



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

August 20, 2002

Ordinance 14449

Proposed No. 2002-0211.2

Sponsors Hague

1 AN ORDINANCE amending the process for reviewing
2 development-related permit applications and for appealing
3 associated development decisions, including modification
4 of appeal fee amounts; amending Ordinance 8804, Section
5 3, and K.C.C. 14.42.062, Ordinance 12196, Section 9, as
6 amended, and K.C.C. 20.20.020, Ordinance 4461, Section
7 2, as amended, and K.C.C. 20.24.080, Ordinance 6949,
8 Section 5, as amended, and K.C.C. 20.44.030, Ordinance
9 6949, Section 6, as amended, and K.C.C. 20.44.040,
10 Ordinance 6949, Section 10, as amended, and K.C.C.
11 20.44.080, Ordinance 6949, Section 14, as amended, and
12 K.C.C. 20.44.120, Ordinance 10870, Section 457, and
13 K.C.C. 21A.24.100, Ordinance 10870, Section 464, as
14 amended, and K.C.C. 21A.24.170, and Ordinance 10870,
15 Section 465, and K.C.C. 21A.24.180, Ordinance 13332,
16 Section 7, and K.C.C. 27.02.120, and adding a new section
17 to K.C.C. chapter 20.44.

18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 8804, Section 3, and K.C.C. 14.42.062 are each hereby amended to read as follows:

Appeals from decisions on variances. ~~((Appeals from))~~ The department of transportation by public rule shall establish procedures governing the administrative appeal of the road engineer's decision((s)) on a request for a variance((s)) made ((by the road engineer pursuant to)) in accordance with K.C.C. 14.42.060((, may be appealed according to the procedures set forth in K.C.C. 20.24)). The department's decision on such appeals shall be final.

SECTION 2. Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020 are each hereby amended to read as follows:

Classifications of land use decision processes.

A. Land use permit decisions are classified into four types, based on ~~((the amount of discretion associated with each decision. Procedures for the four different types are distinguished according to))~~ who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made and whether administrative appeals are provided. The types of land use decisions are listed in ~~((Exhibit A))~~ subsection E of this section.

1. Type 1 decisions are made by the director, or his or her designee, ("director") of the department of development and environmental services ("department"). Type 1 decisions are nonappealable administrative decisions ~~((that require the exercise of little or~~

41 ~~no administrative discretion, except for Type 1 decisions for which the department has~~
42 ~~issued a SEPA threshold determination. Type 1 decisions for which the department has~~
43 ~~issued a SEPA threshold determination are appealable at the time of issuance of the SEPA~~
44 ~~threshold determination to the hearing examiner as a Type 2 decision, but the appeal is~~
45 ~~limited to the SEPA threshold determination and issues relating to zoning code (K.C.C.~~
46 ~~Title 21A) compliance excluding compliance with permitted use provisions. However, the~~
47 ~~decision on the Type 1 permit, exclusive of SEPA threshold determinations issued by the~~
48 ~~department and issues relating to zoning code (K.C.C. Title 21A) compliance excluding~~
49 ~~compliance with permitted use provisions, is not appealable to the hearing examiner; rather,~~
50 ~~it is appealable to superior court. For the purposes of appealing a Type 1 decision to~~
51 ~~superior court, the Type 1 decision shall not be considered final until any permitted appeal~~
52 ~~to the hearing examiner is decided. Public notice is not required for Type 1 decisions,~~
53 ~~except for Type 1 decisions for which the department has issued a SEPA threshold~~
54 ~~determination, which are treated like Type 2 decisions for the purposes of public notice)).~~

55 2. Type 2 decisions are made by the director. Type 2 decisions are discretionary
56 decisions that are subject to administrative appeal.

57 3. Type 3 decisions are quasi-judicial decisions made by the hearing examiner
58 following an open record hearing. Type 3 decisions may be appealed to the county council,
59 based on the record established by the hearing examiner.

60 4. Type 4 decisions are quasi-judicial decisions made by the council based on the
61 record established by the hearing examiner.

62 B. Except as provided in K.C.C. ((20.44.120A.6)) 20.44.120A.7 and 25.32.080 or
63 unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in

64 consolidated permit applications that would require more than one type of land use decision
65 process may be processed and decided together, including any administrative appeals,
66 using the highest-numbered land use decision type applicable to the project application.

67 C. Certain development proposals are subject to additional procedural requirements
68 beyond the standard procedures established in this chapter.

69 D. Land use permits that are categorically exempt from review under SEPA do not
70 require a threshold determination (determination of nonsignificance ("DNS") or
71 determination of significance ("DS")). For all other projects, the SEPA review procedures
72 in K.C.C. chapter 20.44 are supplemental to the procedures in this chapter.

73 ((~~Exhibit A~~

74 ~~LAND USE DECISION TYPES~~))

75 E. Land use decision types are classified as follows:

| | | |
|---------------|---|--|
| <p>TYPE 1</p> | <p>(Decision by director, no administrative appeal)</p> | <p>Building(;) permit, site development permit, or clearing and grading permit that is not subject to <u>SEPA, that is categorically exempt from SEPA as provided in K.C.C. 20.20.040, or for which the department has issued a determination of nonsignificance or mitigated determination of nonsignificance</u>; boundary line adjustment; right of way; ((road variance except those rendered in conjunction with a short plat decision**)) variance from K.C.C. chapter 9.04; shoreline exemption; approval of a <u>conversion-option</u> harvest plan; a binding site plan for a condominium that is based on a recorded final planned unit development, a building permit, an as-built site plan for developed sites or a site development permit for the entire site.</p> |
|---------------|---|--|

| | | |
|---------------------------|--|---|
| <p>TYPE 2¹</p> | <p>(Decision by director appealable to hearing examiner, no further administrative appeal)</p> | <p>Short plat; short plat revision; short plat alteration; ((road variance decisions rendered in conjunction with a short plat decision;)) zoning variance; conditional use permit; temporary use; shoreline substantial development permit²; ((Type 1 decision for which the department has issued a SEPA threshold determination***; procedural and substantive SEPA decision;)) <u>building permit, site development permit or clearing and grading permit for which the department has issued a determination of significance</u>; reuse of public schools; reasonable use exceptions under K.C.C. 21A.24.070B; preliminary determinations under K.C.C. 20.20.030B; sensitive areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based K.C.C. chapter 21A.24; extractive operations under K.C.C. 21A.22.050; binding site plan; waivers from the moratorium provisions of K.C.C. 16.82.140 based upon a finding of special circumstances.</p> |
|---------------------------|--|---|

| | | |
|-----------------------------|---|--|
| TYPE 3 ¹ | (Recommendation by director, hearing and decision by hearing examiner, appealable to county council on the record) | Preliminary plat((s)); plat alterations; preliminary plat revisions. |
| TYPE 4((***) ^{1,3} | (Recommendation by director, hearing and recommendation by hearing examiner decision by county council on the record) | Zone reclassifications; shoreline environment redesignation; urban planned development; special use; amendment or deletion of P suffix conditions; plat vacations; short plat vacations; deletion of special district overlay. |

76 ¹ See K.C.C. 20.44.120C for provisions governing procedural and substantive SEPA
 77 appeals and appeals of Type 3 and 4 decisions to the council.

78 ((*)² When an application((s)) for a shoreline permit((s-are)) is combined with other
 79 permits requiring Type 3 or 4 land use decisions under K.C.C. 25.32.080, the
 80 examiner, not the director, makes the decision. A((H)) shoreline permit((s)),
 81 including a shoreline variance((s-and)) or conditional use((s-are)), is appealable to
 82 the state Shorelines Hearings Board and not to the hearing examiner.

83 ~~((** The road variance process is administered by the county road engineer of the King~~
84 ~~County department of transportation under the King County road standards.~~

85 ~~***))³ Approvals that are consistent with the Comprehensive Plan may be considered by~~
86 ~~the council at any time. Zone reclassifications that are not consistent with the~~
87 ~~Comprehensive Plan require a site-specific land use map amendment and the~~
88 ~~council's hearing and consideration shall be scheduled with the amendment to the~~
89 ~~Comprehensive Plan under K.C.C. 20.18.040 and 20.18.060.~~

90 ~~((**** Only the SEPA threshold determination and issues relating to zoning code~~
91 ~~compliance, excluding compliance with permitted use provisions, may be appealed,~~
92 ~~upon issuance of the threshold determination; other issues, including those relating~~
93 ~~to building code compliance, are not appealable.))~~

94 SECTION 3. Ordinance 4461, Section 2, as amended, and K.C.C. 20.24.080 are
95 each hereby amended to read as follows:

96 **Final decisions by the examiner.**

97 A. The examiner shall receive and examine available information, conduct open
98 record public hearings and prepare records and reports thereof, and issue final decisions,
99 including findings and conclusions, based on the issues and evidence in the record, which
100 shall be appealable ~~((to superior court))~~ as provided by K.C.C. 20.24.240, or to other
101 designated authority in the following cases:

102 1. Appeals ~~((from the))~~ of SEPA decisions ~~((of the administrator for short~~
103 ~~subdivisions, including those variance decisions of the road engineer made pursuant to~~
104 ~~K.C.C. 14.42.060 with regard to road circulation in the subject~~

105 ~~short divisions~~)), as provided in K.C.C. 20.44.120 and public rules adopted under section
106 6 of this ordinance;

107 2. Appeals of all Type 2 land use decisions, with the exception of appeals of
108 shoreline permits, including shoreline variances and conditional uses, which are
109 appealable to the state shoreline hearings board;

110 3. Appeals ~~((from))~~ of citations, notices and orders and stop work orders issued
111 pursuant to K.C.C. Title 23 or Title 1.08 of the rules and regulations of the King County
112 board of health;

113 4. Appeals ~~((from))~~ of decisions regarding the abatement of a nonconformance;

114 5. Appeals ~~((from))~~ of decisions of the director of the department of natural
115 resources and parks on requests for rate adjustments to surface and storm water
116 management rates and charges;

117 6. Appeals ~~((from))~~ of department of public safety seizures and intended
118 forfeitures, when properly designated by the chief law enforcement officer of that
119 department as provided in RCW 69.50.505;

120 7. Appeals ~~((from))~~ of notices and certifications of junk vehicles to be removed
121 as a public nuisance as provided in K.C.C. Title 21A and K.C.C. chapter 23.10;

122 8. Appeals ~~((from))~~ of the department's final decisions regarding transportation
123 concurrency, mitigation payment system and intersection standards provisions of K.C.C.
124 Title 14;

125 9. Appeals ~~((from))~~ of decisions of the interagency review committee created
126 under K.C.C. 21A.37.070 regarding sending site applications for certification pursuant to
127 K.C.C. chapter 21A.37; and

128 10. Appeals of ~~((Θ))~~other applications or appeals ~~((which))~~ that the council
129 ~~((may))~~ prescribes by ordinance.

130 B. The examiner's decision may be to grant or deny the application or appeal, or
131 the examiner may grant the application or appeal with such conditions, modifications and
132 restrictions as the examiner finds necessary to make the application or appeal compatible
133 with the environment and carry out applicable state laws and regulations, including
134 chapter 43.21C RCW, and the regulations, policies, objectives and goals of the
135 Comprehensive Plan, the community plans, subarea or neighborhood plans, the zoning
136 code, the subdivision code and other official laws, policies and objectives of King
137 County. In case of any conflict between the King County Comprehensive Plan and a
138 community, subarea or neighborhood plan, the King County Comprehensive Plan shall
139 govern.

140 SECTION 4. Ordinance 6949, Section 5, as amended, and K.C.C. 20.44.030 are
141 amended as follows:

142 **Purpose and general requirements.** The procedures and standards regarding the
143 timing and content of environmental review specified in WAC 197-11-055 through
144 197-11-100 are adopted subject to the following:

145 A. ~~((Pursuant to WAC 197-11-055(4), the building and land development~~
146 ~~division shall adopt rules and regulations pursuant to K.C.C. 2.98 establishing a process~~
147 ~~for environmental review at the conceptual stage of permit applications which require~~
148 ~~detailed project plans and specifications (i.e., building permits and PUD's). This process~~
149 ~~shall not become effective until it has been reviewed by the council.~~

150 ~~B.))~~ The optional provision of WAC 197-11-060(3)(c) is adopted.

151 ~~((C.))~~ B. Under WAC 197-11-100, the applicant shall prepare the initial
152 environmental checklist, unless the lead agency specifically elects to prepare the
153 checklist. The lead agency shall make a reasonable effort to verify the information in the
154 environmental checklist and shall have the authority to determine the final content of the
155 environmental checklist.

156 ~~((D.))~~ C. The ~~((manager of the building and land development division))~~
157 department of development and environmental services may set reasonable deadlines for
158 the submittal of information, studies, or documents necessary for, or subsequent to,
159 threshold determinations. Failure to meet such deadlines shall cause the application to be
160 deemed withdrawn, and plans or other data previously submitted for review may be
161 returned to the applicant together with any unexpended portion of the application review
162 fees.

163 SECTION 5. Ordinance 6949, Section 6, as amended, and K.C.C. 20.44.040 are
164 each hereby amended to read as follows:

165 **Categorical exemptions and threshold determinations.**

166 A. King County adopts the standards and procedures specified in WAC 197-11-
167 300 through 197-11-390 and 197-11-800 through 197-11-890 for determining categorical
168 exemptions and making threshold determinations subject to the following:

169 1. The following exempt threshold levels are hereby established ~~((pursuant to))~~ in
170 accordance with WAC 197-11-800(1)(c) for the exemptions in WAC 197-11-800(1)(b):

171 a. The construction or location of any residential structures of ~~((eight))~~ twenty
172 dwelling units within the boundaries of an urban growth area, or of any residential
173 structures of eight dwelling units outside of the boundaries of an urban growth area;

174 b. The construction of a barn, loafing shed, farm equipment storage building,
175 produce storage or packing structure, or similar agricultural structure, covering ~~((30,000))~~
176 thirty thousand square feet on land zoned agricultural, or ~~((15,000))~~ fifteen thousand square
177 feet in all other zones, and to be used only by the property owner or his or her agent in the
178 conduct of farming the property. This exemption shall not apply to feed lots;

179 c. The construction of an office, school, commercial, recreational, service or
180 storage building with ~~((12,000))~~ twelve thousand square feet of gross floor area, and with
181 associated parking facilities designed for forty automobiles;

182 d. The construction of a parking lot designed for forty automobiles;

183 e. Any fill or excavation of ~~((500))~~ five hundred cubic yards throughout the total
184 lifetime of the fill or excavation and any fill or excavation classified as a class I, II, or III
185 forest practice under RCW 76.09.050 or regulation thereunder ~~((: provided, however, (i)~~
186 ~~that t)).~~ The categorical exemption threshold shall be ((100)) one hundred cubic yards for
187 any fill or excavation that is in a sensitive area ~~((, and (ii) that i)).~~ If the proposed action is
188 to remove from or replace fill in a sensitive area to correct a violation, the threshold shall
189 be ~~((500))~~ five hundred cubic yards.

190 2. The determination of whether a proposal is categorically exempt shall be made
191 by the county department that serves as lead agency for ~~((such))~~ that proposal.

192 B. The mitigated DNS provision of WAC 197-11-350 shall be enforced as follows:

193 1. If the department issues a mitigated DNS, conditions requiring compliance
194 with the mitigation measures which were specified in the application and environmental
195 checklist shall be deemed conditions of any decision or recommendation of approval of the
196 action.

197 2. If at any time the proposed mitigation measures are withdrawn or substantially
198 changed, the responsible official shall review the threshold determination and, if necessary,
199 may withdraw the mitigated DNS and issue a DS.

200 SECTION 6. There is hereby added to K.C.C. chapter 20.44 a new section to
201 read as follows:

202 **Department of natural resources and parks procedural SEPA decisions.** The
203 department of natural resources and parks by public rule may authorize procedural SEPA
204 administrative appeals of threshold determinations or determinations of the adequacy of a
205 final EIS made by one or more of the department's divisions. The public rule shall
206 establish procedures for the administrative appeal, which shall be governed by K.C.C.
207 20.44.120.

208 SECTION 7. Ordinance 6949, Section 10, as amended, and K.C.C. 20.44.080 are
209 amended as follows:

210 **Substantive authority.**

211 A. The procedures and standards of WAC 197-11-650 through 197-11-660
212 regarding substantive authority and mitigation, and WAC 197-11-158, regarding reliance
213 on existing plans, laws and regulations, are adopted.

214 B. For the purposes of RCW 43.21C.060 and WAC 197-11-660(~~((a))~~), the
215 following policies, plans, rules and regulations, and all amendments thereto, are
216 designated as potential bases for the exercise of King County's substantive authority
217 under SEPA, subject to (~~(the provisions of)~~) RCW 43.21C.240 and subsection C of this
218 section:

219 1. The policies of the (~~(S)~~)state Environmental Policy Act, RCW 43.21C.020.

220 2. As specified in K.C.C. chapter 20.12, ((F))the King County Comprehensive
221 Plan, its addenda((;)) and revisions and community and subarea plans and housing report,
222 and as specified in K.C.C. chapter 20.14, surface water management program basin
223 plans(~~(, as specified in K.C.C. chapter 20.12)~~).

224 3. The King County Zoning Code, as adopted in K.C.C. Title 21A.

225 4. The King County Agricultural Lands Policy, as adopted in K.C.C. chapter
226 20.54 and K.C.C. Title 26.

227 5. The King County Landmarks Preservation Code, as adopted in K.C.C.
228 chapter 20.62.

229 6. The King County Shoreline Management Master Plan, as adopted in K.C.C.
230 Title 25.

231 7. The King County Surface Water Runoff Policy, as adopted in K.C.C. chapter
232 9.04, including the Covington Master Drainage Plan, as adopted in K.C.C. chapter 20.14.

233 8. The King County Road Standards, ~~((1986))~~ 1993 Update, as adopted in
234 K.C.C. chapter 14.42.

235 9. The Comprehensive Plan for Transportation adopted by Resolution No. 6617
236 of the council of the Municipality of Metropolitan Seattle and readopted and ratified by
237 the county council in K.C.C. 28.01.030.

238 10. The Comprehensive Sewerage Disposal Plan adopted by Resolution No. 23
239 of the council of the Municipality of Metropolitan Seattle and readopted and ratified by
240 the county council in K.C.C. 28.01.030.

241 11. The rules and regulations for construction and use of local sewage facilities
242 set forth in K.C.C. chapters 28.81 through 28.84.

243 12. The rules and regulations on the consistency of sewer projects with local
244 land use plans and policies set forth in Ordinance 11034, as amended.

245 13. The rules and regulations for the disposal of industrial waste into the
246 sewerage system set forth in Ordinance 11034, as amended.

247 14. The Duwamish Clean Water Plan adopted by the council of the Municipality
248 of Metropolitan Seattle and readopted and ratified by the county council by Ordinance
249 11032, ~~((s))~~Section 28, as amended.

250 15. The Washington Department of Ecology's Best Management Practices for
251 the Use of Municipal Sludge.

252 C. Within the urban growth ~~((boundary))~~ area, substantive SEPA authority to
253 condition or deny new development proposals or other actions shall be used only in cases
254 where specific adverse environmental impacts are not addressed by regulations as set
255 forth below or unusual circumstances exist. In cases where the county has adopted the
256 following regulations to systematically avoid or mitigate adverse impacts ~~((f))~~K.C.C.
257 chapter 21A.12, Development Standards - Density and Dimensions, K.C.C. chapter
258 21A.14, Development Standards - Design Requirements, K.C.C. chapter 21A.16,
259 Development Standards - Landscaping and Water Use, K.C.C. chapter 21A.18,
260 Development Standards - Parking and Circulation, K.C.C. chapter 21A.20, Development
261 Standards - Signs, K.C.C. chapter 21A.22, Development Standards - Mineral Extraction,
262 K.C.C. chapter 21A.24, ~~((Development Standards--))~~ Environmentally Sensitive Areas,
263 K.C.C. chapter 21A.26, Development Standards - Communication Facilities, K.C.C.
264 chapter 21A.28, Development Standards - Adequacy of Public Facilities and
265 Services~~((f))~~, those standards and regulations will normally constitute adequate

266 mitigation of the impacts of new development. Unusual circumstances related to a site or
267 to a proposal, as well as environmental impacts not mitigated by the ~~((foregoing))~~
268 regulations listed in this subsection, will be subject to site-specific or project-specific
269 SEPA mitigation.

270 ~~((The provisions of t))~~This subsection shall not apply if the county's development
271 regulations cited in this subsection are amended after April 22, 1996, unless the
272 amending ordinance contains a finding, supported by documentation, that the
273 requirements for environmental analysis, protections and mitigation measures in ~~((the~~
274 ~~code))~~ this chapter~~((, as amended,))~~ provide adequate analysis of and mitigation for the
275 specific adverse environmental impacts to which the requirements apply.

276 D. Outside the urban growth ~~((boundary))~~ area, in the course of project review,
277 including any required environmental analysis, the responsible official may determine
278 that requirements for environmental analysis, protection and mitigation measures in the
279 county's development regulations or comprehensive plans adopted under chapter 36.70A
280 RCW and in other applicable local, state or federal laws and rules provide adequate
281 analysis and mitigation for specific adverse environmental impacts of the project, if the
282 following criteria are met:

283 1. In the course of project review, the responsible official shall identify and
284 consider the specific probable adverse environmental impacts of the proposed action and
285 then make a determination whether these specific impacts are adequately addressed by
286 the development regulations. If they are not, the responsible official shall apply
287 mitigation consistent with the applicable requirements of the comprehensive plan,

288 subarea plan element of the comprehensive plan or other local, state or federal rules or
289 laws((;)); and

290 2. The responsible official bases or conditions its approval on compliance with
291 these requirements or mitigation measures.

292 E. Any decision to approve, deny or approve with conditions pursuant to RCW
293 43.21C.060 shall be contained in the responsible official's decision document. The
294 written decision shall contain facts and conclusions based on the proposal's specific
295 adverse environmental impacts, ((or)) or lack thereof(()), as identified in an environmental
296 checklist, EIS, threshold determination, other environmental document including an
297 executive department's staff report and recommendation to a decision maker, or findings
298 made pursuant to a public hearing authorized or required by law or ordinance. The
299 decision document shall state the specific plan, policy or regulation ((which)) that
300 supports the SEPA decision and, if mitigation beyond existing development regulations is
301 required, the specific adverse environmental impacts and the reasons why additional
302 mitigation is needed to comply with SEPA.

303 F. This chapter shall not be construed as a limitation on the authority of King
304 County to approve, deny or condition a proposal for reasons based upon other statutes,
305 ordinances or regulations.

306 SECTION 8. Ordinance 6949, Section 14, as amended, and K.C.C. 20.44.120 are
307 each hereby amended to read as follows:

308 **Appeals.**

309 A. The administrative appeal((s)) of a threshold determination((s)) or of the
310 adequacy of a final EIS ((are)) is a procedural SEPA appeal((s-which-are)) that is

311 conducted by the hearing examiner (~~((pursuant to the provisions of))~~ under K.C.C.

312 20.24.080(~~(;)~~) and is subject to the following:

313 1. A procedural SEPA appeal to the hearing examiner is authorized only for an
314 action classified as a Type 2, 3 or 4 land use decision in K.C.C. 20.20.020 or as provided
315 for by public rule adopted under section 6 of this ordinance;

316 2. Only one appeal of each threshold determination shall be allowed on a
317 proposal(~~(-)~~);

318 ~~((2-))~~ 3. As provided in RCW 43.21C.075(3)(d), the decision of the responsible
319 official shall be entitled to substantial weight(~~(-)~~);

320 ~~((3-))~~ 4. An appeal of a DS must be filed with the department issuing the DS as
321 provided in K.C.C. (~~(20.20.090.)~~) 20.24.090;

322 ~~((4-))~~ 5. An appeal of a DNS (~~((for actions classified as land use permit decisions~~
323 ~~in K.C.C. 20.20.020))~~) or of the adequacy of an EIS must be filed with the department
324 issuing the DNS or EIS as provided in K.C.C. (~~(20.20.090, provided that)~~) 20.24.090.

325 ~~((t))~~ The appeal period for a DNS (~~((for land use permit decisions))~~) shall be extended for an
326 additional seven calendar days if WAC 197-11-340(2)(a) applies(~~((For actions not~~
327 ~~classified as land use permit decisions in K.C.C. 20.20.020, no administrative appeal of a~~
328 ~~DNS is permitted.~~

329 5. ~~Administrative appeals of the adequacy of a final EIS are permitted for actions~~
330 ~~classified as Type 2, 3 or 4 land use permit decisions in K.C.C. 20.20.020 except Type 1~~
331 ~~decisions for which the department has issued a threshold determination. Such appeals~~
332 ~~must be filed as provided in K.C.C. 20.20.090.);~~

333 6. Except as otherwise provided in this section, SEPA appeals are subject to
334 K.C.C. 20.24.090C; and

335 7. The hearing examiner shall make a final decision on all procedural SEPA
336 ~~((determinations. The hearing examiner's decision may be appealed to superior court as~~
337 ~~provided in K.C.C. 20.24.240B))~~ appeals.

338 B. Except for a procedural SEPA appeal authorized pursuant to section 6 of this
339 ordinance, ((F))the hearing examiner's consideration of a procedural SEPA appeal((s))
340 shall be consolidated in all cases with the substantive SEPA appeal((s)), if any, involving
341 a decision((s)) to condition or deny an application pursuant to RCW 43.21C.060 and with
342 the public hearing or appeal, if any, on the proposal, except for an appeal((s)) of a DS.

343 C. ~~((Administrative appeals of decisions to condition or deny applications~~
344 ~~pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative~~
345 ~~appeals, if any, on the merits of a proposal.)) A procedural or substantive SEPA appeal
346 authorized by subsection A of this section on a Type 2, 3 or 4 land use decision shall be
347 consolidated with any administrative appeal on the merits of that decision, as provided in
348 K.C.C. chapter 20.24 and this section. A procedural SEPA appeal authorized by a public
349 rule adopted under section 6 of this ordinance shall not be consolidated with the
350 administrative appeal on the merits of the decision. If ((proposals requiring)) a Type 3 or
351 4 land use decision((s are)) is appealed to the county council as provided in K.C.C.
352 20.24.210B or D, the appeal of the recommendation or decision of the examiner to
353 condition or deny the proposal pursuant to RCW 43.21C.060 ((also may be appealed))
354 shall be made to the council, which shall make a final decision.~~

355 D. Notwithstanding ((the provisions of)) subsections A through C of this section, a
356 department may adopt procedures under which an administrative appeal shall not be
357 provided if the director of that department finds that consideration of an appeal would be
358 likely to cause the department to violate a compliance, enforcement or other specific
359 mandatory order or specific legal obligation. The director's determination shall be
360 included in the notice of the SEPA determination, and the director shall provide a written
361 summary upon which the determination is based within five days of receiving a written
362 request. Because there would be no administrative appeal in such situations, review may
363 be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable
364 regulations, in connection with an appeal of the underlying governmental action.

365 SECTION 9. Ordinance 10870, Section 457, and K.C.C. 21A.24.100 are each
366 amended as follows:

367 **Sensitive area review.**

368 A. Except as provided in subsection C of this section, King County shall perform a
369 sensitive area review for any ((King County)) development proposal permit application or
370 other request for permission to proceed with an alteration on a site ((which)) that includes a
371 sensitive area or is within an identified sensitive area buffer or building setback area.

372 B. As part of the sensitive area review, King County shall:

- 373 1. Determine whether any sensitive area exists on the property and confirm its
374 nature and type;
- 375 2. Determine whether a sensitive area special study is required;
- 376 3. Evaluate the sensitive area special study;
- 377 4. Determine whether the development proposal is consistent with this chapter;

378 5. Determine whether any proposed alteration to the sensitive area is necessary;
379 and

380 6. Determine if the mitigation and monitoring plans and bonding measures
381 proposed by the applicant are sufficient to protect the public health, safety and welfare,
382 consistent with the goals, purposes, objectives and requirements of this chapter.

383 C. If a development proposal does not involve any site disturbance, clearing, or
384 grading and only requires a permit or approval under K.C.C. chapter 16.04 or 17.04,
385 sensitive area review is not required, unless the development proposal is located within a
386 landslide hazard area, seismic hazard area, or coal mine hazard area and the proposed
387 development will cause additional loads on the foundation, such as by expanding the
388 habitable square footage of the structure or by adding or changing structural features that
389 change the load bearing characteristics of the structure. Sensitive area review required
390 under this subsection shall be limited to consideration of the development proposal and
391 the hazard area in which it is located.

392 SECTION 10. Ordinance 10870, Section 464, as amended, and K.C.C. 21A.24.170
393 are each amended as follows:

394 **Notice on title.**

395 A. Except as otherwise provided in subsection C of this section, ((F))the owner of
396 any property containing sensitive areas or buffers on which a development proposal is
397 submitted((, except a public right of way or the site of a permanent public facility,)) shall
398 file a notice approved by King County with the records ((and)), elections and licensing
399 services division. The required contents and form of the notice shall be set forth in
400 administrative rules. The notice shall inform the public of the presence of sensitive areas or

401 buffers on the property, of the application of this chapter to the property and that limitations
402 on actions in or affecting such sensitive areas or buffers may exist. The notice shall run
403 with the land.

404 B. The applicant for a development proposal shall submit proof that the notice
405 required by this section has been filed for public record before King County shall approve
406 any development proposal for the property or, in the case of subdivisions, short
407 subdivisions and binding site plans, at or before recording.

408 C. The notice required under subsection A of this section is not required if:

409 1. The property is a public right-of-way or the site of a permanent public facility;

410 or

411 2. The development proposal does not require sensitive area review under K.C.C.

412 21A.24.100C.

413 SECTION 11. Ordinance 10870, Section 465, and K.C.C. 21A.24.180 are each
414 amended as follows:

415 **Sensitive area tracts and designations on site plans.**

416 A. Sensitive area tracts shall be used to delineate and protect those sensitive areas
417 and buffers listed below in development proposals for subdivisions, short subdivisions or
418 binding site plans and shall be recorded on all documents of title of record for all affected
419 lots:

420 1. All landslide hazard areas and buffers (~~((which))~~ that are one acre or greater in
421 size;

422 2. All steep slope hazard areas and buffers (~~((which))~~ that are one acre or greater in
423 size;

424 3. All wetlands and buffers; and

425 4. All streams and buffers.

426 B. Any required sensitive area tract shall be held in an undivided interest by each
427 owner of a building lot within the development with this ownership interest passing with
428 the ownership of the lot or shall be held by an incorporated homeowner's association or
429 other legal entity which assures the ownership, maintenance and protection of the tract.

430 C. Site plans submitted as part of development proposals for building permits,
431 master plan developments and clearing and grading permits shall include and delineate:

432 1. ~~((a))~~ All flood hazard areas, ~~((f))~~ if they have been mapped by FEMA or King
433 County or if a special study is required~~((g))~~;

434 2. ~~((d))~~ Landslide, volcanic, coal mine and steep slope hazard areas~~((e))~~;

435 3. ~~((s))~~ Streams and wetlands~~((t))~~;

436 4. ~~((b))~~ Buffers; and

437 5. ~~((b))~~ Building setbacks.

438 D. If only a part of the development site has been mapped pursuant to K.C.C.
439 21A.24.120C~~((r))~~, the part of the site ~~((which))~~ that has not been mapped shall be clearly
440 identified and labeled on the site plans. ~~((The site plans shall be attached to the notice on
441 title required by K.C.C. 21A.24.170.))~~

442 SECTION 12. Ordinance 13332, Section 7, and K.C.C. 27.02.120 are each
443 hereby amended as follows:

444 **Appeals to the hearing examiner.** All appeals to the hearing examiner, or from
445 decisions of the hearing examiner, shall be charged a fixed fee of ~~((one hundred twenty-~~

446 five)) two hundred fifty dollars to help defray the cost associated with appeal processing.

447 Appeal fees shall be paid at the time of appeal submittal.

448 SECTION 13. In accordance with K.C.C. 20.44.080, the metropolitan King
449 County council finds that the requirements for environmental analysis, protections and
450 mitigations in those chapters of K.C.C. Title 21A amended by this ordinance provide
451 adequate analysis of and mitigation for the specific adverse environmental impacts to
452 which the requirements apply.

453 SECTION 14 Applicability. Sections 1, 2, 5 and 8 of this ordinance shall not

454 apply to complete land use permit applications submitted prior to the effective date of this
455 ordinance.

456

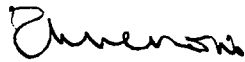
Ordinance 14449 was introduced on 5/20/2002 and passed by the Metropolitan King
County Council on 8/19/2002, by the following vote:

Yes: 10 - Ms. Sullivan, Mr. von Reichbauer, Ms. Lambert, Mr. Phillips, Mr.
Pelz, Mr. McKenna, Mr. Pullen, Mr. Gossett, Ms. Hague and Ms. Patterson
No: 1 - Mr. Constantine
Excused: 2 - Ms. Edmonds and Mr. Irons

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Cynthia Sullivan, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 27 day of August, 2002.



Ron Sims, County Executive

RECEIVED
2002 AUG 27 AM 11:04
CLERK
KING COUNTY COUNCIL

Attachments None