



## City of Langley

### **PLANNING ADVISORY BOARD AGENDA**

**April 2, 2014 - 3-5pm**

**LANGLEY CITY HALL - 112 2<sup>nd</sup> Street, Langley WA**

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- 1) Call to Order and Roll Call
- 2) Approval of the Minutes - March 5, 2014
- 3) Code Amendments Review
- 4) Project Updates
- 5) Adjourn

*Next Regular Meeting: May 7, 2014*

MINUTES  
CITY OF LANGLEY  
PLANNING ADVISORY BOARD  
March 5, 2014

The meeting was called to order at 3:00 PM.

ATENDANCE: Roger Gage, Gail Fleming, Sue Walsh Dominique Emerson, Paul Goldfinger, Aaron Simpson  
Staff: Jeff Arango, Cheryl Knighton, Katie Haima.

Motion by Dominique to approve the February 5<sup>th</sup> minutes with changes, second – Roger, approved.

**Presentation**

Paul Schell and Eric with Flat Rock Productions presented the board with a handout sketch of the design plans for his Wharf Street project. He explained the elevator verses the funicular connection to Cascade. There is a total of half a million dollars slated for the project. The elevator will give boaters an advantage as they can load large carts into it for carrying goods to and from their boats. The elevator will have a wraparound stairwell that will be eliminated with lights and a view look out at the top.

Comments: Paul asked about safety of the elevator. Aaron mentioned that if the grant money is not used from the county, they will revoke it. Sue asked if an LID would need to be formed. Gail is nervous about the funicular and the unstableness of the bluff. She is not happy that the view will be somewhat obstructed on Cascade. Marianne is concerned about tree removal and the stability of the bluff and sea level rise in the future.

**Code Amendments**

Jeff introduced Katie Haima as our new intern.

Jeff gave a brief explanation of the changes to the code amendments as presented at the last meeting. He made minor changes in Applicability, Enforcement, Tree Retention, and City Forester. There was brief discussion, and overall everyone was satisfied with the code as presented.

**MOTION:** To direct Jeff to prepare the ordinance on Landscaping & Tree Retention Standards for Public Hearing. Motion – Aaron, 2<sup>nd</sup> Gail. Motion passed without opposition.

**Design Review Overview Presentation**

Jeff presented the board with a slide show of the overview of the Design Review Board. He explained the Legal Issues, Roles, Responsibilities and the Process of the DRB. The goal is for the DRB to be an advisory board who is fair and open, but not arbitrary. They must focus on process and be involved, to review and advise. His hope is that they will also be involved with city planning and design of public spaces. Jeff gave a few examples of other cities who use the DRB in the same capacity. He will be moving forward with his recommendation to the council.

Meeting adjourned 4:45PM



## Memo

To: Planning Advisory Board (PAB)  
From: Jeff Arango, AICP – Director of Community Planning  
Date: March 28, 2014

### Re: **Development Code Amendments**

The complete package of amendments to the Langley Municipal Code are included in the packet and summarized below.

1. **Design Review Board (DRB) Scope + Review (Title 2 and Title 18)**
  - a. Restructure the DRB to be an advisory body to the underlying land use permit whether it is reviewed administratively or via the hearing examiner. This allows for a more comprehensive approach to project review that integrates design review and land use permitting.
  - b. Grant the DRB authority to serve as the city's "design commission" in order to advise the city on all public improvement projects. All city projects would require review by the city's "design commission".
2. **SEPA Review and Appeals (Title 16)** – This was an issue that was brought up several years ago in terms of the need to clarify the SEPA appeals process and other procedural issues. These amendments should be considered at this time.
  - a. Clarify SEPA appeals for project and non-project actions
  - b. Specific reference to adoption of the optional DNS review process
  - c. Clarify categorical exemptions based on current state law
3. **Establish a Site Plan Review Process (Title 18)** – Most cities have a site plan review process for reviewing multi-family and commercial development projects. Site plan review allows for a comprehensive permit review that encompasses design review, zoning, and construction standards. Depending on the size and scope of the project there will be different levels of review including administrative review (Type I) and review by the hearing examiner (Type II) for larger projects. Site plan review would be required for any multi-family project involving 3 or more units and all non-residential projects.
4. **Landscaping and Tree Retention Standards (Title 18)** – The existing standard is inadequate and does not provide enough specificity in terms of what is required. The following amendments are proposed:
  - a. Protection for significant trees unless a permit is granted by the city based on specific criteria
  - b. Improved requirements for land clearing
  - c. Landscaping standards for walkways and parking lots
  - d. Site Design Standards
  - e. Planting Requirements
  - f. Street Tree Standards

5. **Land Use Table (Title 18)** – The current code lists the allowed land uses within each zoning district section. The terminology is inconsistent and it's difficult to compare uses between districts. A new land use table is proposed that identifies all the land uses for every district in a single location. The allowed land uses have been revised for consistency and clarity.
  
6. **Zoning Map Revision** – The zoning map is proposed to be amended to eliminate the Central Business Overlay Zone and rezone the properties that are within the overlay from P-1 to Central Business including city hall, the post office, the firehouse and the visitor center and bathrooms.

### **Recommendation**

Staff recommends the PAB schedule a public hearing to consider the above amendments on May 7, 2014.

## Chapter 2.40

### DESIGN ~~REVIEW~~ ADVISORY BOARD

#### Sections:

- 2.40.010 Created.
- 2.40.020 Purpose.
- 2.40.030 Members.
- 2.40.040 Meetings.

#### **2.40.010**

##### **Created.**

The city of Langley hereby creates a design ~~advisory review~~ board. (Ord. 903, 2008; Ord. 798, 2001; Ord. 788, 2000; Ord. 578, 1990; Ord. 527, 1989)

#### **2.40.020**

##### **Purpose.**

The design review board shall advise the city on the physical design of the city through the city's planning and permitting processes to promote high quality design and a vibrant urban environment preserves Langley's community identity and assets while promoting positive change. The design review board is specifically granted the following responsibilities:

1. To review and provide recommendations to the planning official and hearing examiner on development actions subject to design review in accordance with ~~review and take action on development applications submitted to the city for design approval as required in Chapter 18.34, Design Review, and shall have final authority for design approval unless a decision is appealed pursuant to Section 18.34.130.~~ (Ord. 903, 2008)
2. To provide recommendations to the city regarding design related planning issues including design standards and guidelines, the comprehensive plan, capital projects and other plans that have a design component.
3. To conduct workshops with interested stakeholders and city officials regarding design related projects or plans
4. To review and provide recommendations on all capital projects prior to the final design approval by the city council. At the request of the city the design advisory board shall hold workshops on capital projects at the concept design phase.

#### **2.40.030**

##### **Members.**

A. Number of Members. The board shall consist of five voting members and one alternate member. The alternate member shall attend meetings and participate in discussions and will vote when a regular board member is not able to attend a board meeting.

B. Residency. Two voting members must reside within the city of Langley. Four members may reside outside of the city limits. This exception to a majority residency requirement is allowed due to the specialized expertise required on this board.

C. Qualifications. The voting membership of the board shall consist of a minimum of: one architect or building designer, one landscape architect or landscaper, one builder or developer, and one Langley business owner or commercial property owner. The other two members must be educated in, or have practical experience or an interest in, planning or related design concepts. (Ord. 903, 2008)

#### **2.40.040**

##### **Meetings.**

Meeting Schedule. The board shall meet once a month, or as often as feasible, in order to carry out the design review function and to minimize the delay in processing development applications. The board shall adopt and publish policies regarding the time, place, and frequency of meetings. If there is no business to conduct a meeting cancellation notice shall be posted in the same manner as all meeting notices. Special meetings may be held as often as the board deems necessary. Notice of special meetings must be provided in accord with the Washington State Open Public Meetings Act. (Ord. 903, 2008; Ord. 527, 1989)

### **Chapter 18.34**

#### **DESIGN REVIEW**

Sections:

- 18.34.010 Purpose.
- 18.34.030 Scope.
- 18.34.040 Approval required.
- 18.34.050 Application.
- 18.34.060 Review of application.
- 18.34.070 Notice required when.
- 18.34.080 Bond.
- 18.34.100 Design standards.
- 18.34.120 Actions of board.
- 18.34.130 Appeals.
- 18.34.140 Enforcement.

#### **18.34.010**

##### **Purpose.**

The purpose of this chapter is to establish a process for integrating design review with the city's development permitting process design approval requirements and procedures in order to promote, preserve and enhance the city's architectural heritage and visual character, while recognizing the existing variety of architectural styles within the city, allowing maximum flexibility for building design, and encouraging individual initiative in the development process. Rather than requiring replication of a particular architectural style, the purpose of design standards should be to emphasize desirable functional characteristics to be incorporated in new development/redevelopment. (Ord. 527, 1989)

### 18.34.030

#### Scope.

A. Design review shall apply to all ~~private non-residential development~~ development in the central business, public and neighborhood business zones and ~~all certain~~ development in the residential zones including ~~subdivisions (long plats), multi-family development, planned unit developments, cottage housing, clustered residential development attached single family dwelling units (townhouses), duplexes, detached accessory dwelling units, wireless communication antenna arrays, and additions to single family residences to accommodate an accessory dwelling unit or bed and breakfast room(s) with the exception of one family dwellings; provided, that~~ and accessory buildings larger than 1,200 square feet are subject to the provisions of this chapter as set forth in Section 18.22.050(B)(2)(b). Specifically exempt from design review are developments involving one and two family dwellings.

B. "Development" means any improvement to real property open to exterior view including, but not limited to, buildings, structures, fixtures, landscaping, site screening, parking lots, lighting, pedestrian facilities, street furniture and improvements (not to include street maintenance), use of open areas, whether all or any are publicly or privately sponsored, and signs (per Chapter 18.35). Included in this definition are modifications of a substantial nature to existing buildings, including changes to structural components and changes in the exterior size of buildings, but does not include color changes. "Development" does not include underground utilities. All development by the city and other public agencies shall be subject to design review with the exception of development within a public street-right-of-way. Development by the city within street right-of-ways shall be subject to advisory review and recommendation by the Design Advisory Board for consideration by the Mayor and City Council in approving the project. (Ord. 820, 2002; Ord. 788, 2000; Ord. 733, 1997; Ord. 696, 1995)

C. Concept Review. Concept review with the design review board is recommended for all projects. The purpose of the concept review is to allow for review and input from the design advisory board prior to final design and before detailed plans are developed. Concept review will be required by the planning official for all projects that are determined to have the potential for substantial impacts on the design and character of the community. At a minimum projects subject to Type I or Type II site plan review, binding site plans, cottage housing and planned unit developments shall be required to have both a concept review and a final review by the Design Advisory Board prior to the issuance of a project recommendation. At the request of applicants the Design Advisory Board will conduct and facilitate design workshops as part of the conceptual review.

### 18.34.040

#### Approval required Design Advisory Board Recommendation.

A recommendation from the Design Advisory Board Design approval shall be required prior to the issuance of any permit or approval required for grading or clearing, construction or demolition or modification of structures, or prior to initiating the physical development, whichever shall come first. Such permits include, but are not limited to, site plan review, building permits and conditional use permits. All construction or other activities undertaken pursuant to such permits and approvals shall be in conformance with the design approval granted pursuant to this chapter. (Ord. 527, 1989)

#### 18.34.050

##### **Application.**

Applications for design ~~review~~approval shall be submitted to the ~~city services director~~planning official on such forms and with such content as required by the ~~design review board~~city at least 10 business days prior to the scheduled meeting date. ~~The design review submittal shall be a component of a complete development application submittal including other required permits.~~ The applicant may submit the plans required in this section in preliminary or sketch form, so that the comments and advice of the design ~~review~~advisory board may be incorporated into the final plans submitted for application. ~~There shall be a \$10.00 fee per design review session on each application.~~ (Ord. 594, 1991; Ord. 527, 1989)

#### 18.34.060

##### **Review of application.**

The city planning official shall ~~immediately~~ review the application as provided in Section 18.34.050 and schedule the item for the next ~~scheduled~~available meeting of the design ~~review~~advisory board. The design ~~review~~advisory board shall review the proposed development at a public meeting and recommend ~~approve~~approve, conditionally approval, or to deny the proposal. ~~Because the design advisory board makes only a recommendation there are no appeals. The decision of the design review board is final unless appealed pursuant to Section 18.34.130.~~ The board may continue the meeting on the proposal to allow changes in the proposal or to obtain information needed to allow changes in the proposal, or to obtain information needed to properly review the proposal. ~~After approval by the design review board or by the hearing examiner, after review on appeal, the~~ planning official shall have the authority to approve design modifications that maintain the intent of the original permit approval without seeking an additional recommendation from the design advisory board. (Ord. 957 § 24, 2011; Ord. 820, 2002; Ord. 527, 1989)

#### 18.34.070

##### **Notice required when.**

Public notice by mail, posting or newspaper publication shall not be required, except for applications that require an environmental impact statement, in which case notice of the hearing shall be required by Chapter 16.04. (Ord. 527, 1989)

#### ~~18.34.080~~

##### ~~Bond.~~

~~The design review board may require that a bond be posted to ensure the satisfactory installation of site improvements. (Ord. 527, 1989)~~

#### 18.34.100

##### **Design standards.**

The design ~~review~~advisory board shall establish a set of design standards for both site and building developments. The standards shall serve as a guide to the applicant and the board in the review of all proposals that are subject to this chapter. The standards established by the board shall be forwarded to the city council for adoption as a part of this chapter. The design review requirements established in this chapter shall not take effect until the design standards called for in this section have been adopted by the city council. (Ord. 527, 1989)



### 18.34.120

#### Actions of board.

~~Approval or conditional~~A recommendation for approval of the design of a development project does not constitute approval or imply potential approval of any other permit that may be required for the development. (Ord. 527, 1989)

### 18.34.130

#### Appeals.

~~Any interested party may appeal a decision of the design review board to the hearing examiner pursuant to Section 18.36.120. No appeals of the design advisory board recommendation are provided.~~ (Ord. 957 § 25, 2011; Ord. 527, 1989)

### 18.34.140

#### Enforcement.

Enforcement of this chapter shall be in accordance with the enforcement provisions of this code (Section 18.42.030) and the city building code. (Ord. 527, 1989)

## Signs

### 18.35.050

#### Sign area.

A. 1. The total sign area for any single enterprise may be up to 20 square feet, subject to review and ~~approval recommendation~~ by the design ~~review advisory~~ board, taking into consideration the criteria set forth in Section 18.35.010.

### 18.35.060

#### Permitted sign types.

A. Freestanding Signs. Signs supported by uprights extending from the ground, not attached to a building. Height of freestanding signs shall not exceed nine feet and freestanding signs shall not exceed 20 square feet in area each side, including support structure. The height of freestanding signs is measured from the grade at the edge of the right-of-way to the top of the sign. If unusual topography, architectural or landscape elements, building setting or road curvature merit special considerations, an exemption may be considered.

Freestanding signs 42 inches or less in height may be located in the street setback a minimum of five feet from the property line or edge of improvements. Signs exceeding 42 inches in height shall set back one additional foot for every foot over 42 inches. Freestanding signs shall not block visibility from driveways, accesses or at street intersections.

B. Joint Freestanding Signs. Signs supported by uprights extending from the ground, not attached to a building shared by more than one enterprise. The total area of any joint freestanding signs shall not exceed 28 square feet in area each side including support structure.

1. Each enterprise is entitled to an equal share of the sign space including the building name.

2. If more than one freestanding sign is used, it shall be similar or the same in design.

C. Building Surface Signs. Signs that are attached parallel to or painted directly on a wall surface of a building.

1. If an applicant demonstrates ~~to the satisfaction of the design review board~~ that a wall sign is an integral part of the architecture and constitutes a “super graphic,” the ~~board planning official, following a recommendation from the Design Advisory Board,~~ may waive the size restrictions.

d. Banners, pennants, flyers, ribbons or other fluttering devices may be ~~permitted following a recommendation from the Design Advisory Board used with approval of the design review board;~~

e. Sidewalk Showcases and Kiosks. These may be used with special permission of ~~the city following a recommendation from~~ the design review board provided written permission has been granted by the director of public works and a hold harmless agreement has been furnished to the city.

#### **18.35.110**

##### **Permit – Review of application.**

All sign permit applications shall be ~~approved reviewed~~ by the design ~~review advisory board.~~ ~~The Design Advisory Board shall make a recommendation to the planning official following review of each application~~ (Ord. 704, 1995; Ord. 465, 1985)

#### **18.35.150**

##### **Permit – Denial – Notice.**

When a sign permit is denied ~~by the design review board~~, written notice of denial shall be given to the applicant along with a brief written statement of the reasons for the denial. (Ord. 465, 1985)

#### **18.37.070**

##### **Authority and duties.**

A. The examiner is vested with the duty and authority to hold public meetings and hearings and render final decisions on the following matters:

1. Preliminary plats and planned unit developments when subject to public review;

2. Preliminary binding site plan approvals when subject to public review;

3. Conditional use permits, when subject to public review;

4. Zoning code variances, when subject to public review;

5. Shoreline substantial development permits when subject to public review, shoreline conditional development permits, shoreline variances, and appeals of administrative determinations ~~and design review board decisions;~~

6. Variances from the city’s sign code;

7. Variances from the city’s floodplain management code;

8. Such other regulatory, enforcement or quasi-judicial matters as may be assigned to the examiner by the city council;

9. Complaints by citizens or city staff seeking administrative enforcement of provisions of city land use codes or conditions in development permits and approvals, or seeking rescission or modification of such permits or approvals.

6. Variances from the city's sign code;
7. Variances from the city's floodplain management code;
8. Such other regulatory, enforcement or quasi-judicial matters as may be assigned to the examiner by the city council;
9. Complaints by citizens or city staff seeking administrative enforcement of provisions of city land use codes or conditions in development permits and approvals, or seeking rescission or modification of such permits or approvals.

B. The hearing examiner shall make decisions on the following appeals:

1. Administrative appeals from decisions and interpretations by city staff relating to land use codes, SEPA and permits;
2. Appeals from administrative decisions on short plats;
3. Appeals from administrative decisions on critical area alteration decisions;
4. Appeals from administrative decisions on shoreline exemptions, shoreline substantial development permits, shoreline conditional use and shoreline variance decisions, and appeals of rescissions of such permits;
5. Appeals of administrative decisions/interpretations of the flood damage prevention ordinance;
6. Appeals regarding administrative zoning code enforcement, zoning variances, interpretations of the zoning code, and zoning setback reduction;
7. Appeals of all State Environmental Policy Act (SEPA) threshold determinations. SEPA exemption decisions are not appealable;
8. Appeals of enforcement orders issued by the planning official, including shoreline enforcement orders and those enforcement orders where the civil penalties for violation are set forth in RCW 90.50.210.0;
9. Appeals of administrative revocation of approvals or permits;
10. ~~Appeals of design review board decisions;~~
11. Appeals of decisions of the public works director; and
12. Appeals of decisions of the city building official.

C. The hearing examiner may:

1. Administer oaths and affirmations.
2. Issue subpoenas.
3. Rule upon offers of proof and receive evidence.
4. Conduct view trips.
5. Regulate the course of the hearing and the conduct of the parties.
6. Question any party presenting testimony at the hearing.
7. Require briefs on legal issues.
8. Consider and rule upon procedural and other motions.
9. Make decisions.

D. The hearing examiner may hold pre-hearing conferences to clarify issues or structure the proceeding, provided all affected parties receive reasonable notice and either attend or waive their right to attend. At the hearing, or by pre-hearing order, the hearing examiner shall communicate for the record the time, purpose, and result of the conference.

E. Where it would assist the examiner in clarifying or understanding the evidence adduced at hearing, the examiner may inspect property subject to an appeal, application or recommendation. The site inspection shall be taken out of the presence of any interested party whenever feasible. If accompaniment by an interested party is necessary to fully view the property no substantive discussion shall occur during the

inspection. An accompanied site inspection should be, but is not required to be, disclosed at the outset of the hearing.

F. No elected official, officer, employee, or agent of the city shall supervise or direct the hearing examiner's adjudicative functions. (Ord. 957 § 1 (Exh. A), 2011)

#### **18.03.060**

##### **Minor and major changes/revisions to a site plan or design elements.**

B. An applicant may request a major change(s)/revision(s) to a site plan or design elements already approved under this chapter. Such request shall be in writing and shall describe the requested minor change/revision, the reasons for requested minor change(s)/revision(s), and describe how the change(s)/revision(s) is consistent with the purpose, intent and requirements of this chapter. Any major change(s)/revision(s) to a site plan or design element shall be approved by the original decision body and shall be subject to ~~the~~ design review ~~approval~~ process provided in this chapter. Changes that increase the intensity of development (e.g., trips generated or number of residential units), alter the character of the development or balance of mixed uses, increase the floor area in one building by more than 10 percent, change access points, move buildings around on the site, reduce the acreage of common open area or buffering areas, or diminish the effectiveness of perimeter buffers are major and shall be subject to the requirements of this chapter. (Ord. 969 § 1 (Att. A), 2012)

## Chapter 16.04

### ENVIRONMENTAL POLICY

#### 16.04.010

##### SEPA rules adopted.

The city adopts the model ordinance as now existing or as hereafter amended, Chapter 173-806 WAC, to implement SEPA rules, Chapter 197-11 WAC. (Ord. 440, 1984). The city adopts WAC 197-11-355, Optional DNS process, by reference, as now existing or as hereafter amended.

B. If the city's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the city conduct environmental review prior to submission of the detailed plans and specifications. (Ord. 957 § 5, 2011; Ord. 440, 1984)

#### 16.04.080

##### Flexible thresholds for categorical exemptions.

The city establishes the following exempt levels for minor new construction in accordance with WAC 197-11-800-based on local conditions. The including, but not limited to, the following types of construction that shall be exempt, except when undertaken wholly or partly on lands covered by water:

A. The construction or location of four detached single family residential units.

B. The construction or location of four multifamily residential units.

C. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

D. The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles. This exemption includes stand-alone parking lots.

E. Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation not associated with an exempt project in subsection (b)(i), (ii), (iii), or (iv); and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

~~A. The construction or location of any residential structures of four dwelling units;~~

~~B. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;~~

~~C. The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for 20 automobiles;~~

~~D. The construction of a parking lot designated for 20 automobiles;~~

~~E. Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II or III forest practice under RCW 76.09.050 or regulations thereunder.~~

~~Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504. (Ord. 440, 1984)~~

## 16.04.150

### Appeals.

The city establishes the following administrative appeal procedure for appeals of determinations relating to SEPA:

A. Administrative appeals of determinations relating to SEPA shall be taken within the following time limits:

1. Final determination of non-significance (DNS) or mitigated DNS (MDNS): Appeal of the DNS or MDNS and the substantive determination of the action must be made within 10 days of the date ~~the permit or other approval is issued~~ of issuance or the close of the public comment period for actions requiring a public comment period;

2. Determination of significance (DS): The appeal of a DS must be made within 10 days of the date the DS is issued;

3. Final environment impact statement (FEIS): Appeal of the FEIS and the substantive determination on the action must be made within 10 days of the date ~~the permit or other approval is issued~~ of issuance; and

4. Condition or denial on the basis of SEPA: When any proposal or action not requiring a decision of the city council is conditioned or denied on the basis of SEPA by a nonelected official, an appeal of such condition or denial must be made within 10 days of the date such decision is made.

B. All appeals made pursuant to this section shall be perfected in the following manner:

1. All appeals shall be in writing;

2. The written notice of appeal must specify the basis for the appeal and the argument made in support of the appeal;

3. The written notice of appeal must be made to the city planning official, and filed at City Hall;

4. The written notice of appeal, together with the required appeal fee as established by city ordinance, must be filed prior to 4:30 p.m. on the last day of the applicable time period for appealing; provided, however, that if City Hall is not open on the last day of the applicable appeal time period, then the appeal period shall be extended until 4:30 p.m. on the next day in which City Hall is open; and

5. Filing requires actual delivery to City Hall prior to 4:30 p.m. on the date due, and prior mailing is not sufficient if actual receipt by the city does not occur within the applicable time period.

C. For any appeal made pursuant to this section, a record shall be prepared, which shall consist of findings and conclusions, testimony under oath, and a taped or written transcript.

D. Procedural determinations made by the responsible official shall be entitled to substantial weight in any appeal proceeding.

E. Only one administrative appeal of a threshold determination or of the adequacy of an EIS shall be permitted.

F. Only parties of record shall be permitted to participate at the appeal hearing. The parties of record shall include, and be limited to, the city, the applicant for the proposal that is the subject of the appeal, and those persons, organizations or agencies which have filed written appeal statements within the specified appeal period. No other persons may testify at the hearing. The hearing shall be limited to consideration of the matters raised in the appeal statements filed within the specified time.

G. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action. Consequently, appeals under this chapter shall be of the governmental action, together with its accompanying environmental determination; provided, that the appeal proceeding on a determination of significance may occur before the final decision on a

proposed action. There shall not be more than one administrative appeal proceeding per underlying land use action. Further appeals must be to Island County superior court per the procedures in Section 16.04.155.

H. Following the public hearing upon such appeal, the hearing examiner may affirm, remand, modify or reverse the determination of the responsible official, recognizing the weight that is to be accorded the determination of the responsible official per subsection (D) of this section. The hearing examiner's decision shall be in the form of a report setting forth its findings, conclusions and decision.

I. Environmental Review. For some projects, an environmental checklist must be completed by the applicant and submitted along with plans, specifications, and other information when approval or permits are being requested for a project. The planning official conducts the environmental review and issues a SEPA threshold determination for the city. An applicant should consult with the planning official to determine if an environmental checklist is required. (Ord. 957 § 7, 2011; Ord. 714, 1996; Ord. 570, 1990; Ord. 440, 1984)

#### **16.04.155**

##### **Judicial appeals.**

Appeals from the decision of the city hearing body shall be made to Island County superior court within 21 days of the date of the hearing body's written decision. (Ord. 714, 1996)

#### **16.04.160**

##### **Notice – Statute of limitations.**

The city applicant for, or proponent of, an action may publish a notice of action pursuant to RCW 43.21C.080. (Ord. 440, 1984)

#### **16.04.170**

##### **Environmentally sensitive areas.**

A. The map filed under the city's adopted comprehensive plan designates the location of environmentally sensitive areas within the city and are adopted by reference. For each environmentally sensitive area, the exemptions within WAC 197-11-800 that are inapplicable for that area are: none. Unidentified exemptions shall continue to apply within environmentally sensitive areas of the city.

B. The city shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this chapter, ~~making a threshold determination for all such proposals~~. The city shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.

C. Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped. (Ord. 440, 1984)

#### **16.04.180**

##### **Fees.**

The city shall require the following fees for its activities in accordance with the provisions of this chapter:

A. Threshold Determination. For every environmental checklist the city will review when it is lead agency, the city may collect a fee from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this chapter for making a threshold determination shall not begin to run until payment of the fee.

B. Environmental Impact Statement.

1. When the city is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover costs incurred by the city in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

2. The responsible official may determine that the city will contract directly with a consultant for preparation of the EIS for activities initiated by some persons or entity other than the city and may bill such costs and expenses directly to the applicant. The city may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the city and applicant after a call for proposals.

3. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subsection (B)(1) or (B)(2) of this section which remain after incurred costs are paid.

C. The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.

D. The city shall not collect a fee for performing its duties as a consulted agency.

E. The city may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter 42.19 RCW. (Ord. 440, 1984)



**Site Plan Review Process**  
**Chapter 18.27 (NEW)**

**18.27.010 Purpose.**

The site plan review process is intended to provide an opportunity for a comprehensive review of development applications for multi-family and non-residential development applications. In addition, the site plan review process integrates design review with review of the proposal in accordance with the general development standards.

**18.27.020 Applicability**

Site plan review shall be required for all non-residential development and multi-family development consisting of three or more dwelling units. The site plan process shall be integrated with design review for those projects subject to design review.

**18.27.030 Types of Applications**

**A. Type I Administrative**

1. Type I applications require administrative review and approval by the planning official. Type I applications require a notice of development application in accordance with LMC 18.36.020.
2. The following projects require Type I site plan review:
  - a) Development of at least 3, but not more than 10 Residential Units
  - b) 5,000 square feet or less of new non-residential square footage
  - c) Other developments including a change of use where the impacts from parking, traffic, noise or other factors are significant enough to warrant Type II site plan review as determined by the planning official.
  - d) Projects below the above thresholds and other projects determined by the planning official to be minor in nature will be reviewed as a certificate of zoning compliance.

**B. Type II Hearing Examiner**

1. Type II applications require review and approval from the hearing examiner following a public hearing. Type II applications require a notice of development application in accordance with LMC 18.36.020.
2. The following projects require Type II site plan review:
  - a) 11 or more Residential Units
  - b) Over 5,000 square feet of new non-residential or mixed-use square footage (within a 3 year period)
  - c) Change of use involving over 5,000 square feet of non-residential use(s) and other developments where the impacts from parking, traffic, noise or other factors are significant enough to warrant Type II site plan review as determined by the planning official.

**18.27.040 Site Plan Review Standards**

- A. All site plan review applications shall be reviewed in accordance with the required

findings listed in LMC 18.36.040.B in addition to all applicable development regulations.

B. The planning official (Type I) and hearing examiner (Type II) may approve, approve with conditions, or disapprove the application for site plan and design review. Conditions may be imposed to enable the proposal to meet the standards of the decision criteria.

### **18.27.050 Adjustments to Approved Site Plan.**

1. Minor adjustments to an approved site plan and design review may be made after review and approval by the planning official. Minor adjustments are those that include minor changes in dimensions or siting of structures or the location of public amenities, but do not include changes to the intensity or character of the use for Type II applications. Minor adjustments are processed through a written request from the applicant and a written response from department staff. The city response is placed in the project file and is effective to modify the approval as described in the response.

2. Adjustments other than minor adjustments to an approved site plan and design review require a new or amended application as determined by the planning official. Major adjustments are those that change the basic design, intensity, density, or character of the use.

### **18.37.070 (Amended)**

#### **Authority and duties.**

A. The examiner is vested with the duty and authority to hold public meetings and hearings and render final decisions on the following matters:

1. Preliminary plats and planned unit developments when subject to public review;
2. Preliminary binding site plan approvals when subject to public review;
3. Conditional use permits, when subject to public review;
4. Zoning code variances, when subject to public review;
5. Shoreline substantial development permits when subject to public review, shoreline conditional development permits, shoreline variances, and appeals of administrative determinations and design review board decisions;
6. Variances from the city's sign code;
7. Variances from the city's floodplain management code;
8. Such other regulatory, enforcement or quasi-judicial matters as may be assigned to the examiner by the city council;

9. Complaints by citizens or city staff seeking administrative enforcement of provisions of city land use codes or conditions in development permits and approvals, or seeking rescission or modification of such permits or approvals

10. Type II Site Plan Review

B. The hearing examiner shall make decisions on the following appeals:

1. Administrative appeals from decisions and interpretations by city staff relating to land use codes, SEPA and permits;

2. Appeals from administrative decisions on short plats;

3. Appeals from administrative decisions on critical area alteration decisions;

4. Appeals from administrative decisions on shoreline exemptions, shoreline substantial development permits, shoreline conditional use and shoreline variance decisions, and appeals of rescissions of such permits;

5. Appeals of administrative decisions/interpretations of the flood damage prevention ordinance;

6. Appeals regarding administrative zoning code enforcement, zoning variances, interpretations of the zoning code, and zoning setback reduction;

7. Appeals of all State Environmental Policy Act (SEPA) threshold determinations. SEPA exemption decisions are not appealable;

8. Appeals of enforcement orders issued by the planning official, including shoreline enforcement orders and those enforcement orders where the civil penalties for violation are set forth in RCW 90.50.210.0;

9. Appeals of administrative revocation of approvals or permits;

~~10. Appeals of design review board decisions;~~

11. Appeals of decisions of the public works director; and

12. Appeals of decisions of the city building official.

C. The hearing examiner may:

1. Administer oaths and affirmations.

2. Issue subpoenas.

3. Rule upon offers of proof and receive evidence.

4. Conduct view trips.

5. Regulate the course of the hearing and the conduct of the parties.

6. Question any party presenting testimony at the hearing.

7. Require briefs on legal issues.

8. Consider and rule upon procedural and other motions.

9. Make decisions.

D. The hearing examiner may hold pre-hearing conferences to clarify issues or structure the proceeding, provided all affected parties receive reasonable notice and either attend or waive their right to attend. At the hearing, or by pre-hearing order, the hearing examiner shall communicate for the record the time, purpose, and result of the conference.

E. Where it would assist the examiner in clarifying or understanding the evidence adduced at hearing, the examiner may inspect property subject to an appeal, application or recommendation. The site inspection shall be taken out of the presence of any interested party whenever feasible. If accompaniment by an interested party is necessary to fully view the property no substantive discussion shall occur during the inspection. An accompanied site inspection should be, but is not required to be, disclosed at the outset of the hearing.

F. No elected official, officer, employee, or agent of the city shall supervise or direct the hearing examiner's adjudicative functions. (Ord. 957 § 1 (Exh. A), 2011)

**18.36.025 Permit applications requiring administrative action by the planning official. (Amended)**

A. The city planning official may administratively approve, approve with conditions, or deny applications for certain land use proposals. Such administrative permit applications are listed below. If an application is found to be consistent with the city's zoning ordinance, this title, and with other applicable code provisions and city requirements, a certificate of zoning compliance or other appropriate approval shall be issued subject to compliance with public notice requirements.

B. Administrative permit applications requiring notification of application:

1. Bed and breakfast rooms.
2. Short subdivisions.
3. Accessory dwelling units.
4. Shoreline exemptions and shoreline substantial development permits, except those permits where a corollary permit is subject to the quasi-judicial process.

5. Accessory buildings having a gross floor area greater than 1,200 square feet.
6. Tourist accommodations – commercial.
7. Reduction of yard setbacks as provided for in Section [18.22.030](#)(C).

8 Type I Site Plan Review

C. Administrative permit applications not requiring notification of application, including but not limited to:

1. Boundary line adjustments;
2. Home occupations not requiring a conditional use permit;
3. Reductions of critical areas buffers as provided for in Section [16.20.070](#);
4. Critical/sensitive areas review pursuant to Chapter [16.20](#) requirements;
5. Written code interpretations; and
6. Other minor actions (e.g., remodeling existing commercial buildings to accommodate new businesses).

7. New or modified one and two family dwellings

8. Signs

## Amendments to Title 18: Landscaping and Tree Retention Standards

### Existing: 18.22.020 Landscaping.

All lots shall be generously landscaped, and consistent with the natural environment of Langley and appropriate to the planned use. Retention of natural landscaping is encouraged. (Ord. 527, 1989)

### Existing: 15.01.725 Land clearing – Intent.

B. Requirements. No person shall ~~clear remove more than 20 percent of a~~ any significant trees from a parcel of land ~~that is more than 15,000 square feet in area~~ without first obtaining approval of a land clearing permit for an approved timber harvest or other specified use requiring the land clearing, unless the clearing is part of a development action or permit as set forth in Section [15.01.020](#), or consistent with an approved plat.

C. Tree Protection Encouraged. ~~For projects on land that falls below the size threshold of this section,~~ Ddevelopers are strongly encouraged to retain as many native trees and as much undergrowth as feasible in support of the city's policy of promoting native landscape retention. (Amended during 2013 reformat; Ord. 966 § 1, 2012; Ord. 743, 1997)

### AMENDED – 18.01.040 Definitions

“City Forester” means a volunteer position appointed by the Mayor and confirmed by the City Council to perform the duties required to implement and administer the provisions of this chapter. The City Forester shall have demonstrated education and/or professional experience necessary to fulfill the duties as assigned. A certified arborist is preferred, but not required to fill the City Forester position.

“Hazard tree” means any tree, or part thereof, that the City Forester determines is subject to a high probability of failure, due to structural defect or disease, and which poses a potential threat to people or property in the event of failure. The determination of “hazard” does not require the judgment that a tree is in danger of imminent failure.

“DBH” means the diameter of the tree at breast height.

“Significant Tree” – means any living woody perennial plant characterized by a main stem or trunk having many branches and having a diameter of 12 inches or more measured at breast height. For bifurcated or multi-trunked trees, the diameters of the individual stems are added together to determine if a tree meets the 12' minimum diameter to qualify as a significant tree.

“Native Plant” means plants and trees that occurs naturally in a particular region, ecosystem, or habitat without direct or indirect human intervention.

## NEW – 18.22.020 Landscape Design and Tree Retention

1. Purpose. The City of Langley’s identity is defined by its beautiful natural setting and human scaled downtown characterized by extensive landscaped gardens both on private properties and within the public realm of streets, parks and open spaces. Langley is surrounded by mature coniferous forest that delineates the urban city from the rural county while strengthening the city’s sense of place within the surrounding landscape. The preservation and enhancement of these features are important to the future of the city to achieve environmental, social and economic sustainability. Other objectives are to:
  - a. Retain existing vegetation, tree stands and significant trees by incorporating them into the site design.
  - b. Incorporate native vegetation and drought resistant plant material into new landscape developments as appropriate.
  - c. Provide vegetated screening between different land uses and intensities
  - d. Minimize the visual and physical impact of parking areas with vegetative screening and shade
  - e. Provide vegetated screening between residential and nonresidential areas.
  - f. Beautify the commercial districts with extensive gardens and landscape installations
  - g. Create pedestrian oriented spaces in the downtown with a blend of hardscape and landscape features
  - h. Balance the desire to preserve trees and vegetation with the desire for openness of space and sun exposure.
  - i. Maintain and increase bluff stability by intercepting runoff and groundwater via landscaping.
  - j. Ameriorate weather and climate impacts by retaining and planting trees to block and filter wind, provide shade where desired and store carbon.
2. Applicability. The standards herein apply to any multi-family development, all subdivisions (plats), and all non-residential development including site plans, binding site plans and planned unit developments. Single and two-family lots are exempt from the requirements of this section with the exception of the standards addressing the preservation of significant trees (LMC 18.22.020.9) or if vegetation is to be preserved as part of a subdivision approval.
3. Professional Designer. All landscape plans shall be prepared by a registered landscape architect or landscape designer qualified to provide landscape design services as exhibited by experience with past projects, education or a combination thereof.
4. Submittal Requirements. All landscape plans shall include the following:
  - a. A detailed site plan of all existing and proposed trees and vegetation at a minimum scale of 1”=30’ identifying all existing and proposed landscaping
  - b. A detailed plant and tree list showing the type of species and size at installation and whether the plants are native or non-native. Non-native species may be allowed with evidence of their suitability for the proposed application.
  - c. A narrative identifying the overall design concept for the proposed landscaping plan and demonstrating compliance with the requirements of this section.
5. Standards for Parking Lots and Walkways

- a. A minimum of one tree for every eight parking spaces is required along the interior of parking lots and one tree for every four spaces along the exterior of parking lots and along the right-of-way.
- b. A minimum of 10' between the edge of the right-of-way and the parking lot shall include extensive landscaping consisting of trees, shrubs and plants to soften the visual impact of the parking lot. The intent is not to create a completely opaque vegetative screen, but to soften the visual impact of the parking areas
- c. All trees shall be a minimum 2" caliper when planted.
- d. Dedicated walkways through parking areas shall include a minimum of 5' of landscaping along both sides of the walkway.
- e. Walkways along building frontages shall have a minimum 10' of landscaped area between the walkway and the building.

#### 6. Street Trees

- a. A street tree shall be planted for every 40' of frontage along the street and shall be located either within the right-of-way or along the frontage of the property within 10' of the right-of-way.
- b. The street tree species must be demonstrated to be appropriate for the given location, that it will not damage infrastructure in the area (sidewalks, roadway, utility lines, etc.), unnecessarily block views from public or private property. The property owner shall demonstrate an ability to properly maintain the tree.
- c. When selecting a street tree applicants shall consult with the Seattle Department of Transportation Street Tree list as a guide.

#### 7. Site Design Techniques. Sites shall be designed to include, but not limited to, the following features:

- a. Landscape open areas created by building modulation.
- b. Retain natural vegetation and undisturbed open space.
- c. Use plants that require low amounts of water, including native drought-resistant species.
- d. Locate trees on storefront street frontages at appropriate spacing so that at maturity building signage and entrance are clearly visible from the street and sidewalk.
- e. Plant a mix of evergreen and deciduous plants to maintain year-round color and interest.
- f. Incorporate on-site natural objects such as rocks, boulders and tree stumps into landscape design where possible.
- g. Shrubs, grasses and other non-tree vegetation shall be included in the plan as appropriate to the site on a case-by-case basis.
- h. Consider incorporating seating areas and public art into the landscape design



- i. Consider planters, hanging baskets, window boxes or other landscape features along the street for sites that do not have landscape areas on-site

## 8. Planting Requirements

- a. Intent. The intent of this section is to encourage the use of native species and non-native species that have adapted to the climate of Whidbey Island.
- b. Requirements. Landscape designs shall conform to the following provisions:
  - i. Areas that do not include landscaping required by this chapter parking, structures or other site improvements should be planted or preserved with native vegetation.
  - ii. New plant materials shall include native species or nonnative species that have adapted to the climatic conditions of the coastal region of the Puget Sound Region. Species on any state noxious weed list are expressly prohibited.
  - iii. New plant materials shall consist of drought resistant species, except where site conditions within the required landscape areas assure adequate moisture for growth.
  - iv. New tree plantings shall be a minimum of two inches in caliper if deciduous or six feet in height if evergreen. Soil planting types and depth shall be sufficient for tree planting.
  - v. Existing vegetation may be used to augment new plantings to meet the standards of this chapter.

## 9. Tree Retention and Protection.

- a. A plan of all existing significant trees shall be provided with applications for development subject to these standards.
- b. Projects shall be designed to avoid the removal of significant trees where feasible without diminishing allowed uses, densities and intensities or the function of the proposed development. Safety, Solar access for active and passive solar design, local food production will also be considered as part of review of the tree retention plan.
- c. Projects may be required to preserve significant trees with a native growth protection area when the tree preservation is determined to be commensurate with the project's impact or voluntarily by the applicant.
- d. No significant tree may be removed from any property without first obtaining authorization from the city planning official following consultation with the city forester. Any significant tree removed shall be replaced with an appropriate species. Consultation with neighbors is encouraged to avoid conflicts with views and infrastructure. A significant tree may be authorized for removal based on the following criteria:
  - i. The tree has been deemed hazardous by a certified arborist
  - ii. The tree is dead or dying. Confirmation from a certified arborist may be required.
  - iii. The property owner desires solar access for passive or active solar energy or for agricultural purposes upon a showing that removal fo the tree will significantly increase solar access.
  - iv. View Preservation or retention – The city may authorize the removal of significant trees(s) for view preservation and retention upon determining

that it is not feasible to retain the tree and preserve or retain the view through pruning. Any significant tree removed must be replaced with two additional trees in suitable locations that will not block views from the subject property in the future unless determined by the planning official to not be reasonable or feasible.

- v. Approved site development including structures, driveways, parking areas and walkways.
  - e. Trees within critical areas or buffers may not be authorized for removal unless the tree(s) are deemed to be dead, dying and hazardous as approved by the planning official. Trees removed from critical areas must be replaced with an appropriate native species.
10. Enforcement. In addition to the enforcement provisions of LMC 1.14 the City may require the replacement of any significant tree at a ratio of up to 4:1 if removed in violation of this section.
11. Modifications. The planning official may approve modifications to the standards contained in this section to achieve the overall purpose and intent of this section.

DRAFT

LMC 18.09: Land Uses

CITY OF LANGLEY	ZONING DISTRICTS <span style="color: red;">Proposed</span>						
Land Uses	Mixed-						
	CB	NB	P-1	Residential	RS5000	RS7200	RS15000
Adult family homes	S	S	X	S	S	S	S
Bed and Breakfast Inns	P	P	X	CU	CU	CU	CU
Bed and Breakfast Rooms	P	P	X	P	P	P	P
Boardinghouses	X	CU	X	CU	CU	CU	CU
Lounge	S	S	X	X	X	X	X
Campgrounds	X	X	CU	X	CU	CU	CU
School	X	CU	P	CU	CU	CU	CU
Cultural Facilities	P	P	P	X	X	X	X
Church	X	CU	CU	CU	CU	CU	CU
Day Care Centers	P	P	X	CU	CU	CU	CU
Duplex on lots of 7,200 square feet or larger	X	X	X	X	P	P	P
Duplexes	X	X	X	P	P	P	P
Foster Homes	X	S	X	S	S	S	S
Health Clubs	P	P	X	X	X	X	X
Home day care	S	S	X	S	S	S	S
Hotels, motels	P	P	X	X	X	X	X
Libraries and Museums	P	P	X	CU	X	X	X
Medical-Dental Clinics	P	P	X	X	X	X	X
Multifamily Dwellings	P	P	X	P	X	X	X
Nurseries	X	P	X	X	X	X	X
Nursing Homes	X	CU		CU	CU	CU	CU
Offices	P	P	X	X	X	X	X
Parking facilities	P	P	P	X	X	X	X
Public Market	P	X	P	X	X	X	X
Services	P	P	X	X	X	X	X
Public Facilities	X	P	P	CU	CU	CU	CU
Public parks and open space areas	P	P	P	P	P	P	P
Schools and grounds, administrative offices and related facilities	X	X	P	X	CU	CU	CU
Residential Zone Offices	X	X	X	X	CU	CU	CU
Restaurant (exclusive of fast food and drive-in)	P	P	X	X	X	X	X
Retail	P	X	X	X	X	X	X
Retreat/Conference Center	P	P	P	X	X	X	CU

Senior Retirement Facilities	P	P	X	CU	CU	CU	CU
Service Stations	CU	CU	X	X	X	X	X
Single Family Dwellings	X	X	X	X	P	P	P
Social and Recreational Facilities	P	P	P	X	X	X	X
Social Service Facilities	X	CU	P	CU	CU	CU	X
Taverns	P	X	X	X	X	X	X
Theaters	P	X	X	X	X	X	X
Type I and II home occupations	S	S	S	S	S	S	S
Type III Home Occupations	CU	CU	CU	CU	CU	CU	CU
Veterinary clinics for small animals	P	P	X	X	X	X	X
Winery Bar	P	P	X	X	X	X	X
Wireless communication antenna arrays	S	S	S	S	S	S	S

P - Permitted

S - Secondary

CU - Conditional Use

X - Not Permitted

# City of Langley Zoning Map

DRAFT January 2014

