

Ordinance No. 631, 1998

An Ordinance implementing the new permit processing rules provided under the new Chapter, 26.10, of the Clallam County Code adopted under Ordinance 631, 1998, results in the repeal of permit processing sections of several development regulations adopted by Clallam County as part of the Clallam County Code, including: Chapters 9.26.080 and 090 Sign Code; Chapter 26.01.050 Planning Agency; Chapter 26.04.060 Hearing Examiner; Chapter 27.01.110, 160 and 210 Environmental Policy Code; Chapters 27.12.355, 360, 370, 380 and 430, Interim Critical Areas Code; Chapters 29.05, 29.07, 29.10, 29.13, 29.14, 29.15, 29.17, 29.40, 29.43 and 29.45, Land Division Code; Chapter 32.01.100 Floodplain Management Code; Chapters 33.23, 33.27, 33.30 and 33.37 Zoning Code, and Chapters 35.01.060, 080-130, 150, 155, 200 and 210 Shoreline Management Code.

BE IT ORDAINED BY THE CLALLAM COUNTY COMMISSIONERS:

I. Part One - Amendments to Chapter 9.26, Sign Code

Amendments to the permit processing requirements set forth in Chapter 9.26, Sign Code, are as follows:

1. C.C.C. 9.26.080 - VARIANCES. Applications for a variance from the standards established by this code shall be administered under the same procedures set forth in CCC 26.10 and the review criteria outlined in CCC 33.4330, Zoning Variances.
2. C.C.C. 9.26.090 - REVIEW OF ADMINISTRATOR'S ACTION (APPEALS). Any person aggrieved by the granting, denying or rescinding of a decision of the Administrator made under this ordinance may seek review from the Hearing Examiner in accordance with CCC 26.10 Board of Clallam County Commissioners by filing a request for the same within thirty days of the date of the final decision of Clallam County. The request must be in writing setting forth the basis of the appeal and must be accompanied by the appropriate fees outlined in CCC 3.30.

II. Part Two - Amendments to Chapter 26.01, Planning Agency

Amendments to the permit processing requirements set forth in Chapter 26.01, Planning Agency, are as follows:

1. C.C.C. 26.01.050. Duties and Powers of Commission. The Commission shall be responsible to the Planning Department and the Board for its duties and actions. The duties and powers of the Commission shall include, but not be limited to, the following:
~~—— (4) Final orders on zoning conditional use permits, variances and shoreline permits.~~

III. Part Three - Amendments to Chapter 26.04, Hearing Examiner

Amendments to the permit processing requirements set forth in Chapter 26.04, Hearing Examiner, are as follows:

1. C.C.C. 26.04.060. Applicability. The Hearing Examiner shall take action on the following permit applications pursuant to the applicable land use regulation, until such time as the land use regulation is amended to incorporate the hearing examiner into the permit review process and as prescribed in CCC 26.10:
 1. Permit Applications and requests pursuant to the Clallam County Zoning Code, Title 33 Clallam County Code, including:
 - a. ~~Planned Unit Development's pursuant to Chapter 33.38 Clallam County Code, in which the Hearing Examiner acts as the Planning Commission.~~
 - b. ~~Master Planned Resorts Planned Recreational Community's pursuant to Chapter 33.39 Clallam County Code, in which the Hearing Examiner acts as the Planning Commission.~~
 - c. Conditional Use Permit applications pursuant to Chapter 33.42 Clallam County Code, in which the Hearing Examiner acts as the Board of Adjustment.

- d. ~~Variance requests pursuant to Chapter 33.43 Clallam County Code, in which the Hearing Examiner acts as the Board of Adjustment.~~
- e. ~~Review of the Administrator's decision pursuant to Chapter 33.44 Clallam County Code, in which the Hearing Examiner acts as the Board of Adjustment.~~
- f. ~~Cluster Development's pursuant to Chapter 33.56 Clallam County Code, in which the Hearing Examiner acts as the Planning Commission.~~
- 2. ~~Permit Applications and requests pursuant to the Clallam County Interim Critical Areas Ordinance, Chapter 27.12 Clallam County Code, including:~~
 - a. ~~Variance requests pursuant to Chapter 27.12 Clallam County Code, in which the Hearing Examiner acts as the Shoreline and Sensitive Areas Committee.~~
 - b. ~~Special and Conditional Use Permit applications pursuant to Chapter 27.12 Clallam County Code, in which the Hearing Examiner acts as the Administrator Shoreline and Sensitive Areas Committee.~~
- 3. ~~Land Division requests pursuant to the Clallam County Land Division Code, Title 29 Clallam, and Binding Site Plan Codes, Chapters 29.01 and 29.06 Clallam County Code, including:~~
 - a. ~~Subdivision applications in applications pursuant to Chapter 29.01 Clallam County Code, in which the Hearing Examiner acts as the grants preliminary decisions and the Board of Commissioners, as legislative authority, grants final approval Planning Commission.~~
 - b. ~~Variance requests pursuant to Chapter 29.01 Clallam County Code, in which the Hearing Examiner acts as the Board of Clallam County Commissioners.~~
 - c. ~~Binding Site Plan requests pursuant to Chapter 29.06 Clallam County Code, in which the Hearing Examiner acts as the in which the Hearing Examiner grants preliminary decisions and the Board of Commissioners, as legislative authority, grants final approval Planning Commission.~~
 - d. ~~Appeals of Administrator's actions.~~
- 4. ~~Permit Applications pursuant to the Clallam County Shoreline Master Program and Shoreline Permit Code, Chapter 35.01 Clallam County Code, including:~~
 - a. ~~Shoreline Substantial Development permits pursuant to Chapter 35.01 Clallam County Code, in which the Hearing Examiner acts as the Shoreline and Sensitive Areas Committee.~~
 - b. ~~Shoreline Conditional Use permits pursuant to Chapter 35.01 Clallam County Code, in which the Hearing Examiner acts as the Shoreline and Sensitive Areas Committee.~~
 - c. ~~Shoreline Variance requests pursuant to Chapter 35.01 Clallam County Code, in which the Hearing Examiner acts as the Shoreline and Sensitive Areas Committee.~~
- 6. ~~Permit Applications and requests pursuant to CCC 9.26, Sign Code:~~
 - a. ~~Variances~~
 - b. ~~Review of Adminstrator's Actions~~
- 7. ~~Permit applications pursuant to CCC 32.01, Flood Management Code~~
 - a. ~~Variances~~

IV. Part Four - Amendments to Chapter 27.01, Environmental Policy Code

Amendments to the permit processing requirements set forth in Chapter 27.01, Environmental Policy Code, are as follows:

- 1. C.C.C. 27.01.110(7). A mitigated DNS is issued under WAC 197-11-340(2) and requires a fourteen (14) fifteen day comment period and public notice which shall be consistent with CCC 26.10 ~~No license may be issued until the appeal period required in CCC 27.01.140(a) has elapsed or until an appeal made under that section has been completed by the Board of Commissioners.~~
- 2. C.C.C. 27.01.160. Public Notice.
 - (1) Whenever Clallam County issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the county shall give public notice as follows:

(a) The County shall give notice of comment and appeal periods of a DNS in accordance with CCC 26.10 ~~or DS by publishing notice in a newspaper of general circulation in the County.~~

(b) Whenever the County issues a DS under WAC 197-11-360(3), the County shall give notice ~~by publishing in a newspaper of general circulation in accordance with CCC 26.10~~ and shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408.

3. C.C.C. 27.01.210. Appeals.

Clallam County establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680 and CCC 26.10 whereby consolidation of public hearings on projects and appeal hearing are made to the fullest extent possible, as follows:

(1) An aggrieved party may appeal the adequacy of a Final EIS (FEIS) pursuant to the following procedures:

(a) Appeals relating to the adequacy of a FEIS shall be consolidated in all cases with the public hearing, if any, of the underlying governmental action. Appeals of the adequacy of a FEIS shall be made within ~~fourteen~~^{fifteen} (15) days of the issuance of the FEIS and shall be consistent with CCC 26.10. ~~Such appeal shall be made in writing to the Responsible Official and shall state specifically the procedural determination which is subject of the appeal; such appeals shall include payment of fees as required in C.C.C. 3.30.~~

(b) If an appeal relating to the adequacy of a FEIS is filed, at the same public hearing on the underlying governmental action, if applicable, the decision-making body shall either affirm or reverse the decision of the responsible official and shall prepare a finding on its decision on the FEIS appeal. ~~The powers of the decision-making body (e.g. planning commission) on FEIS appeals shall be consistent with the powers on the underlying governmental action. For example, the planning commission provides a recommendation on rezones to the Board of Commissioners; in such a situation, the Board of Commissioners would have final authority on the adequacy of the FEIS. On the other hand, the Hearing ExaminerShorelines and Sensitive Areas Committee issues final decisions on shoreline permits, subject to appeal; in this situation, the Board of Commissioners would rule on the adequacy of the FEIS only when the decision of the CommitteeHearing Examiner is appealed. If the decision-making body determines that the FEIS is not adequate, it may remand the FEIS back to the responsible official requiring that specific impacts be reconsidered.~~

(c) If no public hearing process is required for the underlying governmental action, or if the underlying governmental action is appealed or advisory, review of the FEIS adequacy shall be heard by the Hearing Examiner in accordance with appeal procedures as set forth in CCC 26.10~~Board of Clallam County Commissioners. The Board of Clallam County Commissioners shall call for a public hearing at their next regularly scheduled meeting following receipt of the appeal and shall either affirm or reverse the decision of the responsible official within thirty (30) days of the first hearing at which the FEIS is considered.~~

(2) An aggrieved party may appeal a final DNS pursuant to the following procedures:

(a) Appeals relating to the adequacy of a final DNS shall be filed in accordance with CCC 26.10 which allows for one appeal of a project decision and includes the appeal of a SEPA threshold determination which is part of the decision on the underlying permit. ~~consolidated in all cases with the public hearing, if any, of the underlying governmental action. Appeals of the adequacy of a DNS shall be made within ten (10) days of the final DNS. Such appeal shall be made in writing to the Responsible Official and shall state specifically the procedural determination which is subject of the appeal; such appeals shall include payment of fees as required in C.C.C. 3.30.~~

(b) ~~At the open or closed record hearing on the appeal, whichever applies, the appellate body as specified in CCC 26.10 public hearing on the underlying governmental action, the decision-making body shall either affirm or reverse the decision of the responsible official which is a part of the underlying permit decision. The powers of the decision-making or advisory body (e.g. planning commission) on final DNS appeals shall be consistent with the powers on the underlying governmental action. For example, the planning commission provides a recommendation on rezones to the Board of Commissioners; in such a situation, the Board of Commissioners would have final authority on the adequacy of the final DNS. On the other hand, the Shorelines and Sensitive Areas Committee issues final decisions on shoreline permits, subject to appeal; in this situation, the Board of Commissioners would rule on the adequacy of the final DNS only when the decision of the Committee is appealed. If the appellated decision-making body determines that the DNS is not adequate, it may:~~

- ~~(i) remand the decision back to the responsible official requiring that specific impacts be reconsidered. The appellate body shall adopt a finding which substantiates the need for a new public hearing for proper and adequate review of the project and wherever possible, all parties shall agree to such process. The new public hearing shall be duly advertised to the parties of record after which the decision-making body shall take action on said permit;~~
- ~~or~~
- ~~(ii) modify the decision of the responsible official, decision-making body in accordance with the processing of appeals of the underlying permit as specified in CCC 26.10.~~

~~(c) If no public hearing process is required for the underlying governmental action, or if the underlying governmental action is appealed or advisory, review of the final DNS shall be heard by the Board of Clallam County Commissioners. The Board of Clallam County Commissioners shall call for a public hearing at their next regularly scheduled meeting following receipt of the appeal and shall either affirm or reverse the decision of the responsible official within thirty (30) days of the first hearing at which the determination is considered.~~

~~(3) An aggrieved party may appeal a decision to condition or deny a proposal decision (for example, an MDNS) based on this Chapter to the Board of Clallam County Commissioners. Appeals of a decision to condition or deny a proposal shall be made within ten (10) days of the final decision to condition or deny. Such appeal shall be made in writing to the Responsible Official and shall state specifically the substantive determination which is subject of the appeal; Such appeals shall include payment of fees as required in C.C.C. 3.30. The Board of Clallam County Commissioners shall call for a public hearing at their next regularly scheduled meeting following receipt of the appeal and shall either affirm or reverse the decision of the responsible official within thirty (30) days of the first hearing at which the determination is considered.~~

~~(34) An applicant may appeal a Determination of Significance to the Hearing Examiner Board of County Commissioners within fourteen (14) 30 days of the date the DS is issued. The processing of an appeal of a DS is exempt from the public hearing limitations set forth in CCC 26.10.~~

IV. Part Five - Amendments to Chapter 27.12 Interim Critical Areas Code

Amendments to the permit processing requirements set forth in Chapter 26.01, Planning Agency, are as follows:

1. Section 355(3) - APPLICATION REQUIREMENTS, GENERAL_ Applications for any development proposal subject to this ordinance shall be reviewed by the Administrator for completeness, consistency or inconsistency with this Ordinance and CCC 26.10.
2. Section 360 - VARIANCES

1. A variance in the application of the regulations or standards of this Ordinance to a particular piece of property or a variance to the use prohibitions of this Ordinance may be granted by the Clallam County Hearing Examiner~~Shorelines and Sensitive Areas Committee~~ when it can be shown that the application meets all of the following criteria:)
2. The Hearing Examiner~~Shorelines and Sensitive Areas Committee~~ shall conduct a public hearing on all variance applications pursuant to the review process established in C.C.C. 26.1035-01.110, as now or hereafter amended.
3. ~~The Administrator shall provide notice of the public hearing by publishing in a newspaper of general circulation in the County at least once, not less than ten (10) days prior to the date set for the hearing. Notice shall also be sent by mail not less than ten (10) days prior to the date of the hearing on the variance application to the owners of property proposing the variance request and to all owners of property within 600 feet of the boundary of said property. Failure to send notice by mail to any such property owner where the address of said owner is not a matter of public record or because the ownership is not of public record shall not invalidate any proceedings required in this Ordinance.~~

3. Section 370 - APPEALS

1. Appealable Actions. The following decisions or actions required by this Ordinance may be appealed:
 - a. Any decision to require, or not require a Special Report pursuant to this Ordinance may be appealed by the applicant or affected party to the Hearing Examiner in accordance with CCC 26.10~~Clallam County Board of Commissioners.~~
 - b. Any appeal of a action or decision subject to this Title shall be in accordance with CCC 26.10~~Any decision to approve, condition or deny a development proposal, or any disagreement on conclusions, methodology, rating systems, etc. between the Review Authority and such person or firm which prepares Special Reports pursuant to Section 900 of this Ordinance may be appealed by the applicant or affected party to the Clallam County Board of Commissioners.~~
 - c. ~~Any decision to approve, condition or deny a variance application or reasonable use exception by the Review Authority may be appealed by the applicant or affected party to the Clallam County Board of Commissioners.~~
2. Appeal Process. Any appeal shall comply with the process set forth in CCC 26.10~~The following process shall be followed in submitting an appeal and taking action.~~
 - a. ~~Any appeal regarding a decision to require, or not require a Special Report shall be made within fifteen days of the decision. The appeal shall be in writing stating the basis that such reports should or should not be required for the proposed development. The appeal shall be considered by the Clallam County Board of Commissioners within thirty (30) days of receiving such appeal. The Board of Commissioners may: (i) remand the decision back to the Review Authority requesting that specific issues be reconsidered; (ii) modify the decision of the Review Authority; or (iii) uphold the decision of the Review Authority.~~

Clallam County shall not issue any permit, license or other development approval on the development proposal site pending the outcome of the appeal decision by Clallam County; PROVIDED, however, that Clallam County may issue such permits if not within or adjacent to critical areas or their buffers and issuance of such permits will not limit the choice of reasonable alternatives for the development proposal regulated by this Ordinance.

- c. ~~Any appeal regarding a decision to approve, condition or deny a development proposal based on this Ordinance, or any decision to approve, condition or deny a variance or reasonable use exception, shall be made within fifteen days of the decision. A fee in an amount as established under C.C.C. 3.30 shall be paid to the Department of Community Development at the time an appeal is filed. The appeal shall be in writing and shall state specifically the issues that are the subject of the appeal focusing in on the specific inadequacies of the particular decision under dispute. The appeal shall be considered by the Clallam County Board of Commissioners within thirty (30) days of receiving the appeal. The Board of Commissioners may: (i) remand the decision back to the Review Authority requesting that specific issues be reconsidered; (ii) modify the decision of the Review Authority; or (iii) uphold the decision of the Review Authority.~~

4. Section 380- ENFORCEMENT

4. Any civil penalty imposed shall be provided to the person who violated the provisions of this Ordinance. Such penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, and in appropriate cases, require necessary corrective action within a specific time. Any person incurring a penalty may apply in writing within thirty days of receipt of penalty to the Hearing Examiner Board of Commissioners for remission or mitigation of such penalty. The Hearing Examiner Board of Commissioners may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. Any penalties imposed under this section shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after the Hearing Examiner's Board of Commissioners decision regarding the remission or mitigation.
6. If the person subject to the civil penalty fails to remit payment when due, the Hearing Examiner Board of Clallam County Commissioners may order that such penalty be assessed against the property and cause the same to be recorded on the assessment roll. Thereafter, said assessment shall constitute a special assessment against and a lien upon the property. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date. Certified copies of the assessment shall be given to the assessor, who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

5. Section 430 - SPECIAL USE AND CONDITIONAL USE PERMITS

1. Special Use Permits. The Hearing Examiner Administrator is authorized to take action on Special Use Permits required by this Ordinance.
- a. The Hearing Examiner Administrator may approve a special use permit after review of the application and a wetland mitigation plan submitted in accordance with Section 900 of this Ordinance. The Hearing Examiner shall Administrator shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists and the proposed use is consistent with the spirit and intent of this Ordinance and will not cause adverse impacts to the wetland, or the wetland buffer which cannot be mitigated. In taking action to approve a special use permit, the Hearing Examiner Administrator may attach reasonable conditions as

necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.

- b. The Hearing Examiner~~Administrator~~ shall deny special use permits when the Hearing Examiner~~Administrator~~ finds that the proposed use or activity is inconsistent with this Ordinance and/or will cause adverse impacts to the wetland or wetland buffer which cannot be adequately mitigated and/or avoided.
 - d. The decision of the Hearing Examiner~~Administrator~~ is appealable to the Board of Clallam County Commissioners pursuant to CCC 26.10~~Section 300 of this Ordinance~~.
2. Conditional Use Permits. The Hearing Examiner~~Shorelines and Sensitive Areas Committee~~ is authorized to take action on Conditional Use Permits required by this Ordinance.
- a. The Hearing Examiner~~Committee~~ may approve a conditional use permit after review of the application and a wetland mitigation plan submitted in accordance with Section 900 of this Ordinance. The Hearing Examiner~~Committee~~ shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists and the proposed use is consistent with the spirit and intent of this Ordinance and will not cause adverse impacts to the wetland, or the wetland buffer which cannot be mitigated. In taking action to approve a conditional use permit, the Hearing Examiner~~Committee~~ may attach reasonable conditions as necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.
 - b. The Hearing Examiner~~Committee~~ shall deny conditional use permits when the Hearing Examiner~~Committee~~ finds that the proposed use or activity is inconsistent with this Ordinance and/or will cause adverse impacts to the wetland or wetland buffer which cannot be adequately mitigated and/or avoided.
 - c. Notice of application for a conditional use pursuant to this section shall be given consistent with the provisions outlined in CCC 26.10~~the Clallam County Zoning Code, Chapter 33.46~~. Public notices may be combined with other legal notices.
 - d. The decision of the Hearing Examiner~~is Committee~~ is appealable to the Board of Clallam County Commissioners pursuant to CCC 26.10~~Section 300 of this Ordinance~~.

VI. Part Six - Amendments to Title 29, Land Division Code

Amendments to the permit processing requirements set forth in Chapter 26.01, Planning Agency, are as follows:

- 1. C.C.C. 29.05.300 ADEQUACY AND DISTRIBUTION OF PRELIMINARY APPLICATIONS. The Administrator shall process all applications subject to this Chapter in accordance with CCC 26.10, Consolidated Permit Process Code. The Administrator shall within twenty-eight (28) calendar days determine if the application contains all data required by this Title and shall provide a written determination that the application is complete or incomplete, and if incomplete, shall list the information needed to complete the application.
- 2. C.C.C. 29.05.400 PROCESSING TIME. Unless otherwise stated by this Title, a decision on a proposed land division shall occur within 90 days of the date of a complete application; PROVIDED that plans submitted are complete and not revised; that the review period required for environmental determination is completed; that any applicable administrative appeals are completed; and unless an extension is agreed upon between the applicant

and Clallam County, not to be more than 180 days from the date of initial application. Timelines for review of a land division application shall be consistent with CCC 26.10, Consolidated Permit Process Code.

3. ~~C.C.C. 29.07.100 Public notice shall comply with CCC 26.10 Consolidated Permit Process Code NOTICE FOR PRELIMINARY SUBDIVISION, PLANNED UNIT DEVELOPMENT, VARIANCES, AND APPEALS (Public Hearing Required).~~ Upon receipt of a complete application, the Administrator shall set a date for a public hearing with the Hearing Examiner. Notice of the hearing shall be given as follows:

1. ~~A notice of public hearing shall be published in a newspaper of general circulation in the County at least once, not less than fifteen (15) days prior to the date set for the hearing.~~

2. ~~A notice of public hearing shall be sent by mail not less than fifteen (15) days prior to the date of the hearing. The applicant is responsible for costs of mailing said notice. If the applicant/owner of the proposed land division owns contiguous property to the land division, notice shall apply to the boundaries of such contiguous parcels. Public notice is mailed to the owners, applicant, and authorized agent, and also to all owners of adjacent properties as follows:~~

~~— a. — Three hundred (300) feet of the boundary of the subject property if it is identified as being within an Urban Growth Area by the Comprehensive Plan, Title 31.~~

~~— b. — Six hundred (600) feet of the boundary of the subject property if it is identified as being a rural zone by the Comprehensive Plan, Title 31, C.C.C.~~

~~— c. — One thousand (1,000) feet of the boundary of the subject property if it is identified as Commercial Forest, Commercial Forest/Mixed Use, or Agricultural Overlay by the Comprehensive Plan, Title 31, C.C.C.~~

~~— Failure to send notice by mail to any such property owner where the address of said owner is not a matter of public record or because the ownership is not of public record shall not invalidate any proceedings required in this Title.~~

3. ~~A notice of public hearing provided by the County shall be posted by the applicant on the property subject to the application not more than ten (10) days after notification that the application is deemed complete nor less than fifteen (15) days prior to the date of the hearing. An affidavit of posting shall be submitted for the record.~~

~~— Failure to provide posted notice due to unauthorized removal of duly posted signs beyond the control of the applicant shall not invalidate any proceedings required in this Title.~~

4. ~~Public notices shall set forth the date, time, place and purpose of the public hearing and in general terms describe the nature of the proposal. Documents of record shall be controlling as to the status of legal ownership.~~

4. ~~C.C.C. 29.07.200 NOTICE FOR BINDING SITE PLANS.~~ Public notice is required pursuant to Section 19.07.100 above, EXCEPT that the notice shall state the date of the public meeting (not public hearing) for action by the Hearing Examiner.

5. ~~C.C.C. 29.07.300 NOTICE FOR SHORT SUBDIVISIONS, LARGE LOT DIVISIONS, BOUNDARY LINE ADJUSTMENTS, AND BOND REQUESTS.~~ Public notice pursuant to this Title is not required for these types of applications.

6. ~~C.C.C. 29.07.400 NOTICE FOR APPEALS.~~ Public notice is required for appeals of the Administrator's or Hearing Examiner's decision. Public hearings on the appeal are only required when a hearing was not held on the original action.

7. ~~C.C.C. 29.10.100 CRITERIA FOR APPROVAL.~~ Review and preliminary determination for a land division requires consistency with the following:

1. the standards of this Title;
2. the Comprehensive Plan, Title 31 C.C.C.;
3. the Zoning Code, Title 33 C.C.C.;
4. the Shoreline Master Program;
5. the Floodplain Management Code, Chapter 32.01 C.C.C.;
6. the Environmental Policy Code, Chapter 27.01 C.C.C.;
7. the Critical Areas Code, Chapter 27.12 C.C.C.;
8. the Consolidated Permit process code, Chapter 26.10 C.C.C.

98. the Public Health, Safety, Welfare, Use and Interest.

8. C.C.C. 29.13 SUBDIVISION AND BINDING SITE PLAN PROCESS

9. C.C.C. 29.13.200 HEARING EXAMINER ACTION AND RECOMMENDATION

1. Any person interested in an application for a subdivision or binding site plan may appear at the hearing set for review thereof and comment on the application. After completion of its public hearing, the Hearing Examiner shall grant preliminary approval ~~recommend approval~~ of the application if the Hearing Examiner finds that it is consistent with Section 29.10.100 of this Title.
2. When the Hearing Examiner determines that additional information is necessary, action on said application shall be continued until such information is available, provided that the extension shall not exceed thirty (30) days unless the applicant consents to a longer period.
3. The Hearing Examiner may attach to any decision ~~recommendation~~ of approval such reasonable conditions as may be necessary to assure that the development will comply with the criteria for approval and standards established by this Title and other applicable codes, and to further the public health, safety and welfare, use and interest.
4. ~~The action of the Hearing Examiner is a recommendation to the Board of County Commissioners.~~ The Hearing Examiner's decision shall be based on findings of fact and conclusions of law and shall reference the requirements of adopted County Code or State law.
5. ~~Following the Hearing Examiner's decision to recommend approval, approval with conditions, or denial of the preliminary subdivision application, the Administrator shall submit the application and the written report from the Hearing Examiner to the Board. The report shall include the Hearing Examiner's recommendation, together with findings of fact and conclusions of law.~~
56. Records of hearings and information before the Hearing Examiner on preliminary subdivisions and binding site plans shall be kept by the Administrator and shall be available for public inspection upon request.

10. ~~C.C.C. 29.13.300 DATE OF ACTION BY THE BOARD.~~ Upon receipt of a preliminary subdivision application and the associated Hearing Examiner's written report as required by Section 29.13.200 C.C.C., the Clerk of the Board shall set the date for the public meeting at which the Board shall consider the Hearing Examiner's recommendation.

11. C.C.C. 29.13.3400 BOARD OF COMMISSIONERS ACTION ON FINAL SUBDIVISIONS AND BINDING SITE PLANS. As the legislative authority for Clallam County, the Board of Commissioners shall grant final approval upon finding that the applicant has complied with all requirements and conditions consistent with this Chapter. The Administrator shall forward a final subdivision along with a statement on whether or not all requirements have been met, including a *recommendation to the Board for its action*. The Board shall take action on final subdivisions at its *next* regularly scheduled meeting. No public notice is required. At the scheduled public meeting, the Board shall review the recommendations, findings of fact, and conclusions of law of the Hearing Examiner. Based upon its review of the information presented, the Board shall issue a decision to concur, reverse, or remand the recommendation of the Hearing Examiner, as follows:

1. If the Board concurs with the recommendation of the Hearing Examiner, it shall take action on the preliminary land division, and shall accept all recommended conditions, if applicable, findings of fact, and conclusions of law which were the basis of the Hearing Examiner's recommendation.
2. If the Board does not concur with the recommendation of the Hearing Examiner, it shall take action of preliminary approval, preliminary approval with conditions, or preliminary denial of the land division, and shall adopt conditions, if applicable, and findings of fact and conclusions of law to support its decision.
3. If the Board neither concurs nor reverses the recommendation of the Hearing Examiner, it may remand the proposed land division back to the Hearing Examiner for specific revisions. This may include a directive by the Board to the Hearing Examiner for modification or correction of his/her recommendation, and also to the Hearing Examiner and/or the proponent to review alternatives of the proposal. Review of corrections or alternatives does not require a public hearing before the Hearing Examiner unless specifically noted by the Board. Upon completion of the additional review, the Hearing Examiner shall forward an addendum report to the Administrator for the Board, which shall taken action in accordance with Section 29.13.400 (1 or 2) of this Title.

12. C.C.C. 29.13.500 BOARD ACTION - RECORDS. The Board's decision shall be made by resolution and shall be available in writing no later than ten (10) days following the Board's action. All conditions of preliminary land division approval shall be specified in said resolution. Records of the Board's proceedings concerning a preliminary action shall be kept by the Clerk of the Board and shall be available for public inspection.

13. Section 29.14 CCC, Binding Site Plan Process is deleted.

Chapter 29.14

Binding Site Plan Process

Sections:

29.14.100 — Application Review and Analysis

29.14.200 — Hearing Examiner Action and Recommendation

C.C.C. 29.14.100 APPLICATION REVIEW AND ANALYSIS. Upon completion of the application and review requirements for a binding site plan as specified in Chapter 29.05 of this Title, and required public notification as specified in Chapter 29.07 of this Title, any interested person may submit written comment to the Administrator regarding that application. Written comments received by the Administrator shall be forwarded to the Hearing Examiner along with a Staff Report and analysis of the land division, the recommendations of the County Roads Department and other interested departments and agencies, and the findings of the environmental impact evaluation.

C.C.C. 29.14.200 HEARING EXAMINER ACTION AND RECOMMENDATION.

1. After completion of its public meeting, the Hearing Examiner shall recommend approval of the application if the Hearing Examiner finds that it is consistent with Section 29.10.100 of this Title.

2. When the Hearing Examiner determines that additional information is necessary, action on said application shall be continued until such information is available, provided that the extension shall not exceed thirty (30) days unless the applicant consents to a longer period.

3. The Hearing Examiner may attach to any recommendation of approval such reasonable conditions as may be necessary to assure that development will comply with the criteria for approval and standards, as established by this Title, other applicable codes, and to further the public health, safety and welfare, use and interest.

4. The action of the Hearing Examiner is a decision of preliminary approval, preliminary approval with conditions, or denial, and shall be based on findings of fact and conclusions of law and shall reference the requirements of adopted County Code or State law.

5. Records of hearings and information before the Hearing Examiner on preliminary binding site plans shall be kept by the Administrator and shall be available for public inspection upon request.

6. Appeals. Any decision of the Hearing Examiner on a preliminary binding site plan may be appealed to the Board of Commissioners by the applicant, a public agency, or an effected party not later than ten (10) calendar days following the decision. The appeal shall be submitted in writing and state the reason for appeal, including specific conditions or actions, and shall be filed with the Administrator, along with the appropriate fee required by Chapter 3.30 C.C.C.

7. Board of Commissioner's Action on Appeal. Following an appeal of an Hearing Examiner's decision on a binding site plan, the Administrator shall submit the application, all relevant information, and a written report to the Board of Commissioners for action. Action of the appeal shall be processed pursuant to Section 29.13.400 of this Title, EXCEPT that a public hearing is required.

14. Chapter 29.15 Planned Unit Development and Cluster Development Process

15. C.C.C. 29.15.100 APPLICATION REVIEW AND ANALYSIS. Upon completion of the application and review requirements for a planned unit development or cluster development, as specified in Chapter 29.05 of this

Title, and required public notification, as specified in Chapter 29.07 of this Title, any interested person may submit written comment to the Administrator regarding that application. Written comments received by the Administrator shall be forwarded to the Hearing Examiner along with a Staff Report and analysis of the planned unit development, the recommendations of the County Roads Department and other interested departments and agencies, and the findings of the environmental impact evaluation.

16. C.C.C. 29.15.200 COMBINED REVIEW PROCESS. An application for a planned unit development or cluster development shall be processed concurrently with the associated land division permit with only one review authority, unless otherwise requested by the applicant.

17. C.C.C. 29.15.300 HEARING EXAMINER ACTION AND RECOMMENDATION.

1. Any person interested in an application for a planned unit development or cluster may appear at the hearing set for review thereof and comment on the application. After completion of the public hearing, the Hearing Examiner shall approve the application if the Hearing Examiner finds that it is consistent with Section 29.10.100 of this Title along with Chapter 33.23, C.C.C.
2. When the Hearing Examiner determines that additional information is necessary, action on said application shall be continued until such information is available, provided that the extension shall not exceed thirty (30) days unless the applicant consents to a longer period.
3. The Hearing Examiner may attach to any decision of approval such reasonable conditions as may be necessary to assure that development will comply with the criteria for approval and standards, as established by this Title, other applicable codes, and to further the public health, safety and welfare, use and interest.
4. The action of the Hearing Examiner is a recommendation to the Board of County Commissioners. The Hearing Examiner's ~~decision~~ recommendation shall be based on findings of fact and conclusions of law and shall reference the requirements of adopted County Codes or State law.
5. ~~Following the Hearing Examiner's decision to recommend approval, approval with conditions, or denial of the preliminary planned unit development application, the Administrator shall submit the application and the written report from the Hearing Examiner to the Board. The report shall include the Hearing Examiner's recommendation, together with findings of fact and conclusions of law.~~
56. Records of hearings and information before the Hearing Examiner on the preliminary planned unit development shall be kept by the Administrator and shall be available for public inspection upon request.

18. C.C.C. 29.15.400 DATE OF ACTION BY THE BOARD. Upon receipt of a preliminary planned unit development application and the associated Hearing Examiner's written report as required by Section 29.13.200, C.C.C., the Clerk of the Board shall set the date for the public meeting at which the Board shall consider the Hearing Examiner's recommendation.

19. C.C.C. 29.15.500 BOARD ACTION. At the scheduled public meeting, the Board shall review the recommendations, findings of fact, and conclusions of law of the Hearing Examiner. Based upon its review of the information presented, the Board shall issue a decision to concur, reverse, or remand the recommendation of the Hearing Examiner, as follows:

1. If the Board concurs with the recommendation of the Hearing Examiner, it shall take action on the preliminary planned unit development, and shall accept all recommended conditions, findings of fact and conclusions of law which were the basis of the Hearing Examiner's recommendation.

2. If the Board does not concur with the recommendation of the Hearing Examiner, it shall take action of preliminary approval, preliminary approval with conditions, or preliminary denial of the planned unit development, and shall adopt conditions, if applicable, and findings of fact, and conclusions of law.

3. If the Board neither concurs nor reverses the recommendation of the Hearing Examiner, it may remand the proposed planned unit development back to the Hearing Examiner for specific revisions. This may include a directive by the Board to the Hearing Examiner for modification or correction of his/her recommendation, and also to the Hearing Examiner and/or the proponent to review alternatives of the proposal. Review of corrections or alternatives does not require a public hearing unless specifically noted by the Board. Upon completion of the

additional review, the Hearing Examiner shall forward an addendum report to the Administrator for the Board, which shall taken action in accordance with Section 29.15.500 (1 or 2) of this Title.

20. ~~C.C.C. 29.15.600 BOARD ACTION - RECORDS.~~ The Board's decision shall be made by resolution and shall be available in writing no later than ten (10) days following the Board's action. All conditions of preliminary planned unit development approval shall be specified in said resolution. Records of the Board's proceedings concerning a preliminary action shall be kept by the Clerk of the Board and shall be available for public inspection.

21. ~~C.C.C. 29.17.100 APPLICATION REVIEW AND ANALYSIS.~~ Application review and analysis - Upon completion of the application and ~~r~~Review requirements for a short subdivision or large lot division shall comply with CCC 26.10 as specified in Chapter 29.05 of this Title, any written comments shall be forwarded to the Administrator.

22. ~~C.C.C. 29.17.200 ADMINISTRATOR'S ACTION.~~ The Administrator shall compile the recommendations of the Department of Community Development, the County Roads Department, and other interested departments and agencies, and review the findings of the environmental impact evaluation, if applicable. The Administrator shall take action on all preliminary short subdivisions or large lot divisions, except for those applications which also propose planned unit developments, within forty-five (45) days following the filing of a complete application or such additional period as the land divider may authorize, not to exceed 120 days.

Based on review of the information presented, the Administrator shall determine if the proposed preliminary short division or large lot subdivision is consistent with Chapter 29.10 of this Title and shall take one of the following actions:

3. The Administrator's recommendation shall be based on findings of fact and conclusions of law. Said recommendation shall be based upon and shall reference the requirements of adopted County Ordinances or State law. The action of the Administrator on a preliminary short subdivision or large lot division is final unless appealed to the Hearing Examiner.

23. ~~C.C.C. 29.17.300 APPEALS.~~ Any appeal of the Administrator's decision shall comply with the appeal process specified in CCC 26.10. Any decision of the Administrator regarding a preliminary short subdivision or large lot division application may be appealed to the Hearing Examiner by the applicant, a public agency, or any affected party not later than ten (10) days following the decision of the Administrator. The appeal shall be submitted in writing and state the reason for appeal, including specific conditions or actions, and shall be filed with the Administrator, along with the appropriate fee required by Chapter 3.30 C.C.C.

24. ~~C.C.C. 29.17.400 HEARING EXAMINER ACTION ON APPEAL.~~ Following an appeal of an Administrators decision on a short subdivision or a large lot division, the Administrator shall submit the application, all relevant information, and a written report to the Hearing Examiner for action. Action of the appeal shall be processed pursuant to Section 29.14.200(7) of this Title; EXCEPT that the Hearing Examiner acts as the Board of Commissioners. Public notice of the required public hearing before the Hearing Examiner shall be provided pursuant to Chapter 29.07 of this Title.

25. ~~C.C.C. 29.17.500 APPEAL OF HEARING EXAMINER ACTION.~~ Any decision of the Hearing Examiner on a preliminary short subdivision or large lot division may be appealed to the Board of Commissioners by the applicant, a public agency, or an effected party not later than ten (10) calendar days following the decision. The appeal shall be submitted in writing and state the reason for appeal, including specific conditions or actions, and shall be filed with the Administrator, along with the appropriate fee required by Chapter 3.30 C.C.C.

26. ~~C.C.C. 29.17.600 BOARD OF COMMISSIONER'S ACTION ON APPEAL.~~ Following an appeal of a Hearing Examiner's decision on a short subdivision or large lot division, the Administrator shall submit the application, all relevant information, and a written report to the Board of Commissioners for action. Action of the appeal shall be processed pursuant to Section 29.13.400 of this Title, EXCEPT that a public hearing is not required.

27. C.C.C. 29.40.100 VARIANCES AUTHORIZED. Variances to the standards prescribed by this Title may be authorized by the Hearing Examiner or the Board of Commissioners.
28. C.C.C. 29.40.300 PUBLIC NOTICE. Public notice for the required hearing before the Hearing Examiner shall be in compliance with Chapter 29.1007 of this Title.
29. ~~C.C.C. 29.40.400 REPORT TO THE HEARING EXAMINER.~~ The Administrator shall transmit copies of the application for a variance to the Hearing Examiner.
30. ~~C.C.C. 29.40.500 ACTION ON BINDING SITE PLANS, SHORT SUBDIVISIONS, LARGE LOT DIVISIONS.~~ The Hearing Examiner shall take action on the application at the scheduled public hearing. A variance may be granted, granted subject to prescribed conditions or denied. The Hearing Examiner shall provide written findings of fact and conclusions of law supporting his/her decision. The Administrator, upon receipt of the Hearing Examiner's ruling, shall continue to process the land division pursuant to this Title.
31. ~~C.C.C. 29.40.550 ACTION ON SUBDIVISIONS.~~ The Hearing Examiner shall review the variance request at the scheduled public hearing and make a recommendation to the Board of Commissioners pursuant to Section 29.13.200 of this Title.
32. C.C.C. 29.40.5700 APPEAL OF THE HEARING EXAMINER'S ACTION. Any decision of the Hearing Examiner on a variance may be appealed within fourteen (14) ~~ten (10)~~ calendar days to the Board of Commissioners pursuant to CCC 26.10 to Section 29.14.200 (6) and (7), EXCEPT that a public hearing is not required for the appeal.
33. C.C.C. 29.43.300 ADMINISTRATOR'S ACTION. Based on review of the proposed boundary line adjustment, the Administrator shall determine if the proposed boundary line adjustment is consistent the criteria for approval for a boundary line adjustment set forth in Section 29.43.600 of this Title. If the Administrator finds that the proposed boundary line adjustment complies with all of the above requirements, the adjustment shall be approved. If the Administrator finds that the proposed boundary line adjustment does not comply with the above requirements, the adjustment shall be denied. ~~The applicant may appeal the decision of the Administrator pursuant to the provisions set forth in Chapter 29.17.400-700 of this Title. The decision by the Administrator is~~ appealable in accordance with CCC 26.10.
34. C.C.C. 29.45.300 ALTERATION OR VACATION OF A SUBDIVISION OR BINDING SITE PLAN. Applications for alterations or vacations of subdivisions require the decision of the Hearing Examiner ~~Board of Commissioners~~.
1. Application and Process. The application and process requirements for a subdivision alteration or vacation shall be consistent with Chapters 29.05 of this Title, as it applies, and CCC 26.10, with the following exceptions:
 - a. The application must include signatures of a majority of affected parties, being those persons having an ownership interest in the portion of the land division being altered or vacated, EXCEPT as required in (b) below.
 - b. For alterations, if the proposal is subject to lot owner's association by-laws or easements which were conditions of approval of the land division, and the application for alteration would result in a change to these by-laws or easements, the application shall contain an agreement approving such amendments that is signed by all parties subject to the by-laws or easements.
 2. Public Notice and Public Hearing Requirements. Public notice shall be provided on all subdivision alterations and vacations in accordance with Chapters 29.07 and 26.10, except as follows:
 - a. For all alterations and vacations, public notice shall also be mailed to all property owners within the subdivision or division thereof.
 - b. For alterations, a public hearing is not required unless requested by an affected party within 15 days of the date of the notice, which shall be stated in the public notice.
 - c. For vacations, public notice are required pursuant to Chapter 29.07 of this Title.

3. Hearing Examiner Action

a. For alteration and vacation applications, the Hearing Examiner shall review the application and, upon completion of the public hearing or public meeting, whichever applies, shall make a decision recommendation to the Board of Commissioners pursuant to Section 29.13.200 of this Title.

4. ~~Board of Commissioners Action. Uphold, overturn, or remand Hearing Examiner recommendation. The Board shall take action on the subdivision alteration or vacation pursuant to Sections 29.13.300 through 500 of this Title.~~

35. C.C.C. 29.45.400 ALTERATION OR VACATION OF A SHORT SUBDIVISION, OR LARGE LOT DIVISION, OR BINDING SITE PLAN.

1. Application and Process. The application requirements and process for a subdivision alteration shall be consistent with Chapters 29.05 of this Title, as it applies, and CCC 26.10, with the following exceptions:

a. The application must include signatures of a majority of affected parties, being those persons having an ownership interest in the portion of the land division being altered.

b. For alterations, if the proposal is subject to lot owner's association by-laws or easements which were conditions of approval of the land division, and the application for alteration would result in a change to these by-laws or easements, the application shall contain an agreement approving such amendments that is signed by all parties subject to the by-laws or easements.

c. Public Notice and Public Hearing Requirements - Public notice or public hearings are not required for alterations or vacations of binding site plans, short subdivisions, or large lot divisions.

2. Administrator Action.

a. The Administrator shall take action on short plat or large lot division alteration and vacation applications consistent with Chapter 29.17 of this Title and CCC 26.10.

b. Appeal of the Administrator's action may be made pursuant to CCC 26.10 ~~Section 29.17.300.~~

3. ~~Hearing Examiner Action.~~

~~a. The Hearing Examiner shall take action on all binding site plan alteration or vacation applications consistent with Section 29.13.400 of this Title.~~

~~b. Appeal of the Hearing Examiner's decision may be filed in accordance with Sections 29.17.400-700 of this Title.~~

34. Short subdivisions or large lot divisions may not be further divided in any manner within a period of five years, EXCEPT as specified in Section 29.19.500 of this Title.

36. C.C.C. 29.45.500 CRITERIA FOR APPROVAL. All land division alterations and vacations shall be consistent with the following standards:

1. The alteration or vacation is consistent with the criteria of approval established under Chapter 29.10 of this Title and CCC 26.10.

VII. Part Seven - Amendments to Chapter 32.01, Floodplain Code

Amendments to the permit processing requirements set forth in Chapter 32.01, Floodplain Code, are as follows:

1. C.C.C. ~~31.01.100~~ Board of Appeals and Variance Procedures.

(1) ~~The Hearing Examiner Board of County Commissioners~~ shall act as the Floodplain Management Board of Appeals to hear and decide appeals and requests for variances from the standards of this ordinance.

(2) The Board of Appeals shall hear and decide appeals when it is alleged that the responsible official has erred in the administration of this ordinance;

(3) Appeals to the Board of Appeals must be filed in filed accordance with CCC 26.10 ~~no later than 30 days following a decision by the responsible official. Appeals and requests for variances shall be heard no later than 45 days after filing;~~

VIII. Amendments to Title 33, Zoning Code

Amendments to the permit processing requirements set forth in Title 33 Zoning Code, are as follows:

1. C.C.C. 33.23.040 PROCEDURE FOR COUNTY ACTION ON A PLANNED UNIT OR CLUSTER DEVELOPMENT.

1. Hearing Examiner Action. As part of the public hearing on the underlying subdivision of land pursuant to the Clallam County Land Division Code, Title 29 Clallam County Code, the Hearing Examiner shall consider the proposed Planned Unit or Cluster Development, and shall forward a recommendation to the Board of Clallam County Commissioners.

a. The Hearing Examiner shall ~~recommend approval of~~ the proposed Planned Unit or Cluster Development if the examiner finds that:

(1) The proposed action is consistent with the spirit and intent of the Clallam County Comprehensive Plan.

(2) The proposed action is consistent with this title, including the standards of this chapter.

(3) The proposed action will have no unreasonable adverse impact on the general public, health, safety and welfare.

In making a ~~decision~~ recommendation of approval, the Hearing Examiner may ~~add~~ recommend conditions of approval as may be necessary to assure that the proposal will comply with the criteria for approval.

b. If the Hearing Examiner finds that the Preliminary Master Site Plan does not substantially comply with the criteria for approval, the Hearing Examiner may ~~deny~~ recommend denial of the proposal.

2. ~~Board of Commissioners Review and Decision:~~ The Board shall review the recommendation of the Hearing Examiner at a public meeting at the same time it considers the recommendation from the examiner regarding the subdivision of land pursuant to the Clallam County Land Division Code, Title 29 Clallam County Code. After consideration of the recommendation, the application, public testimony, and other relevant evidence presented to it, shall determine if the application is consistent with the criteria for approval.

~~The Board may accept the Hearing Examiner recommendation to approve, approve with conditions, or deny the application along with the findings of fact and conclusions of law adopted by the Hearing Examiner.~~

~~If the Board rejects the Hearing Examiner recommendation, it may remand the matter back to the Hearing Examiner for further consideration or it may overturn the recommendation and approve, approve with conditions, or deny the application. The Board shall adopt findings of fact and conclusions of law based on the hearing record before the Hearing Examiner which support its decision.~~

2. C.C.C. 33.27.020 REVIEW OF APPLICATION. Upon receipt of application for a conditional use permit, the Administrator shall review it consistent with CCC 26.10 for completeness. Upon determination that the application is complete, the Administrator shall review the application for potential consistencies and inconsistencies with the County Comprehensive Plan and this regulation and shall develop a report of findings to be attached to the application. In reviewing a conditional use permit application, the Administrator shall coordinate with all other agencies of jurisdiction and include their comments in said Administrator's report. The date for the public hearing shall be not later than 60 days after receipt of the completed application by the Administrator, or not later than 30 days following completion of a final environmental impact statement pursuant to Clallam County Environmental Policy Code, Chapter 27.01 Clallam County Code. The Administrator or his authorized agent shall provide notice of such hearing pursuant to Section 33.37.010.

3. C.C.C. 33.27.030 PUBLIC HEARING REQUIRED. A public hearing before the Hearing Examiner as authorized in Chapters 26.04 and 26.10 Clallam County Code is required on all conditional use permits pursuant to this chapter.

4. C.C.C. 33.27.070 APPEAL OF THE HEARING EXAMINER ACTION.- Appeal of the Hearing Examiner shall comply with CCC 26.10. The action of the Hearing Examiner may be appealed to the Board of County

Commissioners by an aggrieved person by filing a written notice of appeal setting forth the basis for said appeal with the Clerk of the Board of County Commissioners not later than ten (10) days following notification to the applicant of the Hearing Examiner's action, by mail.

Consideration of the appeal by the Board of County Commissioners shall be limited to the Hearing Examiner's records and findings. The Board shall relate the Hearing Examiner's action to the criteria set forth in Section 33.27.040. If the Board finds that the Hearing Examiner erred, it may reverse its decision. If the Board finds that the Hearing Examiner erred in its procedure, it shall remand the application back to the Hearing Examiner with instructions to mitigate the procedural deficiency and act on the application. The Board of County Commissioners shall not hold a public hearing on appeals of conditional use permit applications.

As part of its action of the appeal, the Board of County Commissioners may amend the conditions which are a part of approval of any conditional use permit to assure conformance to the Comprehensive Plan and this regulation. The Board of County Commissioners' action on an appeal shall be based on its determination regarding the validity of the or Hearing Examiner's decision as it relates to the criteria in Section 33.27.040 of this chapter.

5. C.C.C. 33.30.040 VARIANCE - HEARINGS. Upon the filing of an application for a variance, the Administrator shall set forth the time and place for a public hearing on such matter by the Hearing Examiner. Written notice thereof shall be provided as specified in Section 33.37.010 and CCC 26.10.

6. C.C.C. 33.30.050 APPEAL OF THE HEARING EXAMINER ACTION. ~~Any~~Any ~~action~~action appeal of the Hearing Examiner's decision shall comply with CCC 26.10. The action of the Hearing Examiner may be appealed to the Board of County Commissioners by an aggrieved person by filing a written notice of appeal setting forth the basis for said appeal with the Clerk of the Board of County Commissioners not later than ten (10) days following notification to the applicant of the Hearing Examiner's action, by mail.

Consideration of the appeal by the Board of County Commissioners shall be limited to the Hearing Examiner's records and findings. The Board shall relate the Hearing Examiner's action to the criteria set forth in Section 33.30.030. If the Board finds that the Hearing Examiner erred, it may reverse its decision. If the Board finds that the Hearing Examiner erred in its procedure, it shall remand the application back to the Hearing Examiner with instructions to mitigate the procedural deficiency and act on the application. The Board of County Commissioners shall not hold a public hearing on appeals of variances.

The Board of County Commissioners' decision shall be deemed effective subject only to appeal to the Superior Court pursuant to law. As part of its action of the appeal, the Board of County Commissioners may amend the conditions which are a part of approval of any variance to assure conformance to the Comprehensive Plan and this regulation. The Board of County Commissioners' action on an appeal shall be based on its determination regarding the validity of the or Hearing Examiner's decision as it relates to the criteria in Section 33.30.030 of this chapter.

7. C.C.C. 33.33.010 REVIEW OF ADMINISTRATOR'S ACTION - APPLICATION. Unless appeal procedures are specified elsewhere in this title, the In accordance with CCC 26.10 Consolidated Permit Process Code, the Hearing Examiner may review any interpretation of the provisions of this regulation made by the Administrator and any order, requirement, decision or determination relating thereto made by the Administrator in the application of the specific provisions in this regulation to any parcel, structure or use. The Hearing Examiner may affirm or reverse the interpretation of the provisions of this regulation by the Administrator and any order, requirement decision, or determination relating thereto. The Hearing Examiner's decision may be appealed to Superior Court.

8. C.C.C. 33.37.010 PUBLIC HEARING NOTICE REQUIREMENTS. Public notice requirements shall comply with CCC 26.10 The Administrator shall provide notice of required public hearings and applications as follows:

1. A notice of public hearing or application shall be published in a newspaper of general circulation in the County at least once, not less than ten (10) days prior to the date set for the hearing, if required.

2. A notice of public hearing or application shall be sent by mail not less than ten (10) days prior to the date of the hearing, if required, to the owners of the property subject to the application and to all owners of property within:

— a. — Three hundred (300) feet of the boundary of the subject property if it is identified as being within an Urban Growth Area by the Clallam County Comprehensive Plan.

— b. — Six hundred (600) feet of the boundary of the subject property if it is identified as being a rural zone by the Clallam County Comprehensive Plan.

— c. — One Thousand (1,000) feet of the boundary of the subject property if it is identified as Commercial Forest, Commercial Forest/Mixed Use, or Agricultural by the Clallam County Comprehensive Plan.

— Failure to send notice by mail to any such property owner where the address of said owner is not a matter of public record or because the ownership is not of public record shall not invalidate any proceedings required in this chapter.

3. — A notice of public hearing or application provided by the County shall be posted by the applicant on the property subject to the application not more than ten (10) days after the application is deemed complete nor less than ten (10) days prior to the date of the hearing, if required.

— Failure to provide posted notice due to unauthorized removal of duly posted signs beyond the control of the applicant shall not invalidate any proceedings required in this chapter.

4. — Public notices shall set forth the date, time, place and purpose of the public hearing, if required, and in general terms describe the nature of the proposal. Documents of record shall be controlling as to the status of legal ownership.

IX. Part Nine - Amendment to Chapter 35.01, Shoreline Management Code

Amendments to the permit processing requirements set forth in Chapter 35.01, Shoreline Management Code, are as follows:

1. C.C.C. 35.01.060 Statement of Exemption.

(2) The administrator is hereby authorized to grant or deny requests for statements of exemption from the Shoreline Management Act permit requirements for substantial developments. Such statements shall be in writing and shall identify the reason(s) for the granting or denial of the exemption. The Administrator shall require a written description of a project, including a site plan, before issuing a determination. The administrator's action on such matters shall be consistent with CCC 26.10 and are subject to appeal to appeal before the Board of Clallam County Commissioners pursuant to C.C.C. 35.01.155. the Hearing Examiner in accordance with CCC 26.10.

2. **C.C.C. 35.01.080. Notice.** Upon submittal of a proper application for a substantial development, conditional use, or variance permit to the shoreline permit administrator, the county shall publish a notice of application on the proposal in accordance with CCC 26.10 except that public notice shall be made at least thirty (30) days before an action or hearing at least once a week on the same day of the week for two (2) consecutive weeks in a newspaper of general circulation within the county. Additional notice shall consist of notice by mail to the owners of property within 600 feet of the boundary of said property, provided, however, that said property shall include all contiguous parcels under the same ownership. Said public notices shall be essentially in the format prescribed by WAC 173-14-070. The notice shall also state whether a hearing will be held on the application and if so, when and where it will be held and shall also indicate that a hearing before the shoreline committee may be requested if five or more persons with interest in the application request a hearing pursuant to C.C.C. 35.01.095. Documents of public record shall be controlling as to the status of legal ownership. The applicant is responsible for the costs of mailing said notice. Within thirty (30) days of the last publication of such notice, any interested person may submit his views on the application in writing to the Administrator or may notify the Administrator of his desire to be notified of any action on the permit.

An affidavit that the notices have been properly published or deposited in the United States mail, pursuant to this section, shall be affixed to the application.

3. C.C.C. 35.01.090 (5). Permit Applications.

Upon receipt of an application, the administrator shall review it for completeness, consistency or inconsistency with the Clallam County Shoreline Master Program and shall determine if a public hearing on the application is required pursuant to C.C.C. 35.01.095 and CCC 26.10. ~~If a hearing on the application is required, the~~

administrator shall schedule a public hearing before the shorelines committee in accordance with the procedures for scheduling of hearings.

4. C.C.C. 35.01.095 When Public Hearing Is Required.

(1) A public hearing before the Hearing Examiner shorelines committee shall be required for any development meeting the following criteria:

- (a) the proposed development or portions thereof are located within subtidal shorelines;
- ~~(b) the proposed development or portions thereof are located within a natural or conservancy shoreline environment according to the shoreline master program; an appeal of a shoreline exemption decision by the Administrator;~~
- (c) the proposed development will require a shoreline substantial development, shoreline conditional use permit or shoreline variance;
- ~~(d) the fair market value of the proposed development will exceed \$150,000;~~

~~(2) A public hearing shall be held before the shorelines committee whenever five or more persons with interest in the application make written request to the administrator within fifteen (15) days of first publication of the application in a newspaper of general circulation.~~

~~(3) A public hearing shall be held before the shorelines committee on any variance to the regulations of the shoreline master program except for single family residences as outlined in C.C.C. 35.01.100(1)(b).~~

5. C.C.C. 35.01.100. Administrative Action on Permits Authorized.

(1) The administrator is hereby authorized to take action on the following shoreline permit applications pursuant to this chapter and the shoreline master program:

- ~~(a) shoreline exemption requests~~ (a) any shoreline substantial development which is not located within subtidal shorelines, not located in a natural or conservancy shoreline environment, the fair market value of the development does not exceed \$150,000 and a hearing has not been requested pursuant to C.C.C. 35.01.095(2);
- ~~(b) applications for a variance from setback requirements for single family residences on lots legally created prior to enactment of the Shoreline Management Act of 1971.~~

6. C.C.C. 35.01.110. Public Hearing; Shoreline Committee.

~~(1) Public hearings required on substantial development, conditional use, and variance permit applications shall be conducted by the Shorelines Committee.~~

~~(2) If, for any reason, testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Shorelines Committee may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required.~~

~~(3) The Shorelines Committee shall have the power to prescribe rules and regulations for the conduct of hearings before it; to administer oaths and to preserve order.~~

7. C.C.C. 35.01.120. Hearing Examiner Shoreline Committee or Administrator's Action.

(1) The Hearing Examiner shorelines committee or administrator shall take action on applications based on the following: the application; an environmental checklist or environmental impact statement prepared as required by C.C.C. 27.01; the Clallam County Shoreline Master Program, Shoreline Management Act of 1971 and the Washington Administrative Code, as now or hereafter amended; the staff report prepared by the administrator, if any; written comments from interested persons if submitted within the time limitations as specified in this ordinance or at a public hearing, if one is held; information and comment from other county departments or state, federal and tribal agencies; independent study of the shoreline committee or administrator; or any other evidence presented at a public hearing, if required.

(2) The ~~Hearing Examiner~~shorelines committee or administrator shall take action on the application and shall make and enter written findings from the record and conclusions thereof which support the action and the findings and conclusions shall set forth the manner in which the decision is consistent with:

- (a) the policies as set forth in Chapter 90.58, R.C.W.;
- (b) the guidelines and regulations of the Department;
- (c) the Clallam County Shoreline Master Program and all provisions of this chapter;
- (d) the State Environmental Policy Act and the Clallam County Environmental Policy Ordinance, C.C.C. 27.01.

(3) The ~~Hearing Examiner~~shorelines committee shall take action on all shoreline permit applications brought before the committee within 30 days or until the next regular meeting, whichever is the greater period following conclusion of all testimony and hearings. A longer period for action on permits may occur if mutually agreed upon by the applicant and the shoreline committee. The secretary to the shorelines committee is authorized to sign and transmit final actions of the shorelines committee pursuant to this ordinance.

~~(4) The administrator shall take action on all shoreline permits under the authority of the administrator within five (5) working days following conclusion of the public notice requirements of this ordinance and the shoreline management act. The administrator is authorized to sign and transmit final actions pursuant to this section.~~

~~(5) The action of the Hearing Examiner~~shorelines committee or administrator shall be the final decision of Clallam County on the application unless an appeal is filed in accordance with CCC 26.10 to the Board of County Commissioners within ten (10) days of the action as specified in C.C.C. 35.01.125.

8. C.C.C. 35.01.125. Appeal of ~~Hearing Examiner~~Shoreline Committee or Administrator's Action.
Appeals of decisions of the Hearing Examiner shall comply with CCC 26.10.

~~(1) The action of the Shoreline Committee or Administrator on any permits granted or denied pursuant to this ordinance can be appealed to the Board of County Commissioners by an aggrieved person by filing a written notice of appeal setting forth the basis for said appeal with the Clerk of the Board of County Commissioners not later than ten (10) days following action on the permit.~~

~~(2) All appeals under this section shall be in writing and shall state specifically the issues that are the subject of the appeal focusing in on the specific inadequacies of the particular decision under dispute. The appeal shall be limited to consistency with the policies as set forth in Chapter 90.58, RCW; the guidelines and regulations of the Department of Ecology in administration of RCW 90.58; and the Clallam County Shoreline Master Program and all provisions of this chapter.~~

~~(3) The Board of Clallam County Commissioners shall call for a public hearing at their next regularly scheduled meeting following receipt of the appeal and shall either affirm or reverse the decision of the shorelines committee or administrator within thirty (30) days of the hearing at which the appeal is considered.~~

~~(4) Upon conclusion of the appeal hearing, the Board shall prepare a final order based on any of the following: the application; the environmental checklist or environmental impact statement prepared in accordance with C.C.C. 27.01; the record before the shorelines committee or administrator; the action, findings and conclusions of the shorelines committee or hearing examiner; the staff report prepared by the shorelines administrator; independent study of the Board; and testimony from the appeal hearing.~~

~~(5) The final order of the Board shall be a written decision including findings, conclusions and action. The Chair of the Board of County Commissioners shall be authorized to sign final orders held pursuant to this section.~~

9. C.C.C. 35.01.130 Granting or Denial of Permits; Conditions Attached to Permit; Other Permits.

(2) Development pursuant to a substantial development permit shall not begin and shall not be authorized until twenty-one (21)thirty (30) days from the date the administrator files the approved substantial development permit with the Department and Attorney General, or until all review proceedings initiated within twenty-one (21)thirty (30) days of the date of such filing have been terminated.

(3) In granting a permit, the Hearing Examiner~~shorelines committee~~ or administrator may attach thereto such conditions, modifications and restrictions regarding the location, character and other features of the proposed developments it finds necessary to make the permit compatible with the criteria set forth in C.C.C. 35.01.120. Such conditions may include the requirement to post a performance bond assuring compliance with other permit requirements, terms and conditions.

10. C.C.C. 35.01.150. Rescission: Service of Notice; Hearing.

(1) Any permit granted pursuant to this chapter may be rescinded or modified upon a finding by the Board/Administrator/Hearing Examiner that the permittee has not complied with the conditions of the permit.

(2) The Board/Administrator/Hearing Examiner may initiate rescission and modification proceedings by serving written notice of noncompliance on the permittee.

(3) Before a permit can be rescinded or modified, a public hearing shall be held by the Board no sooner than ten (10) days following the service of notice upon the permittee. The Board/Administrator/Hearing Examiner shall have the power to prescribe rules and regulations for the conduct of such hearings.

11. C.C.C. 35.01.155. Appeal of Administrator's Decision on Exemptions to the Hearing ExaminerBoard.

(1) Any person aggrieved by the granting or denying of a statement of exemption by the administrator may appeal the administrator's decision to the Hearing Examiner in accordance with CCC 26.10~~Board of Clallam County Commissioners~~. The appeal shall be in writing on a form supplied by the Planning Division, stating reasons for the appeal in specific terms and shall be filed with the Division within 15 days of the administrator's decision.

(2) ~~The Department of Community Development shall transmit to the Board, for its consideration at a regular public meeting, the aggrieved party's appeal, along with documents on file with the Planning Division which are specific and relevant to the administrator's decision.~~

(3) ~~The Board's decision on an appeal of a statement of exemption shall be the final decision of the County. In its decision, the Board shall consider the facts of the situation and shall reverse the Administrator's decision if it is determined that the Administrator erred in granting or denying the exemption request.~~

12. C.C.C. 35.01.200. Environmental Impact Determination. Prior to the consideration of a shoreline permit application by the Hearing Examiner ~~Shoreline Advisory Committee~~, an environmental impact determination of the proposal shall be undertaken in accordance with the requirements and procedures of the Clallam County Environmental Policy Ordinance C.C.C. 27.01.

13. C.C.C. 35.01.210. Revisions to Shoreline Permits.

(1) Clallam County adopts, by reference, WAC 173-27-100~~14-064~~ (Revisions to Substantial Development, Conditional Use, and Variance Permits) and any subsequent amendments adopted thereto.

(4) The action of the Administrator may be appealed to the Hearing Examiner in accordance with CCC 26.10. ~~Board of Clallam County Commissioners by an aggrieved person by filing a written notice of appeal setting forth the basis for said appeal with the Clerk of the Board of Clallam County Commissioners not later than fifteen (15) days following the Administrator's action. Consideration of the appeal by the Board of Clallam County Commissioners shall be limited to the record and criteria set forth in WAC 173-14-064. The Board of Clallam County Commissioners may reverse the Administrator's decision, remand the application back with instructions or affirm the decision. The Board of Clallam County Commissioners' decision is final and is subject only to appeal to a court of competent jurisdiction.~~

This Ordinance shall take affect ten (10) days after the date of adoption.

Adopted this 3rd day of February, 1998.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Carole Y. Boardman
Carole Y. Boardman, Chair

excused absence
Martha M. Ireland

Phillip Kitchel
Phillip Kitchel

ATTEST:

Julie Riggs, Deputy
~~Karen Flores~~
Clerk of the Board