



# APPEAL APPLICATION FORM

To file an appeal of a Type I, II, or III decision or a SEPA determination, please complete the attached form and pay the applicable fee by 5:00 p.m. on the last day of the appeal period.

Form submission and payment must be by PERSONAL DELIVERY at City Hall 2<sup>nd</sup> Floor Customer Service Center c/o Office of the City Clerk-Hearing Examiner, 15670 NE 85<sup>th</sup> Street. Contact the Office of the Hearing Examiner with process questions at 425-556-2191.

### Standing to Appeal:

- **Appeal to the Hearing Examiner of a SEPA determination** - Any interested person may appeal a threshold determination, adequacy of a final EIS, and the conditions or denials of a requested action made by a nonelected City official based on SEPA. No other SEPA appeals shall be allowed.
- **Appeal to the Hearing Examiner of an Administrative, Technical Committee or Design Review Board Decision (Type I or II)** - the project applicant, owner, or any person who submitted written comments (party of record) prior to the date the decision was issued may appeal the decision. The written appeal and the applicable fee must be received by the City of Redmond's Office of the Hearing Examiner no later than 5:00 p.m. on the 14<sup>th</sup> calendar day following the date of the decision.
- **Appeal to the City Council of a Hearing Examiner (or Landmarks and Heritage Commission) decision on an application (Type III)** - the project applicant, owner, City staff, or any person who established themselves as a party of record prior to or at the public hearing. The written appeal and the applicable appeal fee must be received by the City of Redmond's Office of the Hearing Examiner no later than 5:00 p.m. 10 business days following the expiration of the Hearing Examiner's (or Landmarks and Heritage Commission's) reconsideration period.

Should the appellant prevail in the appeal, the application fee will be refunded (City of Redmond Resolution No. 1459). The application fee will not be refunded for appeals that are withdrawn or dismissed.

Hearing Examiner or City Council decision on appeal may be appealed to Superior Court by filing a land use petition which meets the requirements set forth in RCW Chapter 36.70C. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW Section 36.70C.040. Requirements for fully exhausting City administrative appeal opportunities must be fulfilled.

Please continue to page 2 to select your appeal type.

<p style="text-align: right;">(Staff Use Only)</p> <p>File No: _____</p> <p>Date Received: _____</p> <p>Receipt No. _____</p>	<div style="border: 2px solid blue; padding: 5px;"> <p style="color: blue; font-weight: bold; margin: 0;">RECEIVED</p> <p style="color: blue; font-weight: bold; margin: 0;">CITY OF REDMOND</p> <p style="color: red; font-weight: bold; margin: 0;">AUG 24 2017</p> <p style="color: blue; font-weight: bold; margin: 0;">OFFICE OF THE HEARING EXAMINER</p> </div>
---	---

ORIGINAL

- Appeal to the Hearing Examiner of a SEPA determination RZC 21.70.190(E). (Please be sure to understand the type of SEPA appeal you are filing, and if a further appeal to the underlying action is needed.)
- Appeal to the Hearing Examiner of an Administrative, Technical Committee or Design Review Board Decision (Type I or II) RZC 21.76.060(I)
- Appeal to the City Council of a Hearing Examiner (or Landmarks and Heritage Commission) decision on an application (Type III) RZC 21.76.060(M)

**Section A. General Information**

Name of Appellant: Shinn Fu Company of America, Inc., Legal Dept.

Address: 10939 N. Pomona Ave.

City: Kansas City State: MO Zip: 64153

Email: arthur.chaykin@sfacompanies.com | Kolouskova@jmmlaw.com

Phone: (~~home~~) Arthur (~~work~~) Diana (~~cell~~) See attached appeal for legal counsel.  
816.891.6390 425.467.9962

Name of project that is being appealed: See Attached

File number of project that is being appealed: 602-DEMO

Date of decision on project that is being appealed: See Attached

Expiration date of appeal period: \_\_\_\_\_

What is your relationship to the project?

- Party of Record     Project Applicant     Government Agency

Pursuant to the Redmond Zoning Code, only certain individuals have standing to appeal a decision on application or appeal (See page 1 above). Below, please provide a statement describing your standing to appeal, and reference all applicable City Code citations.

See Attached Appeal of Stop Work Order

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Section B. Basis for Appeal**

Please fill out items 1-4 below. Reference all applicable City Code citations and attach additional sheets if necessary.

1. Please state the facts demonstrating how you are adversely affected by the decision:

See Attached Appeal of Stop Work Order

2. Please provide a concise statement identifying each alleged error of fact, law, or procedure, and how the decision has failed to meet the applicable decision criteria:

See Attached Appeal of Stop Work Order

**If appealing a Hearing Examiner decision:** Please provide the findings of fact or conclusions (as outlined in the Hearing Examiner's decision) which are being appealed:

N/A

3. Please state the specific relief requested:

See Attached Appeal of Stop Work Order

4. Please provide any other information reasonably necessary to make a decision on the appeal:

See Attached Appeal of Stop Work Order

**Do not use this form if you are appealing a decision on a:**

- Shoreline Permit (must be appealed to the State Shoreline Hearings Board *RZC 21.68.200(C)(6)(b)*)
- Shoreline Variance or a Shoreline Conditional Use Permit (must be appealed to the State Shoreline Hearings Board *RZC 21.68.200(C)(6)(c)*)
- Hearing Examiner decision on a SEPA appeal (not an appealable action as successive appeals are not allowed *RZC 21.70.190(D)*)
- City Council approval or denial (must be appealed to Superior Court *RZC 21.76.060(Q)*)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**BEFORE THE CODE COMPLIANCE HEARING EXAMINER  
FOR THE CITY OF REDMOND**

In Re: Appeal of Stop Work Order for the structure at 8412 - 164th Avenue NE, Redmond, WA 98052, issued by City of Redmond August 4, 2017.

APPEAL OF STOP WORK ORDER

**I. DECISION AND/OR DETERMINATION BEING APPEALED**

Pursuant to Redmond Municipal Code 1.14.120, Shinn Fu Company of America, Inc. (“Shinn Fu”) hereby appeals the City of Redmond (“City”) Stop Work Order regarding Permit No. 602\_DEMO (“Order”) issued regarding property located at 8412 – 164<sup>th</sup> Avenue SE, for the reasons set forth herein. The Stop Work Order is attached hereto as Exhibit 1.

**II. FACTS DEMONSTRATING APPELLANT’S STANDING**

Shinn Fu has standing under RCW 36.70C.060 because Shinn Fu is the owner and applicant concerning the Property to which the Land Use Decisions apply.

**III. STATEMENTS OF FACTS**

Shinn Fu, through its contractor Rhine Demolition LLC, submitted a Demolition Permit application on June 8, 2017 via email. The City identified Shinn Fu’s project as 602\_DEMO. The City issued the Demolition Permit No. DEMO-2017-04095 for Project 602\_DEMO on June 28, 2017. The City provided a paper permit as well as an email explaining “Your permit has been issued. The permit and approved plans (if applicable) are ready to be printed from the E-Track portal.” The Demolition Permit is valid until December 5, 2017. At no time during its review did the City indicate there would be any delayed or ex post facto discretionary, zoning or environmental review conditions tied to the Demolition Permit. The Demolition Permit is attached hereto as Exhibit 2.

**ORIGINAL**

1 In order to complete demolition, Shinn Fu was required to complete inspections for  
2 rodent control, parking lot use and antiquated electrical and telecommunication wiring. The  
3 City did not attach any conditions to the Demolition Permit pertaining to zoning, historical  
4 preservation or environmental review under the State Environmental Policy Act, chapter  
5 43.21C RCW (“SEPA”).

6 Any appeal of the Demolition Permit had to be filed under the timeframes set forth for  
7 Type 1 ministerial permits under Redmond Zoning Code (“RZC”) 21.76.050. No appeals were  
8 filed and, as a result, the Demolition Permit and Shinn Fu’s right to action under the Demolition  
9 Permit were final and not subject to further appeal or conditioning.

10 Shinn Fu and the City Inspector held a pre-demolition meeting on July 11, 2017. The  
11 City Inspector requested a letter from Shinn demonstrating ability to use the parking lot for  
12 demolition purposes. The City Inspector also wanted proof from Puget Sound Energy on the  
13 cut/cap location for utility termination. Without complication, Shinn Fu complied with and  
14 provided all this information.

15 The City advised Shinn Fu on July 31, 2017 that it was interested in Shinn Fu  
16 photographing the structure before demolition and providing such information to the Redmond  
17 Historical Society. On August 1, 2017, the City emailed instructions to Shinn Fu for specifics  
18 regarding architectural photography of the structure. During these communications, the City  
19 never notified Shinn Fu that it was either taking action internally or with any other state agency  
20 or nonprofit group to pursue preservation of the structure or in an attempt to belatedly impose  
21 conditions on the Demolition Permit. To the contrary, Shinn Fu understood the photographic  
22 information would be provided for inventory because the structure was about to be  
23 immediately demolished by permit. In good faith and because demolition was scheduled for  
24 the beginning of August pursuant to the Demolition Permit, Shinn Fu immediately contracted  
25 with a specialist in architectural photography and provided such to the City. The City and

1 Shinn Fu continued email exchanges, with the City recognizing by email on August 3, 2017,  
2 that the demolition was not subject to SEPA but that historical records and photographic  
3 information was desired. Further, while Shinn Fu asked the City whether it wished any  
4 architectural features of the building to be preserved, the City did not provide any response or  
5 indicate any noteworthy features for preservation.

6 The structure and property are not listed on the City of Redmond's list of historic  
7 landmarks and have not been given any such designation nor been processed through the City's  
8 historical landmark designation process pursuant to RZC 21.30.040 or any other legal  
9 authority. The structure and property are also not listed on any other State or Federal registries.

10 Shinn Fu notified the City by email that it intended to begin demolition on August 3,  
11 2017.

12 On August 3, 2017, the City's building inspector contacted Shinn Fu's demolition  
13 contractor and requested them to hold off on demolition. Shinn Fu's representative  
14 immediately emailed the City's building inspector requesting information regarding the basis  
15 for a 'hold' on demolition and any further information.

16 On August 4, 2017 the City issued the Stop Work Order regarding Shinn Fu's Permit  
17 No. 602\_DEMO. The Stop Work Order was and is virtually illegible; to the best of Shinn Fu's  
18 ability the Order appears to read: "This Order is issued for the following reasons:  
19 Categorically exempt check list under SEPA must be completed. The following corrective  
20 measures shall be taken immediately: Do not demolish structure [indecipherable] ... complete  
21 SEPA checklist. The following work may proceed: None [or Never - indistinguishable]."

22 On August 8, 2017, the City advised Shinn Fu that Shinn Fu would have to complete  
23 SEPA review, referred to herein as the "Land Use Decision Regarding SEPA and Historical  
24 Landmark Requirements." After the Stop Work Order, the City advised Shinn Fu by phone  
25 that it was in conversation with the State of Washington Department of Archaeology and

1 Historical Preservation (“DAHP”). The City did not advise Shinn Fu, and certainly did not  
2 request permission, to request DAHP to review whether the structure is eligible for historic  
3 landmark status. Conversely, the City did not advise DAHP that it had already issued the  
4 Demolition Permit to Shinn Fu roughly six weeks earlier. DAHP, unaware that the City had  
5 issued the Demolition Permit weeks earlier, and unaware that the City was not acting under  
6 any authority from or after any notice to Shinn Fu, i.e. the property owner, issued a letter on  
7 August 8, 2017, advising the City of its review regarding historic register eligibility. DAHP  
8 only weighed in on whether eligibility might be appropriate, but did not initiate any  
9 proceedings and expressly noted that such proceedings are designed to take place prior to any  
10 demolition permitting, but also recognized that demolition can be possible. The City emailed  
11 the DAHP letter to Shinn Fu along with the Land Use Decision Regarding SEPA and Historical  
12 Landmark Requirements. The Land Use Decision – Stop Work Order and Land Use Decision  
13 Regarding SEPA and Historical Landmark Requirements are further referred to herein as the  
14 Land Use Decisions.

15 Shinn Fu has also filed a Land Use Petition and Complaint for Writ of Mandamus  
16 regarding the foregoing in King County Superior Court, under Cause Number 17-2-22133-3  
17 SEA.

## 18 **II. GROUNDS FOR APPEAL**

19 1. This appeal is filed pursuant to RMC 1.14.120. While the City has not issued  
20 a document entitled Notice and Order or Restoration Order, nor has the City issued a civil  
21 penalty, the City has not provided any other administrative appeal recourse for the Stop Work  
22 Order. Further, pursuant to RMC 1.14.150 a Stop Work Order may be the basis for penalties.

23 2. As noted above, Shinn Fu has also filed legal action in Superior Court. This  
24 appeal is filed as a precaution in the event RMC 1.14.120 were interpreted to govern appeals  
25 of any enforcement actions taken under Chapter 1.14 RMC.

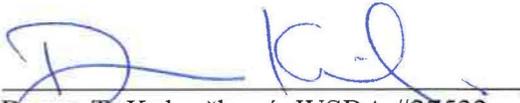
3. The Stop Work Order is in direct violation of the Demolition Permit



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

DATED this 24<sup>th</sup> day of August, 2017.

JOHNS MONROE MITSUNAGA &  
KOLOUŠKOVÁ, PLLC

By   
Duana T. Koloušková, WSBA #27532  
Attorneys for Appellant Shinn Fu  
Company of America, Inc.

*01-1937-1 Appeal of Stop Work Order 8-24-17*



**CITY OF REDMOND**  
 15670 NE 85th Street • Redmond WA 98052

ALL PERSONS ARE HEREBY ORDERED TO AT ONCE

# STOP WORK

On these premises at 8511 - 15th St, Redmond, WA

This Order is issued for the following reasons: Unsafe work conditions

The following corrective measures shall be taken immediately: Remove workers from site

The following work may proceed: None

By [Signature]  
 City Inspector / Code Compliance Officer

Posted: 7/12 AM/PM 7:12 2012 Phone: [Number]

## WARNING

The failure to stop work, the resuming of work without permission from the City of Redmond or the removal, mutilation, or concealment of this notice is a misdemeanor punishable by a fine of not more than \$5,000 and/or imprisonment for not more than one year, per violation per day (RCW 1A.120). In addition, the City of Redmond may suspend or permanently revoke a contractor's license.



# Development Services Center Permit & Inspection Record

15670 NE 85th St, Redmond, WA 98052 • (425) 556-2473

**Permit Number: DEMO-2017-04095**

**IVR Pin#: 149971**

Inspection Request Web/Phone: [land.redmond.gov/\(425\)556-2435](http://land.redmond.gov/(425)556-2435)

**Permit Type:** Demolition

**Issued:** Jun 28, 2017

**Work Class:** None

**Expires\*:** Dec 5, 2017

**Project Name:** 602\_DEMO

**Valuation:** \$ 15,000.00

**Site Address:** 8412 164TH AVE NE

**Parcel Number:** 6719700130

**Desc of Work:** Demo of existing house (former cafe) and patio slab. Area of work 1,370 sf.

**Contractor:** RHINE DEMOLITION LLC

253-537-5852

1124 112 TH ST E

TACOMA, WA 98445

**Contractor License:** RHINEDL893BE

**Expiration Date:** 1/3/2015 1

**Owner:** SHINN FU COMPANY OF AMERICA

The following inspections may be required and have not yet been inspected. Inspection requests must be made by midnight to be scheduled for inspection on the next business day. To contact your inspector go to Today's Inspections at [land.redmond.gov](http://land.redmond.gov) after 7 am. For all other inspection Questions please call 425-444-2425.

Number and Type	Code	Status	Id	Date	Comments
547 CIV Pre-Con					
574 CIV T.E.S.C.					
560 CIV Water Inspection					
575 CIV Sewer Capped					
564 CIV Electrical					
566 CIV Gas					
568 CIV Septic					
577 CIV Tank					
579 CIV Well					
584 CIV Foundation					
586 CIV Debris					
588 CIV Asbestos					
920 CIV Approval					
455 BLDG Final					

\* Schedule and receive a valid inspection prior to expire date.

Date Printed: July 10, 2017 11:27 am