

Appeals to the County Council

Who Can Appeal?

According to the Whatcom County Code (WCC) 20.92, "The applicant, any party of record, or any county department may appeal any final decision of the Hearing Examiner to the County Council. The appellant shall file a written notice of appeal at the County Council Office within 10 business days of the final decision of the Hearing Examiner. "

How to Begin

Filing a Notice of Appeal

A "Notice of Appeal" form is attached. In order to ask the County Council to consider your appeal you must complete and sign the form. A non-refundable fee of \$200 must be paid at the time the appeal is filed in the Council Office. Checks should be payable to the Whatcom County Council, and are non-refundable.

Obtaining a Verbatim Transcript

"The appellant shall obtain a copy of the electronic recording of the hearing examiner's hearing from the hearing examiner's office. The appellant shall make arrangements for the preparation of the verbatim transcript of the hearing examiner's hearing by a professional transcriptionist who will include a signed transcriber certification with the verbatim transcript. The appellant shall forward the transcript to the county council office within 30 days of filing the appeal."

What is the Process?

Registered Parties of Record

The Hearing Examiner's Office will send out notification of appeal to parties of record from the Hearing Examiner's proceedings. Those who wish to continue to be considered parties of record must register with the County Council by returning the form letter with their name and address filled in.

Obtaining the Hearing Examiner's File

The Hearing Examiner's Office is notified when an appeal has been filed and provides the file and exhibits

Letter of Notification Sent Out by Council Office

After the transcript is received in the Council Office a "Letter of Notification" is sent to the appellant and all Registered Parties of Record outlining the rest of the process and the pertinent deadlines. They are basically as follows:

- The appellant's basis for appeal and argument, proof of service (affidavit of mailing) upon Registered Parties of Record, along with 10 copies, is due in the Council Office 15 days after the postmark of the letter of notification.
- Arguments or responses from persons opposing the appeal must be filed in writing along with 10 copies, within 14 days after the date of filing the appellants' argument with the Council Office.

The statements provided by parties on both sides of the appeal become part of the Council's written record.

How Does Council Decide?

The Record

The decision of the County Council shall be based solely upon the record and the written argument that has been submitted by the parties.

Findings

The Council may either:

- Remand back to the Hearing Examiner,
- Affirm the Hearing Examiner's decision; or
- Overturn the Hearing Examiner's decision.

The Council may impose, modify, or delete conditions when their decision results in project approval.

Ex-Parte Communications

Because the Council is acting in their judicial capacity, they are prohibited from discussing appeals with any of the involved parties.

Council's decision may be appealed as provided in RCW 36.70C.040 within 21 days of the issuance of the written decision.