

17G.060.030 Exclusions

- A. The following are excluded from the project permit review process, associated time frames and other provisions of these procedures: landmark designations, street vacations or other approvals related to the use of public areas or facilities, or other project permits, that by ordinance or resolution have been determined to present special circumstances warranting a review process different from that provided in this chapter (RCW 36.70B.140.1).
- B. Also excluded are lot line or boundary adjustments, final short subdivisions, final binding site plans, final plats and building or other construction permits or similar administrative approvals categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in conjunction with other project permits and are judged by the director to adequately address the current application (RCW 36.70B.140.2).
- C. The following Table 17G.060-1 summarizes the applications subject to this chapter. The types of application are defined under chapter 17A.020 SMC. For any application type that is referenced in the land use codes, but not represented in Table 17G.060-1, the process shall be as identified in the application most closely associated with the application process definitions as defined under chapter 17A.020 SMC:

TABLE 17G.060-1				
PERMIT/ACTION	EXCLUDED	TYPE I	TYPE II	TYPE III
Building & Code Enforcement				
Building Permits w/ SEPA (Commercial/Industrial/Other)		X		
Demolition Permit w/SEPA		X		
Fence Permit	X			
Grading Permits w/SEPA		X		
Manufactured Home Permit	X			
Sign Permit	X			
Single-family and Two-family Residential Building Permit	X			

Remodel Permit	X			
Engineering Services – Developer Services				
Address Permit	X			
Approach Permit	X			
Design Deviation – Street Design	X			
Encroachment Permit	X			
LID Formation	X			
Obstruction Permit	X			
Road Closure	X			
Sidewalk Permit	X			
Stormwater Design Acceptance	X			
Street Vacation	X			
Planning Services – Current				
Accessory Dwelling Unit (ADU)	X			
Administrative Exemptions	X			
Administrative Interpretations/Determinations	X			
Binding Site Plan – Preliminary (BSP)			X	
Binding Site Plan – Final (BSP)	X			
Boundary Line Adjustment (BLA)	X			
Certificate of Compliance (CC) – Hearing Examiner				X
Certificate of Compliance (CC) – Planning Director			X	
Conditional Use Permit (CUP) – Hearing Examiner				X

CUP – Planning Director			X	
Floodplain Development w/SEPA		X		
Floodplain Variance				X
Home Occupation	X			
Long Plat – Preliminary				X
Long Plat – Final	X			
Nonconforming Use/Building Determination	X			
Planned Unit Development (PUD) – Preliminary				X
Preliminary Plat/Short Plat Extension	X			
PUD – Final	X			
Shoreline Exemption/Determination/Interpretation	X			
Shoreline Substantial Development Permit			X	
Shoreline Variance				X
Shoreline Conditional Use Permit				X
Short Plat – Preliminary			X	
Short Plat – Final	X			
Variance				X
Plans-in-lieu of Compliance – Hearing Examiner				X
Plans-in-lieu of Compliance – Planning Director			X	
Zone Reclassification and Change of Conditions				X

17G.060.070 Application Requirements

- A. Application Requirements for Type I, II and III project permit applications shall contain the following:
1. Predevelopment meeting summary as provided in SMC 17G.060.050(B), if required in Table 17G.060-3.
 2. Application documents provided by the department specifically including:
 - a. the general application;
 - b. the supplemental application;
 - c. the environmental checklist, if required under chapter 17E.050 SMC;
 - d. the filing fees as required under chapter 8.02 SMC;
 - e. a site plan drawn to scale showing:
 - i. property dimensions;
 - ii. location and dimensions of all existing and proposed physical improvements;
 - iii. location and type of landscaping;
 - iv. walkways and pedestrian areas;
 - v. off-street parking areas and access drives;
 - vi. refuse facilities; and
 - vii. significant natural features, such as slopes, trees, rock outcrops including critical areas.
 - f. the required number of documents, plans or maps (as set forth in the application checklist);
 - g. a written narrative identifying consistency with the applicable policies, regulations and criteria for approval of the permit requested;
 - h. other plans, such as building elevations, landscaping plans or sign plans, which are determined by the permitting department to be necessary to support the application; and

- i. additional application information may be requested by the permitting department and may include, but is not limited to, the following: geotechnical studies, hydrologic studies, critical area studies, noise studies, air quality studies, visual analysis and transportation impact studies.
- B. The following Type II and III applications shall meet the requirements in this subsection in addition to the provisions of subsection (A) of this section:
1. Shoreline –Substantial Development Permit, Conditional Use Permit and Variance.
 - a. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
 - b. The name, address and phone number of the applicant's representative if other than the applicant.
 - c. The name, address and phone number of the property owner, if other than the applicant.
 - d. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute.
 - e. Identification of the name of the shoreline (water body) with which the site of the proposal is associated.
 - f. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
 - g. A general description of the property as it now exists, including its physical characteristics and improvements and structures.
 - h. A general description of the vicinity of the proposed project, including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.

- i. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
 - i. The boundary of the parcels(s) of land upon which the development is proposed.
 - ii. The ordinary high-water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location, provided that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high-water mark, the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high-water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high-water mark of a shoreline.
 - iii. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.
 - iv. A delineation of all wetland areas that will be altered or used as a part of the development.
 - v. The dimensions and locations of all existing and proposed structures and improvements, including but not limited to: buildings, paved or graveled areas, roads, utilities, material stockpiles or surcharge, and stormwater management facilities.
 - vi. An inventory of the existing vegetation on the proposed project site, including the location, type, size, and condition, pursuant to SMC 17E.060.240, Shoreline Vegetation Inventory.
 - vii. A landscape plan prepared and stamped by a licensed landscape architect, registered in the state of Washington.

- viii. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included.
 - ix. Quality, source and composition of any fill material that is placed on the site, whether temporary or permanent.
 - x. Quantity, composition and destination of any excavated or dredged material.
 - xi. Vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
 - xii. Where applicable, a depiction of the impacts to views from existing residential uses.
 - xiii. On all variance applications, the plans shall clearly indicate where development could occur without the approval of a variance, the physical features and circumstances of the property that provide a basis for the request, and the location of adjacent structures and uses.
2. Certificate of Compliance.
- a. Site plan is to be prepared by a licensed surveyor; and
 - b. Copies of building permits or other data necessary to demonstrate the building was erected in good faith and all reasonable efforts comply with the code.
3. Plans-in-lieu of Compliance.
- a. Alternative development plan designed in conformance with the applicable development regulations; and
 - b. A written narrative of how the proposed development plan is superior, or more innovative, or provides greater public benefit.
4. Preliminary Plat, Short Plat and Binding Site Plan. As provided in chapter 17G.080 SMC.
5. PUD.
- a. Profiles of any structures more than one story, shown in relation to finished grade.

- b. Location, dimension and boundary of proposed open space.
 - c. Site plan demonstrating compliance with chapter 11.19 SMC including signs, off-street parking, structure height, building coverage, yards, density, screening, buffering and lighting.
6. Skywalk.
- a. A legal description of airspace to be occupied.
 - b. Architectural and engineering plans.
 - c. Artist's rendering of the proposed skywalk; and
 - d. Written narrative of the access for the public from the street, other buildings and other skywalks.
7. Floodplain – Floodplain Development Permit and Variance. As provided in chapter 17E.030 SMC.

17G.060.075 Shoreline Substantial Development Permit Letter of Exemption Procedure

- A. State Law and the Shoreline Master Program specifically exempt certain types of development from the requirement of obtaining a Shoreline Substantial Development Permit. The types of development that are exempted are listed in SMC 17E.060.320 and WAC 173-27-040. No exempt development, use or activity shall be undertaken within the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the Shoreline Master Program unless a statement of exemption has been obtained from the Director. Burden of proof that a development or use is exempt from the permit process is on the applicant.
- B. Application procedure for a Letter of Exemption from a Shoreline Substantial Development Permit is the same as for any shoreline permit as defined in SMC 17G.060.070 with these additional application materials:
- 1. Written explanation of exemption type as defined in SMC 17E.060.320 and WAC 173-27-040.
 - 2. A contractor's bid to verify the total cost or fair market value of the proposal including labor and material, if the proposed exemption category is below the dollar threshold defined in WAC 173-27-040.

3. A statement from a structural engineer licensed by the State of Washington to verify the need for immediate action, in order to address the imminent threat to public health and safety on the property, if proposed exemption category is for emergency construction as defined in WAC 173-27-040.
- C. All development within the shoreline, even when an exemption from the requirement of a Substantial Development Permit is granted, must be consistent with the policies of the Shoreline Management Act and the Shoreline Master Program. Conditions may be attached to the approval of a shoreline exemption, in order to assure consistency of the project with the Shoreline Management Act and the Shoreline Master Program. (WAC 173-27-040).
 - D. A Letter of Exemption from a Shoreline Substantial Development Permit is not always an exemption from a Shoreline Conditional Use Permit or a Shoreline Variance. A development or use that is listed as a conditional use pursuant to the SMP Regulations or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance. (WAC 173-27-040).
 - E. In the case of shoreline projects with federal permit review and upon completion of a Letter of Exemption, the Director must submit to Ecology:
 1. Letter of Exemption, the site plan, what is being approved, and conditions of approval. It must also state the specific exemption provision from WAC 173-27-040 and SMC 17E.060.320 and provide a summary of analysis of the consistency of the project with the SMP and the SMA. It shall contain any SEPA determination made and include The Permit Data Sheet and Transmittal Letter form (WAC 173-27-990 Appendix A).
 - F. The Director shall review watershed restoration projects as defined in WAC 173-27-040 for consistency with the SMP and shall issue a decision along with any conditions within forty-five days of receiving from the applicant all materials necessary to review the request for exemption. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as defined in WAC 173-27-040.

17G.060.120 Public Notice – Types of Notice

- A. Individual notice is given in writing by regular U.S. mail or by personal service.
 1. Notice is given to:

- a. all owners and taxpayers of record, as shown by the most recent Spokane County assessor's record, and occupants of addresses of property located within a four-hundred-foot radius of any portion of the boundary of the subject property, including any property that is contiguous and under the same or common ownership and control (RCW 36.70B.040(2)). The department may expand the mailing to include areas adjacent to the access easements and areas on the opposite side of rights-of-way, rivers and other physical features;
 - b, to any person who has made a written request to receive such notice, including any registered neighborhood organization as defined in chapter 17A.020 SMC representing the surrounding area;
 - c. to any agency with jurisdiction identified by the director.
2. Individual and newspaper notices must contain the following information:
- a. Type I, II and III project permit applications:
 - i. Location of the property sufficient to clearly locate the site.
 - ii. Description of the proposed action and required permits.
 - iii. Name, address and office telephone number of the City official from whom additional information may be obtained.
 - iv. Applicant name and telephone number.
 - v. Statement that any person may submit written comments and appear at the public hearing, if applicable.
 - vi. A statement that comments will be received on environmental issues, any environmental documents related to the proposed action, the SEPA status, and the appeal deadline for SEPA.
 - vii. A statement that written comments and oral testimony at a hearing will be made a part of the record, if applicable.
 - viii. A statement, in bold type, that only the applicant, persons submitting written comments and persons testifying at a hearing may appeal the decision.
 - ix. Date and time by which any written comments must be received on the notice of application; and

- x. Date of the application and date of the notice of complete application.

- b. In addition, for Type III project permit application:

- i. Notice of community meeting: date, time and place of the meeting.

- ii. Notice of public hearing: date, time and place of a public hearing.

3. Sign.

Posted notice is given by installation of a sign on the site of the proposal adjacent to the most heavily traveled public street and located so as to be readable by the public. The director may require more than one sign if the site fronts on more than one arterial or contains more than three hundred feet of frontage on any street.

- a. The posted notice sign must meet the following specifications:

- i. It measures a minimum of four feet by four feet, but sign size may be increased in order to contain all of the required information.

- ii. It is constructed of material of sufficient weight and strength to withstand normal weather conditions.

- iii. It is white with red lettering.

- b. Posted notices must contain the following information:

- i. The first line of text on the sign in four-inch letters reads: "NOTICE OF COMMUNITY MEETING" or the applicable notice type.

- ii. The second line of text on the sign in three-inch letters reads: "PROPOSED CONDITIONAL USE PERMIT, File #Z-- ---- -CUP" or some other appropriate description of the proposed action.

- iii. The third line of text on the sign in three-inch letters reads: "COMMUNITY MEETING ON/PUBLIC HEARING ON/COMMENTS DUE BY (date, time and location)."

- iv. The remaining lines of text, in three-inch letters, read as follows depending on the proposal:

Table 17G.060-2 Content of Public Notice						
Application	Proposed Use	Proposed Zone	Proposed Standard	Project Name	Acreage	# of Lots
Type I	X					
Type II	X			X	X ¹	X ¹
Type III	X	X ²	X ³	X	X ¹	X ¹
¹ Preliminary Plat, BSP, PUD, short plat ² Rezone ³ For applications which modify a development standard						

- v. The applicant (or agent) name and phone number, the SEPA status, and the deadline for appeal of the SEPA determination.
- vi. The last line of text on the sign in three-inch letters reads: "FOR INFORMATION: (City contact telephone number)."
- vii. The following figure illustrates a posted notice sign:

Example "A"

<p> NOTICE OF PUBLIC HEARING PROPOSED ZONE CHANGE, FILE #Z2003-01-ZC PUBLIC HEARING ON: 1/1/2004 AT 9:00 A.M. LOCATED: COUNCIL BRIEFING RM., CITY HALL Proposed Zone: C1 Proposed Use: Warehouse Applicant/Agent: John Doe, Phone (509) 999-0001 SEPA: DNS, appeal deadline 12/24/03 FOR INFORMATION: (509) 625-6300 </p>
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Example "B"

NOTICE OF SEPA/APPLICATION
BUILDING PERMIT, FILE #B0300001
PUBLIC COMMENT DUE: 1/1/2004 AT 9:00 A.M.
Proposed Use: Commercial
Applicant/Agent: John Doe, Phone (509) 999-0001
SEPA: DNS, appeal deadline 12/24/03
FOR INFORMATION: (509) 625-6300

2. Posting.

Posting of the notice as a letter, identical in form and content to individual written notice, shall be posted at "official public notice posting locations," including:

- a. the main city public library and the branch library within or nearest to the area subject to the pending action;
- b. the space in City Hall officially designated for posting notices; and
- c. any other public building or space that the city council formally designates as an official public notice posting location, including electronic locations.

3. Newspaper notices, including a map that clearly shows the location of the proposal, is published in a legal newspaper of general circulation. The contents of the newspaper notice are as prescribed in subsection (A)(2) of this section. Newspaper notices are published on the same day of two consecutive weeks, the first no later than the number of days specified for the particular application type specified in this chapter.

4. Other Notification.

The hearing examiner, with respect to permit applications for non-site specific issues, such as essential public facilities, may require or provide for such alternative or additional notice as deemed necessary and appropriate to serve the public interest. A notification plan may be required of the applicant by the hearing examiner indicating the form and time of notice appropriate to the scope and complexity of the proposed project.

Table 17G.060-3

Community Meeting, Public Notice, Review Official and Expiration for Land Use Permits

Permit	Type	Community Meeting	Notice of Application	Notice of Public Hearing	Review Official	Hearing Required	City Council Review	Expiration of Permit ¹
Building & Code Enforcement								
Building Permit	I	No	Legal/ Individual	No	Building Official	No	No	180 days
Grading Permit	I	No	Legal/ Individual	No	Building Official	No	No	180 days
Demolition Permit	I	No	Legal/Individual	No	Building Official	No ²	No	180 days
Planning Services – Current								
Binding Site Plan	II	No	Posted/ Individual	No	Planning Director	No	No	5 years
Certificate of Compliance (CC)	III	Posted/ Individual	Posted/ Individual	Posted/ Individual	Hearing Examiner	Yes	No	None
CC	II	No	Posted/ Individual	No	Planning Director	No	No	None
Conditional Use Permit (CUP)	III	Posted/ Individual	Posted/ Individual	Posted/ Individual	Hearing Examiner	Yes	No	3 years
CUP	II	No	Posted/ Individual	No	Planning Director	No	No	3 years
Floodplain w/SEPA	I	No	Posted/ Individual	No	Planning Director	No	No	180 days
Floodplain Variance	III	Posted/ Individual	Posted/ Individual	Posted/ Individual	Hearing Examiner	Yes	No	3 years
Long Plat	III	Posted/ Individual	Posted/ Individual	Newspaper/ Posted/ Individual	Hearing Examiner	Yes	No	5 years
Plans-in-lieu	III	Posted/ Individual	Posted/ Individual	Posted/ Individual	Hearing Examiner	Yes	No	3 years
Plans-in-lieu	II	No	Posted/ Individual	No	Planning Director	No	No	3 years
PUD	III	Posted/ Individual	Posted/ Individual	Posted/ Individual	Hearing Examiner	Yes	Yes	3 years
Rezone	III	Posted/ Individual	Posted/ Individual	Posted/ Individual	Hearing Examiner	Yes	Yes	3 years
Shoreline SDP	† II	No	Posted/ Individual	No	Planning Director	No	No	Must comply with WAC 173-27-090
Shoreline CUP	III	Posted/ Individual	Posted/ Individual	Posted/ Individual	Hearing Examiner	Yes	No	Must comply with WAC 173-27-090
Shoreline	III	Posted/	Posted/	Posted/	Hearing	Yes	No	Must

Variance		Individual	Individual	Individual	Examiner			comply with WAC 173-27-090
Short Plat	II	No	Posted/ Individual	No	Planning Director	No	No	5 years
Skywalk	III	Posted/ Individual	Posted/ Individual	Posted/ Individual	Hearing Examiner	Yes	Yes	2 years
Variance	III	Posted/ Individual	Posted/ Individual	Posted/ Individual	Hearing Examiner	Yes	No	3 years
¹ NOTE: Approval expires after the specified time if no permit to develop the project is issued by the City of Spokane or building permit expires without completion of the improvements. ² NOTE: Public Hearing is required if the structure is on the National Historic Register.								

17G.060.130 Public Comment Period

The public comment period for Type I, II and III applications is fifteen days. The public comment period for a shoreline substantial development permit, shoreline conditional use, or shoreline variance shall be thirty days. The public comment period for a shoreline substantial development permit for limited utility extensions and bulkheads shall be twenty days (WAC 173-27-120). The longest public comment period shall prevail.

17G.060.170 Decision Criteria

- A. The purpose of the following sections is to establish the decision criteria for all permit types regardless of whether the decision is made by the director, hearing examiner, or city council, as applicable.
- B. The burden is upon the applicant to present sufficient evidence relevant to the appropriate criteria in support of the application. The decision-maker must make affirmative findings of fact relative to each criterion or the application must be denied.
- C. The following decision criteria shall be used for Type II and III permit applications:
 - 1. The proposal is allowed under the provisions of the land use codes.
 - 2. The proposal is consistent with the comprehensive plan designation and goals, objectives and policies for the property.
 - 3. The proposal meets the concurrency requirements of chapter 17D.010 SMC.
 - 4. If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the

property, including but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features.

5. The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effects or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use.

D. The following Type II and III applications have decision criteria listed in this subsection that are required to be met in addition to the provisions of subsection (C) of this section:

1. Shoreline Substantial Development Permit.
 - a. Consistency with the map, goals and policies of the shoreline master program; and
 - b. Consistency with chapter 90.58 RCW (Shoreline Management Act) and chapter 173-27 WAC (permits for development on shorelines of the state).

2. Shoreline Conditional Use Permit.

The purpose of a shoreline conditional use permit is to provide a system within the Shoreline Master Program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the Shoreline Master Program.

- a. Uses classified or set forth in these Shoreline Regulations in Table 17E.060-4 as conditional uses, as well as unlisted uses, may be authorized provided the applicant can demonstrate all of the following:
 - i. The proposed use is consistent with the policies of RCW 90.58.020 and the Shoreline Master Program.
 - ii. The proposed use will not unreasonably interfere with the normal public use of public shorelines.

- iii. The cumulative impact of several additional conditional use permits on the shoreline in the area will not preclude achieving the goals of the shoreline master program.
 - iv. The proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and the Shoreline Master Program.
 - v. The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and the public interest in enjoying physical and visual access suffers no substantial detrimental effect.
- b. Consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were to be granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall not produce substantial adverse effects to the shoreline environment.
 - c. Other uses which are not classified or set forth in the Shoreline Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the Shoreline Master Program.
 - d. Uses which are specifically prohibited by the Shoreline Master Program shall not be authorized by conditional use.
3. Shoreline Variance Permit.

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in Shoreline Master Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the Shoreline Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

- a. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances exist and demonstrate that the public interest in enjoying physical and visual access to the shorelines shall suffer no substantial detrimental effect.

- b. Variance permits for development and/or uses that will be located landward of the ordinary high-water mark , as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - i. that the strict application of the bulk, dimensional or performance standards set forth in the Shoreline Master Program Regulations precludes, or significantly interferes with, reasonable use of the property;
 - ii. that the hardship described in (i) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Shoreline Master Program Regulations, and not, for example, from deed restrictions or the applicant's own actions;
 - iii. that the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and SMP Regulations and will not cause adverse impacts to the shoreline environment;
 - iv. that the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - v. that the variance requested is the minimum necessary to afford relief;
 - vi. that the public interest in enjoying physical and visual access to the shorelines will suffer no substantial detrimental effect.

- c. Variance permits for development and/or uses that will be located waterward of the ordinary high-water mark (OHWM), as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - i. that the strict application of the bulk, dimensional or performance standards set forth in the shoreline master program precludes all reasonable use of the property;
 - ii. that the proposal is consistent with the criteria established under WAC 173-27-170(2)(b) through (f); and

- iii. that the public rights of navigation and use of the shorelines will not be adversely affected.
 - d. In the granting of variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were to be granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
 - e. Variances from the use regulations of the shoreline master program are prohibited.
4. PUD and Plans-in-lieu.
- a. All of the following criteria are met:
 - i. Compliance with All Applicable Standards.
The proposed development and uses comply with all applicable standards of the title, except where adjustments are being approved as part of the concept plan application, pursuant to the provisions of SMC 17G.070.200(F)(2).
 - ii. Architectural and Site Design.
The proposed development has completed the design review process and the design review committee/staff has found that the project demonstrates the use of innovative, aesthetic and energy-efficient architectural and site design.
 - iii. Transportation System Capacity.
There is either sufficient capacity in the transportation system to safely support the development proposed in all future phases or there will be adequate capacity by the time each phase of development is completed.
 - iv. Availability of Public Services.
There is either sufficient capacity within public services such as water supply, police and fire services, and sanitary waste and stormwater disposal, to adequately serve the development proposed in all future phases, or there will be adequate capacity available by the time each phase of development is completed.

- v. Protection of Designated Resources.
City-designated resources such as historic landmarks, view sheds, street trees, urban forests, critical areas or agricultural lands are protected in compliance with the standards in this and other titles of the Spokane Municipal Code.
 - vi. Compatibility with Adjacent Uses.
The concept plan contains design, landscaping, parking/traffic management and multi-modal transportation elements that limit conflicts between the planned unit development and adjacent uses. There shall be a demonstration that the reconfiguration of uses is compatible with surrounding uses by means of appropriate setbacks, design features or other techniques.
 - vii. Mitigation of Off-site Impacts.
All potential off-site impacts including litter, noise, shading, glare and traffic will be identified and mitigated to the extent practicable.
- b. For CBD-1 through CBD-6 zones, the additional criteria of SMC 11.19.198(C)(1) through (C)(8).

5. Plat, Short Plat and Binding Site Plan.

The proposed subdivision makes appropriate (in terms of capacity and concurrence) provisions for:

- a. public health, safety and welfare;
- b. open spaces;
- c. drainage ways;
- d. streets, roads, alleys and other public ways;
- e. transit stops;
- f. potable water supplies;
- g. sanitary wastes;

- h. parks, recreation and playgrounds;
- i. schools and school grounds; and
- j. sidewalks, pathways and other features that assure safe walking conditions.

E. The following Type II and III applications are not subject to subsections (C) and (D) of this section; they shall comply with the following decision criteria:

1. Variance.

- a. A variance or modification of the standard or requirement is not prohibited by the land use codes.
- b. No other procedure is provided in this chapter to vary or modify the standard or requirement, or compliance with such other procedure would be unduly burdensome.
- c. Strict application of the standard or requirement would create an unnecessary hardship due to one or more of the reasons listed below. Mere economic hardship or self-created hardship are not considered for the purposes of this section.
 - i. The property cannot be developed to the extent similarly zoned property in the area can be developed because the physical characteristics of the land, the improvements or uses located on the land do not allow such development; or
 - ii. Compliance with the requirement or standard would eliminate or substantially impair a natural, historic or cultural feature of area-wide significance.
- d. In addition, the following objectives shall be reasonably satisfied:
 - i. Surrounding properties will not suffer significant adverse effects.
 - ii. The appearance of the property or use will not be inconsistent with the development patterns of the surrounding property; and

- iii. The ability to develop the property in compliance with other standards will not be adversely affected.
 - e. No variance may be granted to allow or establish a use that is not allowed in the underlying districts as a permitted use; or to modify or vary a standard or requirement of an overlay zone, unless specific provision allow a variance.
 - f. Floodplain variance is subject the additional criteria of SMC 17E.030.090 and SMC 17E.030.100.
- 2. Certificate of Compliance.
 - a. Written documentation establishes that all necessary permits were issued and inspections conducted, or the current owner of the property is not the same party responsible for the creation of the violation, but is an innocent purchaser for value.
 - b. Approval of the certificate of compliance is necessary to relieve the applicant of a substantial practical or economic hardship; and
 - c. Approval of the certificate of compliance will not adversely affect the neighboring property or the area.
- 3. Skywalk Permit and Air Rights Use Permit.
 - a. The proposed skywalk or air rights use is consistent with the comprehensive plan.
 - b. The proposed skywalk or air rights use conforms to the standards contained in SMC 12.02.0430 through SMC 12.02.0474, unless the design review committee has approved design deviations.
 - c. The proposed skywalk or air rights use conforms to the standards contained in the development codes.
 - d. The City is compensated for the fair market value of public air space used for any activity other than public pedestrian circulation.
 - e. An agreement, satisfactory to the city attorney, indemnifies and holds the City harmless against all loss or liability, and the applicant obtained approved public liability insurance, naming the City as an additional named insured, with combined limits of five hundred thousand dollars.

17G.060.190 Notice of Decision

- A. Decisions on Type I, II and III project permit applications are made by the hearing examiner or director within ten days of the date the record is closed. The time for decision may be extended if the applicant agrees in writing. In making the decision, the hearing examiner or director may approve, approve with conditions, or deny the permit application. The decision is made in writing.

- B. Within seven days of making the decision, the hearing examiner or director causes notice of decision to be provided as follows:
 - 1. Written notice of decision is provided by the decision-maker concurrent to the decision.

 - 2. Notice of a decision denying a permit application is given to the applicant. A full copy of the decision and any conditions of approval accompanies the notice of the decision to the applicant.

 - 3. Notice of all other decisions is given to the applicant, all parties of record and all persons who have requested to be given notice.

 - 4. Notice of decision for Type I permit applications shall be the permit. For Type II and III permit applications the decision includes the following information:
 - a. Location of the property.

 - b. Description of the proposed action.

 - c. Name, address and office telephone number of the City official from whom additional information may be obtained.

 - d. Applicant name and number.

 - e. The decision made, including the environmental threshold determination.

 - f. A list of persons who testified in person or in writing, or a summary of such a list.

 - g. A list of exhibits or a summary of such a list.

 - h. A statement of the decision criteria governing the application.

- i. A statement of the comprehensive plan policies governing the application.
 - j. Findings of fact and conclusions relating the proposal to the decision criteria governing the application and which form the basis for the decision.
 - k. A statement that a full copy of the decision may be obtained from the designated official for the cost of reproduction.
 - l. The last date the decision may be appealed.
 - m. The place the appeal must be filed.
 - n. A statement of the fee to be charged for an appeal and the approximate cost to prepare any required transcripts.
 - o. A statement that the decision will be final unless appealed; and
 - p. The signature of the person making the decision.
- C. If the decision on a Type II or III project permit includes conditions of approval, a covenant must be recorded in the Spokane county auditor's office identifying the restrictions to use and development of the property exist. The covenant must be filed within the approval time limits of the permit or the approval becomes void. For rezones, the hearing examiner does not forward the rezone to the city council until the covenant has been filed.
- D. The decision for a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance must contain a statement that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the "date of filing" by Department of Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.149(5)(a) and (b).
- E. Notice of Decision for a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance shall be submitted to the Department of Ecology along with a Permit Data Sheet (Appendix A, WAC Chapter 173-27). For a Shoreline Conditional Use Permit or a Shoreline Variance, there is a thirty day review by Department of Ecology. After this period, the Department of Ecology shall render and transmit to the City of Spokane and the applicant, a final decision approving, approving with conditions, or disapproving the permit. The planning director shall provide notification within seven days of the Department of Ecology's final decision to those interested persons having requested notification.

17G.060.210 Appeals

- A. The provisions of this section shall apply to any written order, requirement, permit, decision or determination made under the land use codes. The hearing examiner shall consider the appeal in accordance with procedures set forth in chapter 17G.050 SMC and the hearing examiner's rules of procedure.
- B. Appeal or request for reconsideration of a director's decision on a Type I and Type II project permit application is to the hearing examiner as an open record appeal, except appeals of building permits that are not related to the land use codes shall go before the building construction review board pursuant to chapter 4.06 SMC and appeals related to the fire code shall be heard by the fire code advisory board pursuant to chapter 4.08 SMC.
- C. Appeal of the hearing examiner's decision on a Type III project permit application are to superior court, except rezones, PUDs, preliminary long plats and skywalk permits are appealable to city council as a closed record appeal hearing and are subject to the procedures in chapter 17G.050 SMC.
- D. Shoreline substantial development permits decisions, after final decision by the City, may be appealed within twenty-one days from the date the Department of Ecology receives the final decision; appeal is made to the shorelines hearings board.
- E. Shoreline Conditional Use Permits and Shoreline Variance Permits may be appealed to the Shorelines Hearings Board within twenty-one days from the date of transmittal by the Department of Ecology of the final decision to the City. If, as a result of the appeal process, the project has been modified, the director must reissue the permit according to WAC chapter 173-27-130 and submit a copy of the reissued permit to the Department of Ecology.
- F. Appeals or requests for reconsideration from decisions or rulings shall be made within fourteen calendar days of the date of the written order or within seven days of the date of issuance of the decision on a request for reconsideration. If the last day for filing an appeal falls on a weekend day or a holiday, the last day for filing shall be the next working day. The appeal or request for reconsideration is filed in the department that is responsible for the permit application, except an appeal to superior court must be filed as a land use petition to the court within twenty-one days of the date of the written decision is signed.
- G. An appeal or request for reconsideration of the director or hearing examiner shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal or reconsideration. The following information, accompanied by an appeal fee as specified in chapter 8.02 SMC, shall be submitted. All fees including transcript deposit fees must be paid by the appellant no later than the last day to file the appeal. The appellant shall pay the

cost of a written transcript within five days of the receipt of the hearing examiner's statement for the cost. An appeal application is not considered complete until all required fees are paid. Failure to timely pay all fees results in dismissal of the appeal with prejudice. The appeal or request for reconsideration application shall contain:

1. file number of the decision;
2. an indication of facts that establish the appellant's right to appeal or request reconsideration;
3. an identification of exceptions and objections to the decision being appealed or reconsidered, or an identification of errors in fact or conclusion;
4. the requested relief from the decision being appealed or reconsidered;
5. any other information reasonably necessary to make a decision on the appeal or reconsideration;
6. failure to set forth specific errors or grounds for appeal shall result in summary dismissal of the appeal or reconsideration request.

H. The appeal or request for reconsideration is rejected if:

1. it is filed by a person without standing as specified in chapter 17A.020 SMC;
2. an appeal decision is being sought from a decision-maker not authorized by this chapter to make such a decision;
3. it is not timely filed;
4. the appeal fees have not been paid; or
5. it is not filed in accordance with the procedures of this chapter.

I. An appeal stays the decision pending final disposal of the appeal or other requests for relief, unless the action ordered in the decision is necessary to protect the public health or safety, or unless the appeal is required to be filed in superior court. Filing a suit or action in court does not stay the final decision unless and until the court, pursuant to RCW 36.70C.100, issues an order.

J. Notice of Appeal.

Notice of a hearing by the hearing examiner on a request for reconsideration or appeal of a Type I or Type II project permit is given to the director, appellant, applicant and any party of record. This notice is mailed through regular U.S. mail or personally served at least fourteen days prior to the hearing.

1. The notice of appeal contains the following information:
 - a. Location of the property including a map sufficient to clearly locate the site.
 - b. Description of the proposed action.
 - c. Name of the applicant.
 - d. Application name and number.
 - e. Decision made on the application, including the environmental threshold determination.
 - f. Name of the appellant if other than the applicant.
 - g. Date, time and place of hearing.
 - h. A statement of whether the appeal is on the record or if new information will be allowed; and
 - i. Name, address and office telephone number of the City official from whom additional information may be obtained.

17G.060.230 Modification or Revision to Applications and Permits

- A. Proposed modifications to an application, which the department has previously found to be complete, will be treated as follows:
 1. Modifications proposed by the department to an application shall not be considered a new application.
 2. If the applicant proposes substantial modifications to an application, as determined by the department, the application may be considered a new application. The new application shall conform to the requirements of all statutes and ordinances in effect at the time the new application is submitted. A substantial modification may include but is not limited to the following:
 - a. Change in use.

- b. Increase in density.
- c. Increase in site area; or
- d. Changes that increase or significantly modify the traffic pattern for the proposed development.

B. Modifications or Revisions to Shoreline Permits

1. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Shoreline Master Program and/or the policies and provisions of chapter 90.58 RCW.
2. Changes which are not substantive in effect do not require approval of a revision. When an applicant seeks to revise a permit, the Director shall request from the applicant detailed plans and text describing the proposed changes in the permit.
3. If the director determines that the proposed changes are within the scope and intent of the original permit as defined in WAC 173-27-100(2) and are consistent with the Shoreline Master Program and the Shoreline Management Act, the director may approve a revision.
4. If the proposed changes are not within the scope and intent of the original permit, the applicant shall apply for a new permit in the manner provided for in this chapter.
5. Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with WAC 173-27 and which would not require a permit for the development or change proposed under the terms of the Shoreline Management Act, this section and the Shoreline Master Program. If the proposed change constitutes substantial development then a new permit is required. This shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.
6. If the sum of the revision and any previously approved revisions under former WAC 173-14-064 or WAC 173-27-100 violate the provisions that they are "within the scope and intent of the original permit", the director shall require that the applicant apply for a new permit.

7. The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with the Department of Ecology. In addition, the director shall notify parties of record of their action.
8. If the revision to the original permit was a conditional use or variance, which was conditioned by the Department of Ecology, the director shall submit the revision to the Department of Ecology for its approval, approval with conditions, or denial, indicating that the revision is being submitted under the requirements of this section. Ecology shall render and transmit to the City and the applicant its final decision within fifteen days of the date of the Department of Ecology's receipt of the submittal from the director. The director shall notify parties of record of the Department of Ecology's final decision.
9. The revised permit is effective immediately upon final decision by the director, or when reviewed by the Department of Ecology, pursuant to subsection (7), then upon final action by the Department of Ecology.
10. Appeals shall be in accordance with RCW 90.58.180 and shall be filed with the Shorelines Hearings Board within twenty-one days from the date of receipt of the revision approved by the Director, or when appropriate under subsection (7), the date Ecology's final decision is transmitted to the City and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (2). Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

C. Limitations on Refiling of Application.

1. Applications for a land use permit pursuant to Title 17 SMC on a specific site shall not be accepted if a similar permit has been denied on the site within the twelve months prior to the date of submittal of the application. The date of denial shall be considered the date the decision was made on an appeal, if an appeal was filed or the date of the original decision if no appeal was filed.
2. The twelve-month time period may be waived or modified if the director finds that special circumstances warrant earlier reapplication. The director shall consider the following in determining whether an application for permit is similar to, or substantially the same as, a previously denied application:

- a. An application for a permit shall be deemed similar if the proposed use of the property is the same, or substantially the same, as that which was considered and disallowed in the earlier decision.
- b. An application for a permit shall be deemed similar if the proposed application form and site plan (i.e., building layout, lot configuration, dimensions) are the same, or substantially the same, as that which was considered and disallowed in the earlier decision; and
- c. An application for a variance, exception, or waiver shall be deemed similar if the special circumstances which the applicant alleges as a basis for the request are the same, or substantially the same, as those considered and rejected in the earlier decision. In every instance, the burden of proving that an application is not similar shall be upon the applicant.

D. Modification to a Building Permit Subject to a Type II or III Approval.

In issuing building permits for construction under an approved site plan, the building official may, with concurrence of the planning director, permit minor adjustments of the location and/or dimensions of buildings, parking areas and roadways as long as such adjustments do not change any points of ingress or egress to the site unless approved by the director of engineering services, change any perimeter setbacks, or exceed the density authorized in the permit. No modification of an approved application may be considered approved unless specifically provided in writing.

1. The planning director may, without public notice, modify an approved site plan, if all the following criteria are met:
 - a. The use will remain the same.
 - b. The total site coverage or total area covered by buildings will not increase.
 - c. The use will continue to comply with all conditions of approval imposed by the original decision.
 - d. The use will comply with all of the requirements of the land use regulations applicable to it and the property on which it is or will be located.
2. Any modification of an approved site plan not consistent with the standards of subsection (C)(1) of this section may be approved only pursuant to the procedures for granting the original Type II or III approval.

17G. 060.245 Recision and Remanding of Shoreline Permits

- A. After providing notice to the permittee and the public and also holding a public meeting, the Planning Director may rescind or suspend a permit if any of the conditions in RCW 90.58.140(8) exist.

- B. Under the conditions listed in RCW 90.58.180, shoreline permits may be remanded back to the City by the Shorelines Hearings Board.