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**PLANNING DIRECTOR INTERPRETATION  
REGARDING FINAL ENVIRONMENTAL IMPACT STATEMENT  
APPEAL PROCEDURES**



*"Citizens, business and local government;  
a community commitment to our future."*

**AUTHORITY:**

Pursuant to WMC 17.07.80, the Planning Director is authorized to issue official interpretations of all development regulations, as well as performing the function of SEPA Official for environmental review, per WMC 14.04.040 (adopted in 1998).

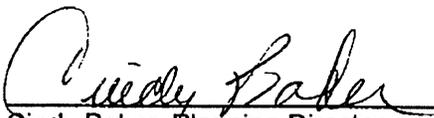
**INTERPRETATION:**

The Planning Director formally interprets WMC 14.04.260 as currently not allowing an administrative appeal. Administrative appeals for Final Environmental Impact Statements (FEIS) are to follow a formal procedure, which has not been established by the City. Therefore, adequacy of an FEIS is instead subject to judicial appeal in accordance with applicable state and local regulations.

**APPEAL:**

This interpretation is issued as a Type II decision pursuant to WMC 17.07.030, and is subject to appeal before the City of Woodinville Hearing Examiner. Any notice of appeal must be filed within 14 days of the issuance date of November 6, 2006 to the Planning Director.

Issued this 6<sup>th</sup> day of November, 2006

  
Cindy Baker, Planning Director  
City of Woodinville

**OFFICIAL PLANNING DIRECTOR INTERPRETATION  
REGARDING FEIS APPEAL PROCEDURES**

**November 1, 2006**

**I. ACTION REQUIRING INTERPRETATION**

The City received a letter from attorney J. Richard Aramburu dated September 22, 2006 requesting a formal interpretation of Section 14.04.260 of the Woodinville Municipal Code (WMC). Specifically, Mr. Aramburu has inquired as to whether the City's SEPA regulations allow the adequacy of a final environmental impact statement (FEIS) to be appealed administratively. Mr. Aramburu represents the Concerned Neighbors of Wellington, and his September 22, 2006 letter references the proposed Wood Trails/Montevallo development applications currently pending before the City.

**II. AUTHORITY**

Pursuant to WMC 17.07.080, the Planning Director is authorized to issue official interpretations of all development regulations. The Planning Director also serves as the City's responsible official for purposes of SEPA review. *See* WMC 14.04.040. Procedural SEPA determinations made by the City's responsible official "shall carry substantial weight in any appeal proceeding." WMC 14.04.260(7).

**III. DISCUSSION**

Local agencies may, but are not required to, provide for administrative appeals of SEPA determinations in their local procedures. *See* WAC 197-11-680(3)(a). Such appeals are allowed only with respect to final threshold determinations and/or final EISs. *See* WAC 197-11-680(3)(a)(iii). Significantly, in order for any administrative appeals of this type to apply, "[t]he agency must specify by rule, ordinance, or resolution that the appeals procedure is available." WAC 197-11-680(3)(a)(i). For purposes of the present inquiry, the critical issue concerns the extent to which the City of Woodinville has in fact specified "by rule, ordinance or resolution" that an FEIS may be appealed administratively.

The City's SEPA regulations are codified at Chapter 14.04 WMC. While additional references to SEPA may be located in other WMC Chapters, none of these code provisions clearly creates an administrative appeals process for FEISs. The City has likewise adopted no uncodified rule or resolution that establishes or otherwise governs SEPA appeals. Thus, to the extent that the City has in fact provided for the adequacy of FEISs to be administratively challenged, this authority must exist — if at all — within Chapter 14.04 WMC.

WMC 14.04.260 governs appeals of SEPA determinations. Summarized, this code provision: (1) requires consolidation of SEPA appeals with appeals concerning the underlying government action, (2) limits the number of appeal proceedings regarding procedural determinations, (3) establishes appeal deadlines and notice procedures, (4) provides for the creation of an

administrative record, and (5) prohibits issuance of development permits for projects under environmental review until expiration of the relevant appeal period. For purposes of this official interpretation, the critical provision of WMC 14.04.260 is subsection (4), under which the City establishes its “administrative appeal procedures” with respect to SEPA:

Any agency or person may appeal the City’s procedural compliance with Chapter 197-11 WAC for issuance of the following determinations:

(a) A Final DNS or Mitigated DNS (MDNS) Made Prior to Project Permit Decision. . . .

....  
(b) A Final DNS or Mitigated DNS (MDNS) Made with Project Permit Decision. . . .

....  
(c) A Final Determination of Significance. . . .  
....

Omitted from this enumerated list is any express reference to final environmental impact statements as a separate category of administratively appealable SEPA determination. In contrast to the clearly defined appeal authority, hearing procedures and filing deadlines established for DNSs, MDNSs and DSs, WMC 14.04.260(4) contains no corollary provisions with respect to FEISs. Under the *expressio unius est exclusio alterius* maxim of statutory construction (“the expression of one implies the exclusion of the other”)<sup>1</sup>, the apparent effect and intent of WMC 14.04.260 is *not* to provide for administrative appeals of this type.

The two generic references to FEISs within WMC 14.04.260 do not alter this conclusion. The first reference, WMC 14.04.260(2), provides that “[t]he City shall not allow more than one City appeal proceeding on a procedural determination (the adequacy of a determination of significance/nonsignificance *or of a final EIS*.)” (Emphasis added.) This provision merely parrots the relevant state SEPA statute, and reiterates that the City’s local appeal procedures may not provide for multiple opportunities to administratively challenge the same environmental determination. *See* RCW 43.21C.075(3)(a). The second reference, WMC 14.04.260(4)(c), states that after a DS is appealed, “[a] subsequent open record hearing may be held on the underlying action and accompanying SEPA documents (*including an FEIS, if one is prepared*), and SEPA substantive determinations.” (Emphasis added.) Neither of the above provisions expressly states that an FEIS may be administratively appealed, or — unlike the code’s clear provisions for DNSs, MDNSs and DSs — establishes hearing procedures or appeal deadlines specific to this category of SEPA document.

WMC 14.04.260 was adopted in 1998. Since that time, the City has never processed nor allowed an administrative appeal of an FEIS.

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<sup>1</sup> *See, e.g., Landmark Dev., Inc. v. City of Roy*, 138 Wn.2d 561, 571, 980 P.2d 1234 (1999). “Legislative inclusion of certain items in a category implies that other items in that category are intended to be excluded.” *Id.* (citing *Bour v. Johnson*, 122 Wn.2d 829, 836, 864 P.2d 380 (1993)).

#### IV. FINDINGS

Based upon the relevant WMC, RCW and WAC provisions cited above, the Planning Director hereby enters the following findings and conclusions:

1. The City received a letter from J. Richard Aramburu dated September 22, 2006, requesting a formal interpretation regarding the extent to which WMC 14.04.260 allows final environmental impact statements to be appealed administratively.

2. The Planning Director serves as the City's responsible official for purposes of SEPA, and is authorized to issue official interpretations of the City's development regulations. Procedural determinations of the SEPA responsible official are entitled to substantial weight in any appeal proceeding.

3. Pursuant to WAC 197-11-680(3)(a)(i), if a local agency provides for administrative appeals of SEPA determinations, the agency must specify by rule, ordinance or resolution that the appeals procedure is available.

4. The City's SEPA procedures are codified at Chapter 14.04 WMC.

5. WMC 14.04.260, the code provision governing SEPA appeals, specifically lists Determinations of Nonsignificance, Mitigated Determinations of Nonsignificance and Determinations of Significance as administratively appealable determinations, and sets forth hearing procedures and filing deadlines for each of these decision categories.

6. WMC 14.04.260 omits FEISs from the list of administratively appealable SEPA determinations, and does not set forth hearing procedures or filing deadlines for this category of decision. No other provision of the WMC expressly provides that an FEIS may be appealed administratively.

7. Since WMC 14.04.260 was adopted in 1998, the City has never allowed an FEIS to be appealed administratively.

8. The City has not specified by rule, ordinance or resolution that an FEIS may be administratively appealed.

#### V. INTERPRETATION

Based upon the findings and conclusions set forth above, the Planning Director formally interprets WMC 14.04.260 as not establishing an administrative appeal procedure for final environmental impact statements. The adequacy of an FEIS is instead subject to judicial appeal in accordance with applicable state and local regulations.

## VI. APPEAL

This interpretation is issued as a Type II project permit pursuant to WMC 17.07.030, and is subject to appeal before the City of Woodinville Hearing Examiner. Any notice of appeal must be filed within 14 days of November 6, 2006.

Issued this 1 day of November, 2006.



Cindy Baker, Planning Director  
City of Woodinville

Attachments: (1) WMC 14.04.260  
(2) WAC 197-11-680  
(3) Letter from J. Richard Aramburu (September 22, 2006)

14.04.270

Examiner within 14 days of the date the DNS or MDNS becomes final. The appeal period shall be extended an additional seven days if State or local rules adopted pursuant to Chapter 43.21C RCW (SEPA) allow public comment on a DNS issued as part of the appealable decision.

(b) A Final DNS or Mitigated DNS (MDNS) Made with Project Permit Decision. An appeal of the DNS or MDNS must be made to the Hearing Examiner within 14 days of the date the DNS or MDNS becomes final. The appeal period shall be extended an additional seven days if State or local rules adopted pursuant to Chapter 43.21C RCW (SEPA) allow public comment on a DNS issued as part of the appealable decision. The appeal is heard as an open record hearing by the Hearing Examiner, together with an appeal on the underlying governmental action; provided, that if an open record predecision hearing has already been held, the Hearing Examiner shall hear the appeal as a closed record appeal.

(c) A Final Determination of Significance (DS). An appeal of the DS must be made to the Hearing Examiner within 14 days of the date the DS becomes final. The appeal is heard as an open record hearing by the Hearing Examiner. A subsequent open record hearing may be held on the underlying action and accompanying SEPA documents (including an EIS, if one is prepared), and SEPA substantive determinations.

(5) For any appeal under this section, the City shall provide for a record that shall consist of the following:

- (a) Finding and conclusions;
- (b) Testimony under oath; and
- (c) A taped or written transcript.

(6) The City may require the applicant to provide an electronic transcript.

(7) The procedural determination by the City's responsible official shall carry substantial weight in any appeal proceeding.

(8) No permit shall be issued which would allow construction, demolition, grading, or other direct modification of the physical environment until expiration of the period for filing a notice of appeal, and until any appeal shall have been finalized at the Hearing Examiner level.

(9) The City shall give official notice whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. The following permits or approvals require official notice: all actions of the City Council, a City official, the Hearing Examiner, or any board or commission for which no further

administrative appeal is provided. (Ord. 204 § 2, 1998)

**14.04.270 Notice/statute of limitations.**

(1) The City, applicant, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

(2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the City Clerk, applicant or proponent pursuant to RCW 43.21C.080. (Ord. 204 § 2, 1998)

**14.04.280 Definitions – Adoption by reference.**

The City adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

WAC

197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-721	Closed record appeal.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decisionmaker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.

- (vi) Ord. No. 33 – Official Street Plan;
- (vii) Ord. No. 35 – Hazardous Waste\*;
- (viii) Res. No. 93-20 – Surface Water Management;
- (ix) Ord. No. 35 – Washington State Energy Code\*;
- (x) Res. No. 93-11 – Solid Waste Management;
- (xi) Ord. No. 40 – Emergency Management;
- (xii) Ord. No. 34 – Capital Improvement Plan;
- (xiii) Ord. No. 37 – Establishing a Permit System for Moving Buildings;
- (xiv) Ord. No. 39 – Establishing Regulations for Sidewalks;
- (xv) Ord. No. 49 – Adopting Street and Construction Standards;
- (xvi) Ord. No. 50 – Designating Street Classifications;
- (xvii) Ord. No. 59 – Establishing Street Vacations, Notice, Fees, and Conditions;
- (xviii) Ord. No. 69 – Adopting State Highway Access Management Class System;
- (xix) Ord. No. 73 – Adopting a Commute Trip Reduction Plan (CTR);
- (xx) Ord. No. 84 – Adopting 1993 Comprehensive Sewer Plan of Woodinville Water District;
- (xxi) Ord. No. 93 – Adopting Washington Model Traffic Ordinance;
- (xxii) Ord. No. 99 – Regulating SOB;
- (xxiii) Ord. No. 101 – Amending Zoning Code SOB Overlay\*;
- (xxiv) Ord. No. 103 – Regulations for Planting of Public Trees;
- (xxv) Ord. No. 112 – Adopting Interim Design Principles;
- (xxvi) Ord. No. 121 – Building, Mechanical, Plumbing, Electrical Codes;
- (xxvii) Ord. No. 134 – Fire Code;
- (xxviii) Ord. No. 143 – Regulatory Reform;
- (xxix) Ord. No. 157 – GMA Comprehensive Plan;
- (xxx) Ord. No. 173 – Shoreline Master Program;
- (xxxii) Ord. No. 175 – GMA Development Regulations.

(5) Except for permits and variances issued pursuant to WMC Title 24, Shoreline Management, when any proposal or action not requiring a decision of the City's Hearing Examiner is conditioned or denied on the basis of SEPA by a non-elected official, the decision shall be appealable to

the City's Hearing Examiner. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within 10 days of the decision being appealed. Review by the Hearing Examiner shall be on a de novo basis. (Ord. 204 § 2, 1998)

\*Code reviser's note: Ord. 121 repeals Ord. 35. Ord. 175 repeals Ord. 101; refer to the land use map.

#### 14.04.260 Appeals.

(1) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations and shall be heard by the Hearing Examiner as the decision-maker of the highest level of review;

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to the environmental review.

(2) The City shall not allow more than one City appeal proceeding on a procedural determination (the adequacy of a determination of significance/nonsignificance or of a final EIS).

(3) The City shall consolidate an appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before the Hearing Examiner to consider the City's decision on a proposal and any environmental determinations made under this chapter.

(4) The City establishes the following administrative appeal procedures: Appeals to SEPA decisions are heard by the Hearing Examiner. For SEPA decision appeals made prior to project decision, only one open record public hearing before the Hearing Examiner will be held for both the SEPA appeal and the project permit. The Hearing Examiner shall be the responsible authority for both the SEPA appeal decision and the project permit decision. This includes project permits that would otherwise be heard by another decision-maker, such as the Planning Director or City Council. Any agency or person may appeal the City's procedural compliance with Chapter 197-11 WAC for issuance of the following determinations:

(a) A Final DNS or Mitigated DNS (MDNS) Made Prior to Project Permit Decision. An appeal of the DNS or MDNS made prior to the final permit decision must be made to the Hearing

(3) When a decision maker considers a final decision on a proposal:

(a) The alternatives in the relevant environmental documents shall be considered.

(b) The range of alternative courses of action considered by decision makers shall be within the range of alternatives discussed in the relevant environmental documents. However, mitigation measures adopted need not be identical to those discussed in the environmental document.

(c) If information about alternatives is contained in another decision document which accompanies the relevant environmental documents to the decision maker, agencies are encouraged to make that information available to the public before the decision is made.

[Statutory Authority: RCW 43.21C.110, 84-05-020 (Order DE 83-39), § 197-11-655, filed 2/10/84, effective 4/4/84.]

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**197-11-660**

**Substantive authority and mitigation.**

(1) Any governmental action on public or private proposals that are not exempt may be conditioned or denied under SEPA to mitigate the environmental impact subject to the following limitations:

(a) Mitigation measures or denials shall be based on policies, plans, rules, or regulations formally designated by the agency (or appropriate legislative body, in the case of local government) as a basis for the exercise of substantive authority and in effect when the DNS or DEIS is issued.

(b) Mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal and shall be stated in writing by the decision maker. The decision maker shall cite the agency SEPA policy that is the basis of any condition or denial under this chapter (for proposals of applicants). After its decision, each agency shall make available to the public a document that states the decision. The document shall state the mitigation measures, if any, that will be implemented as part of the decision, including any monitoring of environmental impacts. Such a document may be the license itself, or may be combined with other agency documents, or may reference relevant portions of environmental documents.

(c) Mitigation measures shall be reasonable and capable of being accomplished.

(d) Responsibility for implementing mitigation measures may be imposed upon an applicant only to the extent attributable to the identified adverse impacts of its proposal. Voluntary additional mitigation may occur.

(e) Before requiring mitigation measures, agencies shall consider whether local, state, or federal requirements and enforcement would mitigate an identified significant impact.

(f) To deny a proposal under SEPA, an agency must find that:

(i) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and

(ii) Reasonable mitigation measures are insufficient to mitigate the identified impact.

(g) If, during project review, a GMA county/city determines that the requirements for environmental analysis, protection, and mitigation measures in the GMA county/city's development regulations or comprehensive plan adopted under chapter 36.70A RCW, or in other applicable local, state or federal laws or rules, provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action under RCW 43.21C.240, the GMA county/city shall not impose additional mitigation under this chapter.

(2) Decision makers should judge whether possible mitigation measures are likely to protect or enhance environmental quality. EISs should briefly indicate the intended environmental benefits of mitigation measures for significant impacts (WAC 197-11-440(6)). EISs are not required to analyze in detail the environmental impacts of mitigation measures, unless the mitigation measures:

(a) Represent substantial changes in the proposal so that the proposal is likely to have significant adverse

environmental impacts, or involve significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; and

(b) Will not be analyzed in a subsequent environmental document prior to their implementation.

(3) Agencies shall prepare a document that contains agency SEPA policies (WAC 197-11-902), so that applicants and members of the public know what these policies are. This document shall include, or reference by citation, the regulations, plans, or codes formally designated under this section and RCW 43.21C.060 as possible bases for conditioning or denying proposals. If only a portion of a regulation, plan, or code is designated, the document shall identify that portion. This document (and any documents referenced in it) shall be readily available to the public and shall be available to applicants prior to preparing a draft EIS.

[Statutory Authority: 1985 c 347 (ESHB 1724) and RCW 43.21C.110, 97-21-030 (Order 95-16), § 197-11-660, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110, 84-05-020 (Order DE 83-39), § 197-11-660, filed 2/10/84, effective 4/4/84.]

### 197-11-680 Appeals.

(1) **Introduction.** Appeals provisions in SEPA are found in RCW 43.21C.060, 43.21C.075 and 43.21C.080. These rules attempt to construe and interpret the statutory provisions. In the event a court determines that these rules are inconsistent with statutory provisions, or with the framework and policy of SEPA, the statute will control. Persons considering either administrative or judicial appeal of any decision which involves SEPA at all are advised to read the statutory sections cited above.

(2) **Appeal to local legislative body.** RCW 43.21C.060 allows an appeal to a local legislative body of any decision by a local nonelected official conditioning or denying a proposal under authority of SEPA. Agencies may establish procedures for such an appeal, or may eliminate such appeals altogether, by rule, ordinance or resolution. Such appeals are subject to the restrictions in RCW 36.70B.050 and 36.70B.060 that local governments provide no more than one open record hearing and one closed record appeal for permit decisions.

#### (3) Agency administrative appeal procedures.

(a) Agencies may provide for an administrative appeal of determinations relating to SEPA in their agency SEPA procedures. If so, the procedures must comply with the following:

(i) The agency must specify by rule, ordinance, or resolution that the appeals procedure is available.

(ii) Appeal of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed.

(iii) Appeals on SEPA procedures shall be limited to review of a final threshold determination and final EIS. These appeals may occur prior to an agency's final decision on a proposed action.

(iv) An agency shall provide for only one administrative appeal of a threshold determination or of the adequacy of an EIS; successive administrative appeals on these issues within the same agency are not allowed. This limitation does not apply to administrative appeals before another agency.

(v) Except as provided in (a)(vi) of this subsection, the appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before one hearing officer or body. The hearing or appeal shall be one at which the hearing officer or body will consider either the agency's decision or a recommendation on the proposed underlying governmental action. For example, an appeal of the adequacy of an EIS must be consolidated with a hearing or appeal on the agency's decision or recommendation on the proposed action, if both proceedings are allowed in agency procedures. If an agency does not provide for a hearing or appeal on the underlying governmental action (either a hearing on the agency's recommendation or an agency appeal hearing after the decision is made), the agency may not hold a SEPA administrative appeal, except as allowed under (a)(vi) of this subsection.

(vi) The following appeals of SEPA procedural or substantive determinations need not be consolidated with a hearing or appeal on the underlying governmental action:

(A) An appeal of a determination of significance;

(B) An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under SEPA, including any appeals of its procedural determinations, prior to submitting an application for a project permit. Subsequent appeals of substantive determinations by an agency with jurisdiction over the proposed project shall be allowed under the SEPA appeal procedures of the agency with jurisdiction;

(C) An appeal of a procedural determination made by an agency on a nonproject action; and

(D) An appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes.

(vii) If a county/city to which RCW 36.70B.110 applies provides for an administrative appeal, any such appeal of a procedural or substantive determination under SEPA issued at the same time as the decision on a project action shall be filed within fourteen days after a notice of decision under RCW 36.70B.130 or after other notice that the decision has been made and is appealable. In order to allow public comment on a DNS prior to requiring an administrative appeal to be filed, this appeal period shall be extended for an additional seven days if the appeal is of a DNS for which public comment is required under this chapter or under county/city rules adopted under SEPA. For threshold determinations issued prior to a decision on a project action, any administrative appeal allowed by a county/city shall be filed within fourteen days after notice that the determination has been made and is appealable. Nothing in this subsection alters the requirements of (a)(v) and (vi) of this subsection.

(viii) Agencies shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(b) Agencies providing for administrative appeals shall provide for a record as required by RCW 43.21C.075 (3)(c).

(c) If an agency provides an administrative appeal procedure, that procedure must be used before anyone may initiate judicial review of any SEPA issue that could have been reviewed under the agency procedures.

(4) Judicial appeals.

(a) SEPA authorizes judicial appeals of both procedural and substantive compliance with SEPA.

(b) When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do not (non-SEPA issues). RCW 43.21C.075 establishes time limits for raising SEPA issues, but says that existing statutes of limitations control the appeal of non-SEPA issues. The statute contemplates a single lawsuit.

(c) If there is a time limit established by statute or ordinance for appealing the underlying governmental action, then appeals (or portions thereof) raising SEPA issues must be filed within such time period.

(d) The notice of action procedures of RCW 43.21C.080 may still be used. If this procedure is used, then the time limits for judicial appeal specified in RCW 43.21C.080 shall apply, unless there is a time limit established by statute or ordinance for appealing the underlying governmental action. If so, the time limit for appeal of SEPA issues shall be the time limit in the statute or ordinance for the underlying governmental action. If the proposal requires more than one governmental decision that will be supported by the same SEPA documents, then RCW 43.21C.080 still only allows one judicial appeal of procedural compliance with SEPA, which must be commenced within the applicable time to appeal the first governmental decision.

(e) If the time limit established by statute or ordinance for appealing the underlying governmental action is less than fifteen days, then the notice of action in RCW 43.21C.080(1) may be given by publishing once within that shorter time period, in a newspaper of general circulation in the area where the property that is the subject of the action is located, and meeting the other requirements of RCW 43.21C.080.

(f) If there is no time limit established by statute or ordinance for appeal, and the notice of action provisions are not used, then SEPA provides no time limit for judicial appeals. Appeal times may still be limited, however, by general statutes of limitation or the common law.

(g) For the purposes of this subsection, "a time limit established by statute or ordinance" does not include time limits established by the general statutes of limitation in chapter 4.16 RCW.

(5) Official notice of the date and place for commencing a judicial appeal.

(a) Official notice of the date and place for commencing an appeal must be given if there is a time limit established by statute or ordinance for commencing an appeal of the underlying governmental action. The notice shall include:

(i) The time limit for commencing appeal of the underlying governmental action and SEPA issues, and the statute or ordinance establishing the time limit; and

(ii) Where an appeal may be filed.

(b) Notice is given by:

(i) Delivery of written notice to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal in question; and

(ii) Following the agency's normal methods of notice for the type of governmental action taken.

(c) Written notice containing the information required by subsection (5)(a) of this section may be appended to the permit, decision documents, or SEPA compliance documents or may be printed separately.

(d) Official notices required by this subparagraph shall not be given prior to final agency action.

[Statutory Authority: Chapter 43.21C RCW and 1997 c 429, 98-06-092 (Order 97-43), § 197-11-680, filed 3/4/98, effective 3/8/98. Statutory Authority: 1995 c 347 (ESHB 1724) and RCW 43.21C.110, 97-21-030 (Order 95-16), § 197-11-680, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW 43.21C.110, 95-07-023 (Order 94-22), § 197-11-680, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-680, filed 2/10/84, effective 4/4/84.]

#### 197-11-700

##### Definitions.

(1) The terms used in these rules shall be uniform throughout the state as applied to SEPA (WAC 197-11-040). Agencies may add to certain of these definitions in their procedures, to help explain how they carry out SEPA, but shall not change these definitions (WAC 197-11-906).

(2) Unless the context clearly requires otherwise:

(a) Use of the singular shall include the plural and conversely.

(b) "Preparation" of environmental documents refers to preparing or supervising the preparation of documents, including issuing, filing, printing, circulating, and related requirements.

(c) "Impact" refers to environmental impact.

(d) "Permit" means "license" (WAC 197-11-760).

(e) "Commenting" includes but is not synonymous with "consultation" (Part Five).

(f) "Environmental cost" refers to adverse environmental impact and may or may not be quantified.

(g) "EIS" refers to draft, final, and supplemental EISs (WAC 197-11-405 and 197-11-738).

(h) "Under" includes pursuant to, subject to, required by, established by, in accordance with, and similar expressions of legislative or administrative authorization or direction.

(3) In these rules:

(a) "Shall" is mandatory.

(b) "May" is optional and permissive and does *not* impose a requirement.

(c) "Include" means "include but not limited to."

## Marie Stake

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**From:** Janet Groak  
**Sent:** Monday, November 06, 2006 10:47 AM  
**To:** Gene Powers  
**Cc:** Marie Stake  
**Subject:** Notice for web...  
**Attachments:** Signed Interp\_FEIS appl prcdres.-code ref.pdf

Gene,

In this week's **Woodinville Weekly**, **Development Services** is publishing a **Notice of Planning Director's Interpretation Regarding Final Environmental Impact Statement Appeal Procedures**; in addition to this 1 page **Notice**, (for web site posting only), the full 4 page **Director's Interpretation** and associated cited **Code** sections are attached.

This 11 page Interpretation document is in reference to a part of the processing of a particular type of environmental permit---so would still go in the same area as **SEPA**s are posted, but with the full title highlighted (above). There really isn't another area to post this on the web site that I can think of...or is there??

These documents have already been scanned, so are in .pdf format already. Hope that makes the process a bit more streamlined for you...!

Please let me know if any questions/concerns re posting this (unusually long) notice—thanks!

*Janet*

Janet Groak  
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City of Woodinville