

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Terry Galvin	TG	5-31-96	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> R E C E I V E D JUN 05 1996 WHATCOM COUNTY COUNCIL </div>	6/11/96	Introduction
Division Head: Vickie Hardin Woods	VHW	5-31-96		6/25/96	Hearing
Dept. Head: Michael Knapp	MK	5-31-96			
Prosecutor:					
Purchasing/Budget:					
Executive:	PH	6-3-96			

SUBJECT: An Ordinance Related to Land Use and Zoning, Adopting New Administrative Procedures for Processing Project Permit Applications, as Required by the Regulatory Reform Act, Chapter 36.20B RCW

ATTACHMENTS: Draft Ordinance
Exhibits 1 and 2
Staff Report

SUMMARY STATEMENT: Please complete sections of box as appropriate & explain the item below.

Related County contract #: n/a	Should Clerk schedule a hearing? NO // YES /x/ Requested date: , 1996
Amount budgeted for this item/project: \$ n/a	Is it (or will it be) within budget? YES / / NO / / (Please explain below) n/a
Budget line item number(s): n/a	

The request is to pass an ordinance adopting new procedures for processing project permit applications relating to land use and zoning, as required by the Regulatory Reform Act, chapter 36.70B RCW. the Ordinance, if adopted, will add a new administrative chapter to the Whatcom County Code and amend other parts of the code in order to better process permits relating to Title 12, Roads and Bridges, Title 14, Use of Natural Resources, Title 15, Buildings and Construction, Title 16, Environment, Title 17, Flood Damage Prevention, Title 20 Zoning, Title 21, Subdivisions, and Title 23, Shorelines Management Program.

The proposed ordinance streamlines review and appeal for both land use permits and environmental review. A new chapter is being proposed which, if approved will be added to Title 2 of Whatcom County Code. The new chapter, titled 2.33 WCC, lays out a 120-day review time line for permits subject to a public hearing and SEPA review. The timeline is only 90 days if the permit is exempt from SEPA review. The ordinance provides review procedures and timelines for meeting the review deadline.

ORIGINATOR'S RECOMMENDED ACTION: The Director of Planning and Development Services recommends Council accept the recommended revised administrative procedures and adopt the proposed ordinance.

COMMITTEE ACTION TAKEN:

COUNCIL ACTION TAKEN:

- 1996 - 233 6/11/96: Introduced
- 6/25/96: Held in Council
- 7/9/96: Held in Committee / Council until July 23, 1996
- 7/23/96: Substitute Ord. Amended & Adopted 7 - 0. Ord. 96-03/

e or Resolution Number (this item only):

Ord. 96-031

SPONSORED BY: Consent

PROPOSED BY: Council

INTRODUCTION DATE: 6/11/96

ORDINANCE NO. 96-031

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AN ORDINANCE RELATED TO LAND USE AND ZONING, ADOPTING NEW ADMINISTRATIVE PROCEDURES FOR PROCESSING PROJECT PERMIT APPLICATIONS, AS REQUIRED BY THE REGULATORY REFORM ACT, CHAPTER 36.20B RCW

WHEREAS, the Regulatory Reform Act (chapter 36.70B RCW) requires that Whatcom County establish a permit review process which, among other things: (1) provides for the issuance of the county’s final decision within 120 days after submission of a complete application; (2) combines the environmental review process, both procedural and substantive, with the procedure for review of project permits; (3) provides for no more than one open record hearing and one closed record appeal on such permits, except for the appeal of a determination of significance; and(4) provides for the integrated consolidated review and decision on two or more project permits related to a proposed action;

WHEREAS, Planning and Land Use staff worked in conjunction with legal staff to review the existing procedure and develop revisions to streamline the process that resulted in the revised administrative procedures; and

WHEREAS, input from the Hearing Examiner and other affected County staff was incorporated into the revisions; and

WHEREAS, at a meeting on February 8, the Planning Commission determined that project review procedure was an administrative process not requiring their review and recommendation; and

WHEREAS, the County Executive directed staff to proceed with a Council update and Council requested that the Development Standards Technical Advisory Committee (TAC) review the revised administrative procedures; and

WHEREAS, the TAC held work sessions on February 27, March 5, March 12, and March 19 and provided staff with significant and substantive recommendations that staff incorporated into a draft ordinance; and

WHEREAS, the Deputy SEPA Official determined that SEPA review was not required; and

WHEREAS, pursuant to RCW 36.70.590, legal notice was published in the Bellingham Herald on Thursday, June 15; and

WHEREAS, the Council held a public meeting on June 25 to consider this matter

1 and approved the recommendations to revise the administrative procedures for processing
2 project permit applications; and
3

4 **WHEREAS**, the Council found the amendments in the best interest of the public
5 health, safety, and welfare; and
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7 **WHEREAS**, the Council has adopted the following Findings and Conclusion:
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9 **FINDINGS**

- 10
- 11 1. Avoidable delays in permit review are costly to applicant, make housing less
12 affordable, inhibit the creation of jobs, and erode public confidence in local
13 government.
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 - 15 2. The proposed ordinance is intended to reduce the length time for permit review and
16 provide certainty in the permit review process.
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 - 18 3. Administrative permits not requiring public hearings, such as building permits and
19 short plats, are currently being processed faster than 120 days and will not benefit
20 from the proposed permit review procedures.
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 - 22 4. Major development permits and planned unit development permits currently have
23 specific review criteria including County Council final approval and therefore cannot
24 be consistently processed within the 120 day limitation imposed by this ordinance.
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 - 26 5. Revising the County's permit review and appeals procedures will comply with the
27 provisions of Section IV of the Regulatory Reform Act, Chapter 36.70B RCW.
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 - 29 6. Only minor staffing adjustments will be necessary to implement the proposed
30 project review procedures.
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 - 32 7. The revisions will establish uniform and predictable time-lines for permit review and
33 appeals.
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 - 35 8. The revised permitting process will promote more efficiency in project review by
36 administrative staff by focusing on active permit applications that are complete and
37 ready for processing.
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 - 39 9. There will be adequate public notice for most county permits as a requirement of
40 the revised permitting process.
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 - 42 10. There will be adequate public and agency input into the permit review process as a
43 requirement of the revised permitting process.
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 - 45 11. The revised permitting process will provide staff with uniform criteria evaluating
46 and processing applications in a fair and impartial manner.
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12. The revised permitting process will increase predictability and confidence in the permit review procedures.
13. The revised administrative procedures are designed to streamline the permitting process, provide timely review, and an efficient appeals procedure.
14. The revisions to the permitting process are in the best interest of the public health, safety, and welfare.

CONCLUSION

The proposed project review procedures will increase consistency, predictability and accountability in the permit review process. When implemented, it will become an integral part of the larger regulatory and administrative reform initiative in Whatcom County.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. A new chapter shall be added to Title 2, WCC as indicated in Exhibit 1.

Section 2. Chapter 16.08 of Title 16,, Title 20, Title 21, Title 23, of Whatcom County Code shall be amended as indicated in Exhibit 2.

Section 6. Adjudication of invalidity of any of the sections, clauses, or provisions of this Ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this 23 day of July, 1996.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Dana Brown-Davis, Council Clerk


L. Ward Nelson, Chairperson

APPROVED as to form & content:

Approved () Denied


Karen Frakes, Civil Deputy Prosecutor


Pete Kremen, Executive

Date: 8-26-96

Chapter 2.33
PERMIT REVIEW PROCEDURES

2.33.010	Purpose and Applicability
2.33.020	Exemptions
2.33.030	Pre-application Review
2.33.040	Application Submittal Information
2.33.050	Permit Receipt, and Determination of Completeness
2.33.060	Notice of Application
2.33.070	Notice of Open Record Hearing
2.33.080	Consistency Review and Staff Report
2.33.090	Permit Review Limitation and Notice of Final Decision
2.33.100	Consolidated Permit Review
2.33.110	Open Record hearings
2.33.120	Annual Report

2.33.010 Purpose and Applicability

- A. The purpose of this chapter is to consolidate the application, review, and approval processes for land development in Whatcom County in a manner that is easily understood and concise. It is further intended for this chapter to comply with State direction by integrating environmental and land use review within a 120-day period.
- B. This chapter describes how the County will process applications for development. The provisions of this chapter shall apply to all applications for a project permit that require a open record hearing; including, but not limited to:
 - 1. Conditional Uses
 - 2. Variances
 - 3. Subdivisions
 - 4. Shoreline Permits when an open record hearing is required.
 - 5. General Binding Site Plans
 - 6. Lot Consolidation Relief

2.33.020 Exemptions

- A. Project permits not subject to open record hearings; including, but not limited to, building permits and short plats, are exempt from the provisions of this chapter provided that:
 - 1. The County shall make a determination of completeness pursuant to Section 2.33.050 of this ordinance chapter; and,
 - 2. A final decision is made by the County pursuant to Section 2.33.090:
 - a. within 90 days of a determination of completeness if the project is exempt from SEPA review unless a shorter review period is provided in other provisions of Whatcom County Code;
 - b. within 120 days of a determination of completeness if the project is subject to SEPA review unless a shorter review period is provided in other provisions of Whatcom County Code;
- B. Planned Unit Development Permits provided that the County shall make a determination of completeness pursuant to Section 2.33.050 of this chapter;
- C. Major Development Permits provided that the County shall make a determination of

completeness pursuant to Section 2.33.050 of this chapter;

- D. Legislative actions including changes in zoning, comprehensive plans or other related plans and regulations are exempt from the provisions of this chapter.

2.33.030 Pre-application Review

- A. The purpose of pre-application review is to acquaint County staff with a sufficient level of detail regarding the proposal. It is also the purpose of this review to acquaint the applicant with the applicable requirements of Whatcom County Code.
- B. A pre-application conference may be requested prior to the submittal of a project permit application subject to this chapter.
- C. A fee shall be charged to the applicant for pre-application review. If the County makes a Determination of Completeness within one year of the pre-application meeting, the pre-application fee shall be applied to the application cost.
- D. It is the responsibility of the applicant to initiate a pre-application conference through a written request or other means allowed by the Technical Administrator. The request shall, at a minimum, include the following written information:
1. Property owner's name, address, phone number, fax number
 2. Applicant/project representative name, address, phone number, fax number
 3. Project site parcel number
 4. Project site address (if available)
 5. Written description of the project
 6. One copy of the current deed to the property
 7. A site plan drawn at a scale of 1" = 100' or larger that includes the following:
 - a. North Arrow
 - b. Scale
 - c. All existing and proposed property lines with dimensions of parcel
 - d. Location and size of existing and proposed structures labelled appropriately
 - e. Location and size of existing and proposed easements and/or rights of way on or adjacent to the project site
 - f. Significant physical features such as drainage ways, wet areas, steep or unstable slopes
 - g. Location of utilities including wells and septic systems when applicable.
- E. The applicant may provide additional information to facilitate more detailed review. See Section 2.33.040, *Application Submittal Information*, for additional submittal information.
- F. A pre-application conference shall be held as soon as possible, but, in any event, no later than 20 days from the date of the applicant's request.
- G. The County shall provide the applicant with notice of site specific submittal requirements as soon as possible, but, in any event, no later than ten (10) days from the date of the conference.
- H. Pre-application review and pre-application agreements shall be valid for one year. If, within one year of a pre-application meeting, an associated application is not filed

with the County or the application is substantially altered, the applicant shall be subject to a new pre-application review with a corresponding fee.

- I. Pre-application review does not constitute acceptance of an application by the County nor does it vest an application.

2.33.040 Application Submittal Information

- A. Applications for a project permit shall be submitted using forms provided by the review authority.
- B. If the applicant decides to mail a notice of application under option 2.33.060.D.a, the applicant shall include stamped and addressed envelopes (pursuant 2.33.060.D.a) with the application.
- C. Submittal requirements for project permits are contained within the specific County code for each type of project proposal, in the corresponding chapter of the Whatcom County Development Standards, in applicable State law or WACs and in any site specific conditions resulting from a pre-application conference.
The submittal information for each permit type constitutes the information necessary to determine whether an application is complete pursuant to Section 2.33.050, Permit Receipt and Determination of Completeness, of this chapter.
- D. All information and agreements resulting from pre-application review must be submitted with the application unless otherwise agreed to by the County.
- E. If the proposal submitted with the application has changed to such a degree that it requires substantial re-evaluation, any agreements made by the County may be voided.

2.33.050 Permit Receipt and Determination of Completeness

- A. An application shall meet all submittal requirements before the proposal is submitted to the County for review. Upon submittal by the applicant, the County will accept the application and note the date of receipt. Receipt of an application does not constitute approval of the project proposal.
- B. Within fourteen (14) days of accepting the application, the County shall make a determination of completeness or issue a determination that the application is incomplete.
- C. A project permit application is complete when it meets the submittal information requirements of Section 2.33.040, *Application Submittal Information*.
- D. When an application is determined to be complete, the County shall proceed as follows:
 1. Issue a determination of completeness either via postal service or directly provided to the applicant within fourteen (14) days of accepting a project permit application.
 2. To the extent known, identify other agencies that may have jurisdiction over the project permit application. A list of agencies shall be included in the

- determination of completeness.
 3. A determination of completeness shall not preclude the County from requiring additional information or studies at any time prior to permit approval.
- E. If the application is determined to be incomplete, then the following procedure shall take place:
1. The County will notify the applicant that the application is incomplete and indicate what is necessary to make the application complete.
 2. The applicant shall have ninety (90) days from the date that the notification was issued, to submit the necessary information to the County. This period shall be extended at the applicants request in 90 day increments.
 3. Upon receipt of the requested additional information, the County shall have fourteen (14) days to make a determination and notify the applicant.
 4. If the applicant does not submit the necessary information to the County in writing within the ninety (90) day period, the County shall make findings and issue a decision that the application is rejected.
- F. If the County rejects an application, all vesting rights are lost.
- G. If the County rejects an application because the applicant has failed to submit the required information within the necessary time period the County will return the application materials and the application will be closed.
- H. A project permit application shall be deemed complete under this section if the County does not provide a written determination to the applicant that the application is incomplete within fourteen (14) days from the date of submittal as required in E, above.

2.33.060 Notice of Application for a Proposed Land Use Action

- A. A notice of application shall be issued for project permit applications within fourteen (14) days after a determination of completeness and at least fifteen (15) days prior to the open record hearing.
- B. If the County has made a determination of significance concurrently with notice of application, the determination of significance and scoping notice shall be combined with the notice of application.
- C. Notice shall include:
 1. The date of application, the date of Notice of Completion for the application, and the date of the Notice of Application.
 2. The date, time, place and type of the hearing, if applicable, and scheduled at the date of notice of the application;
 3. A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the County.
 4. The identification of other permits not included in the application to the extent known by the County.
 5. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed.

6. Any other information determined appropriate by the County.
 7. A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice.
 8. A statement of the limits of the public comment period, the right of any person to comment on the application within a fifteen (15) day time period (thirty days for Substantial Development Permits), receive notice of and participate in any hearings, request a copy of the decision once made and to appeal a decision when allowed by law. In addition, the statement shall indicate that any person wishing to receive personal notice of any hearings must notify the Hearing Examiner's office within fifteen (15) days (thirty days for Substantial Development Permits) of the date of the notice of application.
- D. A Notice of Application shall be issued in the following manner:
1. The notice shall be published once in the official County newspaper. The applicant shall bear the responsibility of paying for such notice.
 2. Additional notice shall be given using the following method:
 - a. Mailing of the application notice to the latest recorded real property owners as shown by the records of the County Assessor to properties situated within three hundred (300) feet of the boundary of the property upon which the use is proposed. The applicant shall submit a typed self adhering label for each of the above property owners to the County with the project application.
 3. All cost associated with providing notice shall be paid by the applicant.
- E. Notices of application should be sent to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by the proposed development. (The County shall be responsible for such notification.)
- F. With the exception of Substantial Development Permit applications, a public comment period shall be fifteen (15) days following the date of notice of application. Substantial Development Permit applications require a thirty day period. All public comments received on the notice of application must be received in the Department of Planning and Development Services by 4:30 p.m. on or before the last day of the comment period. The County may require the applicant to pay the cost of providing notice.
- G. No SEPA threshold determination shall be issued until the expiration of the public comment period established for the notice of application. This condition shall not apply if a determination of significance is made by the County.
- H. Public notice given for project permit applications, SEPA documents, project hearings, and appeals hearings as required by this chapter and other provisions of County code may be combined when practical, where such combined notice will expedite the permit review process, and where provisions applicable to each individual notice are met through the combined notice.

2.33.070 Notice of an Open Record Hearing

- A. A Notice Of Open Record Hearing shall be published by the Hearing Examiner once

in the official County newspaper at least ten (10) days prior to an open record hearing. The notice shall consist of the date, time, place, and type of the hearing. In addition, personal notice shall be provided to any person who has requested such notice in a timely manner, consistent with Section 2.33.060.C.8.

- B. Additional notice shall be given, within two days of the published notice by posting of three copies of the notice in a conspicuous manner on the property upon which the use is proposed. (Notices shall be provided by the County. The applicant shall be responsible for posting.)
- C. An affidavit verifying distribution of the notice must be submitted to the County two working days prior to the open record hearing.
- D. Notices of an open record hearing should be sent to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by the proposed development. The County shall be responsible for such notification.
- E. All cost associated with providing notice shall be paid by the applicant.

2.33.080 Consistency Review and Staff Report

- A. Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. During project review, the review authority shall determine if the project proposal is consistent with the County's Comprehensive Plan, other adopted plans, existing regulations and development standards. The review authority shall at a minimum use four criteria for determining consistency, as follows:
 - 1. type of land use permitted on the site;
 - 2. density of development allowed on site, such as units per acre or floor area ratio or lot coverage;
 - 3. availability and adequacy of public facilities and infrastructure (when applicable);
 - 4. character of the development.
- B. The County may conduct a more specific evaluation in addition to the evaluation of the four main categories listed in Section 2.33.080.A in considering project consistency when other criteria are required by federal, state or local regulations.
- C. County staff shall file one consolidated report with the Hearing Examiner at least seventeen (17) days prior to a scheduled hearing. The staff report shall address the proposed development or action, summarizing the comments and recommendations of County departments, affected agencies, special districts and public comments received within the fifteen (15) day comment period as established in Section 2.33.060.E. The report shall also provide an evaluation of the project proposal for consistency as indicated in this section. The staff report shall include findings, conclusions, and proposed recommendations for response to the proposal.
- D. The conclusions of a consistency determination made under this section shall be documented in the project permit decision.

2.33.090 Permit Review Limitations and Notice of Final Decision

- A. Unless otherwise exempted in Section 2.33.020 or Section 2.33.090.C, below, the County shall issue a notice of final decision on a project permit application as follows:
1. within ninety (90) days of a determination of completeness if the project is exempt from SEPA review unless a shorter review period is provided in other provisions of Whatcom County Code;
 2. within ninety (90) days of a determination of completeness if the project is a subdivision under Title 21 WCC unless a shorter review period is provided in other provisions of Whatcom County Code;
 3. within one hundred and twenty (120) days of a determination of completeness if the project is other than a subdivision and is subject to SEPA review unless a shorter review period is provided in other provisions of Whatcom County Code.
- B. In determining the number of days that have elapsed after an application is determined to be complete, the following time periods shall be excluded:
1. Any period during which the applicant has been required by the County to correct plans, perform required studies, or provide additional, required information.
 - a. The period shall be calculated from the date the County notifies the applicant of the need for additional information until the date the County receives the additional information. The County shall have fourteen (14) days after the date the information has been provided to the County to determine adequacy of the information.
 - b. If the information submitted by the applicant under this subsection is insufficient, the County shall notify the applicant of the deficiencies and the provisions of this section shall apply as if a new request for information has been made.
 2. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW and Title 16 WCC.
 3. The period specified for administrative appeals of project permits as provided in 20.92 WCC.
 4. The period specified for administrative appeals of development standards as provided in 12.08.035.1 WCC.
 5. Any period in which the applicant has not met public notification requirements.
 6. Any period of time mutually agreed upon in writing by the applicant and the County.
- C. The time limits established by Section 2.33.090, A and B, above, shall not apply to a project permit application that:
1. Requires an amendment to the *Whatcom County Comprehensive Plan* or a development regulation in order to obtain approval.
 2. Requires approval of a new fully contained community as provided in 36.70A.350 RCW, a master planned resort as provided in 36.70A.360 RCW,

- or the siting of an essential public facility as provided in 36.70A.200 RCW.
3. Is substantially revised by the applicant; in which case, a new time period shall start from the date at which the revised project application is determined to be complete.
- D. The County may extend notice of final decision on the project if the County can document legitimate reasons for such a delay. In such a case the County shall provide written notice to the applicant at least twenty (20) days prior to the deadline for the original notice of final decision. The notice shall include a statement of reasons why the time limits have not been met and a date of issuance of a notice of final decision.
 - E. The County shall not be liable for damages under this chapter due to the County's failure to make a final decision within the time limits established in Section 2.33.080.
 - F. Notice shall be made by mail to the applicant, the Whatcom County Assessor, and any party of record.
 - G. Unless otherwise acted upon by the County in a manner consistent with this chapter, permit applications subject to this chapter shall be approved as submitted within the timeliness established in 2.33.090.

2.33.100 Consolidated Permit Review

- A. At the request of the applicant, the County shall integrate and consolidate the review and decision on two or more project permits subject to this chapter that relate to the proposed project action.
- B. If the applicant elects the consolidated permit review process, the determination of completeness, notice of application, and notice of final decision must include all project permits being reviewed through the consolidated permit review process.
- C. The consolidated permit review may combine an open record hearing on one or more permits with an open record appeal hearing on other permits.

2.33.110 Open Record Hearings

Open Record Hearings subject to this chapter shall be undertaken pursuant to Title 20.92 and other relevant chapters relating to specific permit processes.

2.33.120 Annual Report

Staff shall prepare an annual report on the implementation of this chapter and submit it to the Council.

PERMIT REVIEW PROCEDURES REGULATORY AMENDMENTS

SEPA AMENDMENTS

Amend 16.08.055 as follows:

(a) The county shall complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within 45 days of the date of a Determination of Completeness.

Add to 16.08.055 as follows:

(e) When applicable to 2.33 WCC, the County shall issue its threshold determination at least fifteen days prior to the open record hearing.

TITLE 20 AMENDMENTS

Amend the following to read:

Chapter 20.84 VARIANCES, CONDITIONAL USES AND APPEALS

20.84.230 Open Record Hearing Notice

Notice of Application and Notice of Open Record Hearing shall take place consistent with Sections 2.33.060 and 2.33.070 WCC.

20.84.240 Appeals

The hearing examiner shall have the authority to hear and decide, in conformity with this ordinance, appeals from any order, requirement, permit decision or determination made by an administrative official in the administration or enforcement of this ordinance where more than one interpretation is possible; provided that such appeal shall be filed in writing within 14 days of the action being appealed.

Chapter 20.92 HEARING EXAMINER

20.92.010 Purpose

The purpose of this chapter is to provide a system of considering and applying regulatory devices which will best satisfy these three basic needs:

- (1) Need to separate the application of regulatory controls to the land from planning.
- (2) The need to better protect and promote the interest of the public and private elements of the community.
- (3) The need to expand the principles of fairness and due process in open record hearings.

20.92.205 Recommended decisions

The hearing examiner shall conduct open record hearings and prepare a record thereof, and make recommendations to the county council for approval or disapproval of:

20.92.210 Final decisions

The hearing examiner shall conduct open record hearings and prepare a record thereof, and make a final decision upon the following matters:

20.92.215 Open record hearing notice

Notice of the time and place of the open record hearing shall be given pursuant to Sections 2.33.060 and 2.33.070 WCC.

20.92.220 Open record hearing

A project proposal subject to Chapter 2.33 WCC shall be provided with no more than one open record hearing and one closed record hearing pursuant to Chapter 36.70B RCW. This restriction does not apply to an appeal of a determination of significance as provided in 43.21C.075 RCW.

SEPA: The hearing examiner shall hold an open record hearing and prepare a record thereof for any open record hearing held pursuant to WAC 197-11-535 and 16.08.170 of the Whatcom County SEPA Ordinance. The record of the hearing shall be forwarded to the responsible official together with a summary of the environmental concerns raised in the hearing. (Ord. 87-12, 1987; Ord. 87-11, 1987).

20.92.221 Combined County and agency hearing

When requested by an applicant, the county shall allow an open record hearing to be combined with a hearing that may be necessary by another local, state, regional, federal, or other agency for the same project if the joint hearing can be held within the time periods specified in Chapter 2.33 WCC, or if the applicant agrees to waive such time periods in the event additional time is needed in order to combine the hearings. The combined hearing shall be conducted in Whatcom County pursuant to 36.70.B RCW.

20.92.230 Department reports

The Hearing Examiner may request reports from appropriate staff. See Chapter 2.33.080 WCC for details.

20.92.255 Permit revocation hearing

Upon issuance of a summons as set forth in 20.92.250 WCC, the hearing examiner shall schedule a open record hearing to review the alleged violations. The summons shall include notice of the hearing and shall be sent to the permit holder and the land use division of planning and development services no less than 12 days prior to the date of the hearing. At the hearing the hearing examiner shall receive evidence of the alleged violations and the responses of the permit holder, as per the business rules of the hearing examiner's office. Testimony shall be limited to that of the division and the permit holder except where additional evidence would be of substantial value in determining if revocation should be ordered. The land use division's evidence may include the testimony of witnesses. (Ord. 88-104, 1988).

20.92.430 Time limitation on decision

Each final decision and recommended decision of the hearing examiner shall be rendered within 10 days following the conclusion of all testimony and hearings.

20.92.730 Notice of application and open record hearing

Notice of Application and Notice of an Open Record Hearing shall take place consistent with Sections 2.33.060 and 2.33.070 WCC.

DEFINITIONS

Amend title 20.97 to include the following definitions:

Consistency: A project's performance, in accordance with the County's development regulations or in the absence of applicable development regulations, the appropriate elements of the county comprehensive plan or subarea plans adopted under chapter 36.70A RCW, including but not limited to compliance and conformity.

Closed Record Appeal: An administrative appeal on the record to Whatcom County, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

Open Record Hearing: A hearing conducted by a single hearing body or officer authorized by the County to conduct such hearings, that creates the County's record through testimony and submission of evidence and information, under procedures prescribed by the County by ordinance or resolution.

Open Record Appeal Hearing: An open record hearing that is held on an appeal if no open record hearing has been held on the project permit.

Project Permit or Project Permit Application: Any land use or environmental permit or license required from Whatcom County for a project action, including but not limited to building permits, subdivisions, binding site plan, planned unit developments, conditional uses, shoreline substantial development permits, variance, lot consolidation relief, site plan review, permits or approvals authorized by a comprehensive plan or subarea plan.

Party of Record: The applicant, the owner of the property and any person who has testified at a required hearing.

Public Comment Period: For purposes of this ordinance, a prescribed period of time, starting from the date of a notice of application, in which the public may provide information and comments to Whatcom County staff who are obligated to incorporate such input into a staff report addressing the project permit application. Generally, public comment may be accepted by the decision-making body up to, and until the close of the open record hearing.

Public Meeting: An informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local governments decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting of a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may

be included in the County's project permit application file.

TITLE 21 AMENDMENTS

21.20.070 Hearing Notice

Delete existing language (1,2,3 and 4) and replace with the following:

Notice of the Open Record Hearing shall be given as follows:

1. Notice of an Open Record Hearing shall be required pursuant to 2.33.070 WCC.

21.20.080 Open Record Hearing

Delete existing language and replace with the following:

1. Any application subject to Title 21 shall receive only one open record hearing and one closed record appeal.
2. Open Record Hearings and closed record appeals shall be conducted pursuant to 20.92 WCC.