

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING
AMENDMENTS TO ISLAND COUNTY
CODE CHAPTERS 16.19 AND 17.03,
RELATING TO MAXIMUM REVIEW TIME
FRAMES FOR PERMIT PROCESSING

ORDINANCE NO. C- 118 -11
PLG-005-11

WHEREAS, Island County conducts planning activities in accordance with Chapter 36.70 RCW, the Planning Enabling Act; and

WHEREAS, the planning process and the Island County Comprehensive Plan are further governed by Chapter 36.70A RCW, the Growth Management Act (GMA); and

WHEREAS, in order to comply with Chapters 36.70 and 36.70A RCW, Island County adopted its GMA Comprehensive Plan on September 29, 1998 by Ordinance C-123-98, with an effective date of December 1, 1998; and

WHEREAS, in order to implement the Island County GMA Comprehensive Plan, a system of zoning and development regulations were also adopted on September 29, 1998 by Ordinance C-123-98, with an effective date of December 1, 1998, thereby establishing Chapter 17.03 ICC, the Island County Zoning Code; and

WHEREAS, the Board of County Commissioners (Board) contemporaneously amended the Land Use Review Process (Chapter 16.19 ICC), and adopted a Land Division and Dedications Ordinance (Chapter 16.06 ICC), a Storm and Surface Water Ordinance (Chapter 11.03 ICC), as well as adopting or amending companion Chapters of ICC related to Concurrency, County Environmental Policy, Critical Areas, the Shoreline Master Program, and Site Plan review; and

WHEREAS, Chapter 16.26 ICC establishes the review and amendment procedures for the Island County Comprehensive Plan and development regulations; and

WHEREAS, ICC 16.26.020 provides that certain amendments to the development regulations that implement the comprehensive plan and for which no amendment to the comprehensive plan is required may be processed without being placed on the Annual Review Docket; and

WHEREAS, the Planning and Community Development Department believes that by simplifying the permit processing timeframes it can improve customer service; and

WHEREAS, it is the goal and intent of the Planning and Community Development Department to review all permit applications as quickly as possible; and

WHEREAS, at the direction of the Board, Island County Planning and Community Development prepared amendments to ICC 16.19.100 and ICC 17.03.035 to simplify the permit review timeframes; and

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WHEREAS, the proposed amendments implement the Comprehensive Plan and do not require amendment to the Comprehensive Plan; and

WHEREAS, pursuant to ICC 16.14C.180 and Washington Administrative Code Section 197-11-800(19) this amendment is categorically exempt from SEPA review; and

WHEREAS, the draft amendments were transmitted to the Department of Commerce for the 60 day state agency review required by Chapter 36.70A RCW; and

WHEREAS, the proposed revisions to ICC (attached as Exhibit A) have been reviewed by the Island County Planning Commission in public hearings on March 8, 2011, March 22, 2011, September 27, 2011, and October 11, 2011, and the Planning Commission recommended approval of the proposed revisions; **NOW, THEREFORE**,

IT IS HEREBY ORDAINED that the Board of Island County Commissioners adopts amendments to ICC 16.19.100 and ICC 17.03.035 attached hereto as Exhibit A, and the Findings of Fact approved by the Planning Commission, attached hereto as Exhibit B. Within Exhibit A, material stricken through is deleted and material underlined is added.

ADOPTED this 21 day of NOVEMBER, 2011, following public hearing. A.H. #3

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**




Angie Homola, Chair

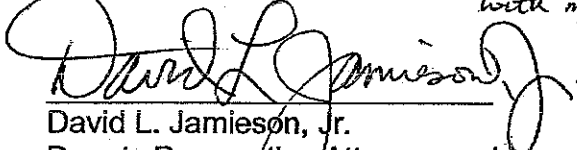

Helen Price Johnson, Member

VOTED "NO"
Kelly Emerson, Member

ATTEST:


Elaine Marlow
Clerk of the Board

APPROVED AS TO FORM: *as to pages marked with my initials & date, 10/11/2011*


David L. Jamieson, Jr.
Deputy Prosecuting Attorney and
Island County Code Reviser




10/11/2011

Exhibit A

(16.19.100 ICC Approval Time Periods & 17.03.035 ICC)

10/11/11  11/9/2011

16.19.100 Approval Time Periods

- A. Type I. Except for final subdivision plats and final short subdivision plats, final decisions by the Director for these Type I applications which are exempt from SEPA review, shall be issued within ~~thirty-one-hundred and twenty~~ (30120) days following mailing the complete application notice, completion at the scheduled completion meeting or failing to timely mail a notice of complete application. Decisions on Type I applications that are not exempt from SEPA review shall be issued in the same manner as a decision on a Type II application. Final subdivision plat and final short subdivision plat decisions shall be made issued within thirty (30) days of the date a complete application is filed with the County, pursuant to RCW 58.17.140.
- B. Type II. ~~1.-Final decisions by the Director for Type II applications not within the unincorporated portion of an Urban Growth Area shall be made issued within forty-five one-hundred and twenty~~ (45120) days following mailing or failing to timely mail a notice of complete application.
- ~~2.—Final decisions by the Director for Type II applications located on property that is within the unincorporated portion of an Urban Growth Area but not contiguous to the municipal boundary shall be made within sixty (60) days following mailing or failing to timely mail a notice of complete application.~~
- C. Type III. Except for preliminary subdivision decisions, final decisions by the Hearing Examiner for Type III applications shall be made within one-hundred-twenty (120) days following the mailing or failing to timely mail a notice of complete application. Preliminary subdivision decisions shall be made within ninety (90) days of the date a complete application is filed with the County, pursuant to RCW 58.17.140.


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ICC 17.03.035A

Permitted and Conditional Uses in the Rural Agriculture and Commercial Agriculture Zones

How to use this chart: This chart is intended to assist you in learning what uses may be established in the Rural Agriculture (RA) and Commercial Agriculture (CA) Zones and the type of permit that may be required. Within the columns that are labeled "Permitted" and "Conditional" you will see a I, II, III or IV. These numbers indicate the type of land use decision that is required in order to establish the use on a parcel zoned RA and CA. These land use decisions have the following meaning:

- I = Type I Permitted Use – ~~30~~120 day permit review – Ministerial Decision
 - II = Type II Conditional Use – ~~45~~120 day permit review – Administrative Decision
 - III = Type III Conditional Use – 120 day permit review – Hearing Examiner Decision
 - IV = Type IV Conditional Use – Requires Board of County Commissioner approval
-

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ICC 17.03.035B

Permitted and Conditional Uses in the Rural Forest Zone

How to use this chart: This chart is intended to assist you in learning what uses may be established in the Rural Forest Zone and the type of permit that may be required. Within the columns that are labeled "Permitted" and "Conditional" you will see a I, II, or III. These numbers indicate the type of land use decision that is required in order to establish the use on a parcel zoned Rural Forest. These land use decisions have the following meaning:

- I = Type I Permitted Use – 30~~1~~20 day permit review – Ministerial Decision
- II = Type II Conditional Use – 45~~1~~20 day permit review – Administrative Decision
- III = Type III Conditional Use – 120 day permit review – Hearing Examiner Decision

ICC 17.03.035C

Permitted and Conditional Uses in the Rural Residential Zone

How to use this chart: This chart is intended to assist you in learning what uses may be established in the Rural Residential Zone and the type of permit that may be required. Within the columns that are labeled "Permitted" and "Conditional" you will see a I, II, or III. These numbers indicate the type of land use decision that is required in order to establish the use on a parcel zoned Rural Residential. These land use decisions have the following meaning:

- I = Type I Permitted Use – 30~~1~~20 day permit review – Ministerial Decision
- II = Type II Conditional Use – 45~~1~~20 day permit review – Administrative Decision
- III = Type III Conditional Use – 120 day permit review – Hearing Examiner Decision

ICC 17.03.035D

Permitted and Conditional Uses in the Rural Zone

How to use this chart: This chart is intended to assist you in learning what uses may be established in the Rural Zone and the type of permit that may be required. Within the columns that are labeled "Permitted" and "Conditional" you will see a I, II, or III. These numbers indicate the type of land use decision that is required in order to establish the use on a parcel zoned Rural. These land use decisions have the following meaning:

- I = Type I Permitted Use – 30~~1~~20 day permit review – Ministerial Decision
- II = Type II Conditional Use – 45~~1~~20 day permit review – Administrative Decision
- III = Type III Conditional Use – 120 day permit review – Hearing Examiner Decision

ICC 17.03.035E

Permitted and Conditional Uses in the Rural Center, Rural Village and Rural Service Zone

How to use this chart: This chart is intended to assist you in learning what uses may be established in the Rural Center, Rural Village and Rural Service Zones and the type of permit that may be required. Within the columns that are labeled "Permitted" and "Conditional" you will see a I, II, or III. These numbers indicate the type of land use decision that is required in order to establish the use on a parcel zoned Rural Center, Rural Village or Rural Service. These land use decisions have the following meaning:

- I = Type I Permitted Use -- 30120 day permit review -- Ministerial Decision
- II = Type II Conditional Use -- 45120 day permit review -- Administrative Decision
- III = Type III Conditional Use -- 120 day permit review -- Hearing Examiner Decision

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11/9/2011

Exhibit B

(Findings of Fact)



**ISLAND COUNTY
PLANNING & COMMUNITY DEVELOPMENT**

Robert H. Pederson, AICP
Director

Island County Planning Commission

Dean Enell, Chair

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RE: Planning Commission Findings for DRA 019/11 -- Permit Review Timeframes

Summary:

The Island County Planning Commission is forwarding to the Board of Island County Commissioners (BOICC) a Development Regulation Amendment that simplifies permit review times with a recommendation to adopt the respective code changes.

Findings:

1. Ordinance C-83-98 was adopted September 29, 1998. This ordinance established timeframes for permit review (Chapter 16.19 ICC).
2. Permit review timeframes established by Washington State are found in RCW Chapters 36.70B and 58.17.
3. The timeframes established in Chapter 16.19 ICC are more complicated than they need to be, creating confusion for permit applicants and consuming valuable staff time. Aligning State and County permit review timeframes will provide for more efficient permit review, benefiting both the applicant and the County.
4. It is the intent of the Planning & Community Development Department to process permits as quickly as possible.
5. Chapter 16.26 ICC is the local ordinance that defines the procedure and timeframes for amending the Comprehensive Plan and Development Regulations.
6. Development Regulation Amendment 019/11 is part of the 2011 Planning and Community Development Department work program and is exempt from the procedural requirements of Chapter 16.26 ICC because no amendment to the Comprehensive Plan is required before the adoption of this amendment.
7. On March 8, 2011, and March 22, 2011, the Planning Commission held public hearings regarding permit review timeframes (DRA 019/11). Opportunity for public comment was provided at both

Island County Planning Commission

Findings of Fact

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hearings. No public comments were offered at the March 8, 2011 hearing and one comment was offered at the March 22, 2011 hearing, by Ron Nelson, Director of the Economic Development Council. After deliberation, the Planning Commission voted six in favor and one against in recommending approval of DRA 019/11 to the Board of Island County Commissioners.

8. On May 10, 2011, DRA 019/11 was brought before the Planning Commission to review minor changes made by the Island County Code Reviser. After deliberation, the Planning Commission voted six in favor and one against in recommending approval of the amended DRA 019/11 to the Board of Island County Commissioners.
9. On May 23, 2011, DRA 019/11 was brought before the BOICC at Regular Session. The Board voted to table the proposed amendments in order to allow for additional public outreach.
10. Following the May 23, 2011 BOICC meeting, staff from Island County Planning and Community Development consulted with the Skagit Island County Builders Association (SICBA) and agreed on changes to the proposed amendment that would preserve the intent of processing permits as quickly as possible.
11. On September 27, 2011 the Planning Commission continued the public hearing of DRA 019/11. Opportunity for public comment was again provided to the public. The Planning Commission directed the Planning & Community Development Department that the ordinance be drafted in its current format.
12. On October 11, 2011 the Planning Commission continued the public hearing of DRA 019/11. Opportunity for public comment was again provided to the public. The Planning Commission voted to recommend approval of DRA 019/11 to the Island County Board of Commissioners.

Conclusions:

The Island County Planning Commission has reviewed DRA 019/11 and hereby recommends that the Board of Island County Commissioners adopt the proposed amendment to the Island County Code.

Respectfully submitted through the Island County Planning Department to the Board of Island County Commissioners, pursuant to RCW 36.70.430, this 11th day of October 2011 by,


Wayne Havens
~~Dean Enelt~~ Acting Chair
Island County Planning Commission, Chair



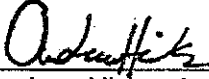
ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

Robert H. Pederson, AICP
Director

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TRANSMITTAL AND REPORT MEMORANDUM

TO: Board of Island County Commissioners

FROM: 
Andrew Hicks - Long Range Planner

DATE: November 15, 2011

SUBJECT: Development Regulation Amendment (DRA) 019/11 -- An amendment to the Island County Code (ICC), amending Sections 16.190.100 and 17.03.035 to simplify permit review timeframes and align them with state law.

BACKGROUND

On March 8, 2011, March 22, 2011, and May 10, 2011 the Island County Planning Commission held public hearings on the draft code amendments regarding County permit review timeframes. The Planning Commission voted six for and one against recommending approval of the code amendment. On May 10, 2011 the Planning Commission approved their Findings that accompany the recommendation for approval. Planning & Community Development placed the code amendment on the Board of Island County Commissioners agenda for May 23, 2011. At the May 23rd Board meeting the issue was tabled in order to allow for additional public outreach.

Following the May 23rd Board meeting, the Planning Department received comments from stakeholders within the development community (Skagit Island County Builders Association). Those stakeholders voiced concerns that the intent of the proposed changes may get lost through time with each transition to new department leadership, ultimately leading to longer waiting periods for permits. To address those concerns, staff drafted changes to the language of the amendment, adding "target timeframes" to preserve a reference to the current 30 and 45 day requirements for Type I and Type II applications, respectively, as goals for the Department to achieve.

On September 27, 2011, the Planning Commission held another public hearing to consider the changes to the proposed ordinance to include "target timeframes" of 30 days for Type I Decisions and 45 days for Type II Decisions. Ultimately, the Planning Commission concluded that the intent to process permits as quickly as possible would be more appropriately preserved in the ordinance recitals document and the findings of fact. The Planning Commissioner who originally dissented to the original amendment language recognized the awkwardness of including "target timeframes" in the regulatory language and the Commission voted unanimously to request that the Planning Department remove the "target timeframe" language from code.

Following the September 27, 2011 Planning Commission hearing, staff discussed the Commission's preference to remove the "target timeframes" language with the Planning Commissioner who originally dissented and a representative of SICBA. It was agreed that it would be more appropriate to state the intent and desire for the Department to process permits as quickly as possible within the findings, instead of the regulatory document.

On October 11, 2011, the Planning Commission held a public hearing to consider the proposed amendment in what turned out to be near its original form. The Planning Commission voted unanimously to recommend approval of the amendment to the Board of Island County Commissioners.

INTRODUCTION

Island County Code Section 16.19.100 establishes (5) different review timeframes for processing land use permits. Section 17.03.035 ICC simply reiterates these timeframes. There has been a long standing need to simplify the permit review timeframes to avoid confusion and bring them into conformity with the standards established by the state under the Revised Code of Washington (RCW) Sections 36.70B.070 and 58.17.140.

Over the past several years, the County has not consistently met the timeframes established in Section 16.19.100 ICC. County budget constraints and staff reductions during 2009 further exaggerated this issue. The County has taken a number of initiatives to reduce the back log of permits and reduce permit processing timeframes during the past 18 months. Staff would also reiterate that it is our policy to review and process all permits in an expeditious manner. This amendment is not intended to slow down permit processing, but rather to align the ICC with state law and see more realistic timeframes in County code.

This amendment to the ICC is part of the 2011 Planning and Community Development work program. As required by Section 16.26.040 ICC, this code amendment is processed as a Type IV decision. This specific amendment to the ICC requires no amendment to the Island County Comprehensive Plan (ICCP) and is, therefore, exempt from the standards of Chapter 16.26 ICC, which means the amendment is not required to be considered as part of the Annual Review Docket.

The Planning Commission considered this code amendment at their March 8, 2011 public hearing and continued the matter to March 22, 2011 so that necessary corrections to the code revision language could be made.

ANALYSIS

The current Island County Code Section 16.19.100 states:

"A. Type I. Except for final subdivision plats and final short subdivision plats, final decisions by the Director for those Type I applications which are exempt from SEPA review, shall be issued within thirty (30) days following mailing the complete application notice, completion at the scheduled completion meeting or failing to timely mail a notice of complete application. Decisions on Type I applications that are not exempt from SEPA review shall be issued in the same manner as a decision on a Type II application. Final subdivision plat and final short subdivision plat decisions shall be made within thirty (30) days of the date a complete application is filed with the County.

B. Type II

1. Final decisions by the Director for Type II applications not within the unincorporated portion of an Urban Growth Area shall be made within forty-five (45) days following mailing or failing to timely mail a notice of complete application.

2. Final decisions by the Director for Type II applications located on property that is within the unincorporated portion of an Urban Growth Area but not contiguous to the municipal boundary shall be made within sixty (60) days following mailing or failing to timely mail a notice of complete application.

C. Type III. Except for preliminary subdivision decisions, final decisions by the Hearing Examiner for Type III applications shall be made within one-hundred-twenty (120) days following the mailing or failing to timely mail a notice of complete application. Preliminary subdivision decisions shall be made within ninety (90) days of the date a complete application is filed with the County."

ICC 16.19 establishes thirty (30) days as the maximum timeframe for reviewing Type I applications, forty-five (45) days for Type II applications not within the unincorporated portion of an Urban Growth Area, and sixty (60) days for Type II applications within the unincorporated portion of an Urban Growth Area but not contiguous to the municipal boundary. Type III applications must be processed within one-hundred and twenty (120) days, except for preliminary subdivision decisions, which must be made within ninety (90) days. The attached figures depict the various approval timeframes in the ICC, compared to those established in the RCW.

RCW 36.70B.080 states:

"Development regulations adopted pursuant to RCW 36.70A.040 must establish and implement time periods for local government actions for each type of project permit application and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. 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 or project types."

This RCW establishes 120 days as the maximum timeframe for reviewing permits and issuing a decision. Also, RCW 58.17.140 governs the timeframes specifically for the approval or disapproval of preliminary plats. For preliminary plats of any subdivision type, the review timeframe is ninety (90) days maximum. For final plats and final short plats, the timeframe is thirty (30) days maximum.

CONCLUSION

Island County Code Section 16.19.100 should be simplified to match the standards set forth in the state statutes. Type I, II, and III applications should be processed within one-hundred and twenty (120) days except for preliminary and final plats, which would have ninety (90) or thirty (30) day maximums, respectively. While allowing one-hundred and twenty (120) days for permit review would extend the existing permit review timeframes set forth in County code, it is not the intent of the Planning and Community Development Department to delay processing any permit. Staff recognizes that it is in the best interest of the County to process permits as quickly as possible.

RECOMMENDATION

The Planning and Community Development Department recommends that the Board of Island County Commissioners move to place DRA 019/11 on the November 21st, 2011 BOICC regular Monday meeting agenda to consider adoption of C-118-11, PLG-005-11.

