PP-01-001

Shoreline
City Clerk
Receiving
Number
3959

RESOLUTION NO. 182

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, AMENDING THE RULES OF PROCEDURE FOR HEARINGS BEFORE THE HEARING EXAMINER AND THE PLANNING COMMISSION; AND REPEALING RESOLUTION NO. 130, EXHIBIT A.

WHEREAS, the City Council wishes to revise and clarify the rules of procedure by which hearings before the Shoreline Hearing Examiner and Planning Commission are conducted to reflect administration of the Development Code;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON AS FOLLOWS:

Section 1. Establishment of Rules of Procedure. The City Council hereby adopts "Rules of Procedure for Administrative Hearings of the City of Shoreline," a copy of said rules being attached hereto as "Exhibit A."

Section 2. Repealer. Resolution No. 130, Exhibit A adopting rules of procedure for proceedings before the Hearing Examiner or the Planning Commission is hereby repealed.

ADOPTED BY THE CITY COUNCIL ON DECEMBER 10, 2001.

_____
Mayor Scott Jepsen

ATTEST:

_____
Sharon Mattioli, CMC,
City Clerk

EXHIBIT A, Resolution 182

RULES OF PROCEDURE FOR ADMINISTRATIVE HEARINGS OF THE CITY OF SHORELINE

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I. DEFINITIONS

"**Appellant**" means a person, organization, association or other similar group who files or signs a complete and timely appeal of a City decision.

"**Applicant**" means a person who is the owner of the subject property or the authorized representative of the owner of the subject property, and who has applied for a land use permit.

"**Director**" means the Director of the Planning and Development Services Department or designee.

"**Ex parte communication**" means written or oral communications to the Hearing Examiner or any member of the Planning Commission about a matter pending before the Hearing Body not included in the public record and made outside of a public hearing.

"**Intervenor**" means any individual, partnership, corporation, association, or public or private organization who files a motion with the Hearing Examiner in support of an administrative decision subject to appeal.

"**Issued**" means the date the recommendation or decision is mailed to the parties to the hearing.

"**Land Use Application**" means any application for a land use action undertaken in accordance with the Shoreline Municipal Code.

"**Land Use Decision**" means a final determination by the City as defined by RCW 36.70C.020.

"**SMC**" means the Shoreline Municipal Code.

"**SEPA**" means the State Environmental Policy Act, Ch. 43.21C RCW.

"**SEPA Threshold Determination**" means the decision by the responsible official of the lead agency whether or not an Environmental Impact Statement is required for a proposal that is not categorically exempt.

II. RULES OF GENERAL APPLICATION

SECTION 1. JURISDICTION

These rules apply to: open-record appeal hearings and open-record pre-decision hearings on matters for which the SMC designates the Shoreline Hearing Examiner or Planning Commission as the appeal, review or decision making authority; and to any other matters designated by the City Council.

SECTION 2. EX PARTE COMMUNICATION

2.1 No person, nor his or her agent, employee, or representative, who is interested in a particular application currently pending before the Hearing Examiner or the Planning Commission shall communicate ex parte, directly or indirectly, with the Hearing

Examiner or any member of the Planning Commission concerning the merits of that or a factually related application. All procedural questions should be directed to the Director, City Clerk or City Attorney.

2.2 If a prohibited ex parte communication is made to or by the Hearing Examiner or any member of the Planning Commission, the substance of such communication shall be publicly disclosed at the beginning of the hearing, and proper discretion shall be exercised by the Hearing Examiner or the member of the Planning Commission on whether to disqualify himself or herself for that particular hearing.

SECTION 3. SCHEDULING

3.1 Expeditious Proceedings. It is the policy of the City of Shoreline that, to the extent feasible and consistent with requirements of law, public hearings shall be conducted expeditiously. In the conduct of such proceedings, the Hearing Examiner or the Planning Commission, City staff, and all parties, or their agents, shall make every effort at each stage of a proceeding to avoid delay.

3.2 Frequency. Hearings before the Hearing Examiner will normally be scheduled on Wednesday evenings at 7:00 p.m. However, the Hearing Examiner shall have discretion to schedule hearings earlier in the day, particularly when the number of parties and witnesses is limited or when the hearing is likely to be lengthy.

In accordance with Planning Commission by-laws, public hearings before the Planning Commission will normally be scheduled the first or third Thursday evening of the month at 7:00 p.m. There may be more than one hearing scheduled to commence at the same time. In such event, the Planning Commission shall have discretion in setting the agenda.

3.3 Continuances of Hearings. If, in the opinion of the Hearing Examiner or a majority of the Planning Commission, more information is necessary to make a decision or recommendation, or there is insufficient time scheduled to hear all of the testimony on the matter, the hearing may be continued to another date. If continued to a specific time and place, and posted on the door of the hearing room, no further notice of that hearing need be given.

Any hearing participant, including City staff, may, preferably prior to the hearing in writing, state reasonable grounds for a continuance. The Hearing Examiner or Planning Commission shall have the discretion to grant or deny any request for continuance, including one made orally at the hearing, if based on reasonable grounds.

SECTION 4. FORMAT

4.1 The format for a hearing will be of an informal nature designed in such a way that the evidence and facts relevant to a particular proceeding will be clearly and efficiently presented.

4.2 Oath or Affirmation. All testimony shall be given under oath or affirmation to tell the truth. Either the Hearing Examiner, Planning Commission Chair or the clerk shall administer the oath or affirmation.

4.3 View Trip. When necessary, the Hearing Examiner or Planning Commission member may inspect the site prior or subsequent to the hearing. Observations which are relied upon as a factual basis for the decision or recommendation shall be disclosed as part of the record. Failure to inspect the site will not render the decision or recommendation void.

SECTION 5. RECORD OF HEARING

Hearings shall be electronically recorded and such recordings shall be a part of the official record. Copies of the electronic recordings shall be made available to the public on request. The cost of such copying shall be paid by the requester according to the City's adopted fee schedule.

Copies of any written materials in the record may be obtained by any person who shall be responsible for paying the cost of reproducing such material.

SECTION 6. CONDUCT OF PARTICIPANTS

Participants, intervenors, witnesses or observers shall conduct themselves with civility and deal courteously with all involved in the proceedings. Failure to do so will result in removal from the hearing.

SECTION 7. REPRESENTATION BY COUNSEL

Although representation by legal counsel is not required at the hearings, all parties participating in the hearings may be represented at the hearings by legal counsel of their choice.

SECTION 8. COMPUTATION OF TIME

Computation of any period of time prescribed or allowed by these rules shall begin with the first day following that on which the act or event initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday or a City holiday, the period shall run until the end of the next following business day.

SECTION 9. CONFLICTS

These rules of procedure are adopted to supplement the requirements set forth in City ordinance. Any conflicts between these rules and the provisions of a City ordinance will be decided consistent with the provisions of the ordinance.

III. HEARINGS BEFORE THE HEARING EXAMINER

SECTION 1. JURISDICTION

The Hearing Examiner shall have the authority to hear appeals and conduct pre-decision hearings as specified in the Shoreline Municipal Code. Rules of this part shall apply to appeal hearings. When authorized to conduct pre-decision hearings, the Hearing Examiner shall apply rules under Part IV for Planning Commission pre-decision hearings.

SECTION 2: FILING AN APPEAL

2.1 Compliance with Rules. All appeals must comply with these Rules and with the requirements established in the applicable City of Shoreline ordinance under which the appeal is filed.

2.2 Timeliness. To be considered timely filed, an appeal must be received in the City Clerk's Office no later than 5 p.m. on the last day of the appeal period.

2.3 Fee. Any filing fee as required by the City Fee Schedule, chapter 3.01 SMC, shall accompany the appeal.

2.4 Contents of Appeal Statement. An Appeal Statement must be in writing and contain the following:

a. A brief statement as to how the appellant is specifically affected by or interested in the matter appealed;
b. A brief statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed and the facts and legal authority supporting the objections to the decision; upon motion of any party responding to the appeal brought within 15 days of filing, the Hearing Examiner may require a clarification or more detailed statement of issues where needed to adequately prepare for the hearing;
c. The relief requested, such as reversal or modification;
d. Signature, address, and day phone number of the appellant, and name and address of appellant's designated representative, if any.

2.5 Parties Representative Required. When a party consists of more than one individual, or is a group, organization, corporation, or other entity, the party shall designate an individual to be its representative and inform the Hearing Examiner of the name, address and telephone number of that designated representative. The rights of such an appellant shall be exercised by the person designated as the party representative. Notice or other communication to the party representative is considered to be notice or communication to the party.

SECTION 3. WITHDRAWAL OF APPEAL

An appeal may be withdrawn only by the appellant. An appellant's request to withdraw shall be granted as a matter of right and the appeal dismissed. Where an appeal is made by several persons, a group, organization, corporation, or other entity, withdrawal shall be made by the person who had been designated as the party representative.

The City will refund the appeal fee only when the appellant requests the withdrawal of the appeal no later than twenty-one (21) days before the date set for the hearing.

SECTION 4. RIGHTS AND RESPONSIBILITIES OF PARTIES

4.1 The Applicant and/or Appellant, Intervenors as permitted by the Examiner, and the City (Parties) shall have the right to present evidence and testimony, object, make motions, arguments, recommendations and all other rights essential to a fair hearing.

The applicant and/or appellant shall have the right to timely access of the City's document list and of the City's staff report. As provided under RCW 42.17, the applicant and/or appellant may obtain copies of public materials from the City. The appellant shall pay the cost of such copying according to the City's adopted fee schedule.

4.2 Responsibilities of City Staff. City staff shall provide the Hearing Examiner and other parties a document list at least fourteen (14) days in advance of the scheduled hearing date and provide a staff report at least one (1) week in advance of the scheduled hearing date. City staff submission of a document list does not restrict staff from subsequently submitting a rebuttal including or referencing documents not included in the document list.

In addition, City staff shall present revised plans if received within fourteen (14) days of a hearing.

4.3 Responsibilities of Applicant and/or Appellant. Whenever possible the applicant and/or appellant shall provide the Examiner and other parties with documents that supports his/her application or appeal one (1) week prior to the hearing, and be prepared for questions by the Hearing Examiner.

4.4 Unless otherwise specified, all forms of legal authority, including briefs, staff reports and other legal memoranda upon which a party will be relying or presenting at the hearing, must be submitted to the Hearing Examiner at least one (1) week in advance of the scheduled hearing date.

SECTION 5: CONDUCT OF HEARINGS

5.1 Hearings shall be presided over by the Hearing Examiner. The Hearing Examiner shall have all of the authority and duties as granted in State statutes, SMC and other City rules or ordinances. Included in the duties of the Hearing Examiner are the following: to

conduct fair and impartial hearings; to take all necessary action to avoid delay in the disposition of proceedings; and, to maintain order. The Hearing Examiner shall have all powers necessary to that end, including the following:

a. To administer oaths and affirmations;
b. To rule upon offers of proof and receive evidence;
c. To regulate the course of the hearings and the conduct of the parties or participants and their agents;
d. To question anyone presenting testimony at the hearing;
e. To hold conferences for settlement, simplification of the issues, or any other proper purpose;
f. To require briefs on legal issues;
g. To consider and rule upon all procedural and other motions appropriate to the proceedings; and
h. To make and file decisions.

5.2 Interference. In the performance of adjudicative functions, the Hearing Examiner shall not be subject to the supervision or direction of any elected official, officer, employee or agent of any municipal department.

5.3 Notice Requirements of Hearings. All notice and time requirements and methods of notification shall be consistent with the provisions as set forth in City ordinances.

5.4 Conference Prior to an Appeal Hearing. The Hearing Examiner may hold a conference prior to an appeal hearing to structure the scope of the hearing. The Hearing Examiner may use the conference for:

- Identification, clarification, and simplification of the issues;
- Disclosure of witnesses to be called and exhibits to be presented;
- Argument of motions based on law;
- Other matters deemed by the Hearing Examiner appropriate for the orderly and expeditious disposition of the proceedings.

a. Prehearing conferences may be held by telephone conference call.
b. The Hearing Examiner shall give reasonable notice to parties of any prehearing conference. Notice may be written or oral.
c. All parties shall be represented at any prehearing conference unless they waive the right to be present or represented.
d. Following the prehearing conference, the Hearing Examiner may issue an order reciting the actions taken or ruling on motions made at the conference.
e. At the hearing, the Hearing Examiner shall develop for the record the time, purpose and result of the conference.

5.5 Order of Presentation. A hearing usually will include, but not be limited to, the following elements:

a. A brief introductory statement of the hearing process by the Hearing Examiner;

b. A report by the departmental staff that shall include introduction of the official file and reference to visual aids and may include a recommendation, or recommended options, of the Department;

c. Testimony:

1. In the case of an appeal hearing, testimony by the applicant and/or the appellant and witnesses they have called and by any intervenor recognized by the Hearing Examiner; or

2. In the case of a pre-decision hearing, testimony in support and testimony in opposition;

d. Opportunity for cross-examination and rebuttal; and,

e. Opportunity for questions by the Hearing Examiner.

5.6 The Hearing Examiner may impose reasonable limitations on the number of witnesses heard and the nature and length of their testimony.

5.7 Evidence.

a. Burden of proof. The appellant shall have the burden of establishing that the decision is not supported by substantial evidence.

b. Admissibility. The hearing generally will not be conducted according to strict legal rules relating to evidence and procedure. Any relevant evidence shall be admitted if it is the type that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The rules of privilege shall be effective to the extent recognized by law. The Hearing Examiner shall have discretion on the admissibility of all evidence.

c. Copies. Documentary evidence may be received in the form of copies of excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. An extra Hearing Examiner working copy shall be provided of all documents submitted at hearing. Copies of all documents submitted to the Hearing Examiner shall be provided to the other parties to the appeal.

d. Judicial Notice. The Hearing Examiner may take judicial notice of judicially cognizable facts and in addition may take notice of general, technical or scientific facts within his/her specialized knowledge. The Hearing Examiner shall not take notice of disputed adjudicative facts that are at the center of a particular proceeding.

e. The Hearing Examiner may allow a document to be filed after the close of testimony but before the hearing record is closed.

f. All parties will be allowed opportunity to make a record of evidence admitted or denied during the course of the hearing. This record shall include offers of proof.

SECTION 6. RECORD

6.1 Content of the Record. The record of a hearing conducted by the Hearing Examiner shall include, but not be limited to, the following materials:

a. The application and/or appeal;
b. The departmental staff reports;
c. All evidence received which shall include oral testimony given at the hearing, all exhibits and other materials admitted as evidence;
d. A statement of all matters officially noticed;
e. A decision containing the findings and conclusions of the Hearing Examiner;
f. Recordings made on electronic equipment; and
g. Any Environmental Impact Statement prepared for the project or action.

SECTION 7. DISMISSAL OF AN APPEAL

7.1 An appeal may be dismissed without a hearing if the Hearing Examiner determines that it fails to state a claim for which the Hearing Examiner has jurisdiction to grant relief, or it is without merit on its face, frivolous, or brought merely to secure delay.

7.2 Any party may request dismissal of all or part of an appeal at any time with notice to all parties. The Hearing Examiner may make a ruling on a motion to dismiss based upon written arguments or may call for oral arguments.

7.3 The Hearing Examiner may dismiss an appeal by an order of default where the appellant, without good cause, fails to clarify the appeal statement as ordered, or fails to appear or is unprepared to proceed at a scheduled and properly noticed hearing.

SECTION 8. DECISIONS

8.1 Written Decisions. Within fourteen (14) days after the close of the hearing, the Hearing Examiner shall issue a written report of findings, conclusions and decision. The findings, conclusions and decision shall indicate how the decision carries out the goals, policies, plans and requirements of the SMC and other City or State regulations. The decision shall be mailed to all parties to the hearing and to any person who, prior to the rendering of the decision, requested notice of it.

8.2 Content of Decision. A decision shall include a statement of:
a. The nature and background of the proceeding.
b. Findings of Fact. The findings shall be based exclusively on the evidence presented in the hearing and those matters officially noticed. The Findings of Fact shall consist of a concise statement of facts necessary to support conclusions upon each contested issue of fact.
c. Conclusions. All conclusions of law necessary to support a decision shall be listed and supported by one or more findings of fact.
d. Decision. The decision shall be based upon a consideration of the whole record and supported by substantial evidence. All decisions may include conditions of approval.

SECTION 9. RECONSIDERATION OR CLARIFICATION OF DECISION

9.1. The applicant, appellant or City staff may file with the Hearing Examiner a written request for reconsideration or clarification. The request must be filed within seven (7) days of the date of the Hearing Examiner's decision. The request shall specifically set forth alleged errors of fact, law or procedure as addressed in the Hearing Examiner's decision. The request may also include direction to a specific issue that was inadvertently omitted from the Hearing Examiner's decision.

9.2. The Hearing Examiner shall act within seven (7) days after the date of the filing of the request for reconsideration or clarification by either denying the request or requesting a response from other parties, including scheduling oral argument, if deemed appropriate, within a time frame for final decision no later than fifteen (15) days from the filing of the request for reconsideration or clarification.

9.3. If the Hearing Examiner approves the request, the original decision shall be corrected, clarified, or amended. Alternatively, the Hearing Examiner can reopen the appeal hearing to consider correcting or clarifying the record or any deficiencies of the decision. If the Hearing Examiner reopens the hearing, notice of said hearing shall be mailed to all parties to the hearing, including any intervenors, and to any person who requested and received notice of the Hearing Examiner's decision, not more than seven (7) days from the issuance of the order of the Hearing Examiner reopening the hearing.

SECTION 10. APPEAL OF A DECISION

A Hearing Examiner's decision may be appealed to Superior Court as provided by RCW 36.70C.

IV: HEARINGS BEFORE THE PLANNING COMMISSION

SECTION 1. JURISDICTION

Rules under this Part IV shall apply to open record pre-decision hearings on matters for which the SMC designates the Planning Commission as the review authority and to any other matters designated by the City Council. These rules will also apply to pre-decision hearings held by the Hearing Examiner.

SECTION 2. RIGHTS AND RESPONSIBILITIES OF PARTICIPANTS

2.1 Rights of City. The City staff shall have the right to present evidence and testimony, object, make motions, arguments, recommendations and all other rights essential to a fair hearing.

2.2 Rights of Applicant. Every applicant shall have the right of notice, cross-examination, presentation of evidence, objection, motion, argument, and all other rights

essential to a fair hearing. The applicant shall have right to timely access of the City's staff report.

2.3 Rights of Other Hearing Participants. Every hearing participant shall have the right to present evidence and testimony. The right of participants to cross-examine, object, submit motions and arguments shall be at the discretion of the Planning Commission. The Planning Commission may impose reasonable limitations on the number of witnesses heard and the nature and length of their testimony.

As provided under RCW 42.17, hearing participants may obtain copies of public materials from the City. The participant requesting the material shall pay the cost of such copying according to the City's adopted fee schedule.

2.4 Responsibilities of City Staff. City Staff shall provide a staff report as set forth below to the applicant and Commission; provide notice of hearings; present materials at the hearings; provide the Planning Commission with documentation relevant to each case; and provide revised plans if received within fourteen (14) days of a hearing. The staff report on a land use application shall include the following, if relevant to the application:

a. Names and addresses of the owner(s) and applicant(s) of the subject property and his/her property interest in the property that is the subject of the hearing.
b. A brief summary of the requested action and the citation of the relevant codes and/or ordinance controlling the request.
c. A legal description of the subject property.
d. A statement as to which zoning code regulations for City of Shoreline apply to the request.
e. A technical data summary of the Comprehensive Plan designation and zoning designation of the subject property; the current development of the subject property and the adjoining properties; topographical information; information on the vegetation on the property; and, any other technical and environmental information germane to the case.
f. An in-depth analysis of the proposed project. This analysis may include, but not be limited to, the following elements of review:
    1. Natural features;
    2. Housing;
    3. Transportation;
    4. Government jurisdiction boundaries;
    5. Neighborhoods;
    6. Land use plans; and,
    7. Land use regulations.
g. The compatibility and impact of the proposal on the existing development.
h. A summary of the reports or recommendations of any other agencies consulted.
i. Appropriate maps of the subject property.

j. The results of the determination pursuant to the State Environmental Policy Act.
k. Staff's conclusions and recommendations.

The staff report shall be distributed to the Planning Commission, the applicant and made available to the public.

2.5 Responsibilities of Applicant. Whenever possible the applicant shall, prior to the hearing, provide the Planning Commission with material that supports his/her application; and be prepared for questions by the Planning Commission.

2.6 Pre-Hearing Reports and Memoranda. Unless otherwise specified, all forms of legal authority, including briefs, staff reports and other legal memoranda upon which a participant will be relying or presenting at a hearing before the Planning Commission, must be submitted to the Planning Commission at least fourteen (14) days in advance of the scheduled hearing date.

2.7 Presence of Legal Counsel at Public Hearings. At the request of any department, a representative of the City of Shoreline City Attorney's Office may be present at the public hearings to advise on matters of law and procedure. If there is no representative of the City Attorney's office at the hearing, the Planning Commission shall have authority to seek a memorandum on legal issues raised at hearing from the City Attorney.

SECTION 3. CONDUCT OF HEARING

3.1 Notice Requirements of Hearings

a. All notice and time requirements and methods of notification shall be consistent with the provisions as set forth in City ordinances.
b. An affidavit of publication attesting to the notice given to a public hearing before the Planning Commission, including dates and places of publication, and an affidavit of mailing attesting to the list of those to whom the notice was mailed, shall be made part of the hearing record.

3.2 Hearings shall be presided over by the presiding officer of the Planning Commission, hereinafter referred to as the "Chair." The Chair shall have all of the authority and duties as granted in State statutes, SMC and other City rules or ordinances. Included in the duties of the Chair are the following: to conduct fair and impartial hearings; to take all necessary action to avoid delay in the disposition of proceedings; and, to maintain order. The Chair shall have all powers necessary to that end, including the following:

a. To administer oaths and affirmations;
b. To rule upon offers of proof and receive evidence;
c. To regulate the course of the hearings and the conduct of the participants and their agents;
d. To question anyone presenting testimony at the hearing;

e. To hold conferences for settlement, simplification of the issues, or any other proper purpose;
f. To require briefs on legal issues;
g. To consider and rule upon all procedural and other motions appropriate to the proceedings; and
h. To execute on behalf of the Planning Commission findings and recommendations which reflect the decision of the Commission.

3.3 Interference. In the performance of adjudicative functions, the Planning Commission shall not be subject to the supervision or direction of any elected official, officer, employee or agent of any municipal department.

3.4 The Planning Commission may impose reasonable limitations on the number of witnesses heard, and on the nature and length of their testimony. Cross-examination is permitted as necessary for a full disclosure of the facts, but the Planning Commission shall control the amount and style of cross-examination.

3.5 Hearing Presentation. A hearing usually will include, but not be limited to, the following elements:

a. A brief introductory statement of the hearing process by the Chair;
b. A report by the departmental staff that shall include introduction of the official file, reference to visual aids and may include a recommendation, or recommended options, of the Department;
c. Testimony by the applicant and witnesses called;
d. Testimony in support;
e. Testimony in opposition;
f. Opportunity for cross-examination and rebuttal; and,
g. Opportunity for questions by the Planning Commission.

3.6 Evidence.

a. Burden of proof. The applicant shall have the burden of establishing that the application is in compliance with applicable City and State ordinances, statutes and laws and regulations.
b. Admissibility. The hearing generally will not be conducted according to strict legal rules relating to evidence and procedure. Any relevant evidence shall be admitted if it is the type that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The rules of privilege shall be effective to the extent recognized by law. The Planning Commission shall have discretion on the admissibility of all evidence.
c. Copies. Documentary evidence may be received in the form of copies of excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. It is advisable to provide an extra copy of all documents to the Planning Commission as a working copy.

d. Judicial Notice. The Planning Commission may take judicial notice of judicially cognizable facts and in addition may take notice of general, technical or scientific facts within its specialized knowledge. The Planning Commission shall not take notice of disputed adjudicative facts that are at the center of a particular proceeding.

e. The Planning Commission may allow a document to be filed after the close of testimony but before the hearing record is closed.

f. All parties will be allowed opportunity to make a record of evidence admitted or denied during the course of the hearing. This record shall include offers of proof.

SECTION 4. RECORD OF HEARING.

4.1 Hearings shall be electronically recorded and such recordings shall be a part of the official record. Copies of the electronic recordings shall be made available to the public on request. The cost of such copying shall be paid by the requester according to the City's adopted fee schedule.

4.2 Content of the Record. The record of a hearing conducted by the Planning Commission shall include, but not be limited to, the following materials:

a. The application;

b. The departmental staff reports;

c. All evidence received which shall include oral testimony given at the hearing, all exhibits and other materials admitted as evidence;

d. A statement of all matters officially noticed;

e. A recommendation containing the findings and conclusions of the Planning Commission;

f. Recordings made on electronic equipment; and

g. Any Environmental Impact Statement prepared for the project or action.

SECTION 5. RECOMMENDATIONS

5.1 Written Recommendations. Within fourteen (14) days after the close of the hearing, the Planning Commission shall issue a written report of findings, conclusions and recommendation. The findings, conclusions and recommendation shall indicate how the recommendation carries out the goals, policies, plans and requirements of the SMC and other City or State regulations.

5.2 Content of Recommendation. A recommendation shall include a statement of:

a. The nature and background of the proceeding.

b. Findings of Fact. The findings shall be based exclusively on the evidence presented in the hearing and those matters officially noticed. The Findings of Fact shall consist of a concise statement of facts necessary to support conclusions and each fact found upon each contested issue of fact.

c. Conclusions. Conclusions of Law shall be made that are necessary for a recommendation on each issue. Each conclusion shall be based on one or

more finding of fact. Whenever practical, the conclusions shall be referenced to specific provisions of the law and regulations or both, together with reasons and precedents relied upon to support the same. The conclusions shall make reference to the effect of the recommendation with reference to the Comprehensive Plan, if relevant, and on the general public.

d. The appropriate rule, order or relief. The recommendation shall be based upon a consideration of the whole record and supported by substantial evidence.