

CITY OF ROY, WASHINGTON

ORDINANCE NO. 1008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROY, WASHINGTON, AMENDING CHAPTER 1-6A SPECIFIC OFFICERS, CHAPTER 11-4 RCC TYPES OF PROJECT PERMIT APPLICATIONS, AND CHAPTER 11-43 RCC PRELIMINARY PLATS; ADOPTING INTERIM AMENDMENTS TO THE CITY'S LAND USE PROCEDURES; DESIGNATING PRELIMINARY PLAT APPLICATIONS AS TYPE III-A PROJECT PERMITS; DELEGATING AUTHORITY TO THE CITY'S HEARING EXAMINER TO ISSUE FINAL DECISIONS APPROVING OR DENYING SUCH APPLICATIONS; SETTING FORTH PRELIMINARY SUPPORTIVE FINDINGS; SCHEDULING A POST-ADOPTION PUBLIC HEARING DATE; PROVIDING FOR SEVERABILITY; DESIGNATING A SIX-MONTH EFFECTIVE PERIOD; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Roy has established procedures governing the processing of preliminary plat applications at Chapters 11-4 and 11-43 RCC; and

WHEREAS, the RCC currently designates preliminary plat applications as Type III-B project permits for which the City Council renders a final decision following a public hearing before, and recommendation by, the City's Hearing Examiner; and

WHEREAS, the City Council desires to remove itself from the quasi-judicial decisional process for preliminary plats, and to delegate authority to the City's Hearing Examiner to render final decisions on preliminary plat applications; and

WHEREAS, the Hearing Examiner's expertise in land use decision-making uniquely qualifies the Examiner to render final decisions on preliminary plat applications, which will serve the public interest by expediting and streamlining the decisional process for such applications; and

WHEREAS, the City Council is authorized by applicable state law, including without limitation RCW 58.17.330, to designate the Hearing Examiner as the final decisional authority for preliminary plats;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ROY DO ORDAIN AS FOLLOWS:

Section 1. Preliminary Findings. The City Council hereby adopts the above recitals, as preliminary legislative findings in support of this ordinance. The Council further enters the

following additional findings:

- A. The amendments set forth in this ordinance are consistent with and will implement the relevant provisions of the City's Comprehensive Plan.
- B. The amendments set forth in this ordinance will promote the public health, safety, morals and welfare.
- C. The amendments set forth in this ordinance are consistent with Title 13 RCC and federal and state law, as applicable.
- D. The amendments set forth in this ordinance are categorically exempt from SEPA review pursuant to WAC 197-11-800(19).
- E. The amendments set forth in this ordinance have been considered by reference to the Growth Management Act Planning Goals enumerated at RCW 36.70A.020.

Section 2. Amendment of RCC 1-6A-4. Title 1, Chapter 6A, subsection 4(H)(1)(a) of the Roy City Code is hereby amended to provide in its entirety as follows:

....

H. Duties:

1. Applications: The examiner shall receive and examine available information, conduct public hearings, prepare the record thereof, and enter findings of fact, conclusions and decisions in the following designated areas:

- a. Those areas specified in title 11 of this code regarding: preliminary plats, variances, conditional use applications and appeals from administrative decisions and title 13 of this code regarding flood control decisions

....

Section 3. Amendment of RCC 11-4-3. Title 11, Chapter 4, Section 3 of the Roy City Code is hereby amended to provide in its entirety as contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 4. Amendment of RCC 11-43-2. Title 11, Chapter 43, Section 2 of the Roy City Code is hereby amended to provide in its entirety as follows:

11-43-2 Type of application: A preliminary plat is a Type III-~~BA~~ application and the ~~city council~~ hearing examiner shall make the final decision.

Section 5. Amendment of RCC 11-43-4. Title 11, Chapter 43, Section 4 of the Roy City Code is hereby amended to provide in its entirety as follows:

11-43-4 Criteria for approval: The hearing examiner shall ~~recommend approval, and the city council shall~~ approve the subdivision and/or dedication if it has been determined that:

A. The preliminary plat conforms to Chapter 11-46, General Requirements for Subdivision Approval;

B. Appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, power, parks and recreation, playgrounds, schools and school grounds, and for sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and

C. The public interest will be served by the subdivision and/or dedication.

Section 6. Intent; Superseding Effect. It is the express legislative intent of the City Council that: (i) the Hearing Examiner shall have exclusive authority to consider, conduct public hearings regarding, and render final decisions on all applications for preliminary plats; (ii) the City Council shall have no role whatsoever in the decisional process for preliminary plats; and (iii) the Hearing Examiner's final decision approving or denying a preliminary plat shall be appealable directly to the Superior Court, with no opportunity for any further administrative appeal. The provisions of this ordinance shall be reasonably construed in a manner that effectuates such intent. The provisions of this ordinance shall supersede any irreconcilably conflicting or otherwise inconsistent provision of the RCC to the extent of such conflict or inconsistency.

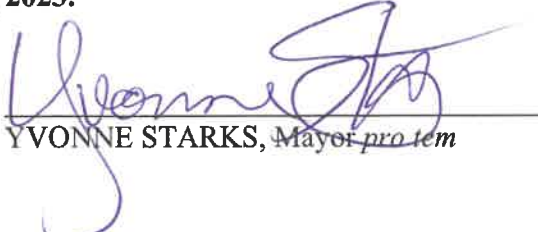
Section 7. Public Hearing. The City Clerk is hereby authorized and directed to schedule a public hearing on the interim procedures set forth in this ordinance and to provide notice of said hearing in accordance with applicable City requirements. Said hearing shall be held no later than 60 days after the date of adoption hereof. The City Council may in its discretion adopt additional legislative findings in support of this ordinance at the conclusion of said hearing.

Section 8. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 9. Effective Date; Sunset. This ordinance, or a summary thereof, shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication. This ordinance shall remain effective for a period of six months, at which time it shall sunset automatically unless terminated earlier or subsequently extended by the City Council. PROVIDED, that the City Council may, in its sole discretion, renew the interim procedures set forth herein for one or more six-month periods in accordance with state law.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF THIS


13 DAY OF March 2023.


YVONNE STARKS, Mayor *pro tem*

ATTEST:


NAME: William Starks
TITLE: Public Works Director

APPROVED AS TO FORM:


LISA MARIE ROYBAL ELLIOTT
Attorney, WSBA #16406

First reading February 27, 2023
Second reading March 13, 2023
Publication date: March 23, 2023

Exhibit A

11-4-3 Project Permit Application Framework

Table A – Classifications

Type I	Type II	Type III-A	Type III-B	Type IV	Type V
Permitted use not requiring site plan review	Short plat, short plat vacation and alteration	Major site plan	Preliminary plat	Final plat	Comprehensive Plan amendment
Boundary line adjustment	Final site plan and final development plan	Conditional use permit, major variance	Plat vacation and alteration		Development regulation amendment
Minor amendment to development plan and site plan	Minor variance, minor site plan, administrative use permit, and WDRC review	Major amendment to site plan and conditional use permit	Preliminary development plan and major amendment to preliminary development plan		Annexation
Temporary accessory structure and use	Land clearing/grading permit	Home occupation requiring CUP approval	Zoning map amendment		Area-wide rezone
Home occupation permit	Administrative interpretation	Critical area public interest determination			
Accessory dwelling unit	Critical area permit	<u>Preliminary plat</u>			

Table B – Procedures

Action	Type I	Type II	Type III-A	Type III-B	Type IV	Type V
Recommendation made by:	N/A	N/A	N/A	N/A	N/A	Planning commission
Final decision made by:	City planner	City planner, or WDRC*	Hearing examiner	City council	City council	City council
Notice of application:	Not required	Not required	Required	Required	Required	Not required

Open record public hearing	Not required	Required only if appealed, then hearing before hearing examiner, or WDRC*	Required before hearing examiner renders final decision	Required before hearing examiner makes recommendation to City Council	Not required	Required before planning commission makes recommendation to City council
Closed record appeal/final decision	Not required	Not required, unless WDRC decision, then hearing before City council*	Required only if appealed, then hearing before City council, unless rezone, then hearing before City council on ordinance adoption**	Not required	Required before City council renders final decision	Required, or City council may hold its own hearing
Judicial appeal	Yes	Yes	Yes	Yes	No	Yes
<p>* Western Design Review Committee (WDRC) Subcommittee issues decisions on preliminary design appearance approvals for projects located within the WDO District. The subcommittee's decision may be appealed to the full WDRC, which will conduct an open record hearing. Decisions of the WDRC may be appealed to the city council, which will conduct a closed record hearing.</p> <p>** There is no administrative appeal for preliminary plats. The hearing examiner's final decision on a preliminary plat is appealable directly to superior court.</p>						

(Ord. 836, 7-22-2009)