

**RESOLUTION NO. 60**

**A RESOLUTION OF THE CITY OF WOODINVILLE ADOPTING HEARING EXAMINER'S DECISION APPEAL PROCEDURES.**

**WHEREAS**, the City of Woodinville has determined that it is in the best interests of the City to have land use matters and other quasi-judicial matters brought before a hearing examiner for consideration and decision; and

**WHEREAS**, Ordinance No. 17 established the Office of Hearing Examiner, defined the powers and duties of the Hearing Examiner, and provided for appeals of Hearing Examiner decisions; and

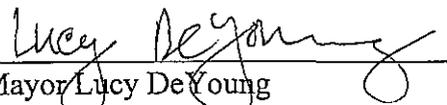
**WHEREAS**, Ordinance No. 18 established procedures for appealing quasi-judicial matters; and

**WHEREAS**, the City Council deems it advisable to adopt formal policies for appeals to the City Council of Hearing Examiner decisions; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DOES RESOLVE AS FOLLOWS:**

**Section 1.** The City Council adopts that document entitled "Woodinville City Council, Hearing Examiner's Decision Appeal Procedures", dated December 8, 1993, shown as Attachment A, as the procedural guide to be followed by the City Council in the conduct of appeals of Hearing Examiner decisions to the City Council.

ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 13TH DAY OF DECEMBER, 1993.

  
\_\_\_\_\_  
Mayor Lucy DeYoung

ATTEST:

  
\_\_\_\_\_  
James K. Katica  
City Clerk/Treasurer

**WOODINVILLE CITY COUNCIL**

**Hearing Examiner's Decision Appeal Procedures**

**re: Variances, Conditional Use Permits, and Special Use Permits**

**A. Participation in the Appeal**

Only a person who is a party of record may participate in the appeal. "Party of record" means: a person who testifies at a hearing; the applicant; or person submitting written testimony about a matter pending before the Hearing Examiner. These persons may participate in either or both of the following ways:

1. By submitting written comments to the Planning Department, prior to the hearing to consider the appeal (appeal hearing); or
2. By appearing in person, or through a representative, at the appeal hearing and making oral comments directly to the City Council. The Council may reasonably limit the extent of the oral comments to facilitate the orderly and timely conduct of the appeal hearing.

**B. Scope of the Appeal**

The scope of the appeal is limited to the specific factual findings and conclusions disputed in the letter of appeal, and City Council may only consider comments on these factual findings and conclusions. The appeal will be considered only on the record developed in the hearing before the Hearing Examiner.

**C. Staff Report on the Appeal**

1. Contents - The Planning Director shall prepare a staff report on the appeal containing the following:
  - a. The staff report prepared for the public hearing before the Hearing Examiner.
  - b. The written decision of the Hearing Examiner.
  - c. All written comments submitted to the Hearing Examiner.
  - d. A summary of the comments and discussion at the hearing of the Hearing Examiner and a statement of the availability of the electronic sound recording of the hearing.

- e. ~~The letter of appeal.~~
  - f. All written comments received by the Planning Department from persons entitled to participate in the appeal and within the scope of the appeal.
  - g. An analysis of the specific factual findings and conclusions disputed in the letter of appeal.
2. Distribution - The Planning Director shall distribute copies of the staff report as follows:
- a. Prior to the appeal hearing, a copy will be sent to each member of the City Council.
  - b. At least seven (7) calendar days before the hearing, a copy will be sent to:
    - 1) the applicant;
    - 2) the person who filed the appeal; and
    - 3) a copy will be sent to any person who received a copy of the Hearing Examiner's decision.

#### **D. Public Hearing**

- 1. Hearing in General - City Council shall hold a public hearing on the appeal.
- 2. Hearing Declared Open - The appeal hearings of the City Council are open to the public.

#### **E. Electronic Sound Recordings**

City Council shall make a complete electronic sound recording of each appeal hearing.

#### **F. Burden of Proof**

The person filing the appeal has the responsibility of convincing the City Council that the Hearing Examiner made an incorrect decision because of erroneous findings of fact or conclusions.

#### **G. Continuation of the Hearing**

~~City Council may continue the appeal hearing if, for any reason, they are unable to hear all of the public comments on the appeal or if City Council determines that they~~

need more information within the scope of the appeal. If, during the hearing, the time and place of the next public hearing on the matter is announced, no further notice of that hearing need be given.

## H. Decision on the Appeal

After considering all comments within the scope of the appeal submitted by persons entitled to participate in the appeal, City Council shall, by motion approved by a majority of its total membership, take one of the following actions:

1. If City Council determines that disputed findings of fact and conclusions of the Hearing Examiner are the correct findings of fact and conclusions, the Council shall affirm the decision.
2. If City Council determines that the disputed findings of fact and conclusions of the Hearing Examiner are not correct and that correct findings of fact and conclusions do not support the decision of the Hearing Examiner, the Council shall modify or reverse the decision.
3. In all other cases, the Council shall either direct the Hearing Examiner to hold a rehearing on the matter or decide to hold a City Council hearing on the matter. The motion may limit the scope of the matters to be considered at the rehearing or City Council hearing.
  - a. If City Council holds a hearing on the matter, it may either grant or deny the permit or approval only by motion approved by a majority of its total membership. This motion replaces the Hearing Examiner's written decision. City Council shall issue a written notice containing its decision.
  - b. If City Council holds a hearing on the matter, their decision is the final decision of the City.
4. Notice of Final Decision
  - a. General - Following the final decision of the City Council, the Planning Director shall prepare a notice of the City's final decision on the application.
  - b. Distribution - Within two (2) working days after the City Council's decision is made, the Planning Director shall distribute a copy of the notice of the decision as follows:

1) A copy will be sent to the applicant.

~~2) A copy will be sent to the person who filed the appeal.~~

3) A copy will be sent to any person who submitted written or oral comments to the City Council.

5. Effect - The decision of the City Council is the final decision of the City.

#### **I. Judicial Review**

The action of the City in granting or denying an application under this Chapter may be reviewed for illegal, corrupt or arbitrary or capricious action in County Superior Court. The petition for review must be filed within thirty (30) calendar days of the final decision of the City.

#### **J. Lapse of Approval**

1. The applicant must begin construction or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under these procedures within one (1) year after the final decision on the matter or the decision becomes void. "Final decision" means the final decision of the City of Woodinville, or the termination of judicial review proceedings if such proceedings were initiated pursuant to Section I - Judicial Review, above.
2. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under these procedures and complete the applicable conditions listed on the Notice of Final Decision within five (5) years after the final decision on the matter, or the decision becomes void. For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under these procedures and made a condition of the Notice of Final Decision.