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Appeal Hearing Notice Requirements Ordinance 22-021 (ECAF 2022-0450)					
Hearing Date: June 15, 2022 @ 10:30 a.m.					
Council Staff: Ryan Countryman		PDS Staff: Sarah Titcomb		DPA: Christina Richmond	
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<i>*Contact the Clerk of the Council for copies of Part 2 Exhibits - 425-388-3494 or contact.council@snoco.org</i>					

1 Adopted:
2 Effective:

3 SNOHOMISH COUNTY COUNCIL
4 Snohomish County, Washington

5
6 ORDINANCE NO. 22-021

7
8 RELATING TO GROWTH MANAGEMENT; ADMINISTRATIVE APPEAL HEARING
9 NOTICE REQUIREMENTS FOR TYPE 1 AND TYPE 2 PERMITS; AMENDING
10 CHAPTERS 30.71 AND 30.72 SCC
11

12 WHEREAS, counties and cities that are required to plan under the Growth
13 Management Act (GMA), chapter 36.70A of the Revised Code of Washington (RCW),
14 must ensure that permit applications are processed in a timely and fair manner to
15 ensure predictability, and must encourage involvement of the public in the planning
16 process; and
17

18 WHEREAS, the Economic Development chapter of the Snohomish County GMA
19 Comprehensive Plan (GMACP) – General Policy Plan (GPP) includes a policy requiring
20 the County to periodically review the permitting process to eliminate unnecessary
21 administrative procedures that do not respond to legal requirements for public review
22 and citizen input; and
23

24 WHEREAS, Type 1 permits are processed and administratively decided by the
25 Snohomish County Department of Planning and Development Services (PDS) under
26 chapter 30.71 of the Snohomish County Code (SCC or “County Code”), and Type 2
27 permits are processed under chapter 30.72 SCC and decided by the Snohomish County
28 Hearing Examiner (“Hearing Examiner”) after a public hearing; and
29

30 WHEREAS, Snohomish County provides for administrative appeals of both Type
31 1 and Type 2 decisions; and
32

33 WHEREAS, Type 1 decision administrative appeal hearings are open record and
34 heard by the Hearing Examiner, and Type 2 decision administrative appeal hearings are
35 closed record and heard by the Snohomish County Council (“County Council”); and
36

37 WHEREAS, under RCW 36.70B.110(9) and Washington Administrative Code
38 (WAC) 365-196-845(14), counties are not required to provide for administrative appeals
39 of project permit decisions; and
40

41 WHEREAS, if a county does allow administrative appeals, the WAC does not
42 provide specific requirements for notification of appeal hearings; and

1 WHEREAS, Snohomish County has the discretion to determine the best method
2 to provide notice of the pendency of both Type 1 and Type 2 administrative appeal
3 hearings; and
4

5 WHEREAS, SCC 30.71.080 currently describes three different processes to be
6 performed by two different county departments (PDS and the Office of Hearings
7 Administration) to provide notice that a Type 1 open record administrative appeal
8 hearing has been scheduled before the Hearing Examiner; and
9

10 WHEREAS, the County wishes to eliminate potential confusion and streamline
11 the process for providing notice of Type 1 administrative appeal hearings by requiring
12 that the Office of Hearings Administration rather than PDS provide notice (unless notice
13 was given under the combined notice provisions of SCC 30.70.080(2)); and
14

15 WHEREAS, SCC 30.71.080(2) and SCC 30.72.100(1) require the Office of
16 Hearings Administration and Council Clerk, respectively, to mail notice of administrative
17 appeal hearings to parties of record through the United States Postal Service (USPS);
18 and
19

20 WHEREAS, with the popularity of email correspondence and the change in
21 permit processing by PDS to only accept digital permit submissions, requiring that
22 notice be physically mailed is not the preferred, cost effective, or most efficient method
23 of delivery in most situations; and
24

25 WHEREAS, the proposed code amendments contained in this ordinance will
26 amend chapters 30.71 and 30.72 SCC to (1) specify a single department and process
27 for providing notice of Type 1 appeal hearings, and (2) create a presumption of emailing
28 notice to parties of record for both Type 1 and Type 2 appeal hearings unless otherwise
29 indicated; and
30

31 WHEREAS, on February 22, 2022, the Snohomish County Planning Commission
32 (the "Planning Commission") was briefed by PDS staff about the proposed code
33 amendments contained in this ordinance; and
34

35 WHEREAS, the Planning Commission held a public hearing on March 22, 2022,
36 to receive public testimony concerning the proposed code amendments contained in
37 this ordinance; and
38

39 WHEREAS, the Planning Commission deliberated on the proposed ordinance at
40 the conclusion of the public hearing and voted to recommend approval of amendments
41 to the County Code relating to the noticing process for Type 1 and Type 2 administrative

1 appeal hearings with an amendment as described in the Planning Commission’s
2 approval letter dated March 28, 2022; and

3
4 WHEREAS, on _____, 2022, the County Council held a public
5 hearing after proper notice, and considered public comment and the entire record
6 related to the code amendments contained in this ordinance; and

7
8 WHEREAS, following the public hearing, the County Council deliberated on the
9 code amendments contained in this ordinance.

10
11 NOW, THEREFORE, BE IT ORDAINED:

12
13 Section 1. The County Council adopts the following findings in support of this
14 ordinance:

- 15
16 A. The foregoing recitals are adopted as findings as if set forth in full herein.
17
18 B. This ordinance will amend title 30 SCC to revise SCC 30.71.080 and SCC
19 30.72.100. The code amendments will increase the clarity and efficiency of the
20 noticing process for Type 1 open record appeal hearings by: 1) eliminating PDS from
21 the noticing process for appeal hearings; and 2) requiring a single noticing process
22 that allows for use of email. The code amendments will also clarify that the Council
23 Clerk can provide notice of Type 2 closed record appeal hearings by email.
24
25 C. In developing the code amendments, the County considered the goals of the GMA
26 identified in RCW 36.70A.020, specifically the goals related to ensuring permits are
27 processed in a timely and predictable manner and encouraging involvement of
28 citizens in the planning process. The proposed regulations are reasonably related to,
29 and necessary for, the advancement of these GMA planning goals.
30
31 D. The code amendments will allow chapters 30.71 and 30.72 SCC to achieve, comply
32 with, and implement the below listed policy contained in the County’s GMACP by
33 providing regulations that are predictable and streamlined.

34
35 ED Policy 2.A.3: “To ensure timeliness, responsiveness, and increased
36 efficiency, the county shall develop and maintain a program of periodic
37 review of the permitting process to eliminate unnecessary administrative
38 procedures that do not respond to legal requirements for public review and
39 citizen input.”
40
41
42

1 E. Procedural requirements.

- 2
- 3 1. This ordinance is a Type 3 legislative action under chapter 30.73 SCC.
- 4
- 5 2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed
- 6 code amendments was transmitted to the Washington State Department of
- 7 Commerce for distribution to state agencies on February 3, 2022.
- 8
- 9 3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with
- 10 respect to this non-project action have been satisfied through the completion of
- 11 an environmental checklist and the issuance of a determination of non-
- 12 significance on February 3, 2022.
- 13
- 14 4. The public participation process used in the adoption of this ordinance complies
- 15 with all applicable requirements of the GMA and the SCC.
- 16
- 17 5. The Washington State Attorney General last issued an advisory memorandum,
- 18 as required by RCW 36.70A.370, in September of 2018 entitled “Advisory
- 19 Memorandum: Avoiding Unconstitutional Takings of Private Property” to help
- 20 local governments avoid the unconstitutional taking of private property. The
- 21 process outlined in the State Attorney General’s 2018 advisory memorandum
- 22 was used by Snohomish County in objectively evaluating the regulatory changes
- 23 proposed by this ordinance.
- 24

25 F. This ordinance is consistent with the record.

- 26
- 27 1. SCC 30.71.080(1) is amended to eliminate the specific reference to PDS, as the
- 28 Office of Hearings Administration will be providing notice for Type 1 administrative
- 29 appeal hearings unless an exception applies.
- 30
- 31 2. SCC 30.71.080(2) is amended to eliminate reference to subsections (3) and (4)
- 32 and to allow the Office of Hearings Administration to email notice of Type 1
- 33 decision administrative appeals, unless a party did not provide an email address
- 34 or requested notice through U.S. mail. Emailing notices to parties that have
- 35 provided their email address is the most efficient method to provide notice, is cost
- 36 effective, and aligns with current practice. SCC 30.71.080(2) is also amended to
- 37 reflect the name change of the hearing examiner’s office to the Office of Hearings
- 38 Administration.
- 39
- 40
- 41
- 42

- 1 3. SCC 30.71.080(3) and (4) are removed to make clear that the Office of Hearings
2 Administration will provide notice of Type 1 administrative appeal hearings.
3
4 a. SCC 30.71.080(2) currently requires the Hearing Examiner's office to
5 give notice by first class mail of all open record appeal hearings, except
6 where notice has already been given under the combined notice
7 provisions of SCC 30.70.080(2) and except where notice has been
8 provided by PDS under SCC 30.71.080(3) or (4).
9
10 b. SCC 30.71.080(3) currently requires PDS to mail notice of short
11 subdivision open record appeal hearings to all parties of record, and to
12 publish notice in the official county newspaper, post notice on the subject
13 property, and mail notice by USPS to all taxpayers of record within a
14 certain radius.
15
16 c. SCC 30.71.080(4) currently requires PDS to mail notice of SEPA
17 determination open record appeal hearings to all parties of record,
18 agencies with jurisdiction, and to all taxpayers of record within 500 feet
19 of the subject property.
20
21 d. State law does not require three different noticing procedures and two
22 different responsible departments for these Type 1 appeals. Prior to
23 1986, there was only one process for noticing and one department
24 responsible for noticing. This proposed amendment would revert to this
25 previous stance, would align with current practice, and would comply
26 with state requirements.
27
28 4. Deletion of SCC 30.71.080(3) and (4) eliminates inconsistency in the County Code
29 and a potential source of confusion for the public regarding participation in Type 1
30 administrative appeal hearings. Under SCC 30.71.050(1), any aggrieved party of
31 record may appeal a Type 1 decision. Parties of record to a Type 1 decision receive
32 written notice of the decision from PDS under SCC 30.71.040. Appeals must be
33 filed within a defined appeal period and no new substantive issues may be raised
34 after the close of that time period. At the open record Type 1 appeal hearing before
35 the Hearing Examiner, only parties to the appeal can participate in the hearing,
36 unless they call on a specific interested person to present relevant testimony.
37 Mailing notice of short subdivision and SEPA determination appeal hearings per
38 SCC 30.71.080(3) and (4) to taxpayers of record within a certain radius of the
39 subject property who are not already parties of record creates a false expectation
40 that the public can provide public comment during these appeals. The amendment
41 to remove SCC 30.71.080(3) and (4) eliminates this potential confusion, and
42 ensures that the noticing process for short subdivision and SEPA determination
43 appeal hearings are in line with the process for all other Type 1 appeal hearings.
44

1 5. Under SCC 30.70.060, all Type 1 and Type 2 permit applications require a
2 minimum 21-day public comment period that must close before PDS can make a
3 decision. The comment period is when members of the public can provide
4 comments about proposed permit applications that will be incorporated into PDS's
5 review of the submitted materials. Members of the public who are not parties to an
6 appeal cannot generally participate in appeal hearings. A goal of repealing SCC
7 30.71.080(3) and (4) is to reduce public confusion about the ability to comment
8 during Type 1 permit appeal hearings; the intent is not to reduce public
9 participation in the permitting process.

10
11 6. SCC 30.72.100(1) is amended to clarify that notices for Type 2 appeal hearings
12 can be emailed to parties of record. The amended language within SCC
13 30.72.100(1) is consistent with the amended language within SCC 30.71.080(2)
14 related to emailing notices.

15
16 G. The proposed code amendments are consistent with the record as set forth in the PDS
17 Staff Report dated February 22, 2022, and the Addendum to that staff report dated
18 April 25, 2022.

19
20 Section 2. The County Council makes the following conclusions:

- 21
22 A. The amendments proposed by this ordinance comply with the GMA.
23
24 B. The amendments proposed by this ordinance comply with the Snohomish County
25 GMACP.
26
27 C. The County has complied with all SEPA requirements with respect to this non-
28 project action.
29
30 D. The public participation process used in the adoption of this ordinance complies with
31 all applicable requirements of the GMA and title 30 SCC.
32
33 E. The amendments proposed by this ordinance do not result in an unconstitutional
34 taking of private property for a public purpose.

35
36 Section 3. The Snohomish County Council bases its findings and conclusions on
37 the entire record of the County Council, including all testimony and exhibits. Any
38 finding, which should be deemed a conclusion, and any conclusion which should be
39 deemed a finding, is hereby adopted as such.

1 Section 4. Snohomish County Code Section 30.71.080, last amended by
2 Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

3
4 **30.71.080 Notice of Type 1 open record appeal hearing.**

5
6 (1) Notice of open record appeal hearings conducted pursuant to this chapter shall be
7 provided at least 14 calendar days prior to the hearing and shall contain a description of
8 the proposal and list of permits requested, the county file number and contact person,
9 the date, time, and place for the hearing, and any other information determined
10 appropriate ((by the department)).

11
12 (2) Except where notice has already been given pursuant to the combined notice
13 provisions of SCC 30.70.080(2), ~~((and except where notice has been provided by the~~
14 ~~department pursuant to subsections (3) and (4) below,))~~ the ~~((hearing examiner's~~
15 ~~office))~~ office of hearings administration shall give notice of all open record appeal
16 hearings ~~((by first class mail (unless otherwise required herein)))~~ to~~(:)~~ the parties listed
17 below. Notice shall be by email unless any of the below listed parties did not provide an
18 email address or requested notice via U.S. mail, in which case notice shall be by U.S.
19 mail.

- 20
21 (a) The appellant;
22 (b) The appellant's agent/representative, if any;
23 (c) The department whose decision is being appealed ~~((by interoffice mail))~~;
24 (d) The applicant;
25 (e) Applicant's agent/representative, if any; and
26 (f) All parties of record.

27
28 ~~((3) The department shall give notice of an open record appeal hearing for a decision~~
29 ~~made pursuant to chapter 30.41B SCC:~~

- 30
31 ~~(a) In the same manner as required by SCC 30.72.030; and~~
32 ~~(b) By first class mail to parties of record.~~

33
34 ~~(4) The department shall give notice of an open record appeal hearing for a SEPA~~
35 ~~determination made pursuant to chapter 30.61 SCC by first class mail to:~~

- 36
37 ~~(a) Parties of record;~~
38 ~~(b) Agencies with jurisdiction as disclosed by documents in the appeal file; and~~
39 ~~(c) All taxpayers of record and known site addresses within 500 feet of any boundaries~~
40 ~~of the property subject to the appeal; provided that the mailing radius shall be increased~~
41 ~~if necessary to correspond with any larger radius required for the notice of any~~
42 ~~discretionary permit or action associated with the determination under appeal.))~~

1 Section 5. Snohomish County Code Section 30.72.100, last amended by
2 Ordinance No. 20-019 on June 24, 2020, is amended to read:

3
4 **30.72.100 Notice of Type 2 appeal.**

5
6 (1) Within seven calendar days following the close of the appeal period and upon
7 receipt of a timely filed and complete appeal, the council clerk will ~~((mail))~~ provide notice
8 of the appeal and of the date, time, and place of the closed record appeal hearing to all
9 parties of record. Notice shall be by email unless any party of record did not provide an
10 email address or requested notice via U.S. mail, in which case notice shall be by U.S.
11 mail.

12
13 (2) The dates for filing written arguments with the council shall be included in the
14 hearing notice as follows:

15
16 (a) Parties of record, other than the appellant, may file written arguments with the
17 council until 5:00 p.m. on the fourteenth day following the date of the hearing notice
18 mailed pursuant to SCC 30.72.100(1); and

19
20 (b) An appellant may file written rebuttal arguments with the council until 5:00 p.m. on
21 the twenty-first day following the date of the hearing notice mailed pursuant to SCC
22 30.72.100(1). Such rebuttal is limited to the issues raised in written arguments filed
23 under SCC 30.72.100(2)(a).

24
25 (3) The hearing notice shall be sent for publication in the official county newspaper the
26 same day the notice of appeal is sent to parties of record.

27
28 (4) Within five days of mailing of the hearing notice under SCC 30.72.100(1), the
29 applicant shall conspicuously post notice of the hearing on the signs in accordance with
30 SCC 30.70.045.

31
32 Section 6. Severability and Savings. If any section, sentence, clause or phrase
33 of this ordinance shall be held to be invalid by the Growth Management Hearings Board
34 (Board), or unconstitutional by a court of competent jurisdiction, such invalidity or
35 unconstitutionality shall not affect the validity or constitutionality of any other section,
36 sentence, clause or phrase of this ordinance. Provided, however, that if any section,
37 sentence, clause or phrase of this ordinance is held to be invalid by the Board or court
38 of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to
39 the effective date of this ordinance shall be in full force and effect for that individual
40 section, sentence, clause or phrase as if this ordinance had never been adopted.

1 PASSED this _____ day of _____, 20__.

2

3

SNOHOMISH COUNCIL
Snohomish, Washington

4

5

6

7

Council Chair

8

9 ATTEST:

10

11

12

Asst. Clerk of the Council

13

14

15 () APPROVED

16 () EMERGENCY

17 () VETOED

DATE:

18

19

20

County Executive

21

22 ATTEST:

23

24

25

26 Approved as to form only:

27

28 **Christina** Digitally signed by
Christina Richmond
29 **Richmond** Date: 2022.04.26
10:20:55 -07'00'

30

31

Deputy Prosecuting Attorney



Snohomish County
Planning and Development Services

3000 Rockefeller Ave., M/S 604
Everett, WA 98201-4046
(425) 388-3311
www.snoco.org

MEMORANDUM

TO: Snohomish County Planning Commission

FROM: Sarah Titcomb, Principal Planner

SUBJECT: Staff Report: Proposed Code Amendments related to Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits

DATE: February 22, 2022

Dave Somers
County Executive

INTRODUCTION

The purpose of this staff report is to provide information on a non-project proposal to amend Chapters 30.71 and 30.72 of the Snohomish County Code (SCC). The proposed code amendments to SCC 30.71.080 will work to streamline the noticing process for Type 1 permit open record appeal hearings. The proposed amendments to SCC 30.72.100 will align the code for the noticing of Type 2 permit closed record appeal hearings with practice. Attachment A presents the staff recommended draft findings.

PROPOSAL BACKGROUND

Type 1 permits are administratively decided and processed per Chapter 30.71 SCC, whereas Type 2 permits are decided by the Hearing Examiner after a public hearing and processed per Chapter 30.72 SCC. Appeals of Type 1 and Type 2 decisions are both considered administrative, although Type 1 appeal hearings are open record and heard by the Hearing Examiner, and Type 2 appeal hearings are closed record and heard by the County Council. The proposed amendments concern the public noticing processes for Type 1 and Type 2 appeal hearing once the Hearing Examiner or County Council has scheduled the date, time, and location of the hearing.

SCC 30.71.080 describes the process to notice Type 1 open record appeal hearings. The Hearing Examiner (Office of Hearings Administration) is required to process open record appeal hearing notices for all Type 1 permits except for appeals related to short subdivision administrative decisions made pursuant to Chapter 30.41B SCC, and to State Environmental Policy Act (SEPA) determinations made pursuant to Chapter 30.61 SCC. Notice of the open record appeal hearing for these two exceptions must be processed by Snohomish County Planning and Development Services (PDS) pursuant to SCC 30.71.080(3) and (4).

The party responsible for noticing open record appeal hearings of administrative decisions has changed over time. In 1966, the Board of Adjustment was given the authority, then in 1972 it was the Zoning Adjuster, and the Hearing Examiner took over in 1979. In 1980, the then Department of Community Affairs (a precursor to PDS) became responsible for noticing, although by 1986 the responsibility was split much like it is today between PDS and the Office of Hearings Administration.

The current noticing requirements for the three categories of Type 1 open record appeal hearings described in SCC 30.71.080 are different, although this has not always been the case. From 1966 to 1986, one party was responsible for noticing the appeal hearings utilizing one methodology. In 1986 this changed and there became three separate processes that have not changed significantly to this day.

Currently, SCC 30.71.080 requires:

- The Office of Hearings Administration to provide 14 days notice for Type 1 open record appeal hearings by first class mail to the appellant, the appellant's representative, the department whose decision is being appealed (by interoffice mail), the applicant, the applicant's representative, and all parties of record.
- PDS to provide notice for short subdivision open record appeal hearings in the same manner that is required for Type 2 permit open record hearings per SCC 30.72.030, and to all parties of record by first class mail. SCC 30.72.030 requires 15 days notice of the hearing, and the notice must be published in the official county newspaper, mailed, and posted on the subject property per SCC 30.70.045. The mailed notices must be sent to all taxpayers of record within 500 to 1,500 feet of the subject property depending on the zoning and size of the property. The notice must also be mailed to cities or towns that have municipal boundaries within one mile of the subject property, to the Washington State Department of Transportation if the property is adjacent to a state right-of-way or within two miles of a state or municipal airport, and to any other local, state, or federal agency, or to any person or organization as determined appropriate.
- PDS to give 14 days notice for open record appeal hearings related to a SEPA determination by first class mail to all parties of record, agencies with jurisdiction as disclosed by documents in the appeal file, and to all taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to appeal.

Requiring two different parties to notice Type 1 open record appeal hearings utilizing three different processes causes confusion and delays. Additionally, the recent practice has been for the Office of Hearings Administration to provide public notice for all Type 1 open record appeal hearings. To simplify the noticing process and align code with current practice, the code amendments propose that the Office of Hearings Administration provide notice for all Type 1 open record appeal hearings utilizing one methodology that is in compliance with state requirements.

SCC 30.72.100 describes the noticing process for Type 2 closed record appeal hearings, and (1) states that the council clerk "will mail notice of the appeal" to all parties of record. The current practice is for the council clerk to email the notice information (date, time, and location of the scheduled hearing) to all parties of record. The proposed amendments to SCC 30.72.100(1) will clarify that emailed notices of closed record hearings are allowed. The proposed amendments will also create consistent language between SCC 30.71.080(2) and SCC 30.72.100(1) related to emailing or mailing notices.

Washington Administrative Code (WAC) 365-196-845 and the Revised Code of Washington (RCW) 36.70B.110(9) state that counties are not required to provide a process for administrative appeals. If the County does allow appeals, the WAC provides examples of reasonable notice measures, although it does not provide specific requirements. It is a similar story for SEPA appeals pursuant to Chapter 43.21C RCW. Therefore, Snohomish County has the discretion to determine the best method to notice both Type 1 and Type 2 appeal hearings. Based on research and practice, staff recommends that the Type 1 process include emailing the time, date, and place of the open record appeal hearing to the: appellant, the appellant's

representative, the department whose decision is being appealed (if outside of PDS), the applicant, the applicant's representative, and all other parties of record. The process for noticing Type 2 appeal hearings will not change except to clarify that U.S. mail is not required. First class mail in particular will no longer be a requirement when individuals or organizations have provided their email address. When parties of record do not provide their email address, or request correspondence by physical mail, the Office of Hearings Administration or council clerk will mail notices by U.S. mail.

The specific provisions in Chapters 30.71 and 30.72 SCC to be amended are described below:

- SCC 30.71.080(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be eliminated to streamline the noticing process. The remaining language will clarify that the Office of Hearings Administration will notice all Type 1 open record appeals by mailing the notice to required parties.
- SCC 30.71.080(2) requires that the Hearing Examiner utilize first class mail or interoffice mail to notice the open record appeal hearings. The proposed amendments will change this language to allow for emailing unless a party of record specified a need for physical mail. With the popularity of email correspondence and change in permit processing at PDS to only accept digital permit submissions, requiring that notice be physically mailed is not reasonable, cost effective, or the most efficient method of delivery in most situations.
- SCC 30.72.100(1) states that the council clerk will mail notice of Type 2 closed record appeal hearings to parties of record. The proposed amendments will change this language to clarify that the council clerk can email notices unless a party of record specified the need for physical mail. The proposed change will align code with current practice, and will be consistent with the proposed changes to Chapter 30.71 SCC.

PROPOSED CODE AMENDMENTS

Table 1 outlines the proposed code amendments, as well as the findings in support of the proposed code amendments subsection by subsection.

The proposed code amendments will streamline the noticing process and align code with current practice by:

- Eliminating PDS from the noticing process for Type 1 open record appeal hearings,
- Specifying a single noticing process to be used by the office adjudicating the administrative hearing, with a presumption of emailing notice unless otherwise indicated, and
- Removing the requirement to mail notices by first class mail.

TABLE 1: SUMMARY OF PROPOSED CODE CHANGES AND FINDINGS

Proposed Change	Finding
<p>30.71.080 Notice of Type 1 open record appeal hearing</p> <p>(2) Except where notice has already been given pursuant to the combined notice provisions of SCC 30.70.080(2), ((and except where notice has been provided by the department pursuant to subsections (3) and (4) below,)) the <u>Office of Hearings Administration</u> ((hearing examiner's office)) shall give notice of all open record appeal hearings by <u>email</u> ((first class mail)) (unless <u>any of the below listed parties did not provide an email address or requested notice via U.S Mail</u> ((otherwise required herein))) to:</p> <p>(a) The appellant; (b) The appellant's agent/representative, if any; (c) The department whose decision is being appealed ((by interoffice mail)); (d) The applicant; (e) Applicant's agent/representative, if any; and (f) All parties of record.</p>	<p>Reference to subsections (3) and (4) are proposed to be removed along with the requirement to send notice through first class mail or interoffice mail. Emailing notices to parties that have provided their email address is the most efficient method to provide notice, it is cost effective, and it aligns with current practice. Changing the language to email with the option to physically mail notice as necessary, allows for Hearing Examiner to have flexibility and for the code to align with practice.</p> <p>Changes are also proposed to how the Hearing Examiner is referenced as the office is now known as the Office of Hearings Administration. Proposed changes will align code with the office's official name.</p>
<p>((3) The department shall give notice of an open record appeal hearing for a decision made pursuant to chapter 30.41B SCC:</p> <p>(a) In the same manner as required by SCC 30.72.030; and (b) By first class mail to parties of record.)</p>	<p>State law does not require an appeal process for administrative decisions (Type 1 permits), therefore there is not a requirement for there to be three different noticing procedures and two different responsible parties. Prior to 1986, there was only one process for noticing and one party responsible for noticing. This proposed amendment would revert to this previous stance, would align with current practice, and would comply with state requirements.</p>
<p>((4) The department shall give notice of an open record appeal hearing for a SEPA determination made pursuant to chapter 30.61 SCC by first class mail to:</p> <p>(a) Parties of record; (b) Agencies with jurisdiction as disclosed by documents in the appeal file; and (c) All taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to the appeal; provided that the mailing radius shall be increased if necessary to correspond with any larger radius required for the notice of any discretionary permit or action associated with the determination under appeal.)</p>	<p>See above.</p>

<p>30.72.100 Notice of Type 2 appeal</p> <p>(1) Within seven calendar days following the close of the appeal period and upon receipt of a timely filed and complete appeal, the council clerk will <u>email</u> ((mail)) notice of the appeal and of the date, time, and place of the closed record appeal hearing to all parties of record <u>(unless any party of record did not provide an email address or requested notice via U.S Mail)</u>.</p>	<p>Proposed amendments to align the code with the practice of the council clerk and to ensure consistency between the appeal noticing provisions of Chapters 30.71 and 30.72 SCC.</p>
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The following analysis provides a summary of the proposed code amendments compliance with state law, as well as regional, countywide, and county Comprehensive Plan policies.

Compliance with State Law

The Growth Management Act (GMA) planning goals adopted in RCW 36.70A.020 guides the development and adoption of comprehensive plans and development regulations. The goals are not priority-listed. The GMA goals guide the policies in the Snohomish County’s GMA Comprehensive Plan (GMACP), and require consistency between the GMACP and implementing development regulations. Table 2 identifies the reasonably related GMA planning goals listed in RCW 36.70A.020, and describes how the proposed code amendments are consistent with and advance those goals.

Table 2 Compliance with GMA Planning Goals

GMA Planning Goal	Finding
<p>GMA Goal 7: Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.</p>	<p>The proposed amendments will streamline the noticing process for Type 1 open record appeal hearings. With one noticing process and one party responsible for noticing, there will not be confusion or unnecessary delays. Additionally, the proposed amendments allow for the notice for Type 1 and Type 2 appeal hearings to be emailed, thereby ensuring the most efficient and timely method of delivery for many individuals and organizations.</p>

Compliance with the Multi-County Planning Policies

Multi-County Planning Policies (MPPs) within Vision 2050 “provide for coordination and consistency among the metropolitan counties sharing common borders and related regional issues as required by RCW 36.70A.100, and, in order to ensure consistency, the directive policies of the MPPs need to have a binding effect.” (Summit-Waller Community Association, et al, v Pierce County). Table 3 identifies the reasonably related MPPs within Vision 2050, and describes how the proposed code amendments are consistent with and advance those goals.

Table 3 Compliance with MPPs

MPP	Finding
MPP-DP-47: Streamline development standards and regulations for residential and commercial development and public projects, especially in centers and high-capacity transit station areas, to provide flexibility and to accommodate a broader range of project types consistent with the regional vision.	Type 1 and 2 permits often relate to residential and commercial development proposals, and the proposed amendments will streamline the noticing process for appeal hearings.

Compliance with the Countywide Planning Policies

Countywide Planning Policies (CPPs) establish a countywide framework for developing and adopting county, city, and town comprehensive plans. The role of the CPPs is to coordinate comprehensive plans of jurisdictions in the same county in regard to regional issues and issues affecting common borders (RCW 36.70A.100). Table 4 identifies the reasonably related CPPs, and describes how the proposed code amendments are consistent with and advance those goals.

Table 4 Compliance with CPPs

CPP Reasonable Measure	Finding
HO-11: The county and cities should consider the economic implications of proposed building and land use regulations so that the broader public benefit they serve is achieved with the least additional cost to housing.	The proposed amendments will streamline the noticing process for appeal hearings while still complying with all state and local requirements. The effect will be to ensure a broad public benefit without unnecessary costs.

Compliance with the Snohomish County Comprehensive Plan

The proposed code amendments will better achieve, comply with, and implement the policies identified in Table 5 contained in the County’s GMACP.

Table 5 Compliance with the Comprehensive Plan

GMACP Policy	Finding
ED Policy 2.A.3: To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input.	The proposed amendments will eliminate unnecessary administrative noticing procedures for certain Type 1 open record appeal hearings, and thus make the process more efficient.

Environmental Review

A State Environmental Policy Act (SEPA) Determination is required for the proposed code amendments. A SEPA Determination of Non-Significance was issued on February 3, 2022.

Notification of State Agencies

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards was transmitted to the Washington State Department of Commerce on February 3, 2022.

Staff Recommendation:

Staff recommends approval of the proposed code amendments and findings contained in this staff report.

Action Requested

The Planning Commission is requested to hold a public hearing, consider the proposed code amendments, and provide a recommendation to the County Council. The Planning Commission can recommend approval of the amendments with supporting findings of fact as proposed or modified, deny the proposal with findings, or amend the proposal with appropriate findings.

cc: Ken Klein, Executive Director
Mike McCrary, PDS Director
David Killingstad, PDS Manager
Michael Dobesh, PDS Manager
Ryan Countryman, Legislative Analyst

Attachments

Attachment A: Proposed Code Amendments, Draft Findings of Fact and Conclusions

Attachment A
Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits
Proposed Code Amendments Findings of Fact and Conclusions

Section 1. Snohomish County Planning Commission adopts the following findings in support of this ordinance:

- A. The foregoing recitals are adopted as findings as if set forth in full herein.
- B. This ordinance will amend Title 30 SCC to revise Snohomish County Code (SCC) 30.71.080. The code amendments will increase the efficiency of the noticing process for Type 1 open record appeal hearings by: 1) eliminating PDS from the noticing process; and 2) requiring one noticing process.
- C. In developing the code amendments, the County considered the goals of the GMA identified in RCW 36.70A.020, specifically the goal related to ensuring permits are processed in a timely and predictable manner. The proposed regulations are reasonably related to, and necessary for, the advancement of the before mentioned GMA planning goal.
- D. The code amendments will allow Chapters 30.71 SCC to achieve, comply with, and implement the below listed policy contained in the County's GMACP, by providing regulations that are predictable and streamlined.
 - 1. ED Policy 2.A.3: "To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input."
- E. The proposed code amendments are consistent with the record:
 - 1. SCC 30.71.080(2) is amended to eliminate reference to subsections (3) and (4) and to remove reference to sending notices through first class mail or interoffice mail. Emailing notices to parties that have provided their email address is the most efficient method to provide notice, it is cost effective, and it aligns with current practice. Changing the language to "email" allows for the Hearing Examiner to mail hard copies of notices to parties without email addresses or who have requested it.
 - 2. SCC 30.71.080(3) and (4) are removed as State law does not require an appeal process for administrative decisions, therefore there is not a requirement for there to be three different noticing procedures and two different responsible parties. Prior to 1986, there was only one process for noticing and one party responsible for noticing. This proposed amendment would revert to this previous stance, would align with current practice, and would comply with state requirements.
 - 3. SCC 30.72.100(1) is amended to clarify that notices for Type 2 appeal hearings can be emailed to parties of record and align with current practice. The amended language within SCC 30.72.100(1) is consistent with the amended language within SCC 30.71.080(2) related to emailing notices.
- F. The proposed code amendments are consistent with the record as set forth in the PDS Staff Report dated February 22, 2022.

G. Procedural requirements:

1. The proposal is a Type 3 legislative action under SCC 30.73.010 and 30.73.020.
2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed code amendments was transmitted to the Washington State Department of Commerce for distribution to state agencies on February 3, 2022.
3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance on February 3, 2022.
4. The public participation process used in the adoption of the proposed code amendments has complied with all applicable requirements of the GMA and SCC.
5. As required by RCW 30.70A.370, the Washington State Attorney General last issued an advisory memorandum in December 2015 entitled "Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property" to help local governments avoid unconstitutional takings of private property. The process outlined in the State Attorney General's 2015 advisory memorandum was used by the County in objectively evaluating the regulatory changes in this ordinance.

Section 2. The County Council makes the following conclusions:

- A. The proposal is consistent with Washington State law and Snohomish County Code.
- B. The proposal is consistent with the GMACP and with the goals, objectives, and policies of the GPP.
- C. The County has complied with all SEPA requirements with respect to this non-project action.
- D. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.
- E. The County complied with the state and local public participation requirements under the GMA and chapter 30.73 SCC.

Section 3. The County Council bases its findings and conclusions on the entire record of the County Council, including all testimony and exhibits. Any finding, which should be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.



SNOHOMISH COUNTY PLANNING COMMISSION

March 28, 2022

Snohomish County Council
County Administration Building
3000 Rockefeller Avenue, M/S 609
Everett, WA 98201-4046

SUBJECT: Planning Commission recommendation on proposed code amendments to
Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits

Dear Snohomish County Council:

On behalf of the Snohomish County Planning Commission, I am forwarding our recommendation to amend regulations regarding the appeal hearing notice requirements for Type 1 and Type 2 permits. The Planning Commission had a briefing on this topic on February 22, 2022, and conducted a public hearing on March 22, 2022.

The proposed code amendments would work to streamline the noticing process for Type 1 permit open record appeal hearings by identifying one responsible party and one method. The proposed amendments would also allow the responsible party to email notice of Type 1 and Type 2 permit appeal hearings to parties of record.

There were no written comments received by the Planning Commission from the public prior to the March 22nd hearing, and no members of the public commented at the public hearing.

PLANNING COMMISSION RECOMMENDATION

At the March 22, 2022, Planning Commission meeting, Commissioner Campbell made a motion, seconded by Commissioner Sheldon, recommending APPROVAL of the proposed appeal hearing notice requirement amendments contained in the staff report dated February 22, 2022.

Commissioner Campbell then made an amendment to the motion that would require notice of certain Type 1 permit appeal hearings to be mailed by USPS to taxpayers of record located within a certain radius around the subject property, as is currently required within SCC 30.71.080(3) and (4). The motion was seconded by Commissioner Norcott.

Vote (Amendment):

7 in favor (*Brown, Campbell, Everett, James, Larsen, Moore, Norcott*)

2 opposed (*Ash, Pedersen*)

0 abstentions

Amendment passed

Vote (Motion):

9 in favor (*Ash, Brown, Campbell, Everett, James, Larsen, Moore, Norcott, Pedersen*)

0 opposed

0 abstentions

Motion passed

These recommendations were made following the close of the public hearing and after due consideration of information presented and are based on the findings and conclusions presented in the February 22, 2022, staff report, with which the Commission concurred.

During the deliberations, the topic of public participation in the appeal process was discussed at length. The commissioners feel strongly that the County should not reduce any opportunities for public participation even though notice will not allow members of the public to participate in the appeal hearing.

Respectfully submitted,

Robert Larsen

[Robert Larsen \(Mar 30, 2022 08:17 PDT\)](#)

SNOHOMISH COUNTY PLANNING COMMISSION
Robert Larsen, Chairman

cc: Dave Somers, Snohomish County Executive
Mike McCrary, Director, Planning and Development Services

Executive/Council Action Form (ECAF)

EXHIBIT # 3.1.001

FILE ORD 22-021

ITEM TITLE:

..Title

Ordinance 22-021, relating to Growth Management; administrative appeal hearing notice requirements for Type 1 and Type 2 Permits; amending Chapters 30.71 and 30.72 SCC

..body

DEPARTMENT: Planning and Development Services

ORIGINATOR: Sarah Titcomb

EXECUTIVE RECOMMENDATION: Approve – Ken Klein

PURPOSE: To adopt code amendments to Chapters 30.71 and 30.72 of the Snohomish County Code (SCC) related to noticing for Type 1 and Type 2 appeal hearings. The code amendments will increase the clarity and efficiency of the noticing process for Type 1 open record appeal hearings by: 1) eliminating Planning and Development Services (PDS) from the noticing process for appeal hearings; and 2) requiring a single noticing process that allows for use of email. The code amendments will also clarify that the Council Clerk can provide notice of Type 2 closed record appeal hearings by email.

BACKGROUND: The Office of Hearings Administration is currently required to process open record appeal hearing notices for all Type 1 permits except for appeals related to short subdivision administrative decisions made pursuant to Chapter 30.41B SCC, and to State Environmental Policy Act (SEPA) determinations made pursuant to Chapter 30.61 SCC. Notice of the open record appeal hearing for these two exceptions must be processed by PDS. Further, the current noticing requirements for the three categories of Type 1 open record appeal hearings are different. Requiring two different parties to notice Type 1 open record appeal hearings utilizing three different processes causes confusion and delays. Additionally, with the popularity of email correspondence and change in permit processing at PDS to only accept digital permit submissions, requiring that notice of Type 1 and Type 2 appeal hearings be physically mailed is not reasonable, cost effective, or the most efficient method of delivery in most situations. PDS briefed the Planning Commission on the proposed code amendments on February 22, 2022. The Planning Commission held a public hearing on March 22, 2022, and they recommend adoption with an amendment as outlined in their March 28, 2022, letter and the Addendum to the February 22, 2022, staff report dated April 25, 2022.

FISCAL IMPLICATIONS:

EXPEND: FUND, AGY, ORG, ACTY, OBJ, AU	CURRENT YR	2ND YR	1ST 6 YRS
TOTAL	\$0	\$0	\$0

REVENUE: FUND, AGY, ORG, REV, SOURCE	CURRENT YR	2ND YR	1ST 6 YRS
TOTAL	\$0	\$0	\$0

DEPARTMENT FISCAL IMPACT NOTES: Click or tap here to enter text.

CONTRACT INFORMATION:

ORIGINAL _____ CONTRACT# _____ AMOUNT _____
AMENDMENT _____ CONTRACT# _____ AMOUNT _____

Contract Period

ORIGINAL START _____ END _____
AMENDMENT START _____ END _____

OTHER DEPARTMENTAL REVIEW/COMMENTS: Approved as to form by DPA Christina Richmond.
Reviewed/approved by Finance.



Snohomish County
Planning and Development Services

3000 Rockefeller Ave., M/S 604
Everett, WA 98201-4046
(425) 388-3311
www.snoco.org

MEMORANDUM

TO: Snohomish County Council

Dave Somers
County Executive

FROM: Sarah Titcomb, Principal Planner

SUBJECT: Addendum to the February 22, 2022, Staff Report: Proposed Code Amendments related to Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits

DATE: April 25, 2022

Introduction

A staff report dated February 22, 2022, detailing proposed code amendments to chapters 30.71 and 30.72 of Snohomish County Code (SCC) was provided to the Planning Commission. The Planning Commission public hearing for this proposal took place on March 22, 2022, and the Planning Commission recommended approval of the proposal with an amendment. This addendum to the February 22nd staff report describes the amendment and the reasons Snohomish County Planning and Development Services (PDS) does not concur with the amendment.

Planning Commission Recommendation

As described within the March 28, 2022, Planning Commission Recommendation Letter, the amendment recommended by the Planning Commission is to retain the requirement in code to mail notification of appeal hearings for short subdivisions and State Environmental Policy Act (SEPA) determinations to taxpayers of record in a certain radius around the subject property. The discussion at the Planning Commission public hearing focused on the Planning Commission's desire to not reduce opportunities for public participation.

PDS Recommendation

PDS does not support the amendment put forth by the Planning Commission because it would prevent the streamlining of the public noticing process without adding opportunities for public participation. The amendment would retain the three different and inconsistent noticing processes that currently exist and cause confusion within SCC 30.71.080.

The Planning Commission's suggested amendment is not necessary to ensure adequate public participation during the planning process or comply with state regulations. Public input is essential to the review of land use applications. To encourage this involvement at a time in the process when the input can be incorporated into the review, public notice of all new Type 1 applications is published in the county's official newspaper, posted on site, and mailed to all taxpayers of record in a certain radius from the subject property pursuant to SCC 30.70.045. Once a Type 1 decision

has been made by PDS, PDS provides notice of such decision as described in SCC 30.71.040 and 30.70.040. Per SCC 30.91P.110, Type 1 parties of record include the applicant and any appellant as well as any person who submits written comments to PDS prior to a Type 1 decision. Pursuant to SCC 30.71.040, Type 1 permit decisions must be mailed to parties of record, unless the Type 1 permit is subject to SEPA. When a determination of nonsignificance (DNS) or other SEPA document is issued, public notice must be posted, published, and mailed per SCC 30.61.110.

After a Type 1 decision has been issued, only aggrieved parties of record can appeal per SCC 30.71.050(1), and further, only parties to the appeal can participate in the open record appeal hearing. While parties to the appeal can call on specific interested persons to present at the hearing, they may only present relevant testimony on appeal issues and cannot raise any additional issues per SCC 30.71.100.

Due to the procedures within existing code described above, PDS is of the opinion that the removal of the requirement to mail notices of Type 1 appeal hearings to taxpayers of record for short subdivisions and projects subject to SEPA will not reduce opportunities for public engagement with land use development projects.

The primary aim of the proposed code amendments is to streamline the notification process for Type 1 open record appeal hearings. One central way to do this is to align the notification process for short subdivisions and SEPA determinations with the notification process for all other Type 1 appeal hearings. The Planning Commission's amendment would prevent this by retaining the existing code. The existing code is unnecessarily inconsistent because it does not require notice of all Type 1 appeal hearings to be mailed to taxpayers within a certain radius of the subject property. The existing code requires that postcards are mailed only when the appeal hearing is for a short subdivision or SEPA determination. Streamlining the notification process to one method as described below is in line with state requirements as Washington Administrative Code (WAC) 365-196-845 and the Revised Code of Washington (RCW) 36.70B.110(9) state that counties are not required to provide a process for administrative appeals. If the county does allow appeals, the WAC provides examples of reasonable notice measures, although it does not provide specific requirements. It is a similar story for SEPA appeals pursuant to Chapter 43.21C RCW. Therefore, Snohomish County has the discretion to determine the best method to notice Type 1 appeal hearings. Based on research and practice, staff recommends that the Type 1 appeal hearing notification process include emailing the time, date, and place of the open record appeal hearing to the: appellant, the appellant's representative, the department whose decision is being appealed (if outside of PDS), the applicant, the applicant's representative, and all other parties of record.

PDS Staff recommends that the County Council adopt the code amendments in substantially the form presented within the February 22, 2022, staff report. There are minor changes to the proposed code amendments from the language included within the staff report. These changes were made for clarification and do not change the intent or impact of the amendments. For instance, the revision to SCC 30.71.080(2) clarifies that if parties of record did not provide an email address or requested U.S. mail then the notice will be mailed to them via U.S. mail. The February 22, 2022, version implies that the notice will be mailed instead of specifically stating it.

ANALYSIS OF BUILDING AND LAND USE REGULATION EFFECTS ON HOUSING AND JOBS

Title Ordinance No. 22-021

Description This is non-project proposal to amend the Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits (SCC 30.70.080 and SCC 30.72.100)

Date: January 21, 2022

Staff Contact: Sarah Titcomb, Principal Planner, Sarah.Titcomb@snoco.org

	Place an "X" in the appropriate box				Comments
	Increase	Decrease	Neutral	Uncertain	
Housing					
Capacity/Targets			X		The proposed amendments will streamline the noticing process for appeal hearings and will not likely impact housing in the county.
Cost of Housing Development:			X		
• Infrastructure			X		
• Site			X		
• Building const.			X		
• Fees			X		
• Yield			X		
Timing			X		
Jobs					
Capacity/Targets			X		The proposed amendments will streamline the noticing process for appeal hearings and will not likely impact employment in the county.
Cost of Commercial or Industrial Development:			X		
• Infrastructure			X		
• Site			X		
• Building const.			X		
• Fees			X		
• Yield			X		
Time to Create Jobs			X		
# Family Wage Jobs			X		

This form is intended to provide a summary analysis of the impact changes to development regulation may have on Residential, Commercial or Industrial Development.

ANALYSIS OF BUILDING AND LAND USE REGULATION EFFECTS ON CAPITAL FACILITIES AND UTILITIES

Title Ordinance No. 22-021

Description This is non-project proposal to amend the Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits (SCC 30.70.080 and SCC 30.72.100)

Date: January 21, 2022

Staff Contact: Sarah Titcomb, Principal Planner, Sarah.Titcomb@snoco.org

	Place an "X" in the appropriate box			Comments
	Increase	Decrease	Neutral	
County Provided				
• Airport			X	The proposed amendments will streamline the noticing process for appeal hearings and will not impact County provided capital facilities and utilities.
• General Government			X	
• Law and Justice			X	
• Parks			X	
• Roads			X	
• Solid Waste			X	
• Surface Water			X	
Non-County Provided				
• Electric Power			X	The proposed amendments will streamline the noticing process for appeal hearings and will not impact non-County provided capital facilities and utilities.
• Fire Suppression			X	
• Public Water Supply			X	
• Sanitary Sewer			X	
• Telecommunications			X	

This form is intended to provide a summary analysis of the impact changes to development regulation may have on county and non-county provided capital facilities and utilities.

ANALYSIS OF BUILDING AND LAND USE REGULATION EFFECTS ON LOW IMPACT DEVELOPMENT

Title Ordinance No. 22-021

Description This is non-project proposal to amend the Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits (SCC 30.70.080 and SCC 30.72.100)

Date: January 21, 2022

Staff Contact: Sarah Titcomb, Principal Planner, Sarah.Titcomb@snoco.org

LID Evaluation:

The proposed amendments to Chapters 30.71 and 30.72 SCC do not increase or hamper the likelihood of development in Snohomish County as they are focused on housekeeping corrections to streamline the noticing process for Type 1 and Type 2 permit appeal hearings. As such, there will be no impact on LID.

Does the new policy or regulation support Low Impact Development	Place an "X" in the appropriate box			If "yes" or "no", explain...
	Increase	Decrease	Neutral	
Retention of native vegetation			X	
Minimal disruption of native soils			X	
Preservation of natural drainage			X	
Minimization of impervious surface area			X	
Use of LID facilities			X	
Better site design – using LID principles			X	
Adherence to SWPPP and drainage plan requirements			X	
Provisions for long term maintenance			X	

Retention of native vegetation			X	
Minimal disruption of native soils			X	
Preservation of natural drainage			X	
Minimization of impervious surface area			X	

ECAF NO.:
ECAF RECEIVED:

SNOHOMISH COUNTY COUNCIL

**ORDINANCE
INTRODUCTION SLIP**

EXHIBIT # 3.1.007

FILE ORD 22-021

TO: Clerk of the Council

TITLE OF PROPOSED ORDINANCE:

~~~~~

N. Nehring  
Councilmember \_\_\_\_\_ Date \_\_\_\_\_

Clerk's Action: \_\_\_\_\_ Proposed Ordinance No. \_\_\_\_\_

Assigned to: \_\_\_\_\_ Date: \_\_\_\_\_

~~~~~

STANDING COMMITTEE RECOMMENDATION FORM

On _____, the Committee considered the item and by ____ Consensus /
____ Yeas and ____ Nays, made the following recommendation:

_____ Move to Council to schedule public hearing _____

Public Hearing Date _____ **at** _____

_____ Move to Council as amended to schedule public hearing

_____ Move to Council with no recommendation

This item ____ should/ ____ should not be placed on the Consent Agenda.

(Consent agenda may be used for routine items that do not require public hearing and do not need discussion at General Legislative Session)

This item ____ should/ ____ should not be placed on the Administrative Matters Agenda

(Administrative Matters agenda may be used for routine action to set time and date for public hearings)

N. Nehring
Committee Chair _____

**Snohomish County Council**

Committee: Planning & Community Development **Analyst:** Ryan Countryman
ECAF: 2022-0450
Proposal: Ordinance 22-021 **Date:** May 17, 2022

Consideration

Proposed Ordinance 22-021 relates to administrative appeal hearing notice requirements for Type 1 and Type 2 permits and would amend Chapters 30.71 and 30.72 of Snohomish County Code (SCC).

Background and Analysis

Planning and Development Services (PDS) proposes to streamline the administrative processes for providing notice of appeal for Type 1 and Type 2 permit decisions. For notice of Type 1 open record appeal hearings, code currently requires two parties – PDS and the Office of Hearings Administration (OHA) – to provide notice using three different processes. Section 4 of the ordinance would amend SCC 30.71.080 to consolidate this into one process performed by OHA. Amendments in this section would also eliminate postcard mailings to taxpayers of record within 500 properties subject to some, but not all, appeals of Type 1 projects. Notice could be by email instead of by US postal mail. Section 5 would amend SCC 30.72.100 to allow notice of Type 2 appeals by email.

The Planning Commission supported most of the changes proposed by PDS but recommended against eliminating postcard mailings to all taxpayers of record within 500 feet of the property under Type 1 appeal. The Planning Commission's concern was about maintaining an opportunity for public input.

As described in Findings F.4 and F.5 of the proposed ordinance, only certain parties can provide comment during Type 1 appeals. If someone living with 500 feet of a project did not also request to be a party of record for the project, then the postcard notice of appeal may create a false expectation that they may provide further comment on a project under appeal. Ordinance 22-021 as provided to the County Council reflects PDS' position and would eliminate postcard mailings to taxpayers who are not also parties of record.

Current Proposal

Scope and Summary: Ordinance 22-021 would amend Chapters 30.71 and 30.72 as described above.

Fiscal Implications: None

Deadlines: None

Handling: Normal

Approved-as-to-form: Yes

Risk Management: Approve

Finance: Approve

Executive Recommendation: Approve

Request:

Move to General Legislative Session on May 25 to set time and date for a public hearing.

Ordinance 22-021: Administrative Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits

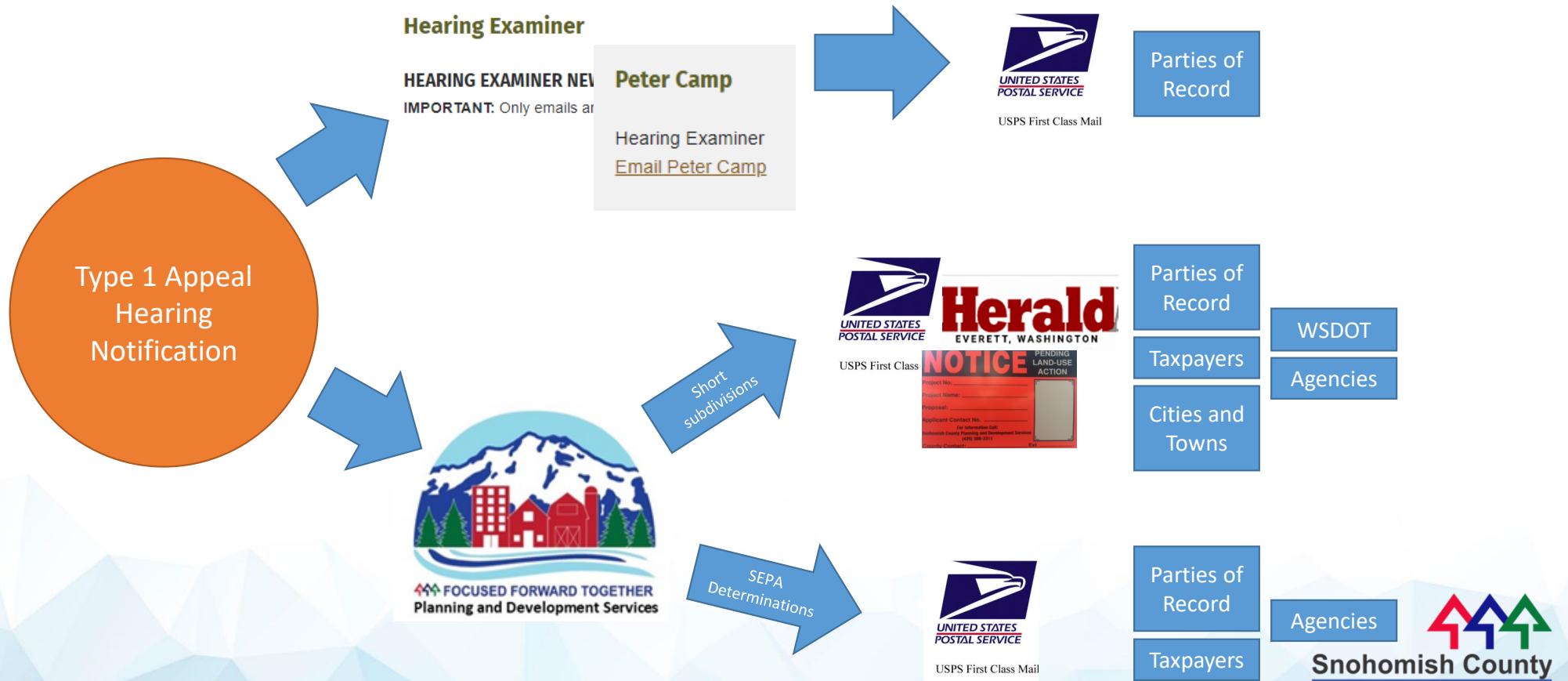
Snohomish County Council:

Planning and Community Development Committee

May 17, 2022

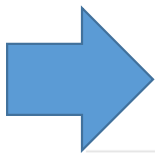
Sarah Titcomb, Principal Planner

Type 1 Noticing Requirements



Public Participation in Permit Review

Submittal of
Type 1
Application



USPS First Class Mail

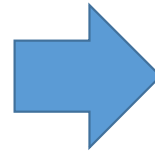


Taxpayers

WSDOT

Agencies

Cities and
Towns

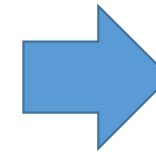


PDS Review

21 Day
Comment
Period



Parties of
Record



Administrative
Decision



Parties of
Record may
Appeal



Questions?