

PACIFIC COUNTY, WASHINGTON
FLOOD CONTROL ZONE DISTRICT No. 1

ORDINANCE No. 3
PROCEDURES FOR PROCESSING
LAND ALTERATION AND
DRAINAGE PERMIT
APPLICATIONS

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**AN ORDINANCE ADOPTING PROCEDURES FOR PROCESSING LAND ALTERATION AND
DRAINAGE PERMIT APPLICATIONS**

WHEREAS the Flood Control Zone District No. 1 of Pacific County was created by the Pacific County Board of Commissioners on September 18, 1961, under the provisions of Chapter 86.15 RCW to address flood control and stormwater control issues; and

WHEREAS the Flood Control Zone District No. 1 of Pacific County is a quasi-municipal corporation with general authority to exercise all the powers vested in a county for flood water or storm water control purposes, provided that, in exercising such powers, all actions be taken in the name of the Flood Control Zone District No. 1; and

WHEREAS the Flood Control Zone District No. 1 of Pacific County has adopted Ordinance No. 1 establishing development standards regulating drainage and land alteration and requiring permits prior to initiating certain land alteration and drainage activities within the Flood Control Zone District No. 1;

WHEREAS the Flood Control Zone District No. 1 of Pacific County needs to enact legislation establishing a process for processing said land alteration and drainage permit applications; **NOW, THEREFORE**

BE IT ORDAINED by the Board of Supervisors of Pacific County Flood Control Zone District No. 1, Washington, as follows:

SECTION 1 PURPOSE AND APPLICABILITY

A. This Ordinance describes how the Flood Control Zone District No. 1 of Pacific County (hereinafter referred to as the "District") will timely process applications for land alteration permits and drainage permits required under District Ordinance No. 1 Land Alteration and Drainage.

When necessary, the applicable administrative official shall issue a formal written interpretation of a development regulation. A formal written interpretation shall be a Type 1 action and shall be subject to appeal provisions of section 13.

B. This Ordinance is intended to identify procedures for determining whether development proposals (with or without conditions/mitigation) are consistent with applicable policies and standards. Consistency shall be determined by considering:

1. The type of land use;
2. The level of development, such as units per acre or other measures of density or intensity;

3. Infrastructure, including public facilities and services needed to serve the development; and
4. The characteristics of the development, such as development standards.

SECTION 2 APPLICATION TYPES AND CLASSIFICATION.

- A. Land alteration permit applications shall be reviewed by the Pacific County Department of Public Works, and shall be subject to a Type I process. Requests for a land alteration variance and/or a land alteration viable use exception under subsections 4.6 and 4.7, respectively, of District Ordinance No. 1 are also subject to a Type I process.
- B. Drainage permit applications shall be reviewed by the Pacific County Department of Public Works, and shall be subject to a Type I or Type II process, depending on whether the potential drainage problems associated with a development project are minimal or extensive. The Administrator of District Ordinance No. 1 is hereby authorized to promulgate standards that explicitly delineate what kinds of development projects are subject to a Type I process and what kinds of development projects are subject to a Type II process. Requests for a drainage variance and/or a drainage viable use exception under subsections 4.6 and 4.7, respectively, of District Ordinance No. 1 are subject to: (1) a Type I process if the underlying drainage permit application is subject to a Type I process and (2) a Type II process if the underlying drainage permit application is subject to a Type II process.
- C. A written order issued by the Administrator of District Ordinance No. 1 or his or her designee(s) to immediately stop all work under subsection 4.8 of District Ordinance No. 1 is deemed to be a Type I process and may be appealed in accordance with section 7 and section 13 of this Ordinance.
- D. If any land alteration activity or drainage activity is associated with a development project that is subject to Pacific County Ordinance No. 145, or any amendments thereto, the land alteration review and/or the drainage review conducted by the Department of Public Works shall be coordinated with, and become a part of, the review process for the underlying development project. The type of review process (Type I, Type II, Type III, or Type IV) shall be based on the highest-number procedure that applies to any aspect of the development project.
- E. If this Ordinance expressly states that an application is subject to one of the four types of procedures or another procedure, then the application shall be processed accordingly. If this Ordinance does not expressly provide for review using one of the four types of procedures, and another specific procedure is not required by law, the review authority for the application in question shall classify the application as one of the four types of procedures.
 1. The act of classifying an application shall be a Type I action. Classification of an application shall be subject to reconsideration and appeal at the same time and in the same way as the merits of the application in question.
 2. The review authority shall consider the following guidelines when classifying the procedure type for an application:
 - a. A Type I process involves an application that is subject to clear, objective and nondiscretionary standards, or standards that require the exercise of professional judgment about technical issues.

- b. A Type II process involves an application that is subject to objective and subjective standards that require the exercise of limited discretion about non-technical issues and about which there may be a limited public interest.
- c. A Type III process involves an application for relatively few parcels and ownerships. It is subject to standards that require the exercise of substantial discretion. Such applications may implicate broad public interests.
- d. A Type IV process involves the creation, implementation, or amendment of policy or law by ordinance. In contrast to the other three procedural types, the subject of a Type IV process applies to a relatively large geographic area containing many property owners. An application subject to a Type IV process can be filed only by the governmental authority.

SECTION 3 PRE-APPLICATION REVIEW

- A. Pre-application review is not intended to provide an exhaustive review of all the potential issues that a given application could raise. Pre-application review does not prevent the District from applying all relevant laws to the proponent. The purposes of pre-application review are:
 - 1. To acquaint agency staff with a sufficient level of detail about the proposed development to enable staff to advise the proponent accordingly;
 - 2. To determine general consistency with any relevant comprehensive plan and development regulations;
 - 3. To identify applicable regulations and permit needs, including permit fees;
 - 4. To identify permits/requirements from other agencies, to the extent known;
 - 5. To provide early identification of study requirements, issues, and potential mitigation requirements;
 - 6. To acquaint the proponent with the applicable requirements of local ordinances and other law; and
 - 7. To provide an opportunity for other agency staff and the public to be acquainted with the proposed application and applicable law. Although members of the public can attend a pre-application conference, it is not a public hearing, and there is no obligation to receive public testimony or evidence.
- B. Pre-application review is required for Type II or III applications unless:
 - 1. This Ordinance or the review authority expressly exempts the application(s) in question from pre-application review; or
 - 2. The proponent submits a completed form provided by the review authority requesting waiver of pre-application review and the waiver is granted. The form shall state that waiver of pre-application review increases the maximum time for review for technically complete status and increases the risk the application will be rejected or processing will be delayed. Pre-

application review generally should be waived by the review authority only if an application is relatively simple.

- C. To initiate pre-application review, a proponent shall submit a completed form provided by the review authority for that purpose, the required fee, and all information required by the relevant section(s) of local ordinances and other applicable regulations. The proponent shall provide one (1) copy of information that does not pertain to subdivisions, nine (9) copies of information pertaining to short subdivisions, and fifteen (15) copies of information pertaining to subdivisions.
- D. Information not provided on the form shall be provided on the face of the preliminary plat, in an environmental checklist, or on other attachments. The review authority may modify requirements for pre-application materials and may conduct a pre-application review with less than all of the required information. However, failure to provide all of the required information may prevent the review authority from identifying all applicable issues or providing the most effective pre-application review.
- E. Within twenty-one (21) calendar days after receipt of an application for pre-application review, the review authority shall schedule a pre-application conference or exempt the application from pre-application review.
- F. The review authority shall coordinate the involvement of agency staff responsible for planning, development review, roads, utilities and other subjects, as appropriate, in the pre-application review process. Relevant staff shall attend the pre-application conference or shall take other steps to fulfill the purposes of pre-application review.
- G. The pre-application conference should be held as soon as practicable after the review authority accepts the application for pre-application review.
- H. Within fourteen (14) calendar days after the date of the pre-application conference, the review authority shall mail to the proponent, and to other parties who submit a request in writing, a written summary of the pre-application review. The written summary generally shall do the following to the extent practicable given the information provided by the proponent:
 - 1. Summarize the proposed application(s);
 - 2. Identify the relevant approval criteria and development standards in local ordinances or other applicable law, and delineate exceptions, adjustments or other variations from applicable criteria or standards that may be relevant;
 - 3. Evaluate information the proponent offered to comply with the relevant criteria and standards, and identify specific additional information that is needed to respond to the relevant criteria and standards or that is recommended to respond to other issues;
 - 4. Identify applicable application fees in effect at the time, with a disclaimer that fees may change;
 - 5. Identify information relevant to the application that may be in the possession of the District or other agencies of which the District is aware, such as:

- a. Comprehensive plan map designation and zoning of the property subject to the application and of the surrounding vicinity;
 - b. Physical development limitations, such as steep or unstable slopes, critical areas and natural resources on site, wetlands, well-head protection areas, water bodies, and water availability that exist on the property subject to the application and on the surrounding vicinity;
 - c. Those public facilities that will serve the property subject to the application, including fire services, roads, and if residential, parks and schools, and relevant service considerations, such as minimum access and fire flow requirements or other minimum service levels; and
 - d. Other applications that have been approved or are being considered for land in the vicinity of the property subject to the proposed application that may affect or be affected by the proposed application.
- I. A proponent may submit a written request for a second pre-application conference within one (1) calendar year after an initial pre-application conference. There is no additional fee for a second conference if the proposed development is substantially similar to the one reviewed in the first pre-application conference or if it reflects changes based on information received at the first pre-application conference. A request for a second pre-application conference shall be subject to the same procedure as the request for the initial pre-application conference.
- J. A new request for, or waiver of, a pre-application review for a given development shall be filed unless the proponent submits a counter complete application that the review authority finds is substantially similar to the subject of a pre-application review within one (1) calendar year after the last pre-application conference or after approval of waiver of pre-application review.

SECTION 4 REVIEW FOR COUNTER COMPLETE STATUS

- A. Before accepting a Type I, Type II or Type III application for review for technically complete status, the review authority shall determine whether the application is counter complete using a Type I process.
- B. The review authority shall decide whether an application is counter complete when the application accepted, which is typically "over the counter;" provided that, if the review authority establishes a given day of the week to conduct reviews for counter complete status for a given kind of application, then counter complete review of that kind of application shall be on the day selected by the review authority.
- C. An application is counter complete if the review authority finds that the application purports and appears to include the information required by subsection 5.C.; provided that, no effort shall be made to evaluate the substantive adequacy of the information in the application in the counter complete review process.
- D. If the review authority decides that an application is counter complete, then the application shall be accepted for review for technically complete status.

- E. If the review authority decides that an application is not counter complete, then the review authority shall reject and return the application and identify in writing what is needed to make the application counter complete.

SECTION 5 REVIEW FOR TECHNICALLY COMPLETE STATUS

- A. Before accepting a Type I, Type II or Type III application for processing, the review authority shall determine that the application is technically complete using a Type I process.
- B. The review authority shall decide whether an application is technically complete subject to the following:
 - 1. Within five (5) working days after the review authority determines the application is counter complete if the application was subject to a pre-application conference; or
 - 2. Within fourteen (14) calendar days after an application has been resubmitted to the County after the application has been returned to the proponent as being incomplete; or
 - 3. Within ten (10) calendar days after the application is submitted and determined to be counter complete if the application was not subject to a pre-application conference.
 - 4. Notwithstanding subsections B.1., B.2., and B.3. of this section, if the review authority establishes a given day of the week as the day on which to begin review for technically complete status for a given kind of application, then the time for making a decision regarding the technically complete status of that kind of application shall begin to run on that day selected by the review authority.
- C. An application is technically complete if it includes the following:
 - 1. A completed original application form signed (1) by the owner(s) of the property subject to the application or (2) by a representative authorized to do so by written instrument executed by the owner(s) and filed with the application; provided that, an application subject to Type IV review may be filed by the Director of the Department of Community Development, the Planning Commission, or the Board of Supervisors without the signature or consent of the property owner(s);
 - 2. A legal description supplied by the Pacific County Auditor, a title company, a surveyor licensed in the state of Washington, or other party approved by the review authority, and current Pacific County assessor's map(s) showing the property(ies) subject to the application;
 - 3. For a Type II or Type III process, a current Pacific County Assessor's map(s) showing the property(ies) with a radius of three hundred (300) feet of the subject site. In addition, a list of the names and addresses of all properties within that radius shall be provided. This information shall be obtained from the Pacific County Assessor's Office or a title company, licensed surveyor, or other party approved by the review authority. If the information is provided by any entity other than the Assessor's Office, that entity must certify (under the penalty of perjury) that the information is accurate and complete.
 - 4. A copy of the pre-application conference summary and information required by the pre-application conference summary unless:

- a. The material was not timely prepared as required under subsection 3.H;
 - b. The application is not subject to pre-application review based on this Ordinance; or
 - c. The review authority has waived the pre-application conference.
5. The applicable fee(s) adopted by the Board of Supervisors for the application(s) in question;
 6. All of the information listed as application requirements in the relevant sections of ordinances and other applicable regulations; provided that:
 - a. The review authority may waive application requirements that are clearly not necessary to show an application complies with relevant criteria and standards and may modify application requirements based on the nature of the proposed application, development, site or other factors, and
 - b. The decision about the technically complete status of an application, including any required engineering, traffic or other studies, shall be based on the criteria for completeness and methodology set forth in local ordinances, resolutions or in implementing measures timely adopted by the review authority and shall not be based on differences of opinion as to quality or accuracy;
 7. Any applicable SEPA document, typewritten, or in ink, and signed.
- D. If the review authority decides that an application is not technically complete (within the time provided in subsection B. of this section), the review authority shall send the proponent a written statement, rejecting the application based on a lack of information and listing what is required to make the application technically complete.
1. The statement shall specify a date by which the required missing information must be provided to restart the technically complete review process pursuant to subsection B.2. of this section. The statement shall state that a proponent can apply to extend the deadline for filing the required information and explain how to do so.
 2. The statement also may include recommendations for additional information that, although not necessary to make the application technically complete, is recommended to address other issues that are or may be relevant to the review.
- E. If the required information is submitted by the date specified, then within five (5) working days the review authority shall decide whether the application is technically complete and, if not, the review authority shall:
1. Reject the application and mail the proponent a written statement which lists the remaining additional information needed to make the application technically complete; or
 2. Issue a decision denying the application, based on a lack of information; or
 3. Allow the proponent to restart the technically complete review process another time by providing the required missing information by a date specified by the review authority, in which case the review authority shall retain the application and fees.

If the required information is not submitted by the date specified, within five (5) working days after that date the review authority shall take action under subsection E.1., E.2., or E.3. of this section.

- F. If the review authority decides that an application is technically complete, then the review authority within ten (10) working days of making this determination shall:
1. Forward the application to the staff responsible for processing it, and schedule a Type III application for a public hearing;
 2. Send a written notice of receipt of a complete application to the proponent acknowledging acceptance, listing the name and telephone number of a contact person at the review authority, and describing the expected review schedule, including the date of a hearing for a Type III process.
 3. If the application is for a Type II, III or IV process, a copy of the notice shall be distributed pursuant to section 10.
- G. A Type II or Type III application shall be deemed to be technically complete if a written determination has not been mailed to the proponent within twenty-eight (28) calendar days of the date the application is accepted for review.

SECTION 6 APPLICATION OF RULES - PROCESSING A TECHNICALLY COMPLETE APPLICATION

Applications shall be considered under the zoning and other land development regulations in effect on the date a technically complete application is filed. However, if a proponent during pre-application review submits a technically complete application (excluding subsection 5.C.4.), the application shall be considered under the zoning and other land development regulations in effect on the date the necessary information which constitutes a technically complete application was received.

SECTION 7 TYPE I PROCEDURE - MINISTERIAL DECISION

- A. The review authority for an application subject to Type I procedure shall respond to the application within fifteen (15) calendar days after the date the application was accepted as technically complete; provided that, a proponent may agree in writing to extend the time in which the review authority shall issue a response. The review authority may consider new evidence the proponent introduces with or after such a written request.
- B. Notice of a decision regarding a Type I process shall be mailed to the proponent and any representative of the proponent. The proponent may appeal the decision pursuant to section 13. In addition, a stop work order issued under subsection 4.8 of District Ordinance No. 1 shall be posted on the property in question.

SECTION 8 TYPE II PROCEDURE - ADMINISTRATIVE DECISION

- A. Within fourteen (14) calendar days after the date an application subject to Type II review is accepted as technically complete, the review authority for the application shall issue a public notice of the application consistent with the requirements of section 10.
- B. An administrative decision shall include:
 - 1. A statement of the applicable criteria and standards in local ordinances and other applicable regulations;
 - 2. Findings of fact and conclusions of law that justify the decision rendered;
 - 3. The decision to deny or approve the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with applicable law.
- C. Within five (5) working days the review authority shall mail a notice of decision to the parties listed in section 10 and to other parties of record regarding the application. The mailing shall include a notice which includes the following information:
 - 1. A statement that the decision and SEPA determination, if applicable, are final, but may be appealed as provided in section 13. The statement shall describe how a party may appeal the decision or SEPA determination, or both. The notice also shall list the applicable fees;
 - 2. A statement that the complete case file is available for review. The notice shall list the place, days, and times where the case file is available and the name and telephone number of the staff representative to contact for information about the case.

SECTION 9 TYPE III PROCEDURE - QUASI JUDICIAL DECISION

- A. A Type III review process requires at least one public hearing before the appropriate review authority. The public hearing should be held within sixty (60) calendar days after the date the review authority issues the determination that the application is technically complete.
- B. At least fifteen (15) calendar days before the date of a hearing for an application subject to Type III review, the review authority shall issue a public notice of the hearing consistent with the requirements in section 10.
- C. Before the date of the hearing for an application(s), the review authority (1) shall issue a written staff report, integrating a SEPA review and recommendations regarding the application(s), (2) shall make available to the public a copy of the staff report for review and inspection, and (3) shall provide a copy of the staff report and recommendation without charge to the review authority and to the proponent and proponent's representative. The review authority shall provide a copy of the staff report at reasonable charge to other parties who request it.
- D. Public hearings shall be conducted in accordance with the rules of procedure adopted by the review authority, except to the extent waived by the review authority. A public hearing shall be recorded on audio or audiovisual tape.

1. At the beginning of a hearing or agenda of hearings, the review authority shall:
 - a. State that testimony will be received only if it is relevant to the applicable approval criteria and development standards and is not unduly repetitious;
 - b. Identify the applicable approval criteria and development standards;
 - c. State that the review authority will consider, and may grant or deny, any party's request to continue the hearing or to keep the record open for a period of time;
 - d. State whether the review authority has had any ex parte contact or has any personal or business interest in the application;
 - e. State whether the review authority has visited the site;
 - f. State that anyone may challenge the impartiality of the review authority;
 - g. State the persons who want to receive notice of the decision may sign a list for that purpose; and
 - h. Summarize how the hearing will be conducted.
 2. At the conclusion of the hearing on each application, the review authority shall announce one of the following actions:
 - a. That the hearing is continued. If the hearing is continued to a place, date, and time certain, then additional notice of the continued hearing is not required to be mailed, published or posted. If the hearing is not continued to a place, date, and time certain, then notice of the continued hearing shall be given as though it were the initial hearing. The review authority may adopt guidelines for considering requests for continuances;
 - b. That the public record is held open to a date and time certain. The review authority shall state where additional written evidence and testimony can be sent, and shall announce any limits on the nature of the evidence that will be received after the hearing. The review authority may adopt guidelines for evaluating requests to hold open the record;
 - c. That the application(s) is/are taken under advisement, and that a final order will be issued with findings of fact and conclusions of law that support the decision; or
 - d. That the application(s) is/are denied, approved or approved with conditions. Findings of fact and conclusions of law must be adopted to support the decision. However, such findings and conclusions do not need to be adopted at the same time that the decision is rendered.
- E. The review authority shall not issue its threshold determination nor issue a decision or recommendation on a permit application until the expiration of the public comment period on the notice of application.

- F. Within five (5) working days from the date of the decision, the review authority shall mail the notice of decision to the proponent, any representative of the proponent, and all parties of record. The mailing shall include a notice which includes the following information:
1. A statement that the decision and SEPA determination, if applicable, are final, but may be appealed as provided in section 13. The statement shall describe how a party may appeal the decision or SEPA determination, or both.
 2. A statement that the complete case file is available for review. The notice shall list the place, days and times where the case file is available and the name and telephone number of the staff representative to contact for information about the case.
- G. Any Type III public hearing that pertains to land alteration and/or drainage shall be contemporaneous with, and a part of, any local government hearing that addresses the underlying land development activity which is associated with the land alteration and/or drainage activity(ies) in question.

SECTION 10 PUBLIC NOTICE FOR TYPE II AND TYPE III APPLICATIONS

- A. The notice of the application shall include the following information:
1. The case file number(s), date of application, the date the application was determined to be technically complete, and the date of the notice of the application;
 2. A description of the proposed project and a list of project permits included with the application and, if applicable, a list of any further studies requested by the review authority;
 3. A list of other necessary permits not included in the application, to the extent known by staff;
 4. A list of existing environmental documents that evaluate the proposed project;
 5. A statement that delineates the public comment period and articulates the rights of the public, i.e., the right to comment on the application, including environmental impacts and mitigation measures, the right to receive notice of, and participate in, any hearings, the right to request a copy of the decision, and the right to appeal a decision once made. The public notice shall indicate that written comments must be received by the review authority within fourteen (14) calendar days from the date of the notice. The closing date for the consideration of written comments also shall be indicated together with the deadline for submitting a SEPA appeal.
 6. Whether a preliminary threshold determination of significance has been issued;
 7. The date, time, place, and type of hearing, if applicable;
 8. A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation. The public notice also shall indicate that a consolidated staff report and SEPA review will be available for inspection at no cost before the administrative decision or public hearing, if applicable, and that a copy of these documents will be provided at reasonable cost;

9. The name of the proponent and any representative of the proponent, and the name, address and telephone number of a contact person for the proponent, if any;
 10. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location and zoning;
 11. The date, place, and times where information about the application may be examined and the name and telephone number of the staff representative to contact about the application.
 12. The designation of the review authority and the date, time, and place of any hearing;
 13. A statement that any hearing, if applicable, will be conducted in accordance with the rules of procedure adopted by the review authority; and
 14. Any additional information determined to be appropriate by the review authority.
- B. The public notice shall be distributed as follows:
1. For Type II applications, the Director of the Pacific County Department of Community Development or his or her designee(s) shall mail a copy of the notice of application to:
 - a. The proponent and any representative of the proponent;
 - b. Agencies with jurisdiction; and
 - c. To other people who request such notice in writing.
 2. For Type II applications, the proponent as soon as possible shall post copies of the notice of application on the perimeter of the property in question in a manner that will be visible to a passerby. The proponent also shall file a declaration of posting (under the penalty of perjury) with the Pacific County Department of Community Development. The proponent shall remove and properly dispose of the notices within seven (7) calendar days after the notice of the decision is mailed to the proponent.
 3. For Type III applications, the Director of the Pacific County Department of Community Development or his or her designee(s) shall mail a copy of the notice of application to:
 - a. The proponent and any representative of the proponent;
 - b. Owners of property within a radius of three hundred (300) feet of the property that is the subject of the application;
 - c. Agencies with jurisdiction; and
 - d. To other people the Director of the Pacific County Department of Community Development believes may be affected by the proposed action or who request such notice in writing.

4. For a Type III applications, the review authority shall publish in a newspaper of general circulation a summary of the notice which shall include the date, time, and place of the hearing and sufficient information to identify the property and application(s) under review.
 5. For Type III applications, the review authority shall post a copy of the notice of application at three (3) or more locations on or in the vicinity of the property subject to the application at least fifteen (15) calendar days before the hearing. The notices shall be posted in a manner that will be visible to a passerby. The proponent shall remove and properly dispose of the notices within seven (7) calendar days after the hearing.
- C. The records of the County Assessor shall be examined when questions arise as to who constitutes relevant property owners of record. The failure of a property owner to receive notice shall not affect the decision if the notice was sent. A declaration of mailing (under penalty of perjury) executed by the person who did the mailing shall be evidence that the notice was mailed to parties listed or referenced in the declaration.
- D. Any notice required under this section shall be incorporated into, and become a part of, any notice that is required by local government for land development activity which is associated with the land alteration and /or drainage activity(ies) in question.

SECTION 11 DECISION TIMELINES FOR TYPE II AND TYPE III APPLICATIONS

- A. As a general rule, a final decision regarding any application shall be issued not more than one hundred and twenty (120) calendar days after the date of determination of technical completeness.
- B. Subsection A of this section shall not apply to any application which is substantially revised by the proponent. In this instance, the one hundred twenty (120) calendar day time period shall start from the date the revised application is determined to be technically complete.
- C. If a Determination of Significance (DS) is issued, then the review authority shall issue a decision no sooner than seven (7) calendar days after a final environmental impact statement is issued.
- D. A proponent may agree in writing to extend the time in which the review authority shall issue a decision. The review authority may consider new evidence the proponent introduces with or after such a written request.
- E. In calculating the number of days that have elapsed after the date of determination of technical completeness, the following periods shall be excluded:
1. Any period during which a proponent has been requested by the review authority to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the review authority sends notification to the proponent of the need for additional information until the earlier of the date the review authority determines whether the additional information satisfies the request for information or fourteen (14) calendar days after the date the information has been provided to the review authority. If the review authority determines that the information submitted by a proponent under this subsection is insufficient, the review authority shall notify the proponent of the deficiencies, and the procedures under this subsection shall apply as if a new request for additional required information had been made.

2. Any period of time during which an environmental impact statement is being prepared, which shall not exceed one year from the issuance of the Determination of Significance, unless the review authority and proponent have otherwise agreed in writing to a longer period of time. If no mutual written agreement is completed, then the application shall become null and void after the one year period, unless the review authority determines that delay in completion is due to factors beyond the control of the proponent.
3. Any period of time during which an administrative appeal is pending.

SECTION 12 TYPE IV PROCEDURE - LEGISLATIVE DECISION

- A. A Type IV procedure may require one or more hearings before the Planning Commission and does require one or more hearings before the Board of Supervisors.
- B. At least fifteen (15) calendar days before the date of the first Planning Commission hearing for an application subject to Type IV review, the Director of the Pacific County Department of Community Development shall:
 1. Prepare a notice of application that includes the following information:
 - a. The case file number(s);
 - b. A description of the area that will be affected by the application, if approved, which is reasonably sufficient to inform the reader of its location;
 - c. A summary of the proposed application(s);
 - d. The place, days, and times where information about the application may be examined and the name and telephone number of the County representative to contact about the application;
 - e. A statement inviting interested parties to submit written comments or to testify orally at the hearing.
 - f. The designation of the review authority and the date, time, and place of the hearing; and
 - g. A statement that a staff report and, whenever possible, a consolidated SEPA review document will be available for inspection at no cost before the hearing and will be provided at reasonable cost.
 2. Mail a copy of a notice prepared under subsection B.1. of this section to:
 - a. Parties who request notice of such matters, based on a list kept by the Director of the Pacific County Department of Community Development for that purpose.
 - b. To other people that the Director of the Pacific County Department of Community Development believes may be significantly affected by the proposed action;
 3. Publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the hearing, and a summary of the proposal; and

4. Provide other notice deemed appropriate and necessary by the Director of the Pacific County Department of Community Development based on the subject of the Type IV process.
- C. The Director of the Pacific County Department of Community Development shall issue a written staff report and consolidated SEPA evaluation before the date of the first hearing for an application(s) subject to Type IV review, shall make available to the public a copy of the staff report and consolidated SEPA evaluation for review and inspection, and shall provide a copy of the written analysis to the review authority. The Director of the Pacific County Department of Community Development shall mail or provide a copy of the staff report and consolidated SEPA evaluation at reasonable charge to other parties who request it.
- D. Any public hearing shall be conducted in accordance with the rules of procedure adopted by the review authority, except to the extent waived by the review authority. A public hearing shall be recorded on audio or audiovisual tape.
- E. At the conclusion of a Planning Commission hearing on a Type IV application, the Planning Commission shall announce one of the following actions:
1. That the hearing is continued. If the hearing is continued to a place, date, and time certain, then additional notice of the continued hearing is not required to be mailed, published or posted. If the hearing is not continued to a place, date, and time certain, then notice of the continued hearing shall be given as though it were the initial hearing before the Planning Commission; or
 2. That the Planning Commission recommends against or in favor of approval of the application(s) with or without certain changes, or that the Planning Commission will recommend neither against nor for approval of the application(s). The Planning Commission shall justify its decision with findings of fact and conclusions of law that support the recommendation. Such findings and conclusions do not need to be adopted at the same time that the recommendation is made.
- F. Upon receipt of the recommendation of the Planning Commission, the Board of Supervisors shall at its next public meeting set a date for a public hearing to consider the recommendation. At least fifteen (15) calendar days before the date of the first Board of Supervisors hearing for an application subject to Type IV review, the Clerk of the Board of Supervisors shall:
1. Prepare a notice that includes the information listed in subsection B.1. of this section except the notice shall be modified as needed:
 - a. To reflect any changes made in the application(s) during the Planning Commission review;
 - b. To reflect that the Board of Supervisors will conduct the hearing and the place, date and time of the Board of Supervisors' hearing; and
 - c. To state that the Planning Commission recommendation, staff report, and SEPA evaluation are available for inspection at no cost and will be provided at reasonable cost;
 2. Mail a copy of that notice to the parties identified in subsection B.2. of this section and to parties who request it in writing;

3. Publish in a newspaper of general circulation a summary of the notice, including the date, time, and place of the hearing, and the actual text or summary of the proposal; and
 4. Provide other notice deemed appropriate and necessary by the Director of the Pacific County Department of Community Development based on the subject of the Type IV application.
- G. If the Planning Commission has conducted a hearing on a Type IV application, the Board of Supervisors shall conduct a closed record hearing. The hearing shall be based exclusively on the record established at the Planning Commission hearing. If the Planning Commission has not conducted a hearing, the Board of Supervisors shall conduct an open record hearing. At the conclusion of the initial hearing by the Board of Supervisors regarding a Type IV application, the Board may continue the hearing or may adopt, modify, or give no further consideration to the application or recommendations. If the hearing is continued to a place, date, and time certain, then additional notice of the continued hearing is not required. If the hearing is not continued to a place, date, and time certain, then notice of the continued hearing shall be given as though it were the initial hearing before the Board of Supervisors. The Board of Supervisors shall adopt findings of fact and conclusions of law to support its final decision. Such findings and conclusions do not need to be adopted at the same time that the decision is rendered.
- H. Any notice required under this section shall be incorporated into, and become a part of, any notice that is required by local government for land development activity which is associated with the land alteration and /or drainage activity(ies) in question.
- I. Any Type IV public hearing that pertains to land alteration and/or drainage shall be contemporaneous with, and a part of, any local government hearing that addresses the underlying land development activity which is associated with the land alteration and/or drainage activity(ies) in question.

SECTION 13 APPEAL PROCEDURE

- A. A final decision regarding an application subject to a Type I or Type II procedure may be appealed by an aggrieved party to the Board of Supervisors if (1) a written appeal is filed with the Board of Supervisors within fourteen (14) calendar days of the date of the decision and (2) any applicable filing fee is paid. For any appeal that the Board of Supervisors is authorized to hear, the Board of Supervisors may waive any filing fee on a case-by-case basis. A final decision regarding a Type III procedure automatically shall be appealed to the Board of Supervisors.
- B. The Board of Supervisors shall hear appeals of Type I and Type II decisions in a de novo hearing. The hearing shall be held within ninety (90) days of the filing of the notice of appeal, unless the proponent and the review authority agree to an extension. Notice of an appeal hearing shall be mailed to parties entitled to notice of the decision, but shall not be posted or published. After the Board of Supervisors makes a final decision, an aggrieved party can appeal the decision by filing an appeal in Superior Court within twenty-one (21) calendar days of the decision. A day shall be defined according to the Superior Court rules. The Clerk of the Board shall mail written notice to the parties who appeared before the Board or submitted written comments regarding the appeal. The notice shall consist of the Board of Supervisor's decision and shall include a statement that the decision can be appealed to Superior Court within twenty-one (21) calendar days and, where applicable, shall comply with the official notice provisions of RCW 43.21C.075.

- C. The Board of Supervisors shall hear appeals of Type III decisions based on a closed record which includes all materials received in evidence at any previous stage of the review, an audio or audio/visual tape of the prior hearing(s), or transcript of the hearing(s) certified as accurate and complete, and the decision being appealed.
1. Upon receipt of an appeal, the Board of Supervisors at its next public meeting shall set a date for a public hearing to consider the appeal. The hearing shall be held within sixty (60) days of the filing of the notice of appeal, unless the proponent and the County agree to an extension. At least fifteen (15) calendar days before the scheduled hearing, the Clerk of the Board of Supervisors shall send notice of the appeal hearing to parties entitled to notice of the decision under subsection 9.F. The notice of the appeal hearing shall indicate that only argument based on the record will be heard.
 2. At the conclusion of its public hearing the Board of Supervisors may affirm, reverse, modify, or remand an appealed decision.
 - a. A decision to remand a matter must be agreed to by the proponent or his representative, i.e., the proponent of the proposed development. An appeal from a decision on remand shall be treated as any other decision.
 - b. The Board of Supervisors shall adopt findings of fact and conclusions of law to support its final decision. Such findings and conclusions do not need to be adopted at the same time that the decision is rendered.
 3. After the Board of Supervisors makes a final decision, an aggrieved party can appeal the decision by filing an appeal in Superior Court within twenty-one (21) calendar days of the decision. A day shall be defined according to the Superior Court rules. The Clerk of the Board shall mail written notice to the parties entitled to notice under subsection 9.F. and to the individuals who appeared before the Board or submitted written comments regarding the appeal. The notice shall consist of the Board's decision and shall include a statement that the decision can be appealed to Superior Court within twenty-one (21) calendar days and, where applicable, shall comply with the official notice provisions of RCW 43.21C.075.
- D. Any appeal under this section shall be consolidated with, and heard contemporaneously with, any appeal that is filed under section 13 of Pacific County Ordinance No. 145, or any amendments thereto, which pertains to the underlying land development project that is associated with the land alteration and/or drainage activity(ies) in question. Any notice that is required under this section shall be incorporated into, and be a part of, any notice that is required under Pacific County Ordinance No. 145, or any amendments thereto, when decisions on land alteration and/or drainage activities are being appealed and a separate appeal under section 13 of Pacific County Ordinance No. 145, or any amendments thereto, has been filed pertaining to the underlying development project.

SECTION 14 MISCELLANEOUS

- A. If any section, subsection, clause, phrase, or word in this ordinance or any provision adopted by reference herein is for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or any provision adopted by reference herein.

- B. This Ordinance shall take effect immediately.

PASSED by the Pacific County Flood Control Zone District No. 1 Board of Supervisors meeting in special session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 22nd day of July, 1997.

 3 Ayes; 0 Nays; 0 Abstain; 0 Absent

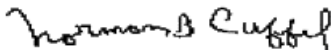
**BOARD OF SUPERVISORS, FLOOD CONTROL ZONE DISTRICT NO. 1
PACIFIC COUNTY, WASHINGTON**



Jon Kaino, Jr.

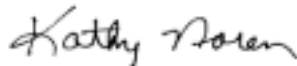


Pat Hamilton



Norman "Bud" Cuffel

ATTEST:



Kathy Noren