

**CITY COUNCIL STUDY SESSION**

Proposed revision to the Rules of Procedure for appeals before the City Council and repeal of Resolutions No. 5097 and 5238.

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**DIRECTION NEEDED FROM COUNCIL****DIRECTION**

Staff is seeking feedback on whether changes to the proposed Resolution adopting new Council Rules of Procedure for appeals address questions raised at the July 15 Study Session and direction to bring the final Resolution forward for adoption. This action would update the procedures to be more consistent with current law and the City land use provisions and provide greater clarity with modernized and simplified language.

**RECOMMENDATION**

Direct staff to bring forward, at a subsequent Council meeting, proposed Resolution No. 9457 adopting rules of procedure for appeals before the City Council; and repealing Resolutions No. 5097 and 5238.

**BACKGROUND & ANALYSIS**

On July 16 staff first presented this topic to Council explaining that the Council Rules of Procedure for appeals had not been amended since 2000 and had fallen out of date and out of compliance with changes in state law and the City's own land use code. A copy of the agenda materials from that presentation are attached for ease of reference. A draft Resolution was included in the July 16 packet for Council consideration and feedback.

Comments received at that time included observations that additional improvements could be made to the language carried over from the prior rules by modernizing and simplifying. Additional observations included suggestions that the timing of certain actions, such as ordering a transcript by appellant and setting a hearing date by the clerk, could be made clearer. Finally, a concern was raised regarding a prior appeal matter where a party had to seek intervention in order to participate in an appeal brought by an applicant. The question was whether this was due to a deficiency in the Council's Rules, which could be addressed with further amendment.

The draft Resolution in Council's packet for consideration addresses issues raised by Councilmembers on July 16, specifically:

- Language in all of the sections has been further modernized and streamlined to provide greater clarity.
- Some sections have been re-ordered to provide parties with a clear timeline and order of events for the progress of an appeal, from filing of the notice through hearing before Council.

As to the final question raised, further research into the matter has led to the conclusion that the appropriate course of action is not additional amendment to the proposed Rules of Procedure, but rather a minor amendment to the applicable section of the City's Land Use Code. The appeal before Council that involved the intervention motion was a Process I appeal. Under BLUC 20.25.150.A.1, all participants to the proceeding before the Hearing Examiner are expressly granted the right to appeal the Examiner's decision to the Council. They are not, however, expressly granted the right to participate in an appeal hearing if they are not an appellant. This is likely in recognition of the fact that there is no requirement for a person to have a direct interest in a matter or to be directly impacted by a project to testify before a hearing examiner on Process I permit applications. There are however parties who participate who are directly impacted and whose interests the City is required to consider when making a land use decision, and who should be permitted to participate in appeals before Council brought by applicants whose permit applications have been denied. An amendment to this section of the Land Use Code for Process I appeals would provide clarity to all persons who testify in Process I matters before the City's Hearing Examiners regarding their rights to participate in further proceedings and would relieve the Council of the need to hold additional hearings on motions to intervene.

## **POLICY & FISCAL IMPACTS**

Whether Council's Rules of Procedure for appeals, memorialized in Resolutions 5238 and 5097, should be repealed and replaced with new Rules of Procedure for appeals to conform to changes in state law implementing the Growth Management Act and the City's Land Use Code Chapter 20.35 setting for the processes for appealing certain decisions to City Council.

There is no fiscal impact associated with implementing these changes.

## **OPTIONS**

1. Direct staff to bring forward, at a subsequent Council meeting, proposed Resolution No. 9457 adopting rules of procedure for appeals before the City Council; and repealing Resolutions No. 5097 and 5238.
2. Do not direct staff to bring forward proposed Resolution No. 9457 and provide alternate direction.

## **ATTACHMENTS & AVAILABLE DOCUMENTS**

A. Agenda materials from July 16 Study Session  
Proposed Resolution No. 9457

Available in Council Library: N/A