

Josephine County, Oregon



Community Development – Planning Division

700 NW Dimmick, Suite C / Grants Pass, OR 97526

(541) 474-5421 / Fax (541) 474-5422

E-mail: planning@co.josephine.or.us

APPEAL APPLICATION

Planning Director Decision

PETITIONER INFORMATION

Petitioner's Name(s): _____ Tel: _____

Mailing Address: _____

Representative: _____ Tel: _____

Mailing Address: _____

Email Address: _____

DECISION APPEALED

Type of Application: _____

Date of Decision: _____

Petitioner's Status: Received Notice Adversely Affected

If you did not receive notice of the Director's decision, please explain how you are adversely affected by this decision: _____

ORIGINAL FILE INFORMATION

Owner's Name: _____ Tel: _____

Mailing Address: _____

Applicant's Name: _____ Tel: _____

Applicant's Address: _____

Legal Description: TWN _____ RNG _____ SEC _____ QQ _____ TAX LOT _____ ZONE _____

Original Application: _____

APPLICANT'S STATEMENT OF UNDERSTANDING

I, _____, have filed an **APPEAL APPLICATION PLANNING DIRECTOR DECISION** with the Community Development – Planning Division to be reviewed and processed according to state and county requirements. I acknowledge the following disclosures:

1. I understand that any representations, conclusions, opinions or positions taken by staff in the pre-application review of this request cannot be considered final, and that only the Board of County Commissioners has the authority to make a final decision regarding this appeal.
2. I understand I may ask questions and receive input from planning staff, but acknowledge that I am ultimately responsible for all information and documentation submitted with this application. I further understand planning staff cannot legally bind the county to any fact or circumstance that conflicts with state or local laws, and in the event a conflict occurs, all such statements or agreements are void.
3. I understand this appeal will result in a full evidentiary hearing before the Board of County Commissioners (a *de novo* hearing) and that it will be fully open to the public. I further understand new issues may be raised and new evidence, information or testimony may be offered. I further understand the burden of proof in this hearing is on the applicant to demonstrate the application is supported by applicable criteria. I acknowledge the criteria and standards for approving or denying this request have been made available to me.
4. I understand I am entitled to have a lawyer or a land use consultant appear with me (or for me) at any appointment, conference or the appeal hearing.
5. I understand the processing of my application may require a site visit, which may include officials from other agencies, and photographs are commonly taken. Advance notice of the visit will be provided when the site is also a personal residence.

DATE: _____, 20_____.

OWNER/APPLICANT *

OWNER/APPLICANT *

* *If the applicant is someone other than the owner, a power of attorney must be on file from the owners authorizing the application*

APPEAL PROCEDURES PLANNING DIRECTOR DECISION

WHAT IS AN APPEAL?

An appeal challenges a land use decision made by the Planning Director without a hearing by asking the Board of County Commissioners to review it. An appeal hearing involving a decision by the Planning Director must be conducted as an “*original evidentiary*” hearing. This kind of hearing is sometimes referred to as a “*de novo*” hearing, meaning it will be completely new. This kind of hearing is fully open to new issues and new evidence. The Board, however, is authorized to take into account all of the testimony and evidence used by the Planning Director in making the original decision. Because a *de novo* hearing starts from scratch, the applicant must go first and present the request, and the burden of proof remains fully on the applicant.

HOW DO I FILE AN APPEAL?

An appeal may be filed by anyone who receives a mailed notice of the decision from the Planning Office. It can also be appealed by anyone who can show the Board that he or she will be adversely affected by the decision even though this person resides outside the notice area. The appeal must be filed within 12 days from the date the decision is given or mailed to the parties.

WHAT IS REQUIRED FOR A COMPLETE APPEAL APPLICATION?

An appeal is complete when this application is submitted to the planning office with a completed Application Cover and Statement of Understanding and the required \$250 appeal fee.

WHAT IS THE EFFECT OF THE APPEAL?

An appeal will suspend all action on the application. No permits can be issued until the Board makes a decision on the appeal.

WHO WILL HEAR THE APPEAL?

All appeals are heard by the Board of County Commissioners.

HOW WILL THE APPEAL HEARING BE CONDUCTED?

Appeals are conducted according to the rules of procedure contained in Chapter 3 of the Rural Land Development Code. You should review the rules prior to the hearing. The rules governing public hearings are attached to this application. Read them carefully. The Board may affirm, reverse or modify a decision on appeal. It may also send the decision back to the Planning Director for further consideration or action. If more than one appeal is filed on an application, the Planning Director may consolidate all appeals and submit them for a single hearing before the Board.

IS THE PLANNING OFFICE ABLE TO HELP WITH MY APPEAL?

If requested, a planner may review your appeal application to make sure it is complete, but this must be done prior to the appeal deadline. Apart from this basic help, the planner is not allowed to suggest reasons for the appeal, help write, or prepare appeal materials. You are entitled to ask the planner general, factual questions about applicable standards or criteria, but the answers are advisory only and are not binding (see, item #2, Applicants Statement of Understanding, on the second page of this application).

LAND USE HEARING RULES

ARTICLE 31 - PUBLIC HEARINGS

31.010 - PURPOSE

This Article shall govern the conduct of all quasi-judicial and legislative land use hearings within Josephine County, as well as the Urban Growth Boundary of Cave Junction, which are held or made by the Board or its designates. Such hearings include all proceedings before the Hearings Officer, Planning Commission, or the Board, and may involve comprehensive plan changes, zone changes, subdivision or partition platting, conditional use permit, changes in non-conforming uses, appeals, and the interpretation and administration of ordinances, codes, laws, and items referred by the Planning Director, as well as all other official actions upon application or request.

31.020 - SPECIAL HEARINGS

- A. The Planning Director may process any question or decision regarding the administration of this code by a special hearing before the Planning Commission or the Hearings Officer if the issue is complex, will have a substantial impact on the area, or if questions of a substantive nature are raised. The presiding officer of the hearing body assigned to hear the matter shall be consulted before the matter is scheduled.
- B. The Planning Director may appoint a special fact-finder(s) to investigate any circumstance or question concerning this Code. The Planning Director shall consult with County Legal Counsel prior to appointing a special fact-finder(s):
 - 1. The Planning Director shall establish the scope of the investigation and the procedures which will be followed during the inquiry;
 - 2. The special fact-finder(s) shall report to the Planning Director and shall submit their results and/or findings as a recommendation to the Director.
- C. Notice of a special hearing shall be given in accordance with Article 32.
- D. The special hearing shall be conducted according to the rules set out in Article 31.

31.030- REQUESTS FOR HEARING

- A. A hearing as provided in these rules shall be initiated in one of the following ways:
 - 1. By motion of the Board or the Planning Commission;
 - 2. By an application filed with the Planning Director in conformance with Code requirements and this Article; or
 - 3. By written directive of the Planning Director.
- B. In cases where the hearing is initiated by a motion of the Board or Planning Commission:
 - 1. The motion shall set forth the specific issue or issues to be considered in the hearing and shall identify, if appropriate, those who will be recognized as parties to the proceedings for the purpose of notice as required by Article 32 of this Code. The motion may relate to new matters, matters for rehearing, or previous decision requiring clarification or explanation;
 - 2. The decision to issue or not issue a motion shall lie entirely within the discretion of the Board or

Planning Commission, and the reason or reasons for the action need not be specified in the motion;

3. In all cases, the Board or Planning Commission shall cause notice of the hearing to be given in accordance with Article 32 of this Code.
- C. In cases where the hearing is initiated by application, the application shall meet all the requirements for the type of application submitted as set out in Chapters 4 and 5.
- D. In cases initiated at the direction of the Planning Director, the Director shall prepare a written statement of the matter to be considered. The statement shall include the following:
 1. The name of the Hearing Body that will hear the request, as determined at the Director's discretion; and
 2. A statement of the factual background or circumstances giving rise to the request, the applicable criteria, and the issue or issues requiring resolution.
- E. In the event the request involves specific property or properties, notice of the hearing shall be given in accordance with Article 32 of this Code.

31.040 - NATURE OF HEARING

- A. Land use hearings conducted pursuant to this Article which are quasi-judicial administrative determinations shall be conducted according to the rules and procedures governing those actions. All applicants are entitled to a notice of the hearing, to an opportunity to be heard, to present and rebut evidence before an impartial hearing body, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law.
- B. Land use hearings conducted pursuant to this Article which are legislative determinations shall be conducted according to the rules and procedures governing those actions. Notice of the hearing shall be published and the public shall be invited to testify, to present and rebut evidence before an impartial hearing body, to have the proceedings recorded, and to have a decision rendered.
- C. Hearings held pursuant to this Article are proceedings and the applicant(s) shall appear in person or through an attorney or authorized representative.

31.050 - PRESIDING OFFICER

- A. The Hearing Body shall designate one of its members to preside over the proceedings. The Presiding Officer shall have the authority to:
 1. Regulate the course and decorum of the meetings;
 2. Dispose of procedural requests or similar matters;
 3. Rule on offers of proof and relevancy of evidence;
 4. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentations, cross-examination, and rebuttal testimony;
 5. Question any person appearing, and allow other members to question the person;
 6. Waive, at the Presiding Officer's discretion, the application of any Section of this Article where the circumstances of the hearing indicate it would be expedient and proper to do so, provided the waiver does not act to prejudice or deny any party their substantial rights as provided in this code

or otherwise by law;

7. Take any other actions as authorized by the Board or Commission to appropriately conduct the hearing.

B. All procedural decisions of the presiding officer shall be those of the hearing body unless the presiding officer is overruled by a majority vote of the members of the hearing body.

31.060 - CONDUCT OF PARTICIPANTS

Proceedings shall, at all times, be orderly and respectful. No person shall be heard until they state their name and address for the record. The presiding officer may terminate the hearing when necessary or refuse to recognize anyone who:

A. Is disorderly, abusive, and/or disruptive;

B. Takes part in or encourages audience demonstrations, including applause, cheering, display of signs, or other conduct disruptive of the hearing;

C. Testifies without first receiving recognition from the presiding officer and stating their full name and residential address;

D. Presents irrelevant, immaterial, or repetitious evidence.

31.070 - BURDEN AND NATURE OF PROOF

A. The burden of proof shall be on the applicant. The more a proposed use or structure changes existing land use patterns, or causes impacts on surrounding lands or the community, the greater the burden of proof shall be on the applicant to show the request complies with all applicable criteria. The applicant shall address all the criteria listed in the staff report as it applies to the request. For purposes of an appeal, the burden of proof shall be upon the appellant. The applicant may present rebuttal evidence to the information in the staff report, as appropriate, to meet the requirements of this Subsection.

B. The decision of the Hearing Body shall be based upon substantial evidence and be supported by the record. The applicant shall address the required criteria and present evidence as appropriate to the specific proposal. In addition to the standards and criteria for the specific type of application, the Hearing Body shall deem the following criteria applicable to its decisions:

1. Conformance with the Josephine County Comprehensive Plan to include its Goals and Policies;

2. Conformance with applicable State Laws, Rules, and Regulations pertaining to land use and the specific proposal, including the applicable Oregon Administrative Rules in Chapter 660 and guidelines contained in the State Wide Planning Goals;

3. Conformance with the Rural Land Development Code, the Building Code, Health Code, and similar requirements as they relate to the specific proposal;

4. Conformance with general development considerations, such as the preservation of the character of the area involved, the properties peculiar suitability for particular uses, the conservation of property values, and the current direction of building development;

5. Whether or not a mistake has been made in the original Comprehensive Plan designation;

6. Whether or not a change of circumstances has occurred so that the existing condition within the vicinity of the proposal no longer conforms to the intent of the Comprehensive Plan, or applicable codes.

31.080 - DISCLOSURE RULE

A. Pre-Hearing/Ex parte Contact:

1. Members of the Hearing Body shall avoid significant ex parte and pre-hearing contacts with interested parties to the proposal so that their deliberations and recommendations can be based on the evidence presented at the time of the public hearing. Any contacts shall be revealed at the commencement of the hearing or when identified, and:
 - a. If the contacts have not significantly impaired the member's impartiality or ability to vote on the matter, the member shall so state and may participate; or
 - b. If the contacts have significantly impaired the member's impartiality and ability to vote on the matter, the member shall so state and shall abstain from voting on the matter. The member may be counted for purposes of forming a quorum.
2. Parties to the request may challenge the impartiality of a member of the Hearing Body based on ex parte contact. The disqualification of a challenged member is discretionary and shall be determined by a majority vote of the unchallenged members. A quorum is not required for a vote of disqualification. In no case shall any member participate in a vote concerning his or her own disqualification;
3. Contact with County staff does not constitute ex parte contact.

B. Conflict of Interest. In addition to the ex parte and pre-hearing contacts, no member of the governing body shall participate in any vote on a proposal when:

1. The member (or spouse, brother, sister, child, parent, father-in-law, mother-in-law, or any business in which the member has a financial interest, or any business which the member is negotiating for) has a direct or substantial financial interest in the proposal;
2. The member has an interest in property within the area entitled to receive notice of the public hearing under Article 32;
3. The member has a relationship with the applicant or other participants so that the member is unable to be reasonably impartial in reaching a decision;
4. For any other reason specified by State Law;
5. No other official or employee of the County who has a financial interest or other private interest in the proposal shall participate in discussion with or give an official opinion on the proposal without first declaring for the record the nature and extent of the conflict of interest.

31.090 - CHALLENGE FOR BIAS, PREJUDICE, OR CONFLICT OF INTEREST

- A. Any applicant or opponent of a proposal may challenge the qualification of any member to participate in such hearing and decision because of bias, prejudice or conflict of interest.
- B. The challenge shall be in writing, and shall state the facts relied upon for the challenge.
- C. The challenge must be submitted, to the Planning Director not less than 48 hours preceding the time

set for the public hearing, unless good cause is shown as to why the submission could not be made in a timely manner.

- D. The Director shall attempt to notify the challenged member before the hearing.
- E. The challenged member(s) shall have an opportunity at the hearing:
 - 1. To agree with the challenge and withdraw from participation in the Hearing and decision; or
 - 2. To disagree with the challenge and respond orally and in writing.
- F. The challenge and any response shall be incorporated into the record of the hearing.

31.100 - PARTIES

- A. Person(s) speaking at the hearing shall identify themselves as:
 - 1. A witness only; or
 - 2. A party as defined in Section 11.030; or
 - 3. A county or other public official.
- B. Person(s) appearing at a hearing either orally or in writing (including those representing an organization) shall state at the beginning of their testimony the facts which support their status as a party (as defined in Section 11.030 or a witness):
 - 1. Persons who were not entitled to notice, but who claim party status because they will be adversely affected or aggrieved by the decision, shall identify and document the facts showing how they will be adversely affected or aggrieved. Persons who fail to do so shall be witnesses;
 - 2. At the close of their statement of facts on how they will be adversely affected or aggrieved, the presiding officer will promptly rule on whether that person will be treated as a party or not;
 - 3. The ruling of the presiding officer on this point shall be the ruling of the hearing body unless the hearing body votes to overrule the presiding officer.
- C. After party and/or witness status has been determined, anyone challenging the ruling shall be heard immediately and the presiding officer (or the hearing body) may change its decision on party status.

31.110 - RULES OF EVIDENCE

- A. All evidence offered and not properly objected to may be received unless otherwise excluded by the hearing body. Evidence received at the hearing shall be of the same quality as the evidence used by reasonable persons in the conduct of their everyday affairs.
- B. All documents or evidence relied upon by the applicant shall be submitted to the Planning Director as specified in Section 30.020.B and shall be made available to the public for inspection.
- C. All evidence received by the hearing body shall be made a part of the record of the case, except for matters stipulated to and matters judicially noticeable. No other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference (if the document so incorporated is a public record not exempt from inspection).
- D. Cross-examination shall be at the discretion of the hearing body. Any cross-examination question

shall be directed to the presiding officer who will determine if the cross-examination will benefit the hearing body. If the presiding officer determines the question will help in the decision, the presiding officer will ask the question to the party or witness appropriate to answer. In all cases, cross-examination shall be conducted in a non-inflammatory manner. The presiding officer may terminate cross-examination if it becomes disruptive to the hearing.

- E. Judicial notice may be taken of any applicable federal, state or local statute/ordinance, rule or regulation, general fact, and/or scientific fact within the experience, technical competence, or specialized knowledge of a member of the hearing body, staff, or technical witness called by either side. Opportunity will be given for rebuttal of these facts.
- F. No decision shall be rendered except upon consideration of the whole record, or portions as may be cited by the hearing body, and as supported by, and in accordance with, reliable, probative, and substantial evidence.
- G. The hearing body at its discretion may be represented by the Legal Counsel.

31.120 - ORDER OF PROCEDURE

The presiding officer shall conduct the hearing in an orderly fashion, within the guidelines in this Section. However, the technical rules of parliamentary procedure shall be avoided so the hearing may be conducted in a clear, simple and fair manner.

A. Quorum. The presiding officer shall establish a quorum:

- 1. If a member of the hearing body must leave prior to the close of the particular proposal at hand, losing the quorum, the presiding officer shall so state, and shall proceed with the hearing for purposes of taking evidence and testimony;
- 2. The members shall not vote on the proposal until the absent member has reviewed the evidence and testimony taken;
- 3. At the close of the hearing, the hearing body shall continue the request to a date and time certain for deliberation and decision when the absent member can participate;
- 4. If the request cannot be continued to a date and time certain during the public hearing, the Planning Director shall reschedule the request as soon as possible and give new notice as set out in Article 32;
- 5. If a quorum is not present, a hearing body may take action to continue the agenda until a date and time certain.

B. Commencement. The Presiding Officer shall announce the nature and purpose of the hearing, summarize the rules for the conduct of the hearing, identify the name of each applicant, and describe the general nature of each proposal. In addition, the presiding officer shall announce the following:

- 1. All testimony and evidence must be directed toward the standards and criteria as determined applicable by the hearing body.
- 2. Any participant who fails to raise an issue in a hearing, in person or by letter, with sufficient specificity to afford the hearing body an opportunity to respond to that issue, is precluded from using the issue in any subsequent appeal of the decision (called the *raise it or waive it* rule);

C. Abstentions. The presiding officer shall inquire of the hearing body whether any member wishes to abstain from participation in the hearing on a specific proposal:

- 1. Any member so abstaining shall identify the reasons for the record and shall not participate in the

discussion of, or vote on the proposal;

2. Any member whose participation has been challenged by an allegation of bias, prejudice, conflict of interest, or pre-judgment, or who has been subject to significant ex parte or pre-hearing contacts with proponents or opponents, may make a statement explaining the nature of the conflict or bias for the record, and shall announce whether the member will participate in the hearing as set forth in Section 31.080.

- D. Objection to Jurisdiction. The presiding officer shall inquire of the audience if there are any objections to the jurisdiction of the hearing body to hear the matter. Objections, if any, shall be noted in the record, and the matter shall proceed or terminate at the discretion of the Hearing Body.
- E. Criteria. The presiding officer shall request the planner present at the hearing to present and explain the standards and criteria that must be considered in reviewing the request.
- F. Staff Report. The presiding officer shall have the planner summarize the staff report and indicate the possible actions that can be taken by the review body.
- G. Proponent's Case. The presiding officer shall allow the applicant or appellant to comment and present evidence in support of the application or appeal as follows:
 1. 10 minutes for the proponent to make introductory comments and present evidence;
 2. 5 minutes for each witness called by the proponent;
 3. 5 minutes for each audience member speaking in favor of the proposal;
 4. 5 minutes for cross-examination of planning staff regarding the Staff Report subject to the general rules of cross-examination set out in Section 31.110.D; and
 5. The time allocations for the proponent's case may be adjusted at the discretion of the hearing body to expedite the hearing or promote fairness.
- H. Opponent's Case. The presiding officer shall allow opponents to comment and present evidence in opposition to the proposal as follows:
 1. 10 minutes for a representative of the opponents to make introductory comments and present evidence;
 2. 5 minutes for each witness or party to speak in opposition to the proposal;
 4. 5 minutes for cross-examination of planning staff regarding the Staff Report subject to the general rules of cross-examination set out in Section 31.110.D; and
 5. The time allocations for the opponent's case may be adjusted at the discretion of the hearing body to expedite the hearing or promote fairness.
- I. Rebuttal. The presiding officer shall allow the applicant to cross-examine the opponent by addressing questions to the presiding officer, and otherwise rebut any new matters presented by the opponents or their witnesses. The hearing body may allow the opponent to offer surrebuttal to the applicant's rebuttal if:
 1. The applicant has provided new arguments in the rebuttal; and
- J. Additional Evidence or Testimony. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the

application. The following Rules shall govern requests to submit additional evidence or testimony:

1. The hearing body shall grant the request by taking one of the following actions:
 - a. CONTINUE THE HEARING – For at least 7 days to a date, time and place certain. The hearing body shall allow persons to present and rebut new evidence and testimony at the continued hearing. If new written evidence is submitted at the continued hearing, any person may request the record be left open 7 days to submit additional written evidence or testimony in response to the new written evidence. The request must be made prior to the close of the continued hearing; or
 - b. LEAVE THE RECORD OPEN – For additional written evidence or testimony for at least 7 days.
 2. Whenever the record is left open under subsection 1 above, and new evidence is submitted during the opened period, any participant in the hearing may file a written request for an opportunity to respond to the new evidence. The written request must be filed with the Planning Director on behalf of the hearing body within 7 days after the record closes. The record shall thereupon reopen for at least 7 additional days, during which time any person may submit new written evidence and testimony and raise new issues which relate to the new evidence, testimony or criteria that was submitted during the previous open period. If the Planning Director determines the written request is timely, the Director shall provide appropriate notice to the participants stating the record has been reopened and specify the new date the record will close. All new written evidence and testimony, or statements regarding new issues, shall be delivered to the Planning Director within the reopened period for placement in the record. It shall not be necessary for the hearing body to reconvene or to take formal action on a request to submit additional evidence or testimony when action to leave the record open is required pursuant to these rules. Under these circumstances, authority of the hearing body to reopen the record and to specify the length of time it shall remain open is delegated to the Planning Director.
 3. Beyond the mandatory requirements of subsections 1 and 2 immediately above, the hearing body is authorized to grant any other continuance, or leave the record open, subject to whatever reasonable guidelines and time limits it deems necessary or helpful to accomplish its fact finding and deliberating duties.
 4. Unless waived, the applicant shall be entitled at least 7 days after the record finally closes to submit final written arguments in support of the application. The final arguments shall be considered part of the record, but shall not include any new evidence.
 5. The time required by continuances or extensions under this subsection shall not toll the 120/150 day time limit specified in ORS 215.427 unless the continuance or extension is requested or agreed to by the applicant.
 6. For the purpose of these rules, the following definitions apply:
 - a. “Argument” means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. “Argument” does not include facts.
 - b. “Evidence” means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.
- K. Summation. The presiding officer shall allow the proponent and opponent 5 minutes, or other reasonable time limit determined by the hearing body, to summarize their arguments.

- L. Discussion. At the close of the proponent's and the opponent's summation, the Planning Staff shall review the applicable criteria, the evidence submitted, and the staff recommendation. The members of the hearing body shall be allowed to openly discuss the proposal and further question planning staff or any party appearing for or against the proposal.
- M. Close of Hearing. The presiding officer shall close the public hearing when certain that all of the testimony has been heard, and all questions have been answered:
 - 1. If there should be a need to discuss the proposal with any person who is not a member of the hearing body, the presiding officer shall re-open the public hearing for that purpose;
 - 2. Upon satisfaction of the situation, and an opportunity for comment and/or rebuttal by the proponent, the opponent and staff, the presiding officer shall again close the public hearing.

31.130 - FINAL ACTION

- A. At the close of the public hearing, the hearing body may:
 - 1. ON A QUASI-JUDICIAL APPLICATION:
 - a. Approve the application as submitted;
 - b. Deny the application;
 - c. Approve the application with certain conditions as it deems appropriate; or
 - d. Continue the application for further study, a site visit, deliberations, or a decision to a date and time certain.
 - 2. ON A LEGISLATIVE MATTER:
 - a. Approve the matter as submitted;
 - b. Deny the matter;
 - c. Approve the matter with conditions as it deems appropriate; or
 - d. Continue the matter for further study, a site visit, deliberations, or a decision to a date and time certain.
- B. The decision of the hearing body shall be made after the hearing is closed and deliberations are completed, and shall be in the form of a motion, duly seconded, and approved by a majority of the members. The presiding officer shall poll each member regarding their vote and the reasons for it. All members shall state their vote for the record.
- C. A quasi-judicial decision of the hearing body shall not become final until written findings of fact are prepared and approved by a majority vote of the participating members, signed by the presiding officer or a designate, and mailed as required by Article 33. The findings shall include the criteria, standards for approval, the facts relied on in making the decision, and a statement showing how the facts, when applied to the criteria, justify the final action.
- D. A legislative matter shall become final upon the second reading of the Ordinance, in a public meeting. Notice of the adoption shall be sent to DLC. Local notice of the adoption shall be deemed given by a notice of the date for the second reading by publication.

31.140 - RECORD OF PROCEEDINGS AND DECISIONS

- A. The presiding officer of the hearing body shall designate a person to record the proceedings electronically or stenographical. The proceedings shall not be transcribed unless required for appeal, review, or unless otherwise ordered by the Board, Planning Commission or Hearings Officer.
- B. All exhibits received in evidence shall be marked or otherwise made readily available and identifiable for purposes of review. Evidence or exhibits of unusual size or bulk, which cannot be conveniently held, shall not be received. All exhibits received into the record shall be retained by the Planning Director on behalf on the hearing body, and shall be made accessible for inspection or copying by interested persons, subject to a reasonable copying fee. When all appeal periods have expired, the Planning Director is authorized to dispose of the exhibits.
- C. The Planning Director shall hold all sound recordings made of hearings items for the following time periods after the date of the last meeting on that item. The tapes shall be made available for inspection or copying by interested persons, subject to a reasonable charge for copying:
 - 1. If a meeting is fully transcribed, hold the tapes for 90 days;
 - 2. If the meeting is summarized in minutes, hold the tapes for 1 year;
 - 3. If the meeting is summarized in formal findings, hold the tapes for 5 years;
 - 4. If minutes or findings are not done, the tape cannot be erased and must be kept forever.
- D. Findings of the decision are to be compiled for each decision made at a public hearing. The responsibility for preparation of this document shall be determined by the presiding officer of the hearing body at the close of the hearing.
- E. Notice of the decision shall be mailed to the participants who are determined in the hearing to have party status, and by courtesy to anyone otherwise requesting notice of the decision. Copies of the findings of decision may be reviewed and copied at the Planning Office (Hearings Officer and Planning Commission decisions) or the Commissioner's Office (Board of Commissioner decisions).