

Appeals Code Change Parks Board

Amendment of Code Section 7.5.906
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Background



- **Impetus**
 - Infill Steering Committee/ Infill Action Plan
 - Councilman Don Knight (on the maximum days to appeal)
 - Not Parks- related
- **Process**
 - Staff Recommendation with Code Scrub Committee Input
 - City Attorney's Office Assistance
- **Issues and Topics**
 - Open-ended Appellants
 - Scheduling and Timing
 - Risk and Uncertainty

Legal Process



- Ordinance
- “Repeal and Re-ordain”
 - Driven by combination of changes and reformatting
 - Code citations for appealable decisions moved to a table
- Conforming changes to be added

Committee, Meeting and Hearing Process



- Several Code Scrub meetings
- Planning Commission hearings
- City Council briefings
- Separate meetings

Relationship with Parks and Parks Board



- Parks-related appeals have been rare
- If it goes to City Council anyway- not as much of an issue
- Current Code refers back to Chapter 7 for your process
- We have discovered some inconsistencies in current Code

Changed/ Not Changed on the land use side



Changed

- Parties that may appeal defined- but still broad
- Ability to appeal non-final decisions
- Increase in time to file appeal
 - 10 to 12 days

Not Changed

- Decisions that can be appealed
- Automatic bump (in current version)
- Basis or standards for appeals
 - Other than clarification
- PC or City Council options (e.g. limited or *de novo* hearing)
- Cost to appeal
 - To be addressed later

Administrative vs. Hearing-Based Decisions- Land Use Side



- **Administrative** (e.g.)
 - Code interpretation
 - Development plans
 - Permits
 - Minor amendments
 - Administrative relief
- Often but not always with notice of application but not necessarily decision
- **Hearing-based**
 - Historic Preservation Board
 - Downtown Review Board
 - Planning Commission
- Always with notice including date of hearing

Parties That May Appeal



- Current
 - “Any aggrieved person”
- Proposed:
 - Differentiation between administrative and hearing-based decisions
- Still broad

Hearing-based Appellants



- All Applicable to Administrative Decisions ----
and
 - Provided written comments or testimony on the item at the hearing
 - City Administration

Only Final Decisions Can Be Appealed



- Removes ability to appeal a decision going to City Council anyway
 - Can save some time and process
- (no significant Stakeholder concerns)

Changing from 10 to (12 or 14) Days



- Brought up as a concern by Councilman Knight
- Discussed in Committee and in other meetings
 - Allows more time to prepare file an appeal
 - Corresponding scheduling and risk impact to applicant
 - Scheduling impact depends on type and timing of appeal
- Days computed as calendar days
 - Starting the day after with due date after weekends and holidays

Comments and Concerns on Days to Appeal



- Neighbor time to get familiar with process and possibly arrange counsel
- Development industry and practitioners prefer current period
 - Delay or risk of delay
 - Up to 3 weeks (worst case) for City Council
 - Up to 1 month (worst case) for Planning Commission
 - Testimony that many developers wait out the review period

Recent Changes and Topics Under Discussion



- Standing with “injury in fact to a protected interest” A.1.e
- Re-instatement of “automatic bump” for appellant D.2.b
 - Also related to Council President postponement
- New Section E regarding Parks Board
 - Most recent option is to handle separately