

far as to state their appeal was not of that permit, but rather of the failure of the City to obtain tree removal and shoreline conditional use permits.

- The hearing examiner's authority to hear appeals of tree removal permits (a Type I decision) is established in RZC 21.76.060.I.1, which specifies that the examiner has appellate authority over decisions of the department director or designee. RZC 21.76.060.D defines *decision* as "[a] written record of the director's decision shall be prepared in each case and may be in the form of a staff report, letter, the permit itself, or other written document indicating approval, approval with conditions, or denial." The Appellants have not cited to any authority conferring jurisdiction on the examiner to hear an appeal of a decision not issued, and none is found.
- To the extent that the City's ministerial determination, memorialized in the February 8, 2018 Sabrina Gassaway email, that no tree removal permit was required was an appealable decision, such appeal would have to have been filed within 14 days of the decision in order to be timely. The latest possible effective date of that decision is the issuance of the clear and grade permit in place of a tree removal permit, rendering the March 27, 2018 appeal untimely pursuant to RZC 21.76.060.I.2.c.
- The Appellants have not cited authority for the City's hearing examiner to hear an appeal of a shoreline conditional use permit, much less the decision not to require a shoreline conditional use permit. Pursuant to Table RZC 21.76.050.B, the City's hearing examiner is the final decision maker on shoreline conditional use permits, meaning the examiner cannot also have appellate jurisdiction. Pursuant to RZC 21.68.200.C.6.c, appeals of shoreline conditional use permit decisions are heard by the Shoreline Hearings Board and must be filed within 21 days of the decision. To the extent the February 27, 2018 email from Cathy Beam indicating that no shoreline permit was required could be considered an appealable shoreline decision, the City's hearing examiner lacks authority to hear it.
- With respect to the Appellants' request for additional time to complete the public records request process prior to the issuance of a ruling on the instant motion to dismiss, any additional factual information discovered will not be capable of serving as a basis for jurisdiction on the part of the hearing examiner to hear the appeal submitted.
- In the absence of jurisdiction to hear the appeal, further arguments will not be addressed.

Order

The City's motion to dismiss must be granted.

Ordered June 1, 2018.

By:



Sharon A. Rice
Redmond Hearing Examiner