

## EUGENE PLANNING COMMISSION

### PROCEDURAL RULES ON APPEALS FROM HEARINGS OFFICIAL DECISIONS

#### EC 9.7650 – 9.7685

1. A decision made by the Hearings Official may be appealed to the Planning Commission within 12 days of the date the Hearings Official decision is mailed. EC 9.7655(1).
2. The appeal statement must “explain specifically how the Hearings Official failed to properly evaluate” the proposed request or how the Hearings Official failed to “make the decision consistent with the approval criteria.” The appeal is limited to the issues raised at the original hearing before the Hearings Official.” EC 9.7655(3).
3. The Planning Commission must limit its consideration in the appeal to issues raised in the appeal statement filed by the appellant. EC 9.7655(3)
4. The appeal must be based on the record. The Planning commission cannot consider new evidence beyond that considered before the Hearings Official. EC 9.7655(3).
5. The appeal hearing before the Planning Commission will be held within 45 days of the receipt of the appeal notice unless a different time period is agreed to by all parties (appellant/applicant). EC 9.7660.
6. Planning Commission Appeal Hearing  
The Planning Commission will follow the standard format for a quasi-judicial hearing as noted below:
  - A. Declaration of conflicts of interest or ex parte contacts.
  - B. Planning Division staff presentation.
  - C. Public testimony from applicant, and others in support of the application.
  - D. Public testimony from those who are neither proponents nor opponents of the proposal.
  - E. Public testimony from those in opposition to the application.
  - F. Staff response to public testimony.
  - G. Questions from the Planning Commission.
  - H. Rebuttal testimony from applicant.
  - I. Closing of the public hearing.EC 9.7675; EC 9.7065
7. Tentative Decision  
After close of the hearing, the Planning Commission will deliberate and reach a tentative decision on the appeal. The Planning Commission may affirm, reverse, or modify in whole or in part any decision, determination, or condition of the Hearings Official. The commission’s action must be supported by adopted findings of fact. EC 9.7680.

In order to facilitate Planning Commission deliberation on the appeal, the Planning Division staff may prepare draft motions for the commission to affirm, reverse, or modify the Hearings Official.

The Planning Commission's final decision must be supported by adopted findings of fact. The Planning Commission's tentative decision should include clear direction to assist staff in drafting findings to be prepared for adoption at a subsequent meeting. When the commission decides to reverse or modify the Hearings Official, the findings must explain why the previous decision was in error. EC 9.7680.

8. Final Decision

The draft Final Order, Findings and Conclusions prepared by Planning Division staff will be reviewed by the Planning Commission. The Planning Commission may adopt the Final Order, Findings and Conclusions as prepared or may delete, add, or modify as it deems appropriate. The Planning Division staff in the preparation of the findings will, to the greatest extent possible, try to capture the reasoning of the prevailing side of the Planning Commission in the findings.

9. Planning Commission Participation in Adoption of Findings

Only those Planning Commissioners who participated in the preliminary decision to reverse the decision of the Hearings Official will take part in the discussion and action on the adoption of a revised Final Order, Findings and Conclusions.

10. Planning Commission Action in Case of a Tie Vote

A tie vote by the Planning Commission on an appeal will result in affirming the previous decision of the Hearings Official.

11. The decision on the appeal must be made within 15 days of the close of the record unless otherwise agreed to by the parties. EC 9.7680.

12. Within five days of the Planning Commission's action, notice of the appeal decision will be mailed by the Planning Division to the applicant, appellant, and parties who have requested a copy of the decision. EC 9.7685(1).

Last updated: January 21, 2016