

I would like to make a motion to insert new language into the county charter that would direct the county to make ALL hearing examiner appeals go directly to Superior Court. Hearing Examiner appeals are the only quasi-judicial appeals the county council hears, and only Type 2 permit appeals.

Currently the county code allows for three types of development permits. Attached are annotated versions of the code for Type 1, 2 and 3 permits. Type 1 permits are administrative decisions and can be appealed to the Hearing Examiner. Appeals of the Hearing Examiner decisions go directly to Superior Court, or if it is a Shoreline Permit goes to the State Shorelines Hearings Board. It never gets a hearing before the County Council.

Type 3 are legislative in nature and encompass land use and development regulations, which are heard through the planning commission and the county council, with the county council making the decision. These appeals go to the state's Growth Management Hearings Board and then those appeals go to Superior Court.

Type 2 permits require Hearing Examiner hearings and the appeals first go to the Hearing Examiner, then to the County Council, and then to Superior Court. Interestingly enough in 30.72.075, the council may summarily dismiss an appeal in whole or in part without a hearing if it determines the appeal is untimely, incomplete, without merit on its face, frivolous, beyond the scope of the council's jurisdiction, or brought merely to secure a delay.

I believe the Type 2 appeals should follow the same course as Type 1, going from Hearing Examiner to Superior Court.

Some of the commissioners have seemed interested in making it a choice to have the appeal in front of the council or go directly to superior court. I am not totally opposed to this idea. I see this issue as having three choices for the commissioners to consider.

1. Type 2 appeals go directly from Hearing Examiner to Superior Court, abandoning the county council hearings.
2. Type 2 appeals can go to the County Council if all parties involved in the hearings agree, otherwise it goes directly to Superior Court.
3. The petitioner for the appeal makes the choice whether to be heard in front of the County Council or go directly to Superior Court.

Other reasons the commissioners should consider.

There are only two reasons I have heard why the council should stay in the process: to save citizens money and to expedite the process. While these are good reasons, I am not convinced either of these actually occurs. The filing fee for each person for each appeal to the Hearing Examiner and the County Council is \$500. To file an appeal in Superior Court it is \$200. While a lawyer is mandatory for appeals to Superior Court, in many cases petitioners already have retained an attorney given that the developers and county ALWAYS retain attorneys. County Council hearings are scheduled around their other workload, which as we have heard, is abundant. County Council appeal hearings cut into time our elected councilmembers should be working on legislative issues.

Other facts to consider:

State law does not prohibit a change to the hearing process currently practiced in Snohomish County. The fact is the hearings before the county council are just an added layer of time and expense that may or may not stop appeals to Superior Court.

Politics play into council decision-making. Attached are comments from a variety of individuals representing themselves or groups who have been in front of the Hearing Examiner and County Council for appeals, some of who couldn't afford to go further to Superior Court after the costs of the other two appeals, and some who are raising money to make appeals to Superior Court after the council has overturned the Hearing Examiner's decision. The main points these citizens make are:

- Appeals are expensive, not just in terms of filing fees, but in terms of hiring lawyers, taking time off from work, etc. and most cases are headed to Superior Court anyway.
- Fairest way for a code interpretation decision is from someone knowledgeable about law, not elected councilmembers who have varied backgrounds.
- Councilmembers put themselves at risk. While no suit has come before the county as of yet, the potential is there. Council members can be sued for acting arbitrarily and capriciously. Cases already exist and is why many jurisdictions no longer use councils as an appeal board. Just recently a

citizen told me that they were advised to sue an unnamed city in Snohomish County based on their actions of overturning hearing examiner decisions repeatedly to benefit developers. With the rapid growth we are experiencing and the amount of distrust that exists with our government, such a case is surely on the horizon.

- Councilmembers have difficulty acting both as legislators and quasi-judges. They cannot have ex-parte communication with the constituents on land use issues if they believe that issue may come before them on appeal. This is not fair to the citizens nor to the electeds. While they do declare campaign contributions, they do not have to declare the amount and it does not stop them from making decisions on appeals. Recently councilmember Somers had to leave a well-attended public event when a speaker spoke briefly of her fight over a development in her community; if he had stayed and that development came before him in appeal, he would have to recuse himself. This is not good for anyone.
- Again, these appeals take up time from the council's work load which can be much better spent on legislative issues that voters elected them to do. Councilmember Somers believes these appeals should go directly to Superior Court, and he told me he knows Councilmember Koster and Sievers feel the same way. As stated by PA Millie Judge, the number of appeals to the Hearing Examiner are increasing, as well as the number of appeals to county council. The idea that these appeals going to Superior Court directly will increase the court's workload and response time is valid; however it will also cut down the amount of appeals in general based on the nature of the process, which could cut down on frivolous appeals.
- The Survey Monkey only had this question on once during the third week in April. The results of that were 57 percent wanted appeals to go directly to Superior Court, 39 percent didn't, and 2 didn't understand the issue.

Citizens who have written to you are attached. The summaries of their opinions on this matter are below for your convenience.

Mike Waggoner, email on June 9, 2006

He has been unable to correspond with his county council member over possible land use actions in his neighborhood because it could come before the council on appeal. He writes: "My conclusion is that quasi-judicial actions by the county council are a limiting factor in the practice of government." He would like to be able to work on issues with his councilmember but believes he is being

effectively blocked from communicating with him because of this. Would like the county council appeal process changed to have some other board hear project level appeals.

Leon Sams, Warm Beach Community, email on May 23, 2006

Believes all hearing examiner appeals should go directly to Superior Court based on six factors which substantiate my argument above. He has been before the HE and County Council on appeal of an EIS and project in his neighborhood.

Bruce Barnbaum, email June 1, 2006

Support the concept of removing an appeal of hearing examiner to the county council. Led a major battle in the 1990s over a rock quarry in his neighborhood. County Council overturned the HE decision in favor of the mining company; Bruce had to stop for lack of money to continue on to Superior Court after spending thousands of dollars to fight it at County Council.

Steve Higgins, Monroe Monitor column, June 13, 2006 "The Downhill Appeal."

Explains in his column how the process is notoriously unfair to citizens from others and his own experience in appeals to the county council.

Jeff Massie - President of CPUSRV, email July 11, 2005

Again corroborates my concerns about the county council appeals process from the community groups own experience of getting of the council overturning the HE examiner decision in favor of the developer; it will go to Superior Court. Costs have been high already fighting it at the county level. That money could have gone to the fight in Superior Court.

Finally, the issue paper put together by Steve Reinig explains the liability issue well and has support also from Everett City Councilmember and Marysville Public Works Director Paul Roberts (who also worked for Executive Reardon as Executive Director and as Planning Director for the City of Everett) and Duane Bowman, Planning Director for the City of Edmonds. Both Edmonds and Everett do not use the city council for appeals.

Again, I make the motion to change the charter to direct council to abandon hearing examiner appeals to County Council and ensure that ALL hearing examiner appeals go directly to Superior Court. I see this as deleting the words in 2.140 Motions "to issue rulings in quasi-judicial proceedings except rezone actions" and adding a new section 2.150 Hearing Examiner Appeals, that language determinant on what the commissioners vote to do regarding this issue.

www1.co.snohomish.wa.us/County_Services/Charter_Review

-----Original Message-----

From: Kristin Kelly [mailto:kristin@futurewise.org]
Sent: Friday, June 09, 2006 4:58 PM
To: Reinig, Stephen
Subject: FW: Quasi-Judicial Role
Importance: High

Hi Steve, Can you send this citizen comment out to the other commissioners? Thanks.
Kristin Kelly

-----Original Message-----

From: Mike Waggoner [mailto:m.ewaggoner@comcast.net]
Sent: Friday, June 09, 2006 1:54 PM
To: 'Kristin Kelly'
Subject: Quasi-Judicial Role

I've been trying since last November to get people together to talk about a plan for our area. Most (but not all) of it is inside of the Snohomish UGA and some is inside the City itself. I have talked to the City, to the County Planning Department and tried to talk to my County Councilman. Unfortunately, there are some projects going on in the area, and he might be called upon to act as an appeals board for them, so he can't even discuss them even though it would probably help all of the people involved. Now I don't seem to have any way to get all of the interested parties together to develop a "vision" and forge the compromises necessary to get it implemented.

My conclusion is that quasi-judicial activities by the County Council are a limiting factor in the practice of government. I would like to be able to work issues with my Councilman, and I am effectively being blocked from even communicating with him because of this process. Can't this be changed to have some other board do project appeals?

6/14/2006

Reinig, Stephen

From: Leon Sams [leon@cedarcomm.com]
Sent: Tuesday, May 23, 2006 11:12 PM
To: Reinig, Stephen
Subject: Council should be removed from appeal process

Beach Drive Neighborhood Association
 20028 Beach Drive
 Stanwood, WA 98292

To Whom It May Concern:

Here is a brief history of our struggle. Our organization has been working hard to see that the Free Methodist Senior Community at Warm Beach follow the rules. In December 2005, we challenged the Determination of Non Significance for their SoundView project and our appeal was upheld. The appeal was again upheld when the decision was reconsidered. The Warm Beach Senior Community (WBSC) is required to complete an EIS. The DNS granted by Snohomish County Planning was withdrawn until the EIS is completed. The County is championing the WBSC cause and is trying to limit the EIS scoping process to water quality only.

May 17, 2006 at 10:30 a.m., the Snohomish County Council considered an ordinance to allow the WBSC to place two ten inch pipes for surface water and a third sewer line down the middle of our street. I argued that this was premature because no building permits have been granted and EIS scoping is underway. County Code clearly says that that SEPA has to be satisfied or a franchise will be denied. The County Council voted to pass ordinance 06-023 by a vote of five to zero to allow the WBSC the franchise they requested! This is after I read the code directly into the record for all five members of the Council to hear!

13.10.070 Legal compliance.

Nothing in this section or title shall avoid compliance by an applicant or permittee with all other applicable laws, statutes, including the state environmental policy act (chapter 43.21C RCW) and the shoreline management act (chapter 90.58 RCW), code provisions, including Title 30 SCC. The applicant shall have the burden of securing any other permit, license, or legal approval required to undertake the use proposed by the applicant. Where any applicant or permittee has failed to comply with all legal conditions precedent to his proposed use, his application shall be denied and any permission granted under this chapter and associated regulations shall be revoked.

(Added Ord. 85-051, § 3, July 3, 1985; Ord. 02-098, December 9, 2002, Eff date February 1, 2003).

The County Council must be removed from the appeal process for many compelling

reasons.

First: The council is an elected legislative body who need to talk and interact with their constituents on policy issues. They should be spending their time on policy, not on judicial matters about which they generally know very little.

Second: The appeals are expensive, not just in terms of filing fees, but in terms of hiring lawyers, taking time off from work, etc. Most cases are headed to Superior Court anyway. The fairest way to determine if the decision was good or bad is by a Judge elected by the people who have experience and expertise in legal matters.

Third: The council puts themselves at risk (on either side) of upsetting their constituents which influences the way people vote. It is an almost absolute that an appeal to the Council will end in upsetting a large group of people.

Fourth: The council is always asked to declare if they have received campaign contributions from any of the parties, and if they have had ex part conversations with the litigants in the matter. What a terrible place to be as an elected representative. It's a compromising situation with a guaranteed negative outcome.

Fifth: Appeal hearings to the County Council take up a large amount of their valuable time which could be better spent working on legislative and policy issues. Isn't this what they were elected to do?

Sixth and Finally: The suggestion to expand the council from 5 to 7 members has been raised because five members cannot keep up with the demanding commitments of the County Council. If appeals to the council were ended, this would free up valuable council time and eliminate the need for more council members. An additional benefit is the savings it would give taxpayers. The cost of two additional council members with support staff is expensive.

The May 17th appeal that we've just completed was an eye opener for me personally because it underscored the urgent need to get the council out of the appeal process.

Sincerely,

Leon Sams, Chairman

To County Charter Commissioners,

I would like to support the concept of removing an appeal of a hearing examiner's decision to the county council.

Throughout the 1990's I led a major environmental battle within Snohomish County to prevent the permitting of a massive sand and gravel pit, together with a hard rock quarry, proposed by Associated Sand and Gravel Co. (now renamed Rinker Materials) from being permitted east of Granite Falls on the Mountain Loop Highway. We organized the Stillaguamish Citizens' Alliance, and challenged the EIS for the project, achieving a major victory in 1995 when the EIS was declared "inadequate" on ten grounds. This decision was handed down despite repeated meddlings on the part of the County Council to alter the very nature of the hearing in front of Hearing Examiner John Galt in a baldfaced attempt to push the project through.

Following that decision, the county council rewrote numerous laws in order to push the project through, specifically altering the method that the public had to appeal a revised EIS. In fact, the county council simply removed an appeal of the supplemental EIS, thereby declaring the SEIS "adequate" on its face. In other words, if the company had simply changed a comma in the EIS and resubmitted it, it would have been looked upon as adequate in the eyes of the county council and the hearing examiner.

The hearing examiner, unable to review the adequacy of the EIS, was left with the issue of the permit, alone. He denied it in a spectacularly reasoned and worded decision. The county council then remanded the decision back to him, and forced him to grant the permit.

At that point, our only venue was an appeal to the very county council that had meddled in the affair from the start, had changed laws to force its permitting, and finally had thrown the hearing examiner's decision back to him demanding a reversal of his decision. Clearly the appeal to the county council had no chance of a victory, but it wasted an immense amount of time and money by a citizen's group that was hard-pressed to raise the money to continue its opposition to the project.

There is no reason for an appeal to the county council of a hearing examiner's decision on a land use project. It should go directly to superior court, and then, if necessary to the state supreme court. The current procedure is duplicitous and wasteful. It should—it must—be changed for the benefit of everyone in Snohomish County.

Bruce Barnbaum
31417 Mountain Loop Highway
Granite Falls, WA 98252
(360) 691-4105

The Downhill Appeal

What's Going On?

BY STEVE HIGGINS,
COLUMNIST

Imagine some corporation has applied for a permit to build and operate something very offensive right next to your house, something like a noisy, diesel, smoke-spewing manufacturing plant,

radio towers, or perhaps a poorly-planned gravel mine. Concerned for your quality of life and property value, you do your research, and find out

the offensive proposal would be located outside the city, so you give Snohomish County Councilman John Koster, Gary Nelson, Dave Gosset, or Kirke Sievers a call to talk about it. (Dave Somers is excluded because he might give you some different answers).

You are a little nervous while you wait on the phone, but at least you know that nice guy who was elected, who represents your district, and whom perhaps you even voted for,

is going to give you a few minutes of his time and some advice on how to proceed, even if he disagrees with your viewpoint. You might expect that for better than 100k a year, the

Snohomish County councilman you helped to elect would listen to your concerns, explain how the process works, and advocate for you if they agreed with your position. But you'd be wrong. Koster, Nelson, Gossett and Seivers would refuse to talk about it. They might say something like "I'm really sorry, but this issue could come before me on appeal, so I can't talk about it, it's called ex-parte communication, and it's bad. You see, unlike your city, we, as non-experts on the council, have the power to overturn our own hearing examiner, even though he is an experienced attorney who we have hired at great expense with your tax money to render an expert opinion."

Later, let's say after the council overturned a hearing examiner decision, like the recent one to deny a permit for the KRKO radio towers, or the monumental one years ago overturning

denial of a poorly planned gravel mine near Granite Falls, or any of scores of others, you are forced to appeal to superior court and decide to vent at your county councilman. The conversation might go like this.

You say, "Now that this decision is made, and that ex-parte business is no longer relevant,

do you think you could acknowledge this is a bad system? According to my research, all you have to do as a council member is vote for an ordinance that removes the council from the appeal process, allowing the experts like the hearing examiner and Superior Court judges to do the job they are trained for without your uninformed interference."

Councilman replies, "I understand your concern, but there are advantages to having the council as an appeal body. You see, it saves people money on legal fees because citizens can testify before the council, but you'd have to pay an attorney if the first appeal went directly to superior court. You know, I'd like to meet you, you should come to Everett sometime..."

You angrily cut off his invitation mid sentence.

"Are you stupid? Did you think the other side wasn't going to use an attorney? Of course it didn't save us money, not only did we have to hire an attorney, just like in superior

court, we also had a huge bill because we had to pay the attorney for two appeals and were required to transcribe all the citizens' testimony for the court appeal. You guys always overturn the little guys' victory, just as if you were getting paid off or something."

Councilman replies, "Well, I actually sort of did get paid off. But it was inadvertent, I assure you. You see, the big money guys like major local developers, the Master Builders,

the owners of the mining company — you know, the guys we pay attention to — have ways of making bigger campaign contributions than you ever dreamed of, and, if you understand how politics and land use decisions work, you'd understand why we want to hang onto this system..."

You interrupt again.

"Yeah, but you'd have to recuse yourself on an appeal decision involving a big contributor like those guys."

Councilman replies, "Well, uh, not exactly. You see, these big contributors are kind of special. You could say they have extra influence. All we have to do is officially declare that

they gave us a big wad of cash, and we're in the clear. We can still vote for their project. Just because they bankrolled my campaign doesn't mean I'm going to do anything for them. You know, just like what Dave Gossett and Jeff Sax said during their recent campaigns.

You see, my friend, campaign money really doesn't influence me at all, but talking to you, the guy who voted for me is really sort of well, like sinful, or something like that."

Now you're really pissed.

"You guys are wasting huge amounts of taxpayer money listening to appeals and making uninformed decisions that benefit those big developers when you should be moving forward on issues of real importance to the county like public safety and planning for the future, and passing legislation like the long overdue critical areas ordinance ..."

This time you get interrupted by the gleeful councilman.

"I know, man, isn't America great..."

Your turn.

"It's not the 'America' thing, dummy, it's Snohomish County. My city woke up to this problem years ago and fixed it by taking the council out of the appeal process. All you guys would have to do is pass a simple ordinance..."

Councilman, rolling his faux-sympathetic eyes, interrupts with the final word.

"Blah, blah, blah. Yeah, I know," as he presses an empty envelope into your hand.
Isn't American Great.

TYPE 1 PERMITS AND DECISIONS - ADMINISTRATIVE

30.71.020 Type 1 permits and decisions.

The following are processed as Type 1 administrative decisions:

- (1) Administrative conditional use permit;
- (2) Binding site plan approval;
- (3) Boundary line adjustment, except as provided in 30.41E.020 SCC;
- (4) Building and grading permits subject to SEPA review pursuant to chapter 30.61 SCC, or subject to conditions imposed pursuant to chapter 30.32D;
- (5) Free standing signs in the FS and RFS zones;
- (6) Code interpretations issued pursuant to SCC 30.83.030(2);
- (7) Flood hazard permit, except for single family and duplex residential development;
- (8) Flood hazard variance;
- (9) Freeway service zone official site plan (existing FS zone);
- (10) Shoreline substantial development permit, shoreline conditional use, and shoreline variance, except when processed as a Type 2 decision pursuant to SCC 30.44.240;
- (11) Short subdivision approval with no dedication of a new public road right-of-way;
- (12) Urban centers project decision pursuant to chapter 30.34A SCC; and
- (13) Variance.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

30.71.025 Other decisions subject to Type 1 decision notice and appeal provisions.

Certain decisions not listed in SCC 30.71.020 and not otherwise subject to the provisions of this chapter may be subject to either the Type 1 notice or appeal provisions, or both, when specifically required by other provisions of this title.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

30.71.026 Vacation of permits and variances.

(1) Requests to vacate a permit or variance shall be made in writing to the department of planning and development services.

(2) The director shall determine if the conditions in 30.43A.108 or 30.43B.128 are present prior to authorizing the vacation.

(3) Vacation of any permit or variance shall be documented by the filing of a notice of land use permit or variance vacation with the county auditor on a form provided by the department of planning and development services.

(Added Amended Ord. 05-022, May 11, 2005, Eff date May 28, 2005)

30.71.027 Review or revocation of certain permits or approvals.

(1) If the director determines that a permit or approval is in material violation of this title, the director may initiate proceedings before the hearing examiner to review or revoke the permit or approval, in whole or in part.

(2) The hearing examiner shall hold a hearing in accordance with SCC 30.71.100. The director shall provide notice in accordance with SCC 30.70.050.

(3) The hearing examiner, upon good cause shown, may direct the department issue a stop work order to temporarily stay the force and effect of all or any part of an issued permit or approval until the final decision of the hearing examiner is issued.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

30.71.030 Type I process overview.

A Type I permit or decision is administratively made by the department. When a complete application is filed, the department provides notice of application, accepts written comments, and then issues a decision approving, approving with modifications or conditions, or denying the application. The department's decision is appealable to the hearing examiner, or, for a shoreline substantial development permit, shoreline conditional use permit, and shoreline variance, to the state shorelines hearings board. The hearing examiner's decision on appeal of a Type I application is the final county decision. Further appeal may be taken pursuant to a land use petition filed in superior court. For shoreline appeals, the state shorelines hearings board acts in place of the county hearing examiner.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Emergency Ord. 05-030, April 18, 2005, Eff date April 18, 2005)

30.71.130 Appeal of hearing examiner's decision on Type I appeal.

(1) The hearing examiner's decision on a Type I appeal is the final decision of the county and may be appealed to superior court within 21 days of issuance of the decision in accordance with chapter 36.70C RCW.

(2) The cost of transcribing the record of proceeding, of copying photographs, video tapes and any oversized documents, and of staff time spent in copying and assembling the record and preparing the record for filing with the court shall be borne by the party filing the petition. If more than one party appeals the decision, the costs of preparing the record shall be borne equally among the appellants.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

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TYPE 2 PERMITS AND DECISIONS - HEARING EXAMINER

30.72.020 Type 2 permits and decisions.

The following are processed as Type 2 permits and decisions:

- (1) Conditional use permit and major revisions;
- (2) Rezones (site-specific);
- (3) Official site plan or preliminary plan approval when combined with a rezone request in FS, IP, BP, PCB, T, RB, RFS, and RI zones;
- (4) Flood hazard area variance, if combined with a Type 2 application;
- (5) Preliminary subdivision approval and major revisions;
- (6) Planned residential developments;
- (7) Short subdivision with dedication of a new public road;
- (8) Shoreline substantial development, conditional use, or variance permit if forwarded pursuant to SCC 30.44.240
- (9) Shoreline substantial development permit rescission; and
- (10) Boundary line adjustments as provided in 30.41E.020 SCC.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

30.72.025 Type 2 process overview.

Type 2 decisions are made by the hearing examiner based on a report from the department and information received at an open record hearing. The hearing examiner's decision on a Type 2 application is a final decision subject to appeal to the county council, except for shoreline permits issued under chapter 30.44 SCC. Appeals of shoreline substantial development permits, shoreline conditional use permits, and shoreline variances are made directly to the state shorelines hearings board.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003; Emergency Ordinance No. 05-030, April 18, 2005, Eff date April 18, 2005)

30.72.075 Summary dismissal of a Type 2 appeal.

(1) The council may summarily dismiss an appeal in whole or in part without hearing if it determines that the appeal is untimely, incomplete, without merit on its face, frivolous, beyond the scope of the council's jurisdiction, or brought merely to secure a delay. The council may also summarily dismiss an appeal based on lack of standing after allowing the appellant a reasonable period in which to reply to the challenge.

(2) Except in extraordinary circumstances, summary dismissal orders shall be issued within 15 days following receipt of either a complete appeal or a request for issuance of such an order, whichever is later.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

30.72.080 Requirements for filing a Type 2 appeal.

(1) An appeal must be in writing and contain the following:

(a) A detailed statement of the grounds for appeal and the facts upon which the appeal is based, including references to specific hearing examiner findings or conclusions, and to exhibits or oral testimony in the record;

(b) Argument in support of the appeal; and

(c) The name, mailing address, and daytime telephone number of each appellant, or each appellant's representative, together with the signature of at least one of the appellants or of the appellants' representative.

(2) The grounds for filing an appeal shall be limited to the following:

(a) The decision exceeded the hearing examiner's jurisdiction;

(b) The hearing examiner failed to follow the applicable procedure in reaching the decision;

(c) The hearing examiner committed an error of law; or

(d) The hearing examiner's findings, conclusions, and/or conditions are not supported by substantial evidence in the record.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

30.72.130 Effect and appeal of final council decision on **Type 2 appeal.**

(1) The county council's decision on a **Type 2** appeal is the final decision of the county except where a matter has been remanded to the hearing examiner. A final council decision may be appealed to superior court within 21 days of issuance of the decision in accordance with chapter 36.70C RCW.

(2) The cost of transcribing the record of proceeding, of copying photographs, video tapes and any oversized documents, and of staff time spent in copying and assembling the record and preparing the return for filing with the court shall be borne by the party filing the petition. If more than one party appeals the decision, the costs of preparing the record shall be borne equally among the appellants.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

TYPE 3 DECISIONS - LEGISLATIVE

30.73.010 Purpose and applicability.

(1) The purpose of this chapter is to set forth procedures for adoption or amendment of the comprehensive plan and development regulations pursuant to the Growth Management Act, chapter 36.70A RCW.

(2) This chapter is intended to supplement, and not to limit, existing county authority and procedures for adopting legislation. Nothing in this chapter shall be construed to limit the legislative authority of the county council to consider and adopt amendments and revisions to the comprehensive plan and development regulations, except as expressly provided in this chapter.

(3) The provisions of this chapter apply to all **Type 3** legislative decisions which include and are limited to adoption or amendment of the comprehensive plan, county-initiated rezones to implement the comprehensive plan, docketing proposals submitted pursuant to chapter 30.74 SCC, and new GMA development regulations or amendment of existing development

regulations.

(4) This chapter shall not apply to amendments to the initiative, mini-initiative, or referendum process provided for in Article 5 of the county charter.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

30.73.020 Overview of **Type 3 legislative process.**

(1) Adoption or amendment of the comprehensive plan and development regulations is a legislative decision, rather than a project permit decision. The legislative process includes a public hearing before the county council and may include a public hearing before the planning commission. It is designed to solicit a broad range of public input at all levels.

(2) Appeal of a **Type** 3 decision is made to the growth management hearings board in accordance with RCW 36.70A.290, except as otherwise provided by law.

(3) Council legislative action on other matters is governed by the county charter and other applicable law, and is not subject to this chapter.

(Added Amended Ord. 02-064, December 9, 2002, Eff date February 1, 2003)

**Snohomish County
Hearing Examiner Administrative Appeals
2002-2006**

Year	Hearing Examiner Decisions (Land Use)	Hearing Examiner Decisions Appealed to Council	Hearing Examiner Cases Appealed to Superior Court after Council Review	Other Land Use Cases Filed in Superior Court (APA or LUPA appeals)	TOTAL ALL LAND USE CASES FILED IN COURT
2006	111 (to date)	8	1 Warm Beach	1 Ross	2
2005	219	5	1 Frei	5 Tuerk Startup Water Dist. PMA Development Stilly Flood Control District Brightwater King County 1	6
2004	275	4	1 Conom	3 Island Crossing (1) Island Crossing (2) Brightwater King County 5	4
2003* *New UDC 2/1/03	193	6	2 Meadowood Preservation Belmark Homes	6 Blakey Friends of Monroe Golf Course(2) Kinney Matteson Santose Hensley Gerdes Brightwater King County 2	8
2002	216	16	5 Blakey Bellemont Sundquist Reynolds Friends of Monroe Golf	3 Arnold Bettag Clark	8