July 23, 2019, the Notice of Availability, Notice of Hearing, SEPA Checklist and Threshold Determination, and Amendment Lists were also posted on the City website, and the notice and a link to the City website was emailed to the public notice group, as well as the amendment applicants. Comments on the SEPA Checklist and Threshold Determination were due by 4 p.m., on August 5, 2019.

#### **PROCEDURAL INFORMATION:**

Planning Commission 2019 Annual Comprehensive Plan and Code Amendment Docket Review:	May 8, 2019
Planning Commission Workshop on CPA2019-0009/LUA2019-0016:	May 8, 2019
SEPA Notice/ Public Hearing Notice:	July 19, 2019
SEPA Comment/Appeal Period Ends:	August 5, 2019
Planning Commission Hearing:	August 14, 2019
Ratification of Recommendations:	September 11, 2019

#### **AGENCY REVIEW:**

SEPA Distribution List & Adjacent Jurisdictions: Liberty Lake Police Department; Avista; Century Link; Central Valley School District; City of Spokane Valley; CDA Tribe; Comcast; Spokane Clean Air; Spokane Valley Fire District; Spokane Transit Authority; Spokane Regional Health District; Spokane Tribe; WS Department of Ecology; WS Department of Fish & Wildlife; WS Department of Natural Resources; WS Department of Transportation; Spokane Regional Transportation Council; Liberty Lake Water & Sewer District; Consolidated Irrigation District; Spokane County Utilities; Spokane County Planning; WS Department of Commerce.

#### **RELEVANT COMPREHENSIVE PLAN GOALS & POLICIES:**

**Governance Policy 1:** The City shall use the website, email, social media, newsletters, local newspapers, special announcements and other techniques to keep the community well-informed.

**Land Use Goal 3:** Plan for future growth of the City in a cost effective manner while maintaining high quality public facilities and services.

**Housing Policy 2:** Periodically assess the effects of policies and regulations on the affordability of housing, fair housing choice, and examine the need to reduce regulatory barriers.

**Economic Development Policy 5:** Provide consistent, fair, and timely regulations that are flexible, responsive, and effective.

## STAFF ANALYSIS:

Currently, the City of Liberty Lake's Development Code provides for preliminary plat approvals that are in effect for a period of five years, which is consistent with state law, and in addition, allows for one three-year extension, if the request is consistent with the applicable standards. In most of the surrounding jurisdictions, additional extensions may be approved for phased subdivisions, if the developer is making reasonable progress in building out the development, or for a showing of "good cause". In the circumstance where a developer is building out a large, phased development, it is actually counter to the public interest if the developer loses entitlement to the project when it is only partially built out. This amendment is recommended by staff to allow for the full buildout of large, phased developments that are in progress.

## FINDINGS:

1. The required SEPA review has been completed on the proposed amendment.
2. All public and agency notice requirements were met and accomplished in a timely manner.
3. The public was provided the opportunity for early and continuous participation.
4. The public had the opportunity to submit written comments and testify at a public hearing before the Planning Commission.

## CRITERIA FOR APPROVAL:

The criteria for approval of a code amendment are established in City Code §10-4B-5(A), which states:

A. Criteria for Amendment:

*The City may amend development regulations when it finds that **any** of the following applies:*

1. *Such amendment is consistent with the Comprehensive Plan and is not detrimental to the public welfare;*
2. *Change in economic, technological, or land use conditions has occurred to warrant modification;*
3. *It is found that an amendment is necessary to correct an error;*
4. *It is found that an amendment is necessary to clarify meaning or intent;*
5. *It is found that an amendment is necessary to provide for a use(s) that was not previously addressed; or*
6. *Those amendments as deemed necessary by the City Council as being in the public interest.*

## CONCLUSIONS:

1. The proposed amendment **IS / IS NOT** consistent with the Comprehensive Plan and **IS / IS NOT** detrimental to the public welfare.
2. The proposed amendment **IS / IS NOT** warranted by a change in economic, technological and/or land use conditions.

3. The proposed amendment **IS / IS NOT** necessary to correct an error.
4. The proposed amendment **IS / IS NOT** necessary to clarify meaning or intent.
5. The proposed amendment **IS / IS NOT** necessary to provide for a proposed use that was not previously addressed.
6. The proposed amendment **IS / IS NOT** deemed necessary as being in the public interest.

*NOTE: The Planning Commission should consider the above-listed statements in their deliberations. These conclusions should inform the motion for recommendation, as based on the "Criteria for Amendment" detailed in City Code §10-4B-5(A).*

**RECOMMENDATION:**

In the matter of Case No. CPA2019-0009/ LUA2019-0016, an amendment to City of Liberty Lake Municipal Code and River District Development Code, to allow for additional extensions for the buildout of phased subdivisions, the City of Liberty Lake Planning Commission does hereby recommend to City Council that the amendment be **APPROVED/APPROVED WITH MODIFICATIONS/NOT APPROVED**.

*NOTE: The Planning Commission should vote on a motion for recommendation using the above format. If the recommendation is to approve with modifications, the motion should identify the modifications proposed.*