



Permit Center
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TO BE COMPLETED BY STAFF

TIDEMARK PROJECT/CASE # _____
DATE APPEAL RCVD _____
ASSIGNED TO: _____

APPEAL OF ADMINISTRATIVE DECISIONS
BY THE PLANNING DIRECTOR

TO THE HEARING EXAMINER:

I, _____, hereby appeal the Planning and Community
(Print Full Name)

Development Department's decision/determination described below (attach a copy of the decision if in writing): _____

File No.: _____ Date of Decision/Action: _____

Bellingham Municipal Code Section(s) involved (if known): _____

Describe the errors or issues upon which the appeal is based, including an explanation of why the decision is not consistent with the Bellingham Municipal Code or other provision of law.

This appeal is based on the following (attach supporting material as needed):

Address/Legal Description of subject property (if applicable): _____

Applicant Address: _____ Home Phone _____

City/State/Zip _____ Other Phone _____

Signature

APPEAL OF ADMINISTRATIVE DECISIONS BY THE PLANNING DIRECTOR
(Excerpt from the Bellingham Municipal Code, Chapter 21.10.250, unless noted)

21.10.250 - Procedures For Appeal To The Hearing Examiner

A. Who may Appeal. Any aggrieved party may appeal.

B. Form of Appeal. A person appealing the decision must submit a completed appeal form to the Planning and Community Development Department which sets forth:

1. The action or decision being appealed and the date it was issued;
2. Facts demonstrating that the person is adversely affected by the decision;
3. A statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
4. The specific relief requested; and
5. Any other information reasonably necessary to make a decision on the appeal.

C. Time to Appeal. The written appeal and the appeal fee, if any, must be received by the Planning and Community Development Department office as specified on the appeal form no later than 5:00 PM on the fourteenth day following the date the notice of decision was issued, or following the date of the decision if no notice was issued.

D. Notice of Appeal. A hearing date shall be set and the City shall provide notice of the hearing to the appellant, applicant, Director and to any other person granted party status by the hearing body or officer. Notice shall be mailed or sent no less than 10 days prior to the appeal hearing.

E. Hearing Examiner Open Record Hearing. The appellant, the applicant, and the City shall be designated parties to the appeal. Each party may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony. Interested persons, groups, associations or other entities who have not appealed may participate only if called by one of the parties to present information; provided, that the Examiner may allow nonparties to present relevant testimony if allowed under the Examiner rules of procedure.

F. Hearing Examiner Closed Record Hearing. The appellant, the applicant, and the City shall be designated parties to the appeal.

G. Hearing Examiner Decision. The Hearing Examiner shall issue a written decision to grant, grant with modifications, or deny the appeal. The Hearing Examiner may grant the appeal or grant the appeal with modification if:

1. The appellant has carried the burden of proof; and
2. The Examiner finds that the decision is not supported by a preponderance of the evidence.

H. Reconsideration.

1. Any person who participated in the hearing may file a written motion for reconsideration of the Hearing Examiner's decision.
2. Reconsideration of a Hearing Examiner decision may be granted by the Hearing Examiner on a showing of one or more of the following:
 - a. Irregularity in the proceedings by which the moving party was prevented from having a fair hearing;
 - b. Newly discovered evidence of a material nature which could not, with reasonable diligence, have been produced at hearing;
 - c. Error in the computation or any monetary element of the decision;
 - d. Clear mistake as to a material fact; or
 - e. Clear error as to the law, which should be corrected in the interests of justice.
3. Motions for reconsideration must be filed and served on other parties within 10 days of the date of the Hearing Examiner's decision. The filing of a motion for reconsideration shall not stop or alter the running of the period provided to appeal the Hearing Examiner's decision. A motion for reconsideration that is not scheduled for consideration or otherwise acted upon by the Examiner within 10 days of filing of the motion shall be deemed denied.

I. Appeal of Hearing Examiner Decision. A final decision by the Hearing Examiner may be appealed to the Superior Court by filing a land use petition which meets the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW 36.70C.040. Requirements for fully exhausting City administrative appeal opportunities must be fulfilled.

[Ord. 2004-09-065]