

To: Members of the Sequim City Council

January 27, 2020

From: Bob Bilow

On January 13, 2020 I was perhaps misinformed that Director Berezowsky had decided that the Jamestown S'Klallam Tribe MAT Application would be processed as an A-2 Process. Accordingly, I filed an Appeal of that action pursuant to Sequim Municipal Code (SMC) 20.01.240.

I now understand that Director Berezowsky's decision in this matter was entered on January 24, 2020. Regardless of the date, I am asking the City Council to determine at this time whether I have a right to Appeal this decision under the SMC, or to rule in your "inherent quasi-judicial power" that I, as well as any other affected person, do have this right.

I WILL DESCRIBE MY APPARENT DILEMMA:

1. The Director's decision to classify this Application as A-2 is itself an "A-1 action per SMC 20.01.040 (A) which states: "The act of classifying an application shall be a Type A-1 action".
2. The Director's written decision statement of January 24, 2020 affirms my right to appeal this A-1 action where it states: "This act of classifying an application is a Type A-1 action and this permit classification "... shall be subject to reconsideration and appeal at the same time and in the same way as the merits of the application in question." (SMC 20.01.040(A))"
3. All I wish to do is appeal the Director's A-1 action before the inappropriate "A-2 Process" continues unabated.
4. The Director confirmed my right to appeal this A-1 action via an email I received this morning at 11:29 AM, which is attached. The email states that the Director had consulted with the City Attorney, my appeal must be filed by February 14, and I must submit an appeal fee of \$600.

5. I agree that I, or any other affected person should have the right to appeal this A-1 action, as a simple matter of fundamental due process of law.

BUT HERE IS MY PROBLEM, despite these assurances by Director Berezowsky and the City Attorney: SMC 20.01.240 states that in order to appeal this A-1 action, I must be a "PARTY OF RECORD", and SMC 20.01.020 (P) states that "party of record" means either the **permit applicant [or] a person who has testified at an open record hearing.**

There was NO **open record hearing** before Director Berezowsky rendered his decision last Friday, January 24, 2020. Indeed, footnote #1 on page one of his decision states: "A Type A-1 process is an administrative process that does not require public notice (SMC 20.01.030(B).

I want to appeal this A-1 action because I believe the Director is following the Sequim Municipal Code Title 18 procedure and definitions in this matter rather than the **correct** procedure and definitions contained in Title 20 of the Code. I would also like to raise the question of "what is the higher use category" as specified in Title 20. SMC 20.01.040 (B) states that if there is a question as to the appropriate type of procedure, the director shall resolve it in favor of the higher procedure type letter as defined in SMC [20.01.030](#).

I do not mean to sound disrespectful of either Director Berezowsky or the City Attorney, but I have very little confidence in their legal statements or ability.

I am only asking that you, the Sequim City Council, declare "Perhaps by Resolution" that I do have a right to appeal this A-1 action before I consider paying the \$600 appeal fee stated by Director Berezowsky in his email.

And please take as much time as necessary to reach your decision. **The City cannot incur liability simply by proceeding in a careful, meaningful, and fair manner on my request, or on any other request which comes before the Council.**

Thank you