Forest Conservation Plan Appeals: Existing vs. Proposed

Amendment 4 to O-16-26. Left: current code. Right: proposed structure reflecting SB 526 and CREG Westport.

EXISTING PROCESS

Department finds the plan "complete and correct"
Not an approval and not a separately appealable decision. The plan rides with the development decision.

Administratively approved
plan (grading, sediment, subdivision)

Building Board of Appeals
(no adopted procedures)

Circuit Court
judicial review of Board decision

Planning Commission
approved plan

Circuit Court
directly with the PC decision

Problems

No separate, appealable plan decision; a "complete and correct" finding is not an approval, contrary to SB 526 and CREG Westport. The route splits by how the project was approved, the Building Board of Appeals has no adopted procedures, and Chapter 21 appeals should go to the Board of Appeals, not the Building Board.

PROPOSED (AMENDMENT 4)

Plan becomes final at final application approval
The plan may change during review; it is final and appealable when the application is finally approved

by track:

Planning Commission track
Plan finalizes at PC final approval

Circuit Court
directly, under 21.24.130, within 30 days

Grading permit or site design track
Plan finalizes at Department approval

Board of Appeals
Chapter 21.30, within 30 days, may take evidence

Circuit Court
on the record, 30 days

Grading permit appeal to BBoA
(Chapter 17) may NOT include forest conservation plan issues

Improvements

Separate, dateable, appealable plan decision (SB 526, CREG Westport). One body per track, uniform 30-day clock. Board of Appeals may take new evidence to correct an erroneous delineation. Forest issues are kept out of the grading-permit appeal, so no two bodies on one question.

Prepared for Council. Appeal body and finalization points reflect Office of Law guidance; final drafting by the Office of Law.