

Sec. 82-98. - Appeals.

- (a) The following persons shall have the right to appeal a final decision of the planning commission adverse to their interests:
 - (1) The applicant.
 - (2) The owner of the property proposed for development.
 - (3) The developer of the property proposed for development.
 - (4) Any other person residing upon, or owning property within the city, or owning or operating a business within the city, who participated by written comment before or at the planning commission hearing or who participated in person or through an authorized agent at the planning commission hearing.
- (b) The appeal shall be filed within 15 days after the date that the planning commission decision was filed. The appeal shall be filed with the city manager, and the filing fee shall be paid as a prerequisite to filing.
- (c) The city manager shall schedule the appeal on the agenda of a city council meeting occurring within 30 days after the appeal has been filed, unless this time limit is waived by the applicant, and the appellant. The city council, in its discretion, may continue or reschedule the hearing until such later date as is reasonable under the circumstances.
- (d) The city council's consideration on appeal shall be limited to whether the planning commission has properly interpreted and applied the provisions of this Land Development Code, based upon the application and evidence presented to the planning commission.
- (e) On any appeal, the city council shall have authority to uphold, reverse or modify the planning commission's decision; or to remand the application to the planning commission for rehearing, a new hearing, or for the consideration of additional evidence. In reversing or modifying the decision of the planning commission and approving an application, the city council shall have the same authority as the planning commission to place conditions on such approval.
- (f) In the case of an appeal of a planning commission decision approving an application with conditions unacceptable to the applicant, the city council's authority to review the decision of the planning commission extends to the entire application, not just to the condition unacceptable to the applicant.
- (g) If, in considering an appeal, any claim is made that the action taken by the planning commission is or would be in violation of a vested right, is prohibited due to an estoppel, constitutes a taking or is otherwise unlawful, and evidence has not been presented on the subject at the planning commission hearing, the city council may conduct an evidentiary hearing on that claim or may remand the application to the planning commission for an evidentiary hearing on that claim.

(Ord. No. 85-26, § 1(III.A.3), 11-27-1985; Ord. No. 92-14, § 2, 9-1-1992; Ord. No. 97-17, § 1, 11-4-1997)