

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Extension of Hearing Examiner on Quasi-Judicial Items
DEPARTMENT: Planning and Development Services
PRESENTED BY: Joseph W. Tovar, FAICP, Director
Steven Cohn, Senior Planner

PROBLEM/ISSUE STATEMENT:

Over the past two years, the Council has opted to refer most quasi-judicial matters to the Hearing Examiner to make sure that the Commission has the time to consider other pressing longer-range issues. Staff is requesting that you re-affirm this decision for the year 2010. As in the past, the Hearing Examiner would hold public hearings on items sent to her and make a recommendation for Council decision. The City Council retains its decision-making authority on all quasi-judicial items—for certain items only the hearing body would change.

This is an interim ordinance and requires a public hearing which will be held tonight. Following the public hearing, Council can choose whether to act on the ordinance.

FINANCIAL IMPACT:

No additional cost to the City. Staff and noticing costs are unchanged. The cost of hiring the Hearing Examiner is borne by the applicant.

RECOMMENDATION

Staff recommends that the Council adopt Ordinance No. 568 to adopt interim regulations for 2010 to re-route all quasi-judicial hearing responsibilities from the Planning Commission to the Hearing Examiner, with the following exceptions: Master Development Permits, Special Use Permits, and rezones within the Town Center Subarea Plan.

Approved By:

City Manager

City Attorney

BACKGROUND

Last week the Council and staff discussed the Planning Commission's ambitious work program and the proposal to continue to send most quasi-judicial items to the Hearing Examiner during 2010. This would free the Commission to focus on long-range planning issues such as the Town Center and SE Neighborhoods Subarea Planning, Master Development Plan Permitting, and developing Design Review Guidelines.

A recap of the proposal

The Work Program schedule incorporates an expectation that the Council will extend its decision to route most quasi-judicial items to the Hearing Examiner for public hearing and recommendation. (The exceptions are: Master Development Permits, Special Use Permits, and rezones within the Town Center Subarea. These items would come to the Planning Commission for public hearing and recommendation). If more quasi-judicial items are sent to the Commission, it would either increase the number of meetings for Commissioners or cause some items on the work program to slide, possibly into next year.

Sending items such as rezones and plats to the Hearing Examiner seems to be working well—the Council has not flagged any issues with the process for staff attention. The Examiner has been hearing these items for more than a year and, to staff's knowledge, the community is satisfied with the process and its outcomes. In addition, the City's 2009 audit by the Washington Cities Insurance Authority pointed out that greater use of the hearing examiner system would decrease legal risk for the City and personal liability for Council members.

Staff recommends that the Council adopt another interim ordinance to continue this approach, aware that staff will likely return to the Council within a few months with an evaluation of how the process has worked and a recommendation as to whether the interim approach should be made permanent, or alternatively, whether in staff's judgment, another approach would be appropriate.

Tonight's action

The Council is required to hold a public hearing prior to adopting the interim ordinance. The public hearing will be held tonight. Following the hearing, the Council could decide to affirm, modify, or rescind the interim regulation re-assigning specific quasi-judicial items to the Hearing Examiner.

RECOMMENDATION

Staff recommends that the Council adopt Ordinance No. 568 to adopt interim regulations for 2010 to re-route all quasi-judicial hearing responsibilities from the Planning Commission to the Hearing Examiner, with the following exceptions: Master Development Permits, Special Use Permits, and rezones within the Town Center Subarea Plan.

ATTACHMENT

A. Ordinance 568

ORDINANCE NO. 568

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, EXTENDING INTERIM LAND USE REGULATION ASSIGNING RECORD HEARINGS FOR CERTAIN QUASI-JUDICIAL PROJECT PERMITS TO THE SHORELINE HEARING EXAMINER TO THE END OF 2010

WHEREAS, under the provisions of the Growth Management Act the City has adopted development regulations implementing the City of Shoreline Comprehensive Plan; and

WHEREAS, the Council Shoreline City Council found, pursuant to Ordinance No. 534, that a reassignment of record hearings and recommendations for certain quasi-judicial project permits to the Shoreline Hearing Examiner rather than the Planning Commission in 2009 was necessary to allow the City to meet its target processing time for project permits while accomplishing a demanding schedule of city-wide planning tasks established for 2009; and

WHEREAS, the Council finds, following a public hearing on January 11 2010 that it is necessary to extend the effective date of interim regulations beyond the December 31, 2009 expiration date to most efficiently address permanent regulations ; and

WHEREAS, pursuant to SEPA regulation SMC 20.30.550 adopting Washington Administrative Code Section 197-11-800, procedural land use regulations are categorically exempt from environmental review; now therefore,

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Finding of Fact. The recitals set forth above are hereby adopted as findings of the City Council.

Section 2. Interim Regulation Adopted. The interim regulation for certain open record hearings for quasi-judicial items and Section 2 of Ordinance No. 534 are amended to read as follows:

~~During the effective dates of this ordinance~~ Until December 31, 2010 the following quasi-judicial Type C land use permits listed under Table 20.30.060 of the Municipal Code shall have an open-record hearing set before the Shoreline Hearing Examiner rather than the Planning Commission:

- A. Preliminary formal subdivision.
- B. Site-specific rezone and zoning map change; provided, however, that rezones within the ~~Southeast Shoreline Neighborhoods Subarea~~ or the Town Center

Subarea shall continue to have hearings set before the Planning Commission for review and recommendation.

C. Street vacations.

Section 3. Permanent Regulations. The City Council directs the staff to evaluate the effectiveness of procedures adopted in this interim as a basis for recommending permanent amendments to SMC 20.30.060. If this interim regulation expires without permanent amendments having been adopted, procedures of SMC 20.30.060 in effect prior to adoption of this ordinance shall be restored.

Section 4. Publication; Effective Dates. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City and the ordinance shall take effect and be in full force five (5) days after publication. The ordinance shall expire at the end of calendar year 2010 unless extended or repealed according to law.

PASSED BY THE CITY COUNCIL ON JANUARY 11, 2010.

Mayor

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of publication: , 2009
Effective date: , 2009