



CITY OF BLACK DIAMOND
PLANNING COMMISSION MEETING AGENDA
February 12, 2013 7:00 PM
25510 Lawson Street, Black Diamond, Washington

- 1) CALL TO ORDER, ROLL CALL
- 2) APPROVAL OF MINUTES –January 8, 2013
- 3) PUBLIC COMMENTS: Individuals wishing to address the Planning Commission regarding any item not on this meeting's agenda may do so at this time.
- 4) WORKSESSION ON POTENTIAL CODE AMENDMENT RE: SEPA APPEALS PROCESS
- 5) WORKSESSION ON 2015 COMPREHENSIVE PLAN UPDATE
- 6) POTENTIAL CODE AMENDMENT RE: THE TOWN CENTER ZONE
- 7) POTENTIAL AMENDMENT TO THE SIGN CODE RE: DIAMOND SQUARE
- 8) UNFINISHED BUSINESS
- 9) DEPARTMENT REPORT
- 10) PUBLIC COMMENTS
- 11) ADJOURN

SEPA APPEAL PROCESSES IN VARIOUS JURISDICTIONS

CITY	APPEAL GOES TO	FEE	NOTES
Auburn	Hearing Examiner	\$1,000	
Covington	Hearing Examiner	\$636	
Maple Valley	Hearing Examiner	\$125	
Enumclaw			
Buckley	City Council	\$250	
Bellevue	Hearing Examiner		
Bonney Lake	Hearing Examiner	\$750	
Des Moines	Hearing Examiner	\$800	
Duvall	Superior Court		
Edgewood	H.Ex. or Council	\$650	
Gig Harbor	Hearing Examiner	\$275	
Kent	Hearing Examiner	\$264	Procedural issues only
North Bend	Superior Court	NA	
Normandy Park	Hearing Examiner	\$500	
Poulsbo	Hearing Examiner		
Snohomish	Hearing Examiner		
Sultan	Hearing Examiner		
Sumner	Superior Court		WAC 197-11-680
Woodinville	Hearing Examiner	\$1580	
Yelm	City Council		

Steve Pilcher

From: Sue Enger <senger@mrsc.org>
Sent: Monday, January 14, 2013 12:08 PM
To: Steve Pilcher
Subject: RE: Research Request

I am responding to your request for information about how many cities, particularly in the Puget Sound area, provide for administrative appeals of SEPA threshold determinations. You also asked how many require appellants to go straight to court. I am not aware of any surveys that address these questions, but I can provide a few examples. Finally, you asked for fee/processing information for administrative appeals.

Administrative appeals procedures

- Bellevue Land Use Code , §20.35.250 – Appeal of Process II decisions - Planning director decision, appeal to Hearing Examiner (HE); Appeal of determination associated with Type IV city council legislative decision goes to Growth Management Hearings Board via petition
- Gig Harbor Municipal Code, §18.04.230 and §19.01.003 – Apparently may appeal SEPA determination to HE, but not entirely clear to me who hears the matter
- Duvall Municipal Code, §14.08.060(C)(1) – Threshold decision associated with Type I & Type II decisions appeal to HE
- Normandy Park Municipal Code §13.12.200 – Appeal to hearing examiner
- Poulsbo Municipal Code, §16.04.250
- Snohomish Municipal Code, §14.75.010(A) – Planning director, decision appeal to HE
- Sultan Municipal Code, §17.04.240 – Appeal to hearing examiner
- Woodinville Municipal Code, §14.04.260(4) - Appeal to HE

Threshold determination appealable to body other than hearing examiner

- Yelm Municipal Code, §14.04.120 - Appeal to city council
- Buckley Municipal Code, §12.04.340 – Appeal to city council

Appeal directly to court

- Duvall Municipal Code, §14.08.060(C)(2) – Threshold decision associated with Type III, IV, V, & Type VI decisions appeal directly to superior court
- Sumner Municipal Code, §18.56.160(A) – not subject to appeal (so would go to court)
- North Bend §14.04.340

Administrative appeals fees/processing

The following resources provide some guidance for administrative appeals processing:

- WAC 197-11-680(3) – Agency administrative appeals procedures –
- SEPA Handbook, Sec. 11.1 – Administrative Appeals - <http://www.ecy.wa.gov/programs/sea/sepa/handbk/hbch11.html#11.1>
- SEPA Case Law Update, Part IV, Law Seminars International, Settle , 2008 - <http://www.lawseminars.com/materials/08SEPAWA/sepawa%20m%20Settle%2012-26.pdf>

Fees

Downey v. Pierce County, 165 Wn. App. 152 (11/29/2011) may impact the county's appeal fees in certain circumstances – specifically, in code enforcement actions where the appeal is of a determination of a code violation and there has previously been no opportunity for any kind of hearing at which the violation can be contested, and possibly regarding appeal fees for SEPA determinations. MRSC Legal Consultant Bob Meinig recently provided the following response to another local jurisdiction regarding its application to SEPA determination appeals:

I have some concern about an appeal fee regarding those actions, because those actions (DNS, DS) are not preceded by any kind of hearing. Although SEPA determinations are not government-initiated like the action in Downey, they do affect parties in addition to the applicant, because, while a SEPA determination is not the final decision on the underlying land use action, the nature of that determination does impact the final decision. That final decision may, for example, affect property neighboring or near to the site of the underlying land use action. While the public may submit comments for certain threshold determinations, that, of course, is not the same as a hearing on the determination. On the other hand, the private interests, whether those of the applicant or of an interested party, at issue in a SEPA determination are, I think, of lesser significance than those that were present in the Downey case, and there is more process that is provided in a SEPA determination. But then, the government's interests may perhaps not be as strong as in the Downey case, where those interests included protecting the public from dangerous dogs. All in all, I do have concern because of the Downey decision about the due process implications of an appeal fee for a SEPA determination; I'm not certain how a court would come down on this issue.

Appeals Fees Example

- Bellevue Permit Fees – No fee stated in permit fee tables
- Brier Municipal Code, §18.08.060(B)(6) – No fees charged for staff review time related to hearings in contested case, and Exhibit A: Fee Schedule – Land Use Administrative Appeals - \$1000.00 (but apparently, subtract cost of staff time)
- Ferndale Fee Schedule: Environmental Fees: SEPA Appeal - \$1067 plus staff time
- Gig Harbor Community Development Fee Schedule: B(3) Environmental Review: Appelas of decisions - \$ 275, but refunded if win appeal
- Kirkland Municipal Code Section 5.74.070 - Fees charged by planning dept – Appeals (generally) \$207.00

- Normandy Park Administration & Finance (Fees) - Appeals – Administrative decision or SEPA determination - \$500.00
- Redmond Fee Schedules - Development Review Permit Fees - no fee
- University Place Land Use Fees () , 2011- Administrative appeals - \$1375.40; Reconsideration: \$687.70
- Woodinville Resolution #408 Development Services Fees: Appeal filing fee (generally) – \$1,580

You may also want to contact one of the following DOE SEPA Unit staff for additional information:

Annie Szvetecz, SEPA Policy Lead
 WA State Department of Ecology
 P.O. Box 47703
 Olympia WA 98504-7703
 Phone: (360) 407-6925

Tammy Sacayanan, Regional Coordinator - Northwest
 Tamara.sacayanan@ecy.wa.gov
 WA State Department of Ecology
 Northwest Regional Office
 3190 - 160th Ave. SE
 Bellevue, WA 98008-5452
 (425) 649-7229

Hopefully, this information is helpful!

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 Planning Consultant
 Municipal Research & Services Center
 2601 Fourth Ave, Suite 800
 Seattle, WA 98121-1280
 Phone: (206) 625-1300
 Fax: (206) 62501220
 E-Mail: senger@mrsc.org



From: Steve Pilcher [<mailto:SPilcher@ci.blackdiamond.wa.us>]
Sent: Thursday, January 10, 2013 4:53 PM
To: Sue Enger
Subject: RE: Research Request

Thank you; I can wait until sometime next week. Whatever is convenient for you. I appreciate the assistance.

Steve Pilcher
 Community Development Director

From: Sue Enger [senger@mrsc.org]

GMA Mandated Comprehensive Plan Periodic Update

What is it?: An evaluation of adopted Comprehensive Plans and development regulations to ensure both consistency with the GMA and other State laws and also internal consistency between adopted local plans and development regulations.

When is it due?: King County and all its jurisdictions must complete their updates by June 30, 2015, regardless of the adoption date of their plans or the date of the most recent amendments. The next update is required eight years after, i.e., June 30, 2023.

What's required?: 1) A public participation program; 2) Review of relevant plans and regulations to determine consistency with the GMA; and 3) Legislative action.

Public participation: 1) Early and continuous; 2) Broadly disseminated

Review of plans & regulations: 1) Staff uses checklists to determine what plan and code amendments may be needed; 2) legislative adoption of the scope of amendments to be considered

Mandatory review items: 1) Amendments to the GMA; 2) UGAs and population projections; 3) Buildable Lands Report; 4) consistency with Countywide Planning Policies; 5) critical (sensitive) area ordinances; 6) Mineral resource lands designations

Recommended review items: 1) Land use element; 2) Capital Facilities Plans; 3) Transportation elements; 4) Utilities elements.

Inventories of: 1) Housing; 2) Capital Facilities; 3) Transportation.

Legislative action: Required regardless of whether any amendments result from the evaluation. Phased adoption of changes could occur if there are a significant amount needed.

What if we don't comply? Ineligible to receive Public Works Trust Funds, Centennial Clean Water funds or to receive preference for other state grants and loans. Also, vulnerable to a "failure to act" petition for review to the Hearings Board.

Are funds available? The State Dept. of Commerce may have grants available, if approved by the Legislature. No announcement have been made at this time.

DRAFT - 2015 COMPREHENSIVE PLAN UPDATE PROCESS

	2013				2014				2015	
	Winter	Spring	Summer	Fall	Winter	Spring	Summer	Fall	Winter	Spring
Work program development	█									
Staff analysis of ex. plan, codes	█									
Public Participation Plan	█									
Plan Review										
Land Use			█							
Housing			█							
Transportation			█							
Natural Environment			█							
Utilities			█							
Capital Facilities Plan	█						adjust if necessary			
Development Regulations Amendments			█							
Zoning Code			█							
Subdivision Code			█							
Sensitive Areas Ord.					█					
TDR Ordinance					█					
Misc. codes, regulations					█					
Concurrency Ord. (new)					█					
Environmental Review (SEPA)										
Analysis; issuance of Determination			OPP			Concurr.		Final action		
Public Participation (workshops, hearings)										
Workshops										
Planning Commission							█			
City Council									█	

DRAFT

Gateway Overlay District – 18.76.070 (D)

Signage. Monument signs shall be permitted within the required development setback in accordance with provisions of this section and subject to the approval of the director. Pole signs are not permitted. Signs located beyond the setback area and not visible from the public right-of-way are not subject to the requirements of this section, but shall comply with the requirements of the underlying zone.

1. The total allowed sign area of all signage permitted within the development setback on any one lot shall not exceed ~~fifty-four square feet~~ the standards of BDMC 18.82. A double-faced sign shall be considered a single sign. No more than two signs shall be permitted within the development setback area per lot, provided that this limitation shall not apply to signs pertaining to the identification of the corridor and those signs and/or interpretive panels identifying and directing the traveling public to archaeological sites, historic sites and other similar non-commercial places and features of interest.
2. All signage shall be designed with a theme compatible with the architectural style of the development and have a brick, stone or similar masonry base. Signs should be painted a single neutral or earth tone color as determined by the director to be compatible with the architectural theme or style of the development. ~~Signs may be indirectly lit.~~
3. Internally illuminated signs are allowed, provided that no ~~In general, no internally illuminated signs shall be permitted, nor shall any flashing, blinking, fluctuating or otherwise changing light source is be permitted. Provided, an internally lit sign may be allowed if the sign face only allows light to illumine the lettering of the business or development name.~~
4. The main supporting structure of all signs shall be set back at least five feet from the edge of the public right-of-way.
5. If a business entrance opens onto the development setback, then a pedestrian oriented sign may be allowed, not to exceed twelve square feet, at the entrance to the business. These signs shall not be internally illuminated, but may be indirectly lit.

Sign Code – 18.82

4. Sign area standards:
All non-residential zone districts: Fifty square feet for a single side or one hundred square feet total both sides.

DIAMOND SQUARE SIGN REVISIONS

5. Location. Ground signs shall be set back a minimum of five feet from a front property line. Placements in these locations are subject to approval by the public works director. The placement of ground signs shall be in such a fashion and location as to not obstruct the view of signs of adjacent property owners.

6. Number. One ground sign shall be permitted on each street frontage of property on which the business is located; provided that properties with more than 300 lineal feet of street frontage shall be allowed an additional ground sign.

Shopping or Business Center Identification Sign(s). Each shopping center or other commercial property having eight or more tenants may be permitted one shopping center identification ground sign, not to exceed 100 sq. ft. in area. Any shopping or business center having eight or more separate-tenants may have one ~~shopping-center~~ identification sign that includes identification of ~~each of the separate~~multiple tenants, if and only if, all of the following conditions are met:

1. No other ground signs shall be allowed.
- ~~4-2.~~ All existing signs in the shopping center must be brought into conformance with the city sign standards in effect at the time of application, prior to issuance of a sign permit for the shopping-center identification sign. ~~Provided, however, existing roof signs shall be removed within eighteen months from issuance of the shopping-center identification sign;~~
- ~~2-3.~~ Individual tenants/businesses within a shopping-center using a shopping-center identification sign shall only be allowed to use wall signs;
- ~~3-4.~~ The shopping-center identification sign shall be consistent with the city's adopted design standards and guidelines with regard to height, size and design;
- ~~4-5.~~ The sign may only contain the names of the tenant businesses, and the name of the shopping-center;
- ~~5-6.~~ The tenant business names shall be of uniform type and size; and
- ~~6-7.~~ The landscape requirements for ground signs shall be met.