INFORMATION BULLETIN NO. 13

City of Blaine

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APPEAL OF PLANNING COMMISSION DECISION

WHAT IS AN APPEAL OF A TYPE II-PC DECISION ?

An appeal of a Planning Commission decision is a statement that you believe that the decision was made based on incorrect interpretation of the municipal code or an inaccurate understanding of the facts related to the application.

A Type II-PC decision is a decision made by the Planning Commission. These decisions may be appealed to the City Council.

When must the appeal be filed?

Final decisions may be appealed only if a complete appeal application and appeal fee is submitted within 14 calendar days from the date of the written decision on the land use application.

HOW IS THE APPEAL PROCESSED?

Appeals before the Blaine City Council for Type II-HE and Type II-PC land use decision reviews are not open to public testimony. It is a "closed record appeal" (RCW 36.70B.020), which means the City Council cannot accept additional public testimony or evidence unless the Council decides to continue the matter to a limited hearing for receipt of oral argument.

The City Council will consider appeals of Type II-HE and Type II-PC land use decisions on the record, including:

1. All materials received in evidence at any previous stage of the review;
2. An audio tape of the prior hearing(s) or transcript of the hearing(s) certified as accurate and complete;
3. The final order being appealed, and,
4. Written argument by the parties.

If Council decides to continue the matter to a limited hearing, the Council will:

Designate the parties or their representatives to present argument, and establish the time limit for testimony in a manner calculated to afford a fair hearing of the issues specified by the Council; and,

At least 15 calendar days before the hearing, provide mailed notice to the parties entitled to notice of the decision being appealed. The notice shall indicate that only legal argument from designated parties will be heard.

HOW DO I APPEAL?

1. You must complete an Appeal of Type II Decision Form and attach a statement including the following:

   The case number designated by the City of Blaine and the name of the applicant;
   The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Blaine Municipal Code (17.06.180) and the Revised Code of Washington.

   If multiple parties file a single petition for review, the petition shall designate one party as the contact representative for all contact with the Director of Community Development.

   The specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error.
2. You must pay the applicable fee.

Applications are submitted by appointment.

The City of Blaine's Community Development Department has created customer information bulletins to inform the general public about the effect of codes and regulations on their projects. These bulletins are not intended to be complete statements of all laws and rules and should not be used as substitutes for them. If conflicts and questions arise, current codes and regulations are final authority. Because the codes and regulations may be revised or amended at any time, consult City of Blaine, CD staff to be sure you understand all requirements before beginning work. It is the applicant's responsibility to ensure that the project meets all requirements of applicable codes and regulations.

(See reverse.)

At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the City Council may affirm, reverse, modify or remand an appealed decision. A decision to remand a matter back to the Hearing Examiner or Planning Commission for reconsideration is not appealable. Appeals from a decision on remand shall be treated as any other decision.

If the Council affirms an appealed decision, they shall adopt a final order that contains the conclusions they reached regarding the specific grounds for appeal and the reasons for those conclusions. The Council may adopt the decision of the lower review authority as its decision to the extent that decision addresses the merits of the appeal or may alter that decision. If the Council reverses or modifies an appealed decision, then the Council shall adopt a final order that contains:

- A statement of the applicable criteria and standards in the Blaine Municipal Code and other applicable law relevant to the appeal;
- A statement of the facts that the Council finds showing the appealed decision does not comply with applicable approval criteria or development standards;
- The reasons to modify or reverse the decision; and, the decision to modify or reverse the decision and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable criteria and standards.

The City will mail notice of a decision on the merits of an appeal to parties entitled to notice and other parties who appeared orally or in writing before the Council regarding the appeal.

Who can appeal a Type II-HE decision?

For a Type II-HE or Type II-PC land use review decision, only those who have submitted written comments to the Community Development Services Director within the comment period and provided an accurate mailing address or provided spoken testimony at the public hearing on the applications (know as “Parties of Record”) as well as the applicant may appeal the decision.

More Questions?

For further information, please call the Community Development Services Department at the City of Blaine (360) 332-8311.