



REQUEST FOR PROPOSAL #3542 HEARING EXAMINER SERVICES

Due: October 7, 2005, 3:00 PM Pacific Local Time

The City of Shoreline is seeking proposals (RFP) for the services of a Land Use Hearing Examiner to begin January 1, 2006. The city manager shall contract with one or more persons to fill this position. The Hearing Examiner shall be appointed and compensated consistent with the general personnel and/or procurement laws of the city.

Statement of Work

The Hearing Examiner conducts quasi-judicial hearings on applications and appeals of departmental decisions on a variety of land use actions on properties within the City of Shoreline. The Hearing Examiner is an independent contractor and not an employee of the City of Shoreline.

The Hearing Examiner shall have the authority to hear appeals and conduct pre-decision hearings as specified in Shoreline Municipal Code (SMC) 2.15 and City of Shoreline Resolution No. 182, Exhibit A, Rule of Procedure for Administrative Hearings. 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.

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. 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.

The City Clerk's Office provides preparation of case files and records, maintains the official record, provides staff support during hearings; sets agendas in consultation with the Examiner; prepares notices; and provides reproduction, mailing and distribution of notices and decisions. Electronic copies of staff recommendations and records are provided for the Examiner's use, on disk, in MS Word format.

Conflict of Interest

The awarded contract will contain a conflict of interest statement, and the Hearing Examiner shall be prepared to recuse him or herself from any case where a potential conflict of interest exists.

Term

The first term of this contract shall run for one year. The contract may be renewed up to four (4) additional terms in one-year increments for a total possible life of five terms (5 years). The City retains the sole option to offer to renew the contract for an additional term. If the City intends to offer a renewal for an additional term the notice shall be sent approximately sixty (60) calendar days prior to the end of the current term. A renewal is contingent upon acceptance of the offer by both Parties. Award of a contract is no guarantee that all terms will be awarded.

Submittal Requirements

Proposals shall be limited to fifteen single-spaced, double sided (one side equals one page) typewritten pages (except as noted below) addressing the following items:

- Cover letter of interest, signed and dated
- Applicant's qualifications – background and demonstrated familiarity with land use law, regulations and land use hearing processes; demonstrated familiarity with City of Shoreline land use regulations, processes and geographic knowledge of the area; ability to comply with the Americans with Disabilities Act, EEO, and any other applicable County, State or Federal laws.
- Method and approach demonstrating the applicant's and applicant's support staff to meet the deadlines of providing services to meet the City's objectives
- Professional references, within the last ten years, who can attest to the applicant's abilities

- Three writing samples, consisting of administrative decisions written by the applicant. If the applicant has no experience as a hearing examiner or administrative law judge, concise opinion memos or staff reports may be substituted for the administrative decisions (no page limits for this item)
- Cost – an hourly fee for which the applicant agrees to perform the duties outline in this RFP and within Shoreline Municipal Code 2.15 and City of Shoreline Rules of Procedure for Administrative Hearings. The City will pay the Examiner on a time and materials basis for performance of duties at an hourly rate. The Examiner will be reimbursed for all direct costs of individual items covered, and will be compensated for travel to, from, and within the City as the current IRS rate for mileage.

To obtain copies of applicable City of Shoreline ordinances and existing rules of procedure, or for questions, please contact the Shoreline City Clerk's Office, at (206) 546-5042.

One unbound original and four copies of the RFP shall be submitted to the City of Shoreline, City Clerk's Office, 17544 Midvale Avenue North, Suite 100, Shoreline, WA 98133-4921. The deadline for proposals by interested parties is October 7, 2005, by 3:00 PM, Pacific local time. Proposals received after this time will not be accepted for consideration.

Respondents assume the risk of the method of dispatch chosen. The City assumes no responsibility for delays cause by any delivery service. Postmarking by the due date will not substitute for actual receipt of proposal. Proposals shall not be delivered by facsimile transmission or other telecommunication or electronic means.

Questions

If questions arise about any aspect of this Request for Proposal that require clarification or interpretation, applicants may make a written request to the City Clerk. All written correspondence must be addressed to:

Questions for RFQ# 3542
Attn: City Clerk
Fax No. (206) 546-1524
Email at spassey@ci.shoreline.wa.us

Questions via phone will not be accepted. Unless authorized by the City Clerk, no other City official or employee can speak for the City regarding this Request for Proposal. The City is not bound by information, clarification, or interpretations from other City officials or employees. Consultants should not contact City officials or employees, other than the City Clerk or designee. Failure to observe this requirement may be grounds for rejection of the submittal.

An official written answer will be provided to all questions received by 2:00 PM (Pacific local time) on September 30, 2005. Written questions received after the deadline may not be considered. Responses to individual questions will be made available to all respondents, via email and by posting on the City of Shoreline's website at www.cityofshoreline.com on or before 2:00 PM (Pacific local time) on October 4, 2005. The due date for receipt of proposals is 3:00 PM (Pacific local time), October 7, 2005.

Interested candidates may submit inquiries prior to the submittal deadline. Following the submittal deadline, the City will not receive any additional requests, inquiries or information from any Applicant. The only request that the City will accept shall be information regarding the anticipated award date and/or the list of individuals/companies that submitted. Attempts after the bid submittal deadline, to provide further information or inquiries beyond the specified facts, may be ground for rejection of a submittal.

Evaluation Criteria

The proposals will be evaluated using the following criteria:

- Applicant's experience in performing the type of work requested. The experience listed must be that of which was performed by the applicant and/or applicant's staff that will be assigned to this contract.
- Completeness and quality of the response to this RFP
- Applicant's organization and demonstrated ability to perform the work requested within the established schedule
- Method and approach to providing the requested services
- Experience of key personnel assigned to this contract
- Previous experience on similar and complex municipal hearings
- References
- Cost to perform requested work

The City's Evaluation Team will use the following criteria to evaluate each RFP.

<u>Criteria</u>	<u>Points</u>
Related experience	0-20
Quality of RFP response	0-10
Method and Approach	0-10
Expertise of key staff	0-20
Previous experience on municipal hearings	0-10
References	0-20
Cost	0-10
Maximum Points	100

The proposal package will be the basis on which interested candidates will be selected. At the City's option following the Evaluation Team's review of Proposals, selected individuals or firms may be invited to make oral presentations before the City's Evaluation Panel. The City's representative will provide additional details outlining the schedule and preferred content

of such oral presentation. Upon completion of the evaluation, the City's Evaluation Panel will determine the most qualified firm based on all materials and information presented. The City will then begin the negotiations for an agreement with the selected individual or firm.

Any firm failing to submit information in accordance with the procedures set forth in the Request for Proposal may be considered non-responsive and may be subject to disqualification. The City reserves the right to change the proposal schedule or issue amendments to the RFP at any time. The City also reserves the right to cancel or reissue the proposal. The City reserves the right, at its sole discretion, to waive immaterial irregularities contained in the Proposal materials. The City reserves the right to refrain from contracting with any respondent. Individuals or firms eliminated from further consideration will be notified by mail by the City as soon as practical.

Schedule for Applicant Selection

RFP Released	9/14/2005
Deadline for Receipt of Written Inquires	9/30/2005
Written Responses Distributed	10/4/2005
Proposal Due Date	10/7/2005
In-house screening and short listing of candidates	10/19/2005
Interview for short listed candidates	weeks of 10/24 and 10/31
Recommend finalist selected	11/4/2005
Negotiate and finalize proposal contract	11/10/2005
City Council review/approval of contract	11/28/2005

End of RFP Document



Contract No.
Brief Description:

**CITY OF SHORELINE
AGREEMENT FOR SERVICES**

This Agreement is entered into by and between the City of Shoreline, Washington, a municipal corporation hereinafter referred to as the "CITY," and _____, hereinafter referred to as the "CONSULTANT."

WHEREAS, the City desires to retain the services of a consultant to _____ and

WHEREAS, the City has selected _____ to perform the above-mentioned services;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is mutually agreed as follows:

1. Scope of Services to be Performed by the Consultant.

The Consultant shall perform the services outlined in Exhibit A. In performing these services, the Consultant shall at all times comply with all federal, state and local statutes, rules and ordinances applicable to the performance of such services. In addition, these services and all duties incidental or necessary therefore, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.

2. Compensation.

- A. Services will be paid at the rate set forth in Exhibit A, not to exceed a maximum of \$_____, including all fees and reimbursable expenses.
- B. The City shall pay the Consultant for services rendered after receipt of a billing voucher in the form set forth on Exhibit B. NO PAYMENT WILL BE ISSUED WITHOUT A BILLING VOUCHER. Payments will be processed within 30 (thirty) days from receipt of billing voucher. The Consultant shall be paid for services rendered but, in no case shall the total amount to be paid exceed the amount(s) noted in the Exhibit(s) and approved by the City. The Consultant shall complete and return Exhibit C, Taxpayer Identification Number, to the City prior to or along with the first billing voucher. No payment will be issued without a Taxpayer Identification Number on file. Mail all billing vouchers to: City of Shoreline, Attention Accounts Payable, 17544 Midvale Avenue North, Shoreline, Washington 98133-4921.

3. Term and Time of Completion.

- A. The term of this Agreement shall commence _____ and ends at midnight on the ____ day of ___, 20__.
- B. The work, as described in Exhibit A, will be scheduled for completion by no later than the day of ___, 20__.

4. Termination.

- A. The City reserves the right to terminate or suspend this Agreement at any time, with or without cause by giving fourteen (14) days notice to Consultant in writing. In the event of such termination or suspension, all finished or unfinished documents, data, studies, worksheets, models and reports, or other material prepared by the Consultant pursuant to this Agreement shall be submitted to the City.

- B. In the event this Agreement is terminated by the City, the Consultant shall be entitled to payment for all hours worked and reimbursable expenses incurred to the effective date of termination, less all payments previously made. This provision shall not prevent the City from seeking any legal remedies it may have for the violation or nonperformance of any of the provisions of this Agreement and any such charges due the City shall be deducted from the final payment due the Consultant. No payment shall be made by the City for any expenses incurred or work done following the effective date of termination unless authorized in advance in writing by the City.
- C. The Consultant reserves the right to terminate this Agreement with not less than sixty (60) days written notice, or in the event outstanding invoices are not paid within 60 days.
- D. If the Consultant is unavailable to perform the scope of services, the City may, at its option, cancel this Agreement immediately.

5. Ownership of Documents.

- A. All documents, data, drawings, specifications, software applications and other products or materials produced by the Consultant in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. All such documents, products and materials shall be forwarded to the City at its request and may be used by the City as it sees fit. The City agrees that if the documents, products and materials prepared by the Consultant are used for purposes other than those intended by the Agreement, the City does so at its sole risk and agrees to hold the Consultant harmless for such use. All or portions of materials, products and documents produced under this Agreement may be used by the Consultant upon confirmation from the City that they are subject to disclosure under the Public Disclosure Act.
- B. All services performed under this Agreement will be conducted solely for the benefit of the City and will not be used for any other purpose without written consent of the City. Any information relating to the services will not be released without the written permission of the City.
- C. The Consultant shall preserve the confidentiality of all City documents and data accessed for use in Consultant's work product.

6. Independent Contractor Relationship.

- A. The consultant is retained by the City only for the purposes and to the extent set forth in this Agreement. The nature of the relationship between the Consultant and the City during the period of the services shall be that of an independent contractor, not employee. The Consultant, not the City, shall have the power to control and direct the details, manner or means of services. Specifically, but not by means of limitation, the Consultant shall have no obligation to work any particular hours or particular schedule and shall retain the right to designate the means of performing the services covered by this Agreement, and the Consultant shall be entitled to employ other workers at such compensation and on such other conditions as it may deem proper, provided, however, that any contract so made by the Consultant is to be paid by it alone, and that employing such workers, it is acting individually and not as an agent for the City.
- B. The City shall not be responsible for withholding or otherwise deducting federal income tax or Social Security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to Consultant or any employee of the Consultant.

7. Hold Harmless.

The Consultant shall defend, indemnify, and hold the City and its officers, agents, employees and volunteers harmless from all costs, claims or liabilities of any nature including attorneys' fees, costs and expenses for or on account of injuries or damages sustained by any persons or property resulting from the acts, errors, or omissions of the Consultant, its agents or employees in the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

8. Insurance.

Consultant shall obtain insurance of the types described below during the term of this agreement and extensions or renewals. These policies are to contain, or be endorsed to contain, provisions that 1) City shall be an additional insured and Consultant's insurance coverage shall be primary insurance with insurance or insurance pool coverage maintained by the City as excess of the Consultant's insurance (except for professional liability insurance); and 2) Consultant's insurance coverage shall not be cancelled, except after thirty (30) days prior written notice to the City.

- A. Professional Liability insurance appropriate to Consultant's profession with limits of liability not less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

If initialed, above insurance requirement is waived.

_____ City Attorney

- B. Commercial General Liability insurance covering premises, operations, independent contractors liability and damages for personal injury and property damage with combined single limits not less than \$1,000,000. The City shall be named as an additional insured on this policy. The Agency shall submit to the City a copy of the insurance policy declaration page as evidence of insurance coverage acceptable to the City.

If initialed, above insurance requirement is waived.

_____ City Attorney

- C. Automobile Liability insurance with combined single limits of liability not less than \$1,000,000 for bodily injury, including personal injury or death and property damage.

If initialed, above insurance requirement is waived.

_____ City Attorney

9. Delays.

Consultant is not responsible for delays caused by factors beyond the Consultant's reasonable control. When such delays beyond the Consultant's reasonable control occur, the City agrees the Consultant is not responsible for damages, nor shall the Consultant be deemed to be in default of the Agreement.

10. Successors and Assigns.

Neither the City nor the Consultant shall assign, transfer or encumber any rights, duties or interests accruing from this Agreement without the written consent of the other.

11. Nondiscrimination.

In hiring or employment made possible or resulting from this Agreement, there shall be no unlawful discrimination against any employee or applicant for employment because of sex, age, race, color, creed, national origin, marital status or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. No person shall be denied or subjected to discrimination in receipt or the benefit of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, national origin, age except minimum age and retirement provisions, marital status, or in the presence of any sensory, mental or physical handicap.

12. Notices.

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears below (as modified in writing from time to time by such party), and given personally, by registered or certified mail, return receipt requested, by facsimile or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

City Manager
City of Shoreline
17544 Midvale Avenue N.
Shoreline, WA 98133-4921
(206) 546-1700

Consultant Name:
Name of Firm:
Address:
Address:
Phone Number:

13. Governing Law and Venue.

This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue of any suit between the parties arising out of this Agreement shall be King County Superior Court.

14. General Administration and Management.

The City's contract manager shall be (name and title): _____.

15. Severability.

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

16. Entire Agreement.

This agreement contains the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this agreement, shall be deemed to exist or bind any of the parties hereto. Either party may request changes in the agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendment to this agreement.

This agreement is executed by

CITY OF SHORELINE

CONSULTANT

By: _____
Name:
Title:

Date: _____

By: _____
Name:
Title: _____

Date: _____

Approved as to form:

By: _____
Flannary P. Collins
Assistant City Attorney

Attachments: Exhibits A, B, C

**EXHIBIT B
CITY OF SHORELINE
BILLING VOUCHER**

17544 Midvale Ave., N. Shoreline, WA 98133 ♦ (206) 546-1700 ♦ Fax (206) 546-2200

Contract No. _____

Firm Name: _____

Mailing Address: _____

Invoice No.: _____ **Invoice Date:** _____

Amount of Invoice \$ _____

Contract Expiration Date:: _____ Current Invoice Period: _____

Description of services performed this period, attach a separate sheet if necessary (if applicable, submit a separate voucher for each program which is funded by your City of Shoreline contract):

BUDGET SUMMARY:

Total Contract Amount, \$ _____
(including amendments)

Previously Billed \$ _____

Current Invoice Request \$ _____

Total Payments Requested to date \$ _____

Contract Balance Remaining \$ _____

Payments will be processed within thirty (30) days from receipt of approved billing voucher.

Consultant Signature

For Department Use Only

Approved for Payment:

City of Shoreline

Date: _____

**EXHIBIT C
CITY OF SHORELINE**

17544 Midvale Ave., N., Shoreline, WA 98133
(206) 546-1700 ♦ Fax (206) 546-7870

TAX IDENTIFICATION NUMBER

In order for you to receive reimbursement from the City of Shoreline, we must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires us to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of Shoreline before or along with the submittal of the first billing voucher.

Please check the appropriate category:

_____ Corporation _____ Partnership _____ Government Agency

_____ Individual/Proprietor _____ Other (please explain)

TIN # _____ - _____ - _____

SS # _____ - _____ - _____

Print Name: _____

Print Title: _____

Business Name: _____

Business Address: _____

Business Phone: _____

Date

Authorized Signature (required)

Chapter 2.15

HEARING EXAMINER*

Sections:

2.15.010 Purpose.

2.15.020 Created.

2.15.030 Independence.

2.15.040 Appointment.

2.15.050 Qualifications.

2.15.060 Division of responsibilities between hearing examiner and city manager or designee.

2.15.070 Powers – Duties.

2.15.080 Staff support.

2.15.090 Public hearings.

2.15.100 Decisions – Recommendations.

2.15.110 Judicial appeals.

*See also SMC Title 16, Land use and development.

2.15.010 Purpose.

The purpose of this section is to provide an administrative land use regulatory system which will best satisfy the following needs:

A. Provide a single, efficient integrated land use, shorelines management and environmental protection regulatory hearing system;

B. Render land use regulatory decisions and recommendations to the city council;

C. Provide a greater degree of fairness and due process in land use regulatory hearings;

D. Separate the city's land use planning program from the land use regulatory process;

E. Protect the community's general health, safety and welfare as provided for in Chapter 35A.63 RCW. [Ord. 38 § 1, 1995]

2.15.020 Created.

There is created the office of hearing examiner for the conduct of hearings on such matters involving the interests of the city and its citizens over which jurisdiction from time to time is conferred on the hearing examiner by the city council. In addition to the grant of the power to the hearing examiner to determine those land use matters set forth in this chapter, the city manager is authorized to refer to the hearing examiner for a determination on those matters which from time to time are believed appropriate. [Ord. 38 § 2, 1995]

2.15.030 Independence.

The hearing examiner shall be free of any supervision or other influence from the city manager or any official or employee of the city with respect to any decision or recommendation made by the hearing examiner on a specific case, issue, or permit. Nothing in this section may be construed to prohibit the city manager or any employee or official of the city from appearing before or submitting written information to the hearing examiner in the normal process of

conducting public hearings for the city. No hearing examiner shall conduct or participate in any hearing or decision in which the hearing examiner has a direct or substantial financial interest. [Ord. 38 § 3, 1995]

2.15.040 Appointment.

The city manager shall employ or contract with one or more persons to fill this position. The hearing examiner shall be appointed and compensated consistent with the general personnel and/or procurement laws of the city. [Ord. 38 § 4, 1995]

2.15.050 Qualifications.

Hearing examiners shall have such training or experience as the city manager believes necessary to qualify hearing examiners to conduct administrative or quasi-judicial hearings on land use regulatory, shorelines management and environmental protection matters. Hearing examiners on non-land use matters shall have such qualifications as the city manager may from time to time determine. Hearing examiners shall hold no other appointive or elected public office or position in the city government except as hearing examiners. [Ord. 38 § 5, 1995]

2.15.060 Division of responsibilities between hearing examiner and city manager or designee.

A. The city manager or designee is authorized to make decisions on land use matters to the extent permitted under Washington law and the King County Code sections adopted by reference by the city, including permit applications.

B. Any person aggrieved by a final decision made by the city manager or designee shall have the right to an appeal before the hearing examiner; provided, that for land use applications which are required to have a public hearing, except as otherwise set forth by ordinance, the hearing examiner shall conduct the public hearing and issue a final decision. The fee for an appeal is set at \$350.00. [Ord. 76 §§ 1, 2, 1996; Ord. 38 § 6, 1995]

2.15.070 Powers – Duties.

In the performance of duties prescribed by this chapter or other ordinance, the hearing examiner is authorized to:

A. Administer oaths and affirmations, examine witnesses, rule upon offers of proof, receive evidence, and conduct discovery procedures which may include propounding interrogatories and taking oral depositions; provided, that no person shall be compelled to divulge information which he or she could not be compelled to divulge in a court of law;

B. Issue and witness, upon the request of a city officer or any party, or upon the hearing examiner's own volition; provided, that any such subpoena shall state the name and address of the witness sought, and, if for the production of books, documents or things, shall specifically identify the same and the relevance thereof to the issues involved;

C. Regulate the course of the hearing in accordance with rules of this chapter and other applicable ordinances;

D. Hold conferences for the settlement or simplification of the issues by consent of the parties;

- E. Dispose of procedural requests or similar matters;
- F. Make such decisions or recommendations as are contemplated herein and by other ordinances conferring jurisdiction on the hearing examiner;
- G. Take any other action authorized by ordinance;
- H. Make rules for the conduct of hearings, notices and other proceedings and procedures not inconsistent with this chapter and any other applicable ordinance. An audio or video record of the hearing proceedings shall be maintained and shall be made available for public review;
- I. Make recommendations for revision to relevant codes and ordinances which will clarify or otherwise improve the development review process. [Ord. 38 § 7, 1995]

2.15.080 Staff support.

Administrative staff support including, but not limited to, preparation of staff reports and notice of hearings shall be provided to the hearing examiner. [Ord. 38 § 8, 1995]

2.15.090 Public hearings.

There shall be only one open record public hearing on each land use application that is required by state statute to have a public hearing. That public hearing shall occur before the hearing examiner, unless otherwise provided by ordinance. A public hearing may be continued by the hearing examiner if appropriate. [Ord. 38 § 9, 1995]

2.15.100 Decisions – Recommendations.

The hearing examiner must issue a final decision on all land use applications and other matters within 10 working days from the close of the record unless the applicant consents to additional time. The hearing examiner may issue a recommendation to the council on a quasi-judicial rezone application. [Ord. 38 § 10, 1995]

2.15.110 Judicial appeals.

Decisions made by the hearing examiner shall be appealable directly to King County superior court. [Ord. 38 § 11, 1995]

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, Intervenor 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.