

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2009-13

SUBJECT: Title 19 Amendment – Review Authority for Master Plans and Master Plan Amendments

CONFORM AS TO DATES & SIGNATURES

- Filed with the City Clerk: 11/24/2009
- Passed by the City Council: 12/02/2009
- Signature of Mayor
- Signature of City Clerk
- Publication: 12/11/2009
- Effective: 12/16/2009
- Recorded: N/A

DISTRIBUTED COPIES AS FOLLOWS:

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City Clerk

December 9, 2009

Date

ORDINANCE NO. 2009-13

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING TABLE 19.01.001 AND SECTIONS 19.01.040 OF THE POULSBO MUNICIPAL CODE IN ORDER TO CLARIFY THAT THE REVIEW AUTHORITY FOR MASTER PLANS AND MASTER PLAN AMENDMENTS IS THE POULSBO CITY COUNCIL; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a conflict exists between the process for consideration of master plans and master plan amendments set forth in PMC 18.40 and the process for such matters set forth in PMC Table 19.01.001 and PMC 19.01.040, and

WHEREAS, the Poulsbo City Council wishes to resolve the conflict by clarifying that the City Council is the review authority for master plans and master plan amendments, as provided in PMC 18.40 and not the Hearing Examiner, as provided in PMC Table 19.01.001 and PMC 19.01.040, now, therefore,

THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Master Plan Review Authority. The following line items in Table 19.01.001 of the Poulsbo Municipal Code are hereby revised to read as follows:

PERMIT ACTIVITY	REVIEW AUTHORITY	EXEMPT	TYPE I	TYPE II	TYPE III	TYPE IV
Master plans and amendments	PC/CC				X	
Redevelopment master plans and amendments	PC/CC				X	

Section 2. Type III Process. Section 19.01.040 of the Poulsbo Municipal Code is amended to read as follows:

19.01.040 Type III procedure - Quasi-judicial decision.

A. The following public hearings and/or public meetings shall be held in connection with Type III permits:

1. Master plans, master plan amendments, redevelopment master plans, redevelopment master plan amendments, and site specific rezones that require a comprehensive plan amendment require one open record public hearing before the planning commission. Following the public hearing, the planning commission shall make a recommendation to the city council, which shall consider the recommendation in a closed record public meeting.

2. Site specific rezones that do not require a comprehensive plan amendment require one open record public hearing before the hearing examiner. Prior to the public hearing, the planning commission shall review the application in a public meeting and make a recommendation to the hearing examiner. The planning commission public meeting should be held within sixty calendar days after the applicable official issues the determination that the application is complete. Following the public hearing, the hearing examiner shall make a recommendation to the city council, which shall consider the recommendation in a closed record public meeting.

3. Variances require one open record public hearing before the hearing examiner. Following the public hearing, the hearing examiner shall make a final decision on the variance, which may be appealed to and heard by the city council in a closed record public meeting.

4. All Type III applications other than those specified in subsections 1, 2, and 3 above require one open record public hearing before the hearing examiner. Prior to the public hearing, the planning commission shall review the application in a public meeting and make a recommendation to the hearing examiner. The planning commission public meeting should be held within sixty calendar days after the date the applicable official issues the determination that the application is complete. Following the public hearing, the hearing examiner shall make a final decision on the variance, which may be appealed to and heard by the city council in a closed record public meeting.

5. A neighborhood meeting is required to be conducted by the applicant for a Type III permit adjacent to residential zoning prior to the submittal of the application; provided, however, that this requirement may be waived by the planning director upon request of the applicant for minor projects which the planning director determines do not have significant impacts on residential areas or involve significant planning issues. The applicant shall give notice of the neighborhood meeting in the

same manner as the city gives notice of applications for Type III permits.

B. At least fifteen calendar days before the date of a hearing for an application subject to Type III review, a public notice of the hearing shall be issued consistent with the requirements in Section 19.01.045.

C. At least fifteen calendar days before the date of the hearing for an application(s), the applicable official shall issue a written staff report, integrating a SEPA review and recommendation on the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall mail a copy of the staff report and recommendation without charge to the review authority and to the applicant's representative. The applicable official shall mail or provide a copy of the staff report at reasonable charge to other parties who request it.

D. Public hearings shall be conducted in accordance with the rules of procedure adopted by the review authority, except to the extent waived by the review authority. A public hearing shall be recorded on audio or audiovisual tape or other media. At the conclusion of the hearing on each application, the review authority shall announce one of the following actions:

1. That the hearing is continued. If the hearing is continued to a place, time, and date certain, then additional notice of the continued hearing is not required to be mailed, published, or posted. If the hearing is not continued to a place, date, and time certain, then notice of the continued hearing shall be given as though it was the initial hearing; or

2. That the public record is held open to a date and time certain. The review authority shall state where additional written evidence and testimony can be sent, and shall announce any limits on the nature of the evidence that will be received after the oral testimony portion of the hearing; or

3. That the application(s) is/are taken under advisement, and a final order or recommendation will be issued as in subsection E of this section; or

4. That the application(s) is/are denied, approved, or approved with conditions, or in the case of a recommendation, are recommended for denial, approval, or approval with conditions, together with a brief summary of the basis for the decision or recommendation, and that a written decision or recommendation

supported by findings and conclusions will be issued as provided in subsection E of this section.

E. Within fourteen calendar days after the record closes, the review authority shall issue a written decision or recommendation regarding the application(s); provided, that the review authority shall not issue a written decision or recommendation until at least fifteen calendar days after the threshold determination under Title 16 of this code (SEPA) is made. The decision or recommendation shall include:

1. A statement of the applicable criteria in this code and other applicable law; and

2. A statement of the facts that the review authority found showed the application does or does not comply with each applicable approval criterion; and

3. The conclusions of the review authority as to why the application meets or fails to meet the applicable criteria and why the application should be approved, approved with conditions, or denied; and

4. The decision or recommendation to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable criteria and standards.

F. The decision of the hearing examiner on a site-specific rezone that does not require a comprehensive plan amendment and the decision of the planning commission on a master plan, master plan amendment, redevelopment master plan, redevelopment master plan amendment, and site specific rezone that does require a comprehensive plan amendment shall be given the effect of a recommendation to the city council and the city council shall consider the recommendation in a closed record proceeding. No new evidence may be presented to the city council in the closed record proceeding and the council shall make its decision based solely on the record made before the hearing examiner and the arguments presented to the city council. The applicant, the city staff, and opponents to the rezone, master plan, master plan amendment, redevelopment master plan, or redevelopment master plan amendment may each make oral argument. The applicant, the staff, and the opponents shall each be allowed ten minutes for oral argument; provided, that the city council may allow additional time in order to ensure that all parties have a reasonable opportunity to be heard. The city council may, based on the record made before the hearing

examiner or planning commission, and the arguments presented to the city council:

1. Accept the recommendation of the hearing examiner or planning commission in its entirety; or

2. Accept the recommendation of the hearing examiner or planning commission in part and reject the recommendation of the hearing examiner or planning commission in part; or

3. Reject the recommendation of the hearing examiner or planning commission in its entirety.

If the decision of the city council is to accept the recommendation of the hearing examiner or planning commission in its entirety, the city council need not enter a written decision or written findings and conclusions of its own if it adopts the hearing examiner's or planning commission's written recommendation and written findings. If the decision of the city council is to accept the recommendation of the hearing examiner or planning commission in part and to reject the recommendation in part, the city council shall enter a written decision supported by written findings and conclusions at least as to those issues or matters on which the city council determines to reject the hearing examiner's or planning commission's recommendation. If the decision of the city council is to reject the hearing examiner's or planning commission's recommendation in its entirety, the city council shall enter a written decision supported by written findings and conclusions justifying the rejection. Any decision of the city council approving a site-specific rezone shall require enactment of an ordinance.

G. Within seven calendar days from the date of the decision, the planning director shall mail the notice of decision to the applicant and applicant's representative, and all parties of record. The mailing shall include a notice which includes the following information:

1. For all decisions of the hearing examiner other than a decision on a site-specific rezone, a statement that the decision and SEPA determination, if applicable, are final, but may be appealed. Final decisions rendered by the hearing examiner on matters other than the appeal of a SEPA procedural determination or a site-specific rezone may be appealed to the city council as provided in Section 19.01.060. Final decisions by the hearing examiner on an appeal of a SEPA procedural determination may not be appealed to the city council and judicial review of such

decisions may be sought only in Kitsap County superior court; provided, that any such judicial review must be sought as part of a petition for review of the underlying permit decision under the Land Use Petition Act, Chapter 36.70C RCW. Judicial review of final decisions of the hearing examiner may be sought by filing a petition for review in Kitsap County superior court under the Land Use Petition Act, Chapter 36.70C RCW, within twenty-one calendar days of the date the decision was issued, as provided in RCW 36.70A.040. The statement shall describe how a party must appeal the decision or SEPA determination.

2. For a decision of the hearing examiner on a site-specific rezone, a statement that the decision of the hearing examiner shall constitute a recommendation to the city council on the rezone action and that the same will be forwarded to the city council for review and action as provided in subsection F of this section.

3. For a decision of the city council on a site-specific rezone, master plan, master plan amendment, redevelopment master plan, or redevelopment master plan amendment, a statement that judicial review may be sought only in the Kitsap County superior court under the Land Use Petition Act, Chapter 36.70C RCW, within twenty-one days of the date the decision was issued, as provided in RCW 36.70A.040. The statement shall describe how a party must appeal the decision or SEPA determination.

4. For all decisions and recommendations, a statement that the complete case file is available for review. The statement shall list the place where the case file is available and the name and telephone number of the city representative to contact for information about the case.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance or any code section adopted or amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance or any code section adopted or amended hereby.

Section 4. Effective date. This ordinance shall take effect and be in full force five (5) days after publication of the attached summary, which is hereby approved.

ADOPTED by the Poulsbo City Council and approved by the Mayor this 2nd day of

December, 2009.

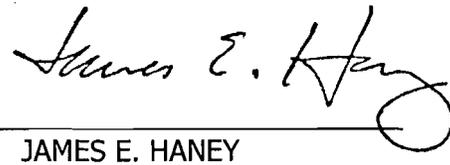
CITY OF POULSBO:


MAYOR KATHRYN H. QUADE

ATTEST/AUTHENTICATED:


JILL A. BOLTZ, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:


BY _____
JAMES E. HANEY

FILED WITH THE CITY CLERK: 11/24/2009
PASSED BY THE CITY COUNCIL: 12/02/2009
PUBLISHED: 12/11/2009
EFFECTIVE DATE: 12/16/2009
ORDINANCE NO. 2009-13

SUMMARY OF ORDINANCE NO. 2009-13

of the City of Poulsbo, Washington

On the 2nd day of December, 2009, the City Council of the City of Poulsbo, passed Ordinance No. 2009-13. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING TABLE 19.01.001 AND SECTION 19.01.040 OF THE POULSBO MUNICIPAL CODE IN ORDER TO CLARIFY THAT THE REVIEW AUTHORITY FOR MASTER PLANS AND MASTER PLAN AMENDMENTS IS THE POULSBO CITY COUNCIL; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 2nd day of December, 2009.


CITY CLERK JILL A. BOLTZ