

Docket No.	Project Name	Brief Description of Suggested Amendment	Who Suggested Amendment	Staff Lead	Staff Recommendation
13-01	KCC Title 15A Hearing Examiner	Revise KCC Title 15A to make Hearing Examiner recommendations final decisions and allow reconsideration of HE recommendations and decisions	Kittitas County Staff	CDS	Approve

Kittitas County Community Development Services proposed amending portions of Title 15A to make the Hearing Examiner the final decision maker on certain actions for which he/she is currently responsible only for the hearing and recommendation, such as Conditional Use and certain Shoreline Permits.

Previously, the Board of Adjustment was responsible for making the final decision on these types of permits. However, due to inefficiencies, the Board of Adjustment (BOA) was abolished and references to the BOA deleted from the Code. Currently, the Board of County Commissioners is the final decision maker on certain project approvals previously assigned to the BOA.

To provide for more efficient and consolidated permit processing and related functions (i.e. notice requirements), County staff proposed assigning the Hearing Examiner responsibility for the final decision on Conditional Use Permits and certain Shoreline Permits from rather than having the Hearing Examiner conduct a hearing and make a recommendation for the Board to review later after the project has been calendared and placed on a BOCC meeting agenda.

To provide opportunities for applicants and aggrieved parties of record to challenge Hearing Examiner recommendations and decisions without going to Superior Court, the proposed amendments also introduce a request for reconsideration process. This process could be used to correct errors in the record before the Hearing Examiner's recommendation is reviewed by the Board in a closed record hearing on something like a plat or to request amendments to the Hearing Examiner's approval conditions on something like a Conditional Use Permit.

It should be noted that Docket Item 13-04 also includes amendments to Table A from KCC Title 15A to provide an Administrative Conditional Use Permit (ACUP) process. While the ACUP proposed amendment is separated and in a different docket amendment exhibit for the purpose of docket review (so that decision to approve or deny one concept does not impact the ability to approve or deny the other), when it comes time to prepare an implementing ordinance all changes to Table A will be combined based on the Board's ultimate decision on the docket items.

Kittitas County Code Title 15A, Hearing Examiner, is amended as follows:

Title 15A | PROJECT PERMIT APPLICATION PROCESS*

Chapters

- 15A.01 Administration, Purpose and Objective
- 15A.02 Definitions
- 15A.03 Project Permit Application Review
- 15A.04 Integration of SEPA and Appeals of SEPA Actions
- 15A.05 Hearings
- 15A.06 Notice of Decision
- 15A.07 Administrative Decisions Appeals
- 15A.08 Judicial Appeal
- 15A.09 Planned Actions
- 15A.10 Amendments
- 15A.11 Development Agreements
- 15A.12 Coordination with State Permitting
- 15A.13 Site Plan Review
- 15A.14 Request for Reconsideration

15A.01.040 Roles and responsibilities.

The regulation of land development is a cooperative activity including many different elected and appointed bodies and county staff. The specific responsibilities of these bodies is set forth below and outlined in Table A at the end of this title.

1. **Applicant.** An applicant is expected to read and understand the county comprehensive plan and code and be prepared to fulfill the obligations placed on the applicant. Pre-application conferences are available to anyone who wishes to discuss such obligations prior to submittal.
2. **Community Development Services Director.**
 - a. The Community Development Services Director (CDS Director) is responsible for the administration of portions of KCC Title 15, Environmental Policy, Title 15A, Project Permit Application Process, Title 16, Subdivisions, Title 17, Zoning, Title 17A, Critical Areas, and the shoreline master program.
 - b. Upon request or as determined necessary, the CDS Director shall interpret the meaning or application of the provisions of said titles and issue a written administrative interpretation. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation.
 - c. Administrative land use decisions on certain zoning conditional uses, KCC Chapter 17.15, and variances from the standards and dimensional regulations of the zoning code, KCC Title 17, such as setback and yard restrictions.
3. **Board of County Commissioners.** In addition to its legislative responsibilities under KCC Title 15B, the ~~board-Board~~ shall review and act on the following subjects pursuant to this title:
 - a. Recommendations of the Hearing Examiner or Planning Commission. Decision-making process by the ~~board-Board~~ shall consist of a public meeting or meetings wherein the ~~board-Board~~ reviews the written record transmitted from the Hearing Examiner for Quasi judicial matters and the Planning Commission for Legislative matters and issues a written decision in resolution or ordinance form. During such meeting(s), appropriate county staff will present the record to the ~~board-Board~~, providing information as necessary to ensure county code compliance. No new comment or information will be allowed by the ~~board-Board~~ during the decision-making process.
 - b. Appeals of administrative SEPA actions regarding an action without an underlying permit.

- c. Open record appeals of administrative SEPA actions when the ~~board~~ Board of county commissioners makes decision on, or hears appeals of, the underlying action.
- d. Closed record appeals of administrative SEPA actions, exclusive of Hearing Examiner SEPA appeal decisions.

4. Hearing Examiner.

- a. The Hearing Examiner shall review and make recommendations to the Board on the following applications and subjects:
 - i. Applications for preliminary plats and rezone applications.
 - ii. Other actions requested or remanded by the Board.
 - iii. Development agreements.
- b. The Hearing Examiner shall review and act on the following applications and subjects:
 - i. Appeals of administrative determinations on certain zoning conditional uses, and variances from the standards and dimensional regulations of the zoning code, KCC Title 17, such as setback and yard restrictions.
 - ii. Conditional use permits that require a hearing pursuant to the zoning code, KCC Title 17.
 - iii. Shoreline permits, including variances, conditional uses, and shoreline substantial development permits pursuant to the shoreline master program.

- ~~4. Hearing Examiner. The Hearing Examiner shall review and make recommendations to the Board on the following applications and subjects:~~
- ~~a. All Quasi judicial review processes including:~~
 - ~~i. applications for preliminary plats~~
 - ~~ii. Rezone applications.~~
 - ~~b. Other actions requested or remanded by the board of county commissioners.~~
 - ~~c. Development agreements.~~
 - ~~d. Appeals of administrative determinations on certain zoning conditional users, and variances from the standards and dimensional regulations of the zoning code, KCC Title 17, such as setback and yard restrictions.~~
 - ~~e. Conditional use permits to the zoning code, KCC Title 17.~~
 - ~~f. Shoreline permits, including variances, conditional uses, and shoreline substantial development permits pursuant to the shoreline master program.~~
 - ~~g. Open record appeals of administrative SEPA actions when the Hearing Examiner makes decision on, or hears appeals of, the underlying action.~~

Chapter 15A.14 REQUEST FOR RECONSIDERATION

Sections

15A.14.010 Applicability.

15A.14.020 Contents.

15A.14.030 Timing.

15A.14.040 Decision.

15A.14.050 Limitations.

15A.14.060 Appeals.

15A.14.010 Applicability.

An applicant or party of record] may file a written request for reconsideration of a Hearing Examiner recommendation or final decision.

15A.14.020 Contents.

The request shall explicitly set forth the alleged errors of law or fact. Grounds for seeking reconsideration are limited to the following:

1. The Hearing Examiner exceeded his/her jurisdiction;
2. The Hearing Examiner failed to follow applicable procedures;

3. The hearing Examiner committed an error of law;
4. The Hearing Examiner's findings, conclusions and/or conditions are not supported by the record; or
5. New evidence which could not reasonably have been produced and which is material to the recommendation or decision is discovered.

15A.14.030 Timing.

A request for reconsideration shall be filed within ten (10) calendar days of the date of the recommendation or decision. Upon receipt of a request for reconsideration, the Hearing Examiner shall review said request render a decision within ten days.

15A.14.040 Decision.

The Hearing Examiner shall respond to the request for reconsideration by issuing an Order on Reconsideration. The Order on Reconsideration may:

1. Deny the request for reconsideration;
2. Approve the request with revised findings and/or conditions; or
3. Set the matter for additional public hearing.

15A.14.050 Limitations.

Each party is allowed only one motion for reconsideration.

15A.14.060 Appeals.

A request for reconsideration is not a prerequisite to filing an appeal. However, where the reconsideration process has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the Hearing Examiner.

Kittitas County Code 15A, Table A is amended as follows:

	Step 1 Public Comment Period	Step 2 Open Record Hearing	Step 3 Decision	Step 4 Administrative Appeal	Step 5 Judicial Appeal*
Site Plan Review:	15 days	None	Staff	BOCC	Sup. Court
Zoning Variance:	15 days	None	Staff	HE	Sup. Court
Permitted Administrative Uses ⁵ :	15 days	None	Staff	BCC	Sup. Court
Short Plats:	15 days	None	Staff	BCC	Sup. Court
Segregations/Lot Line Adjustments:	None	None	Staff	BCC	Sup. Court
SEPA Actions: Appeals of threshold determinations:	15 days	None	Staff	HE	Sup. Court
SEPA Actions: The exercise of substantive SEPA authority and adequacy of an EIS ¹ :	15 days	None	Staff	HE/BCC ²	Sup. Court
Independent administrative rulings:	None	None	Staff	HE/BCC ³	Sup. Court
Zoning Conditional Uses:	15 days	HE	BCC HE	None	Sup. Court
Long Plats:	15 days	HE	BCC	None	Sup. Court
Shorelines Substantial Development/Cnd. Use:	15 days	HE	BCC HE	None	Shorelines Board
Shorelines Setback Variance:	15 days	HE	BCC HE	None	Shorelines Board
Site-Specific Rezone to Zoning Map (Including PUD) ⁴ :	30 days	HE	BCC	None	Sup. Court
Development Agreement:	30 days	BCC	BCC	None	Sup. Court