



## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

Dean Enell, Chair

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~ MEMORANDUM ~

**To: Board of Island County Commissioners**

**From: Island County Planning Commission**

**RE: Findings of Fact – Recommendation on Amendments to chapters 16.13 and 16.19 of the Island County Code, procedures for administrative appeals**

**Date: March 14, 2016**

### Summary

The Island County Planning Commission is forwarding to the Board of Island County Commissioners its recommendation on the proposal to amend Chapters 16.13 and 16.19 of Island County Code, changing procedures for administrative appeals of certain Type I and Type III permits. The proposed amendments, attached here as Exhibit “A,” would change the venue for appeals of Type I permits to The Island County Hearing Examiner, and for appeals of Type III decisions to Island County Superior Court or the Shoreline Hearings Board, in accordance with Washington State law.

### Findings

1. In 1977, the Washington State Legislature enacted Engrossed Senate Bill (“ESB”) No. 2421 that authorized local governments, as an alternative, to create a hearing examiner system. Laws of 1977, ch. 213, Sec. 3.
2. ESB No. 2421 only authorized a hearing examiner decision to be given the effect of a recommendation to the legislative authority or given the effect of an administrative decision appealable within a specified time to the legislative authority.

3. On August 22, 1983, Island County adopted Ordinance PD-83-03, effective January 1, 1984, creating the Hearing Examiner system in Island County located in chapter 16.13 of the Island County Code (“ICC”).
4. In 1995, the Washington State Legislature enacted Engrossed Substitute House Bill (“ESHB”) 1724 that expanded the decision-making authority of the hearing examiner such that a hearing examiner decision may be given the effect of a final decision of the legislative body.
5. In 1999, the Municipal Research and Services Center (“MRSC”) published *Use of Hearing Examiners by Cities and Counties in Washington*, a copy of which is attached as Exhibit “B” to this recommendation. The MRSC publication provides in the introduction paragraph that the basic purpose of having a hearing examiner conduct these hearings is to have a professionally-trained individual make objective quasi-judicial decisions that are supported by an adequate record and that are free from political influences.
6. The Planning Commission finds that chapter 16.13 ICC contains the duties and powers of the Island County Hearing Examiner.
7. The Planning Commission finds that ICC 16.19.190 contains the provisions for administrative appeals for Type I, II and III decisions.
8. The Planning Commission finds that the Board of Island County Commissioners has expressed a desire, based on the recommendation of the Washington County Risk Pool, to amend the County Code so as to no longer provide for the Board to hear administrative appeals.
9. The Planning Commission finds that adequate outreach to the local community and public was conducted by the Planning Department in accordance with ICC 16.26.080. There were no concerns raised by the public.
10. The Planning Commission finds that the proposed amendments to chapters 16.13 and 16.19 ICC are exempt from threshold determination and EIS requirements under WAC 197-11-800(19) as procedural actions.
11. The Planning Commission conducted a public workshop regarding the proposed amendments on February 8, 2016 and a public hearing on February 22, 2016. There were no public comments in opposition to the proposed amendments.
12. The Planning Commission finds that by providing that appeals of certain Type I decisions be heard by the Island County Hearing Examiner a local county record can be built at an open record appeal hearing.

13. The Planning Commission finds that by providing that Type III decisions issued by the Island County Hearing Examiner become final county land use decisions that are appealable as allowed under applicable State law, the Island County Board of Commissioners will not hear administrative appeals as recommended by the Washington Counties Risk Pool
14. The Planning Commission, concerned that citizens would no longer be able to appeal to their local legislative authority for Type III decisions, finds that the planning proposal would be improved by adding a process allowing for a request for reconsideration to the Board of Island County Commissioners for a Type III decision.

Conclusion

The Island County Planning Commission has reviewed the proposed amendments to the procedures for administrative appeals of certain Type I and Type III decisions and recommends that the Board of Island County Commissioners adopt the proposed amendments to Island County Code Chapters 16.13 and 16.19.

Respectfully submitted through the Island County Planning Department to the Board of Island County Commissioners, pursuant to RCW 36.70.430, this \_\_\_\_ day of \_\_\_\_\_, 2016 by,

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Dean Enell,  
Chair, Island County Planning Commission

Attachments.

Exhibit "A" – Amendments to the Chapters 16.13 and 16.19 of Island County Code  
Exhibit "B" – MRSC's Use of Hearing Examiners by Cities and Counties in Washington