ORDINANCE NO. 434

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING TITLE 19 OF THE UNIVERSITY PLACE MUNICIPAL CODE "ZONING" TO ESTABLISH A ZONING MAP AND PROVIDE TEXT AMENDMENTS DESCRIBING THE ZONES AND OVERLAY ZONES DEPICTED ON THE ZONING MAP, REVISING PROCEDURES FOR AMENDING THE ZONING CODE AND ESTABLISHING PROCEDURES FOR AMENDING THE ZONING MAP.

WHEREAS, the University Place City Council adopted a GMA Comprehensive Plan on July 6, 1998 which became effective July 13, 1998 with amendments on May 1, 2000 and August 4, 2003, and

WHEREAS, the Revised Code of Washington 36.70A.040 requires the City to adopt development regulations which are consistent with and implement the comprehensive plan, and

WHEREAS, the revised code of Washington 36.70A permits a Comprehensive Plan to be amended no more than annually, and

WHEREAS, the Comprehensive Plan Map serving as both the Comprehensive Plan Map and the Zoning Map, limited the ability of the City to respond to changes in the community including economic development, and

WHEREAS, the Planning Commission recommended a Zoning Map be established depicting the City's Zones and Zone Overlays separate from the Comprehensive Plan Map to provide more flexibility to implement the Comprehensive Plan and Economic Development Strategic Action Plan, and

WHEREAS, the Planning Commission held a public hearing on November 17, 2004 to take public testimony on the proposed Zoning Map and Zoning Code amendments, and

WHEREAS, the required State agency 60-day review period on the proposed Zoning Code amendments began on October 4, 2004 and concluded on December 3, 2004 without comment, and

WHEREAS, a Determination of Non-Significance (DNS) and adoption of existing environmental documents was issued on September 24, 2004 with a comment period ending on October 14, 2004, and

WHEREAS, the University Place City Council held a Public Hearing on November 1, 2004 and several study sessions to take public comment and discuss proposed Comprehensive Plan amendments, and

WHEREAS, the City Council has determined that amending the City of University Place Zoning Code by establishing a City of University Place Zoning Map, adding descriptions of Zones and Zone Overlays and amending provisions regarding Zoning Code and Zoning Map amendments, is in the public interest and complies with the Growth Management Act; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. TITLE 19 ZONING Title 19 Zoning of the University Place Municipal Code is hereby amended as set forth in Exhibit "A" attached.

SECTION 2. ZONING MAP ESTABLISHED The City of University Place Zoning Map is hereby established and adopted by reference pursuant to UPMC Section 19.20.050 as shown on Exhibit "B" attached.

SECTION 3. COPY TO BE AVAILABLE One copy of this ordinance shall be available in the office of the City Clerk for use and examination by the public.

SECTION 4. SEVERABILITY If any section, sentence, clause, or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

SECTION 5. PUBLICATION AND EFFECTIVE DATE. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON THE 6TH DAY OF DECEMBER 2004.

Ken Grassi, Mayor

ATTEST:

Sarah Ortiz, Acting City Clerk

APPROVED AS TO FORM:

Janean Polkinghorn, City Attorney

Date of Publication: December 9, 2004 Effective Date: December 14,2004

Chapter 19.90

ZONING CODE AMENDMENTS

Sections:

19.90.010	Purpose Amendments.
19.90.020	Special Use Permit Amendments Docketing of Requests.
19.90.030	Development Regulation and Zoning Map Amendments
19.90.040	Legislative Amendments
19.90.050	Quasi-judicial Amendments
<u> 19.90,0540</u>	Revocation and Expiration.

19.90.010 Purpose Amendments.

A. Purpose. The purpose of this <u>Chapter section</u> is to define types of amendments to special use permits development regulations, and other official controls and to identify procedures for those actions.

19.90.020 Special Use Permit Amendments

- A B. Amendment Standards Special Use Permits. This section is to provide provides the method for amending conditions of approval and final development plans that have received a Special Use permit.
 - 1. Minor Amendment. Minor amendments shall be consistent with the requirements set forth in subsection "c" below, and shall include, but are not be limited to: minor adjustments to site plan and structure layout provided the adjustment is generally consistent with the original approval; minor adjustments to site access, parking area layout, additions of fences, retaining walls, and mechanical equipment; adjustments to building height provided the height is below the maximum allowed in the zone; and adjustments to the landscaping plans such as changes to plant materials.

The following procedures shall be required for all minor amendments.

- a. Requests for minor amendments shall be in writing from the property owner or the owner's authorized agent and shall fully describe the amendments requested and the reasons therefore.
- b. Minor amendment applications may be routed to any city division erand to any agency with jurisdiction at the Director's discretion. This distribution shall be subject to the discretion of the department.
- c. A copy of all applications and any department recommendation for minor amendments shall be routed to the Examiner. The Examiner shall determine if the proposal is consistent with the original decision. Each minor amendment approval is subject to the consensus of the Examiner.
- <u>c_d</u>. Minor amendments <u>shall meet</u> <u>may be approved or modified with conditions for approval by the Director provided</u> all of the following requirements are <u>met</u>:
- i. A change to a condition of approval does not modify the intent of the original condition.
- ii. The perimeter boundaries of the original site shall not be extended by more than 5 percent of the original lot area.
 - iii. The proposal does not increase the overall residential density of a site.

- iv. The proposal does not change or modify housing types.
- v. The proposal does not reduce the designated open space.
- vi. The proposal does not add more than five percent gross square footage of structures to the site.
- vii. The proposal does not increase the overall impervious surface on the site by more than five percent.
- viii. Any conditions or expansions approved through minor amendments that cumulatively exceed the requirements in this section shall be reviewed as a major amendment.
- <u>d. e.</u> Burden of Proof. The applicant has the burden of proving <u>by a preponderance of</u> the <u>evidence</u> that the proposed amendment meets all of the criteria in subsection (B)(1)(dc) of this section.
- <u>e.</u> f. . . Approval. The administrative official <u>Director</u> may approve an application for a minor amendment, approve with additional requirements above those specified in this eode conditions, or require modification of the proposal to comply with specified requirements or local conditions determine that the application shall be processed as a major amendment.
- f. g. Denial. The administrative official Director shall deny an application for amendment if the proposal does not meet or cannot be conditioned to meet subsection (B)(1)(dc) of this section.
 - g. The Director's decision may be appealed as provided in Title 22.
 - 2. Major Amendments.
- a. Any modification exceeding the provisions of subsection (B)(1)(cd) of this section shall be considered a major amendment and shall as a new application and follow the same procedure required for a new application and fee.
- b. Major amendments shall be subject to the most current city codes including density requirements.
- c. Any modification that requires a discretionary permit other than the type granted for the initial application shall require the new permit type.

(Ord. 307 § 2, 2001)

19.90.20 Amendments and Docketing of Requests.

19.90.030 Development Regulation and Zoning Map Amendments

Amendments - Development Régulations and Other Official Controls. This section—Chapter provides the method for docketing, adopting and amending the text and tables of the city's development regulations zoning code and the zoning map. other official controls. Request to change a regulatory zone affecting a parcel of land, or portion of a lot, are processed under procedures for amendments to the comprehensive plan. Amendments to development regulation text and tables are legislative amendments. In addition, changes to the zoning map that are citywide, area-wide, or have area-wide significance are legislative amendments. All other site specific map amendments (or "rezones") are quasi-judicial amendments. Legislative and quasi-judicial amendments shall be processed as provided in this Chapter. Quasi-judicial

map rezones shall be consistent with the land use designations in the city's comprehensive plan;

- B. Rezones vs Reclassifications A rezone shall mean the change of a zone designation on the City's zoning map and is subject to the provions of this chapter. A reclassification is a change of a comprehensive plan land use designation and is subject to the provions contained in UPMC Chapter 16. When a proposal requires both a reclassification and a rezone the following shall apply:
 - 1. A reclassification and a legislative rezone may be conducted concurrently.
 - 2. A reclassification and a quasi-judicial rezone shall be conducted in phases, with the reclassification occurring first in time.
- C. Any interested person, including applicants, citizens, City Council, Planning Commission, Hearing Examiners, city staff, or staff of other agencies may request amendments to the zoning code, or other development regulations or zoning map.
 - C Requested amendments shall be docketed and considered at least on a bi-annual basis, consistent with the provisions of RCW 36.70A. Docketing shall mean the compilation and maintenance of a list of suggested changes to the development regulation in a manner that will ensure suggested changes will be considered by the city and will be available for review by the public.
- <u>D.</u> Application Required. For the purpose of advising and informing an applicant of the procedural requirements and to <u>iensure</u> that an application is in satisfactory form, the department may require a prefiling conference.
 - 1. The department shall provide the application forms and submittal requirements for amendments.
 - 2. No amendment shall be processed until the information necessary to review and decide upon the amendment is deemed complete by the Director Director determines that the information necessary to review and decide upon the amendment is complete.
 - 3. An application fee may be required, adopted by separate resolution.
- E Community and Economic Development Department Report. The department shall prepare a written report on each amendment pending before the Planning Commission. The report shall be transmitted to the Planning Commission and the applicant before the public hearing. Each report shall contain:
 - 1. Any factual finding of the city department proposing the amendment;
 - 2. Any comments from other city departments;

- 3. The environmental assessment or copy of any environmental determination or final environmental impact statement; and
- 4. The planning division's recommendations on the amendment if any are to be made.
- F Public Hearing Required by Planning Commission. The Planning Commission shall give notice—and hold at least—one public hearing prior to—a recommendation for adoption—or amendment of any official—control. Alternatively the Planning Commission may hold a joint public hearing with the City Council.
- G. Adoption by the City Council. An amendment to the development regulation or other official controls shall be adopted by the City Council by ordinance after a report from the Planning Commission. (Ord. 307 § 2, 2001)

19.90.040 Legislative Amendments

- Amendments. Amendments to development regulation text and tables and rezones of area-wide significance are legislative actions and shall be considered by the City Council following review and recommendation by the Planning Commission.
- B. Requests Docket Requested legislative amendments shall be docketed and considered by the Planning Commission and City Council at least on a bi-annual basis, consistent with the provisions of RCW 36.70A. Docketing shall mean the compilation and maintenance of a list of suggested changes to the development regulation in a manner that will ensure suggested changes will be considered by the city and will be available for review by the public.
- C. Staff Report. The Director shall prepare a written report on each legislative amendment pending before the Planning Commission. The report shall be provided to the Planning Commission and any parties of record before the public hearing. Each report shall contain:
 - 1. Any proposed factual findings of the city department proposing the amendment;
 - Any comments from city departments, agencies, districts and other interested parties;
 - 3. The environmental assessment or copy of any environmental determination or final environmental impact statement; and
 - 4. The Department's recommendations on the amendment.
- Public Hearing Required by Planning Commission. The planning commission shall give notice and hold at least one public hearing prior to a recommendation for adoption or amendment of any amendment. Alternatively the planning commission may hold a joint public hearing with the
- E. City Council.
- F. Recommendation by Planning Commission: Each determination recommending a legislative amendment shall be supported by written findings and conclusions showing the following:

- 1. That the proposed amendment is consistent with the goals, objectives and policies of the comprehensive plan;
- 2. That the proposed amendment is in the best interest of the citizens and property owners of the City;
- 3. That the proposed amendment enhances the public health, safety, comfort, conveneience or general welfare;
- For rezone requests, that the proposed amendment to the zoning map is consistent with the scope and purpose of this title and the description and purpose of the zone classification applied for;
- 5. For rezone requests, that there are sufficient changed conditions since the previous zoning became effective to warrant the proposed amendment to the zoning map:
- 6. For rezone requests, that the proposed amendment to the zoning map will not be materially detrimental to uses in the vicinity in which the subject property is located.
- G. Adoption by the City Council. Following receipt of the Planning Commission's recommendation, the City Council may hold additional public hearings at its discretion.
- H. Should the City Council agree to an amendment to the development regulations and/or zoning map, such amendments shall be adopted by ordinance.

19.90.50 Quasi-Judicial Rezones

- A quasi-judicial rezone application shall require a specific development proposal for the subject property with sufficient detail to enable the City to evaluate the applicant's proposal for conformance with the applicable criteria criteria and to adequately condition the rezone request to protect the public interest if appropriate. In addition, the Director may require the applicant to participate in a meeting to inform citizens about the proposal.
- B. An application for a quasi-judicial rezone shall be processed in accordance with UPMC Chapter 22 "Administration of Development Regulations" except that the decision of the hearing examiner shall not be final, but shall be a recommendation to the City Council.
- <u>Public Hearing The hearing examiner shall hold an open record public hearing on each application. Any person may participate in the hearing by submitting written comments or making oral comments at the hearing.</u>
- D. Decision Criteria.

- 1. The hearing examiner shall recommend approval or approval with conditions or modifications if the applicant has demonstrated that the proposal complies with the decision criteria set forth in this section
- 2. The Applicant carries the burden of proof and must demonstrate that the criteria are met by a preponderance of the evidence.
- 3. If the criteria are not met, the hearing examiner shall recommend denial of the application.
- 4. Criteria. All criteria must be met in order for an application to be approved. The applicant must demonstate the following:
 - a. The proposed rezone is in the best interest of the residents of the city; and
 - b. The proposed rezone is appropriate because either:
 - a.1 Conditions in the immediate vicinity of the subject property have so significantly changed since the property was given its present zoning that, under those changed conditions, a rezone is within the public interest; or
 - 2. The rezone will correct a zone classification or zone boundary that was inappropriate when established;
 - c. The proposed rezone is consistent with the comprehensive plan;
 - d. The proposed rezone is consistent with all applicable provisions of Title 19, including any specific design criteria;
 - e. The proposed rezone bears a substantial relation to the public health, safety, and welfare;
 - f. The site plan of the proposed project is designed to minimize all significant adverse impacts on other properties;
 - g. The site plan is designed to minimize impacts upon the public facilities, services and utilities;
 - h. The proposal is not in-consistent with the surrounding area;
 - If applicable, that there is a means of developing, preserving, and maintaining open space;
 - j. That all conditions necessary to lessen any impacts of the proposed use can be monitored and enforced.
- E. Recommendation by the Hearing Examiner. After considering all of the information submitted on the matter, the hearing examiner shall issue a written recommendation to the City Council setting forth the examiner's findings, conclusions and recommendation. The recommendation shall include the following:
 - 1. A statement of facts presented to the hearing examiner that supports his or her recommendation, including facts supporting any conditions and restrictions that are recommended.
 - 2. A statement of the hearing examiner's conclusions based on those facts.

- 3. A statement of the criteria used by the hearing examiner in making the recommendation.
- 4. Any conditons. Restrictions, and modifications that the examiner determines are reasonably necessary to eliminate or minimize any undesirable effects of granting the requested rezone.
- F. Distribution of written recommendation. The Director shall distribute copies of the recommendation of the hearing examiner to the applicant, each person who submitted written or oral testimony at the public hearing, and the City Council. The Director shall include a draft resolution or ordinance that embodies the hearing examiner's recommendation with the copy of the recommendation sent to each City Council member.

G. City Council Action.

- 1. Time for Consideration. The City Council shall consider and take final action on the application at a public meeting within 90 calendar days of the date of issuance of the hearing examiner's recommendation. This time period may be extended upon written agreement of the Director and the applicant. Calculation of this time period shall not include any time necessary for reopening the hearing before the hearing examiner or futher action by the examiner in the event of remand from the City Council.
- 2. Closed Record Hearing. The City Council review and consideration of the rezone application shall conducted as a closed record hearing and shall be limited to the record of the hearing before the hearing examiner, the hearing examiner's written recommendation, and comments received during the closed record hearing. No new evidence or information may be presented at the closed record hearing.
- 3. Argument. Persons entitled to participate in the closed record hearing are limited to parties of record in the open record hearing. Arguments made at the hearing must be limited to the information contained in the record developed by the hearing examiner and must specify the specific findings or conclusions disputed, if any, and the relief requested from the City Council.
- 4. Burden of Proof. The Applicant carries the burden of proof and must demonstrate to the City Council that the decisioncriteria are met by a preponderance of the evidence. If the criteria are not met, the City Council shall deny the application
- 5. City Council decision. The City Council shall review the hearing examiner's recommendation for compliance with the review criteria set forth in this Chapter. After consideration the City Council may remand the application to the hearing examiner to reopen the hearing for additional evidence and supplementary findings and conclusions, or further actions as directed. If not remanded or after

remand, the City Council shall, by ordinance approved by a majority of the total membership, take one of the following actions:

- a. Approve the application;
- b. Approve the application with modifications or conditions:
- c. Deny the application
- 6. Conditions and Restrictions. The City Council shall include in an ordinance granting the rezone any conditions and restrictions it determines are necessary meet the decision criteria or to eliminate or minimize any undesirable effects of granting a rezone. Any conditions, modifications and restrictions that are imposed shall become part of the decision.
- 7. Findings of fact and conclusions. The City Council may adopt by reference some or all of the findings and conclusion of the hearing examiner. The City Council shall include in the ordinance:
 - a. A statement of the facts that support the decision, including the facts that support any new conditions, restrictions, or modifications that are imposed;
 - b. The City may require that the applicant enter into a concomitant agreement with the city as a condition of the rezone. Such agreement may impose development conditions designed to mitigate potential of the rezone and the development.
 - c. The City Council's conclusions based on its finding of facts.
- 8. Effect. The decision of City Council on an application is the final decision of the city.
- H. Minor Modifications. Subsequent to the adoption of the ordinance, the applicant may apply for a minor modification to a site plan approved as part of that ordinance. The Director shall review applications for a minor modification. The Director may approve a minor modification only if the Director finds that:
 - The change will not result in reducing the landscaped area, buffer areas, or the amount of open space on the project by more than 5%.;
 - 2. The change will not result in increasing the residential density
 - 3. The change will not result in increasing gross floor area of the project by more than 5%;
 - 4. The change will not result in any structure, or vehicular circulation or parking area being moved more than 10 feet in any direction and will not reduce any required yard.
 - 5. The change will not result in any increase in height of any structure;
 - 6. The change will not result in a change in the location of any access point to the project; and

- 7. The change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project.
- 8. The change will not modify the intent of any condition.
- I. Major modifications. If the applicant seeks a modification to the approved site plan that does not meet the requirements of a minor modification, the applicant may propose a major modification by submitting an application for a quasi-judicial project-related rezone. The City will process such application in the same manner as an application for a new quasi-judicial project-related rezone.

<u>J.</u> Expiration.

- 1. The applicant must begin construction, or submit to the City a complete building permit application for the development activity, use of land, or other actions approved under this chapter within two years after the final City decision on the matter is issued. Failure to do so shall render the City approval of the applicant's proposal void, and the zoning of the subject property shall revert to its original zoning, provided however, the City Council upon a showing of good cause may, extend the time limits contained herein.
- 2. The applicant must substantially complete construction of the development activity, or use of land, or other actions approved under this section and complete all applicable conditions of approval within five years after the final City decision on the matter is issued. Failure to do so shall render the city approval void.
- 3. If litigation is initiated, the time limits of this section shall automatically extended by the length of time between the commencement and final termination of that litigation. If the development activity, use of land, or other action approved under this chapter includes phased construction, the time limits of this subsection may also be extended at the discreation of the Director.
- Time Extension. At least thirty days prior to the lapse of approval for a project-related rezone the applicant may submit an application in the form of a letter with supporting documentation to the Department of Development Services requesting a one-time extension of the time limits set forth in subsections "I" of up to one year. The request must demonstrate:
 - The applicant is making substantial progress on the development activity, use of land, or other actions approved under this chapter and
 - 2. That circumstances beyond the applicant's control prevent compliance with the time limits.

L Judicial review. The action of the City in granting or denying an application under this chapter may be reviewed pursuant to UPMC Chapter 22

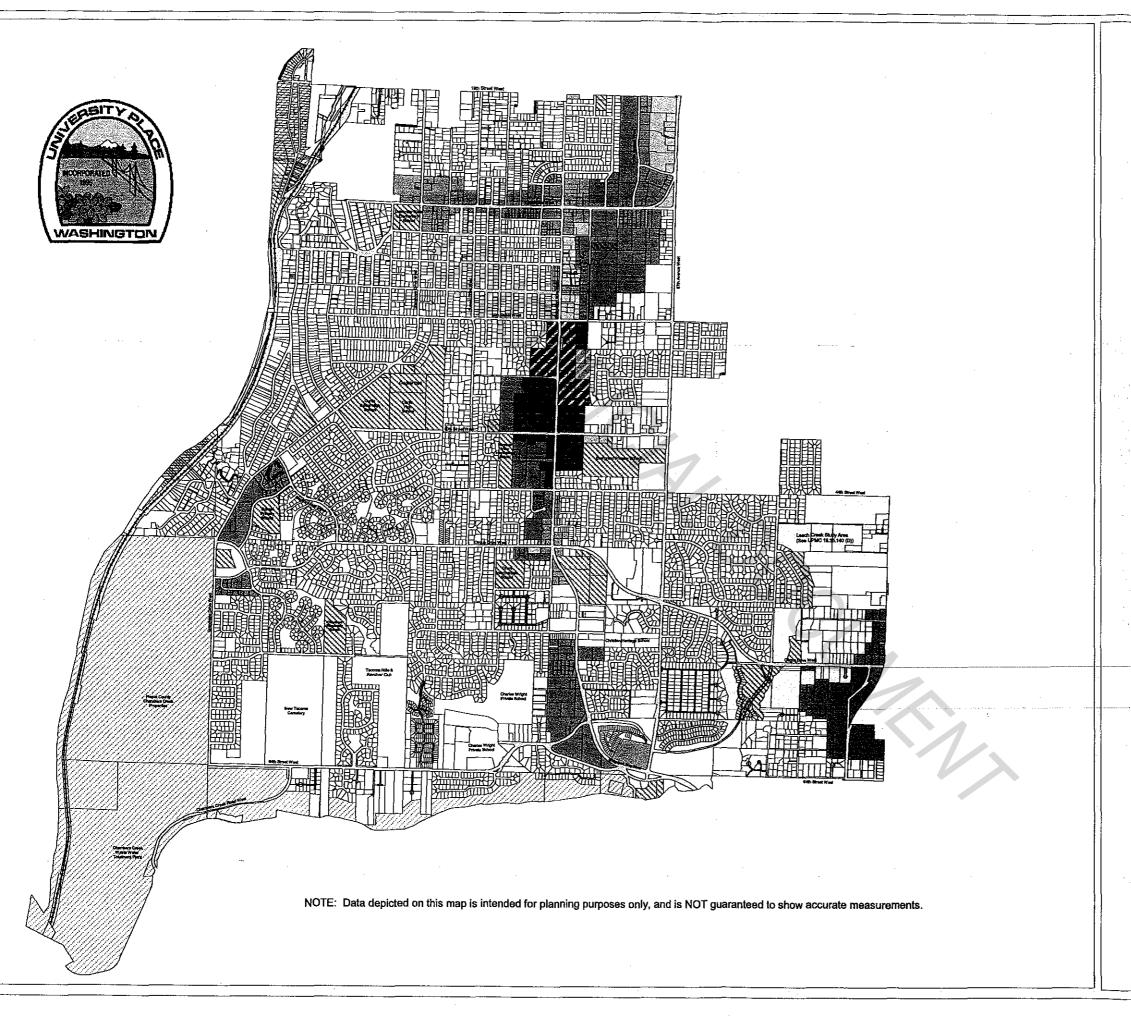
19.90.060 Revocation and Expiration.

- A. Purpose. The purpose of this section is to provide the procedures for revocation, modification, or reclassification of permits.
- B. Examiner May Revoke Permits. The Examiner may revoke or modify any special use permit or administrative use permit.
- C. Initiation of an Action. An action to revoke, modify, or reclassify any matter set forth in subsection (B) of this section may be initiated by:
 - 1. The City Council, upon its own motion to refer said matter to the Examiner; or
 - 2. The Director.
- D. Public Hearing. Prior to such revocation, or modification, or reclassification, a public hearing shall be held by the Examiner and the procedures concerning notice, reporting, and appeals shall be in accordance with UPMC Title 22, Administration of Development Regulations; provided, that when any variance, conditional use permit, or public facility permit is not exercised within the time specified in such permit or, if no date is specified, within one year from the date of approval of said permit, said permit shall automatically become null and void and no public hearing by the Examiner shall be required on the matter.
- E. Grounds for Revocation, Modification, or Reclassification. Such revocation or modification or reclassification shall be made on any one or more of the following grounds:
 - 1. That the approval was obtained by fraud;
 - 2. That the use for which such approval was granted is not being exercised;
- 3. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more:
- 4. That the permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval, or in violation of any statute, resolution, code, law, or regulation; or
- 5. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

F. Expiration.

1. If no action is taken by the applicant on any application for a discretionary land use permit, special use permit, or administrative use permit for a period of one year, the application shall expire and be deemed null and void., The Applicant may and the applicant will need to reapply in accordance with this as required

- by this code <u>Title</u> unless otherwise permitted in writing by the Director. This provision shall not apply to short plats.
- 2. If no action is taken under an issued discretionary land use permit, special use permit, or administrative use permit within the date specified in the permit, or if not date is specified, within one year of approval of the permit, the permit shall expire and be null and void. The applicant will need to reapply as required by this Title.
- G. Time Computations. Any reference to a time period, unless otherwise specifically stated, shall be calculated based upon calendar days.
- H. Relinquishment of Discretionary Land Use Approvals. A property owner may elect to relinquish a previously approved discretionary land use permit in order to obtain another use or density, which is now permitted outright under a new zone classification. In recognition of the relinquishment, any use authorized by the discretionary land use permit shall cease, unless said use is allowed outright under the underlying zone classification. The petitioner for relinquishment shall follow the following process:
- 1. The property owner must submit in writing to the department the request including the reasons for the relinquishment. Accompanying the request should be a copy of the original approval.
- 2. The request will be reviewed by staff to determine if any conditions of the original approval conflict with the request for relinquishment. If the conditions or terms of the discretionary land use permit conflict with the request, the request will be forwarded to the Director or Examiner, as appropriate to the original review procedure for a decision.
- 3. The department will respond in writing to the owner with a determination and provide the Examiner a copy of that determination. (Ord. 307 § 2, 2001)



City of University Place Zoning Map

LEGEND
Zones
R1 Residential
R2 Residential
Multi-Family
Town Center
Neighborhood Commercial
Mixed Use District
Mixed Use - Office
Commercial Light Industrial - Business Park
Light industrial - Business Fair
Zone Overlays
Town Center
Public Facilities
Public Facilites in Town Center
Chambers Creek Properties
Day Island
South Day Island
Sunset Beach
Transition Property
Tax Parcels
Streets
Railroad
W E
s
Scale 1: 27,000
0 0.5 1 Mile
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City of University Place Economic Development Office

Adopted 12/06/04