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Northshore Investors LLC v. City of Tacoma

Court of Appeals of Washington, Division 2 - April 30, 2013 - P.3d - 2013 WL 1831458

Developer submitted an application to the city for permits to redevelop a golf course. In the application, developer requested approval of the development's preliminary plat, approval of a rezone modification, site plan approval, multiple variances and reductions to development standards, and wetland/stream approvals or exemptions. The city council denied the application.

Developer then filed a Land Use Petition Act (LUPA) petition and appealed the city examiner's recommendation on the rezone modification application to the council. The parties agreed that developer could file and serve an amended LUPA petition within 21 days of the council's decision in order to address that decision. The council denied developer's rezone modification request at a hearing. Developer then filed an amended LUPA petition and, 23 days after the council's hearing, served the city with that petition. The city filed a motion to dismiss the amended LUPA petition for untimely service, but the superior court denied the motions.

The city appealed the superior court's denial of their motions to dismiss. The city argued that developer failed to meet the statutory requirement to serve it within 21 days of the date the council issued its final land use decision, thus depriving the superior court of jurisdiction to hear the petition.

The court of appeals agreed, holding that the 21-day period began to run on the date of the council's oral vote because this vote, not the subsequent notice of appeal results the city clerk mailed, was the final decision and was entered into the public record in several formats.