

RESOLUTION NO. 61

A RESOLUTION OF THE CITY OF WOODINVILLE ADOPTING CHALLENGE PROCEDURES FOR HEARING EXAMINER RECOMMENDATIONS REGARDING ZONE CHANGES AND PRELIMINARY PLAT APPROVAL.

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 and defined the powers and duties of the Hearing Examiner; and

WHEREAS, Washington state law requires the Hearing Examiner make recommendations to the presiding legislative body regarding zone changes and preliminary plat approval; and

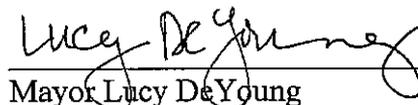
WHEREAS, Hearing Examiner recommendations may be challenged by interested parties; and

WHEREAS, the City Council deems it advisable to adopt formal policies for considering challenges of recommendations made by the Hearing Examiner to the City Council regarding zone changes and preliminary plat approval; NOW, THEREFORE,

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

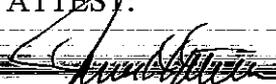
Section 1. The City Council adopts that document entitled "Woodinville City Council, Procedures, Hearing Examiner Recommendations for Challenges", dated December 9, 1993, shown as Attachment A, as the procedural guide to be followed by the City Council in the conduct of challenges of Hearing Examiner recommendations regarding zone changes and preliminary plat approval 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 PROCEDURES

Hearing Examiner Recommendations for Challenges

re: Zone Change and Preliminary Plat Approval

A. Recommendation by the Hearing Examiner

1. General - After considering all of the information and comments submitted in regard to the zone change or preliminary plat, the Hearing Examiner shall issue a written recommendation to the City Council to either:
 - a. Grant the application; or
 - b. Modify and grant the application; or
 - c. Deny the application.

2. Decision Criteria - The Hearing Examiner shall use the criteria listed in the provision of the Woodinville Municipal Code (WMC) describing the requested decision in making a recommendation to City Council on the application. In addition, the Hearing Examiner may recommend that the application be granted only if it is consistent with:
 - a. the intent of the goals and policies and of the applicable neighborhood plan provisions of the Comprehensive Plan;
 - b. all applicable WMC regulations, including those adopted by reference from the Comprehensive Plan; and
 - c. the public health, safety and welfare.

3. Conditions and Restrictions - The Hearing Examiner shall include in the written recommendation any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of granting the application.

4. Contents - The Hearing Examiner shall include the following in his/her written recommendation to City Council:
 - a. Background - The nature and background of the proceeding.

- b. Findings of Fact - A statement of facts presented to the hearing Examiner that support his/her recommendation, including any conditions and restrictions that are recommended; and
- c. Conclusions - A statement of the Hearing Examiner's conclusions based on those facts.
- d. Appropriate Rule, Order or Relief - The recommendation shall be based upon a consideration of the whole record and supported by reliable and substantial evidence.

B. Distribution of Hearing Examiner's Recommendation

The Planning Director shall distribute copies of the recommendation of the Hearing Examiner as follows:

1. Within two (2) working days after the Hearing Examiner's written recommendation is issued, a copy will be sent to the applicant, and to any person who submitted written or oral testimony to the Hearing Examiner.
2. No earlier than fifteen (15) calendar days after the Hearing Examiner's recommendation/reconsideration is issued and prior to the meeting where City Council considers the application, a copy will be sent to each member of City Council. The Planning Director shall include the following material with the copy of the recommendation sent to each City Council member:
 - a. A draft ordinance or resolution that embodies the Hearing Examiner's recommendation.
 - b. Any challenge to the Hearing Examiner's recommendation filed under the applicable section of the WMC and received by the Planning Department before the Hearing Examiner's recommendation is sent to the members of City Council.

C. Challenge to the Hearing Examiner's Recommendation

1. Who May Challenge - The recommendation of the Hearing Examiner may be challenged by:
 - a. The applicant; and
 - b. Any person who submitted written or oral testimony to the Hearing Examiner.
2. Contents of a Challenge - The challenge must be in writing and contain a statement of the factual findings and conclusions made by the Hearing Examiner

that are contested. The challenge will be considered only on the record developed in the hearing before the Hearing Examiner.

3. How and When to File a Challenge

- a. The challenge may be filed by delivering it to the Planning Department, together with the fee established by ordinance, within fourteen (14) calendar days following the postmarked date of distribution of the Hearing Examiner's recommendation on the application or on the decision on requests for reconsideration.
 - b. The person filing the challenge shall, prior to delivery under paragraph 3.a of this Section, mail or personally deliver a copy of the challenge and a notice of the deadline for responding to the challenge as established in paragraph 3.c of this Section to those persons described in paragraph 1 of this Section. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the challenge letter filed with the Planning Department pursuant to paragraph 3.a of this Section.
 - c. Any person receiving a copy of the challenge letter pursuant to paragraph 3.b of this Section, may file a written response to the challenge. Such response shall be submitted to the Planning Department within five (5) working days after the day the challenge letter was filed with the Planning Department.
 - d. Any person filing a response pursuant to this section shall mail or personally deliver a copy of the response to those persons described in paragraph 1 of this Section. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the response to the challenge letter filed with the Planning Department pursuant to subsection 3.a above.
4. Request to Reconsider Not Required - The recommendation of the Hearing Examiner may be challenged whether or not there was a request for the Hearing Examiner to reconsider his/her recommendation.

D. City Council Action

1. General - The City Council shall consider the application at a scheduled meeting within forty-five (45) calendar days of the date of issuance of the Hearing Examiner's recommendations on the proposal. This time period may be extended upon written concurrence of the Planning Director and the applicant.
2. City Council Decision - After consideration of the entire matter on the record ~~before the Hearing Examiner, the City Council shall, by motion, approved by a~~ majority of the total membership, take one of the following actions:

- a. Adopt an ordinance or resolution pursuant to the Hearing Examiner's recommendation to either:
 - 1) Grant the application; or
 - 2) Modify and grant the application; or
 - 3) Deny the application.
 - b. If the City Council concludes that significant issues have been raised in a challenge or if they are unsatisfied with the Hearing Examiner's recommendation for any other reason, they may by motion 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 issues to be considered at the rehearing or City Council hearing.
3. Decisional Criteria - The City Council shall use the criteria listed in the provision of the WMC describing the requested decision in deciding upon the application. In addition, the City Council may approve the application only if it is consistent with:
- a. the intent of the goals and policies and of the applicable provisions of the Comprehensive Plan;
 - b. all applicable WMC regulations; and
 - c. the public health, safety and welfare.
4. Condition and Restriction - The City Council shall include in the ordinance or resolution granting the application any conditions and restrictions they determine are necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision.
5. Findings of Fact and Conclusion - The City Council shall include in their ordinance or resolution:
- a. A statement of the facts presented to City Council that support the decision, including any conditions and restrictions that they impose; and
 - b. The City Council's conclusions based on those facts.
6. ~~Effect. Subject to the applicable provision of WMC, the ordinance or resolution of City Council is the final decision of the City.~~

E. Procedures for Rehearing and City Council Hearing

1. If the Hearing Examiner holds a rehearing on the matter, the City Council may limit the matters to be considered at the Hearing Examiner's rehearing. Any limitation will be stated in the notice of the hearing.
2. If City Council holds a hearing on the matter, City Council may limit the matters to be considered at the City Council hearing. If this occurs, this limitation will be stated in the notice of the hearing. City Council shall issue a final decision of the City subject to appeal to Superior Court.

F. Judicial Review

The action of the City in granting or denying an application under these procedures 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.

G. 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 F - 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 in the ordinance or resolution 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 ordinance or resolution.