

NEIGHBORHOOD NOTICE WHITE PAPER

Plan Commission Workshop
June 10, 2015

Background

At two citizen summit meetings in 2014 moderated by Council President Ben Stuckart, possible improvements to communication and other issues between city government and city neighborhoods were discussed. Citizens voted on the top issues needing improvement. Land use notification was the number one issue and a stakeholder group began exploring modifications.

December 2014: The stakeholder group with help from Gonzaga University Law Clinic drafted specific proposed changes to Spokane's existing land use notification related to neighborhoods and sent the draft to Council President Ben Stuckart and others for review.

April 2015: Council President Ben Stuckart provided a Neighborhood Notification Summary Paper and a draft of proposed ordinance changes to the Planning Department for review. A meeting between Council President Ben Stuckart, stakeholder members, and City staff discussed clarifications and modifications to the proposed ordinance changes.

May 2015: Two meetings were held between city staff members (Planning and Development Services, Legal, Community and Neighborhood Services) and stakeholder members to further clarify issues and propose acceptable, workable, and legal changes. The result has been a draft of potential modifications to Title 17 of the Spokane Municipal Code (included, pages 4-17).

Proposal Goal

To improve the Spokane Neighborhood Council's notification procedures, project awareness, and ability to comment on land use applications and permits which are processed by the City of Spokane.

Regulatory Framework

The Revised Code of Washington (RCW) establishes much of the framework that jurisdictions must follow regarding land use "project permits", "permit applications", project review and approval, public notice and public comments, time frames, and appeals. The statute requires all jurisdictions in the state to provide for a predictable and expedient process for processing applications. Administrative procedures related to application processing are required to contain certain specific steps that are required to be completed within 120 days.

Within that framework, local jurisdictions have the ability to establish more refined and functional requirements and processes, which the City adopted into the Spokane Municipal Code in 1996. Some "project permits" and "project applications" with minimal public impact are approved by city officials, typically building officials, and do not require review from other officials, or require a public notice, public hearing, or public comments. Other project types have increased public impact and therefore have strict requirements for public notice, project review, public hearing, etc. with the approval process. These project types are listed within the Spokane Municipal Code, Title 17G. Administration and Procedures.

Present Process Requirements for “x” Permit Type

The provisions of RCW 36.70.B require the follow minimum steps to be accomplished within 120 days of the application processing time:

- Complete Application Certification
- Notice of Application
- Public Comment Period
- SEPA Threshold Determination (if applicable)
- Notice of Public Hearing
- Consolidated Public Hearing
- Open Record Public Hearing
- Closed Record Public Hearing
- Notice of Decision
- Appeal

The **Complete Application Certification** is a determination by the local official that the application subject is ‘complete’, and as a result of this determination the application is ‘vested’ against review by newly adopted regulations that are promulgated after the date of vesting. This procedure should follow closely the ‘Vesting Rights Doctrine’ of the State of Washington. This process is required to take no more than 28 days.

The **Notice of Application** is a procedure that requires public notice to be provided that informs the public that an application has been filed with the local jurisdiction including reference information (project name, file number, etc.), contact information and a project description. The preparation of the Notice of Application is required to be completed within 14 days of the determination of a Complete Application.

As part of the Notice of Application, a **Public Comment Period** is required to be completed and notice of the ability to comment on an application is provided on the Notice of Application. This time is discretionary to the jurisdiction except that it may not be less than 14 days and may not be more than 30 days.

At the end of the public comment period, a **SEPA (State Environmental Policy Act) Threshold Determination** will be made on the project, if applicable. A SEPA determination is a decision on the likely impacts of the project to either the natural or manmade environment. Please note that SEPA can occur earlier in the application process such as with Notice of Application when the Optional DNS Process is used. The Threshold determination is required to be made no less than 15 days before the Public Hearing.

The **Notice of Public Hearing** is required to occur after the Public Comment Period and if applicable, after the SEPA Threshold Determination has been made. Again, the notice is required to contain project information, contact information and the date, time and place of the hearing. Notice of Public Hearing is required to be made no less than 15 days before the hearing.

The Public Hearing is an opportunity for all people to present to the decision maker their position on an application. There are rules for conduct of a Public Hearing such as recording the testimony, submission of evidence and the protocol for a person testifying.

In the past, an application with multiple components may go through multiple hearings related to a project. Each time the application risked being disallowed because one component would not be approved. The statute provides for **Consolidated Public Hearing** and allows applications to be combined into one public hearing and receive one decision of approval or denial for the overall project. The City of Spokane is a Hearing Examiner based system, which means that the Hearing Examiner renders all discretionary decisions. This includes rezones, variances, preliminary plats, shoreline permits and some special permits.

The number of Public Hearings is limited under the statute to one **Open Record Hearing** and one Closed Record Hearing. The Open Record Hearing is a hearing conducted by an officer that creates the record through testimony and submission of evidence on the project permit. An Open Record Hearing may also be held on an appeal if no open record predecision hearing was held, such as the case of short plat or the issuance of a building permit.

The **Notice of Decision** is required to provide notice of the decision rendered on an application including any statement about the SEPA threshold determination and procedures for administrative appeal, if any. The Notice of Decision may be a copy of the report or the decision on the permit. The notice is required to be provided to the applicant and anyone who requested notice of the decision or submitted substantive comments on the application.

An **Appeal** of a decision may be allowed and notice of the appeal procedure is required to appear on the Notice of Decision. Depending on the type of appeal, either an open record or closed record appeal hearing is conducted. The purpose of the appeal hearing is to allow for an applicant or an affected party to present evidence and testimony to a single hearing body or officer in conjunction with a project permit to consider changing the final permit decision.

The **Closed Record Hearing** relates to the appeal of a decision, following an open record hearing on a project. In this case, the record for the appeal hearing is closed and no new information may be submitted. The party that reviews the appeal may only consider the information that was presented at the open record hearing on the application.

Major Proposed Changes

- Early in the process, the applicable city department will forward complete project permit applications to the neighborhood council in which the project is located for review and comments.
- The department will provide a written response to neighborhood comments received, and also forward comments to the project applicant.
- Applications for demolition permits will be forwarded to the neighborhood council in which the project is located for review and comments.
- The city website/project address will be added to the sign requirements for public notice signs.

Neighborhood Notice

Proposed draft modifications within the Spokane Municipal Code 6/1/15

Underlined text is new proposed text, crossed out text is to be removed, and notes in boxes help explain changes, but are not included with proposed code modifications.

Section 17G.060.090 Determination of a Complete Application

Within twenty-eight days of receiving a project permit application, the department shall determine if the application is complete (RCW 36.70B.070). Upon receipt of a project permit application the department shall:

A. Counter Complete.

Conduct a preliminary, immediate review to determine if the application contains the documents and information required by SMC 17G.060.070. If the administrative official determines the application does not contain the required documents and information, the application including fees shall be returned to the applicant.

B. Component Screening.

If the application appears to contain required documents, the department shall accept the application and within seven days, conduct a detailed review and determine if any additional information is necessary to process the application. If the ~~((administrative official))~~ department determines the application is missing required components, or is inadequate in other ways, the application including any fees shall be returned to the applicant.

C. Review by Interested Agencies.

If the application, after the detailed review, is found to contain the required components and supporting documents, the application shall be forwarded to ~~((and))~~ (i) interested City departments, ((and)) (ii) agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application, and (iii) the individual(s) designated pursuant to SMC 4.27.010(D) to receive written notice on behalf of the neighborhood council in which the project is located, at the address for such departments, agencies, and neighborhood council designee(s) on file with the department, for review to ensure compliance with state laws, ordinances and concurrency requirements. Interested departments, agencies, and the neighborhood council shall be given fourteen days

SMC 4.27.010 (D) Each neighborhood council designates at least two individuals to receive written documentation and other information from the City's department of neighborhood services and code enforcement and to be responsible for disseminating this information to their respective neighborhood councils.

Note: the applicable department will process the application.

Note: Complete project permit applications to be forwarded by the applicable city department to the neighborhood council in which the project is located for review and comments.

to provide comments on a permit application. All written comments will be forwarded to the applicant at the end of the fourteen day comment period.

1. If review agencies require additional information to continue processing the application, the applicant shall be notified in writing.
2. Required information must be provided within sixty days from the notification by the department. The applicant may submit a written request for additional time to the director; any time extensions shall be in writing. If the information is not received within the sixty days (or as otherwise agreed to), the application and a portion of the fees shall be returned to the applicant, pursuant to [chapter 8.02 SMC](#).
3. Within fourteen days of the submission of the additional information identified by the review agency, the department shall notify the applicant whether the studies are adequate or what additional information is necessary.
4. If the neighborhood council submits written comments on an application, the department shall provide a written response to the chairperson no later than the date on which the application is certified complete pursuant to paragraph D herein below.

Timeline requirements:

7 days (to determine if application complete to process)

14 days (comment period)

within 7 days after comment period ends (application to be certified complete if no additional information needed)

Note: The purpose of this preliminary step in the application process is primarily to determine whether the application includes adequate information for further processing. RCW 36.70B.070

D. Application Certified Complete.

Within seven days of the expiration of the interested agency comment period, if no additional information was required, or the information required under subsection (C) of this section is acceptable, the administrative official shall certify the application complete. Applications requiring review by the hearing examiner are forwarded to the hearing examiner upon being certified as complete.

E. Vesting.

Applications shall be considered vested at the time the application is certified complete, the vesting date shall be the date of application submission. If the application is not complete when filed or information is not timely provided as set forth in subsection (B) or (C) of this section, the application shall not be considered complete for purposes of vesting or other statutory compliance dates.

Note: Under State law, fundamental land use planning choices made in adopted comprehensive plans and development regulations must serve as the foundation for project review. RCW 36.70B.030(1).

(2) During project review, a local government or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas; and

(c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW.

(3) During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation. As part of its project review process, a local government shall provide a procedure for obtaining a code interpretation as provided in RCW 36.70B.110.

(4) Pursuant to RCW 43.21C.240, a local government may determine that the requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific adverse environmental impacts to which the requirements apply.

RCW36.70B.030.

Section 17G.060.120 Public Notice – Types of Notice

A. Individual notice is given in writing by regular U.S. mail or by personal service.

1. Notice is given to:

- a. All owners and taxpayers of record, as shown by the most recent Spokane County assessor's record, and occupants of addresses of property located within a four-hundred-foot radius of any portion of the boundary of the subject property, including any property that is contiguous and under the same or common ownership and control (RCW 36.70B.040(2)). The department may expand the mailing to include areas adjacent to the access easements and areas on the opposite side of rights-of-way, rivers and other physical features;
- b. Any person who has made a written request to receive such notice, including any registered neighborhood organization as defined in chapter 17A.020 SMC representing the surrounding area;
- c. Any agency with jurisdiction identified by the director.
- d. The individual(s) designated pursuant to SMC 4.27.010(D) to receive written notice on behalf of the neighborhood council in which the project is located, at the address for such neighborhood council designee(s) that is on file with the City's department of neighborhood services and code enforcement.

2. Individual and newspaper notices must contain the following information:

- a. Type I, II, and III project permit applications:
 - i. Location of the property sufficient to clearly locate the site.
 - ii. Description of the proposed action and required permits.
 - iii. Name, address, and office telephone number of the City official from whom additional information may be obtained.
 - iv. Applicant name and telephone number.
 - v. Statement that any person may submit written comments and appear at the public hearing, if applicable.
 - vi. A statement that comments will be received on environmental issues, any environmental documents related to the proposed action, the SEPA status, and the appeal deadline for SEPA.
 - vii. A statement that written comments and oral testimony at a hearing will be made a part of the record, if applicable.
 - viii. A statement, in bold type, that only the applicant, persons submitting written comments, and persons testifying at a hearing may appeal the decision.
 - ix. Date and time by which any written comments must be received on the notice of application; and
 - x. Date of the application and date of the notice of complete application.
- b. In addition, for Type III project permit application:
 - i. Notice of community meeting: Date, time, and place of the meeting.
 - ii. Notice of public hearing: Date, time, and place of a public hearing.

B. Sign.

Posted notice is given by installation of a sign on the site of the proposal adjacent to the most heavily traveled public street and located so as to be readable by the public. The director may require more than one sign if the site fronts on more than one arterial or contains more than three hundred feet of frontage on any street.

1. The posted notice sign must meet the following specifications:
 - a. It measures a minimum of four feet by four feet, but sign size may be increased in order to contain all of the required information.
 - b. It is constructed of material of sufficient weight and strength to withstand normal weather conditions.
 - c. It is white with red lettering.
2. Posted notices must contain the following information:
 - a. The first line of text on the sign in four-inch letters reads: "NOTICE OF COMMUNITY MEETING" or the applicable notice type.
 - b. The second line of text on the sign in three-inch letters reads: "PROPOSED CONDITIONAL USE PERMIT, File #Z----- -CUP" or some other appropriate description of the proposed action.

- c. The third line of text on the sign in three-inch letters reads: "COMMUNITY MEETING ON/PUBLIC HEARING ON/COMMENTS DUE BY (date, time, and location)."
- d. The subsequent line(s) of text, in three-inch letters, read as follows depending on the proposal:

C.

TABLE 17G.060-2 CONTENT OF PUBLIC NOTICE (Click here to view PDF)			
Content of Public Notice	Type I Application	Type II Application	Type III Application
Proposed Use	X	X	X
Proposed Zone			X [2]
Proposed Standard			X [3]
Project Name		X	X
Acreage		X [1]	X [1]
# of Lots		X [1]	X [1]
Notes: [1] Preliminary Plat, BSP, PUD, Short Plat [2] Rezone [3] For applications which modify a development standard			

- a. The applicant (or agent) name and phone number, the SEPA status, and the deadline for appeal of the SEPA determination.
- b. The last line of text on the sign in three-inch letters reads: "FOR INFORMATION: (City contact telephone number)."
- c. The following figures illustrate posted notice signs:

Example "A"
<p>NOTICE OF PUBLIC HEARING PROPOSED ZONE CHANGE, FILE #Z2003-01-ZC PUBLIC HEARING ON : 1/1/2004 AT 9:00 A.M. LOCATED: COUNCIL BRIEFING RM., CITY HALL Proposed Zone: C1 Proposed Use: Warehouse Applicant/Agent: John Doe, Phone (509) 999-0001 SEPA: DNS, appeal deadline 12/24/03 FOR INFORMATION: (509) 625-6300 https://my.spokanecity.org/projects/example/</p>

Example "B"

NOTICE OF SEPA/APPLICATION
BUILDING PERMIT, FILE #B0300001
PUBLIC COMMENT DUE : 1/1/2004 AT 9:00 A.M.
LOCATED: COUNCIL BRIEFING RM., CITY HALL
Proposed Use: Commercial
Applicant/Agent: John Doe, Phone (509) 999-0001
SEPA: DNS, appeal deadline 12/24/03
FOR INFORMATION: (509) 625-6300
<https://my.spokanecity.org/projects/example/>

D. Posting.

Posting of the notice as a letter, identical in form and content to individual written notice, shall be posted at "official public notice posting locations," including:

1. The main City public library and the branch library within or nearest to the area subject to the pending action;
2. The space in City Hall officially designated for posting notices; and
3. Any other public building or space that the city council formally designates as an official public notice posting location, including electronic locations.

E. Newspaper notice is published in a legal newspaper of general circulation. The contents of the newspaper notice are as prescribed in subsection (A)(2) of this section. Newspaper notices are published on the same day of two consecutive weeks, the first no later than the number of days specified for the particular application type specified in this chapter.

F. Other Notification.

The hearing examiner, with respect to permit applications for non-site specific issues, such as essential public facilities, may require or provide for such alternative or additional notice as deemed necessary and appropriate to serve the public interest. A notification plan may be required of the applicant by the hearing examiner indicating the form and time of notice appropriate to the scope and complexity of the proposed project.

**TABLE 17G.060-3
TYPE OF PUBLIC NOTICE REQUIRED / PROJECT PERMIT REVIEW PROCESS**
([Click here to view PDF](#))

Project Permit Type	Notice of Community Meeting	Notice of Application	Notice of Public Hearing	Review Official	City Council Review	Expiration of Permit [1]
Building and Code Enforcement – Type I Application						
Building Permit	No	Legal / Individual	No	Building Official	No	180 days
Grading Permit	No	Legal / Individual	No	Building Official	No	180 days
Demolition Permit	No	Legal / Individual [5]	No [2]	Building Official	No	180 days
Building Permit with SEPA	Posted / Individual	Posted / Individual	No	Department Director	No	180 days
Grading Permit with SEPA	Posted / Individual	Posted / Individual	No	Department Director	No	180 days
Demolition Permit with SEPA	Posted / Individual	Posted / Individual	No	Department Director	No	180 days
Planning Services – Type I Application						
Floodplain with SEPA	Posted / Individual	Posted / Individual	No	Planning Director	No	180 days
Planning Services – Type II Application						
Binding Site Plan	No	Posted / Individual	No	Planning Director	No	5 years
Certificate of Compliance	No	Posted / Individual	No	Planning Director	No	None
Conditional Use Permit	No [3]	Posted / Individual	No	Planning Director	No	3 years
Plans-in-lieu	No	Posted / Individual	No	Planning Director	No	3 years
Shoreline SDP	No	Posted / Individual	No	Planning Director	No	Must Comply with WAC 173-27-90
Short Plat	No	Posted / Individual	No	Planning Director	No	5 years
Planning Services – Type III Application (Hearing Required)						
Certificate of	Posted /	Posted /	Posted /	Hearing	No	None

Compliance	Individual	Individual	Individual	Examiner		
Conditional Use Permit	Posted / Individual	Posted / Individual	Posted / Individual	Hearing Examiner	No	3 years
Floodplain Variance	Posted / Individual	Posted / Individual	Posted / Individual	Hearing Examiner	No	3 years
Long Plat	Posted / Individual	Posted / Individual	Newspaper / Posted / Individual	Hearing Examiner	No	5 years
Plans-in-lieu	Posted / Individual	Posted / Individual	Posted / Individual	Hearing Examiner	No	3 years

Note: Applications for demolition permits to be forwarded to the neighborhood council in which the building or structure is located for review and comments. This will include only the demolition of an entire building or structure. Conversely, applications for the demolition to a portion of a building or structure will not be forwarded.

PUD	Posted / Individual	Posted / Individual	Posted / Individual	Hearing Examiner	Yes	5 years [4]
Rezone	Posted / Individual	Posted / Individual	Posted / Individual	Hearing Examiner	Yes	3 years
Shoreline CUP	Posted / Individual	Posted / Individual	Posted / Individual	Hearing Examiner	No	Must Comply with WAC 173-27-90
Shoreline Variance	Posted / Individual	Posted / Individual	Posted / Individual	Hearing Examiner	No	Must Comply with WAC 173-27-90
Skywalk	Posted / Individual	Posted / Individual	Posted / Individual	Hearing Examiner	Yes	2 years
Variance	Posted / Individual	Posted / Individual	Posted / Individual	Hearing Examiner	No	3 years

Notes:

[1] Approval expires after the specified time if no permit to develop the project is issued by the City of Spokane or building permit expires without completion of the improvements.

[2] Public Hearing is required if the structure is on the National Historic Register.

[3] Conditional Use Permits required under [SMC 17C.110.110](#), Limited Use Standards for Religious Institutions and Schools, will complete posted/individual notification requirements for a Community Meeting.

[4] If a PUD is approved together with a preliminary plat, the expiration date for the PUD shall be the same as the expiration date of the preliminary plat.

[5] Applications for demolition permits for the demolition of an entire building or structure shall, in addition to any applicable requirements under chapter 43.21C RCW, be subject to a ten day review and comment period. This review and comment period shall run concurrently with any other applicable notice and comment period. Following receipt of such applications, copies shall be forwarded to the individual(s) designated pursuant to SMC 4.27.010(D) to receive written notice on behalf of the neighborhood council in which the building or structure is located, at the address for such neighborhood council designee(s) that is on file with the department. Any comments submitted

to the department by the neighborhood council during this review and comment period shall be provided to the applicant prior to issuing the demolition permit.

Administration and Procedures

Chapter 17G.060 Land Use Application Procedures

Section 17G.060.120 Public Notice – Types of Notice

- A. Individual notice is given in writing by regular U.S. mail or by personal service.
1. Notice is given to:
 - a. All owners and taxpayers of record, as shown by the most recent Spokane County assessor's record, and occupants of addresses of property located within a four-hundred-foot radius of any portion of the boundary of the subject property, including any property that is contiguous and under the same or common ownership and control (RCW 36.70B.040(2)). The department may expand the mailing to include areas adjacent to the access easements and areas on the opposite side of rights-of-way, rivers and other physical features;
 - b. Any person who has made a written request to receive such notice, including any registered neighborhood organization as defined in chapter 17A.020 SMC representing the surrounding area;
 - c. Any agency with jurisdiction identified by the director.
 2. Individual and newspaper notices must contain the following information:
 - a. Type I, II, and III project permit applications:
 - i. Location of the property sufficient to clearly locate the site.
 - ii. Description of the proposed action and required permits.
 - iii. Name, address, and office telephone number of the City official from whom additional information may be obtained.
 - iv. Applicant name and telephone number.
 - v. Statement that any person may submit written comments and appear at the public hearing, if applicable.
 - vi. A statement that comments will be received on environmental issues, any environmental documents related to the proposed action, the SEPA status, and the appeal deadline for SEPA.
 - vii. A statement that written comments and oral testimony at a hearing will be made a part of the record, if applicable.
 - viii. A statement, in bold type, that only the applicant, persons submitting written comments, and persons testifying at a hearing may appeal the decision.
 - ix. Date and time by which any written comments must be received on the notice of application; and
 - x. Date of the application and date of the notice of complete application.
 - b. In addition, for Type III project permit application:
 - i. Notice of community meeting: Date, time, and place of the meeting.

ii. Notice of public hearing: Date, time, and place of a public hearing.

B. Sign.

Posted notice is given by installation of a sign on the site of the proposal adjacent to the most heavily traveled public street and located so as to be readable by the public. The director may require more than one sign if the site fronts on more than one arterial or contains more than three hundred feet of frontage on any street.

1. The posted notice sign must meet the following specifications:
 - a. It measures a minimum of four feet by four feet, but sign size may be increased in order to contain all of the required information.
 - b. It is constructed of material of sufficient weight and strength to withstand normal weather conditions.
 - c. It is white with red lettering.
2. Posted notices must contain the following information:
 - a. The first line of text on the sign in four-inch letters reads: "NOTICE OF COMMUNITY MEETING" or the applicable notice type.
 - b. The second line of text on the sign in three-inch letters reads: "PROPOSED CONDITIONAL USE PERMIT, File #Z----- -CUP" or some other appropriate description of the proposed action.
 - c. The third line of text on the sign in three-inch letters reads: "COMMUNITY MEETING ON/PUBLIC HEARING ON/COMMENTS DUE BY (date, time, and location)."
 - d. The subsequent line(s) of text, in three-inch letters, read as follows depending on the proposal:

TABLE 17G.060-2 CONTENT OF PUBLIC NOTICE (Click here to view PDF)			
Content of Public Notice	Type I Application	Type II Application	Type III Application
Proposed Use	X	X	X
Proposed Zone			X [2]
Proposed Standard			X [3]
Project Name		X	X
Acreage		X [1]	X [1]
# of Lots		X [1]	X [1]
Notes: [1] Preliminary Plat, BSP, PUD, Short Plat [2] Rezone [3] For applications which modify a development standard			

- e. The applicant (or agent) name and phone number, the SEPA status, and the deadline for appeal of the SEPA determination.
- f. The last line of text on the sign in three-inch letters reads: "FOR

INFORMATION: (City contact telephone number and web page address where additional project information may be found)."

- g. The following figures illustrate posted notice signs:

Example "A"
NOTICE OF PUBLIC HEARING PROPOSED ZONE CHANGE, FILE #Z2003-01-ZC PUBLIC HEARING ON : 1/1/2004 AT 9:00 A.M. LOCATED: COUNCIL BRIEFING RM., CITY HALL Proposed Zone: C1 Proposed Use: Warehouse Applicant/Agent: John Doe, Phone (509) 999-0001 SEPA: DNS, appeal deadline 12/24/03 FOR INFORMATION: (509) 625-6300 https://my.spokanecity.org/projects/example/

Example "B"
NOTICE OF SEPA/APPLICATION BUILDING PERMIT, FILE #B0300001 PUBLIC COMMENT DUE : 1/1/2004 AT 9:00 A.M. LOCATED: COUNCIL BRIEFING RM., CITY HALL Proposed Use: Commercial Applicant/Agent: John Doe, Phone (509) 999-0001 SEPA: DNS, appeal deadline 12/24/03 FOR INFORMATION: (509) 625-6300 https://my.spokanecity.org/projects/example/

C. Posting.

Posting of the notice as a letter, identical in form and content to individual written notice, shall be posted at "official public notice posting locations," including:

1. The main City public library and the branch library within or nearest to the area subject to the pending action;
2. The space in City Hall officially designated for posting notices; and
3. Any other public building or space that the city council formally designates as an official public notice posting location, including electronic locations.

D. Newspaper notice is published in a legal newspaper of general circulation. The contents of the newspaper notice are as prescribed in subsection (A)(2) of this section. Newspaper notices are published on the same day of two consecutive weeks, the first no later than the number of days specified for the particular application type specified in this chapter.

E. Other Notification.

The hearing examiner, with respect to permit applications for non-site specific issues, such as essential public facilities, may require or provide for such alternative or additional notice as deemed necessary and appropriate to serve the public interest. A notification plan may be required of the applicant by the hearing examiner indicating the form and time of notice appropriate to the scope and complexity of the proposed project. Bottom of Form

Section 17G.060.190 Notice of Decision

- A. Decisions on Type I, II, and III project permit applications are made by the hearing examiner or director within ten days of the date the record is closed. The time for decision may be extended if the applicant agrees in writing. Subject to chapter 36.70B RCW, the time for decision may also be extended to allow time for additional public comment if the hearing examiner or director determines that notice was not properly mailed or posted. In making the decision, the hearing examiner or director may approve, approve with conditions, or deny the permit application. The decision is made in writing.
- B. Within seven days of making the decision, the hearing examiner or director causes notice of decision to be provided as follows:
1. Written notice of decision is provided by the decision-maker concurrent to the decision.
 2. Notice of a decision denying a permit application is given to the applicant. A full copy of the decision and any conditions of approval accompanies the notice of the decision to the applicant.
 3. Notice of all other decisions is given to the applicant, all parties of record, and all persons who have requested to be given notice.
 4. Notice of decision for Type I permit applications shall be the permit. For Type II and III permit applications the decision includes the following information:
 - a. Location of the property.
 - b. Description of the proposed action.
 - c. Name, address, and office telephone number of the City official from whom additional information may be obtained.
 - d. Applicant name and number.
 - e. The decision made, including the environmental threshold determination.
 - f. A list of persons who testified in person or in writing, or a summary of such a list.
 - g. A list of exhibits or a summary of such a list.
 - h. A statement of the decision criteria governing the application.
 - i. A statement of the comprehensive plan policies governing the application.
 - j. Findings of fact and conclusions relating the proposal to the decision criteria governing the application and which form the basis for the decision.
 - k. A statement that a full copy of the decision may be obtained from the designated official for the cost of reproduction.
 - l. The last date the decision may be appealed.
 - m. The place the appeal must be filed.
 - n. A statement of the fee to be charged for an appeal and the approximate cost to prepare any required transcripts.
 - o. A statement that the decision will be final unless appealed; and
 - p. The signature of the person making the decision.
- C. If the decision on a Type II or III project permit includes conditions of approval, a covenant must be recorded in the Spokane County auditor's office identifying the restrictions to use and development of the property exist. The covenant must be filed within the approval time limits of the permit or the approval becomes void. For rezones, the hearing examiner does not forward the rezone to the city council until the covenant has been filed.

- D. The decision for a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance must contain a statement that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the “date of filing” by department of ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.149(5)(a) and (b).
- E. Notice of decision for a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance shall be submitted to the department of ecology along with a permit data sheet (Appendix A, WAC Chapter 173-27). For a shoreline conditional use permit or a shoreline variance, there is a thirty-day review by department of ecology. After this period, the department of ecology shall render and transmit to the City of Spokane and the applicant a final decision approving, approving with conditions, or disapproving the permit. The planning director shall provide notification within seven days of the department of ecology’s final decision to those interested persons having requested notification.

Section 17G.050.310 Right of Appeal

- A. ~~((The applicant of a))~~ A person with standing ~~((as defined in chapter 17A.020 SMC))~~ may appeal to the hearing examiner a decision of the director of planning services, engineering services, the building official, the responsible official under SEPA as provided in SMC 17G.060.210 and the landmarks commission related to applications for certificate of appropriateness and determination of eligibility under SMC 17D.040.230 by filing with the permit application department a written appeal within fourteen days of the date of the written decision.
- B. The applicant, a person with standing, or a City department may appeal to the city council any decision of the hearing examiner, except as provided in SMC 17G.060.210, by filing with the permit application department a written appeal within fourteen days of the date of the written decision of the hearing examiner.

Add new Section to Chapter 17G.050 as follows:

Section 17G.050.315 Standing

Standing to bring an appeal under this chapter is limited to the following persons:

- A. The applicant and the owner of property to which the decision is directed;
- B. Another person aggrieved or adversely affected by the decision, or who would be aggrieved or adversely affected by a reversal or modification of the decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:
 - (1) The decision has prejudiced or is likely to prejudice that person;
 - (2) That person's asserted interests are among those that the department was required to consider when it made the decision; and
 - (3) A judgment in favor of that person would substantially eliminate or

redress the prejudice to that person caused or likely to be caused by the decision.

- C. The neighborhood council in which the property to which the decision being appealed is directed, subject to the neighborhood council demonstrating that it adhered to established bylaws in making the decision to bring the appeal.
-

Note: "The time periods for local government actions for each type of complete project permit application or project type should not exceed one hundred twenty days, unless the local government makes written findings that a specified amount of additional time is needed to process specific complete project permit applications of project types." RCW 36.70B.080(1). In addition, preliminary plats of any proposed subdivision and dedication generally must be approved, disapproved, or returned to the applicant for modification or correction within ninety days from date of filing thereof unless the applicant consents to an extension of such time. RCW 58.17.140(1). Similar time limitations apply to other types of applications for development permits.

Administration and Procedures

Chapter 17G.050 Hearing Examiner

Article II. Procedures

Section 17G.050.140 Effect of Notice

- A. Failure of a person entitled to notice to receive notice does not affect the jurisdiction of the hearing examiner to hear the application at the time and place scheduled and to render a decision, if the notice was properly mailed and posted.
- B. A person is deemed to have received notice if that person appears at the hearing or submits a written statement regarding the hearing even if notice was not properly mailed or posted. Subject to chapter 36.70B RCW, the hearing examiner may continue the hearing date and extend the comment period to allow such persons additional time to respond.
- C. Subject to paragraph B of this section, if the hearing examiner determines that any notice required under chapter 17G.060 SMC has not been provided, the hearing examiner may reschedule the hearing or keep the record open on the matter to receive additional evidence.

Reference Materials

RCW 36.70B.140

Project permits that may be excluded from review.

(2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW [36.70B.060](#) and [36.70B.110](#) through [36.70B.130](#): **Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review** under chapter [43.21C](#) RCW, or for which environmental review has been completed in connection with other project permits.

Definitions:

RCW 36.70B.020

(3) "**Open record hearing**" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

(4) "**Project permit**" or "**project permit application**" means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

(5) "**Public meeting**" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

RCW 36.70C.060

Standing.

Standing to bring a land use petition under this chapter is limited to the following persons:

- (1) The applicant and the owner of property to which the land use decision is directed;
- (2) Another person aggrieved or adversely affected by the land use decision, or who would be aggrieved or adversely affected by a reversal or modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:
 - (a) The land use decision has prejudiced or is likely to prejudice that person;
 - (b) That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision;
 - (c) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and
 - (d) The petitioner has exhausted his or her administrative remedies to the extent required by law.