FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF THE PLANNING COMMISSION

IN THE MATTER OF CASE NO. CPA2019-0008/LUA2019-0015, A CITY-INITIATED PROPOSAL TO AMEND CITY OF RIVER DISTRICT DEVELOPMENT REGULATIONS TO ALLOW CHAIN LINK FENCE FOR SPORTS FACILITIES LOCATED ON PUBLICLY OWNED OR MAINTAINED PROPERTIES LOCATED IN ANY ZONE IN THE RIVER DISTRICT

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

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

PROPOSAL SUMMARY:	
Location	Citywide
Applicant(s)	City of Liberty Lake
Proposal Information	2019 Development Code Amendment CPA2019-0008/LUA2019-0015
Code Chapter / Section	**Proposed City Development Code Amendment**
River District Development Code: §10-3C-5(C)(2)	**Chain Link Fence for Sports Facilities in River District**: Amend River District Development Code to allow chain link fence material with black or green vinyl coating for tennis courts, ball fields, or other sports facilities located on publicly owned or maintained properties located in any zone in the River District, consistent with Administrative Determination dated June 1, 2018 (attached as Exhibit A).
Proposed Amendment	See Exhibit B.

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.

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.

City Code §10-4G: Administrative Interpretations:

City Development Code provides a procedure for an administrative determination to clarify conflicting or ambiguous wording, interpret proper classification of a use, or interpret the scope and intent of the provisions of the development code. An interpretation of the Development Code remains in effect unless and until it is rescinded, however, it does not actually ***amend*** *the code.*

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 CPA2019-0008/LUA2019-0015:	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 Goal 1: Actively involve residents, businesses, and property owners in the governance of the City.

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.

Urban Design Policy 1: Maintain design standards and a design review process to ensure that neighborhood and community centers are developed with minimal impact on surrounding land uses, are consistent with community character, and assure pedestrian and vehicular access.

Human Services Policy 2: Minimize the distance which children and youth must travel for educational services and encourage a closer bond between the community and its schools.

Capital Facilities Policy 6: Encourage the Central Valley School District to allow for shared access of facilities for recreational or other public purposes.

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

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STAFF ANALYSIS:

On June 20th, 2017, City Council adopted Ordinance No.241, which amended City Development Regulations, including development regulations applicable to the River District SAP 08-0001 related to permitted uses in the RD-C (Freeway Commercial) Zoning District. Prior to these amendments, nursery/pre-schools, elementary schools, middle schools/junior high, and high schools were not permitted uses in the RD-C Zone. With Ordinance No. 241, all categories of schools were listed as permitted uses within the RD-C Zone. No corresponding amendments to design standards (as detailed in RD SAP Chapter 3, Article 10-3, and City Development Code Article 10-3 as applicable) were contemplated at that time, relative to these new permitted uses within the RD-C Zone.

RD SAP 08-0001 Development Regulations, Article 10-3C-5 (C)(2) restricts the use of chain link fences to rear and side yards only in the RD-C zone, and prohibits it specifically for side yards adjacent to public rights of way or driveways.

The applicable code section that would have prohibited the use of chain link fencing around the sports facilities associated with Selkirk Middle School (which is located in the RD-C Zone) is found in the RD SAP 08-0001, Article 10-3C-5(C)(2) which states:

2. Chain link

   a. Prohibited ***in RD-R*** except when part of fencing for parks, open space or sports facilities in private/public parks. ***Chain link with black or green vinyl coating is approved for tennis courts, ball fields or other sports facilities.***

   b. Prohibited in the RD-MU zone.

   c. ***Restricted in the RD-C zone to rear yard and side yard fencing*** only when the zoning of the adjacent land use is RD-C. ***Chain link is not allowed for side yards adjacent to public rights of way or driveways.***

   [emphasis added.]

At the time these design standards were developed, the only place where a school was permitted in the River District was in RD-R (Mixed Residential) Zoning District, where "chain link with black or green vinyl coating is approved for tennis courts, ball fields or other sports facilities" (see RD SAP 08-0001, Article 10-3C-5 (C)(2)(a) above).

Based upon the allowance for chain link fences with vinyl coating around sport facilities in the RD-R zone, it would appear that the failure to amend Article 10-3C-5(C)(2)(c) to allow for the use of such materials around sports facilities in the RD-C Zoning District was an oversight of the City at the time of the addition of schools as an allowed use in the RD-C Zoning District.

The aesthetic impact of allowing such materials in the Freeway Commercial District would appear to be less than the aesthetic impact of the use of such materials in the Mixed Residential District. The rationale for allowing the use of such material in the RD-R District in relation to sports facilities for the purposes of visibility and safety would apply equally where such facilities are located in the RD-C zone.

To allow the use of vinyl coated chain link fence materials in and around ball fields and sports facilities in the RD-C Zoning District does not appear to create a conflict with any other provisions in code. The Comprehensive Plan provides no specific guidance or policy in this matter.

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An Administrative Interpretation issued on June 1, 2018, regarding the proposed sports facility fencing for the Selkirk Middle School stated:

> *Chain link fence material with black or green vinyl coating shall be approved for tennis courts, ball fields or other sports facilities located on publicly owned or maintained properties located in any zone within the River District.*

The Administrative Interpretation is attached as Exhibit A to this Staff Report.

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. *<u>Criteria for Amendment</u>:*
*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** consistent with the Comprehensive Plan and **IS NOT** detrimental to the public welfare.

2. The proposed amendment **IS** warranted by a change in economic, technological and/or land use conditions.

3. The proposed amendment **IS NOT** necessary to correct an error.

4. The proposed amendment **IS** necessary to clarify meaning or intent.

5. The proposed amendment **IS** necessary to provide for a proposed use that was not previously addressed.

6. The proposed amendment **IS** deemed necessary as being in the public interest.

RECOMMENDATION:

In the matter of Case No. CPA2019-0008/ LUA2019-0015, an amendment to City of Liberty Lake River District Development Regulations to allow chain link fence for sports facilities located on publicly owned or maintained properties located in any zone in the River District, the City of Liberty Lake Planning Commission does hereby recommend to City Council that the amendment be **APPROVED.**

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EXHIBIT A

PLANNING & BUILDING SERVICES

June 1, 2018

ADMINISTRATIVE INTERPRETATION

IN THE MATTER OF DESIGN STANDARDS IN THE RIVER DISTRICT SPECIFIC AREA PLAN (SAP) OVERLAY RELATING TO SCHOOLS LOCATED IN RD-C (FREEWAY COMMERCIAL) DISTRICT

Background:

On June 20th, 2017, City Council adopted Ordinance No.241, which amended City Development Regulations, including development regulations applicable to the River District SAP 08-0001 related to permitted uses in the RD-C (Freeway Commercial) Zoning District. Prior to these amendments, nursery/pre-schools, elementary schools, middle schools/junior high, and high schools were not permitted uses in the RD-C Zone. With Ordinance No. 241, all categories of schools were listed as permitted uses within the RD-C Zone. No corresponding amendments to design standards (as detailed in RD SAP Chapter 3, Article 10-3, and City Development Code Article 10-3 as applicable) were contemplated at that time, relative to these new permitted uses within the RD-C Zone.

Based on these revisions to allowable use in the RD-C Zone, the Central Valley School District (CVSD) Middle School is currently under development at 1409 N Harvest Road, in the RD-C Zone. Site improvements proposed as part of the middle school development include vinyl coated chain link fencing around the sports fields, and a reader-board monument sign and the school's entrance off of N Harvest Road.

With regard the proposed to the vinyl coated chain link fence, RD SAP 08-0001 Development Regulations, Article 10-3C-5 (C)(2) restricts the use of chain link fences to rear and side yards only in the RD-C zone, and prohibits it specifically for side yards adjacent to public rights of way or driveways.

With regard to the electronic reader-board sign, City Development Code Article 10-3E-7(H) limits the use of "electronically changeable signs" (e.g. electronic reader boards) to monument signs in the P (Public/Semi-public Institutional) Zone, and monument or freestanding signs located within 250 ft. of Interstate 90 right-of-way (ROW) in the M-2, C-2, or RD-C zones. The proposed school location is not within 250 feet of Interstate 90 ROW. Prior to the CVSD Middle school, no public schools have been located in any zones other than the P Zone.

Code Provisions for Administrative Interpretations:

City Development Code Article 10-4G-2 provides a procedure for administrative interpretations of code by the City's Planning & Community Development Director (P&CD Director) that may be initiated either by an outside request, or initiated by the City. In the absence of a P&CD Director, the City Administrator serves in this role. Article 10-4G-2(C) provides that, in making an administrative interpretation, the following should be considered, if applicable:

1. The applicable provisions of the this Code, including its purpose and context;

2. The implications of the interpretation for development within the City as a whole, including the precedent the interpretation will set for other applicants;

3. Consistency with the City of Liberty Lake Comprehensive Plan and other relevant codes and policies.

City Development Code Article10-4B-3(A) lists Administrative Interpretations as "exempt projects", which are not subject to public notice provisions, full agency review, or SEPA review.

Basis of Interpretation:

This administrative interpretation regarding the design standards for fence materials in the RD-C District, and the use an "electronically changeable" monument sign are City-initiated. The basis of the interpretation follows.

<u>Chain- Link Fence:</u>

The applicable code section prohibiting the chain link fencing proposed adjacent to the sports facilities fronting on N Harvest Road is found in the RD SAP 08-0001, Article 10-3C-5(C)(2) which states:

2. Chain link

   a. Prohibited ***in RD-R*** except when part of fencing for parks, open space or sports facilities in private/public parks. ***Chain link with black or green vinyl coating is approved for tennis courts, ball fields or other sports facilities.***

   b. Prohibited in the RD-MU zone.

   c. ***Restricted in the RD-C zone to rear yard and side yard fencing*** only when the zoning of the adjacent land use is RD-C. ***Chain link is not allowed for side yards adjacent to public rights of way or driveways.***

   [emphasis added.]

At the time these design standards were developed, the only place where a middle school was permitted in the River District was in RD-R (Mixed Residential) Zoning District, where "chain link with black or green vinyl coating is approved for tennis courts, ball fields or other sports facilities" (see RD SAP 08-0001, Article 10-3C-5 (C)(2)(a) above).

Based upon the allowance for chain link fences with vinyl coating around sport facilities in the RD-R zone, it would appear that the failure to amend Article 10-3C-5(C)(2)(c) to allow for the use of such materials around sports facilities in the RD-C Zoning District was an oversight of the City at the time of the addition of schools as an allowed use in the RD-C Zoning District.

The aesthetic impact of allowing such materials in the Freeway Commercial District would appear to be less than the aesthetic impact of the use of such materials in the Mixed Residential District. The rationale for allowing the use of such material in the RD-R District in relation to sports facilities for the purposes of visibility and safety would apply equally where such facilities are located in the RD-C zone.

To allow the use of vinyl coated chain link fence materials in and around ball fields and sports facilities in the RD-C Zoning District does not appear to create a conflict with any other provisions in code. The Comprehensive Plan provides no specific guidance or policy in this matter.

Electronically Changeable Signs:

The applicable section of Development Code related to the electronically changeable sign (e.g. message board) is Article 10-3E-7(H), which states:

H. Electronically Changeable Signs

1. Size, Type, Location, and Hours of Use

a. Maximum electronically changeable sign area and height shall be as indicated in Section 10-3E-7, subsections B and C, Tables 4 and 5 for freestanding and monument signs. Electronically changeable wall signs are not permitted in any zone.

b. Type and Location.

TABLE 6 Zone	Location	Permitted Sign Type
P Zone	N/A	Monument
M-2, C-2 / RD-C	Interstate 90 frontage	Monument
M-2, C-2 / RD-C	Interstate 90 frontage	Freestanding

The history on this section of code provides context to the intent of these provisions. On October 6, 2015, Liberty Lake City Council amended the City's Comprehensive Plan Policy LU 5.5 (Urban Design Policy 9 in the 2017 Comprehensive Plan Update) to "[P]prohibit construction of new video boards, billboards, and electronically changeable message signs, except under limited circumstances", and amended the sign regulations to allow electronically changeable message signs in the 1-90 corridor, in the Appleway and Country Vista Corridor under more limited design standards, and in P (Public and Semi Public Institutional) Zone. The summary statement on the agenda bill for the City Council packet stated:

This is the third of four amendments to the sign code that we discussed at the retreat. This amendment as written would allow the City Gateway Signs as well as other Community Message Boards on public property or within a City easement in locations approved by the City Council, at the entrances to the City, or in the P (Public Semi-Public Institutional Zone - i.e. Liberty Lake Elementary School) to be electronically changeable message signs.

It was clearly the intent of this amendment to allow electronically changeable message signs on public property, to serve as community message boards, and specifically, to allow such signage for the Liberty Lake Elementary School, as was the standard for the Central Valley School District. At the time, the only public school facilities existing or planned in the City of Liberty Lake were located in P Zone. Like the issue with the chain link fence, it would appear that the failure to amend this section of code to allow for the use a community message board at public facilities located in this district was an oversight of the City at the time of the addition of schools as an allowed use in the RD-C Zoning District.

The rationale for allowing electronically changeable monument signs on all publicly owned facilities and semi-public institutional facilities located in the City of Liberty to serve as Community message Boards is consistent with the rationale and intent of sign code amendment in 2015 allowing for such signs in the P zone.

To allow electronically changeable monument signs on all publicly owned facilities and semi-public institutional facilities does not appear to create a conflict with any other provisions in code. As mentioned previously, such an allowance would be consistent with the Comprehensive Plan Urban Design Policy Number 9.

Decision:

With regard to the issue of the chain link fence, it is hereby the interpretation of the City that:

> ***Chain link fence material with black or green vinyl coating shall be approved for tennis courts, ball fields or other sports facilities located on publicly owned or maintained properties located in any zone within the River District.***

With regard to the issue of the electronically changeable signs, it is hereby the interpretation of the City that:

> ***Electronically changeable monument signs shall be permitted on all public or semi-public institutional properties located in the City of Liberty Lake, provided they comply with the dimensional requirements (number, height, and area requirements) as detailed in Development Code Section 10-3E-7, the requirements for electronically changeable signage detailed in Section 10-3E-7(H)(2), other sign requirements as detailed in City Code Section 10-3E-8, and all other applicable development regulations.***

Time Limitation:

An interpretation of this Code remains in effect unless and until rescinded in writing by the P&CD Director (or City Administrator).

Enforcement:

An interpretation of this Code issued in accordance with these provisions may be enforced in the same manner that any other provision of this Code is enforced. All written interpretations of this Code, with a current index of such interpretations shall be maintained by the P & CD department and made available for public inspection.

Appeals:

An appeal of the Administrative Interpretation may be appealed to the hearing examiner within fourteen (14) calendar days from the date the decision was rendered, in accordance with the provisions detailed in Development Code Article 10-4G-2(H).

Sincerely,

Katy Allen

Katy Allen
City Administrator

cc: Liberty Lake City Council
Liberty Lake Planning Commission
Jay Rowell, CVSD

EXHIBIT B

River District Development Code

§10-3C-5: Fences & Walls

C. Materials. The following fencing materials shall be regulated within the City:

1. Barb wire or razor wire (prohibited in all Zones)
2. Chain link
   a. Prohibited in RD-R except when part of fencing for parks, open space or sports facilities in private/public parks, or as provided for in paragraph d of this section. Chain link with black or green vinyl coating is approved for tennis courts, ball fields or other sports facilities.
   b. Prohibited in the RD-MU zone, except as provided for in paragraph d of this section.
   c. Except as provided for in paragraph d of this section, chain link fence is ~~R~~restricted in the RD-C zone to rear yard and side yard fencing only when the zoning of the adjacent land use is RD-C. Chain link is not allowed for side yards adjacent to public rights of way or driveways.
   d. Chain link fence material with green or vinyl coating shall be permitted when associated tennis courts, ball fields, or other sports facilities located on publicly owned or maintained property in any zone within the River District.