CITY OF SAMMAMISH
WASHINGTON
Ordinance O2004-150

AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, RELATING TO TYPE 1 PERMITS WITH A SEPA DETERMINATION; AMENDING SECTIONS 20.05.020 Exhibit A (Land Use Decision Type), 20.05.020(1)a, TO ELIMINATE THE REQUIREMENT OF A TYPE 1 APPLICATION AS BEING CONSIDERED AS A TYPE 2 APPLICATION WHEN A SEPA THRESHOLD DETERMINATION IS REQUIRED

WHEREAS, the City Council of the City of Sammamish adopted Ordinance No.02003-131 which adopted the Sammamish Municipal Code; and

WHEREAS, Chapter 20.05 Procedures for Land Use Permit Applications, Public Notice, Hearings and Appeals of the Sammamish Municipal Code stipulates that Type 1 land use decisions are non-appealable administrative decisions except for Type 1 decisions for which the department has issued a State Environmental Policy Act, (SEPA) threshold determination; and

WHEREAS, Section 20.05.020(1)a stipulates that such decisions for which the department has issued a SEPA threshold determination are appealable at the time of issuance of the SEPA threshold determination to the hearing examiner as a Type 2 decision; and

WHEREAS, Chapter 36.70B.110 of RCW mandates that a single combined appeal hearing be held for a SEPA appeal and an appeal of a permit decision;

WHEREAS, the current process creates the inability for a SEPA appeal to be heard by the hearing examiner until the issuance of the Type 1 permits associated with the application; and

WHEREAS, SEPA threshold determinations for Type 1 decisions are made prior to the issuance of the Type 1 permit; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repeal. Section 20.05.020(1)a of the SMC is hereby repealed.

Section 2. Amendment. A new section 20.05.020(1)a of the SMC is hereby adopted to read as follows:

(a) Type 1 decisions are made by the director (director) of the department of community development (department). Type 1 decisions are non-appealable administrative decisions that require the exercise of little or no administrative discretion. except for
Type 1 decisions for which the department has issued a State Environmental Policy Act (SEPA) threshold determination. For Type 1 decisions for which the department has issued a SEPA threshold determination, are appealable at the time of issuance of the SEPA threshold determination to the hearing examiner as a Type 2 decision; provided, the issuance of any subsequent permits shall not occur until any allowed administrative appeal of the SEPA threshold determination is decided, and that the appeal is limited to the SEPA threshold determination and issues relating to development code (SMC Title 21A) compliance excluding compliance with permitted use provisions. However, the decision on the Type 1 permit, exclusive of SEPA threshold determinations issued by the department and issues relating to development code (SMC Title 21A) compliance excluding compliance with permitted use provisions, is not appealable to the hearing examiner, rather it is appealable to superior court. For the purposes of appealing a Type 1 decision to superior court, the Type 1 decision shall not be considered final until any permitted appeal to the hearing examiner is decided. Public notice is not required for Type 1 decisions, except for Type 1 decisions for which the department has issued a SEPA threshold determination, which are treated like Type 2 decisions for the purposes of public notice.

Section 3. Repeal. Section 20.05.020 Exhibit A, Land Use Decision Type of SMC is hereby repealed.
**Section 4. Amendment.** A new section 20.05.020 Exhibit A, Land Use Decision Type of SMC is hereby adopted to read as follows:

<table>
<thead>
<tr>
<th>Type 1</th>
<th>Decision by director, no administrative appeal</th>
<th>Building; clearing and grading; boundary line adjustment; right-of-way; road variance except those rendered in conjunction with a short plat decision; variance from the requirements of Chapter 9.04 KCC as adopted by Chapter 15.05 SMC; shoreline exemption; approval of a conversion harvest plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type 2</td>
<td>Decision by director appealable to hearing examiner, no further administrative appeal</td>
<td>Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; temporary use; Type 1 decision for which the department has issued a SEPA threshold determination; procedural and substantive SEPA decision; site development permit; approval of residential density incentives or transfer of development credits; reuse of public schools; reasonable use exceptions under SMC 21A.50.070(2); preliminary determinations under SMC 20.05.030(2); sensitive areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based on the requirements of Chapter 21A.50 SMC; binding site plan</td>
</tr>
<tr>
<td>Type 3</td>
<td>Recommendation by director, hearing and decision by hearing examiner appealable to superior court</td>
<td>Preliminary plat; plat alterations; preliminary plat revisions; plat vacations; zone reclassifications; urban planned development; special use</td>
</tr>
<tr>
<td>Type 4</td>
<td>Recommendation by director, hearing and decision by hearing examiner appealable to the State Shoreline Hearings Board</td>
<td>Shoreline substantial development permits; shoreline variances; shoreline conditional use permits</td>
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</table>

The variance process is administered by the City engineer pursuant to the City’s street standards as set forth in the public works standards.

2 Approvals that are consistent with the interim comprehensive plan may be considered by the examiner at any time. Zone reclassifications that are not consistent with the interim
comprehensive plan require a site-specific land use map amendment and the City council’s hearing and consideration will be scheduled with the amendment to the interim comprehensive plan pursuant to SMC 24.25.040 and 24.25.050.

2 Only the SEPA threshold determination and issues relating to development code compliance, excluding compliance with permitted use provisions, may be appealed, upon issuance of the threshold determination; other issues, including those relating to building code compliance, are not appealable.

(Ord. O2000-63 §§ 1, 2, 3; Ord. O99-29 § 1)

Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 6. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.


CITY OF SAMMAMISH

[Signature]
Mayor Kathleen Huckabay

ATTEST/AUTHENTICATED:

[Signature]
Melonie Anderson, City Clerk

Approved as to form:

[Signature]
Bruce L. Disend, City Attorney

Filed with the City Clerk: June 1, 2004
First Reading: June 15, 2004
Passed by the City Council: July 6, 2004
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