



<b>Meeting Date:</b>	December 10, 2020
<b>Name of Agenda Item:</b>	Public Hearing for Zoning Text Amendment re Use of Hearing Examiner
<b>Type of Hearing:</b>	Legislative
<b>Attachments:</b>	Draft Ord 1615, Minutes of 7-22-20 Joint CDC and PC Workshop, Decision flowcharts, Record of previous apps
<b>Summary Statement:</b>	<p>In 2018 the City of Lynden began researching the use of a hearing examiner after several costly and time-consuming administrative appeals were defended. Use of a hearing examiner, typically an experienced land use attorney, could provide multiple benefits to the City. These include an expediency in processing applications, the unbiased opinion of a professional, removing social/political influence from the process, reducing the City’s liability, and decreasing the obligations placed on volunteer boards.</p> <p>Generally, a hearing examiner could be considered as the reviewer of appeals/applications where specific legal or technical criteria are listed. Feedback regarding this initiative has led to a code amendment drafted to include some appeals and some variance requests. Decisions made by the hearing examiner would go to the City Council if appealed. This code amendment also provides an opportunity to update sections of code to current organizational structure and other improvements. In summary, the attached draft ordinance proposes:</p> <ul style="list-style-type: none"> <li>• To remove an unusual and glaring liability found in Chapter 17.13.060(B) which allows any three property owners or three residents of the City to petition for the review of any permit issued under the development code without indicating a specific appeal period.</li> <li>• That a hearing examiner would hear some administrative appeals.</li> <li>• That a hearing examiner would hear variances from Chapter 19. These variance applications are currently heard by the Board of Adjustments. This change would eliminate the need for a Board of Adjustments.</li> <li>• That a hearing examiner would hear appeals of the Building Official’s decisions that are currently directed to the Board of Appeals (described in Chapter 15.14), which has never been created.</li> </ul> <p>Previous drafts of the code amendment had shifted the review of Conditional Use Permits and Shoreline Permit to the hearing examiner as well. After feedback from the last workshop, the attached ordinance does not include these applications in the hearing examiner’s scope of work. However, staff and legal counsel urge the Planning Commission and the City Council to reconsider the issue of shoreline permits. The City’s Shoreline Master Plan is over 100 pages of shoreline specific code. Mitigation work and compliance is often highly dependent on work from certified biologists and the best available science related to shoreline / riparian mitigation. Staff’s recommendation is to send shoreline permits to a hearing examiner for a decision. Appeal of these decisions would be heard by the State’s Shoreline Hearings Board as is the current path within the City’s development code.</p>
<b>Recommended Action:</b>	Motion to recommend to the City Council the approval of Ord 1615 with the revision to include the hearing examiner’s review of shoreline permits.