

Zoning Code Amendment: Amendments to the Redmond Zoning Code Regarding Type III Permit Appeals*Planning Commission Issues Matrix for April 18, 2017*

Issue	Discussion Notes	Status
<p>1. What is the cost benefit analysis for the proposed change? (Vanessa Kritzer & Phil Miller)</p>	<p><u>Planning Commission Discussion</u> (3/28) Commissioners discussed the cost implications of removing City Council from the appeal process and having the matter going to Superior Court, specifically regarding legal fees.</p> <p>(4/4) Commissioner Kritzer and Miller were content with the response and closed the item.</p> <p><u>Staff Response/Recommendation</u> (3/29) The cost implications to an appellant are difficult to determine. Per the King County Superior Court website, an “Appeal of Administrative Hearing Decision” has a \$240 application fee, as established by RCW 36.18.020(2,5); whether there are other associated costs is unclear. The only certain City-associated costs are the City appeal fee and staff review time frame which is further explained below. This analysis was performed on the amount of time and money spent on appeals by the City.</p> <p>On average, a smaller project (like a residential short plat) appeal takes approximately 15.5 hours to review and process. A larger residential plat appeal requires approximately 25 hours to review and process. Large commercial or multi-family projects take an approximate 52 hours for the review and process of an appeal. The aforementioned hours involved in the review/process only include the review time of the lead planner assigned to the project. Other reviewers, such as storm water, engineering, utilities, transportation, manager, administrative staff, and public notice preparation are not included in these estimates. The inclusion of all staff time would likely increase the hours required to review an appeal quite dramatically.</p> <p>Translating the amount of hours a planner requires to prepare an appeal into a dollar figure (\$122.78/hour, per 2017 fees, would be as follows:</p> <p>Small Sized Project (i.e. short plat) - \$1,903.09 Medium Sized Project (i.e. plat) - \$3,069.50 Large Sized Project (i.e. Multi-Family/Commercial) - \$6,384.56</p> <p>Eliminating the administrative appeal hearing by the City Council will also be a benefit in time saved by the City Council and staff attendees for such quasi-judicial appeal hearings which can be extremely</p>	<p>Opened 3/28/18</p> <p>Closed 4/4/18</p>

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	time intensive, as highlighted in the attached Municipal Research and Services Center (MRSC) Planning Advisory entitled "Should Legislative Bodies Conduct Quasi-Judicial Hearings?".	
2. What is the potential of legal risk with the proposed amendment? (Phil Miller)	<p><u>Planning Commission Discussion</u> (3/28) Commissioners asked if the City might be put in greater legal risk with the recommended change to remove an administrative appeal hearing by the City Council, as recommended.</p> <p>(4/4) Commissioner Miller was content with the response and closed the record.</p> <p><u>Staff Response/Recommendation</u> (3/29) There is not greater legal risk to the City in removing the administrative appeal hearing by the City Council and making the subject decisions appealable to Superior Court. On the contrary, removing the City Council and administrative appeal hearing by making the subject decisions appealable to Superior Court will reduce legal and financial risks to the City, as discussed in the attached MRSC Planning Advisory entitled "Should Legislative Bodies Conduct Quasi-Judicial Hearings?". Eliminating the requirement of the City Council to perform Quasi-Judicial Hearings on the subject appeals will greatly reduce the potential legal and financial risks to the City Council as the Council would be removed from the precarious position of adjudicating appeals, based upon facts, findings, and rules of law of previous hearings where they would be liable for any small error in findings or procedure.</p>	<p>Opened 3/28/18</p> <p>Closed 4/4/18</p>
3. Request that staff provide clarification regarding Mr. Zakhareyev comments (Sherri Nichols)	<p><u>Planning Commission Discussion</u> (3/28) Commissioners asked for a summary of Mr. Zakhareyev's comment and a response.</p> <p>(4/4) Commissioner Nichols was satisfied with the response and closed the record.</p> <p><u>Staff Response/Recommendation</u> (3/29) Mr. Zakhareyev highlights that in a previous report on the subject, "<i>City Council Members have raised the question of whether they should be the appeal body for Type III permits, as they would like to be able to advocate for their constituents without creating a conflict of interest and, thus; possibly endangering their ability to hear the appeal</i>", and that there is nothing that would preclude the City Council from discussing matters with constituents.</p>	<p>Opened 3/28/18</p> <p>Closed 4/4/18</p>

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	<p>Mr. Zakhareyev's comments are true, however when the City Council may be, and probably be, placed into the role of adjudicating body of a quasi-judicial situation, their ability to freely discuss matters can potentially be hampered, especially with regard to how they may personally feel about the matter- as they know that they may be put in the adjudicating role. Thus, that is why many Washington cities have removed their city councils as the administrative appeal hearing bodies in their review processes, according to the attached Planning Advisory entitled "Should Legislative Bodies Conduct Quasi-Judicial Hearings?".</p> <p>(4/4) Mr. Zakhareyev spoke at the Public Hearing supporting his submitted comments and urging Planning Commission to not support the proposed changes.</p>	
<p>4. Number of recent appeal proceedings? (Vanessa Kritzer)</p>	<p><u>Planning Commission Discussion</u> (3/28) Commissioners asked how many recent projects have gone through the appeal process.</p> <p>(4/4) Commissioner Kritzer was satisfied and closed the item.</p> <p><u>Staff Response/Recommendation</u> (3/29) In staff's research:</p> <ul style="list-style-type: none"> • Type III permits: in the last five (5) years there have been one (1) appeal to City Council. 	<p>Opened 3/28/18</p> <p>Closed 4/4/18</p>
<p>5. Any past examples that went through the old process? (Vidyanand Rajpathak)</p>	<p><u>Planning Commission Discussion</u> (3/28) Commissioners asked if there were similar appeals in the past that they feel would have been better for the City if the appeal went to Superior Court, instead of through the City Council.</p> <p>(4/4) Planning Commission was satisfied and closed the item.</p> <p><u>Staff Response/Recommendation</u> (3/29) Staff is unable to determine if there were any appeals in the past that would fit this description.</p>	<p>Opened 3/28/18</p> <p>Closed 4/4/18</p>
<p>6. Why is our code process different from other</p>	<p><u>Planning Commission Discussion</u> (3/28) Commissioners asked why we are different from the other cities who have removed their city councils from the appeal process.</p>	<p>Opened 3/28/18</p> <p>Closed 4/18/18</p>

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<p>neighboring communities? (Phil Miller)</p>	<p>(4/4) Based of the public hearing, Commissioners sought for staff to double check Exhibit F of the Technical Committee Report for accuracy before a recommendation can be rendered.</p> <p><u>Staff Response/Recommendation</u></p> <p>(3/29) With past major code revisions, the discussion came up regarding making the proposed change to the appeal process to which the previous Redmond City Council opted to not change. The current Redmond City Council is now seeking to make the change.</p> <p>As stated in the attached MRSC Planning Advisory entitled “Should Legislative Bodies Conduct Quasi-Judicial Hearings?”, many cities in Washington have removed their city councils from the appeals process. Staff also researched comparable communities and when their changes were adopted.</p> <ul style="list-style-type: none"> • City of Woodinville: 2017 (Ordinance 643) • City of Sammamish: 1999 - 2016 (Multiple Ordinance) • City of Mercer Island: 1999 - 2017 (Multiple Ordinance) • City of Bellevue: 1997(Ordinance 4972) <p><u>Public Comment</u></p> <p>(4/4) Margaret Leiberton spoke at the public hearing stating that Exhibit F is labeled incorrectly for Bellevue and Kirkland as City Council hears administrated appeals for permits similar to Redmond Type III permits.</p> <p>(4/6) Staff has double checked by reaching out to the neighboring communities to validate the information within the Technical Committee Report Exhibit F.</p> <p>Upon discussion with Kirkland, they have removed permit types within their code and only have review types listed. This means comparing Redmond’s permit types cannot be compared with Kirkland on a like to like basis. Kirkland has listed process type I, IIA, IIB, IV, and IVA listed within their code. The Type IIA process is heard by the hearing examiner and appealable to City Council. IIB is decided upon by City Council and appealable to Superior court. Upon further analysis, City Council hears administrative appeals in Kirkland therefore the table has been updated to better reflect this unique code.</p>	

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	<p>The City of Bellevue has Administrative Conditional Use Permits (Type II) that are appealable to City Council, while they also have Conditional Use Permits (Type III) that are appealable to Superior Court. Bellevue is similar to the proposed amendment regarding their Type III permits.</p> <p>Upon discussion with Issaquah and reviewing Issaquah Municipal Code 18.04.250-2 table, the similar permits process for Redmond's Type III (except for Preliminary Plats) are appealable directly to Superior Court. The other similar permits to Redmond's Type III in Issaquah are administrative decisions and are appealable to the Hearing Examiner, then appealable to Superior Court similar to Redmond's current Type II process. The Table has been updated to better reflect Issaquah standards with callouts added to ensure transparency in staff's research.</p> <p>Therefore Kirkland, and Issaquah have been flipped and are now properly displayed within the updated standards. The other outreach and research with neighboring community standards have added callouts to ensure transparency in staff's research.</p> <p><u>Planning Commission Discussion</u> (4/18) Commissioners were satisfied with the additional information provided, and closed this issue.</p>	