

ORDINANCE No. 112522

COUNCIL BILL No. 105160

AN ORDINANCE relating to land use and zoning; adding a new Chapter 23.76 to Title 23 (Land Use Code) of the Seattle Municipal Code to establish standard procedures for land use decisions made by The City of Seattle; repealing Chapters 23.76 (Master Use Permit Process), 23.80 (Decisions Requiring Council Approval) and 23.94 (Amendments to the Land Use Code), Sections 23.22.28 through 23.22.36, 23.22.44, 23.28.40, 23.34.02 through 23.34.18,

23.82.20 through 23.82.60; adding a new Chapter 23.06 and new Sections 23.34.02 and 23.42.42; amending Sections 23.04.10, 23.22.16, 23.22.40, 23.22.48, 23.34.20 through 23.34.44, 23.40.02, 23.40.10, 23.40.20, 23.44.18, 23.44.34, 23.45.106, 23.49.34, 23.49.36, 23.70.50, 23.70.60, 23.80.50; 23.82.10, 23.82.70, 23.82.80, 23.84.06, 23.84.10, 23.84.30, 23.88.10 and 23.88.20; and amending Sections 15.04.020, 15.04.070, 24.66.100, 25.05.510 and 25.05.690 of the Seattle Municipal Code to conform with new Chapter 23.76.

COMPTROLLER FILE No. \_\_\_\_\_

Introduced: <u>OCT 7 1985</u>	By: <u>Street</u>
Referred: <u>OCT 7 1985</u>	To: <u>Land Use</u>
Referred:	To:
Referred:	To:
Reported: <u>OCT 28 1985</u>	Second Reading: <u>OCT 28 1985</u>
Third Reading: <u>OCT 28 1985</u>	Signed: <u>OCT 28 1985</u>
Presented to Mayor: <u>OCT 29 1985</u>	Approved: <u>OCT 30 1985</u>
Returned to City Clerk: <u>OCT 30 1985</u>	Published:
Vetted by Mayor:	Veto Published: <u>OK</u>
Passed over veto:	Veto Sustained:

REC'D OMB OCT 29 1985

Your Committee on \_\_\_\_\_  
to which was referred the within Council report that we have considered the same

10/15/85 Divi

2 (Street

1 (Galle

Vote

*Law Department*

82.60; adding a new  
Sections 23.34.02 and  
Sections 23.04.10,  
23.22.48, 23.34.20 through  
23.40.10, 23.40.20,  
23.45.106, 23.49.34,  
23.70.60, 23.80.50;  
23.82.80, 23.84.06,  
23.88.10 and 23.88.20; and  
15.04.020, 15.04.070,  
and 25.05.680 of the  
code to conform with new

# Seattle--Legislative Department

Date Reported  
and Adopted

## REPORT OF COMMITTEE

Committee on \_\_\_\_\_

has referred the within Council Bill No. \_\_\_\_\_

we have considered the same and respectfully recommend that the same:

15/85 Divided Report

2 (Street + Kraabel) - Pass as Amended

1 (Galle) - Pass with Galle  
amendments

Vote 9-0

Committee Chair

JB:hh  
10/17/85  
VIII:Ord1.1

ORDINANCE 112522

AN ORDINANCE relating to land use and zoning; adding a new Chapter 23.76 to Title 23 (Land Use Code) of the Seattle Municipal Code to establish standard procedures for land use decisions made by The City of Seattle; repealing Chapters 23.76 (Master Use Permit Process), 23.80 (Decisions Requiring Council Approval) and 23.94 (Amendments to the Land Use Code), Sections 23.22.28 through 23.22.36, 23.22.44, 23.28.40, 23.34.02 through 23.34.18, 23.82.20 through 23.82.60; adding a new Chapter 23.06 and new Sections 23.34.02 and 23.42.42; amending Sections 23.04.10, 23.22.16, 23.22.40, 23.22.48, 23.34.20 through 23.34.44, 23.40.02, 23.40.10, 23.40.20, 23.44.18, 23.44.34, 23.45.106, 23.49.34, 23.49.36, 23.70.50, 23.70.60, 23.80.50; 23.82.10, 23.82.70, 23.82.80, 23.84.06, 23.84.10, 23.84.30, 23.88.10 and 23.88.20; and amending Sections 15.04.020, 15.04.070, 24.66.100, 25.05.510 and 25.05.680 of the Seattle Municipal Code to conform with new Chapter 23.76.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Chapters 23.76 (Master Use Permit Process), 23.80 (Decisions Requiring Council Approval) and 23.94 (Amendments to the Land Use Code) and Sections 23.22.28 through 23.22.36, 23.22.44, 23.28.40, 23.34.02 through 23.34.18, and 23.82.20 through 23.82.60 of the Seattle Municipal (Land Use) Code are hereby repealed.

Section 2. A new Chapter 23.76 is hereby added to Title 23, Subtitle V, of the Seattle Municipal Code to read as follows:

CHAPTER 23.76

PROCEDURES FOR MASTER USE PERMITS AND COUNCIL LAND USE DECISIONS

SUBCHAPTER ONE: GENERAL PROVISIONS

23.76.02 Purpose

The purpose of this chapter is to establish standard procedures for land use decisions made by The City of Seattle. The procedures are designed to promote informed public participa-

1 tion in discretionary land use decisions, eliminate redundancy  
2 in the application submittal process, and minimize delays and  
3 expense in appeals of land use decisions.

4 **23.76.04 Land Use Decision Framework**

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- 6 A. Land use decisions are classified into five categories  
7 based on the amount of discretion and level of impact  
8 associated with each decision. Procedures for the five  
9 different categories are distinguished according to who  
10 makes the decision, the type and amount of public notice  
11 required, and whether appeal opportunities are provided.  
12 Land use decisions are categorized by type in Exhibit  
13 76.04A.
- 14 B. Type I, II and III decisions are made by the Director and  
15 are consolidated in Master Use Permits. Type I decisions  
16 are non-appealable decisions made by the Director which  
17 require the exercise of little or no discretion. Type II  
18 decisions are discretionary decisions made by the Director  
19 which are subject to administrative appeal. Type III  
20 decisions are discretionary decisions made by the Director  
21 which are appealable to the Hearing Examiner and may be  
22 further appealed to the Council.
- 23 C. Type IV and V decisions are Council land use decisions.  
24 Type IV decisions are quasi-judicial decisions made by the  
25 Council pursuant to existing legislative standards and  
26 based upon the Hearing Examiner's record and recommen-  
27 dation. Type V decisions are legislative decisions made  
28 by the Council in its capacity to establish policy and  
manage public lands.

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- D. For projects requiring both a Master Use Permit and a Council land use decision as described in this Chapter, the Council decision must be made prior to issuance of the Master Use Permit. All conditions established by the Council in its decision shall be incorporated in any subsequently issued Master Use Permit for the project.
- E. Certain land use decisions are subject to additional procedural requirements beyond the standard procedures established in this Chapter. Code references for such additional requirements, where applicable, are provided in Seattle Municipal Code (SMC) Sections 23.76.06 and 23.76.36.
- F. Master Use Permits requiring only Type I decisions are categorically exempt from the State Environmental Policy Act (SEPA) and do not require environmental review. All Master Use Permits requiring environmental review include both a Type II SEPA decision (Environmental Impact Statement or Declaration of Nonsignificance) and a Type III SEPA decision (determination of compliance with SEPA policies). For these projects, SEPA review procedures established in SMC Chapter 25.05, SEPA Rules, are supplemental to the procedures set forth in this Chapter.

Exhibit 76.04A  
LAND USE DECISION FRAMEWORK

DIRECTOR'S DECISIONS REQUIRING MASTER USE PERMITS

<u>TYPE I</u> (Non-Appealable)	<u>TYPE II</u> (Appealable to Hearing Examiner*)	<u>Type III</u> (Appealable to Council)
● Uses permitted outright	● Temporary uses, more than three weeks	● The decision to approve, condition or deny a project based on the SEPA Policies pursuant to SMC 25.05.660.
● Temporary uses, three weeks or less	● Certain street uses	
● Certain street uses	● Variances	
	● Administrative conditional uses	
● Lot boundary adjustments	● Shoreline decisions (*Appealable to Shorelines Hearings Board along with all related environmental appeals)	
● Greenbelt preserve and restored preserve designations	● Short subdivisions	
	● Special exceptions	
	● Design departure	
● Modifications of features bonused under Title 24	● The following environmental determinations:	
	1. Declaration of non-significance (EIS not required)	
● Declarations of significance (EIS required)	2. Determination of final EIS adequacy	

COUNCIL LAND USE DECISIONS

<u>TYPE IV</u> (Quasi-Judicial)	<u>TYPE V</u> (Legislative)
● Subdivisions (Preliminary Plats)	● Land Use and Zoning Code text amendments
● Land Use and Zoning Map Amendments (Rezoning)	● Rezoning to implement new City policies
● Public project approvals	● Concept Approval for City facilities

- Major Institution Master Plans
- Council Conditional Uses
- Downtown Planned Community Developments
- Planned Unit Developments
- Major Institution Designations

SUBCHAPTER TWO: MASTER USE PERMITS

23.76.06 Master Use Permits Required

A. Type I, II and III decisions are components of Master Use Permits. Master Use Permits shall be required for all projects requiring one or more of these decisions.

B. The following decisions are Type I decisions which are non-appealable:

1. Establishment or change of use for uses permitted outright and temporary uses for three weeks or less not otherwise permitted in the zone;
2. The following street use approvals associated with a development proposal:
  - a. Curb cut for access to parking.
  - b. Concept approval of street improvements, such as additional on-street parking, street landscaping, curbs and gutters, street drainage, sidewalks, and paving.
3. Lot boundary adjustments;

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4. Special exceptions, provided that special exceptions sought as part of a Type IV decision may be granted by the Council pursuant to Section 23.76.36;
  5. Design departures;
  6. The following street use decisions:
    - a. Sidewalk cafes.
    - b. Structural building overhangs.
    - c. Areaways.
  7. Administrative conditional uses, provided administrative conditional uses sought as part of a Type IV decision may be approved by the Council pursuant to Section 23.76.36.
  8. The following shoreline decisions (supplemental procedures for shoreline decisions are established in SMC Sections 24.60.425 - 24.60.485):
    - a. Shoreline substantial development permits.
    - b. Shoreline variances.
    - c. Shoreline conditional uses.
  9. The following environmental decisions for Master Use Permits and for building, demolition, grading and other construction permits (supplemental procedures for environmental review are established in SMC Chapter 25.05, SEPA Rules):
    - a. Declarations of Nonsignificance (DNSs), including mitigated DNS's;

1           b. Determination that a final Environmental Impact  
2           Statement (EIS) is adequate.

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4 D. The following is a Type III decision, which is subject to  
5 appeal to the Hearing Examiner and may be further appealed  
6 to the Council: the decision to approve, condition or deny  
7 any Master Use Permit (other than for Shoreline decisions)  
8 based on the City's SEPA policies pursuant to SMC Section  
9 25.05.660.

10 **23.76.08 Pre-application Conferences**

11 Prior to official filing with the Director of an application  
12 for a Master Use Permit requiring a Type II or III decision,  
13 the Director may require a pre-application conference. The  
14 conference shall be held in a timely manner between a  
15 Department representative(s) and the applicant to determine  
16 the appropriate procedures and review criteria for the pro-  
17 posed project. Pre-application conferences may be subject to  
18 fees as established in SMC Chapter 22.900, Permit Fee  
19 Ordinance, of the Seattle Municipal Code.

20 **23.76.10 Applications**

- 21 A. Applications for Master Use Permits shall be made by the  
22 property owner, lessee, contract purchaser, or a City  
23 agency, or by an authorized agent thereof.
- 24 B. All applications for Master Use Permits shall be made to  
25 the Director on a form provided by the Department.
- 26 C. Applications shall be accompanied by payment of the appli-  
27 cable filing fees, if any, as established in SMC Chapter  
28 22.900, Permit Fee Ordinance.

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- D. All Master Use Permit decisions necessary for a project shall be included in the same application; provided that, at the applicant's discretion, a separate Master Use Permit application may be filed for a variance, lot boundary adjustment and/or short subdivision approval if no environmental review pursuant to SMC Chapter 25.05, SEPA Rules, is required for the proposed project, or if SEPA review is required only because the project is located in an environmentally sensitive area or over water.
- E. All applications shall contain the submittal information required by the applicable sections of this Title 23, Land Use Code; SMC Title 24, Zoning and Subdivisions; SMC Title 15, Street and Sidewalk Use; and SMC Chapter 25.05, SEPA Rules. The Director may require additional material from the applicant such as maps, text, or models when the Director determines that such material is needed to accurately assess the proposed project.
- F. An application shall be deemed abandoned and void if the applicant has failed without reasonable justification to supply all required information or data within thirty days of a written request for it; provided that the Director may extend the period for such submission if it is determined that the delay was not the fault of the applicant.

23 **23.76.12 Notice of Application**

24 **A. Notice Required**

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When a Master Use Permit application requiring a Type II or III decision is submitted, the Director shall provide notice of application and an opportunity for public com-

1                   ment as described in this section. No notice or public  
2                   comment period shall be required for Type I decisions.

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4                   B. Types of Notice Required

5                   1. For projects subject to environmental review, the  
6                   applicant shall post a large sign on the site, unless  
7                   an exemption or alternative posting as set forth in  
8                   this subsection is applicable. The large sign shall  
9                   be located so as to be clearly visible from the adja-  
10                  cent street or sidewalk, and shall remain posted  
11                  until final City action on the application has been  
12                  completed.

13                  a. In the case of submerged land, the large sign  
14                  shall be posted on adjacent dry land, if any,  
15                  owned or controlled by the applicant. If there  
16                  is no adjacent dry land owned or controlled by  
17                  the applicant, notice shall be provided accord-  
18                  ing to subsection c.

19                  b. Projects limited to interior remodeling, or  
20                  which are subject to environmental review only  
21                  because of location over water or location in an  
22                  environmentally sensitive area, are exempt from  
23                  the large sign requirement.

24                  c. As an alternative to the large sign requirement,  
25                  the Director shall post ten placards within  
26                  three hundred feet of the site and at the clo-  
27                  sest street intersections when one or more of  
28                  the following conditions exist:

                  i. The project site is over five acres;

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ii. The applicant is not the property owner,  
and the property owner does not consent to  
the proposal;

iii. The site is subject to physical charac-  
teristics such as steep slopes or is  
located such that the large sign would not  
be highly visible to neighboring residents  
and property owners or interested citizens.

d. The Director may require both a large sign and  
the alternative posting measures described in  
subsection c, or may require that more than one  
large sign be posted, when necessary to assure  
that notice is clearly visible to the public.

2. For projects which are categorically exempt from  
environmental review, the Director shall post four  
placards on or near the site.

3. For all projects requiring notice of application, the  
Director shall provide notice by general mailed  
release. For projects subject to the large sign  
requirement, notice in the general mailed release  
shall be published after certification is received by  
the department that the large sign has been posted.

4. In addition, for variances, administrative con-  
ditional uses, temporary uses for more than three  
weeks, shoreline variances and shoreline conditional  
uses, the Director shall provide mailed notice.

5. The Director shall also publish notice of all shore-  
line decisions in the City official newspaper once  
each week for two consecutive weeks.

1 C. Contents of Notice

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3 The notice shall identify the nature and location of the  
4 project, and shall include a statement that persons who  
5 desire to submit comments on the application or who  
6 request notification of the decision may so inform the  
7 Director in writing within the comment period specified  
8 in subsection D. Except for the large sign requirement,  
9 each notice shall also include a list of the land use  
10 decisions sought. The Director shall specify detailed  
11 requirements for large signs.

12 D. Comment Period

13 The Director shall provide a fifteen-day public comment  
14 period prior to making a threshold determination of non-  
15 significance (DNS) or issuing a decision on the project;  
16 provided, that the comment period shall be extended to  
17 thirty days if a written request for extension is sub-  
18 mitted within the initial fifteen-day comment period; pro-  
19 vided further, that the comment period shall be thirty  
20 days for applications requiring shoreline decisions. The  
21 comment period shall begin on the date notice is published  
22 in the general mailed release; provided, that the thirty  
23 day comment period for shoreline decisions shall begin on  
24 the date of the second published notice as provided in  
25 subsection B. Comments shall be filed with the Director  
26 by five o'clock p.m. of the last day of the comment  
27 period. When the last day of the comment period is a  
28 Saturday, Sunday or federal or City holiday, the comment  
period shall run until five o'clock p.m. of the next busi-  
ness day.

1 E. When a Master Use Permit application includes more than  
2 one decision component, notice requirements shall be con-  
3 solidated and the broadest applicable notice requirements  
4 imposed.

5 **23.76.14 Notice of Scoping and Draft EIS**

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7 When a Declaration of Significance (DS) is issued on a Master  
8 Use Permit application, the following notice and comment pro-  
9 cedures shall apply:

10 A. Scoping

- 11 1. The Director shall determine the range of proposed  
12 actions, alternatives and impacts to be discussed in  
13 an EIS, as provided by SMC Section 25.05.408,  
14 Scoping, and/or Section 25.05.410, Expanded Scoping.  
15 A comment period at least twenty-one days from the  
16 date of DS issuance shall be provided.
- 17 2. Notice of scoping and of the period during which the  
18 Director will accept written comments shall be pro-  
19 vided by the Director in the following manner:
- 20 a. general mailed release;
  - 21 b. publication in the City official newspaper;
  - 22 c. submission of the general mailed release to at  
23 least one community newspaper in the area  
24 affected by the proposal;
  - 25 d. mailed notice to those organizations and indivi-  
26 duals who have submitted a written request for  
27 it;  
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1 e. posting in the Department; and

2 f. filing with the SEPA Public Information Center.

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4 3. The Director shall also circulate copies of the DS as  
5 required by SMC Section 25.05.360.

6 B. Draft EIS's

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8 1. Notice of the availability of a draft EIS, of the  
9 thirty-day period during which the Department will  
10 accept comments, of the public hearing on the draft  
11 EIS and any other Department public hearing as pro-  
12 vided in SMC Section 23.76.16 shall be provided by  
the Director in the following manner:

13 a. general mailed release;

14 b. publication in the City official newspaper;

15 c. submission of the general mailed release to at  
16 least one community newspaper in the area  
17 affected by the proposal;

18 d. mailed notice, including notice to those organi-  
19 zations and individuals who have submitted a  
20 written request for it;

21 e. posting notice in the Department; and

22 f. filing with the SEPA Public Information Center.

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24 2. Notice of the public hearing shall be given by the  
25 Director at least twenty-one days prior to the  
26 hearing date.

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1           3.    The Director shall also distribute copies of the  
2                draft EIS as required by SMC Section 25.05.455.

3           23.76.16   Public Hearings

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5           A.   Draft EIS

6                As required by Chapter 25.05, SEPA Rules, a public hearing  
7                shall be held by the Director on all draft EIS's for which  
8                the Department is the Lead Agency.  The hearing shall  
9                occur no earlier than twenty-one days from the date the  
10               draft EIS is issued nor later than fifty days from its  
11               issuance.  The Director may hold the hearing near the site  
12               of the proposed project.

13          B.   Type II and III Decisions

14               The Director may hold a public hearing on Master Use  
15               Permit applications requiring Type II and/or III decisions  
16               when:

- 17               1.   The proposed development is of broad public signifi-  
18               cance; or
- 19               2.   Fifty or more persons file a written request for a  
20               hearing not later than the fifteenth day after notice  
21               of the application is posted or the thirtieth day  
22               following the date of the second publication of  
23               notice of the application for a shoreline substantial  
24               development; or
- 25               3.   The cost of the proposed development, exclusive of  
26               land, will exceed five hundred thousand dollars; or
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1           4.    The proposed development will require a shoreline  
2                   conditional use or a shoreline variance or other  
3                   extraordinary relief from the provisions of the  
4                   Seattle Municipal Code, Chapter 24.60, Shoreline  
5                   Master Program Regulations.

6           C.    Combined Hearing

7                   The Director may hold a combined public hearing on a Draft  
8                   EIS and a Master Use Permit application.  If a combined  
9                   hearing is held, notice shall be given by the Director at  
10                  least twenty days prior to the hearing.

11           23.76.18   Notice of Final EIS

12           A.    Notice of the availability of any final EIS on a proposed  
13                  project shall be provided by the Director in the following  
14                  manner:  
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- 16                  1.    General mailed release;
- 17                  2.    Publication in the City official newspaper;
- 18                  3.    Submission of the general mailed release to at least  
19                  one community newspaper in the area affected by the  
20                  proposal;
- 21                  4.    Mailed notice to those organizations and individuals  
22                  who have made a written request for it, and to anyone  
23                  who received or commented on the draft EIS;
- 24                  5.    Posting in the Department; and
- 25                  6.    Filing with the SEPA Public Information Center.

26           B.    The Director shall also distribute copies of the final EIS  
27                  as required by SMC 25.05.460.  
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1           23.76.20   Director's Decisions

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3           A.   Master Use Permit Review Criteria

4           The Director shall grant, deny, or conditionally grant  
5           approval of a Master Use Permit based on the applicant's  
6           compliance with the City's SEPA Policies pursuant to SMC  
7           Section 25.05.660, and with the applicable substantive  
8           requirements of the Seattle Municipal Code which are in  
9           effect at the time the Director issues a decision.  If an  
10          EIS is required, the application shall be subject to only  
11          those SEPA Policies in effect when the Draft EIS is  
12          issued.  The Director may also impose conditions in order  
13          to mitigate adverse environmental impacts associated with  
14          the construction process.

15          B.   Timing of Decisions Subject to Environmental Review

- 16           1.   If an EIS has been required, the Director's decision  
17           shall not be issued until at least seven days after  
18           publication of the final EIS, as provided by Chapter  
19           25.05, SEPA Rules.
- 20           2.   If no EIS is required, the Director's decision shall  
21           include issuance of a DNS for the project.

22          C.   Notice of Decisions

23           1.   Type I

24           No notice of decision is required for Type I decisions.

25           2.   Type II and III

26           The Director shall provide notice of all Type II and  
27           III decisions as follows:  
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- a. A list of all appealable Master Use Permit decisions shall be compiled and published in the City official newspaper within seven days of the date the decision is made. This list and the date of its publication shall also be posted in a conspicuous place in the Department and shall be included in the general mailed release. Notice shall also be mailed to each applicant and to interested persons who have requested specific notice in a timely manner, and shall be submitted in a timely manner to at least one community newspaper in the area affected by the proposal.
  - b. DNS's shall also be filed with the SEPA Public Information Center.
  - c. If the Director's decision includes a mitigated DNS or other DNS requiring a fifteen day comment period pursuant to SMC Chapter 25.05, SEPA Rules, the notice of decision shall include notice of the comment period. The Director shall distribute copies of the DNS as required by SMC Section 25.05.340.
  - d. Any shoreline decision in a Master Use Permit shall be filed with the Department of Ecology and the State Attorney General.
  - e. The notice of the Director's decision shall state the nature of the applicant's proposal, a description sufficient to locate the property,

1 and the decision of the Director. The notice  
2 shall also state that the decision is subject to  
3 appeal, shall describe the appropriate appeal  
4 procedure, and shall indicate that any requests  
5 for Land Use Code interpretation as provided by  
6 SMC 23.88.20 must be submitted within the appeal  
7 period.

8 **23.76.22 Administrative Appeals**

9 **A. Appealable Decisions**

- 10  
11 1. Type I decisions as listed in SMC Section 23.76.06B  
12 are not subject to appeal.
- 13 2. All Type II and Type III as listed in SMC Section  
14 23.76.06C and D shall be subject to administrative  
15 appeal as described in this section.

16 **B. Shoreline Appeal Procedures**

17 Appeal of the Director's decision to issue, condition, or  
18 deny a shoreline substantial development permit, shoreline  
19 variance, or shoreline conditional use as a part of a  
20 Master Use Permit must be filed by the appellant with  
21 the Shorelines Hearings Board in accordance with the pro-  
22 visions of the Shoreline Management Act of 1971, RCW  
23 Chapter 90.58, and the rules established under its  
24 authority, WAC 173-14. Appeals of related environmental  
25 actions, including DNS's, determination that an EIS is  
26 adequate, and the decision to grant, condition or deny  
27 the shoreline proposal based on the City's SEPA Policies  
28 pursuant to SMC Section 25.05.660, shall be consolidated  
in the appeal to the Shorelines Hearing Board.

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C. Hearing Examiner Appeal Procedures

1. Consolidated Appeals

All appeals of Master Use Permit decisions other than shoreline decisions shall be considered together in a consolidated hearing before the Hearing Examiner.

2. Standing

Appeals may be initiated by any person significantly affected by or interested in the permit.

3. Filing of Appeals

Appeals shall be filed with the Hearing Examiner by five o'clock p.m. of the fifteenth calendar day following publication of notice of the decision; provided, that when a fifteen day DNS comment period is required pursuant to SMC Ch.25.05, appeals may be filed up to fifteen days following the comment period. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five o'clock p.m. on the next business day. The appeal shall be in writing and shall clearly identify each component of a Master Use Permit being appealed. The appeal shall be accompanied by payment of the filing fee as set forth in the SMC Section 3.02.125, Hearing Examiner Filing Fees. Specific objections to the Director's decision and the relief sought shall be stated in the written appeal.

In form and content, the appeal shall conform with the rules of the Hearing Examiner.

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4. Pre-Hearing Conference

At the Hearing Examiner's initiative, or at the request of any party of record, the Hearing Examiner may have a conference prior to the hearing in order to entertain pre-hearing motions, clarify issues, or consider other relevant matters.

5. Notice of Hearing

Notice of the hearing on the appeal shall be mailed by the Director at least twenty days prior to the scheduled hearing date to parties of record and those requesting notice. Notice shall also be included in a general mailed release.

6. Scope of Review

Appeals shall be considered de novo. The Hearing Examiner shall entertain issues cited in the appeal which relate to compliance with the procedures for Type II and III decisions as required in this Chapter, compliance with substantive criteria, determinations of nonsignificance (DNS's), adequacy of an EIS upon which the decision was made, or failure to properly approve, condition or deny a permit based on disclosed adverse environmental impacts.

7. Standard of Review

The Director's decisions made on a Master Use Permit shall be given substantial weight, except for determinations on variances, conditional uses, and special exceptions, which shall be given no deference.

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8. The Record

The record shall be established at the hearing before the Hearing Examiner. The Hearing Examiner shall either close the record after the hearing or leave it open to a specified date for additional testimony, written argument or exhibits.

9. Postponement or Continuance of Hearing

The Hearing Examiner shall not grant requests for postponement or continuance of an appeal hearing to allow an applicant to proceed with an alternative development proposal under separate application, unless all parties to the appeal agree in writing to such postponement or continuance.

10. Hearing Examiner's Decision

The Hearing Examiner shall issue a written decision within fifteen days after closing the record. The Hearing Examiner may affirm, reverse, remand or modify the Director's decision. Written findings and conclusions supporting the Hearing Examiner's decision shall be made. The Director and all parties of record shall be bound by the terms and conditions of the Hearing Examiner's decision.

11. Notice of Hearing Examiner Decision

The Hearing Examiner's decision shall be mailed by the Hearing Examiner on the day the decision is issued to the parties of record and to all those

1 requesting notice. If environmental issues were  
2 raised in the appeal, the decision shall also be  
3 filed with the SEPA Public Information Center. The  
4 decision shall contain information regarding Council  
5 appeal procedures, if any, and regarding judicial  
6 review.

7 12. Appeal of Hearing Examiner's Decision

8 The Hearing Examiner's decision shall be final and  
9 conclusive unless:

- 10
- 11 a. the Hearing Examiner's decision specifically  
12 states that the Hearing Examiner retains juris-  
13 diction;
- 14 b. the decision is appealed to the Council pursuant  
15 to Seattle Municipal Code Section 23.76.24; or
- 16 c. within fifteen calendar days from the date of  
17 issuance of the decision a party of record makes  
18 application to King County Superior Court for a  
19 writ of review; provided that, if an appeal pur-  
20 suant to Section 23.76.24 is submitted to the  
21 Council, the fifteen day period for requesting  
22 judicial review of the Hearing Examiner's deci-  
23 sion shall not begin until the Council issues  
24 its final decision on the appeal.

25 23.76.24 Appeals to Council

26 A. Appealable Decisions

27 Only Type III decisions as listed in SMC 23.76.06D may be  
28 appealed to the Council.

1 B. Right to Appeal

2 Appeals may be initiated by any party to the Hearing  
3 Examiner hearing.  
4

5 C. Time Limits on Appeals

6 Appeals shall be filed with the City Clerk no later than  
7 fifteen days after the decision is filed with the SEPA  
8 Public Information Center. The City Clerk shall transmit  
9 appeals to the Council and shall notify the Director and  
10 the Hearing Examiner of the appeal.

11 D. Content of Appeal

12 Appeals shall be in writing and shall cite specific  
13 alleged errors in the facts or conclusions and the basis  
14 for any disagreement with the decision.  
15

16 E. Notice

17 Notice of the filing of an appeal shall be mailed to all  
18 parties of record not less than seven days prior to the  
19 date of the public meeting to consider the appeal.

20 F. Scope of Review

21 Council review shall be limited to the issue of compliance  
22 with the City's SEPA Policies pursuant to SMC Section  
23 25.05.660. The review shall be based solely on the record  
24 from the Hearing Examiner's hearing, provided that the  
25 Council may allow oral or written arguments on the record.  
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1 G. Standard of Review for Type III Appeals

2 The Type III decisions appealed from shall be accorded  
3 substantial weight and the burden of establishing the  
4 contrary shall be upon the appealing party.  
5

6 H. Council Action

7 The Council may affirm, modify or reverse the Hearing  
8 Examiner's decision, remand cases to the Hearing Examiner  
9 or the appropriate department with directions for further  
10 proceedings, or grant other appropriate relief. If the  
11 Council reverses or modifies the Hearing Examiner deci-  
12 sion, the Council shall enter findings and/or conclusions  
13 into the record to support the decision.

14 I. Judicial Review

15 A Type III decision by the Council shall be final and  
16 conclusive unless within fifteen calendar days of the date  
17 of decision a party of record makes application to King  
18 County Superior Court for a writ of review.

19 J. Notice of Decision

20 The written decision of the Council shall be promptly  
21 transmitted to all parties of record.  
22

23 K. Interlocutory Review

24 1. The Council shall accept review of Hearing Examiner  
25 interlocutory orders and decisions pending final  
26 resolution of an appeal when:  
27  
28

- 1 a. appeal to the Council of the Hearing Examiner's  
2 final decision on the issue is permitted by  
3 ordinance; and  
4 b. the Hearing Examiner certifies the issue for  
5 Council review.

6  
7 2. The Hearing Examiner shall certify for interlocutory  
8 review only those issues which meet the following  
9 criteria:

- 10 a. because of ambiguity in language, the meaning to  
11 be given a Council resolution or ordinance can-  
12 not readily be determined without knowing the  
13 intent of the Council when it adopted the reso-  
14 lution or ordinance; and  
15 b. the issue results in disagreement between the  
16 Director and the Hearing Examiner as to  
17 interpretation of Council intent; and  
18 c. the review involves an issue not previously  
19 decided by the Council; and  
20 d. the issue to be reviewed is of general applica-  
21 bility and its resolution will affect a class of  
22 permit applicants; and  
23 e. early resolution of the issue will substantially  
24 reduce the expenditure of time or money by the  
25 City and/or other interested parties.

26 **23.76.26 Vesting of Development Rights**

27 Subject to the provisions of this Chapter providing for revo-  
28 cation, expiration and renewal of Master Use Permits, no

1 substantive land use regulation which becomes effective after  
2 the issuance of the Director's decision on a non-appealable  
3 Master Use Permit or the date notice is published of the  
4 Director's decision on an appealable Master Use Permit shall  
5 apply to that Master Use Permit. Master Use Permit applica-  
6 tions shall be subject to land use regulations which become  
7 effective prior to such decision or publication.

8 **23.76.28 Master Use Permit Issuance**

9 When a Master Use Permit is approved for issuance, the appli-  
10 cant shall be so notified. Master Use Permits which are not  
11 subject to appeal shall be approved for issuance at the time  
12 of the Director's decision that the application conforms to  
13 all applicable laws (Section 23.76.20). A Master Use Permit  
14 which includes appealable decisions shall be approved for  
15 issuance on the day following expiration of the applicable  
16 appeal period or, if appealed, on the sixth day following a  
17 final appeal decision to grant or conditionally grant the per-  
18 mit. Master Use Permits shall not be issued to the applicant  
19 until all outstanding fees are paid.

20 **23.76.30 Filing and Recording Requirements**

21 The following actions shall not be final until an approved  
22 application together with its contents is filed for record  
23 with the Director of the King County Department of Records and  
24 Elections:

- 25 A. Short Plats, as provided in SMC Section 23.24.30;  
26 B. Lot Boundary Adjustments; and  
27 C. Designations of Greenbelt and Restored Greenbelt Preserves.  
28

1           23.76.32 Expiration and Renewal of Master Use Permits

2  
3           A. Expiration

4           1. A Master Use Permit shall expire two years from the  
5           date a permit is approved for issuance as described  
6           in Section 23.76.28, except as follows:

7           a. Expiration of the shoreline component of a  
8           Master Use Permit shall be governed by WAC  
9           173-14-060.

10          b. Expiration of a variance component of a Master  
11          Use Permit shall be governed by the following:

12           i. Variances for access, yards, setback, open  
13           space, or lot area minimums granted as part  
14           of short plat or lot boundary adjustment  
15           shall run with the land in perpetuity as  
16           recorded with the Director of the King  
17           County Department of Records and Elections.

18           ii. Variances granted as separate Master Use  
19           Permits pursuant to Section 23.76.10(D)  
20           shall expire two years from the date the  
21           permit is approved for issuance as  
22           described in Section 23.76.28 or on the  
23           effective date of any text amendment making  
24           more stringent the development standard  
25           from which the variance was granted,  
26           whichever is sooner. If a Master Use  
27           Permit to establish the use is granted  
28           within this period, the variance's expira-

1                   tion date shall be extended until the  
2                   expiration date established for the use  
3                   approval.

4                   c.    The time during which pendency of litigation  
5                   related to the Master Use Permit made it reason-  
6                   able not to submit an application for a  
7                   building permit, or to establish a use where a  
8                   building permit is not required, shall not be  
9                   included in the two-year term of the Master Use  
10                  Permit.

11                 2.    At the end of the two-year term, Master Use Permits  
12                  shall expire unless:

13                 a.    A building permit is issued before the end of  
14                   the two-year term, or a completed application  
15                   for a building permit which is subsequently  
16                   issued is submitted at least sixty days before  
17                   the end of the two-year term. In such cases,  
18                   the Master Use Permit shall be extended for the  
19                   same term as the building permit is issued. If  
20                   a building permit is issued and renewed within  
21                   the original two-year term of a Master Use  
22                   Permit, the Master Use Permit shall be extended  
23                   in the same manner; or

24                 b.    For projects which do not require a building  
25                   permit, the use has been established prior to  
26                   the expiration date of the Master Use Permit and  
27                   is not terminated by abandonment or otherwise.  
28                   In such cases the Master Use Permit shall not  
                  expire; or

1  
2 c. The Master Use Permit is extended pursuant to  
3 subsection A3; or

4 d. The Master Use Permit is renewed as provided in  
5 subsection B.

6 3. When a building permit is issued and construction is  
7 substantially underway and progressing at a satisfac-  
8 tory rate, as evidenced by the applicant's  
9 demonstrating to the Director's satisfaction that a  
10 construction step is ready for an inspection required  
11 by Section 305(d) of the Seattle Building Code  
12 Supplement prior to the expiration of a Master Use  
13 Permit, the Master Use Permit shall be automatically  
14 extended for the life of the building permit and no  
15 Master Use Permit renewal shall be required.

16 4. Any Master Use Permit issued prior to the effective  
17 date of this amendatory ordinance shall remain in  
18 effect until its established expiration date. Master  
19 Use Permits scheduled to expire less than one year  
20 from the effective date of this amendatory ordinance  
21 shall be extended for a period of one year from the  
22 effective date of this ordinance. If a building per-  
23 mit is issued before the end of this term, or a  
24 completed application for a building permit which is  
25 subsequently issued is submitted at least sixty days  
26 before the end of this term, the Master Use Permit  
27 shall be extended for the same term as the building  
28 permit is issued.

B. Renewal

1. The Director shall renew Master Use Permits for pro-  
jects which are in conformance with land use regula-

1 tions and SEPA policies in effect at the time renewal  
2 is sought. The Director shall not renew Master Use  
3 Permits for projects which are not in conformance  
4 with land use regulations or SEPA policies in effect  
5 at the time renewal is sought.

6 2. If a building permit has been issued for a project,  
7 any subsequent Master Use Permit renewals as per-  
8 mitted by this Section shall be concurrent with and  
9 for the same term as renewal of the building permit.

10 3. If no building permit has been issued, Master Use  
11 Permit renewals shall be for a period of one year.  
12 In no case shall a Master Use Permit be renewed  
13 beyond a period of five years from the original date  
14 of permit issuance without an issued building permit.

15 **23.76.34 Suspension and Revocation of Master Use Permits**

16 A. A Master Use Permit may be revoked or suspended by the  
17 Director if any of the following conditions are found:

- 18 1. The permittee has developed the site in a manner not  
19 authorized by the permit; or  
20 2. The permittee has not complied with the conditions of  
21 the permit; or  
22 3. The permittee has secured the permit with false or  
23 misleading information; or  
24 4. The permit was issued in error.

25  
26 B. Whenever the Director determines upon inspection of the  
27 site that there are grounds for suspending or revoking a  
28 permit, the Director may order the work stopped; provided  
that any shoreline component of a Master Use Permit shall  
not be revoked until a public hearing has been held

1 pursuant to the procedures set forth in SMC Section  
2 24.60.465. A written stop work order shall be served on  
3 the person(s) doing or causing the work to be done. All  
4 work shall then be stopped until the Director finds that  
5 the violations and deficiencies have been rectified.  
6 Written notice of the stop work order shall be mailed to  
7 all persons who have expressed a complaint leading to the  
8 stop work order.

9 C. The procedures for appealing a stop work order for all  
10 Master Use Permit components other than shoreline com-  
11 ponents shall be as follows:

- 12 1. Persons who receive a stop work order issued under  
13 subsection B above may appeal the order to the  
14 Hearing Examiner. Appeals shall be filed with the  
15 Hearing Examiner by five o'clock p.m. of the fif-  
16 teenth calendar day following service of the stop  
17 work order. When the last day of the appeal period  
18 so computed is a Saturday, Sunday, or federal or City  
19 holiday, the appeal period shall run until five  
20 o'clock p.m. on the next business day.
- 21 2. The Hearing Examiner shall hold a public hearing on the  
22 appeal of the Director's decision in order to review  
23 the facts and determine whether grounds for revoca-  
24 tion or suspension exist.
- 25 3. Notice of hearing shall be provided at least twenty  
26 days prior to hearing by written notice to the per-  
27 mittee and to any persons who have expressed a  
28 complaint leading to the stop work order.
4. The Hearing Examiner decision shall be issued within  
fifteen days following the hearing.

- 1           5.    The Hearing Examiner shall give notice of the deci-  
2           sion in writing to the permittee, the Director and to  
3           persons who have made a request in a timely manner.

4           SUBCHAPTER THREE: COUNCIL LAND USE DECISIONS

5           Part 1: Application and DCLU Review

6           23.76.36 Council Decisions Required

7           A.    The Council shall make the following Type IV land use  
8           decisions along with any associated variances, special  
9           exceptions and administrative conditional uses:

- 10           1.    Subdivision preliminary plats, including replats  
11           requiring subdivision approval (supplemental proce-  
12           dures for preliminary plats are established in SMC  
13           Chapter 23.22);
- 14           2.    Amendments to the Official Land Use Map, except those  
15           initiated by the City to implement new land use poli-  
16           cies adopted by resolution, including changes in  
17           overlay districts and shoreline environment reded-  
18           ignations;
- 19           3.    Public projects proposed by applicants other than the  
20           City of Seattle that require Council approval;
- 21           4.    Major Institution Master Plans (supplemental proce-  
22           dures for Master Plans are established in SMC Chapter  
23           23.80\*);
- 24           5.    Council Conditional Uses;
- 25           6.    Downtown Planned Community Developments; and
- 26           7.    Planned Unit Developments under Title 24.
- 27
- 28

1 B. Council action shall be required for the following Type V  
2 land use decisions:

- 3
- 4 1. City-initiated amendments to the Official Land Use  
5 Map to implement new land use policies adopted by  
6 resolution;
- 7 2. Amendments to the text of SMC Title 23, Land Use  
8 Code, and SMC Title 24, Zoning and Subdivisions;
- 9 3. Concept approval for the location or expansion of  
10 City facilities permitted as Council conditional uses  
11 by SMC Title 24, Zoning and Subdivisions, and those  
12 requiring Council land use approval by SMC Title 23,  
13 Land Use Code; and
- 14 4. Major Institution Designations.

15 **23.76.38 Pre-application Conferences**

16 Prior to official filing with the Director of an application  
17 for a Type IV decision, the Director may require a pre-  
18 application conference. The conference shall be held in a  
19 timely manner between a Department representative(s) and the  
20 applicant to determine the appropriate procedures and review  
21 criteria for the proposed project. Pre-application conferen-  
22 ces may be subject to fees as established in SMC Chapter  
23 22.900, Permit Fee Ordinance.

24 **23.76.40 Applications**

25 A. Applications for Type IV and V decisions shall be made by  
26 the property owner, lessee, contract purchaser, City  
27 agency, or an authorized agent thereof; provided that any  
28

1 interested person may make application for an amendment to  
2 the Official Land Use Map or an amendment to the text of  
3 Title 23, Land Use Code, or Title 24, Zoning and  
4 Subdivisions.

5 B. All applications for Council land use decisions shall be  
6 made to the Director on a form provided by the Department.  
7 The Director shall promptly transmit applications for  
8 Council land use decisions to the City Clerk for filing  
9 with the Council.

10 C. Applications shall be accompanied by payment of the appli-  
11 cable filing fees, if any, as established in SMC Chapter  
12 22.900, Permit Fee Ordinance.

13 D. All applications shall contain the submittal information  
14 required by this Title 23, Land Use Code; SMC Title 24,  
15 Zoning and Subdivisions; SMC Title 15, Street and Sidewalk  
16 Use; and and SMC Chapter 25.05, SEPA Rules. The Director  
17 may require additional material from the applicant such as  
18 maps, text, or models when the Director determines that  
19 such material is needed to accurately assess a proposed  
20 project.

21 E. An application shall be deemed abandoned and void if the  
22 applicant has failed without reasonable justification to  
23 supply all required information or data within thirty days  
24 of a written request for it; provided that the Director  
25 may extend the period for submission of the information if  
26 it is determined that the delay was not the fault of the  
27 applicant.  
28

1           23.76.42 Notice of Application

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3           A. Notice Required

4           For all Type IV decisions, for Major Institution designa-  
5           tions, and for City facilities requiring Council approval,  
6           notice of application shall be provided in the manner  
7           prescribed by Section 23.76.12 for Master Use Permits.

8           B. Additional Notice for Major Institutions

9           The Director shall provide the following additional notice  
10          for Major Institution Master Plans and Designations.

- 11
- 12          1. For Major Institution Master Plans, the notice of  
13             application shall indicate the formation of an advi-  
14             sory committee as provided by SMC Ch.23.80\*.
  - 15          2. Mailed notice shall be provided for Major Institution  
16             Master Plans and Designations.
  - 17          3. For Major Institution designations, notice shall also  
18             be published in the City official newspaper once each  
19             week for two consecutive weeks.

20          23.76.44 Notice of Scoping and Draft EIS

21          Notice of Scoping and of Draft EIS's for Type IV decisions  
22          shall be as provided for Master Use Permits in Section  
23          23.76.14.

1           23.76.46 Public Hearings

2  
3           A. Preliminary Council Hearing on City Facilities Requiring  
4           Council Approval

5           When a City agency proposing a new City facility or expansion  
6           of an existing City facility determines that an EIS  
7           is required for the project, the Council shall hold an  
8           early public hearing to determine the need for and functions  
9           of the proposed facility, identify the source of  
10          funding, establish site selection criteria. The hearing  
11          shall be held as part of the scoping process as required  
12          by SMC Ch.25.05, SEPA Rules.

13          B. Draft EIS's on Type IV and V Decisions

14          A public hearing shall be held by the Director on all  
15          draft EIS's for which the Department is the Lead Agency,  
16          pursuant to SMC Chapter 25.05. The hearing shall occur no  
17          earlier than twenty-one days from the date the draft EIS  
18          is issued nor later than fifty days from its issuance.  
19          The Director may hold the hearing near the site of the  
20          proposed project. For Major Institution Master Plans, the  
21          draft EIS hearing shall be combined with a hearing on the  
22          proposed Master Plan as required by SMC Ch.23.80.

23          23.76.48 Notice of Final EIS's

24          Notice of the availability of a final EIS for a Type IV or V  
25          decision shall be as provided for Master Use Permits in  
26          Section 23.76.18.  
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28

1 23.76.50 Report of the Director

2 A. The Director shall prepare a written report on applica-  
3 tions for Type IV and V decisions and any associated  
4 variances, special exceptions and administrative con-  
5 ditional uses, provided that in the case of a text amend-  
6 ment sponsored by a member of the City Council, the  
7 Director shall prepare a written report only if such  
8 report is requested by a member of the City Council.

9 The report shall include:

- 10 1. The written recommendations or comments of any  
11 affected City departments and other governmental  
12 agencies having an interest in the application;
- 13 2. Responses to written comments submitted by interested  
14 citizens in response to any notice of application;
- 15 3. An evaluation of the proposal based on the standards  
16 and criteria for the approval sought and consistency  
17 with the applicable goals and objectives of Seattle's  
18 land use policies as referenced in SMC Chapter 23.16,  
19 the City's SEPA policies, as referenced in SMC  
20 25.05.660, and any other applicable official City  
21 policies;
- 22 4. All environmental documentation, including any  
23 checklist, EIS or DNS;
- 24 5. The Director's recommendation to approve, approve  
25 with conditions, or deny a proposal.
- 26 B. A DNS or the Director's determination that an EIS is ade-  
27 quate shall be subject to appeal pursuant to the proce-  
28 dures in subsection 23.76.48C.

1 C. For Type IV Decisions, the Director's report shall be sub-  
2 mitted to the Hearing Examiner and made available for  
3 public inspection at least thirty days prior to the  
4 Hearing Examiner's public hearing described in Section  
5 23.76.52.

6 D. For Type V decisions, the Director's report shall be sub-  
7 mitted to the Council and shall be available to the public  
8 at least fifteen days before the Council hearing described  
9 in Section 23.76.62.

10 Part 2: Quasi-Judicial Decisions (Type IV)

11 23.76.52 Hearing Examiner Hearing and Recommendation

12 A. General -- Consolidation With Environmental Appeal

13 The Hearing Examiner shall conduct a public hearing, which  
14 shall constitute a hearing by the Council, on all applica-  
15 tions for Type IV (quasi-judicial) Council land use deci-  
16 sions. At the same hearing, the Hearing Examiner shall  
17 also hear any appeals of the Director's environmental  
18 determination.  
19

20 B. Notice of Hearing

21 1. The Director shall give notice of the Hearing  
22 Examiner's hearing, the Director's environmental  
23 determination, and of the availability of the  
24 Director's report at least thirty days prior to the  
25 hearing by:

- 26 a. General mailed release;  
27 b. Publication in the City official newspaper;  
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- c. Submission of the general mailed release to at least one community newspaper in the area affected by the proposal;
  - d. At least four placards posted at places visible to the public, including street intersections, within three hundred feet of the boundaries of the project. For hearings on Major Institution Master Plans, a minimum of ten placards shall be posted;
  - e. Mailed notice;
  - f. Posting in the Department; and

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2. DNSs shall also be filed with the SEPA Public Information Center. If the Director's decision includes a mitigated DNS or other DNS requiring a fifteen day comment period pursuant to SMC 25.05.340, the notice of DNS shall include notice of the comment period. The Director shall distribute copies of such DNSs as required by SMC 25.05.340.

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3. For preliminary plats, the Director shall provide additional notice as follows:

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- a. If the owner of the property to be subdivided owns another parcel or parcels of real property lying adjacent to the property to be subdivided, mailed notice shall be provided to all owners of real property located within three hundred feet of any portion of the boundaries of the adjacently located parcel(s) owned by the subdivider.

1                   b. Notice shall be published not less than thirty  
2                   days prior to the hearing in a newspaper of  
3                   general circulation within the county and a  
4                   newspaper of general circulation in the area  
5                   where the real property proposed to be sub-  
6                   divided is located; and

7                   c. The applicant and each of the recipients of the  
8                   preliminary plat listed in Section 23.22.24  
9                   shall be notified.

10                  4. The notice shall state the type of land use decision  
11                  under consideration, a description sufficient to  
12                  locate the subject property, and the Director's  
13                  recommendation and environmental determination. The  
14                  notice shall also state that the environmental deter-  
15                  mination is subject to appeal and shall describe the  
16                  appeal procedure.

17                  C. Appeal of Environmental Determination

18                  Any person significantly interested in or affected by the  
19                  Type IV decision under consideration may appeal the  
20                  Director's environmental determination subject to the  
21                  following provisions:

22                  1. Filing of Appeals

23                  Appeals shall be submitted in writing to the Hearing  
24                  Examiner by five o'clock p.m. of the fifteenth calen-  
25                  dar day following publication of notice of the deter-  
26                  mination, provided that when a fifteen day DNS  
27                  comment period is required pursuant to SMC 25.05.340,  
28

1 appeals may be filed up to fifteen days following the  
2 comment period. When the last day of the appeal  
3 period so computed is a Saturday, Sunday, or federal  
4 or City holiday, the period shall run until five  
5 o'clock p.m. on the next business day. The appeal  
6 shall be in writing and shall state specific objec-  
7 tions to the environmental determination and the  
8 relief sought. The appeal shall be accompanied by  
9 payment of the filing fee as set forth in the Seattle  
10 Municipal Code Section 3.02.125, Hearing Examiner  
11 Filing Fees. In form and content, the appeal shall  
12 conform with the rules of the Hearing Examiner.

13 2. Pre-Hearing Conference

14 At the Hearing Examiner's initiative, or at the  
15 request of any party of record, the Hearing Examiner  
16 may have a conference prior to the hearing in order  
17 to entertain and act on motions, clarify issues, or  
18 consider other relevant matters.

19 3. Notice of Appeal

20 Notice of filing of the appeal and of the date of the  
21 consolidated hearing on the appeal and the Type IV  
22 land use decision recommendation shall be promptly  
23 mailed by the Hearing Examiner to parties of record  
24 and those requesting notice.

25 4. Scope of Review

26 Appeals shall be considered de novo. The Hearing  
27 Examiner shall entertain only those issues cited in  
28

1 the written appeal which relate to compliance with  
2 the procedures for Type IV decisions as required in  
3 this Chapter and the adequacy of the environmental  
4 documentation upon which the determination was made.

5 5. Standard of Review

6 The Director's environmental determination shall be  
7 given substantial weight.  
8

9 D. Conduct of Hearing

10 The Hearing Examiner at the public hearing will accept  
11 evidence and comments regarding:

- 12 1. The Director's report, including an evaluation of the  
13 project based on applicable City ordinances and poli-  
14 ces and the Director's recommendation to approve,  
15 approve with conditions, or deny the application; and  
16  
17 2. Specific issues related to the Director's environmental  
18 determination, if appealed.

19 E. The Record

20 The record shall be established at the hearing before the  
21 Hearing Examiner. The Hearing Examiner shall either close  
22 the record after the hearing or leave it open to a spec-  
23 ified date for additional testimony, written argument, or  
24 exhibits.  
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1 F. Written Comments

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3 Written comments on the application for a Type IV land use  
4 decision and the Director's report and recommendation may  
5 be sent to the Department or the Hearing Examiner. Only  
6 those received prior to the conclusion of the hearing  
7 shall be considered by the Hearing Examiner.

8 G. Recommendation

9 From the information gained at the hearing, from timely  
10 written comments submitted to the Department or the  
11 Hearing Examiner, and from the report and recommendation  
12 of the Director, the Hearing Examiner shall submit a  
13 recommendation to the Council by filing it together with  
14 the record with the City Clerk within fifteen days after  
15 the close of the hearing record, provided, that the  
16 Hearing Examiner shall submit a recommendation on an  
17 application for subdivision preliminary plat approval  
18 within ten days from the close of the record and, provided  
19 further, that the Hearing Examiner's report on a Major  
20 Institution Master Plan shall be submitted within thirty  
21 days. The recommendation to approve, approve with con-  
22 ditions, or deny an application shall be based on the  
23 written findings and conclusions.

24 H. Environmental Appeal Decision

25 If the Director's environmental determination is appealed,  
26 the Hearing Examiner shall affirm, reverse, remand or  
27 modify the Director's determination that an EIS is not  
28 required (DNS) or that an EIS is adequate, based on writ-  
ten findings and conclusions. The Director shall be bound

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by the terms and conditions of the Hearing Examiner's decision. If the environmental determination is remanded, the Hearing Examiner shall also remand the Director's recommendation for reconsideration. The Hearing Examiner's decision on a DNS or EIS adequacy appeal shall not be subject to Council appeal. The time period for requesting judicial review of the environmental determination shall not commence until the Council has completed action on the Type IV decision for which the DNS or EIS was issued.

I. Distribution of Decision and Recommendation

On the same date that the Hearing Examiner files a recommendation with the City Clerk, copies of the recommendation and environmental appeal decision, if any, shall be mailed by the Hearing Examiner to the applicant, to the Director, to all persons testifying or submitting information at the hearing, and to all those who request a copy in a timely manner. Notice of the Hearing Examiner's recommendation to the Council shall include instructions for requesting the Council to further consider the recommendation on the Type IV decision.

J. File to Council

The City Clerk shall file the recommendation and record with the original application and transmit the same to the Council.

1           23.76.54   Council Consideration of Hearing Examiner  
2                           Recommendation

- 3           A. Any person substantially affected by or interested in the  
4           Hearing Examiner's recommendation regarding a Type IV land  
5           use decision may submit in writing to the Council a  
6           request for further consideration of the recommendation.  
7           No requests for further consideration of a DNS or the  
8           determination that an EIS is adequate will be accepted.
- 9           B. Requests for further consideration shall be filed with the  
10           Council by five o'clock p.m. of the fifteenth calendar day  
11           following the date of mailing of the Hearing Examiner's  
12           recommendation. When the last day of the request period  
13           so computed is a Saturday, Sunday or federal or City holi-  
14           day, the request period shall run until five o'clock p.m.  
15           on the next business day. The request shall clearly iden-  
16           tify specific objections to the Hearing Examiner's recom-  
17           mendation, facts missing from the record, and the relief  
18           sought.
- 19           C. After Council receipt of the request for further con-  
20           sideration, the Council shall mail a copy of the request  
21           for further consideration and instructions for responding  
22           to the request to those individuals who were provided  
23           written notice of the Hearing Examiner's action. Such  
24           notice shall be mailed at least seven days prior to the  
25           date of the Councils' public meeting to consider the  
26           request for further consideration.
- 27           D. If there is no request for further consideration, Council  
28           action shall be based on the record established by the

1 Hearing Examiner, except as provided for subdivisions in  
2 Chapter 23.22. The Council may allow oral or written  
3 arguments based on the record.

4  
5 E. If the Council examines the record and determines that a  
6 factual error exists or that essential information is  
7 missing from the record, the Council may:

8 1. Remand the request and record to the Director for  
9 further consideration and report; or

10 2. Remand the request to the Hearing Examiner and direct  
11 the Hearing Examiner to conduct another hearing,  
12 limited to the consideration of perceived factual  
13 error or new information, and to reconsider the  
14 recommendation; or

15 3. Open the record to correct the factual error or  
16 receive the new information. The Council shall con-  
17 duct a hearing on the new or corrected information.  
18 The Council may hear testimony from those who  
19 testified before the Hearing Examiner, and may accept  
20 written or oral argument based on the record. Notice  
21 of the hearing shall be mailed at least seven days  
22 prior to the hearing to those individuals who  
23 received written notice of the Hearing Examiner  
24 action.

25 **23.76.56 Council Decision on Hearing Examiner Recommendation**

26 A. The Council's decision to approve, approve with conditions  
27 or deny the application for a Type IV land use decision  
28 shall be based on the record, supplemented as appropriate

1 pursuant to Section 23.76.54E. The Council may take  
2 action contrary to the Hearing Examiner's recommendation  
3 if the Council determines that the recommendation was  
4 based upon an error in judgment, an error in conclusions,  
5 or a factual error in the record.

6 B. The Council shall adopt written findings and conclusions  
7 in support of its decision regarding Type IV land use  
8 decisions.

9 C. Any Type IV decision shall be final and conclusive unless  
10 within fifteen calendar days of the date the decision is  
11 filed with the City Clerk, a party of record makes appli-  
12 cation to King County Superior Court for a writ of review,  
13 provided that application for a writ of review of a deci-  
14 sion approving or disapproving a subdivision preliminary  
15 plat shall be made within thirty days of the date of  
16 filing of the decision with the City Clerk.

17 D. A copy of the Council's findings, conclusions and decision  
18 shall be transmitted to the City Clerk who shall promptly  
19 send a copy to the Director, the Hearing Examiner, and all  
20 parties of record. The Clerk's transmittal letter shall  
21 include official notice of the time and place for seeking  
22 judicial review. The Director shall be bound by and  
23 incorporate the terms and conditions of the Council's  
24 decision in permits issued to the applicant or on approved  
25 plans.

26 E. Re-Application Rules

27 If an application for a Type IV decision is denied with  
28 prejudice by the Council, no application for the same or

1 substantially the same decision shall be considered until  
2 twelve months have passed since the filing of the denial  
3 of the application. After twelve months, the Council  
4 shall consider an application for the same decision only  
5 if the applicant establishes that there has been a  
6 substantial change of circumstances pertaining to a  
7 material issue.

8 **23.76.58 Rules for Specific Decisions**

9 **A. Shoreline Decisions**

10 For shoreline environment reclassifications, a copy of the  
11 Council's findings, conclusions and decision shall also be  
12 filed with the Department of Ecology. Shoreline environ-  
13 ment reclassifications shall not become effective until  
14 approved by the Department of Ecology.

15 **B. Contract Rezones**

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- 17 1. When a property use and development agreement is  
18 required as a condition to an amendment of the offi-  
19 cial Land Use Map, the ordinance rezoning the pro-  
20 perty shall provide for acceptance of the agreement  
21 and shall not be passed by the Council until the  
22 agreement has been executed by the owner. The exe-  
23 cuted agreement shall be recorded in the real pro-  
24 perty records of King County and filed with the City  
25 Clerk within one hundred twenty days of adoption of  
26 the ordinance accepting the agreement.
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2. Amendment of Contract Rezone

Agreements required as a condition to map amendments may be amended by agreement between the owner and the City, provided the amended agreement shall be approved by the Council. Amendments which are within the spirit and general purpose of the prior decision of the Council may be approved by the Council by ordinance after receiving any advice which it deems necessary. Written notice and an opportunity to comment shall be provided by the Council at least fifteen days prior to Council consideration of the amendment request to persons who submit written or oral comments on the original rezone decision. Amendments which in the judgment of the Council represent a major departure from the terms of the agreement shall not be approved until the Council has received the recommendations from the Hearing Examiner after a public hearing held in the same manner and pursuant to the same notice provided for map amendments in Section 23.76.52, Hearing Examiner Hearing and Recommendation.

C. Downtown Planned Community Developments

1. Council Action

Approval of an application for a planned community development shall be by ordinance. The ordinance shall also amend the Official Land Use Map to indicate:

- a. The boundaries of the approved planned community development;

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- b. The number of the ordinance approving the preliminary plans for the planned community development; and
  - c. The number of the Comptroller's File containing the approved preliminary plans.

6           2. Final Plans

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If the Council approves the application for a planned community development it shall authorize the applicant to prepare final plans which, together with any required covenants, shall be filed with the Director within one year of the date of Council authorization, unless a longer period is authorized by the Council.

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- a. If the Director finds that the final plans conform substantially to the Council authorization, the Director shall approve the plans.
  - b. If in the Director's judgment the final plans do not conform to the Council's authorization, the application shall be denied.
  - c. Following action on the final plans, the Director shall file a report with the Council indicating how the plans did or did not meet the conditions of Council approval and whether or not the plans were approved.
  - d. No building or use permit shall be issued for a planned community development prior to final plan approval by the Director.

1 D. Subdivisions

2 Following preliminary plat approval by the Council,  
3 final plats shall be submitted to the Director of  
4 Engineering and approved according to the procedures  
5 established in Chapter 23.22.

6 23.76.60 Expiration of Land Use Approvals

7 A. Approvals Granted Under Title 24

8 Expiration of Council land use approvals granted  
9 under SMC Title 24, Zoning and Subdivisions, shall be  
10 governed by the applicable provisions of SMC Title  
11 24, Zoning and Subdivisions, and SMC Section  
12 23.04.10, Transition to the Land Use Code.

13 B. Contract Rezones, Council Conditional Uses, Public  
14 Projects and Planned Community Developments

15 1. Contract rezones, Council Conditional Uses,  
16 Public Projects and Planned Community  
17 Developments approved under Title 23 shall  
18 expire two years from the effective date of  
19 approval unless:

20 a. within the two year period, an application  
21 is filed for a Master Use Permit which is  
22 subsequently issued; or

23 b. another time is specified in the Council's  
24 decision.  
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1 2. If a Master Use Permit is issued for the pro-  
2 ject, the Councils' approval shall remain in  
3 effect until the permit expires pursuant to the  
4 provisions of Section 23.76.32.

5 3. When a contract rezone or planned community  
6 development expires, the Director shall file a  
7 certificate of expiration with the City Clerk  
8 and a notation shall be placed on the Official  
9 Land Use Map showing the reversion to the former  
10 classification.

11 C. Subdivisions

12 Expiration and extension of subdivision approvals  
13 shall be governed by Chapter 23.22.

14 D. Variances

15 Variances granted as part of a Council land use  
16 approval shall remain in effect for the same period  
17 as the land use approval granted, except those  
18 variances granted as part of a rezone which shall  
19 expire on the date the rezone expires or the effec-  
20 tive date of any text amendment making more stringent  
21 the development standard from which the variance was  
22 granted, whichever is sooner.

23 E. Extensions

24 The Council may extend the time limits on Type IV  
25 land use approvals upon an applicant's request for an  
26 extension filed with the Council at least thirty days  
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1 before the approval's expiration. The Council may  
2 request a recommendation on the extension request  
3 from the Director.

4  
5 **Part 3: Legislative Decisions (Type V)**

6 **23.76.62 Council Hearing and Decision**

7 **A. Public Hearing**

8 The Council shall itself conduct a public hearing for each  
9 Type V (legislative) land use decision. The Council may  
10 also appoint a hearing officer to conduct an additional  
11 fact-finding hearing to assist the Council in gathering  
12 information. Any hearing officer so appointed shall  
13 transmit written Findings of Fact to the Council within  
14 ten days of the additional hearing.

15 **B. Notice of Hearings**

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17 1. Notice of the Council hearing on a Type V decision  
18 shall be provided by the Director at least thirty  
19 days prior to the hearing in the following manner:

- 20 a. Inclusion in the general mailed release;
- 21 b. Posting in the Department; and
- 22 c. Publication in the City's official newspaper.

23  
24 2. Additional notice shall be provided by the Director  
25 for public hearings on City facilities and Major  
26 Institution designations as follows:

- 27 a. Mailed notice; and
- 28 b. At least four placards posted on or near the site.

1 C. Council Decision

2 In making a Type V land use decision, the Council shall  
3 consider the oral and written testimony presented at the  
4 public hearing, as well as any required report of the  
5 Director. The City Council shall not act on any Type V  
6 decision until the end of the appeal period for the appli-  
7 cable DNS or Final EIS or, if an appeal is filed, until  
8 the Hearing Examiner issues a decision affirming the  
9 Director's DNS or EIS decision.

10 23.76.64 Approval of City Facilities

- 11 A. In acting on the proposed siting or expansion of a City  
12 facility, the Council shall decide whether to approve in  
13 concept the facility. If concept approval is granted, the  
14 Council may impose terms and conditions, including but not  
15 limited to design criteria and conditions relating to the  
16 size and configuration of the proposed facility.
- 17 B. Following Council approval, final plans for a City faci-  
18 lity shall be submitted to the Director. If the Director  
19 determines that the project is consistent with the  
20 Council's concept approval, the Director shall issue the  
21 necessary permits for the facility.
- 22 C. No further Council action is required for a City facility  
23 unless the Director determines that the final plans repre-  
24 sent a major departure from the terms of the original  
25 Council concept approval, in which case the final plan  
26 shall be submitted to the Council for approval in the same  
27 manner as the original application.
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1 Section 3. Section 23.04.10 of the Seattle Municipal  
2 Code is amended to read as follows:

3 23.04.10 Transition to the Land Use Code

4 A. General Rules of Interpretation

- 5 1. The Land Use Code is being drafted and adopted  
6 in phases and will ultimately replace all of  
7 what is now Title 24. Provisions of Title 24,  
8 as amended, which are not specifically repealed,  
9 will continue to have full force and effect  
10 until the Land Use Code is adopted in its  
11 entirety.
- 12 2. If, during the transition period, the applica-  
13 tion of a provision of the Land Use Code and a  
14 retained provision of Title 24 creates, in the  
15 Director's judgment, an irreconcilable conflict,  
16 the provision of the Land Use Code shall  
17 control.
- 18 3. Except as otherwise provided, all permits and  
19 land use approvals issued pursuant to repealed  
20 provisions of Title 24 or pursuant to a Title 24  
21 zoning classification no longer applicable to  
22 the property shall remain in full force and  
23 effect for two years from the effective date of  
24 repeal or zoning reclassification or until the  
25 expiration date of the respective permit or  
26 approval if the date is less than two years from  
27 the effective date of repeal or zoning reclassi-  
28 fication; provided, that permits issued after  
the effective date of repeal or

1                   zoning reclassification pursuant to Subsection D  
2                   shall remain in full force and effect for two  
3                   years from the date the permit is approved for  
4                   issuance as described in Chapter 23.76,  
5                   Procedures for Master Use Permits and Council  
6                   Land Use Decisions.

- 7                   4. Except as otherwise provided, all applications  
8                   for permits and land use approvals filed before  
9                   the effective date of Ordinance 109438 April 30,  
10                   1981 (the effective date of the Master Use  
11                   Permit Ordinance) shall expire six months from  
12                   the effective date of adoption of this amend-  
13                   atory ordinance.

14                   B. Existing Contract Rezones

15                   Contract rezones approved under Title 24 shall remain  
16                   in effect until the date specified in the rezone pro-  
17                   perty use and development agreement. If no expira-  
18                   tion date is specified, the rezone shall remain in  
19                   effect (#) for (a period of) two years from the  
20                   effective date of (specific zone designations,) Title  
21                   23 zoning for the property or, in the case of down-  
22                   town, from the effective date of Ordinance 112303  
23                   adopting permanent Title 23 zoning for downtown.  
24                   (These areas identified in the Official Land Use Map  
25                   which are the subject of a property use and develop-  
26                   ment agreement with the City) When the Title 23  
27                   zoning goes into effect, the property may, at the  
28                   election of the property owner, be developed  
                    (either) pursuant to either the (terms of the)  
                    existing rezone property use and development

1 agreement or (~~terms of the~~) Title 23. When  
2 (~~pursuant to the regulations applicable to their new~~  
3 ~~zone designation,~~) the contract rezone expires the  
4 property shall be regulated solely by the require-  
5 ments of Title 23. (~~At the end of the two year~~  
6 ~~transition period, only the regulations applicable to~~  
7 ~~the new zone designation shall apply.~~)

8 \* \* \*

9  
10 D. Special Transition Rule

- 11 1. The following transition rule shall apply only  
12 to provisions of the Land Use Code which are  
13 initiated by the City and become effective as  
14 part of a defined phase during the transition  
15 from Title 24 to Title 23 and during the tran-  
16 sition from interim Chapter 23.49 to permanent  
17 Chapter 23.49. Once such a phase of the Land  
18 Use Code is adopted by the Council, any amend-  
19 ments to provisions included in the particular  
20 phase shall not invoke this transition rule.
- 21 2. Any proposal which is substantially underway on  
22 the date new Land Use Code provisions become  
23 effective shall be subject to either the new  
24 substantive provisions or to corresponding  
25 repealed or modified substantive provisions of  
26 Title 24, or repealed Chapter 23.49 at the  
27 discretion of the applicant, provided that:
- 28 a. The applicant may elect only one of set of  
standards which shall apply as appropriate  
to the entire proposal;

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b. The election (~~will~~) shall be irrevocable and shall be made in writing at the time of application; and

c. The applicant shall have no election as to procedural requirements(~~(+)~~); provided, that an applicant for a proposal which is substantially underway on the effective date of this ordinance, may elect to be subject to the procedural requirements in effect at the time of application, provided further, that when notices remain to be provided, they shall be provided according to requirements of this Chapter.

3. A proposal shall be considered by the Director to be substantially underway if:

a. A Master Use Permit application has been completed and filed; provided that if an applicant has elected under Section 23.76.10B to file separate applications, only those specific approvals which are sought prior to the effective date of applicable provisions, shall be subject to this rule; or

b. A building permit application including, if appropriate, an environmental checklist, has been filed; or

1 c. A draft Environmental Impact Statement  
2 (EIS) has been approved by the Director for  
3 publication.

4 Section 4. A new Chapter 23.06 is hereby added to the  
5 Seattle Municipal Code to read as follows:

6 Chapter 23.06 Amendments to the Land Use Code

7 23.06.10 Text Amendment Procedures

8 Amendments to the text of this Land Use Code may be  
9 approved pursuant to Chapter 23.76, Procedures for Master Use  
10 Permits and Council Land Use Decisions.

11  
12 Section 5. Sections 23.22.16, 23.22.40 and 23.22.48 of  
13 the Seattle Municipal Code relating to preliminary plat appro-  
14 vals are amended to read as follows:

15 23.22.16 Application

- 16  
17 A. Official filing of an application for subdivision  
18 with the Director shall be preceded by a preliminary  
19 review of the proposed subdivision by the Director  
20 and the Director of Engineering.
- 21 B. Following the review, the subdivider shall submit an  
22 application to the Director, ~~(accompanied by a filing~~  
23 ~~fee, as described in Permit Fee Ordinance, Seattle~~  
24 ~~Municipal Code, Chapter 22.900.)~~ A subdivider shall  
25 submit with the application fifteen copies of a pre-  
26 liminary plat and four copies of preliminary plans  
27 for streets and other improvements. Unless the sub-  
28 divider requests otherwise, at the time of applica-  
tion the application will be processed simultaneously  
with applications for rezones of or planned unit or

1 planned residential development upon the property to  
2 be subdivided.

3  
4 C. Applications shall be processed according to the pro-  
5 cedures set forth in Chapter 23.76, Procedures for  
6 Master Use Permits and Council Land Use Decisions,  
7 and the additional procedures established in this  
8 subchapter.

9 ~~(C)~~ D. A preliminary plat shall be approved, disapproved or  
10 returned to the applicant for modification or correc-  
11 tion within ninety days from date of filing unless  
12 the applicant consents to an extension of the time  
13 period. If an environmental impact statement is  
14 required as provided in RCW 43.21C.030, the ninety  
15 day period shall not include the time required for  
16 environmental review.

#### 17 23.22. ~~(40)~~ 26 Council Review

18 Pursuant to RCW 58.17, upon receipt of the Hearing  
19 Examiner's recommendations, the Council shall at its next  
20 public meeting set the date for the public meeting at  
21 which it may adopt or reject the recommendations. If,  
22 after considering the matter at a public meeting, the  
23 Council determines that a change is necessary in the  
24 Hearing Examiner's recommendation, it shall conduct a  
25 public hearing and adopt its own recommendations and  
26 approve or disapprove the preliminary plat. The public  
27 hearing may be held before a committee constituting a  
28 majority of the Council, which shall report its recommen-  
dations on the matter to the Council for final action by

1 resolution. ((The decision of the Council shall be in  
2 writing and shall include findings of fact and conclusions  
3 to support its decision. It)) The Council's decision  
4 shall clearly state any conditions of approval imposed,  
5 including dedications and the construction of protective  
6 improvements. If the preliminary plat is approved, the  
7 decision shall include a written finding of fact that the  
8 proposed subdivision is in conformity with the applicable  
9 provisions of this Title 23.

10 **23.22.((48))28 Effect of Preliminary Plat Approval**

11 \* \* \*

12 Section 6. Chapter 23.34, Amendments to the Official Land  
13 Use Map (Rezoned), of the Seattle Municipal Code is amended by  
14 adding a new Section 23.34.02, amending and renumbering  
15 Sections 23.34.20 and 23.34.34, and renumbering Sections  
16 23.34.24 through 23.34.44 to read as follows:

17 **23.34.02 Standard Rezone Procedures (New Section)**

18 Procedures for amending the Official Land Use Map,  
19 including Overlay Districts and Shoreline Environment  
20 Classifications, shall be as provided in Chapter 23.76,  
21 Procedures for Master Use Permits and Council Land Use  
22 Decisions.

23 **23.34.((20)).04 Contract Rezones**

24 **A. Property Use and Development Agreement**

25 (If the map amendment is supported by the record) The  
26 Council may approve ~~it~~ a map amendment ~~(outright or~~  
27 ~~may approve it)~~ subject to an agreement by the legal  
28

1 or beneficial owner of the property to be rezoned to  
2 self imposed restrictions upon the use and develop-  
3 ment of the property in order to ameliorate adverse  
4 impacts which could occur from unrestricted use  
5 and development permitted in the zone. All  
6 restrictions shall be directly related to the impacts  
7 which may be expected to result from the amendment.  
8 The agreements shall be approved as to form by the  
9 City Attorney, and shall not be construed as a  
10 relinquishment by the City of its discretionary  
11 powers.

12 (~~When an agreement is required as a condition to a~~  
13 ~~map amendment, the ordinance rezoning the property~~  
14 ~~shall provide for acceptance of the agreement and~~  
15 ~~shall not be passed by the Council until the~~  
16 ~~agreement has been executed by the owner, recorded in~~  
17 ~~the real property records of King County, and filed~~  
18 ~~with the City Clerk.~~)

19 B. Waiver of Certain Requirements

20 The ordinance accepting the agreement may waive spe-  
21 cific bulk or offstreet parking and loading require-  
22 ments if the Council determines that the waivers are  
23 necessary under the agreement to achieve a better  
24 development than would otherwise result from the  
25 application of regulations of the zone. No waiver of  
26 requirements shall be granted which would be  
27 materially detrimental to the public welfare or  
28 injurious to property in the zone or vicinity in  
which the property is located.

1 (C. If no application for a Master use Permit has been  
2 filed within a period of two years from the effective  
3 date of the rezone, the rezone shall be void and the  
4 property shall revert to its former zone  
5 classification.

6 D. Amendment of Contract Rezone

7  
8 Agreements required as a condition to map amendments  
9 may be amended by agreement between the owner and the  
10 City, provided the amended agreement shall be  
11 approved by the Council. Amendments which are within  
12 the spirit and general purpose of the prior decision  
13 of the Council may be approved by the Council by  
14 ordinance after receiving any advice which it deems  
15 necessary. Amendments which in the judgment of the  
16 Council represent a major departure from the terms of  
17 the agreement shall not be approved until the Council  
18 has received the recommendations of the Hearing  
19 Examiner after a public hearing held in the same  
20 manner and pursuant to the same notice provided for  
21 map amendments in Chapter 23.34.)

22 Subchapter II: Rezone Criteria

23 \* \* \*

24 23.34.((34)).06 Transition

25 Pending adoption of specific criteria for zones regulated  
26 by this title, the general criteria of Section (23.34.28)  
27 23.34.08 and the adopted Land Use Policies or comprehen-  
28 sive plan policies shall pertain to requests for changes  
to the respective zones.

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- ~~((23.34.28))~~ 23.34.08 General Rezone Criteria  
\* \* \*
- ~~((23.34.24))~~ 23.34.10 Areas Zoned Single Family  
\* \* \*
- ~~((23.34.32))~~ 23.34.12 Locational Criteria(+), Single Family Zones  
\* \* \*
- ~~((23.34.36))~~ 23.34.14 Locational Criteria, Lowrise 1  
\* \* \*
- ~~((23.34.38))~~ 23.34.16 Locational Criteria, Lowrise 2  
\* \* \*
- ~~((23.34.40))~~ 23.34.18 Locational Criteria, Lowrise 3  
\* \* \*
- ~~((23.34.42))~~ 23.34.20 Locational Criteria, Midrise  
\* \* \*
- ~~((23.34.44))~~ 23.34.22 Locational Criteria, Highrise  
\* \* \*

Section 7. Sections 23.40.02, 23.40.10 and 23.40.20 of the Seattle Municipal Code are amended as follows:

**23.40.02 Conformity With Regulations Required**

The establishment or change of use of any structures, buildings or premises, or any part thereof, shall require approval according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land

1        Use Decisions. No structure or premises shall hereafter  
2        be used or occupied and no structure or part of a struc-  
3        ture shall be erected, moved, reconstructed, extended,  
4        enlarged or altered, except in conformity with the regula-  
5        tions specified in Title 24 or this Title for the zone and  
6        overlay district, if any, in which it is, or will be  
7        located. Changes to existing structures may be permitted  
8        which make the structures nonconforming if the changes are  
9        required by law for reasons of health and safety.

10       6. Design Departure

11            23.40.10 Design Departure

12            A. Design departure may be permitted in multi-family  
13            zones for design solutions which result in a better  
14            development than would be allowed under the develop-  
15            ment standards of the applicable zone. Design  
16            departure shall be authorized by the Director accord-  
17            ing to the procedures set forth in Chapter 23.76,  
18            Procedures for Master Use Permits and Council Land  
19            Use Decisions.

20            B. Design departure may be permitted for one or more of  
21            the following reasons:

- 22            1. To improve solar access, energy conservation or  
23            use of passive energy systems;
- 24            2. To provide better amenities on the site for com-  
25            mon use of residents such as well equipped open  
26            spaces (playground equipment, benches, picnic  
27            tables, play courts) or increased quality and  
28            quantity of landscaped open space;

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- 3. To provide amenities for public use;
- 4. To minimize view obstruction;
- 5. To use techniques other than modulation to reduce the appearance of bulk;
- 6. To preserve existing housing;
- 7. To preserve a desirable existing architectural and siting pattern in an area;
- 8. To preserve historically or architecturally significant structures;
- 9. To provide a parking solution uniquely suited to the location.

C((B.)) Design departure may be sought from the following development standards in multi-family zones:

- 1. Maximum structure width;
- 2. Maximum structure depth;
- 3. Front, rear, and side setbacks;
- 4. Modulation;
- 5. Design and location of parking;
- 6. Open space requirements.

D((E.)) Design departure shall not be permitted from development standards for:

- 1. Structure height;
- 2. Quantity of parking.

E ((D.)) Design departure shall not be authorized to:

- 1. Change definitions or measurement techniques;
- 2. Permit the establishment of a use which is otherwise not permitted in the zone in which it is proposed;

1 F((B)). If a design departure is sought, the entire project  
2 shall be considered when evaluating the departure.  
3 In exercising discretion granted under the design  
4 departure provisions, the Director shall only relax  
5 or modify requirements to the extent such modifica-  
6 tions further the objectives identified in Sections  
7 23.40.10A.

8 G((F.)) As a result of this review, the Director may con-  
9 dition design departure on the alteration of other  
10 elements of the project. If the Director con-  
11 ditionally grants a design departure, the applicant  
12 shall have the option of meeting the conditions of  
13 the design departure, or following the development  
14 standards of the applicable zone.

15 23.40.20 Variances

16 A. Variances may be sought from the provisions of Title  
17 24 or the provisions of Subtitle IV, Parts 2 and 3 of  
18 this Land Use Code, as applicable, except for the  
19 establishment of a use which is otherwise not per-  
20 mitted in the zone in which it is proposed.  
21 Applications for prohibited variances shall not be  
22 accepted for filing.

23 B. Variances ~~(are)~~ shall be authorized ~~(by the Director~~  
24 ~~and are included as an element of the Master Use~~  
25 ~~Permit. However, at the discretion of the applicant,~~  
26 ~~variances which are sought as part of a rezone~~  
27 ~~procedure or Council conditional use may be filed~~  
28 ~~with the respective application and decided by the~~  
Council.) according to the procedures set forth in

1 Chapter 23.76, Procedures for Master Use Permits and  
2 Council Land Use Decisions.

3 \* \* \*

4  
5 ((~~E~~ Upon authorization variances shall remain in effect  
6 as follows:

<u>Approval Granted</u>	<u>Expiration Date</u>
1. Access, yard, setback, open space or lot area minimums modified as part of short plat or lot boundary adjustment approval.	Permit to run with land in perpetuity as recorded with King County
2. Development Standards Modified in Separate Master Use Permit pursuant to Section 23.76.10(B) or as part of a rezone procedure	Two years from date of permit issuance or until the development standard from which the variance was granted is amended to be more stringent, whichever is sooner. If a use approval is granted within this two year period, the variances' expiration date shall be extended until the expiration date established for the use approval.
3. Development standards modified in Master Use Permit granting both variance and use approval or as part of a Council conditional use.	Section 23.76.48 pertains (construction or substantial progress toward construction must be undertaken within two years after issuance of the permit).)

25 Section 8. A new Section 23.42.42 is added to the Seattle  
26 Municipal Code to read as follows:  
27  
28



1 The (~~location~~) establishment or expansion of the  
2 following (~~permitted~~) public (~~facilities~~) uses in  
3 Single Family zones may be permitted  
4 (~~only with Council Approval.~~) by the Council, accord-  
5 ing to the procedures for approving public projects  
6 and City facilities provided in Chapter 23.76,  
7 Procedures for Master Use Permits and Council Land  
8 Use Decisions. (~~Location or expansion of these~~  
9 ~~facilities in a Single Family zone must be shown to~~  
10 ~~satisfy a public necessity.~~)

11 (~~Permitted Public~~  
12 ~~Facilities)~~)

12 Police Precinct Station  
13 Fire Station  
14 Public Boat Moorage  
15 Utility Services Use  
16 Other Similar Use

11 (~~Prohibited Public~~  
12 ~~Facilities~~)

12 Jails  
13 ~~Metro Operating Bases~~  
14 ~~Park and Ride Lots~~  
15 ~~Sewage Treatment Plants~~  
16 ~~Solid Waste Transfer~~  
17 ~~Stations~~  
18 ~~Animal Control Shelters~~  
19 ~~Post Office Distribu-~~  
20 ~~tion Center~~  
21 ~~Other Similar Uses)~~

17 The proponent of any such use shall demonstrate the  
18 existence of a public necessity for location or  
19 expansion of the use in a Single Family zone.

20  
21 B. Development Standards

22 Public projects and City facilities shall be devel-  
23 oped according to the development standards appli-  
24 cable to institutions, Sec. 23.44.22, unless the  
25 Council determines that a particular (~~requirement~~)  
26 standard must be waived or (~~relaxed~~) changed.

27 C. Uses Accessory to a Public Project or City Facility  
28

1 Any use permitted elsewhere in this Chapter as  
2 accessory to a (~~permitted outright~~) principal use  
3 permitted outright or as an administrative con-  
4 ditional use is also permitted as an accessory use to  
5 a public project or City facility unless otherwise  
6 specified in this Section.

7 D. Prohibited Uses

8 The following public projects and City facilities are  
9 prohibited in Single Family zones:

10 Jails

11 Metro Operating Bases

12 Park and Ride Lots

13 Sewage Treatment Plants

14 Solid Waste Transfer Stations

15 Animal Control Shelters

16 Post Office Distribution Centers

17 Other similar uses.

18 Section 11. Section 23.45.106 of the Seattle Municipal  
19 Code is amended to read as follows.

20 23.45.106 Public Projects and City Facilities

21 A. The location or expansion of the following public  
22 projects and City facilities shall be permitted  
23 outright in all multi-family zones, if all of the  
24 development standards for institutions (Sections  
25 23.45.92 through 23.45.102) are met:

26 Police Precinct Stations

27 Fire Stations

28 Public Boat Moorages

1 Utility Service Uses

2 Other similar uses.

3  
4 B. If the proposed public project or City facility does  
5 not meet the development standards for institutions,  
6 it may be permitted (~~with Council approval~~) by the  
7 Council, according to the procedures for public pro-  
8 jects and City facilities provided in Chapter 23.76,  
9 Procedures for Master Use Permits and Council Land  
10 Use Decisions. The Council may waive or change deve-  
11 lopment standards.

12 (~~C.~~ Any City facility which has been sited and approved  
13 by ordinance after a public hearing shall not  
14 require separate Council approval.)

15 (~~D.~~) C. The following public projects or City facilities  
16 shall be prohibited in all multi-family zones:

17 Jails

18 METRO Operating Bases

19 Park & Ride Lots

20 Sewage Treatment Plants

21 Solid Waste Transfer Stations

22 Animal Control Shelters

23 Post Office Distribution Centers

24 Other similar uses.

25 (~~E.~~) D. Specific development standards for public projects and  
26 City facilities.

- 27 1. Sale and consumption of beer during daylight  
28 hours on public park premises shall be permitted  
in a building or within fifty feet of the  
building on an adjoining terrace, provided, that

1 such use shall be in a completely enclosed  
2 building or enclosed portion of building when  
3 within one hundred feet of any lot in a residen-  
4 tial zone.

- 5 2. Sale and consumption of alcoholic beverages  
6 under a Class H liquor license on municipal golf  
7 course premises during the established hours of  
8 operation of the golf course shall be permitted  
9 in a building or within fifty feet of the  
10 building on an adjoining terrace, provided, that  
11 such use shall be in a completely enclosed  
12 building or enclosed portion of building when  
13 within one hundred feet of any lot in a residen-  
14 tial zone.

15 E. Uses Accessory to a Public Project or City Facility

16 Any use permitted elsewhere in this Chapter as  
17 accessory to a principal use permitted outright or as  
18 an administrative conditional use is also permitted  
19 as an accessory use to a public project or City faci-  
20 lity unless otherwise specified in this Chapter.

21 Section 12. Sections 23.49.34 and 23.49.36 of the Seattle  
22 Municipal Code are amended to read as follows:

23 **23.49.34 Modification of Plazas and Other Features**  
24 **Bonused Under Title 24**

- 25 A. The modification of plazas, shopping plazas, arcades,  
26 shopping arcades, and voluntary building setbacks  
27 which resulted in any increase in gross floor area  
28 under Title 24 of the Seattle Municipal Code, shall  
be encouraged in any downtown zone if the change

1 makes the plaza, arcade or setback more closely con-  
2 form to the requirements of this Chapter. The  
3 Director shall review proposed modifications to  
4 determine whether they provide greater public bene-  
5 fits and are consistent with the intent of the Public  
6 Benefit Features Rule, as specified in this Section.  
7 The procedures for approval of proposed modifications  
8 shall be as provided in Chapter 23.76, Procedures for  
9 Master Use Permits and Council Land Use Decisions.

10 23.49.36 Planned Community Developments (PCDs)

11 A. Authority

12 Planned Community Developments may be permitted by  
13 the Council pursuant to Chapter ((~~23.80, Decisions~~  
14 ~~Requiring Council Approval~~)) 23.76, Procedures for  
15 Master Use Permits and Council Land Use Decisions.

16 \* \* \*

17 Section 13. Sections 23.70.50 and 23.70.60 of the Seattle  
18 Municipal Code are hereby amended to read as follows:

19 23.70.50 Greenbelt Preserve Development Standards

20  
21 Each lot which is proposed for development, subdivision,  
22 or short subdivision which is either completely or par-  
23 tially within the Greenbelt Overlay District shall provide  
24 a greenbelt preserve; except that a dwelling unit that  
25 was legally established and in existence prior to June 1,  
26 1983 may be altered or added to without designating a  
27 greenbelt preserve if such alteration or addition does not  
28 increase the lot coverage of that structure by more than  
ten percent of the total lot area. The lot coverage  
restrictions of the underlying zone shall continue to

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apply. A site consisting of more than one lot, separated by only a street or alley, may be considered as a lot for purposes of this section.

The greenbelt preserve shall be provided so as to preserve the visual continuity, habitat value, slope stability and buffering characteristics of the greenbelt by preserving areas in their natural state, with as little disturbance as possible to the topography or vegetation.

A. Designation of greenbelt preserve

1) ~~((Recording))~~ Procedures

~~((The boundaries of the greenbelt preserve shall be designated and shall be recorded with the King County Department of Records and Elections.))~~

The procedures for designating the boundaries of a greenbelt preserve shall be as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.

\* \* \*

23.70.60 Restored Greenbelt Preserve Development Standards

In addition to the greenbelt preserve requirements of Section 23.70.50, each lot which is proposed for development, subdivision, or short subdivision which is either completely or partially within the Greenbelt Overlay District shall provide a restored greenbelt preserve;

1 except that a dwelling unit that was legally established  
2 and in existence prior to June 1, 1983 may be altered or  
3 added to without designating a restored greenbelt preserve  
4 if such alteration or addition does not increase the lot  
5 coverage of that structure by more than ten percent of the  
6 total lot area. The lot coverage restrictions of the  
7 underlying zone shall continue to apply. A site con-  
8 sisting of more than one lot, separated by only a street  
9 or alley, may be considered as one lot for purposes of  
10 this section. The restored greenbelt preserve is intended  
11 to preserve the visual continuity and habitat value of the  
12 greenbelt.

13 A. ~~((Recording))~~ Procedures

14 ~~((The restored greenbelt preserve shall be designated  
15 and shall be recorded with the King County  
16 Department of Records and Elections.))~~

17 The procedures for designating the boundaries of a  
18 restored greenbelt preserve shall be as provided in  
19 Chapter 23.76, Procedures for Master Use Permits and  
20 Council Land Use Decisions.

21 \* \* \*

22 Section 14. Section 23.80.50 of the Seattle Municipal  
23 Code relating to Major Institution Master Plans is amended to  
24 read as follows:  
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5. Major Institutions -- Master Plans

23.80.50 The Master Plan Process

A. ~~((Application))~~ Procedures for Master Plan Approval

~~((The major institution seeking approval of a Master Plan shall file an application with the Director.))~~

The procedures for Master Plan review and approval shall be as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, and as provided in this section.

B. New Master Plan

1. Formation of Citizens Advisory Committee

a. The institution proposing a Master Plan shall submit to the Department of Community Development a list of appropriate groups from which representatives may be selected for appointment to an Advisory Committee. The groups may include area community groups, residents, property owners, and business persons; consumer groups using the services of the institution; nonmanagement employees of the institution; and any other persons or organizations directly affected by the actions of the institution. Neither the applicant institution nor the City shall have a representative on the committee.

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b. The Director of the Department of Community Development shall review the list of groups and recommend to the Council those groups appropriate to achieve a balanced, independent, and representative committee. The Director of the Department of Community Development shall also recommend the number of representatives to serve from each group, and the total number of members of the Advisory Committee, which may vary in size from seven to eleven members.

Each recommended group shall select (a) representative(s) and (an) alternate(s) for service on the Advisory Committee. If no organized group(s) exist(s), the Community Development Director shall select representatives. Alternates shall replace representatives only when the latter are unable to serve.

After the representatives have been selected by the group, the Community Development Director shall review the membership. If he/she finds that more than one-third of the members has a direct economic relationship with the institution, including employment by the institution or a significant business contact with the institution, he/she shall seek alternative representatives from the affected group,

1 notify the Council of the economic  
2 relationship, and recommend changes.

3  
4 c. The recommendation of the Community  
5 Development Director shall be submitted to  
6 the Council. After the recommendation has  
7 been submitted, the institution may convene  
8 the Advisory Committee. The Council may  
9 confirm the recommendation, may make  
10 changes in the size and composition of the  
11 Advisory Committee, or may remand the  
12 matter to the Community Development  
13 Director for further action. The Council  
14 shall establish the final composition of  
15 the Committee through a memorandum of  
16 agreement with the institution. Individual  
17 representatives may be substituted by the  
18 represented group without Council confir-

19 d. The City-University Community Advisory  
20 Committee (CUCAC) shall serve as the  
21 Advisory Committee for the University of  
22 Washington.

23 2. Advisory Committee Rules

24 The Community Development Director shall pro-  
25 mulgate general rules to govern the proceedings  
26 of all advisory committees and shall provide  
27 orientation for advisory committees.  
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3. Notice of Application

Notice of application for approval of a Master Plan shall be provided as required by Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. ((and the formation of an Advisory Committee shall be provided in the following manner:))

~~((Notice of the Director's recommendation should be provided in the manner prescribed by Section 23.80.50B.3. The Director shall publish notice of the recommendation and the Council hearing in the general mailed release, and at least fourteen days prior to the hearing date the institution shall post a large sign on the site and shall post ten placards within three hundred feet of the site and/or at the closest street intersections.))~~

4. Development of Master Plan

- a. The Advisory Committee shall hold meetings open to the public to discuss the Master Plan. The institution shall provide adequate and timely information to the Advisory Committee for its consideration of the content and level of detail of each of the specific elements of the Master Plan and the scope and content of the environmental analysis. The Advisory Committee shall participate directly in the for-



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~~thirty-five day period during which the Department will accept comments, and of the joint public hearing on the draft EIS shall be published in the City official newspaper. Mailed notice shall be sent, notice shall be included in a general mailed release and posted in the Department. Notice of the joint public hearing shall be given at least twenty days prior to the hearing date.)~~

d. The institution may revise the draft Master Plan and the lead agency may revise the environmental documentation following the public meetings and the hearing(s). The institution shall then submit a proposed final Master Plan and the required environmental documentation to the Director.

5. Advisory Committee Report

The Advisory Committee shall submit to the Director a written report of its findings and recommendations on the proposed final Master Plan. The Advisory Committee report shall include the public comments it received and analyzed as part of its formal comment and the Committee recommendations.

C. Previously Prepared Master Plans

1. Long range development plans which have been

1 prepared by an institution prior to the adoption  
2 of this ordinance (June 2, 1983) may be sub-  
3 mitted for Council approval as a Master Plan in  
4 the following manner:

5 a. The plans shall be submitted to the  
6 Director who shall determine whether the  
7 requirements for the contents of a Master  
8 Plan, as provided in Section 23.80.40, have  
9 been substantially satisfied, and whether  
10 the level of community involvement in the  
11 plan has satisfied the intent of Major  
12 Institutions Policy Guideline 5b.

13 (1) If the level of community involvement  
14 is determined to have been inadequate,  
15 the institution shall establish an  
16 Advisory Committee in accordance with  
17 subsection B1 above and shall develop  
18 a new Master Plan and prepare a report  
19 in the manner prescribed by subsec-  
20 tions B4 and B5 above.

21 (2) If the requirements for the contents  
22 of a Master Plan have not been  
23 substantially satisfied, the Director  
24 may require the preparation of a new  
25 Master Plan or a supplement to the  
26 previously prepared long range deve-  
27 lopment plans in order to satisfy the  
28 requirements of Section 23.80.40  
above. The Director shall determine  
whether a required supplement must be

1 reviewed by an Advisory Committee.

2  
3 (3) The Director's determination shall be  
4 final, and it shall not be subject to  
5 a request for an interpretation or to  
6 appeal.

7 b. If the Director determines that the pro-  
8 posed Master Plan satisfies the require-  
9 ments of Section 23.80.40 and has been  
10 developed through a community planning pro-  
11 cess which satisfies the objectives of the  
12 Major Institutions Policy and the Land Use  
13 Policies, the Director shall submit to the  
14 Council a recommendation in support of the  
15 determination. If the Council determines  
16 that the level of community involvement met  
17 the intent of the Major Institutions  
18 Policy, no Advisory Committee will be  
19 appointed.

20 2. If no Advisory Committee, new Master Plan, nor  
21 Supplement to previously prepared long range  
22 development plans is required, City review of  
23 previously prepared plans shall be conducted in  
24 the manner prescribed by Sections 23.80.50D  
25 through ((~~±~~))H.

26 D. Review by the Director

27 The Director shall review the proposed final Master  
28 Plan, the comments of all City agencies and other  
governmental agencies, and the written report and

1 record of the Advisory Committee, and the environmen-  
2 tal documentation. If the Director determines that  
3 (the Master Plan and its environmental documentation  
4 adequately describe the elements of the Master Plan,  
5 he/she shall prepare a written report for the Hearing  
6 Examiner. If) an element of the Master Plan or an  
7 environmental issue has not been adequately  
8 described, the Director shall request the institution  
9 to prepare additional information and, if necessary,  
10 to reconvene the Advisory Committee.

11 E. Report of Director

12 ((+))1.((+)) The Director shall prepare a written report on  
13 an application for a Master Plan as provided in  
14 Chapter 23.76, Procedures for Master Use  
15 Permits and Council Land Use Decisions. ((The  
16 report shall be submitted to the Hearing  
17 Examiner and made available for public  
18 inspection at least thirty days prior to  
19 the Hearing Examiner's public hearing.

20 The contents of the Director's report shall  
21 include:

22 A review of the consistency of the Master  
23 Plan with adopted City land use policies  
24 and regulations, including the Major  
25 Institution Policy and SEPA;

26 Recommendations or comments of any affected  
27 agencies of the City and of other  
28

1 governmental agencies who have submitted  
2 written comments;

3 ~~e. Recommendations of conditions needed to mitigate  
4 adverse environmental impacts;)~~

5  
6 2. The Director shall transmit to the Hearing  
7 Examiner the report and record of meetings and  
8 hearings of the Advisory Committee along with  
9 the Director's report and the proposed Master  
10 Plan.

11 ~~(d.)~~ 3. If the Director's findings and/or recommen-  
12 dations differ from those of the Advisory  
13 Committee, the Director's report shall state the  
14 reasons for the difference. ((and  
15 The Director's recommendation to approve, approve  
16 with conditions, or deny the Master Plan.))

17 ~~((F. Information Submitted to the Hearing Examiner~~

18 ~~The Director shall submit to the Hearing Examiner the~~  
19 ~~following items:~~

- 20 ~~1. The proposed Master Plan;~~
  - 21 ~~2. All environmental documentation, including any~~  
22 ~~checklist, environmental impact statement (EIS)~~  
23 ~~or Declaration of Non-Significance (DNS);~~
  - 24 ~~3. The report and record of meetings and hearings~~  
25 ~~of the Advisory Committee; and~~
  - 26 ~~4. The Director's report.)~~
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((G)) F. Hearing Examiner Consideration of Master Plan

1. The Hearing Examiner shall review the Director's report and recommendation as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.

i. The Hearing Examiner shall provide notice of the hearing before the Hearing Examiner and the availability of information submitted to the Hearing Examiner, and he/she shall conduct a public hearing on the proposed Master Plan and shall issue a recommendation to the Council in the following manner:

a. General Consolidation With Environmental Appeal

The Hearing Examiner shall conduct a public hearing, which shall constitute a hearing by the Council. At the same hearing, the Hearing Examiner shall also hear any appeals of the Director's environmental determination.

b. Notice

The Director shall give notice of the Hearing Examiner's hearing, the Director's environmental determination, and of the availability of the Director's report at least thirty days prior to the hearing by:

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- ~~(1) Publication in the official City newspaper;~~
- ~~(2) At least four placards posted at places visible to the public, including street intersections, within three hundred feet of the boundaries of the project;~~
- ~~(3) General mailed release;~~
- ~~(4) Posting in the Department;~~
- ~~(5) Mailed notice.~~

The notice shall state the institution involved, significant changes proposed by the Master Plan, and the Director's recommendation and environmental determination. The notice shall also state that the environmental determination is subject to appeal and shall describe the appeal procedure.

~~c. Appeal of Environmental Determination~~

Any person significantly interested in or affected by the Master Plan decision under consideration may appeal the Director's environmental determination subject to the following provisions:

~~(1) Time of Filing~~

Appeals shall be filed with the Hearing Examiner by five o'clock p.m. of the fourteenth calendar day following publication of notice of the

1 determination. When the last day of  
2 the appeal period so computed is a  
3 Saturday, Sunday, or federal or City  
4 holiday, the period shall run until  
5 five o'clock p.m. on the next business  
6 day. The appeal shall be in writing  
7 and shall state specific objections to  
8 the environmental determination and  
9 the relief sought. The appeal shall  
10 be accompanied by payment of the  
11 filing fee as set forth in the Seattle  
12 Municipal Code Section 3.02.125,  
13 Hearing Examiner Filing Fees. In form  
14 and content, the appeal shall conform  
15 with the rules of the Hearing  
16 Examiner.

17 ~~(2) Pre-Hearing Conference~~

18 On the Hearing Examiner's motion, or  
19 at the request of any party of record,  
20 the Hearing Examiner may have a  
21 conference prior to the hearing in  
22 order to entertain pre-hearing  
23 motions, clarify issues, or consider  
24 other relevant matters.

25 ~~(3) Notice of Appeal~~

26 Notice of filing of the appeal and of  
27 the date of the consolidated hearing  
28 on the environmental appeal and the  
Master Plan decision shall be mailed

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by the Hearing Examiner to parties of record and those requesting notice no later than five o'clock p.m. of the next business day after the date of filing of the appeal.

~~(4) Scope of Review~~

Appeals shall be considered de novo. The Hearing Examiner shall entertain issues cited in the appeal which relate to procedural irregularities and the environmental determination.

~~(5) Standard of Review~~

The Director's environmental determination shall be given substantial weight.

~~(6) The Record~~

The record shall be established at the Hearing Examiner hearing. The Hearing Examiner shall either close the record after the hearing or leave it open to a specified date for additional testimony or written argument.

Unless the environmental determination is appealed as herein provided, the Director's decision that an EIS is not required or that an EIS is adequate shall be final when the City Council makes its decision on the application.

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d. Conduct of Hearing

The Hearing Examiner at the public hearing will accept evidence and comments regarding:

- (1) The merits of the proposal;
- (2) The Director's report;
- (3) The Director's recommendation to approve, approve with conditions, or deny an application for a Master Plan;
- (4) Specific issues related to the Director's environmental determination, if appealed.

e. Written Comments

Written comments on the application for a Master Plan and the Director's report and recommendation may be sent to the Department or the Hearing Examiner. Only those received prior to the conclusion of the hearing shall be considered by the Hearing Examiner.

f. Appeal Decision and Recommendation

From the information gained at the hearing, from timely written comments submitted to the Department or the Hearing Examiner, and from the report and recommendation of the Director, the Hearing Examiner shall:

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~~(1) If the environmental determination was appealed, affirm, reverse, or modify the Director's determination that an EIS is not required or that an EIS is adequate, based on written findings and conclusions supporting the appeal decision. The Director shall be bound by the terms and conditions of the Hearing Examiner's decision. The Hearing Examiner's decision on the Director's environmental determination shall be final and conclusive when the Council makes its decision on the application.)~~

(+) 2. (+) If the Hearing Examiner considers the proposed Master Plan and all proposals for changes, alternatives, mitigating measures and conditions, and determines that a significant Master Plan element or environmental issue was not adequately addressed by the proposed Master Plan, ~~((he/she))~~ the Hearing Examiner may request the institution to prepare new proposals on the issues identified and may request the Advisory Committee to reconvene for the limited purpose of commenting on the new proposals. The new proposals shall also be submitted to the Director for comment. After the new

1 proposals and comments have been  
2 received, the Hearing Examiner may:

3 ~~(1.)~~ a. Remand the new proposals and  
4 Advisory Committee comments and  
5 recommendation to the Director  
6 for further consideration and  
7 report; or

8 ~~(1.)~~ b. Open the record for a hearing  
9 on the new proposals, the  
10 Advisory Committee comments  
11 and recommendation, and any com-  
12 ments pertaining to the limited  
13 issues which were presented by  
14 other parties of record. The  
15 Hearing Examiner shall conduct  
16 the hearing and issue a recom-  
17 mendation to the Council in the  
18 manner prescribed by this  
Section.

19 ~~(3)~~ ~~(Submit a recommendation to the~~  
20 ~~Council. The recommendation shall~~  
21 ~~include consideration of the physical~~  
22 ~~development and environmental impacts~~  
23 ~~based on the objectives of the Major~~  
24 ~~Institutional Policy, other applicable~~  
25 ~~Land Use Policies, and the~~  
26 ~~SEPA Ordinance, Chapter 25.04. The~~  
27 ~~recommendation and the record shall be~~  
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1 filed with the City Clerk within  
2 fourteen days after the close of the  
3 hearing record, based on the written  
4 findings and conclusions, to approve,  
5 approve with conditions, or deny an  
6 application or a Master Plan.

7 ~~g. Distribution of Decision and Recommendation~~

8 On the same date that the Hearing Examiner  
9 submits a recommendation to the Council,  
10 copies of the recommendation and appeal  
11 decision, if any, shall be mailed to the  
12 applicant, to all persons, testifying or  
13 submitting information at the hearing, and  
14 to all those who request a copy in a timely  
15 manner. Notice of the Hearing Examiner's  
16 recommendation to the Council shall include  
17 instructions for requesting the Council to  
18 ~~further consider the recommendation on the~~  
19 ~~Master Plan decision and information regarding~~  
20 ~~time limits for seeking judicial review.~~

21 ~~h. File to Council~~

22 The City Clerk shall file the  
23 recommendation and record with the original  
24 application and transmit the same to the  
25 (City Council.)

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2 ((H\*)) G. Council Consideration of the Hearing Examiner's  
3 Recommendation

- 4 1. The Council shall review and consider the Hearing  
5 Examiner's recommendation as provided in Chapter  
6 23.76, Procedures for Master Use Permits and  
7 Council Land Use Decisions. ((Any person  
8 substantially affected by or interested in the  
9 Hearing Examiner's recommendation may submit in  
10 writing to the Council a request for further  
11 consideration of the Master Plan recommendation.  
12 Requests for further consideration shall be  
13 filed with the Council by five o'clock p.m. of  
14 the fourteenth calendar day following the  
15 date of mailing of the Hearing Examiner's recom-  
16 mendation. When the last day of the request  
17 period so computed is a Saturday, Sunday or  
18 federal or City holiday, the request period  
19 shall run until five o'clock p.m. on the next  
20 business day. The request shall clearly  
21 identify specific objections to the Hearing  
22 Examiner's recommendation, facts missing from  
23 the record, and the relief sought.
- 24 2. The Council shall mail a copy of the request for  
25 further consideration and instructions for  
26 responding to the request to those individuals  
27 who were provided written notice of the Hearing  
28 Examiner's action. Recipients of the request  
shall have fourteen days from the date of mail-  
ing of the copy of the request to submit written

1                    comments to the Council. The Council shall  
2                    forward any written comments to the person  
3                    making the request. The persons making the  
4                    request shall have fourteen days from the date  
5                    of mailing of the comments to reply to the  
6                    Council in writing.

7                    3. If there is no request for further consideration,  
8                    Council action shall be based on the record  
9                    established by the Hearing Examiner.

10                   4. If the Council examines the record and  
11                   determines that a factual error exists or that  
12                   essential information is missing from any  
13                   portion of the record except the Master Plan,  
14                   the Council may:

15                   a. Remand the request and record to the  
16                   Director for further consideration and  
17                   report; or

18                   b. Remand the request to the Hearing Examiner  
19                   and direct the Hearing Examiner to conduct  
20                   another hearing, limited to the con-  
21                   sideration of perceived factual error or  
22                   new information, and to reconsider the  
23                   recommendation; or

24                   c. Open the record to correct the factual  
25                   error or receive the new information. The  
26                   Council shall conduct a hearing on the new  
27                   or corrected information. The Council may  
28                   hear testimony from those who testified

1 before the Hearing Examiner, and may accept  
2 written or oral argument based on the  
3 record. Notice of the hearing shall be  
4 mailed to those individuals provided written  
5 notice of the Hearing Examiner action at  
6 least seven days prior to the hearing.

7 (5r) 2. If the Council examines the proposed Master Plan  
8 and all proposals for changes, alternatives,  
9 mitigating measures and conditions, and deter-  
10 mines that a significant Master Plan element or  
11 environmental issue was not adequately addressed  
12 by the proposed Master Plan, the Council may  
13 request the institution to prepare new proposals  
14 on the issue identified, and may request the  
15 Advisory Committee to convene for the limited  
16 purpose of commenting on the new proposals. The  
17 new proposals shall also be submitted to the  
18 Director for comment. After the new proposals  
19 and comments have been received, the Council  
20 may:

- 21 a. Remand the new proposals and Advisory  
22 Committee comments and recommendation to  
23 the Director for further consideration and  
24 report; or  
25 b. Direct the Hearing Examiner to conduct  
26 another hearing and to reconsider the  
27 recommendation based on the new proposals,  
28 the Advisory Committee comments and

1 recommendation, and any comments pertaining  
2 to the limited issues which were presented  
3 by other parties of record; or

- 4  
5 c. Open the record for a hearing on the new  
6 proposals, the Advisory Committee comments  
7 and recommendation, and any comments per-  
8 taining to the limited issues which were  
9 presented by other parties of record.

10 ~~(6)~~ 3.

11 Consideration of a Master Plan for the  
12 University of Washington will be made in concert  
13 with the Board of Regents in accordance with the  
14 following procedure:

- 15 a. The Council shall hold a public hearing to  
16 receive comments from representatives of  
17 the University of Washington, the City  
18 University Community Advisory Committee,  
19 and all other persons who petitioned for  
20 further consideration (parties of record)  
21 in the manner prescribed by (~~this~~  
22 ~~subsection H.~~) Chapter 23.76, Procedures  
23 for Master Use Permits and Council Land Use  
24 Decisions.

- 25 b. The Council shall consider the record  
26 before the Hearing Examiner and the com-  
27 ments received at its public hearing and  
28 shall prepare a preliminary decision which  
shall be mailed to the parties of record.  
By five o'clock p.m. of the thirtieth

1 calendar day following the date of mailing  
2 of the preliminary decision, the parties of  
3 record shall file any response to the  
4 Council recommendation by providing written  
5 comments which should include specific  
6 objections to the recommendation, the basis  
7 for the objections, and reasonable alter-  
8 natives to the recommendation. The Council  
9 shall mail any written comments of parties  
10 of record to all other parties of record,  
11 who shall file any response in writing by  
12 five o'clock p.m. on the fourteenth calen-  
13 dar day following the date of mailing of  
14 the written comments. When the last day of  
15 the response period so computed is a  
16 Saturday, Sunday or federal or City holiday,  
17 the request period shall run until five  
18 o'clock p.m. on the next business day.

18 ~~(I)~~ H. Council Decision

19 ~~((1~~ The Council's decision to approve, approve with  
20 conditions or deny the application for a Master  
21 Plan shall be based on the record, supplemented  
22 as appropriate pursuant to Section 23.80-50H4  
23 and 5. The Council may take action contrary to  
24 the Hearing Examiner's recommendation if the  
25 Council determines that the recommendation was  
26 based upon an error in judgment, an error in  
27 conclusion, or a factual error in the record.  
28

1                   2. The Council shall adopt written findings and  
2 conclusions in support of its Master Plan  
3 decision.) Approval of a Master Plan shall be by  
4 ordinance.

5                   ((3. A copy of the Council's decision shall be  
6 transmitted to the City Clerk who shall send a  
7 copy to the Director, the Hearing Examiner, and  
8 all parties of record. The Director shall be  
9 bound by and incorporate the terms and  
10 conditions of the Council's decision in permits  
11 to the applicant.))

12                   ((4.)) A Master Plan shall not become final until the  
13 ordinance approving it ((shall have)) becomes  
14 law pursuant to the City Charter and the Council  
15 adopted plan has been adopted by the institu-  
16 tion. Within three days of its decision to  
17 adopt the plan, the institution shall provide  
18 written notification of the decision to the City  
19 Clerk, who shall send a copy of the decision to  
20 the Director, the Hearing Examiner, and all par-  
21 ties of record.

22                   ((5. A Master Plan along with any related  
23 environmental determination shall be final and  
24 conclusive unless within fourteen calendar days  
25 of the date the decision is filed or the  
26 institution adopts its Master Plan, whichever  
27 occurs last, a party of record makes application  
28 to King County Superior Court for a writ of  
review.))

1 Section 15. Chapter 23.82, Major Institutions Designation,  
2 of the Seattle Municipal Code is amended by amending Section  
3 23.82.10C and amending and renumbering Sections 23.82.70 and  
4 23.82.80 to read as follows:

5 23.82.10 Director Consideration of Major Institutions  
6 Designation

7 \* \* \*

8 C. The Director's determination (~~on the~~  
9 ~~major institution~~) that an application for major institution  
10 designation is required shall be made in the form of an  
11 interpretation and shall be subject to the procedures  
12 prescribed by Section 23.88.20.

13 23.82.~~((70))~~ 20 ~~((Council Decision))~~ Procedures for Major  
14 Institution Designation

15 The procedures for designation of major institutions shall  
16 be as provided in Chapter 23.76, Procedures for Master Use  
17 Permits and Council Land Use Decisions. The Council (~~may~~)  
18 shall grant or deny the request for major institution designa-  
19 tion by resolution. If the request is granted, the external  
20 boundaries of the institution shall be adopted in the same  
21 resolution.

22 23.82.~~((80))~~ 30 Zone Designation

23 Following ~~((M))~~ major institution designation,  
24 ~~((shall be approved by resolution and))~~ zone designations  
25 for the major institution shall be adopted by ordinance  
26 ~~((and determined))~~ in the manner prescribed by Chapter  
27 23.~~((34))~~ 76, Seattle Municipal Code. When making recom-  
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mendations for zoning designations for a new major institution, the Director may recommend changes to the adopted boundaries if upon further analysis and/or environmental review such changes are appropriate.

Section 16. Chapter 23.84, Definitions, is amended to add new subsections to Sections 23.84.06 "C" and 23.84.10 "E" and amend Section 23.84.30 "P" to read as follows:

23.84.06 "C"

\* \* \*

City facility

A public facility owned and/or operated for public purposes by the City of Seattle.

\* \* \*

23.83.10 "E"

\* \* \*

EIS

An environmental impact statement required by the State Environmental Policy Act. As used in this Title, the term refers to a draft, final or supplemental EIS.

23.84.30 "P"

\* \* \*

Public (~~(facility)~~) project

(~~One which is~~) A facility owned, operated or franchised by

1 a unit of general or special purpose government, except the  
2 City of Seattle, for public purposes.

3 \* \* \*

4 Section 17. Sections 23.88.10 and 23.88.20 are amended to  
5 read as follows:

6  
7 **23.88.10 Rulemaking**

8 The Director may promulgate rules consistent with this  
9 Title pursuant to the authority granted in Section  
10 3.06.040 and pursuant to the procedures established for  
11 rulemaking in the Administrative Code, Chapter 3.02. In  
12 addition to the notice provisions of Ch. 3.02, notice of  
13 the proposed adoption of a rule shall be placed in the  
14 general mailed release.

15 **23.88.20 Land Use Interpretations**

16 B. ~~((if there is))~~ When public notice ~~((of))~~ is required  
17 for a project, ((the)) a request for an interpreta-  
18 tion concerning ((a specific)) that project shall be  
19 made before the expiration of any applicable appeal  
20 period. Notice of the Director's decision as  
21 required by SMC 23.76.20 shall include notice of the  
22 deadline for requesting code interpretations. When  
23 ((a project requires no)) public notice is not  
24 required for a project, a request for an interpreta-  
25 tion concerning that project may be made any time,  
26 provided that issued permits shall not be affected by  
27 subsequent code interpretations.

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2 E. The Director's interpretation may be appealed subject  
3 to the following:

4 1. Any person significantly affected by or  
5 interested in a code interpretation may appeal  
6 to the Hearing Examiner within a period  
7 extending to five o'clock p.m. of the fifteenth  
8 (~~fourteenth~~) calendar day following the date of  
9 publication of the interpretation. When the  
10 last day of the period so computed is a  
11 Saturday, Sunday, or federal or City holiday,  
12 the period shall run until five o'clock p.m. on  
13 the next business day. The appeal shall be in  
14 writing and shall state specifically why the  
15 applicant believes the interpretation to be  
16 incorrect.

17 2. Appeals of code interpretations shall be accom-  
18 panied by payment of a filing fee as established  
19 in the Permit Fee Ordinance, Chapter 22.900.

20 3. The Hearing Examiner shall consider the appeal  
21 in accordance with the procedure established for  
22 hearing contested cases in the Administrative  
23 Code, Chapter 3.02. If the Director's decision  
24 on the project for which the code interpretation  
25 is sought is also appealed to the Hearing  
26 Examiner, the appeal of the Director's code  
27 interpretation shall be consolidated with the  
28 appeal of the Director's decision on the permit  
and a single hearing shall be held.

1           4. Notice of the hearing date shall be given not  
2           less than twenty days prior to hearing.

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4           ~~((4))~~ 5. Appeals shall be considered de novo, and the  
5           decision of the Hearing Examiner shall be made  
6           upon the same basis as was required of the  
7           Director. The interpretation of the Director  
8           shall be given substantial weight, and the bur-  
9           den of establishing the contrary shall be upon  
10          the appellant. The Hearing Examiner shall sum-  
11          marily dismiss an appeal without hearing which  
12          is determined to be without merit on its face,  
            frivolous, or brought merely to secure a delay.

13          ~~((5))~~ 6. All appeals shall be decided within ~~((fourteen))~~  
14          fifteen days of the close of the record before  
15          the Hearing Examiner.

16          ~~((6))~~ 7. The decision of the Hearing Examiner may affirm,  
17          reverse or modify the Director's interpretation  
18          either in whole or in part. The Hearing  
19          Examiner may also remand the interpretation to  
20          the Director for further consideration. The  
21          decision of the Hearing Examiner shall be final,  
22          and the applicant, appellant and Director shall  
23          be bound by it.

24          Section 18. Section 15.04.020 and 15.04.070 of Title 15  
25          (Street and Sidewalk Use) of the Seattle Municipal Code are  
26          amended to read as follows:  
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15.04.020 Permit - Application

Except for those street use approvals which must be requested from the Director of Construction and Land Use in accordance with the applicable provisions of (~~the Master Use Permit Ordinance 109438~~), Seattle Municipal Code Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, applications for permits provided for by this subtitle shall be filed with the Director of Engineering, upon a form supplied by him. Such applications shall be directed to the Board of Public Works, and shall contain:

- A. An accurate description of the public place or portion thereof desired to be used as herein specified.
- B. The use desired to be made of such public place by the applicant;
- C. The plans and specifications for any utility or structure desired to be constructed, erected or maintained by the applicant in or on a public place; and
- D. Where it is desired to construct a fuel opening, sidewalk elevator or door, a certificate from the Director of Engineering, showing the applicant to be the record owner of the premises abutting and in connection with which such fuel opening, sidewalk elevator or door is to be constructed.

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15.04.070 Permit - Revocation.

All street or sidewalk use authorizations approved under the provisions of this subtitle or ~~(the Master use Permit Ordinance (109438))~~ Seattle Municipal Code Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, shall vest no permanent right, and may in any case be revoked by the Board of Public Works upon thirty days' notice; or without notice, in case any such use or occupation shall become dangerous or any structure or obstruction permitted shall become insecure or unsafe, or shall not be constructed, maintained or used in accordance with the provisions of this subtitle.

Section 19. Section 24.66.100 of Title 24, Zoning and Subdivisions, is amended to read as follows:

24.66.100 Planned Unit Development - Council ~~((Action))~~  
~~((hearing and))~~ Action

~~((The Urban Development and Housing Committee or other committee of the Council shall hold a public hearing on an application for a planned unit development and cause notice of such hearing to given in accordance with the provisions of Section 24.72.050 pertaining to notice of hearings on proposed amendments to the Official Zoning Map.))~~ The procedure for a Council decision on an application for a planned unit development in a zone regulated by Title 24 shall be governed by the provisions of Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. The Council shall take final action to approve, conditionally approve, or disapprove the appli-

1 cation within sixty days after receipt of the  
2 ((Director's)) Hearing Examiner's recommendations.

3 Approval or conditional approval of an application for a  
4 planned unit development shall be by ordinance which ordi-  
5 nance shall also amend the Official Zoning Map to indicate:

- 6 A. The boundaries of such approved planned development;  
7  
8 B. The ordinance approving the preliminary plans for  
such planned unit developments; and  
9  
10 C. The number of the Comptroller's File containing the  
11 approved preliminary plans.

12 When the Council's action is contrary to the ((Director's))  
13 Hearing Examiner's recommendation, it shall enter findings  
14 and conclusions from the record which support its action.

15 Section 20. Sections 25.05.510 and 25.05.680 of Chapter  
16 25, Environmental Policies and Procedures are amended to read  
17 as follows:

18 **25.05.510 Public Notice**

- 19 (1) When these rules require notice to be given under  
20 this section, the lead agency must use reasonable  
21 methods to inform the public and other agencies that  
22 an environmental document is being prepared or is  
23 available and that public hearings(s), if any, will  
24 be held.

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(2) Master Use Permits

For proposals requiring a Master Use Permit under SMC Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, notice of availability of environmental documents, SEPA appeals and SEPA public hearings shall be provided as required in Chapter 23.76.

(3) ((2)) SEPA Public Information Center

(a) The Department of Construction and Land Use shall be responsible for establishing and maintaining the City's SEPA Public Information Center at a location readily accessible to the public, and for making the existence and location of the Center known to the general public and City employees, and for satisfying the public information requirements of WAC 197-11-510.

(b) The following documents shall be maintained at the SEPA Public Information Center:

(i) Copies of all declarations of significance and declarations of nonsignificance filed by the City, for a period of one year;

(ii) Copies of all EISs prepared by or on behalf of the City, for a period of three years;

(iii) Copies of all decisions in administrative appeals wherein SEPA issues were raised;

1 (iv) Copies of all adoption notices and addenda  
2 issued under Part Six of these rules.

3 (c) In addition, the Department of Construction and  
4 Land Use shall maintain the following registers  
5 at the SEPA Public Information Center, each  
6 register including for each proposal its loca-  
7 tion, a brief (one sentence or phrase) descrip-  
8 tion of the nature of the proposal, the date  
9 first listed on the register, and the contact  
10 person or office from which further information  
11 may be obtained:

12 (i) A "Declaration of Nonsignificance  
13 Register" which shall contain a listing of  
14 all declarations of nonsignificance made by  
15 the City during the previous year;

16 (ii) An "EIS in Preparation Register" which  
17 shall contain a listing of all proposals  
18 for which the City is currently preparing  
19 an EIS, and the date by which the EIS is  
20 expected to be available to the public;

21 (iii) An "EIS Available Register" which shall  
22 contain a listing of all draft and final  
23 EISs prepared by or on behalf of the City  
24 during the previous six months, including  
25 thereon the date by which comments must be  
26 received on draft EISs, and the date for  
27 any public hearing scheduled for the propo-  
28 sal.

1 (d) Each of the registers shall be kept current and  
2 maintained at the SEPA Public Information Center  
3 for public inspection. In addition, the  
4 registers, or updates thereof containing new  
5 entries added since the last mailing, shall be  
6 mailed once every week to those organizations  
7 and individuals who make written request there-  
8 fore, unless no new entries are made on the  
9 register, in which event a copy of the register  
10 or update shall be mailed when a new entry is  
11 added. The Department of Construction and Land  
12 Use may charge a periodic fee for the service of  
13 mailing the registers or updates, which shall be  
14 reasonably related to the costs of reproduction  
and mailing.

15 (e) The documents required to be maintained at the  
16 SEPA Public Information Center shall be  
17 available for public inspection and copies  
18 thereof shall be provided upon written request.  
19 The City shall charge a fee for copies in the  
20 manner provided by ordinance, and for the cost  
21 of mailing.

22 (f) Copies of all documents filed and registers  
23 maintained at the SEPA Public Information Center  
24 shall be maintained at the main branch of the  
25 Seattle Public Library.  
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1                   ~~(g) For private proposals requiring a Master Use~~  
2                   ~~Permit under Ch. 23.76, a notice of availability~~  
3                   ~~of environmental documents, administrative SEPA~~  
4                   ~~appeals and SEPA public hearings shall be given~~  
5                   ~~consistent with 23.76.14, 23.76.18, 23.76.20 and~~  
6                   ~~23.76.32.)~~

7                   (4) ~~((3))~~ Notice of Declarations of Nonsignificance shall be  
8                   provided as follows:

9                   (a) The SEPA Public Information Center shall main-  
10                   tain a "Declaration of Nonsignificance Register"  
11                   which shall contain a listing of all DNSs. The  
12                   register shall be maintained and used in accor-  
13                   dance with the provisions of subsection (4).

14                   (b) The information in the register or update  
15                   thereof, along with notice of the right to  
16                   appeal a DNS in accordance with Section  
17                   25.05.680 shall be published once every week in  
18                   the City official newspaper. In addition,  
19                   notice of a DNS and notice of the right to  
20                   appeal a DNS in accordance with Section  
21                   25.05.680, shall be submitted in a timely manner  
22                   to at least one community newspaper with distri-  
23                   bution in the area impacted by the proposal for  
24                   which the DNS was adopted, and shall be posted  
25                   in a conspicuous place in the Department of  
26                   Construction and Land Use.

26                   (5) ~~((4))~~ (a) Upon publication, the draft and the final EIS  
27                   shall be filed by the responsible official  
28                   with the City's SEPA Public Information Center.

1 (b) Notice of a draft EIS shall be published in the  
2 official newspaper. Notice of a final EIS and  
3 the procedures for appeal pursuant to 25.05.680  
4 shall be similarly published. In addition,  
5 such notices shall be submitted in a timely  
6 manner to at least one community newspaper with  
7 distribution in the area impacted by the propo-  
8 sal for which the EIS was prepared. Notice  
9 shall be mailed to those organizations and indi-  
10 viduals who make written request thereof, and  
11 shall be posted in a conspicuous place in the  
12 Department of Construction and Land Use.

13 (6) ((5)) Documents which are required to be sent to the  
14 Department of Ecology under these rules will be  
15 published in the SEPA REGISTER, which will also  
16 constitute a form of public notice. However, publi-  
17 cation in the SEPA REGISTER shall not, in itself,  
18 meet compliance with this section.

19 25.05.680 Appeals

20 (1) Master Use Permits

21 For proposals requiring a Master Use Permit under SMC  
22 Chapter 23.76, Procedures for Master Use Permits and  
23 Council Land Use Decisions, SEPA appeal procedures shall  
24 be as provided in Chapter 23.76.

25 (2) ((1)) Appeal to Hearing Examiner

26 (a) The following agency decisions on proposals not  
27 requiring a Master Use Permit shall be subject  
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1 to appeal to the Hearing Examiner by any  
2 interested person as provided in this subsec-  
3 tion:

4 (i) Threshold determination(~~(7 except when made~~  
5 ~~in connection with an application for a~~  
6 ~~master use permit and subject to appeal~~  
7 ~~under 23.76.30)~~). On appeal of a threshold  
8 determination, a party may also challenge  
9 the preliminary determinations.

10 (ii) Adequacy of the final EIS as filed in the  
11 SEPA Public information Center (~~(7 except~~  
12 ~~when prepared in connection with an~~  
13 ~~application for a master use permit and~~  
14 ~~subject to appeal under 23.76.30)~~). Notice  
15 of all decisions described in this subsec-  
16 tion shall be filed promptly by the respon-  
17 sible official in the City's SEPA Public  
18 Information Center.

19 (b) An appeal shall be commenced by the filing of a  
20 notice of appeal with the Office of the Hearing  
21 Examiner no later than the fifteenth day  
22 following the filing of the decision in the SEPA  
23 Public Information Center or publication of the  
24 decision in the City official newspaper,  
25 whichever is later. The appeal notice shall set  
26 forth in a clear and concise manner the alleged  
27 errors in the decision. Upon timely notice of  
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appeal the Hearing Examiner shall set a date for hearing and send notice to the parties. Filing fees for appeals to the Hearing Examiner are established in 3.02.125.

(c) Appeals shall be considered de novo and limited to the issues cited in the notice of appeal. The determination appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. The Hearing Examiner shall have authority to affirm or reverse the administrative decisions below, to remand cases to the appropriate department with directions for further proceedings, and to grant other appropriate relief in the circumstances. Within (~~fourteen~~) fifteen days after the hearing, the Hearing Examiner shall file and transmit to the parties written findings of fact, conclusions of law, and a decision.

(d) The Hearing Examiner is authorized to promulgate rules and procedures to implement the provisions of this Section. The rules shall be promulgated pursuant to Ch.3.02.

(e) If the agency has made a decision on a proposed action, the Hearing Examiner shall consolidate any allowed appeals of procedural and substantive determinations under SEPA. For example, an

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appeal of the adequacy of an EIS must be consolidated with an appeal of the agency's decision on the proposed action, if both appeals are allowed by ordinance.

(3) (~~+2~~) Appeal to the City Council

(a) Any decision of the Hearing Examiner, or of any other authorized official or body which reviews compliance with Section 25.05.660 (substantive authority and mitigation) on proposals not requiring a Master Use Permit shall be subject to appeal to the City Council as provided in this subsection.

(b) An appeal pursuant to subsection (a) of this section may be filed only by a party to the hearing before the Hearing Examiner or other authorized official or body. The appeal shall be filed with the City Clerk no later than the (~~fourteenth~~) fifteenth day after the date the decision appealed from is filed with the SEPA Public Information Center.

(c) The City Council's review on appeal shall be limited to the issue of compliance with Section 25.05.660. Such review shall be based solely upon the record from the hearing below; provided however, that the City Council or the appropriate City Council committee may allow oral or written arguments.

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(d) The determination appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. The City Council may affirm or reverse the administrative decisions below, remand cases to the appropriate department with directions for further proceedings, or grant other appropriate relief in the circumstances. The City Council is authorized to promulgate rules to implement the provisions of this section pursuant to the Administrative Code (Ch.3.02).

(4) ((3)) Judicial Appeals.

\* \* \*

Section 21. Wherever in the Seattle Municipal Code, or in any ordinance, resolution, rule or regulation of the City, a reference to "Chapter 23.80, Decisions Requiring Council Approval" appears, the term shall be deemed to mean and refer to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.

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Section 22. This ordinance shall take effect and be in force sixty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 28th day of October, 1985, and signed by me in open session in authentication of its passage this 28th day of October, 1985.

Thomas B. Rice  
President of the City Council

Approved by me this 30th day of October, 1985.

Charles Porter  
Mayor

Filed by me this 30th day of October, 1985.

ATTEST: Jim Hill  
City Comptroller and City Clerk

(SEAL) By: Theresa Dunbar  
Deputy Clerk

Published \_\_\_\_\_

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CITY ATTORNEY 983

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23.76.50 Report of the Director

A. The Director shall prepare a written report on applications for Type IV and V decisions and any associated variances, special exceptions and administrative conditional uses.

The report shall include:

1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;
  2. Responses to written comments submitted by interested citizens in response to any notice of application;
  3. An evaluation of the proposal based on the standards and criteria for the approval sought and consistency with the applicable goals and objectives of Seattle's land use policies as referenced in SMC Chapter 23.16, the City's SEPA policies, as referenced in SMC 25.05.660, and any other applicable official City policies;
  4. All environmental documentation, including any checklist, EIS or DNS;
  5. The Director's recommendation to approve, approve with conditions, or deny a proposal.
- B. A DNS or the Director's determination that an EIS is adequate shall be subject to appeal pursuant to the procedures in subsection 23.76.48C.

(To be used for all Ordinances except Emergency.)

Section <sup>22</sup>..... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the.....day of....., 19 ..,  
and signed by me in open session in authentication of its passage this..... day of  
....., 19 ..

President.....of the City Council.

Approved by me this..... day of....., 19 ..

Mayor.

Filed by me this..... day of....., 19 ..

Attest:.....  
City Comptroller and City Clerk.

(SEAL)

Published.....

By.....  
Deputy Clerk.

PUBLISH  DO NOT PUBLISH

CITY ATTORNEY \_\_\_\_\_

JB:hh  
10/01/85  
V:Ord1.1

ORDINANCE

AN ORDINANCE relating to land use and zoning; adding a new Chapter 23.76 to Title 23 (Land Use Code) of the Seattle Municipal Code to establish standard procedures for land use decisions made by The City of Seattle; repealing Chapters 23.76 (Master Use Permit Process), 23.80 (Decisions Requiring Council Approval) and 23.94 (Amendments to the Land Use Code), Sections 23.22.28 through 23.22.36, 23.22.44, 23.28.40, 23.34.02 through 23.34.18, 23.82.20 through 23.82.60; adding a new Chapter 23.06 and new Sections 23.34.02 and 23.42.42; amending Sections 23.04.10, 23.22.16, 23.22.40, 23.22.48, 23.34.20 through 23.34.44, 23.40.02, 23.40.10, 23.40.20, 23.44.18, 23.44.34, 23.45.106, 23.49.34, 23.49.36, 23.70.50, 23.70.60, 23.80.50; 23.82.10, 23.82.70, 23.82.80, 23.84.06, 23.84.10, 23.84.30, 23.88.10 and 23.88.20; and amending Sections 15.04.020, 15.04.070, 24.66.100, 25.05.510 and 25.05.680 of the Seattle Municipal Code to conform with new Chapter 23.76.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Chapters 23.76 (Master Use Permit Process), 23.80 (Decisions Requiring Council Approval) and 23.94 (Amendments to the Land Use Code) and Sections 23.22.28 through 23.22.36, 23.22.44, 23.28.40, 23.34.02 through 23.34.18, and 23.82.20 through 23.82.60 of the Seattle Municipal (Land Use) Code are hereby repealed.

Section 2. A new Chapter 23.76 is hereby added to Title 23, Subtitle V, of the Seattle Municipal Code to read as follows:

CHAPTER 23.76

PROCEDURES FOR MASTER USE PERMITS AND COUNCIL LAND USE DECISIONS

SUBCHAPTER ONE: GENERAL PROVISIONS

23.76.02 Purpose

The purpose of this chapter is to establish standard procedures for land use decisions made by The City of Seattle. The procedures are designed to promote informed public participa-

1 tion in discretionary land use decisions, eliminate redundancy  
2 in the application submittal process, and minimize delays and  
3 expense in appeals of land use decisions.

4 **23.76.04 Land Use Decision Framework**

- 5
- 6 A. Land use decisions are classified into five categories  
7 based on the amount of discretion and level of impact  
8 associated with each decision. Procedures for the five  
9 different categories are distinguished according to who  
10 makes the decision, the type and amount of public notice  
11 required, and whether appeal opportunities are provided.
- 12 B. Type I, II and III decisions are made by the Director and  
13 are consolidated in Master Use Permits. Type I decisions  
14 are non-appealable decisions made by the Director which  
15 require the exercise of little or no discretion. Type II  
16 decisions are discretionary decisions made by the Director  
17 which are subject to administrative appeal. Type III  
18 decisions are discretionary decisions made by the Director  
19 which are appealable to the Hearing Examiner and may be  
20 further appealed to the Council.
- 21 C. Type IV and V decisions are Council land use decisions.  
22 Type IV decisions are quasi-judicial decisions made by the  
23 Council pursuant to existing legislative standards and  
24 based upon the Hearing Examiner's record and recommen-  
25 dation. Type V decisions are legislative decisions made  
26 by the Council in its capacity to establish policy and  
27 manage public lands. Land use decisions are categorized  
28 by type in Exhibit 76.04A.

- 1 4. Special exceptions, provided that special exceptions  
2 sought as part of a Type IV decision may be granted  
3 by the Council pursuant to Section 23.76.36;
- 4 5. Design departures;
- 5 6. The following street use decisions:
  - 6 a. Sidewalk cafe.
  - 7 b. Structural building overhangs.
  - 8 c. Areaways.
- 9 7. Administrative conditional uses, provided administra-  
10 tive conditional uses sought as part of a Type IV  
11 decision may be approved by the Council pursuant to  
12 Section 23.76.36.
- 13 8. The following shoreline decisions (supplemental pro-  
14 cedures for shoreline decisions are established in  
15 SMC Sections 24.60.425 - 24.60.485):
  - 16 a. Shoreline substantial development permits.
  - 17 b. Shoreline variances.
  - 18 c. Shoreline conditional uses.
- 19 9. The following environmental decisions for Master Use  
20 Permits and for building, demolition, grading and  
21 other construction permits (supplemental procedures  
22 for environmental review are established in SMC  
23 Chapter 25.05, SEPA Rules):
  - 24 a. Declarations of Nonsignificance (DNSs),  
25 including mitigated DNS's;
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1 D. All Master Use Permit decisions necessary for a project  
2 shall be included in the same application; provided that,  
3 at the applicant's discretion, a separate Master Use  
4 Permit application may be filed for a variance, lot bound-  
5 dary adjustment and/or short subdivision approval if no  
6 environmental review pursuant to SMC Chapter 25.05, SEPA  
7 Rules, is required for the proposed project, or if SEPA  
8 review is required only because the project is located in  
9 an environmentally sensitive area or over water.

10 E. All applications shall contain the submittal information  
11 required by the applicable sections of this Title 23, Land  
12 Use Code; SMC Title 24, Zoning and Subdivisions; SMC Title  
13 15, Street and Sidewalk Use; and SMC Chapter 25.05, SEPA  
14 Rules. The Director may require additional material from  
15 the applicant such as maps, text, or models when the  
16 Director determines that such material is needed to  
17 accurately assess the proposed project.

18 F. An application shall be deemed abandoned and void if the  
19 applicant has failed without justification to supply all  
20 required information or data within thirty days of a writ-  
21 ten request for it; provided that the Director may extend  
22 the period for such submission if it is determined that  
23 the delay was not the fault of the applicant.

#### 24 23.76.12 Notice of Application

##### 25 A. Notice Required

26 When a Master Use Permit application requiring a Type II  
27 or III decision is submitted, the Director shall provide  
28 notice of application and an opportunity for public com-

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ii. The applicant is not the property owner,  
and the property owner does not consent to  
the proposal;

iii. The site is subject to physical charac-  
teristics such as steep slopes or is  
located such that the large sign would not  
be highly visible to neighboring residents  
and property owners or interested citizens.

d. The Director may require both a large sign and  
the alternative posting measures described in  
subsection c, or may require that more than one  
large sign be posted, when necessary to assure  
that notice is clearly visible to the public.

2. For projects which are categorically exempt from  
environmental review, the Director shall post four  
placards on or near the site.

3. For all projects requiring notice of application, the  
Director shall provide notice by general mailed  
release. For projects subject to the large sign  
requirement, notice in the general mailed release  
shall be published after the large sign is posted.

4. In addition, for variances, administrative con-  
ditional uses, temporary uses for more than three  
weeks, shoreline variances and shoreline conditional  
uses, the Director shall provide mailed notice.

5. The Director shall also publish notice of all shore-  
line decisions in the City official newspaper once  
each week for two consecutive weeks.

1 e. posting in the Department; and

2 f. filing with the SEPA Public Information Center.

3  
4 3. The Director shall also circulate copies of the DS as  
5 required by SMC Section 25.05.360.

6 B. Draft EIS's

7  
8 1. Notice of the availability of a draft EIS, of the  
9 thirty-day period during which the Department will  
10 accept comments, of the public hearing on the draft  
11 EIS and any other Department public hearing as pro-  
12 vided in SMC Section 23.76.16 shall be provided by  
13 the Director in the following manner:

14 a. general mailed release;

15 b. publication in the City official newspaper;

16 c. submission of the general mailed release to at  
17 least one community newspaper in the area  
18 affected by the proposal;

19 d. mailed notice, including notice to those organi-  
20 zations and individuals who have submitted a  
21 written request for it.

22 e. posting notice in the Department; and

23 f. filing with the SEPA Public Information Center.

24  
25 2. Notice of the public hearing shall be given by the  
26 Director at least twenty-one days prior to the  
27 hearing date.  
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1 requesting notice. If environmental issues were  
2 raised in the appeal, the decision shall also be  
3 filed with the SEPA Public Information Center. The  
4 decision shall contain information regarding Council  
5 appeal procedures, if any, and regarding judicial  
6 review.

7 12. Appeal of Hearing Examiner's Decision

8 The Hearing Examiner's decision shall be final and  
9 conclusive unless:

- 10
- 11 a. the Hearing Examiner's decision specifically  
12 states that the Hearing Examiner retains juris-  
13 diction;
- 14 b. the decision is appealed to the Council pursuant  
15 to Seattle Municipal Code Section 23.76.22; or
- 16 c. within fifteen calendar days from the date of  
17 issuance of the decision a party of record makes  
18 application to King County Superior Court for a  
19 writ of review; provided that, if an appeal pur-  
20 suant to Section 23.76.22 is submitted to the  
21 Council, the fifteen day period for requesting  
22 judicial review of the Hearing Examiner's deci-  
23 sion shall not begin until the Council issues  
24 its final decision on the appeal.

25 23.76.24 Appeals to Council

26 A. Appealable Decisions

27 Only Type III decisions as listed in SMC 23.76.06D may be  
28 appealed to the Council.

1 G. Standard of Review for Type III Appeals

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3 The Type III decisions appealed from shall be accorded  
4 substantial weight and the burden of establishing the  
5 contrary shall be upon the appealing party.

6 H. Council Action

7 The Council may affirm, modify or reverse the Hearing  
8 Examiner's decision, remand cases to the Hearing Examiner  
9 or the appropriate department with directions for further  
10 proceedings, or grant other appropriate relief. If the  
11 Council reverses or modifies the Hearing Examiner deci-  
12 sion, the Council shall enter findings and/or conclusions  
13 into the record to support the decision.

14 I. Judicial Review

15 A Type III decision by the Council shall be final and  
16 conclusive unless within fifteen calendar days of the date  
17 of decision a party of record makes application to King  
18 County Superior Court for a writ of review.

19 J. Notice of Decision

20 The written decision of the Council shall be transmitted  
21 to all parties of record.

22 K. Interlocutory Review

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24 1. The Council shall accept review of Hearing Examiner  
25 interlocutory orders and decisions pending final  
26 resolution of an appeal when:  
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c. The Master Use Permit was issued prior to, and expires less than one year from, the effective date of this amendatory ordinance, in which case the permit shall be extended for a period of one year from the effective date of this amendatory ordinance; or

d. The Master Use Permit is extended pursuant to subsection A3; or

e. The Master Use Permit is renewed as provided in subsection B.

3. When a building permit is issued and construction is substantially underway and progressing at a satisfactory rate, as evidenced by the applicant's demonstrating to the Director's satisfaction that a construction step is ready for an inspection required by Section 305(d) of the Seattle Building Code Supplement prior to the expiration of a Master Use Permit, the Master Use Permit shall be automatically extended for the life of the building permit and no Master Use Permit renewal shall be required.

B. Renewal

1. The Director may renew Master Use Permits for projects which are in conformance with land use regulations and SEPA policies in effect at the time renewal is sought. The Director shall not renew Master Use Permits for projects which are not in conformance with land use regulations or SEPA policies in effect at the time renewal is sought.

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2. If a building permit has been issued for a project, any subsequent Master Use Permit renewals as permitted by this Section shall be concurrent with and for the same term as renewal of the building permit.

3. If no building permit has been issued, Master Use Permit renewals shall be for a period of one year. In no case shall a Master Use Permit be renewed beyond a period of four years from the original date of permit issuance without an issued building permit.

23.76.34 Suspension and Revocation of Master Use Permits

A. A Master Use Permit may be revoked or suspended by the Director if any of the following conditions are found:

1. The permittee has developed the site in a manner not authorized by the permit; or
2. The permittee has not complied with the conditions of the permit; or
3. The permittee has secured the permit with false or misleading information; or
4. The permit was issued in error.

B. Whenever the Director determines upon inspection of the site that there are grounds for suspending or revoking a permit, the Director may order the work stopped; provided that any shoreline component of a Master Use Permit shall not be revoked until a public hearing has been held pursuant to the procedures set forth in SMC Section 24.60.465. A written stop work order shall be served on

1 the person(s) doing or causing the work to be done. All  
2 work shall then be stopped until the Director finds that  
3 the violations and deficiencies have been rectified.  
4 Written notice of the stop work order shall be mailed to  
5 all persons who have expressed a complaint leading to the  
6 stop work order.

7 C. The procedures for appealing a stop work order for all  
8 Master Use Permit components other than shoreline com-  
9 ponents shall be as follows:

- 10 1. Persons who receive a stop work order issued under  
11 subsection B above may appeal the order to the  
12 Hearing Examiner. Appeals shall be filed with the  
13 Hearing Examiner by five o'clock p.m. of the fif-  
14 teenth calendar day following service of the stop  
15 work order. When the last day of the appeal period  
16 so computed is a Saturday, Sunday, or federal or City  
17 holiday, the appeal period shall run until five  
18 o'clock p.m. on the next business day.
- 19 2. The Hearing Examiner shall hold a public hearing on the  
20 appeal of the Director's decision in order to review  
21 the facts and determine whether grounds for revoca-  
22 tion or suspension exist.
- 23 3. Notice of hearing shall be provided at least twenty  
24 days prior to hearing by written notice to the per-  
25 mittee and to any persons who have expressed a  
26 complaint leading to the stop work order.
- 27 4. The Hearing Examiner decision shall be issued within  
28 fifteen days following the hearing.

1 interested person may make application for an amendment to  
2 the Official Land Use Map or an amendment to the text of  
3 Title 23, Land Use Code, or Title 24, Zoning and  
4 Subdivisions.

5 B. All applications for Council land use decisions shall be  
6 made to the Director on a form provided by the Department.  
7 The Director shall promptly transmit applications for  
8 Council land use decisions to the City Clerk for filing  
9 with the Council.

10 C. Applications shall be accompanied by payment of the appli-  
11 cable filing fees, if any, as established in SMC Chapter  
12 22.900, Permit Fee Ordinance.

13 D. All applications shall contain the submittal information  
14 required by this Title 23, Land Use Code; SMC Title 24,  
15 Zoning and Subdivisions; SMC Title 15, Street and Sidewalk  
16 Use; and and SMC Chapter 25.05, SEPA Rules. The Director  
17 may require additional material from the applicant such as  
18 maps, text, or models when the Director determines that  
19 such material is needed to accurately assess a proposed  
20 project.

21 E. An application shall be deemed abandoned and void if the  
22 applicant has failed without justification to supply all  
23 required information or data within thirty days of a writ-  
24 ten request for it; provided that the Director may extend  
25 the period for submission of the information if it is  
26 determined that the delay was not the fault of the appli-  
27 cant.  
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2. Amendment of Contract Rezone

Agreements required as a condition to map amendments may be amended by agreement between the owner and the City, provided the amended agreement shall be approved by the Council. Amendments which are within the spirit and general purpose of the prior decision of the Council may be approved by the Council by ordinance after receiving any advice which it deems necessary. Written notice and an opportunity to comment shall be provided by the Council at least fifteen days prior to Council consideration of the amendment request to persons who submit written or oral comments on the original rezone decision. Amendments which in the judgment of the Council represent a major departure from the terms of the agreement shall not be approved until the Council has received the recommendations from the Hearing Examiner after a public hearing held in the same manner and pursuant to the same notice provided for map amendments in Chapter 23.34.

C. Downtown Planned Community Developments

1. Council Action

Approval of an application for a planned community development shall be by ordinance. The ordinance shall also amend the Official Land Use Map to indicate:

- a. The boundaries of the approved planned community development;

1 before the approval's expiration. The Council may  
2 request a recommendation on the extension request  
3 from the Director.

4 **Part 3: Legislative Decisions (Type V)**

5 **23.76.62 Council Hearing and Decision**

6 **A. Public Hearing**

7  
8 The Council shall itself conduct a public hearing for each  
9 Type V (legislative) land use decision. The Council may  
10 also appoint a hearing officer to conduct an additional  
11 fact-finding hearing to assist the Council in gathering  
12 information. Any hearing officer so appointed shall  
13 transmit written Findings of Fact to the Council within  
14 ten days of the additional hearing.

15 **B. Notice of Hearings**

16 1. Notice of The Council hearing on a Type V decision  
17 shall be provided by the Director at least thirty  
18 days prior to the hearing in the following manner:

- 19 a. Inclusion in the general mailed release;  
20 b. Posting in the Department; and  
21 c. Publication in the City's official newspaper.

22  
23 2. Additional notice shall be provided by the Director  
24 for public hearings on City facilities and Major  
25 Institution designations as follows:

- 26 a. Mailed notice; and  
27 b. At least four placards posted on or near the site.  
28

1       23.76.66   Shoreline Master Program Amendments

2       Council decisions approving an amendment to the text of SMC  
3       Chapter 24.60, Shoreline Master Program Regulations, shall be  
4       sent to the Director of the Department of Ecology.  Such  
5       amendments shall become effective only upon approval of the  
6       amendment by the State Department of Ecology pursuant to WAC  
7       173-19-060.

8       23.76.68   Re-Application Rule for Text Amendments

9       If an application for an amendment to the text of SMC Title  
10      23, Land Use Code, or SMC Title 24, Zoning and Subdivisions,  
11      is denied by the Council, no application for the same or  
12      substantially the same amendment shall be considered until  
13      twelve months have passed since the filing of the application,  
14      provided that this rule shall not apply to City-initiated  
15      amendments.

16      23.76.70   Hearing Examiner Reports to Council

17      The Hearing Examiner shall compile and file with the Council a  
18      bi-annual report on issues of Code or policy interpretation  
19      arising in the Hearing Examiner's review of contested land use  
20      cases.  The Hearing Examiner should report on all issues of  
21      general applicability which resulted in disagreement between  
22      the Director and the Hearing Examiner as to interpretation of  
23      Council intent.  The Council will review the report and con-  
24      sider the need for code amendments to clarify its intent.

1 c. A draft Environmental Impact Statement  
2 (EIS) has been approved by the Director for  
3 publication.

4 Section 4. A new chapter 23.06 is hereby added to the  
5 Seattle Municipal Code to read as follows:

6 Chapter 23.06 Amendments to the Land Use Code

7 23.06.10 Text Amendment Procedures

8 Amendments to the text of this Land Use Code may be  
9 approved pursuant to Chapter 23.76, Procedures for Master Use  
10 Permits and Council Land Use Decisions.

11  
12 Section 5. Sections 23.22.16, 23.22.40 and 23.22.48 of  
13 the Seattle Municipal Code relating to preliminary plat appro-  
14 vals are amended to read as follows:

15 23.22.16 Application

- 16  
17 A. Official filing of an application for subdivision  
18 with the Director shall be preceded by a preliminary  
19 review of the proposed subdivision by the Director  
20 and the Director of Engineering.
- 21 B. Following the review, the subdivider shall submit an  
22 application to the Director, ~~(accompanied by a filing~~  
23 ~~fee, as described in Permit Fee Ordinance, Seattle~~  
24 ~~Municipal Code, Chapter 22.900.)~~ A subdivider shall  
25 submit with the application fifteen copies of a pre-  
26 liminary plat and four copies of preliminary plans  
27 for streets and other improvements. Unless the sub-  
28 divider requests otherwise, at the time of applica-  
tion the application will be processed simultaneously  
with applications for rezones of or planned unit or

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~~((23.34.20))~~ 23.34.08 General Rezone Criteria

\* \* \*

~~((23.34.24))~~ 23.34.10 Areas Zoned Single Family

\* \* \*

~~((23.34.32))~~ 23.34.12 Locational Criteria ~~((+))~~, Single Family Zones

\* \* \*

~~((23.34.36))~~ 23.34.14 Locational Criteria, Lowrise 1

\* \* \*

~~((23.34.38))~~ 23.34.16 Locational Criteria, Lowrise 2

\* \* \*

~~((23.34.40))~~ 23.34.18 Locational Criteria, Lowrise 3

\* \* \*

~~((23.34.42))~~ 23.34.20 Locational Criteria, Midrise

\* \* \*

~~((23.34.44))~~ 23.34.22 Locational Criteria, Highrise

\* \* \*

Section 7. Sections 23.40.02, 23.40.10 and 23.40.20 of the Seattle Municipal Code are amended as follows:

**23.40.02 Conformity With Regulations Required**

The establishment or change of use of any structures, buildings or premises, or any part thereof, shall require approval according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land

1            Use Decisions. No structure or premises shall hereafter  
2 be used or occupied and no structure or part of a struc-  
3 ture shall be erected, moved, reconstructed, extended,  
4 enlarged or altered, except in conformity with the regula-  
5 tions specified in Title 24 or this Title for the zone and  
6 overlay district, if any, in which it is, or will be  
7 located. Changes to existing structures may be permitted  
8 which make the structures nonconforming if the changes are  
9 required by law for reasons of health and safety.

10        6. Design Departure

11            23.40.10 Design Departure

12            A. Design departure may be permitted in multi-family  
13 zones for design solutions which result in a better  
14 development than would be allowed under the develop-  
15 ment standards of the applicable zone. Design  
16 departure shall be authorized by the Director accord-  
17 ing to the procedures set forth in Chapter 23.76,  
18 Procedures for Master Use Permits and Council Land  
19 Use Decisions.

20            B. Design departure may be permitted for one or more of  
21 the following reasons:

- 22            1) To improve solar access, energy conservation or  
23 use of passive energy systems;
- 24            2) To provide better amenities on the site for com-  
25 mon use of residents such as well equipped open  
26 spaces (playground equipment, benches, picnic  
27 tables, play courts) or increased quality and  
28 quantity of landscaped open space;

- 1 3) To provide amenities for public use;
- 2
- 3 4) To minimize view obstruction;
- 4
- 5 5) To use techniques other than modulation to  
reduce the appearance of bulk;
- 6
- 7 6) To preserve existing housing;

8 C((B.)) Design departure may be sought from the following  
9 development standards in multi-family zones:

- 10 1. Maximum structure width;
- 11 2. Maximum structure depth;
- 12 3. Front, rear, and side setbacks;
- 13 4. Modulation;
- 14 5. Design and location of parking;
- 15 6. Open space requirements.

16 D((C.)) Design departure shall not be permitted from develop-  
17 ment standards for:

- 18 1. Structure height;
- 19 2. Quantity of parking.

20 E((D.)) Design departure shall not be authorized to:

- 21 1. Change definitions or measurement techniques;
- 22 2. Permit the establishment of a use which is  
23 otherwise not permitted in the zone in which it  
is proposed;

24 F((E.)). If a design departure is sought, the entire project  
25 shall be considered when evaluating the departure.  
26 In exercising discretion granted under the design  
27 departure provisions, the Director shall only relax  
28 or modify requirements to the extent such modifica-  
tions further the objectives identified in Sections

1  
2 23.40.10A.

3 G.((#.)) As a result of this review, the Director may con-  
4 dition design departure on the alternation of other  
5 elements of the project. If the Director con-  
6 ditionally grants a design departure, the applicant  
7 shall have the option of meeting the conditions of  
8 the design departure, or following the development  
9 standards of the applicable zone.

10 23.40.20 Variances

11 A. Variances may be sought from the provisions of Title  
12 24 or the provisions of Subtitle IV, Parts 2 and 3 of  
13 this Land Use Code, as applicable, except for the  
14 establishment of a use which is otherwise not per-  
15 mitted in the zone in which it is proposed.  
16 Applications for prohibited variances shall not be  
17 accepted for filing.

18 B. Variances ~~(are)~~ shall be authorized ~~(by the Director~~  
19 ~~and are included as an element of the Master Use~~  
20 ~~Permit. However, at the discretion of the applicant,~~  
21 ~~variances which are sought as part of a rezone~~  
22 ~~procedure or Council conditional use may be filed~~  
23 ~~with the respective application and decided by the~~  
24 ~~Council.)~~ according to the procedures set forth in  
25 Chapter 23.76, Procedures for Master Use Permits and  
26 Council Land Use Decisions.

27 \* \* \*

1 ((B. Upon authorization variances shall remain in effect  
2 as follows:

<u>Approval Granted</u>	<u>Expiration Date</u>
1. Access, yard, setback, open space or lot area minimums modified as part of short plat or lot boundary adjustment approval.	Permit to run with land in perpetuity as recorded with King County
2. Development Standards Modified in Separate Master Use Permit pursuant to Section 23.76.10(B) or as part of a rezone procedure	Two years from date of permit issuance or until the development standard from which the variance was granted is amended to be more stringent, whichever is sooner. If a use approval is granted within this two year period, the variances' expiration date shall be extended until the expiration date established for the use approval.
3. Development standards modified in Master Use Permit granting both variance and use approval or as part of a Council conditional use.	Section 23.76.48 pertains (construction or substantial progress toward construction must be undertaken within two years after issuance of the permit.)

22 Section 8. A new Section 23.42.42 is added to the Seattle  
23 Municipal Code to read as follows:

24 23.42.42 Conditional Uses

25 Administrative conditional uses and uses requiring Council  
26 approval as provided in the respective zones of Subtitle  
27 IV, Part 2, of this Land Use Code or of Title 24 may be  
28 authorized according to the procedures set forth in

1 Chapter 23.76, Procedures for Master Use Permits and  
2 Council Land Use Decisions.

3  
4 Section 9. Section 23.44.18 is amended to read as  
5 follows:

6 **23.44.18 General Provisions**

7 A. Only those conditional uses identified in this Part  
8 of ~~((s))~~ Subchapter II ~~((as conditional uses))~~ may be  
9 authorized as administrative conditional uses in  
10 Single Family zones. The Master Use Permit  
11 process ~~(r)~~ set forth in Chapter 23.76, Procedures for  
12 Master Use Permits and Council Land Use Decisions,  
13 shall be used to authorize ~~((these))~~ administrative  
14 conditional uses.

15 \* \* \*

16 Section 10. Part 2 of Chapter 23.44 and Section 23.44.34  
17 of the Seattle Municipal Code are amended to read as follows:

18 Chapter 23.44, Part 2: ~~((Council Conditional Uses))~~ Public  
19 Projects and City Facilities

20 **23.44.34 Council Approval of Public Projects and City**  
21 **Facilities**

22 A. ~~((Identification of))~~ Permitted Public Projects and City  
23 Facilities

24 The ~~((location))~~ establishment or expansion of the  
25 following ~~((permitted))~~ public ~~((facilities))~~ uses in  
26 Single Family zones may be permitted  
27 ~~((only with Council Approval.))~~ by the Council, accord-  
28 ing to the procedures for approving public projects

1 and City facilities provided in Chapter 23.76,  
2 Procedures for Master Use Permits and Council Land  
3 Use Decisions. ((Location or expansion of these  
4 facilities in a Single Family zone must be shown to  
5 satisfy a public necessity.))

6 ((Permitted Public  
7 Facilities))

8 Police Precinct Station  
9 Fire Station  
10 Public Boat Moorage  
11 Utility Services Use  
12 Other Similar Use

6 ((Prohibited Public  
7 Facilities

8 Jails  
9 ~~Metro Operating Bases~~  
10 ~~Park and Ride Lots~~  
11 ~~Sewage Treatment Plants~~  
12 ~~Solid Waste Transfer~~  
13 ~~Stations~~  
14 ~~Animal Control Shelters~~  
15 ~~Post Office Distribu-~~  
16 ~~tion Center~~  
17 ~~Other Similar Uses))~~

13 The proponent of any such use shall demonstrate the  
14 existence of a public necessity for location or  
15 expansion of the use in a Single Family zone.

16 B. Development Standards

17 Public projects and City facilities shall be devel-  
18 oped according to the development standards appli-  
19 cable to institutions, Sec. 23.44.22, unless the  
20 Council determines that a particular ~~((requirement))~~  
21 standard must be waived or ~~((relaxed))~~ changed.

22 C. Uses Accessory to a Public Project or City Facility

23 Any use permitted elsewhere in this Chapter as  
24 accessory to a ~~((permitted outright))~~ principal use  
25 permitted outright or as an administrative con-  
26 ditional use is also permitted as an accessory use to  
27 a public project or City facility unless otherwise  
28 specified in this Section.

1  
2 D. Prohibited Uses

3 The following public projects and City facilities are  
4 prohibited in Single Family zones:

5 Jails

6 Metro Operating Bases

7 Park and Ride Lots

8 Sewage Treatment Plants

9 Solid Waste Transfer Stations

10 Animal Control Shelters

11 Post Office Distribution Centers

12 Other similar uses.

13 Section 11. Section 23.45.106 of the Seattle Municipal  
14 Code is amended to read as follows.

15 23.45.106 Public Projects and City Facilities

16 A. The location or expansion of the following public  
17 projects and City facilities shall be permitted  
18 outright in all multi-family zones, if all of the  
19 development standards for institutions (Sections  
20 23.45.92 through 23.45.102) are met:

21 Police Precinct Stations

22 Fire Stations

23 Public Boat Moorages

24 Utility Service Uses

25 Other similar uses.

26 B. If the proposed public project or City facility does  
27 not meet the development standards for institutions,  
28

1 it may be permitted (~~with Council approval~~) by the  
2 Council, according to the procedures for public pro-  
3 jects and City facilities provided in Chapter 23.76,  
4 Procedures for Master Use Permits and Council Land  
5 Use Decisions. The Council may waive or change deve-  
6 lopment standards.

7 (~~C. Any City facility which has been sited and approved~~  
8 ~~by ordinance after a public hearing shall not~~  
9 ~~require separate Council approval.))~~

10 (~~D. C.~~) C. The following public projects or City facilities  
11 shall be prohibited in all multi-family zones:

12 Jails

13 METRO Operating Bases

14 Park & Ride Lots

15 Sewage Treatment Plants

16 Solid Waste Transfer Stations

17 Animal Control Shelters

18 Post Office Distribution Centers

19 Other similar uses.

20 (~~E. D.~~) D. Specific development standards for public projects and  
21 City facilities.

- 22 1. Sale and consumption of beer during daylight  
23 hours on public park premises shall be permitted  
24 in a building or within fifty feet of the  
25 building on an adjoining terrace, provided, that  
26 such use shall be in a completely enclosed  
27 building or enclosed portion of building when  
28

1 within one hundred feet of any lot in a residen-  
2 tial zone.

- 3  
4 2. Sale and consumption of alcoholic beverages  
5 under a Class H liquor license on municipal golf  
6 course premises during the established hours of  
7 operation of the golf course shall be permitted  
8 in a building or within fifty feet of the  
9 building on an adjoining terrace, provided, that  
10 such use shall be in a completely enclosed  
11 building or enclosed portion of building when  
12 within one hundred feet of any lot in a residen-  
13 tial zone.

14 E. Uses Accessory to a Public Project or City Facility

15 Any use permitted elsewhere in this Chapter as  
16 accessory to a principal use permitted outright or as  
17 an administrative conditional use is also permitted  
18 as an accessory use to a public project or City faci-  
19 lity unless otherwise specified in this Chapter.

20 Section 12. Sections 23.49.34 and 23.49.36 of the Seattle  
Municipal Code are amended to read as follows:

21 **23.49.34 Modification of Plazas and Other Features**  
22 **Bonused Under Title 24**

- 23 A. The modification of plazas, shopping plazas, arcades,  
24 shopping arcades, and voluntary building setbacks  
25 which resulted in any increase in gross floor area  
26 under Title 24 of the Seattle Municipal Code, shall  
27 be encouraged in any downtown zone if the change  
28 makes the plaza, arcade or setback more closely con-  
form to the requirements of this Chapter. The

1 Director shall review proposed modifications to  
2 determine whether they provide greater public bene-  
3 fits and are consistent with the intent of the Public  
4 Benefit Features Rule, as specified in this Section.  
5 The procedures for approval of proposed modifications  
6 shall be as provided in Chapter 23.76, Procedures for  
7 Master Use Permits and Council Land Use Decisions.

8 **23.49.36 Planned Community Developments (PCDs)**

9 **A. Authority**

10 Planned Community Developments may be permitted by  
11 the Council pursuant to Chapter (~~23.80, Decisions~~  
12 ~~Requiring Council Approval~~) 23.76, Procedures for  
13 Master Use Permits and Council Land Use Decisions.

14 \* \* \*

15  
16 Section 13. Sections 23.70.50 and 23.70.60 of the Seattle  
17 Municipal Code are hereby amended to read as follows:

18 **23.70.50 Greenbelt Preserve Development Standards**

19 Each lot which is proposed for development, subdivision,  
20 or short subdivision which is either completely or par-  
21 tially within the Greenbelt Overlay District shall provide  
22 a greenbelt preserve; except that a dwelling unit that  
23 was legally established and in existence prior to June 1,  
24 1983 may be altered or added to without designating a  
25 greenbelt preserve if such alteration or addition does not  
26 increase the lot coverage of that structure by more than  
27 ten percent of the total lot area. The lot coverage  
28 restrictions of the underlying zone shall continue to

1 proposals and comments have been  
2 received, the Hearing Examiner may:

3 ~~(i.)~~ a. 1. Remand the new proposals and  
4 Advisory Committee comments and  
5 recommendation to the Director  
6 for further consideration and  
7 report; or

8 ~~(ii.)~~ b. Open the record for a hearing  
9 on the new proposals, the  
10 Advisory Committee comments  
11 and recommendation, and any com-  
12 ments pertaining to the limited  
13 issues which were presented by  
14 other parties of record. The  
15 Hearing Examiner shall conduct  
16 the hearing and issue a recom-  
17 mendation to the Council in the  
18 manner prescribed by this  
19 Section.

20 ~~(3)~~ (Submit a recommendation to the  
21 Council. The recommendation shall  
22 include consideration of the physical  
23 development and environmental impacts  
24 based on the objectives of the Major  
25 Institutional Policy, other applicable  
26 Land Use Policies, and the  
27 SEPA Ordinance, Chapter 25.04. The  
28 recommendation and the record shall be

1 Section 15. Chapter 23.82, Major Institutions Designation,  
2 of the Seattle Municipal Code is amended by amending Section  
3 23.82.10C and amending and renumbering Sections 23.82.70 and  
4 23.82.80 to read as follows:

5 23.82.10 Director Consideration of Major Institutions  
6 Designation

7 \* \* \*

8 C. The Director's determination ~~((on the~~  
9 ~~major institution))~~ that an application for major institution  
10 designation is required shall be made in the form of an  
11 interpretation and shall be subject to the procedures  
12 prescribed by Section 23.88.20.

13 23.82.~~((70))~~ 20 ((Council Decision)) Procedures for Major  
14 Institution Designation

15 The procedures for designation of major institutions shall  
16 be as provided in Chapter 23.76, Procedures for Master Use  
17 Permits and Council Land Use Decisions.

18 The Council ~~((may))~~ shall grant or deny the request for  
19 major institution designation by resolution. If the request  
20 is granted, the external boundaries of the institution shall  
21 be adopted in the same resolution.

22 23.82.~~((80))~~ 30 Zone Designation

23 Following ~~((M))~~ major institution designation,  
24 ~~((shall be approved by resolution and))~~ zone designations  
25 for the major institution shall be adopted by ordinance  
26 ~~((and determined))~~ in the manner prescribed by Chapter  
27 23.~~((34))~~ 76, Seattle Municipal Code. When making recom-  
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mendations for zoning designations for a new major institution, the Director may recommend changes to the adopted boundaries if upon further analysis and/or environmental review such changes are appropriate.

Section 16. Chapter 23.84, Definitions, is amended to add new subsections to Sections 23.84.06 "C" and 23.84.10 "E" and amend Section 23.84.30 "P" to read as follows:

23.84.06 "C"

\* \* \*

City facility

A public facility owned and/or operated for public purposes by the City of Seattle

\* \* \*

23.83.10 "E"

\* \* \*

EIS

An environmental impact statement required by the State Environmental Policy Act. As used in this Title, the term refers to a draft, final or supplemental EIS.

23.84.30 "P"

\* \* \*

Public ((~~facility~~)) project

((~~One which is~~)) A facility owned, operated or franchised by

1 a unit of general or special purpose government, except the  
2 City of Seattle, for public purposes.

3 \* \* \*

4  
5 Section 17. Sections 23.88.10 and 23.88.20 are amended to  
6 read as follows:

7 **23.88.10 Rulemaking**

8 The Director may promulgate rules consistent with this  
9 Title pursuant to the authority granted in Section  
10 3.06.040 and pursuant to the procedures established for  
11 rulemaking in the Administrative Code, Chapter 3.02. In  
12 addition to the notice provisions of Ch. 3.02, notice of  
13 the proposed adoption of a rule shall be placed in the  
14 general mailed release.

15 **23.88.20 Land Use Interpretations**

16  
17 B. ~~((if there is))~~ When public notice ((of)) is required  
18 for a project, ((the)) a request for an interpreta-  
19 tion concerning ((a specific)) that project shall be  
20 made before the expiration of any applicable appeal  
21 period. Notice of the Director's decision as  
22 required by SMC 23.76.20 shall include notice of the  
23 deadline for requesting code interpretations. When  
24 ((a project requires no)) public notice is not  
25 required for a project, a request for an interpreta-  
26 tion concerning that project may be made any time,  
27 provided that issued permits shall not be affected by  
28 subsequent code interpretations.

\* \* \*

1  
2 to appeal to the Hearing Examiner by any  
3 interested person as provided in this subsec-  
4 tion:

5 (i) Threshold determination (~~except when made~~  
6 ~~in connection with an application for a~~  
7 ~~master use permit and subject to appeal~~  
8 ~~under 23-76-30~~). On appeal of a threshold  
9 determination, a party may also challenge  
10 the preliminary determinations.

11 (ii) Adequacy of the final EIS as filed in the  
12 SEPA Public information Center (~~except~~  
13 ~~when prepared in connection with an~~  
14 ~~application for a master use permit and~~  
15 ~~subject to appeal under 23-76-30~~). Notice  
16 of all decisions described in this subsec-  
17 tion shall be filed promptly by the respon-  
18 sible official in the City's SEPA Public  
19 Information Center.

20 (b) An appeal shall be commenced by the filing of a  
21 notice of appeal with the Office of the Hearing  
22 Examiner no later than the fifteenth day  
23 following the filing of the decision in the SEPA  
24 Public Information Center or publication of the  
25 decision in the City official newspaper,  
26 whichever is later. The notice appeal shall set  
27 forth in a clear and concise manner the alleged  
28 errors in the decision. Upon timely notice of

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appeal the Hearing Examiner shall set a date for hearing and send notice to the parties. Filing fees for appeals to the Hearing Examiner are established in 3.02.125.

(c) Appeals shall be considered de novo and limited to the issues cited in the notice of appeal. The determination appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. The Hearing Examiner shall have authority to affirm or reverse the administrative decisions below, to remand cases to the appropriate department with directions for further proceedings, and to grant other appropriate relief in the circumstances. Within fourteen days after the hearing, the Hearing Examiner shall file and transmit to the parties written findings of fact, conclusions of law, and a decision.

(d) The Hearing Examiner is authorized to promulgate rules and procedures to implement the provisions of this Section. The rules shall be promulgated pursuant to Ch.3.02.

(e) If the agency has made a decision on a proposed action, the Hearing Examiner shall consolidate any allowed appeals of procedural and substantive determinations under SEPA. For example, an

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appeal of the adequacy of an EIS must be consolidated with an appeal of the agency's decision on the proposed action, if both appeals are allowed by ordinance.

(3) (~~+2~~)

Appeal to the City Council

(a) Any decision of the Hearing Examiner, or of any other authorized official or body which reviews compliance with Section 25.05.660 (substantive authority and mitigation) on proposals not requiring a Master Use Permit shall be subject to appeal to the City Council as provided in this subsection.

(b) An appeal pursuant to subsection (a) of this section may be filed only by a party to the hearing before the Hearing Examiner or other authorized official or body. The appeal shall be filed with the City Clerk no later than the (~~fourteenth~~) fifteenth day after the date the decision appealed from is filed with the SEPA Public Information Center.

(c) The City Council's review on appeal shall be limited to the issue of compliance with Section 25.05.660. Such review shall be based solely upon the record from the hearing below; provided however, that the City Council or the appropriate City Council committee may allow oral or written arguments.

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(d) The determination appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. The City Council may affirm or reverse the administrative decisions below, remand cases to the appropriate department with directions for further proceedings, or grant other appropriate relief in the circumstances. The City Council is authorized to promulgate rules to implement the provisions of this section pursuant to the Administrative Code (Ch.3.02).

(4) ((3)) Judicial Appeals.

\* \* \*

(To be used for all Ordinances except Emergency.)

Section <sup>21</sup> This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the ..... day of ....., 19 ..,  
and signed by me in open session in authentication of its passage this ..... day of  
....., 19 ..

President ..... of the City Council.

Approved by me this ..... day of ....., 19 ..

Mayor.

Filed by me this ..... day of ....., 19 ..

Attest: .....  
City Comptroller and City Clerk.

(SEAL)

Published .....

By .....  
Deputy Clerk.

PUBLISH  DO NOT PUBLISH

CITY ATTORNEY \_\_\_\_\_

C-809-X

# Affidavit of Publication

## STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a .....  
Ordinance No. 112522

.....  
was published on November 5, 1985  
.....  
.....

.....  
*B. Blair*  
.....  
Subscribed and sworn to before me on  
November 5, 1985

.....  
*Richard P. Somers*  
.....  
Notary Public for the State of Washington,  
residing in Seattle.

# City of Seattle

## ORDINANCE 112531

AN ORDINANCE relating to land use and zoning; adding a new Chapter 23.76 to Title 23 (Land Use Code) of the Seattle Municipal Code to establish standard procedures for land use decisions made by The City of Seattle; repealing Chapters 13.76 (Master Use Permit Process), 23.80 (Decisions Requiring Council Approval) and 23.94 (Amendments to the Land Use Code), Sections 23.22.28 through 23.22.36, 23.22.44, 23.28.40, 23.34.02 through 23.34.18, 23.82.20 through 23.82.60; adding a new Chapter 23.06 and new Sections 23.34.02 and 23.42.42; amending Sections 23.04.10, 23.22.16, 23.22.40, 23.22.48, 23.34.20 through 23.34.44, 23.40.02, 23.40.10, 23.40.20, 23.44.18, 23.44.34, 23.45.106, 23.49.34, 23.49.36, 23.70.50, 23.70.60, 23.80.50, 23.82.10, 23.82.70, 23.82.80, 23.84.06, 23.84.30, 23.84.30, 23.88.10 and 23.88.20; and amending Sections 15.84.020, 15.04.070, 24.60.100, 25.05.510 and 25.05.680 of the Seattle Municipal Code to conform with new Chapter 23.76.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Chapters 23.76 (Master Use Permit Process), 23.80 (Decisions Requiring Council Approval) and 23.94 (Amendments to the Land Use Code) and Sections 23.22.28 through 23.22.36, 23.22.44, 23.28.40, 23.34.02 through 23.34.18, and 23.82.20 through 23.82.60 of the Seattle Municipal (Land Use) Code are hereby repealed.

Section 2. A new Chapter 23.76 is hereby added to Title 23, Subtitle V, of the Seattle Municipal Code to read as follows:

### CHAPTER 23.76

#### PROCEDURES FOR MASTER USE PERMITS AND COUNCIL LAND USE DECISIONS

##### SUBCHAPTER ONE: GENERAL PROVISIONS

##### 23.76.02 Purpose

The purpose of this chapter is to establish standard procedures for land use decisions made by The City of Seattle. The procedures are designed to promote informed public participation in discretionary land use decisions, eliminate redundancy in the application submittal process, and minimize delays and expense in appeals of land use decisions.

##### 23.76.04 Land Use Decision Framework

- A. Land use decisions are classified into five categories based on the amount of discretion and level of impact associated with each decision. Procedures for the five different categories are distinguished according to who makes the decision, the type and amount of public notice required, and whether appeal opportunities are provided. Land use decisions are categorized by type in Exhibit 16.04A.
- B. Type I, II and III decisions are made by the Director and are consolidated in Master Use Permits. Type I decisions are non-appealable decisions made by the Director which require the exercise of little or no discretion. Type II decisions are discretionary decisions made by the Director which are subject to administrative appeal. Type III decisions are discretionary decisions made by the Director which are appealable to the Hearing Examiner and may be further appealed to the Council.
- C. Type IV and V decisions are Council land use decisions. Type IV decisions are quasi-judicial decisions made by the Council pursuant to existing legislative standards and based upon the Hearing Examiner's record and recommendation. Type V decisions are legislative decisions made

• Public project approvals

• Major Institution Master Plans

• Council Conditional Uses

• Downtown Planned Community Developments

• Planned Unit Developments

• Concept Approval for City facilities

• Major Institution Designations

##### SUBCHAPTER TWO: MASTER USE PERMITS

##### 23.76.06 Master Use Permits Required

- A. Type I, II and III decisions are components of Master Use Permits. Master Use Permits shall be required for all projects requiring one or more of these decisions.
- B. The following decisions are Type I decisions which are non-appealable:
1. Establishment or change of use for uses permitted outright and temporary uses for three weeks or less not otherwise permitted in the zone;
  2. The following street use approvals associated with a development proposal:
    - a. Curb cut for access to parking.
    - b. Concept approval of street improvements, such as additional on-street parking, street landscaping, curbs and gutters, street drainage, sidewalks, and paving.
  3. Lot boundary adjustments;
  4. Designation of greenbelt preserves and restored preserves;
  5. Modification of the following features bonused under Title 24:
    - a. Plazas.
    - b. Shopping plazas.
    - c. Arcades.
    - d. Shopping arcades.
    - e. Voluntary building setbacks; and
  6. Declarations of Significance (determination that an Environmental Impact Statement is required) for Master Use Permits and for building, demolition, grading and other construction permits (supplemental procedures for environmental review are established in Chapter 25.05, SEPA Rules).
- C. The following are Type II decisions, which are subject to appeal to the Hearing Examiner (except shoreline decisions and related environmental determinations which are appealable to the Shorelines Hearing Board):
1. Establishment or change of use for temporary uses more than three weeks not otherwise permitted in the zone;
  2. Short subdivisions;
  3. Designated provided that variances sought as part of