



LAKWOOD CITY COUNCIL STUDY SESSION AGENDA

Tuesday, May 27, 2014

7:00 P.M.

City of Lakewood
City Council Chambers
6000 Main Street SW
Lakewood, WA 98499

Page No.

CALL TO ORDER

ITEMS FOR DISCUSSION:

- (4) 1. Joint Planning Advisory Board meeting.
- (5) 2. Review of an interlocal agreement with Pierce College relative to the Oak Prairie Management and Restoration Program. - (Memorandum)
- (43) 3. Review of amendments to the Lakewood Municipal Code relative to the Hearings Examiner processes. – (Memorandum)

BRIEFING BY THE CITY MANAGER

ITEMS TENTATIVELY SCHEDULED FOR THE JUNE 2, 2014 REGULAR CITY COUNCIL MEETING:

- 1. Item Nos. 2 and 3 above.
- 2. Proclamation in remembrance of Larry Humphrey former Lakewood City Councilmember. – *Mrs. Natalie Humphrey*
- 3. Youth Council Report and Recognition.
- 4. Setting Monday, June 16, 2014, at approximately 7:00 p.m., as the date for a public hearing by the City Council on the proposed 2013-2014 biennial budget amendments. – (Motion – Consent Agenda)
- 5. Setting Monday, July 7, 2014, at approximately 7:00 p.m., as the date for a public hearing by the City Council on the proposed Six Year Transportation Improvement Program. – (Motion – Consent Agenda)
- 6. Amending the Lakewood Municipal Code relative to the tax incentive urban use center. – (Ordinance – Regular Agenda)

The City Council Chambers is accessible to persons with disabilities. Equipment is available for the hearing impaired. Persons requesting special accommodations or language interpreters should contact the City Clerk's Office, 589-2489, as soon as possible in advance of the Council meeting so that an attempt to provide the special accommodations can be made.

<http://www.cityoflakewood.us>

The Council Chambers will be closed 15 minutes after adjournment of the meeting.

7. Designating a residential target area within a tax incentive urban use center. – (Resolution – Regular Agenda)
8. Authorizing the execution of an agreement with Rasmussen Triebelhorn for architectural design of the Public Works Maintenance and Operations shop. – (Motion – Regular Agenda)

CITY COUNCIL COMMENTS

ADJOURNMENT

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LAKWOOD CITY HALL
 6000 Main Street SW, Lakewood, WA 98499-5027
 (253) 589-2489

MEETING SCHEDULE
May 26, 2014 – May 30, 2014

Date	Time	Meeting	Location
May 26		City Hall Closed in observance of Memorial Day	
May 27	5:30 P.M.	Parks and Recreation Advisory Board	Lakewood City Hall 1st Floor, Conference Room 1D
	5:30 P.M.	Citizens Transportation Advisory Committee	Lakewood City Hall 1 st Floor, Conference Room 1E
	7:00 P.M.	City Council Study Session	Lakewood City Hall Council Chambers
	<i>Following the City Council Study Session</i>	Transportation Benefit District Board Meeting	Lakewood City Hall Council Chambers
May 28	4:00 P.M.	Human Services Funding Advisory Board	Lakewood City Hall 3 rd Floor, Conference Room 3A
	7:00 P.M.	Joint City Councils of Lakewood, DuPont, Steilacoom and Pierce County	DuPont City Hall, Council Chambers 1700 Civic Drive DuPont, WA
May 29	3:30 P.M.	City Talk with the Mayor or another Councilmember. Please call 253-589-2489 for an appointment.	Lakewood City Hall 3 rd Floor, Mayor's Office
May 30	No Meetings Scheduled		

TENTATIVE MEETING SCHEDULE
June 2, 2014 – June 6, 2014

Date	Time	Meeting	Location
June 2	4:30 P.M.	Arts Commission	Lakewood City Hall 3 rd Floor, Conference Room 3A
	6:00 P.M.	Youth Council	Lakewood City Hall 3 rd Floor, Conference Room 3A
	7:00 P.M.	City Council	Lakewood City Hall Council Chambers
June 3	No Meetings Scheduled		
June 4	5:15 P.M.	Public Safety Advisory Committee	Lakewood Police Station Multi-Purpose Room 9401 Lakewood Drive SW
	6:30 P.M.	Planning Advisory Board	Lakewood City Hall Council Chambers
June 5	9:30 A.M.	Civil Service Commission	Lakewood City Hall 1 st Floor, Conference Room 1E
	6:30 P.M.	Tillicum/Woodbrook Neighborhood Association	Tillicum Community Center 14916 Washington Avenue SW
June 6	No Meetings Scheduled		

NOTE: The City Clerk's Office has made every effort to ensure the accuracy of this information. Please confirm any meeting with the sponsoring City department or entity.

PLANNING ADVISORY BOARD WORK PLAN

Members:

Donne Daniels, Chair
Robert Zawilski, Vice Chair
Connie Coleman-Lacadie
Jeff Brown
Douglas Babbit
James Taylor
Paul Calta

Council Liaison:

Mary Moss

Staff Support:

David Bugher, Assistant City Manager/Community Development Director;
Dan Catron, Principal Planner; and
Administrative Assistant (vacant).

Meeting Schedule:

First and third Wednesdays of each month at Lakewood City Hall, 6:30 PM.

Significant Accomplishments 2014:

1. Continued efforts to update the City's comprehensive plan with an emphasis on land use, air corridor, housing, building capacity, and economic development.
2. Work with staff and consultant on the community's visioning and strategic planning program.
3. Recommended expansion of the City's multi-family tax credit program to the Springbrook Neighborhood.
4. Recommended Centers of Local Importance.
5. Recommended revisions to the City's subdivision regulations.
6. Recommended new regulations on communal housing.
7. Finalized recommendations on the Shoreline Management Plan.
8. Provide a recommendation to the City Council on a privately initiated proposal to expand the City's satellite parking provisions (pending).
9. Adopted resolution of intent to amend the comprehensive plan and zoning for 7701 Ruby Drive SW.

Work Plan for 2014/2015:

1. Review consultant's Joint Land Use Study recommendations.
2. Conduct public hearings and make recommendations to the City Council on the 2015 comprehensive plan and zoning amendments. This amendment cycle would incorporate an updated community visioning section and a revised capital facilities plan. Other zoning revisions are currently under study (new wireless regulations, for example); these are likely to be incorporated into the 2015 update process.



To: Mayor and City Councilmembers

From: Dan Catron, Principal Planner
Dave Bugher, Assistant City Manager for Development Services

Through: John J. Caulfield, City Manager *John J. Caulfield*

Date: May 27, 2014

Subject: Inter-Local Agreement with Pierce College to Support Oak Woodland Habitat Restoration

For many years the Community Development Department has been collecting fees as mitigation for projects that have impacts on oak woodland habitat, or which remove more trees than the code would normally allow for a project. The City can use this money to plant trees along streets or in parks, or for other purposes that support the health of trees in the City, however the City has not spent any money from this fund in several years.

The Community Development Department is recommending that the City grant some of this money to the University of Washington Restoration Ecology Network (REN) program at Pierce College. The UW-REN program is an on-going program supported by groups of students on a yearly basis. A Pierce College staffmember is in charge of the program (at Pierce College) and provides continuity between successive cohorts of students. The program is investigating practical methods for restoring the Oak Woodland and Oak Prairie habitats on Pierce College and Fort Steilacoom Park lands. Currently all of the Pierce College activities are occurring on Pierce College property although the REN program may eventually be extended to include habitat restoration within Fort Steilacoom Park.

Staff is recommending that an Inter-Local Agreement (ILA) be made with Pierce College whereby the City would provide up to \$2,000 per year for materials, supplies, and other expenses for the project. In return, the City would benefit from the plants and habitat established, and the technical information gained from the program activities. The proposed ILA would require that the College submit a work plan each year detailing expected expenses, and then a summary report at the end of the year detailing that year's work and

any reportable results. Staff envisions making an annual lump sum grant to the College, and letting the College administer program spending.

A work plan for 2013-2014 is attached. Additional funds from the City of Lakewood can be used to expand the scope of the program by purchasing additional plant stock, making structural improvements to the restoration area (not currently proposed), and providing for miscellaneous supplies and expenses. Expansion of the program, potentially including restoration work in Fort Steilacoom Park, would be of enduring benefit to the City.

Attachments:

- 2013-14 UW REN Pierce College Work Plan
- Draft Inter-Local Agreement

**CITY OF LAKEWOOD and
PIERCE COLLEGE**

**INTERLOCAL AGREEMENT
OAK PRARIE MANAGEMENT AND RESTORATION PROGRAM**

THIS AGREEMENT is made and entered into by and between the City of Lakewood, incorporated under the laws of the State of Washington (hereinafter referred to as the “City”) and Pierce College, a Community College District of the State of Washington (hereinafter referred to as the “College”), effective upon the date on which the last party signs this agreement.

WITNESSETH:

WHEREAS the City and the College have a mutual interest in developing effective techniques and methods for the restoration and management of Oregon White Oak trees and Oregon White Oak Woodlands; and,

WHEREAS, the College has a functional Environmental Management program and trained personnel that are able to conduct a full range of ecological restoration functions; and,

WHEREAS, Pierce College is a participant in the University of Washington Restoration Ecology Network (REN) program, and a specific workplan for restoration of oak woodland habitat on the Pierce College campus has been developed for the 2013-2014 academic year

WHEREAS, the City collects money in its City Tree Fund as payment in-lieu of on-site tree replacement for removal of trees in excess of retention requirements, and as mitigation for oak trees removed in conjunction with development projects; and,

WHEREAS the City has an obligation to spend its Tree Fund money for the planting of oak trees and activities intended to improve Oregon White Oak Woodland habitat; and,

WHEREAS, the City and the College wish to fully cooperate and coordinate activities that will avoid unnecessary duplication of effort and expenditures; and,

WHEREAS, such agreements are specifically authorized by the Interlocal Cooperation Act of Chapter 39.34 of the Revised Code of Washington;

NOW THEREFORE, in consideration of the terms and provisions contained herein, IT IS AGREED by and between the City and the College as follows:

1. The City shall contribute \$2,000.00 to Pierce College in the 2013- 2014 academic year, to be used by the College to help fund the Restoration Capstone program on the Pierce College campus.
2. This grant shall continue in successive years upon submittal to the City by Pierce College of a written habitat restoration workplan detailing project goals, proposed actions, timeline and budget for the prospective academic year.
3. Payment. Upon receipt by the City of a written request and appropriate workplan submitted by the College, the City shall pay the College up to \$2,000 dollars annually in a lump sum to be administered in trust by the College.

4. Responsibilities of Pierce College. In consideration of the money granted to Pierce College as described in this agreement, Pierce College agrees to implement the oak prairie restoration work as described in the 2013-2014 UW REN Pierce College Work Plan dated January 31, 2014, and in successive plans. The College further agrees to provide the City with a written report at the conclusion of the academic year describing the restoration work performed, reporting the initial results of various on-site actions, and preparing a framework for continuing restoration efforts into future years.
5. Work performed in conjunction with this grant as a part of the Restoration Ecology Network shall be performed in good faith under the direction of a college staffmember, following the specific work plan(s) noted above.
6. This grant arrangement shall cease upon depletion of funds in the City's Oak Tree Replacement/Maintenance account.

IN WITNESS THEREOF, the parties acting in their official capacities have hereby executed this Agreement by affixing thereto the signatures of the proper officers on the date indicated.

FOR: City of Lakewood

FOR: Pierce College:

John J. Caulfield,, City Manager

Choi Halladay, Vice-President of Administrative Services

ATTEST:

Alice M. Bush, City Clerk

APPROVED AS TO FORM:

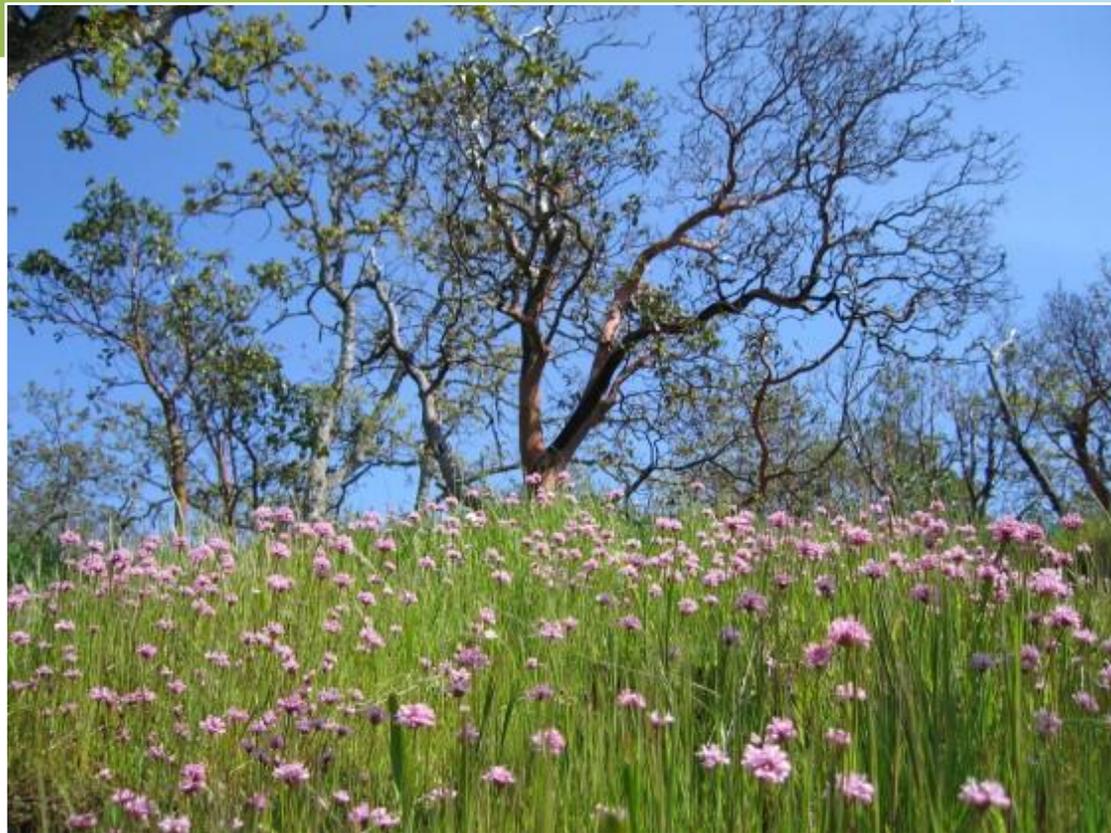
APPROVED AS TO FORM:

Heidi Ann Wachter, City Attorney

John Clark, Assistant Attorney General

2013-2014

UW REN Pierce College Work Plan



Prepared by: Melody Bentley, Vi Entila, William Goetz, Hunter Henderson, Eli Idle, Andy Shuckhart, and Justine Soderlind

University of Washington

January 31st, 2014

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Background

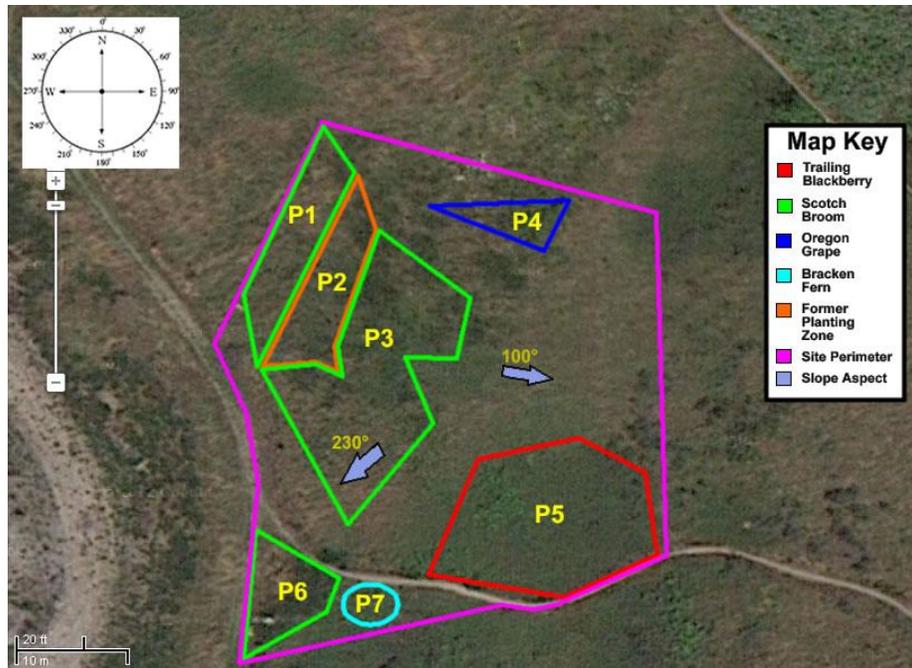
Pierce College has built a new science building and would like to include an oak prairie/woodland restoration planting as a part of their campus improvements. A partnership has been formed between the college and the City of Lakewood (which is in charge of managing Fort Steilacoom Park) to restore the native oak prairie/woodland ecosystem. The site goals focus on removal of invasive non-native plants (listed as noxious weeds by the state of Washington), and the planting of native, desired plants as a part of the idealized ecosystem. Garry oak habits are endangered, and the restoration project will restore connectivity between several smaller prairie/woodland sites in the surrounding area. Repair of corridors between the surrounding areas will promote wildlife migration, and re-establish natural cycles and succession of the historic target conditions. This project is part of a series of restoration efforts which engage students and the community, and functions as an outdoor classroom for the study of botany, restoration ecology, and the environmental sciences.

Site Description

This year’s proposed restoration site is on land leased by Pierce College from Western State Hospital and is located at 9401 Farwest Drive SW, Lakewood, WA 98498. It can be found roughly 100 meters southeast behind the campus’ Rainier building, and is presently utilized by both students and faculty to accommodate scientific research and environmental studies. The site is part of the Chambers Creek-Clover Creek Watershed and is legally defined as falling within Section 32 Township 20 Range 02 Quarter 44 (May 2008). It is notable for lying $\approx \frac{1}{2}$ mile due west of Fort Steilacoom Park and, as such, sees a great deal of foot traffic as students and leisure seekers travel along social trails adjacent to and within the project site.

The site has been divided into seven (7) polygons based on plant species distribution within the given site boundaries. Outer boundaries were delineated with GPS points, and the south eastern and south western boundaries follow existing walking paths. Dominant species within the site include Trailing Blackberry (*Rubus ursinus*), Scotch broom (*Cytisus scoparius*), Oregon grape (*Mahonia aquifolium*) and Bracken Fern (*Pteridium aquilinum*). Polygon 2 (P2) was designated because of the complex species distribution located there, which is likely caused from previous restoration plantings. Garry oak has been planted throughout the entire site (61 total living plants), of which about 10% are still in protective tubing. Topographically the land is elevated around the surrounding areas peaking inside of Polygon 3, and slopes down to the east and south towards the outer boundaries. Site aspect was determined from the center of two sloping areas of the site, on the Eastern and Southern sides.

Soil series present in the area are of the Indianola series, with Alderwood series present in the surrounding areas more abundant with trees. Indianola series is

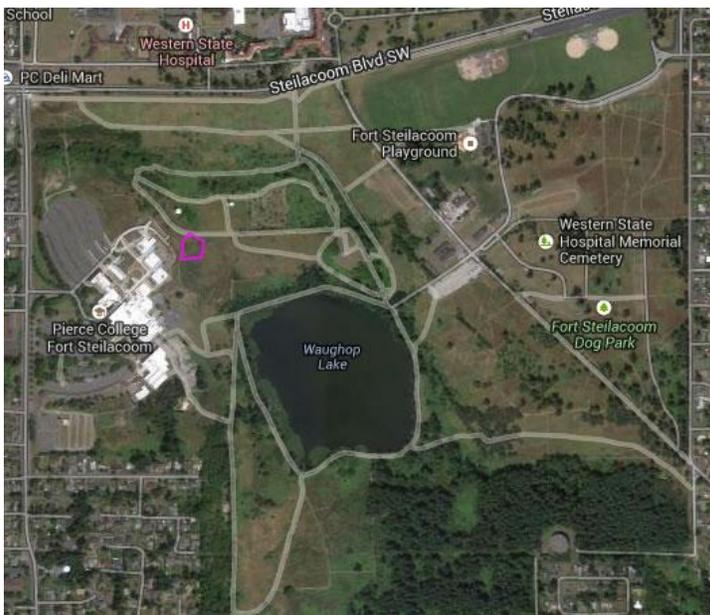


classified by deep soils formed in sandy glacial drift, further identified by being excessively well drained (NRCS Established Series 2004). Within the site boundaries all of the soils show very little indication of excessive water interaction. Area topography was likely created glacially, which has dictated water flow downhill on the eastern and southern site boundaries. Because of the fact that there has been no water collection on site, it is likely that watering will have to be carried out constantly during the warmer months to prevent plant mortality from drying and wilting.

The surrounding landscape consists of primarily urban areas, with natural areas being maintained as parks or as part of individual and public property. Many businesses operate within ½ mile of the site, and there is constant vehicle traffic and noise pollution from the nearby military base, hospital and shopping areas, as well as students attending Pierce College. Much of the area has been paved, and fragmentation of the local ecosystems is readily obvious.

As populations increase, pressure grows on natural systems within urban areas. Historically Fort Steilacoom was a military area, and some of the original structures still remain and are appreciated aesthetically by the public. Nature areas are of high value for social and cultural reasons to humans, and ecosystem services are critical for natural water filtration, wildlife health and disease management particularly within high population areas (United Nations 2005).

This site is located near, and contributes water filtration to Waughop Lake, directly influencing recreational fishing in the area and providing clean water to migratory waterfowl that use the area. The lake has been in danger of algae blooms in the past which currently has the lake closed to many types of recreation (Hunter 2011).



The lands in and around Fort Steilacoom Park are believed to have served as seasonal campsites for both the Steilacoom and Nisqually Tribes, suggesting that local indigenous groups played a substantial role in maintaining this site’s pre-settlement oak woodland ecosystem (LaFontaine 2012). Management techniques would have included prescribed burns and mechanical vegetation removal performed in a

systematic fashion, as was notable for several North American peoples striving to maintain grassland habitat for their hunting and dwelling purposes (Kimmerer and Lake 2001).

Restoration Needs and Opportunities

Design for this project is in accordance with the University of Washington restoration capstone program, which is focused on tailoring the restoration project to the goals of the community member, modified by the team's own expertise. Community partner Ron May designated certain restoration goals in the RFP for the 2013-2014 academic year:

RFP Target objectives:

2013-2014

- Continue monitoring and maintaining REN site and Rainier landscape site
- Students will work to go back over the prior years' REN sites to survey, replace, and monitor plant natives.
- Students will maintain the REN site.
- Begin germination and cultivation of native species through the Pierce College Biology Department for use in subsequent oak prairie restoration plots.
- Have the Plant Biology class students design best practices for the germination and cultivation of the various native species.

Goals and objectives for the project are listed in the next section, which follows through with the RFP and community partner guidelines. New objectives and experimental treatments have been added to increase the likelihood of project success. In addition to the actions listed in the RFP, local tribal involvement will be encouraged (following stakeholder approval) to restore the desired Garry oak ecosystem.

Native American tribes frequently burned these systems to promote the growth of desired herbs and suppress the encroachment of fir trees and undesired woody shrubs (McCune et al. 2013). Although once be widespread, these sites are rapidly diminishing, and are only observed on military bases with a high rate of fire occurrence, or in areas of intensive management (Chappell 2006). Other sites have struggled with re-establishing the Garry oak ecosystems, but success has occurred with prescribed burn techniques, and seen fairly rapid recovery of the target ecosystems and re-establishment of native wildlife (National Park Service 2013).

Our objectives for this site cannot emphasize prescribed burning due to permitting issues and conflicts with the Clean Air Act, although it is likely that burns will need to happen on the site in the future as a part of an adaptive management approach. Due to the limited timeline of this project, our group will primarily focus on setting up a system for native plant propagation at Pierce College to support future restoration efforts.

Tasks and Approaches

- **Goal 1: Promote a healthy Garry oak woodland ecosystem by planting native vegetation in placement of noxious invasive weeds.**

- Objective 1-1: Remove noxious weeds mechanically with shovels, weed wrenches and picks.

Work parties are being organized for an initial sweep of the site by the REN team and guests for Scotch broom removal. Plans currently have work parties during the first week of February, with another follow up weed-removal at the end of spring.

- Objective 1-2: Use solar heating tarps to promote Scotch broom seed germination to deplete the seed bank.

Once the majority of Scotch broom is pulled, clear plastic sheeting will be draped over the areas. Our design here is that an early pull of Scotch broom in the winter will allow the solar tarps time to heat the soil, and encourage germination of the seed bank which will allow for a second pulling of newly emerging broom at the end of spring.

The seed bank for scotch broom can last for decades, and sudden germination can be unpredictable and damaging to a system that is observationally restored, but not being carefully monitored. Some of our planting strategy focuses on preventing new seeds from entering the system, but this part of the plan is specifically designed to deplete the seed bank

- Objective 1-3: Vegetate the site using flora native to the Garry oak woodland ecosystem.

Planting on the site will take place through one or two work parties, depending on the amount of time is required to realize our design. Plants have been chosen based on Garry oak native species distribution as described by Christopher B. Chappell (2006), through

the Washington Department of Natural Resources
(<http://www1.dnr.wa.gov/nhp/refdesk/communities/>).

Although we have not selected every plant species present in Garry oak communities, we sought to sow the plants with the greatest coverage that we felt would do well at our particular site. Woody shrubs have been favored to promote the Garry oak woodland ecosystem; however, we have also selected a distribution of grasses, charismatic flowers, and perennial herbaceous plants which will enhance woody species success, and protect the site from re-invasion by Scotch broom.

Our planting table is expressed in the next section.

- Objective 1-4: Source Indian paintbrush (*Castilleja spp.*) seeds to propagate and establish a local population.

While the original project proposal called for Golden paintbrush (*Castilleja levisecta*) to encourage site notoriety, that goal will be shelved for the time being. Many other paintbrush species are available much more readily, and will also promote the development of the site. If the sourced varieties of paintbrush are successful on this site, it is our hope that future restoration teams might revisit the possibility of establishing a Golden paintbrush population. Selection of the variety of paintbrush used will depend on nursery availability and team budget.

- **Goal 2: Enhance availability of water to target plants on site by using different experimental methods to promote the health of the soil and long term growth of native vegetation.**
 - Objective 2-1: Repurpose Scotch broom as mulch after the broom's seed dispersal, placing the mulch around native flora.

This idea formed from polygon P7, which has trailing blackberry (*Rubus ursinus*) and Bracken fern (*Pteridium aquilinum*) growing on top of a bed of discarded Scotch broom plants. Scotch broom disperses through seeds, and has already completed this cycle last autumn. We plan to use the brooms pulled as mulch on our site, as well as to add some structure to help woody plants establish.

Recently we have found a local source of potentially free woodchip mulch that will probably work much better than Scotch broom. Because the broom might still be effective structural cover, it will be piled at the northern edge of the site adjacent to P1 to act as a buffer

against new broom seeds being blown into the site. Concerns have been raised about the aesthetics about this on site, and removal will not negatively impact the project goals.

- Objective 2-2: Use wood chippings as mulch (dependent on budget) for moisture conservation, around the native flora.
- Objective 2-3: Use Dri-Water (a hydrated, slow-release gelatin) in experimental small scale treatments to explore effectiveness in oak establishment.

This idea is still under consideration due to the potential limitations, cost, and inconsistent nature the product has had in different studies. We are discussing an experimental treatment using Dri-Water alongside food-grade gelatin in sandwich bags prepared and distributed by our group to test its effectiveness.

More research is being conducted to explore the soil effects of gelatin, the long term monitoring process of bag application and removal, and the potential negative environmental impacts should a severe wind-storm blow away the bags

- Objective 2-4: Use soil inoculated with ectomycorrhizae from nearby, already established oak stands to promote soil nutrient uptake and moisture conservation.

Garry oak is highly dependent on ectomycorrhizae to increase root surface-area, and there are already many examples of Garry oak groves in similar texture soil nearby. Presently there are more than sixty planted oaks on our site which do not appear to be growing in a healthy manner. After our oaks are purchased we will amend the potting soil with locally sourced soil at the base of oaks to encourage this relationship.

It has been proposed that if the nursery oaks are already of a mature age they will have already established ectomycorrhizae in the pot. We agree with this perspective, but will still add local soil to strengthen any existing relationship.

- **Goal 3: Make the site friendly to the public using creative sources and outreach.**
 - Objective 3-1: Request artistic contributions from local Native American tribes to promote their culture and engage the local community.

Our efforts currently have not been successful in contacting the tribes, and tribal involvement is still awaiting discussion with all of the

community partners. We are presently attempting to get in touch with representatives from the Nisqually tribe's restoration group.

- Objective 3-2: Request artistic contributions from local artists to build a bench on our site for a scenic overlook facing Mt. Rainier.

Polygon P6 intersects with three trails and is in constant threat of trampling and re-invasion. Promoting restoration goals for the entire project here will have high visibility.

- **Goal 4: Promote the importance of the Garry oak woodland ecosystem through public awareness, outreach, and education.**

- Objective 4-1: Educate the public through social media, posters, and flyers.
- Objective 4-2: Get the public involved through work party invitations for restoration at the site.

Work parties are currently being discussed, and pend approval of the planting and work plans.

- Objective 4-3: Develop a plan for future maintenance for the next UW-REN capstone students to follow through along with post-maintenance on our site.

These goals will also be expressed in the work plan, which will be finalized on the 31st of January.

- **Goal 5: Installation of programs at Pierce College to promote a sustainable Garry oak habitat on site.**

- Objective 5-1: Contact program leads within Pierce College who have the desire and resources to fulfill objectives of the RFP related to establishing native species propagation.

Contacts have been made and various potential projects are being discussed in accordance with community partner goals and objectives outlined in the RFP. There are many permitting and budget issues that have arisen while pursuing this goal, but it seems likely that an outdoor nursery space can be done at fairly low cost, and might mitigate future site costs for buying plants.

- Objective 5-2: Obtain suitable space and equipment from Pierce College and through grant funding to begin a successful plant propagation program.

Logistics of this goal are being discussed, and might take place on a smaller scale than what was implied by the RFP. Framework for a native plant propagation program will likely be developed by our team, even if the goal will not see completion at the end of this year's term. Alternately, the local preschool at Milgard has an existing greenhouse that might be useful for both a plant propagation program as well as educational purposes for the children.

- Objective 5-3: Plan and implement an educational unit within the Pierce College Biology program framework to ensure that the restoration project will be carried out successfully.

Current discussions about promoting education on fire dependent ecosystems, Garry oak ecosystems, and policy/permitting concerns are taking place with community partners. Although experience with these activities by personnel on site are limited, there are experts in the area that are being approached to give talks and advice on successfully achieving this goal.

Specific Work Plan

Our site has been divided into seven distinct polygons based upon the structure and unique characteristics of individual areas, as well as species currently represented. Although the area does not host any of the desired species as legacies or volunteers, there are many native plants present from previous restoration attempts. The information collected from these previous restorations has given us insight into the potential fertility of certain zones, as well as problems that we have attempted to mitigate in our planting and work plans.

Of paramount concern with this project is the removal of the Scotch broom that has established itself quite aggressively. This area has been treated at least twice in the past, suggesting that either the brooms have volunteered into this area from another local seed source, or there is a seed bank in the soil which is replenishing the plants after removal. Because both of these reproductive vectors are likely, we have designed a treatment plan to address both.

The first action we are going to take toward this goal is the mechanical removal of Scotch broom using weed-wrenches and shovels. This would normally be something that we would try to create a volunteer event to take care of; however, we have decided to remove the broom ourselves in order to complete the rest of our goals within the quarter. Using a group consisting of our team members and any close friends or significant others (a force of 10-15 people), we believe that all of the Scotch broom on site can be removed within one weekend, hopefully not lasting more than one four hour shift. Once all of the broom has been pulled it will be piled up adjacent to polygon 1 (P1) in a line to serve as a hindrance to further seed dispersal from a large field of broom that lies to the northwest, uphill from our area. It is also a part of the plan to remove the broom with trucks eventually, as these piles tend to be ugly.

Following the broom removal, our team will deploy clear plastic solar tarps on 50% of P1 and P3, which are the primary zones colonized by Scotch broom presently. This is being done as a compromise to prescribed burns, and we hope to determine whether this solar-tarping technique will increase the germination rate of Scotch broom under the assumption that there is a viable seed bank in the soil. Our desired result is that the solar tarps applied near the end of winter will increase the rate of germination for the spring season, allowing us the opportunity to remove more Scotch broom and prevent a sudden re-emergence after planting. We are only doing 50% of each zone so that the other half can serve as a control, ideally aiding future restoration attempts who wish to consider this technique.

Regardless of the emergence of new invasives we will host a volunteer event to carry out our planting plan in accordance with the next section. Community stewardship is vital to our restoration goals, and having volunteered ourselves we understand that pulling up invasive plants can get quite tiresome. Our hope is that having the volunteers do a large amount of the planting will give them a greater desire to continue on the project to check up on the status of their plants, as well as take part in some level of passive monitoring for newly emerging invasives.

Site Preparation

Limited preparation is needed on our site because it has previously been treated. There is no risk of erosion because of well-established grasses and shrubs on all slopes, as well as the soil being incredibly well drained, which reduces any potential for sliding after invasive removal.

After the planting of woody shrubs and Garry oak on site, raking and aeration of the ground will be done prior to broadcast seeding and raking of yarrow (*Achillea millefolium*). Holes will be dug for individual plants, but yarrow is very well adapted to surviving in dry conditions, and does not require extreme depths for seed germination. It is also incredibly cheap.

Prior to installing the bench at the end of our project we will attempt to grade and flatten the area as much as possible, and are considering security measures such as pouring concrete to prevent bench-theft.

Planting Plan

Complete visual indicators of specific plant distribution by polygon are listed in the appendix of this document. Planting strategy and design have been discussed at length with community partners Nick Allmendinger and Michele LaFontaine.

Polygon 1: This zone will serve as a barrier to Scotch broom seeds encroaching from a large population located to the northwest of our site. We are trying to get dense, native woody-shrub coverage to act as a natural wall to prevent re-emergence of broom from the existing seed bank, as well as limiting access to the rest of our site from a trail that is forming along the western edge of this polygon.

Polygon 2: Four (4) nursery-mature (4-6 years old) Garry oaks will be planted in a cohort as a part of the Garry oak woodland design. These oaks will be protected by woody shrubs in P1 and P3, but not shaded out. These will serve as one of two groups of oaks we wish to succeed.

Polygon 3: Tall, woody species are being planted here in a height-gradient (tallest next to P2), moving to low ground cover on the eastern end, with wild flowers and herbaceous species represented on the southern slope. Our objective here is to prevent Scotch broom from re-establishing while simultaneously establishing an early successional, Garry oak appropriate species distribution.

Polygon 4: Expansion of the woody shrubs already present in this zone is our main concern. Oregon grape is already well represented, so we will add beaked hazelnut to provide woody coverage. In more open sections ocean spray will be planted.

Polygon 5: This area is already well protected from Scotch broom encroachment by dense trailing blackberry coverage. We have selected this polygon to plant another five (5) nursery-mature Garry oaks, as the sun here and moisture retention of the blackberry roots will provide a high rate of success. We are idealizing this site to promote the growth of the Garry oaks we plant, which will eventually shade out blackberry to a degree and allow for more appropriate understory vegetation to volunteer.

Polygon 6: Currently this area is populated by several old Scotch broom with thick trunks that are past their prime seeding age. After we remove the broom we intent to put interpretive signage or a park bench here, surrounded by roses along the trails on the north and south sides. Trampling will be a problem due to the proximity of three intersecting trails, so larger, more sturdy rose plants will be used.

Polygon 7: Will be left alone because of its unique structure and volunteer species.

Northeast and Southwest Grass areas: Although these two areas have not been designated with polygon numbers in our original proposal, they encompass all the other major areas of our site. The goal for these areas is to preserve their open Garry oak prairie characteristics, but enhance them with species more appropriate. Yarrow, hardy grass species, and other charismatic native Garry oak associated perennial plants will be distributed here, although we expect the present species of grass will create high mortality rates.

Budget Plan

Our labor budget is based on mostly group effort, focusing on volunteer effort to do planting and monitoring efforts.

Labor Budget	Team Hours	Volunteer Hours	Total Hours
Site Assessment	10	0	10
Invasive Removal	40	0	40
Site Preparation	30	0	30
Plant acquisition	15	0	15
Planting	28	32	60
Signage and Bench	15	0	15
Monitoring	15	45	60
Total Hours	153	77	230

Revenue for the project will come primarily from the UW REN course fee allotment, mitigated through donations. We have explored grant funding if we find that our cost estimates are unreasonable, and are also trying to source plants from salvage, donation, and through various nursery deals.

Revenue by Fund Source	
Course Fee Allotment	\$ 600.00
Cash Donations	
Coverage from Pierce	\$ 197.00
In-Kind Donations	
Coffee/Donuts	\$ 60.00
Project Total	\$ 857.00

Financial considerations mostly focus on the purchasing of plants. Because we have decided to use larger oaks in fewer numbers our budget is slightly above what can be drawn from the normal UW REN allocated budget. We have allowed time in our

planning to explore grant applications to fund the extra-expenditures, but our budget currently does balance if we can get discounted rates on some of our structures, and receive food donations from local businesses. We will also be bearing as much travel cost as we can personally.

Financial Budget	
Plants	Cost
Garry Oaks	\$ 270.00
Woody Shrubs	\$ 158.00
Herbacious Plants	\$ 24.00
Grasses	\$ 61.00
Seeds	\$ 8.00
Subtotal Plants	\$ 521.00
Mulch	free!
Subtotal Mulch	\$ -
Volunteer Events	
Food	\$ 50.00
Safety Equipment	\$ 10.00
Printing Flyers	\$ 4.00
Subtotal Volunteers	\$ 64.00
Tool Rental	\$ -
Subtotal Tool Rental	\$ -
Transportation	\$ 18.00
Subtotal Transportation	\$ 18.00
Printing	\$ 29.00
Subtotal Printing	\$ 29.00
Structures	
Bench	\$ 95.00
Sign	\$ 85.00
Subtotal Structures	\$ 180.00
Solar Tarping	\$ 45.00
Subtotal Solar Tarping	\$ 45.00
Project Total	\$ 857.00

Other Plans

Fire ecology has been a continuing conversation between our team and the rest of the community partners and faculty on this project. It is clear from the available research, and from discussions about other Garry oak projects that not only does this system do well with fire disturbance, it is actually inevitable that fires will once again happen here. Because of the high traffic in the area it is easily conceivable that a stray cigarette, or careless bottle rocket could start a grass fire that could get out of control quickly given the amount of dry Scotch broom peppered across the area.

Although permitting issues and community enthusiasm are not currently where they would need to be to start prescribed burning at Pierce, there is an opportunity to begin the dialogue that would lead to these activities being accepted. Through discussions with our community partners as well as independent research, it is clear that community education is the greatest barrier to be breached before prescribed burns can take place successfully in a public setting.

To accomplish this goal we have decided that an open forum lecture series, combined with interpretive signage will be a good start to encourage a dialogue about fire ecology in the local community. It is our hope that we can get three to five lecturers to volunteer their time to provide current research and scientific validation to a group of students, faculty, and members of the local community at Pierce before the end of the quarter. There are more than enough highly qualified experts in this field that live and work in the area, and the proximity to Joint Base Lewis McChord makes for an excellent opportunity as their Garry oak savannas are some of the most pristine in the country.

Work Timeline

Team UW Tacoma 2013 - 2014 Gantt

		Schedule Key						
		M	Denotes Milestone					
			Planned Events					
			Completed Events					
		PROJECT MONTH: Begins OCT 2013						
TASK	OCT/ NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Perform site assessment								
Submit site assesement	M							
Prepare Draft Proposal								
Submit final draft		M						
Design Planting Plan								
Meet with Faculty to discuss Progress								
Team meet to review/prepare work plan								
Submit workplan			M					
Meet w/CP to discuss progress								
Prepare and send out grant requests								
Mail out donation requests								
Purchase Solar Tarping								
Remove trash from site								
Remove invasives								
Solar Tarp Application								
Order plants & seeds								
Till soil for planting								
Assemble volunteer team for planting								
Add soil amendmets (ectomycorrhizal fungi)								
Contact Guest Speakers and Plan Lecture Series								
Plant juveniles and seeds, large oaks - Volunteers								
Meet w/CP to discuss progress								
Monitor site & respond to invasives								
Assemble volunteer team for re-planting								
Sow seeds/plugs (graminoids and forbs)								
Apply mulch & Dri-Water treatments								
Plant juveniles and seeds to recover mortality								
Prepare and finalized sprinkler or Dri-water plans								
Install interpretive signage and bench/art								

Design for the Future

Although many of our project goals have been met with hurdles that prevented them from happening this quarter, it is our belief that we have laid the framework for many opportunities for future REN projects. Distant prospects include the acceptance and approval of prescribed burning (2016-2017 REN projects?), building and installing plant propagation equipment, and establishing a viable golden paintbrush (*Castilleja levisecta*) population to promote site notoriety and encourage Taylor's Checkerspot butterfly re-establishment.

Our present design is hopeful that we will be able to establish an outdoor nursery at the pierce campus for native plant production, which was one of the key features assigned to us in the RFP. This offers up not only an opportunity for budget saving on future REN projects, but also for students at Pierce to explore ecology, botany, and plant science in a more involved manner than normally offered at the community college level. Discussion with the community partners and Pierce faculty have indicated that there is interest from students to pursue research in an independent way, and the Pierce campus offers an excellent platform for restoration ecology research.

One major strategy of our project is the development of a legacy plan that we will be leaving to future REN projects. Because so much of our time has been spent trying to backtrack past restoration attempts on site and coordinate with multiple community partners, we feel that some progress has been lost in such a way that hinders our own success, as well as our education. We plan to not only develop a reasonable monitoring plan that requires only one or two engaged members of the Pierce student body and community stewards, but also refine the RFP to be more user friendly. It is also our hope that we can engage social media in a way that allows all community members to stay up to date with the project, as well as post relevant information in a public forum that will bolster stewardship.

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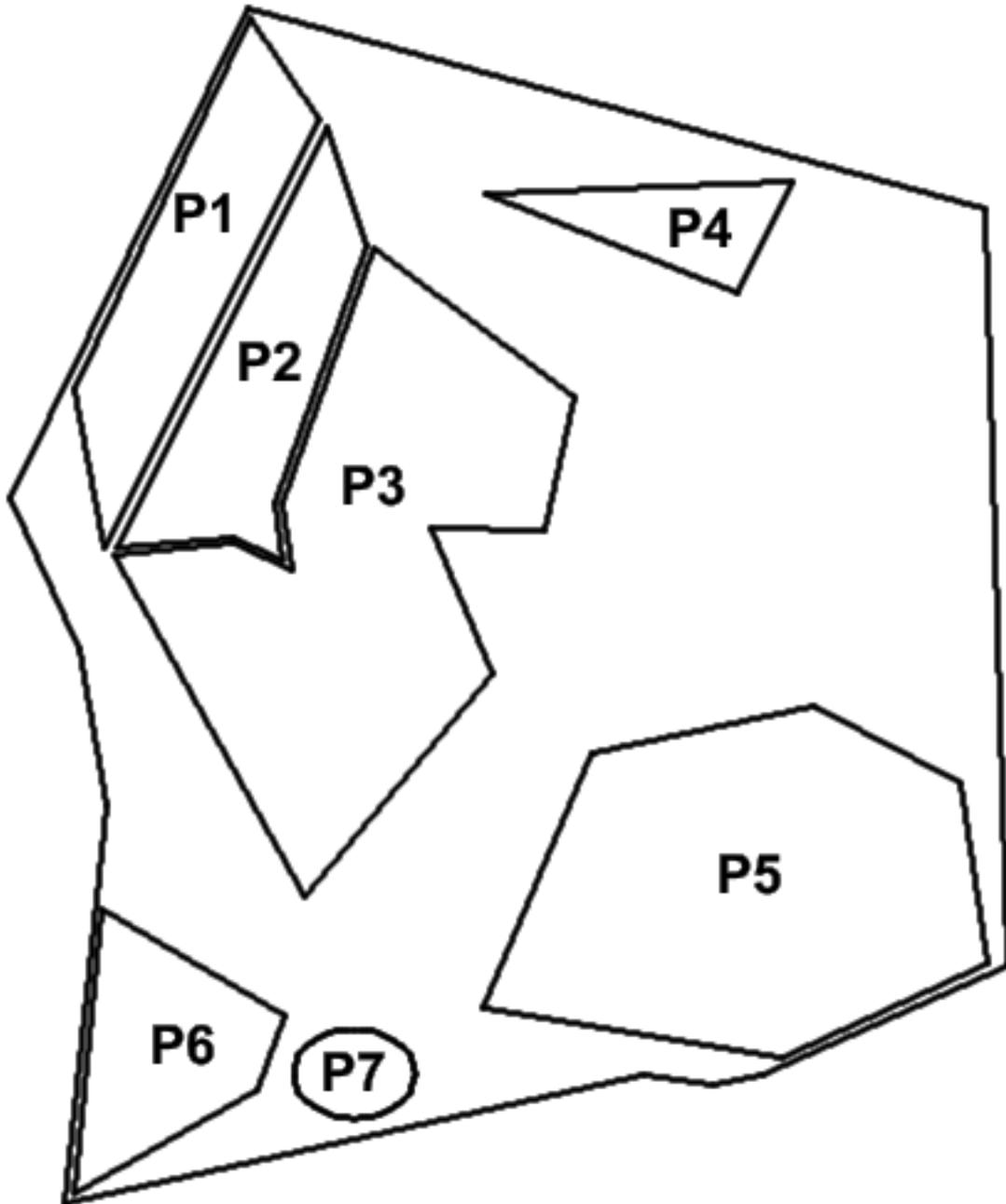
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Appendix A

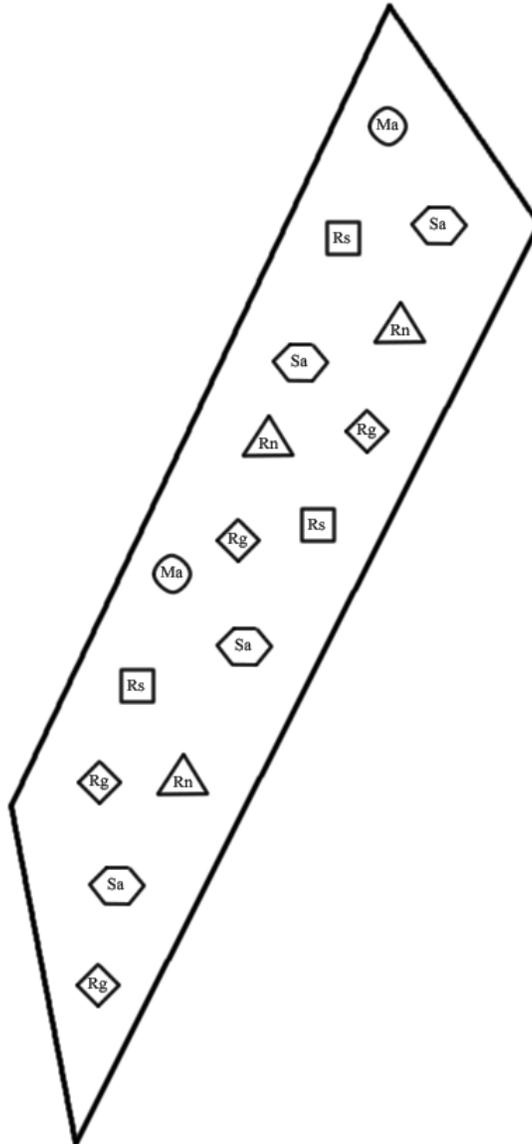
Planting List

Plant materials table/ planting parameters	Polygon 1			Polygon 2			Polygon 3			Polygon 4			Polygon 5			Polygon 6			Northeast & Southwest Grass Area		
	#	Spacing	Form	#	Spacing	Form															
Garry Oak <i>Quercus garryana</i>				4	4(m)	mature							5	7(m)	mature						
Tall Oregon Grape <i>Mahonia aquifolium</i>	2	0.3(m)	1 gal.										4	1(m)	1 gal.						
Ocean Spray <i>Holodiscus discolor</i>										4	2(m)	1 gal.									
Red Flowering Currant <i>Ribes sanguineum</i>	3	2(m)	1 gal.																		
Snowberry <i>Symphoricarpos albus</i>	4	1(m)	1 gal.	2	3(m)	1 gal.	3	3(m)	1 gal.												
Nootka Roses <i>Rosa Nutkana</i>	3	1(m)	1 gal.													5	.5-1(m)	1 gal.			
Beaked Hazelnut <i>Corylus cornuta</i>										10	2(m)	1 gal.									
Baldhip Roses <i>Rosa gymnocarpa</i>	4	1(m)	1 gal.													5	.5-1(m)	1 gal.			
Serviceberry <i>Amelanchier alnifolia</i>							4	2(m)	1 gal.												
Indian Plum <i>Oemleria cerasiformis</i>							5	2(m)	1 gal.												
Strawberries <i>Fragaria virginiana</i>																			20	0.06	1 pint
Kinnikinnick <i>Arctostaphylos uva-ursi</i>																20	0.3(m)	1 pint			
Roemer's Fescue <i>Festuca roemeri</i>																			50	0.06	plugs
Red Fescue <i>Festuca rubra</i>																			50	0.06	plugs
California Brome <i>Bromus carinatus</i>																			20	0.06	plugs
Blue Wild Rye <i>Elymus glaucus</i>																			20	0.06	plugs
Henderson's Shootingstar <i>Dodecatheon hendersonii</i>																			30	0.06	plugs
Long Stolon Sedge <i>Carex inops</i>																			20	0.06	plugs
Yarrow <i>Achillea millefolium</i>																			2000	n/a	seeds
California Oat Grass <i>Danthonia californica</i>																			20	0.06	plugs
Poverty Oatgrass <i>Danthonia spicata</i>																			20	0.06	plugs
Indian Paint Brush <i>Castilleja spp.</i>																			50	0.06	plugs

All Polygons

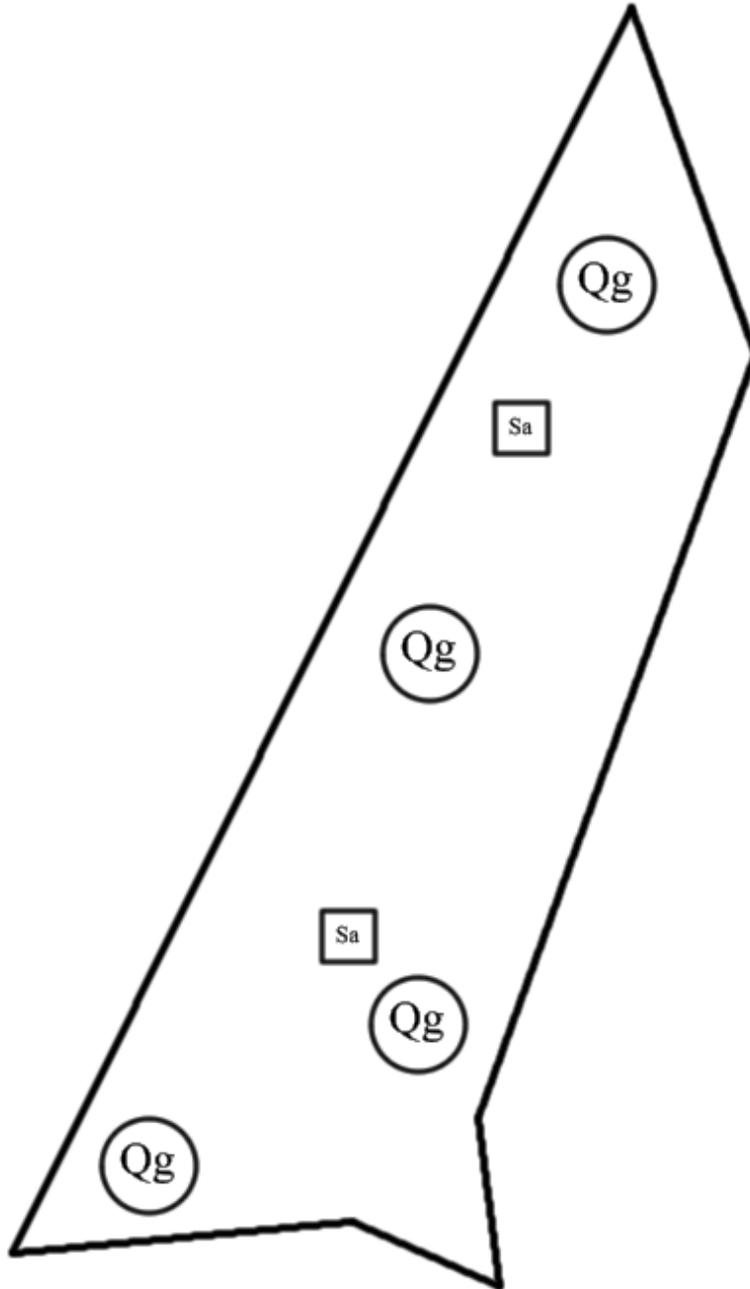


Polygon 1



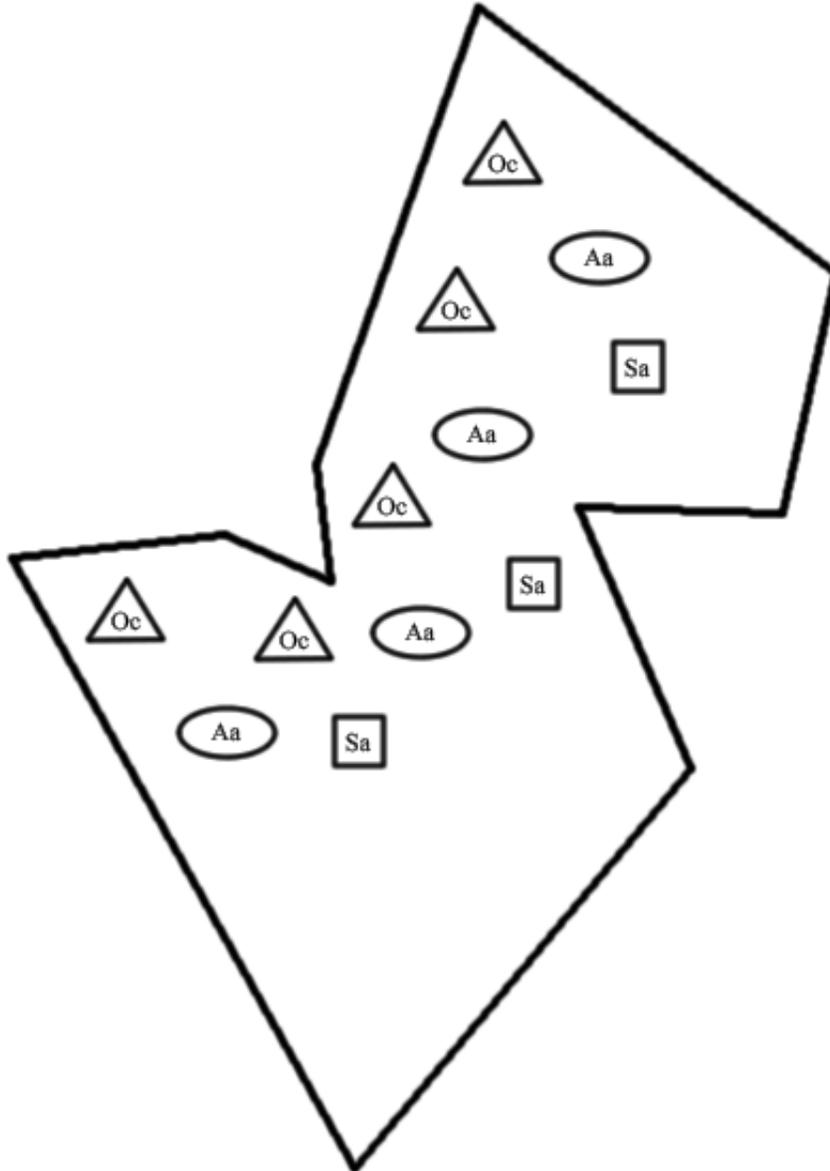
Polygon 1				
Species	#	Spacing	Form	Icon
Tall Oregon Grape <i>Mahonia aquifolium</i>	2	0.3(m)	1 gal.	Ma
Red Flowering Currant <i>Ribes sanguineum</i>	3	2(m)	1 gal.	Rs
Snowberry <i>Symphoricarpos albus</i>	4	1(m)	1 gal.	Sa
Nootka Roses <i>Rosa nutkana</i>	3	1(m)	1 gal.	Rn
Baldhip Roses <i>Rosa gymnocarpa</i>	4	1(m)	1 gal.	Rg

Polygon 2



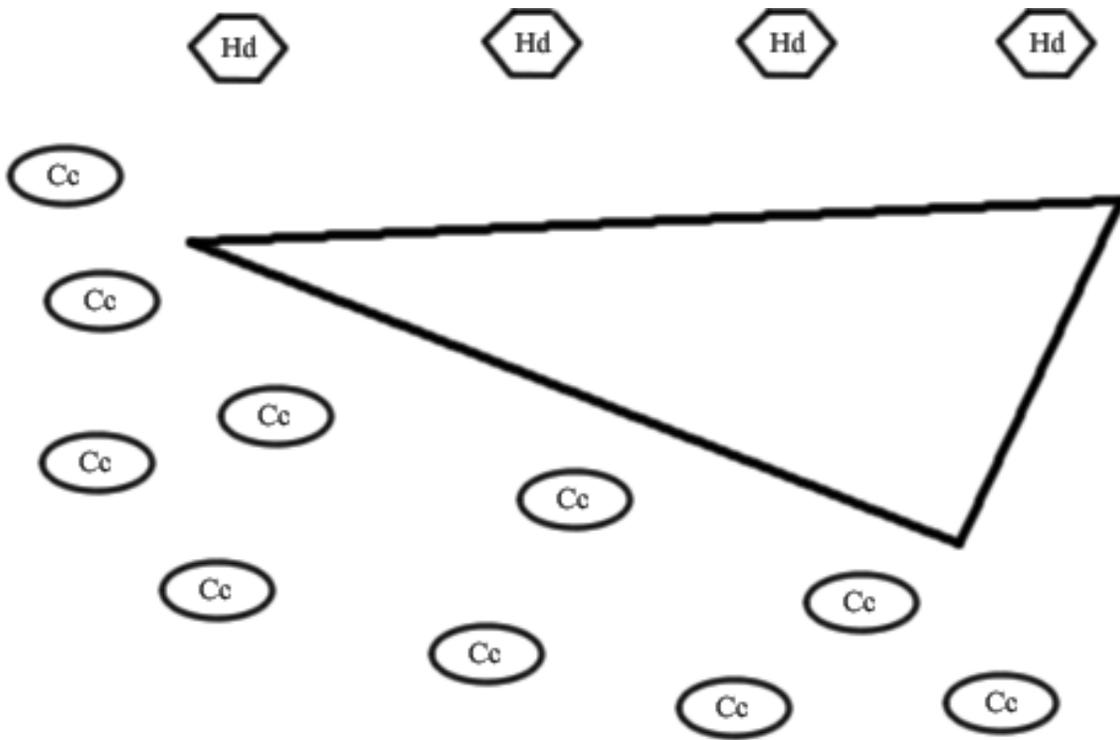
Polygon 2				
Species	#	Spacing	Form	Icon
Garry Oak <i>Quercus garryana</i>	4	4(m)	mature	Qg
Snowberry <i>Symphoricarpos albus</i>	2	3(m)	1 gal.	Sa

Polygon 3



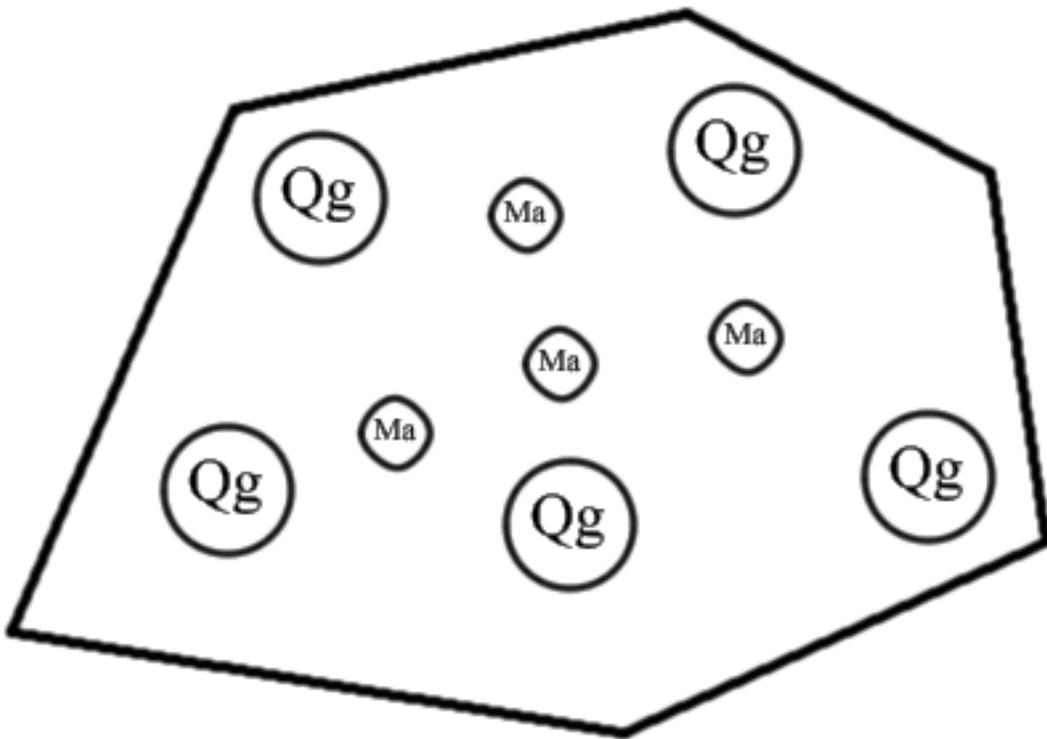
Polygon 3				
Species	#	Spacing	Form	Icon
Snowberry <i>Symphoricarpos albus</i>	3	3(m)	1 gal.	Sa
Serviceberry <i>Amelanchier alnifolia</i>	4	2(m)	1 gal.	Aa
Indian Plum <i>Oemleria cerasiformis</i>	5	2(m)	1 gal.	Oc

Polygon 4



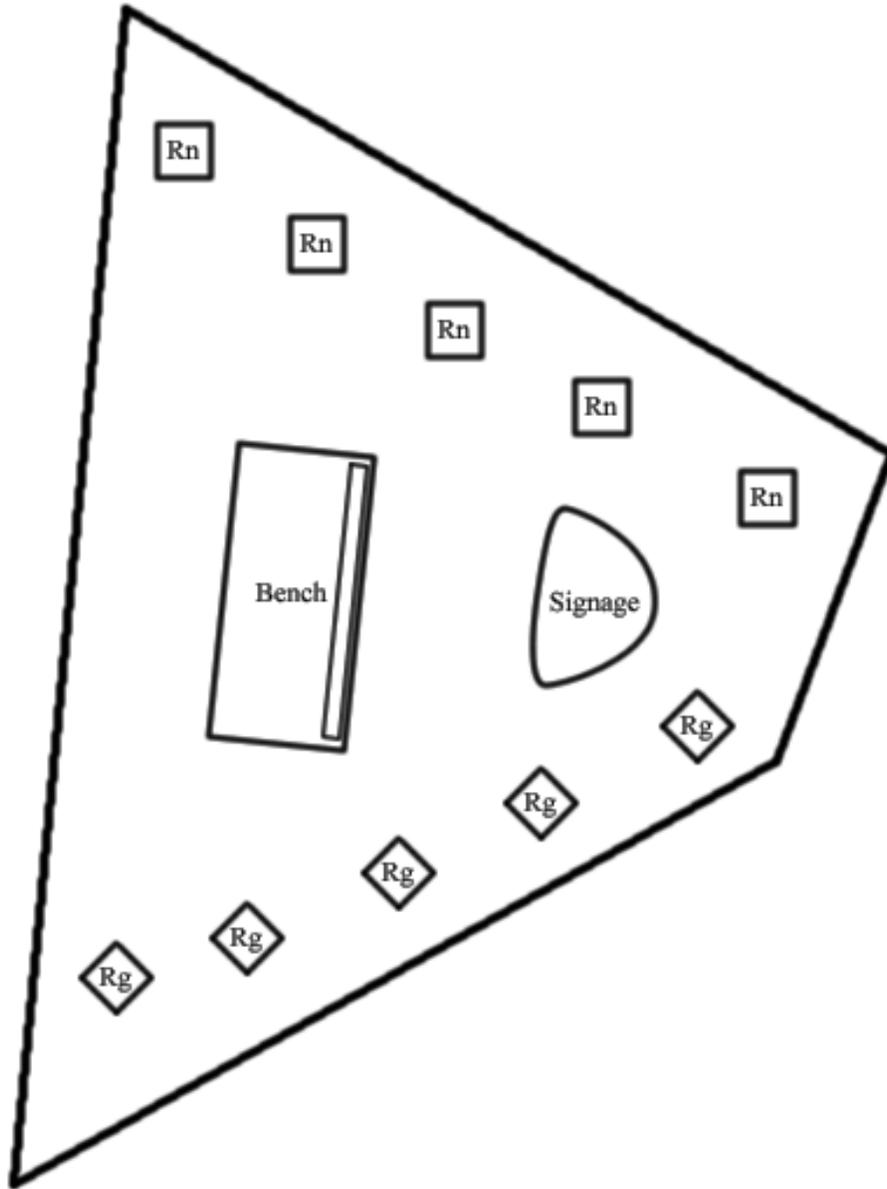
Polygon 4				
Species	#	Spacing	Form	Icon
Ocean Spray <i>Holodiscus discolor</i>	4	2(m)	1 gal.	Hd
Beaked Hazelnut <i>Corylus cornuta</i>	10	2(m)	1 gal.	Cc

Polygon 5



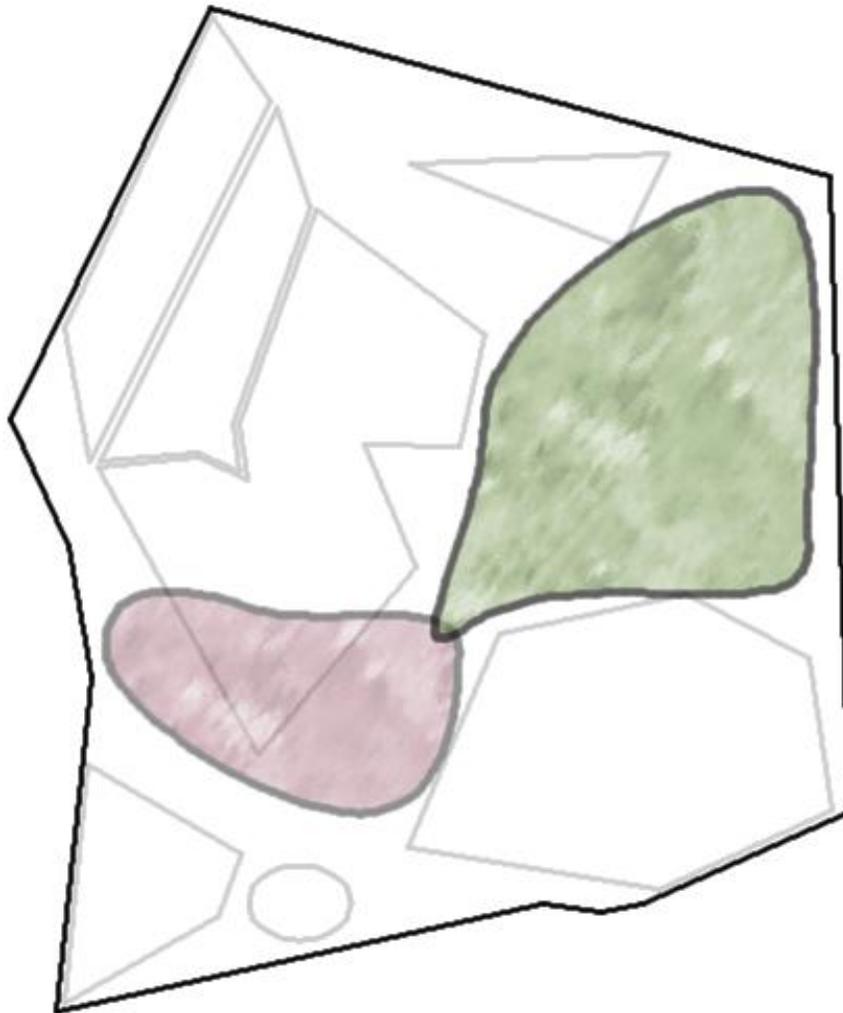
Polygon 5				
Species	#	Spacing	Form	Icon
Garry Oak <i>Quercus garryana</i>	5	7(m)	mature	Qg
Tall Oregon Grape <i>Mahonia aquifolium</i>	4	1(m)	1 gal.	Ma

Polygon 6



Polygon 6				
Species	#	Spacing	Form	Icon
Nootka Roses <i>Rosa nutkana</i>	5	.5-1(m)	1 gal.	Rn
Baldhip Roses <i>Rosa gymnocarpa</i>	5	.5-1(m)	1 gal.	Rg

Northeast and Southwest Grass Areas



Northeast and Southwest Grass Areas				
Species	#	Spacing	Form	Icon
Roemer's Fescue <i>Festuca roemeri</i>	50	0.06	plugs	Fro
Red Fescue <i>Festuca rubra</i>	50	0.06	plugs	Fru
California Brome <i>Bromus carinatus</i>	20	0.06	plugs	Bc
Blue Wild Rye <i>Elymus glaucus</i>	20	0.06	plugs	Eg
Henderson's Shootingstar <i>Dodecatheon hendersonii</i>	30	0.06	plugs	Dh
Long Stolon Sedge <i>Carex inops</i>	20	0.06	plugs	Ci
Yarrow <i>Achillea millefolium</i>	2000	n/a	seeds	Am
California Oat Grass <i>Danthonia californica</i>	20	0.06	plugs	Dc
Poverty Oatgrass <i>Danthonia spicata</i>	20	0.06	plugs	Ds
Indian Paint Brush <i>Castilleja spp.</i>	50	0.06	plugs	Cas

Appendix B

Environmental Conditions

Table 1. Environmental conditions in polygons 1 through 4	Polygon 1	Polygon 2	Polygon 3	Polygon 4
Soil Texture	Sandy loam	Sandy loam	Sandy loam	Sandy loam
Soil Moisture	Dry, well drained	Dry, well drained	Dry, well drained	Dry, well drained
Slope	Level	Level	Level, sloping 5% on the south	Level
Light availability	100% light penetration, no upper canopy	100% light penetration, no upper canopy	100% light penetration, no upper canopy	100% light penetration, no upper canopy
Present vegetation:	Scotch broom	Mix planted natives including snowberry, aquafolium, garry oak starts, Bracken fern, Oregon Grape	Scotch broom	Tall Oregon Grape
Human Impacts	Potentially a trail forming on the northern half.	Area formerly planted, several tree shelters are in this area about six inches in height made of PVC.	None	Planted Oregon Grape from previous REN project. Some remain in tree shelters.
Other considerations	This area has dense, young (2-5 years old) scotch broom. We estimate that seeds disburse to this area from another patch of scotch broom to the North West.	Prior restoration in this area lead to various single plant species.	South western quarter slopes downward	Oregon grape is dispersed from previous planting. Will remain.

Table 2. Environmental conditions in polygons 5 through 7, Area along trails.	Polygon 5	Polygon 6	Polygon 7	Area Along Trails
Soil Texture	Sandy loam	Sandy loam	Sandy loam	Compacted sandy loam
Soil Moisture	Dry, well drained	Dry, well drained	Dry, well drained	
Slope	5% slope	3% slope	Level	Gradually slopes between 0% and 6%
Light availability	100% light penetration, no upper canopy	100% light penetration, no upper canopy	100% light penetration, no upper canopy	100% light penetration, no upper canopy
Present vegetation:	Bracken fern, trailing blackberry	Scotch Broom	Bracken fern, trailing blackberry	Scotch Broom
Human Impacts	Litter on s. western area from trail runners, some trampling.	Litter, surrounded by trails on all sides.	Trailing blackberry and Scotch broom is growing on top of old scotch broom plants, piled up from previous restoration projects.	Trails are heavily used by runners, walkers, as well as animals. High distribution of Scotch broom seeds.
Other considerations	None	Surrounding trails will encourage the re-invasion of scotch broom, as well as adjacent scotch broom on the southern area of polygon.	No planting is going to take place here because of the unique structure present, and the aesthetic it adds to our site.	None



To: Mayor and City Councilmembers

From: Matt Kaser, Assistant City Attorney

Through: John J. Caulfield, City Manager *John J. Caulfield*

Date: May 27, 2014

Subject: Proposed Amendment to Hearing Examiner Provisions of the Lakewood Municipal Code

As allowed by state law, the City of Lakewood utilizes a Hearing Examiner to adjudicate a wide range of quasi-judicial matters, which might otherwise require the City Council to adjudicate.

Provisions relating to the Hearing Examiner's authority to act are found, generally, in one of two locations. The first location is within the provisions of chapter 1.36 Lakewood Municipal Code (LMC). The second location, will be to the specific chapter relating to the issue before the Hearing Examiner.

Over time, as the Code has been amended and more matters referred to the Hearing Examiner, these amendments have been made without any sense of internal consistency within the Code. Thus, while one chapter may have provisions for the contents of a notice of appeal to trigger the Hearing Examiner's authority, and specific provisions relative to the timing of that notice, a related provision may contain different requirements.

Purpose of Proposed Amendment

Staff recommends an amendment to the Lakewood Municipal Code which ensures consistency of the Hearing Examiner's Authority in three regards:

1. Ensure Basic Rules for Hearing Examiner Procedures. Currently, chapter 1.36 LMC lacks a comprehensive set of procedures for the Hearing Examiner. The Code's current silence on (1) how to file a notice of appeal; (2) the contents of the notice of appeal; (3) the authority of the Hearing Examiner; and (4) when the Hearing Examiner's decision becomes final would now be explicitly set forth in the Code.

2. Redirect Appeal Procedures to Chapter 1.36 LMC. Instead of creating chapter-by-chapter appeal processes which may be inconstant with other related appeal processes, multiple references throughout the Code which requires Hearing Examiner involvement would now simply "point" to LMC 1.36.

3. Repeal Obsolete, Duplicative and Inconsistent Code Language. Where specific provisions are necessary due to the topic area or state law, those provisions, however, will remain.

ORDINANCE NO.

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Sections 01.36.021, 01.36.110, 01.36.280, 01.36.290, 03.38.120, 05.2.190, 05.16.080, 05.20.110, 05.35.150, 05.35.160, 05.37.140, 05.37.150, 06.4.091, 14.134.430, 17.22.090, 18A.2.740, 18A.2.870, 18A.40.445; creating Sections 01.36.092, 01.36.115, 01.36.123, and 01.36.265; and repealing Sections 01.36.091, 05.35.220, 05.37.210, 05.37.220, 14.134.230, 14.134.450, 18A.10.345, 18A.10.440, 18A.10.560, 18A.2.755 of the Lakewood Municipal Code relative to the Hearing Examiner Processes.

WHEREAS, as allowed by state law, the City of Lakewood maintains a Hearing Examiner system to adjudicate quasi-judicial administrative matters which might otherwise come before the City Council; and

WHEREAS, a number of chapters of the Lakewood Municipal Code refer matters to the Hearing Examiner for adjudication, however, each of these chapters contain different procedural requirements for initiating proceedings before the Hearing Examiner, conduct of the proceedings before the Hearing Examiner and procedures for when the Hearing Examiner's decision becomes final; and

WHEREAS, a centralized chapter of the Lakewood Municipal Code is desirable to ensure consistent protocols for those matters pending before the Hearing Examiner.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1: Section 01.36.021 LMC entitled "Areas of Jurisdiction," is amended to read as follows:

The Examiner shall receive and examine relevant information, conduct public hearings, maintain a record thereof, and enter findings of fact, conclusions of law, and recommendations to the City Council or other order, as appropriate, ~~in the formation of Local Improvement Districts and in the approval of Local Improvement District assessments.~~

Section 2: Section 01.36.091 LMC entitled "Appeal of Recommendations of the Hearings Examiner" is repealed.

~~Appeal of those matters in which the Hearing Examiner enters a recommendation to the City Council as set forth in LMC 1.36.021 shall be made to the City Council within 14 calendar days of the entering of the Hearing Examiner's recommendation and in the manner set forth at Chapter 18.A of the Lakewood Municipal Code. Only those persons or entities having standing under the ordinance governing the application, or as otherwise provided by law, may appeal the Hearing Examiner's recommendation to the City Council. (Ord. 298 § 2, 2003.)~~

Section 3: Section 01.36.092 LMC entitled “Hearing Examiner’s Recommendation,” is created to read as follows:

A. For actions requiring the hearing examiner’s recommendation, the examiner’s recommendation shall be forwarded to the city council within 10 calendar days of the examiner’s decision. The recommendation shall be placed on the next agenda of the city council. The city council upon its review of the record may:

1. Affirm the recommendation;
2. Remand the recommendation to the hearing examiner;
3. Schedule a closed record public hearing before the city council.

B. Any aggrieved person may request the city council to conduct its own closed record hearing. Upon its own closed record hearing the city council may affirm, reject, modify the hearing examiner’s recommendation or take whatever action it deems appropriate pursuant to law.

Section 4: Section 01.36.110 LMC entitled “Decision of the Examiner which are Final,” is amended to read as follows:

~~For the following cases, the Examiner shall receive and examine available information, conduct public hearings, prepare records and reports thereof, and make decisions, which shall be final and conclusive:~~

- ~~A. Applications for Process III permits, except as identified in LMC 18A.02.502 and LMC 1.36.090;~~
- ~~B. Appeals from Process I and II administrative decisions, except as identified in LMC 18A.02.502 and LMC 1.36.090;~~
- ~~C. Other applications or appeals which the Council may prescribe by ordinance.~~
- ~~D. Business license decisions and appeals;~~
- ~~E. Appeals pursuant to the State Environmental Policy Act;~~
- ~~F. Other applications or appeals which the Council may refer by ordinance, specifically declaring that the Hearing Examiner’s decision shall be appealable to the Council;~~
- ~~G. Applications for preliminary plats;~~
- ~~H. Shoreline development permits.~~

Except as to those matters which are reviewed by the City Council, the Hearing Examiner shall be the final decision making authority of the City of Lakewood for all administrative matters and such other quasi-judicial matters which are subject to this chapter.

Section 5: A new Section 01.36.115 LMC entitled “Initiating Appeals,” is created to read as follows:

A. Review Initiated by Notice. A party seeking review of a decision reviewable by the Hearing Examiner must file a notice of appeal.

B. Time for filing Notice of Appeal. A notice of appeal must be filed with the City Clerk within 10 days after the entry of the decision that the party filing the notice wants reviewed.

C. Filing Fee. The first party to file a notice of appeal must, at the time the notice is filed, pay the filing fee to the City Clerk.

D. Contents of Notice of Appeal. A notice of appeal must (1) be titled a notice of appeal, (2) specify the party or parties seeking the review, (3) designate the decision or part of decision which the party wants reviewed; (4) A brief statement setting forth the legal interest of each of the appellants participating in the appeal; (5) A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant; (6). A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside; (7) The signatures of all parties named as appellants, and their official mailing addresses;

The party filing the notice of appeal should attach to the notice of appeal a copy of the signed decision from which the appeal is made.

Section 6: A new Section 01.36.123 LMC entitled “Prehearing Conference,” is created to read as follows:

The Hearing Examiner, at his/her discretion, or at the request of a party, may conduct a prehearing conference. The purpose of the prehearing conference shall be: (1) to determine the feasibility of settlement of the matter; (2) to obtain agreement as to issues of fact or law and facts to be presented at hearing and the simplification of limitation thereof; (3) to determine the possibility of obtaining admissions of facts and authenticity of documents, which will avoid unnecessary proof at hearing; (4) to determine the admissibility of exhibits; (5) to obtain stipulation as to all or part of the facts in the case; (6) to determine the number of expert and lay witnesses to be called by the parties and their names, when possible; (7) to determine the approximate time necessary for the presentation of the evidence of the respective parties; (8) to establish a hearing schedule; and (9) to obtain all other information which may aid in the prompt disposition of the cases.

The Examiner, following the prehearing conference, shall issue a prehearing order, which shall, unless properly amended, control the further course of proceedings in the matter.

Section 7: A new Section 01.36.265 LMC entitled “Decision on Appeals” is created to read as follows:

1. In considering appeals, the hearing examiner shall do one of the following:

a. Affirm the decision;

b. Reverse the decision;

c. Affirm the decision with modifications; or

d. Remand the decision to the appropriate department director for further consideration. The hearing examiner shall include in the order the issues to be reviewed on remand.

2. Conditions. The hearing examiner may include conditions as part of a decision granting, or granting with modifications an appeal to ensure conformance with this Code, the City's comprehensive plan or any other applicable laws or regulations.

3. Written Decision. Within 10 working days after completion of the public hearing, unless the parties and the hearing examiner have agreed to an extension of time, the hearing examiner should issue a written decision on the appeal which contains the following:

a. The decision of the hearing examiner granting or denying the appeal in whole or in part;

b. Any conditions included as part of the decision on the appeal;

c. Findings of facts upon which the decision, including any conditions, is based and the conclusions of law derived from those facts; and

d. A statement of the right of a person with standing to appeal the decision.

If the Examiner is unable to issue a written decision within 10 working days, the Examiner shall inform the applicant, appellant, and the Community Development Department that additional time will be required and shall provide an estimated date for issuance of a decision on the appeal.

4. Distribution. The hearing examiner or designee shall mail a copy of the written decision to the applicant, the appellant, the applicable department director, and any person requesting the written decision or who submitted substantive comments on the application prior to the decision.

Section 8: Section 01.36.280 LMC entitled "Review of Final Decisions," is amended to read as follows:

~~A. Decisions of the Council shall be final and conclusive unless appealed pursuant to LMC 18A.02.755.~~

~~B. Decisions of the Examiner in cases identified in Section 1.36.110 of this Chapter shall be final and conclusive, unless appealed pursuant to LMC 18A.02.755.~~

~~C. Notwithstanding the foregoing provisions of this section, final decisions of the Council relating to matters governed by the State Shorelines Management Act may be appealed to the State Shorelines Hearing Board as specified in the said Act. (Ord. 264 ? 14, 2001; Ord. 13 ? 28, 1995.)~~

A. The decision of all matters decided hereunder shall be final and conclusive unless, within twenty-one days from the date of the final decision, an applicant or an aggrieved party

makes an application to court of competent jurisdiction or competent administrative agency for review.

B. If a statute provides that an application for judicial review must be filed within a time period other than set forth in this Code, the application for judicial review, and the finality of the decision, shall be governed by the time period established by the statute.

C. Unless expressly directed by the Hearing Examiner, a motion for reconsideration shall not toll or otherwise affect the finality and conclusiveness of a decision of the Hearing Examiner.

Section 9: Section 01.36.290 LMC entitled “Precedence Over Conflicting Provisions,” is retitled to read “Applicability of Chapter,” and amended to read as follows:

~~A. If the provisions of this Chapter are in conflict with the provisions of Title 18A of the Lakewood Municipal Code, the provisions of Title 18A shall control.~~

~~B. If the provisions of this Chapter are in conflict with the provisions of any sections of the Lakewood Municipal Code, other than Title 18A, regarding decisions of the Hearing Examiner or review or appeals therefrom, the provisions of this Chapter shall control.~~

A. To What Proceedings Applicable. Except where inconsistent with those rules, statutes or provisions of the Code, this Chapter shall govern all matters before the Hearing Examiner. Where such rules, statutes or provisions of the Code relates to proceedings provide for procedure before the Hearing Examiner, the procedure shall be governed by those rules, statutes or provisions of the Code.

B. Conflicting Statutes and Rules. Subject to the provisions of paragraph (a) of this section, this chapter supersedes all procedural Codes and other rules that may be in conflict.

Section 10: Section 03.38.120 LMC entitled “Appeals,” is amended to read as follows:

Any decision of the City Manager or designee made pursuant to this Chapter may be appealed to the City of Lakewood Hearing Examiner upon payment of the fees and pursuant to ~~the procedures set forth in the City Code~~chapter 1.36 LMC.

Section 11: Section 05.2.190 LMC entitled “Appeals From Denial or From Notice and Order,” is amended to read as follows:

A. The City Hearing Examiner is designated to hear appeals by applicants or licensees aggrieved by actions of the City pertaining to any denial, or revocation of business licenses, pursuant to chapter 1.36 LMC.

B. Any applicant or licensee may, within ten (10) days after receipt of a notice of denial of application or of a notice and order, file with the City Clerk a written notice of appeal. ~~The notice of appeal shall contain the following: (1) be conspicuously identified as a notice of appeal; (2) set forth a brief statement setting forth the legal interest of the appellants; (3) a brief statement setting forth the legal interest of the appellants; (4) the specific order or action protested, together~~

~~with any material facts claimed to support the contentions of the appellants; (5) the relief sought, and reasons why it is claimed, and why the protested action or notice and order should be reversed, modified or otherwise set aside; (6) the signatures of all persons named as appellants, and their official mailing addresses; (7) The verification (by declaration under penalty of perjury) of each appellant as to the truth of the matters stated in the appeal.~~

C. As soon as practicable after receiving the written appeal, the City Clerk shall fix a date, time, and place for the hearing of the appeal by the Hearing Examiner. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing by the City Clerk, by mailing a copy addressed to each appellant at his or her address shown on the notice of appeal.

D. At the hearing, the appellant or appellants shall be entitled to appear in person, and to be represented by counsel and to offer such evidence as may be pertinent and material to the denial or to the notice and order. The technical rules of evidence need not apply.

E. Only those matters or issues specifically raised by the appellant or appellants in the written notice of appeal shall be considered in the hearing of the appeal.

F. Within ten (10) business days following conclusion of the hearing, the Hearing Examiner shall make written findings of fact and conclusions of law, supported by the record, and a decision which may affirm, modify, or overrule the denial or order of the City, and may further impose terms and conditions to the issuance or continuation of a business license.

G. Failure of any applicant or licensee to file an appeal in accordance with the provisions of this Chapter shall constitute a waiver of the right to an administrative hearing and adjudication of the denial or of the notice and order.

~~H. Excepting those instances where, by law, a different time period applies, a decision by the Hearing Examiner under this Chapter shall be final and conclusive unless within twenty one (21) days from the date of the decision, a party makes application to a court of competent jurisdiction for appropriate relief.~~

Section 12: Section 05.16.080 LMC entitled “Grounds for Suspension or Revocation, Notice and Order and Appeal,” is amended to read as follows:

A. General Business Licensing Provisions Referenced. The provisions of ~~Sections 5.02.170, 5.02.180 and 5.02.190 of the City Code~~chapter 5.02 LMC shall apply to licensing issues under this Chapter to the extent that ~~the those provisions of Sections 5.02.170, 5.02.180 and 5.02.190 of the City Code~~are not in specific conflict with the provisions hereof, ~~and said provisions are thus incorporated herein by this reference as if fully set forth.~~

~~B. Appeal to Superior Court. Notwithstanding the provisions of Section 1.36.090 of the City Code, any appeals or requests for review by persons aggrieved by the decision of the Hearing Examiner related to a license or a provision under this Chapter shall be made to the Superior Court, whether as an appeal or a writ of certiorari, prohibition or mandamus.~~

Section 13: Section 05.20.110 LMC entitled “Appeal and Hearing,” is amended to read as follows:

A. Any person aggrieved by the action of the City Manager or designee in refusing to issue or renew any license under this Chapter or in temporarily or permanently suspending or revoking any license issued under this Chapter shall have the right to appeal such action to the City’s Hearing Examiner. ~~By filing a notice of appeal with the City Manager or designee within ten working days after receiving notice of the action from which appeal is taken.~~

~~B. The Hearing Examiner, upon receipt of a timely notice of appeal, shall set a date for a de novo hearing of such appeal. The Examiner shall hear testimony, take evidence, and may hear oral argument and receive written briefs. Except in cases of summary suspension of licenses because of the threat of immediate serious injury or damage to person or property pursuant to Section 5.20.100 B. of this Chapter, the filing of such appeal shall stay the action of the City Manager or designee, pending the decision of the Examiner. In cases of summary suspension of licenses because of the threat of immediate serious injury or damage to persons or property pursuant to Section 5.20.100 B., the Examiner shall render a decision within ten days of the conclusion of the hearing.~~

~~C.~~ C.B. The decision of the Hearing Examiner on an appeal from a decision of the City Manager or designee shall be based upon a preponderance of the evidence. The burden of proof shall be on the City Manager or designee.

~~D. The decision of the Hearing Examiner shall be final unless appealed to the Superior Court within twenty days of the date the decision is entered by the filing of an appropriate action and serving of all necessary parties. (Ord. 53 ? 3 (part), 1996.)~~

Section 14: Section 05.35.150 LMC entitled “Authority of Hearing Examiner,” is amended to read as follows:

The city hearing examiner is designated to hear appeals by parties aggrieved by actions of the City Manager or designee in suspending, revoking or denying a license or assessing a civil penalty pursuant to this ~~article~~chapter. ~~The hearing examiner may adopt reasonable rules or regulations for conducting its business. Copies of such rules and regulations shall be delivered to the City Manager or designee who shall make them freely accessible to the public. All decisions and findings of the hearing examiner shall be rendered to the appellant in writing with a copy to the City Manager or designee.~~

Section 15: Section 05.35.160 LMC entitled “Notice of Appeal,” is amended to read as follows:

Any person falling under the provisions of this ~~article~~chapter may appeal from any notice of suspension, denial or revocation or civil penalty assessment ~~by filing with the City Manager or designee within ten days from the date the notice is delivered or deemed received, a written appeal containing~~to the City’s Hearing Examiner in accordance with chapter 1.36 LMC.:

- ~~A. A heading in the words “Before the Hearing Examiner for the City of Lakewood”;~~
- ~~B. A caption reading “Appeal of _____” giving the names of all appellants participating in the appeal;~~
- ~~C. A brief statement setting forth the legal interest of each of the appellants participating in the appeal;~~
- ~~D. A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;~~
- ~~E. A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside;~~
- ~~F. The signatures of all parties named as appellants, and their official mailing addresses; and~~
- ~~G. The verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.~~

Section 16: Section 5.35.220 LMC entitled “Action for Hearing” is repealed.

~~Upon completion of the hearing, the examiner shall:~~

- ~~A. Accept the City Manager or designee’s recommendation as presented;~~
- ~~B. Determine no action is warranted; or~~
- ~~C. Modify the recommendation action.~~

~~(Ord. 80 § 1 (part), 1996.)~~

Section 17: Section 05.37.140 LMC entitled “Authority of Hearing Examiner,” is amended to read as follows:

The city hearing examiner is designated to hear appeals by parties aggrieved by actions of the City Manager or designee in suspending, revoking or denying a license or assessing a civil penalty pursuant to this ~~article~~chapter. ~~The hearing examiner may adopt reasonable rules or regulations for conducting its business. Copies of such rules and regulations shall be delivered to the City Manager or designee who shall make them freely accessible to the public. All decisions and findings of the hearing examiner shall be rendered to the appellant in writing with a copy to the City Manager or designee.~~

Section 18: Section 05.37.150 LMC entitled “Notice of Appeal,” is amended to read as follows:

Any person falling under the provisions of this ~~article~~chapter may appeal from any notice of suspension, denial or revocation or civil penalty assessment ~~by filing with the City Manager or~~

~~designee within ten days from the date the notice is delivered or deemed received, a written appeal containing: to the City's Hearing Examiner in accordance with chapter 1.36 LMC.~~

- ~~A. A heading in the words "Before the Hearing Examiner for the City of Lakewood";~~
- ~~B. A caption reading "Appeal of _____" giving the names of all appellants participating in the appeal;~~
- ~~C. A brief statement setting forth the legal interest of each of the appellants participating in the appeal;~~
- ~~D. A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;~~
- ~~E. A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside;~~
- ~~F. The signatures of all parties named as appellants, and their official mailing addresses; and~~
- ~~G. The verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.~~

Section 19: Section 5.37.210 LMC entitled "Action for Hearing" is repealed.

~~Upon completion of the hearing, the examiner shall:~~

- ~~A. Accept the City Manager or designee's recommendation as presented;~~
- ~~B. Determine no action is warranted; or~~
- ~~C. Modify the recommendation action.~~

~~(Ord. 80 § 2 (part), 1996.)~~

Section 20: Section 5.37.220 LMC entitled "Appeal from Hearing Examiner" is repealed.

~~An appeal from a decision of the hearing examiner shall be to Pierce County Superior Court and shall be served and filed with the City Manager or designee within 15 days of the decision of the hearing examiner. In the event the applicant or license holder does not follow the procedures within the time periods set forth in this division, the action of the hearing examiner shall be final. (Ord. 300 § 17, 2003; Ord. 80 § 2 (part), 1996.)~~

Section 21: Section 06.4.091 LMC entitled "Noise Nuisance -- Notice," is amended to read as follows:

- A. If ~~the a~~ noise nuisance complaint ~~(per Section 6.04.090 of the City Code)~~ arising under this chapter is not corrected within a reasonable time period, an animal control officer may declare there to be an animal noise nuisance, and the animal control officer shall cause the animal owner

or other person responsible for the animal to be served with a written Notice of Animal Noise Nuisance. The Notice of Animal Noise Nuisance shall include the following:

1. The description of the animal(s) involved.
2. The name(s) and address(es) of the owner(s) or other person(s) responsible for the animal(s).
3. The facts and circumstances upon which the declaration of animal noise nuisance is based.
4. The availability of a hearing, including the process set forth hereinbelow.
5. Any restrictions on the animal(s).

B. If the owner(s) or other person(s) responsible for the animal(s) wish to object to the declaration of animal noise nuisance, the owner(s) or other person(s) responsible for the animal(s) ~~shall comply with the following:~~ may appeal to the Hearing Examiner.

- ~~1. The owner(s) or other person(s) responsible for the animal(s) shall, within fourteen (14) calendar days after receipt of the written Notice of Animal Noise Nuisance, request a hearing before the Hearings Examiner and pay a hearing fee of \$125.00.~~
- ~~2. At such hearing, the other person(s) responsible for the animal(s) shall have the opportunity to present evidence, facts and argument to refute the evidence, facts and argument submitted in support of the declaration of animal noise nuisance.~~

~~C. If the Hearings Examiner determines that there are insufficient facts to support the declaration of animal noise nuisance, the declaration of animal noise nuisance shall be rescinded and any restrictions shall be removed.~~

~~D. If the Hearings Examiner determines that there are sufficient facts to support the declaration of animal noise nuisance, this decision is considered to be a final decision of the City of Lakewood for purpose of any further appeal.~~

~~E.C.~~ During the pendency of any such hearings or appeals, any restrictions included in the Notice of Animal Noise Nuisance, including confinement, shall remain in effect.

Section 22: Section 14.134.230 LMC entitled "Reconsideration" is repealed.

~~Any aggrieved person feeling that the decision of the Examiner is based on errors of procedure or errors or misinterpretation of fact may make a written request for review by the Examiner filed with the Community Development Department within seven (7) working days of the date of the written decision. This request shall set forth the alleged errors or misinterpretations, and the Examiner may, after review of the record, take such further action as he deems proper and may render a revised decision. Only one request for reconsideration may be filed by any one person or party even if the Examiner reverses or modifies his original decision or changes the language in the decision originally rendered. (Ord. 57 ? 3 (part), 1996.)~~

Section 23: Section 14.134.430 LMC entitled “Appeals – Time Limit,” is amended to read as follows:

~~Any person aggrieved by a decision under this chapter may Appeals may be taken to the Hearing Examiner by any person aggrieved, or by any officer, department, board, or bureau of the City affected by any decision of an administrative official in the administration or enforcement of this Code. Such appeals shall be filed in writing in duplicate with the Community Development Department within twenty (20) days of the date of the action being appealed in accordance with chapter 1.36 LMC.~~

Section 24: Section 14.134.450 LMC entitled “Scope of Authority on Appeal” is repealed.

~~The Examiner may, in conformity with this Chapter, reverse or affirm, wholly or in part or may modify the order, requirement, decision, or determination appealed from and may take such order, requirement, decision, or determination as should be made and, to that end, shall have all powers of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned, and in making its determination the Examiner may hear any pertinent facts bearing on the case. (Ord. 57 ? 3 (part), 1996.)~~

Section 25: Section 17.22.090 LMC entitled “Appeal Procedure,” is amended to read as follows:

~~Any aggrieved party with the City’s Within fourteen (14) days following the City Community Development Director’s decision on a short plat, any person directly affected may appeal such decision to the Hearing Examiner in accordance with chapter 1.36 LMC. The appeal shall be accomplished by the filing of a written request and paying an appeal fee as set forth in by separate Resolution of the City Council. Said notice of appeal shall briefly specify the issues of the case. Decisions not appealed are deemed final and conclusive. The appeal procedure is the same as set forth in the City Zoning Code for appeals of an Administrative Decision.~~

~~A request for reconsideration following a decision by the Examiner shall be accomplished by the filing of a written request and paying a reconsideration fee as set by separate Resolution with the Community Development Department. The reconsideration procedure is the same as set forth in section 17.14.050.~~

Section 26: Section 18A.2.740 LMC entitled “Appeals,” is amended to read as follows:

A. Appeals of decisions. This section allows for appeals as provided in the framework in LMC 18A.02.500, Decision Making Processes. All appeals are heard by the Hearing Examiner.

B. Consolidated appeals.

1. All appeals of project permit application decisions, other than an appeal of a Determination of Significance (DS), shall be considered together in a consolidated appeal.

2. Appeals of environmental determinations under LMC 14.02. Environmental Rules and Procedures, including administrative appeals of a threshold determination shall proceed as provided in that chapter.

C. Filing of an Appeal.

1. Any person aggrieved by a Process I or II administrative action, as described in LMC 18A.02.530, may file an appeal with the City Clerk within 14 days after the date of the action. Pursuant to WAC 197-11-680, if the appeal is of both a project decision and a SEPA Determination of Non-Significance (DNS) for which a public comment period is required by state or local law, and where the DNS is issued at the same time as the project decision, said decisions may be appealed within twenty-one (21) calendar days after the notice of decision/threshold determination has been issued.

2. All appeals shall be filed in writing with the city clerk and shall ~~identify, with specificity:~~

~~a. Appellant's name, address and phone number.~~

~~b. The specific action being appealed and the date of the action.~~

~~c. The appellant's statement of grounds for appeal.~~

~~d. The facts upon which the appeal is based.~~

~~e. The reasons why the appealed action should be reversed or modified.~~

~~f. The relief being sought, including the specific nature, extent and manner of any modification being sought.~~

~~g. A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.~~

~~conform to the requirements for the filing of a notice of appeal under chapter 1.36 LMC~~

~~3. The appeal shall be accompanied by the appropriate fee as established by city resolution. The appeal fee must be paid upon filing of the notice of appeal. No appeal will be processed without receipt of the appropriate fee before expiration of the period for filing the appeal.~~

34. Following receipt of an appeal and payment of the appropriate fee, an appeal hearing shall be set by the hearing examiner. Notice of filing of the appeal and the date, time and location of the scheduled open record appeal hearing shall be mailed to the applicant, appellant, and any persons that have submitted substantive comments on the proposal. The notice shall include a copy of the written appeal. In addition, upon a motion by the appellant or the City at least thirty (30) days prior to the hearing date, the hearing examiner may order that notice of the open record hearing be publicly advertised or announced in any appropriate manner within the hearing examiner's

discretion. The form of this public notice may be different from the form of the notice provided to the parties of record and need not include a copy of the appeal.

~~5. At the hearing examiner's initiative, or at the request of any party to the appeal or the City, the hearing examiner may hold a conference prior to the hearing in order to entertain and act on motions, clarify issues, establish procedures, or consider other relevant matters.~~

D. Effect. The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is adjudicated by the hearing examiner, or is withdrawn.

E. Appeal Hearing. The appeal shall be heard at an open record hearing. Participation in an appeal hearing is limited to the applicant, the applicant's representative, the appellant, the appellant's representative, appropriate city staff, and any witnesses called by each.

~~1. All written comments and related documents received prior to the appeal hearing shall be transmitted to the hearing examiner no later than the hearing date. The appeal staff report shall be provided to the hearing examiner and parties to the appeal a minimum of five (5) days prior to the hearing date.~~

~~2. The hearing examiner(s) may propose rules of procedure or evidence applicable to appeal hearings in general. Such proposed rules shall be submitted to the City Council for consideration, and, if approved, may be adopted by Resolution. Rules enacted in this manner may be amended, changed or deleted by Resolution of the City Council. Any rules of procedure for appeal hearings adopted by the hearing examiner and approved by the City Council shall be kept on file with the Office of the City Clerk and the Community Development Department, and shall be provided to any person filing an appeal.~~

~~3. Issues Limitation. Appeal hearings shall be limited to the issues specified in the written appeal.~~

~~4. Continuation of Hearing. A hearing may be continued to a date certain without additional notice.~~

~~F. Decision of the Hearing Examiner.~~

~~1. Actions. In considering appeals, the hearing examiner shall do one of the following:~~

~~a. Affirm the decision;~~

~~b. Reverse the decision;~~

~~c. Affirm the decision with modifications; or~~

~~d. Remand the decision to the appropriate department director for further consideration. The hearing examiner shall include in the order the issues to be reviewed on remand.~~

~~2F. Standard of Review. The administrative decision under appeal shall be given substantial weight by the hearing examiner. On any such appeal, the standard of review shall be whether the administrative decision was clearly erroneous based on a review of all evidence, or the administrative decision was arbitrary or capricious. Failure of a party to request review by the hearing examiner of an administrative decision shall be a bar to any further judicial review.~~

~~3. Conditions. The hearing examiner may include conditions as part of a decision granting, or granting with modifications an appeal to ensure conformance with this code, the City's comprehensive plan and other applicable laws or regulations.~~

~~4. Written Decision. Within 10 working days after completion of the public hearing, unless the appellant and the hearing examiner have agreed to an extension of time, the hearing examiner should issue a written decision on the appeal which contains the following:~~

~~a. The decision of the hearing examiner granting or denying the appeal in whole or in part;~~

~~b. Any conditions included as part of the decision on the appeal;~~

~~c. Findings of facts upon which the decision, including any conditions, is based and the conclusions of law derived from those facts; and~~

~~d. A statement of the right of a person with standing to appeal the decision of the hearing examiner in accordance with Chapter 36.70C RCW.~~

~~If the Examiner is unable to issue a written decision within 10 working days, the Examiner shall inform the applicant, appellant, and the Community Development Department that additional time will be required and shall provide an estimated date for issuance of a decision on the appeal.~~

~~5. Distribution. The hearing examiner or designee shall mail a copy of the written decision to the applicant, the appellant, the applicable department director, and any person requesting the written decision or who submitted substantive comments on the application prior to the decision.~~

~~6. Appeal of the Decision of the Hearing Examiner. The decision of the hearing examiner shall be final unless, within 21 days after issuance of a decision, a person with standing appeals the decision in accordance with Chapter 36.70C RCW.~~

Section 27: Section 18A.2.755 LMC entitled "Judicial Appeals" is repealed.

~~A. Appeal. The City's final decision or appeal decision on a Process I, II, III, IV, or V application may be appealed by a party of record with standing to file a land use petition in Pierce County Superior Court.~~

~~B. Petition period. A land use petition must be filed within twenty-one (21) calendar days of issuance of the notice of decision or appeal decision.~~

~~C. Filing and content of a land use petition. A land use petition shall be filed according to the procedural standards outlined in Chapter 36.70C RCW, Judicial Review of Land Use Decisions, also known as the “Land Use Petition Act.”~~

~~(Ord. 264 § 1 (part), 2001.)~~

Section 28: A new Section 18A.2.870 LMC entitled “Review of Administrative Decisions,” is created to read as follows:

~~The Community Development Director’s decision on an administrative decision under this chapter may be appealed to the Hearing Examiner, pursuant to chapter 1.36 LMC.~~

Section 29: Section 18A.10.345 LMC entitled “Appeals – Administrative Variances” is repealed.

~~The Community Development Director’s decision on an administrative variance application may be appealed to the Hearing Examiner, pursuant to LMC 18A.02.740. (Ord. 264 § 1 (part), 2001.)~~

Section 30: Section 18A.10.440 LMC entitled “Appeals – Design Review” is repealed.

~~The decision of the Community Development Director under the administrative design review process is final unless an appeal is made in accordance with the requirements of LMC 18A.02.740. (Ord. 264 § 1 (part), 2001.)~~

Section 31: Section 18A.10.560 LMC entitled “Appeals – Temporary Use Permits” is repealed.

~~The decision of the Community Development Director is final unless an appeal is made in accordance with the requirements of LMC 18A.02.740. (Ord. 264 § 1 (part), 2001.)~~

Section 32: Section 18A.40.455 LMC entitled “Notice and Order - Sexually Oriented Businesses,” is amended to read as follows:

A. Any SOB that becomes nonconforming upon the effective date of this Ordinance shall be given written notice of such nonconforming status by notice and order issued by the City Manager or designee pursuant to LMC 18A.40.435 and this section.

B. Whenever a completed application for a new SOB license or for a permit related to a SOB is denied, conditioned or modified, written notice shall be given to the applicant by notice and order issued by the City Manager or designee pursuant to this section.

C. A notice and order, and any amended or supplemental notice and order, shall be served upon the owner of the SOB either personally, by posting upon the property and personal service upon the manager or person responsible for the business during business hours, or by certified

mail, postage prepaid, return receipt requested and addressed to the business owner at the address which appears on the most current license or permit application on file with the City.

D. Notice and orders issued pursuant to this ~~Ordinance~~ section shall contain the following information:

1. The street address, when available, and a legal description sufficient for identification of the premises upon which the nonconforming business is located.

2. A statement clearly informing the applicant that an administrative determination has been made in regard to the SOB.

3. A description of or specific statement as to the reason(s) justifying the administrative determination.

4. A statement advising the SOB owner that an appeal may be made from the notice and order or from any action of the City Manager or designee to the City's Hearing Examiner. Appeals ~~of notice and orders concerning licensing of SOBs~~ shall be governed by the provisions of ~~LMC sections 5.02.190 and 5.16.080~~ chapter 1.36 LMC. ~~Appeals of notice and orders related to zoning determinations, determinations of nonconformity, applications for permits, and land use regulations shall be governed by the regulations stated in LMC 18A.02.500 through 18A.02.575, LMC 18A.02.740 and LMC 18A.02.755.~~ Failure to appeal shall constitute a waiver of all rights to an administrative hearing and appeal of the matter.

E. Timely Hearing of Appeals. ~~In addition to the requirements of LMC 5.02.190 concerning appeals,~~ Within forty-five (45) days of the receipt of a properly perfected appeal, the City Clerk shall set an appeal hearing before the Hearing Examiner and send notice of such hearing in writing to the SOB that requested the appeal. The Hearing Examiner hearing must be held within ninety (90) days after the receipt of an appeal under this chapter, unless the party, entity or person seeking appeal waives this requirement in writing. Upon closing of the record in such an appeal, the Hearing Examiner shall have ten (10) days within which to render a written decision upon the appeal. ~~Decisions of the Hearing Examiner regarding the issuance of licenses and permits to SOBs are final and conclusive.~~

~~F. Appeal to Superior Court. Any appeals or requests for review by persons, parties or entities aggrieved by a decision of the Hearing Examiner related to a decision made pursuant to any provision under this title shall be made to the Superior Court, whether pursuant to LMC 1.36.110, 18A.02.502 or 18A.02.755.~~

~~FG. General Business Licensing Provisions Referenced. The provisions of chapter 5.02 LMC LMC 5.02.170, 5.02.180, and 5.02.190 shall apply to issues of licensing, zoning, development regulation, and notice and orders issued under this chapter to the extent that the provisions of LMC 5.02.170, 5.02.180, and 5.02.190~~ chapter 5.02 LMC are not in specific conflict with the provisions set forth in this chapter, ~~and said provisions are thus incorporated herein by reference as if fully set forth herein.~~

Section 33. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

Section 34. Effective Date. This ordinance shall take place thirty (30) days after its publication or publication of a summary of its intent and contents.

ADOPTED by the City Council this ____ day of _____, 2014.

CITY OF LAKEWOOD

Don Anderson, Mayor

Attest:

Alice M. Bush, MMC, City Clerk

Approved as to Form:

Heidi A. Wachter City Attorney