

PLAN COMMISSION PUBLIC HEARING GUIDE



PURPOSE OF A PUBLIC HEARING

- To gather information about whether a proposed zoning or special use application meets certain standards.
- Written and oral testimony is invited from applicants, nearby property owners, and other interested parties.
- Plan Commission reviews the facts presented at the hearing and advises the City Council whether the application meets applicable ordinance requirements and planning guidelines.

Public hearings are conducted for the following development applications:

- Special Use (including Planned Unit Developments) and amendments to Special Uses
- Map Amendment (Rezoning)
- General Amendment (Text changes to the Zoning Ordinance)

PUBLIC HEARING PROCEDURE

1. The Chairman opens the hearing, provides a brief description of the procedure and swears in all those wishing to give testimony. A court reporter will make a transcript of the meeting.
2. The Chairman or Vice Chairman reads documents into the record.
3. The applicant or representative gives a short presentation.
4. Questions are directed to the applicant:
 - From Plan Commission members
 - From attendees
5. The Chairman will allow time for testimony by persons opposing or supporting the application. Both the Plan Commission and the applicant may ask questions of those who testify. (Time for each speaker may be limited by the Chairman.)
6. The applicant may offer a rebuttal to any testimony given in opposition.
7. The Plan Commission will close the public hearing after all testimony is taken. Once the hearing is closed, no additional testimony will be accepted. If new testimony is anticipated that may significantly alter the application or the material facts presented, the Plan Commission will continue the hearing to a specific date, time, and place.

GROUND RULES FOR SPEAKING

1. Testimony should be based on facts and specific reasons, not just personal opinion.
2. Interested parties must be sworn in by the Chairman.
3. At the beginning of your statement, state your name, spell it, and state your address.
4. Speak loudly and clearly. Direct all questions and comments to the Chairman.
5. Be brief. It is not necessary to repeat what others have said, as all testimony will be recorded and considered in the Plan Commission's decision. Testimony will not be given more consideration just because it is repeated by numerous people. The Chairman may limit testimony that is redundant or irrelevant.
6. Submit written information whenever possible. Information received at the Community & Economic Development Department by the Wednesday before the public hearing will be sent to the Plan Commission members. All documents submitted for the hearing become the property of the City and are available for inspection by anyone under the Freedom of Information Act.

AFTER THE PUBLIC HEARING

The Plan Commission will discuss and vote on the application after the hearing is closed. This may occur at the same meeting or at a later date.

The Plan Commission's recommendation is considered by the Planning and Development Committee (a committee of the City Council) and then by the City Council. The City Council makes the final decision; it can reverse the Plan Commission's recommendation for or against an application.

See the following pages for details on application types and information about what type of testimony is appropriate during a public hearing.

MAP AMENDMENT (REZONING) APPLICATIONS

A Map Amendment (or Rezoning) changes the zoning classification of a property. All properties within the City have a specific zoning classification as shown on the Official Zoning Map. The list of all zoning districts is located in the Zoning Ordinance, Title 17 of the City Code. A public hearing is required to review a request for a Map Amendment.

Testimony given in relation to a Map Amendment application should relate to the findings of fact as outlined below.

Findings of Fact & Recommendation

In making its recommendation to grant or deny an application for a Zoning Map Amendment, the Plan Commission shall consider:

1. The existing uses and zoning of nearby property.
2. The extent to which property values are diminished by the existing zoning restrictions.
3. The extent to which the reduction of the property's value under the existing zoning restrictions promotes the health, safety, morals or general welfare of the public.
4. The suitability of the property for the purposes for which it is presently zoned, i.e. the feasibility of developing the property for one or more of the uses permitted under the existing zoning classification.
5. The length of time that the property has been vacant, as presently zoned, considered in the context of the land development in the area where the property is located.
6. The evidence, or lack of evidence, of the community's need for the uses permitted under the proposed district.
7. The consistency of the proposed amendment with the City's Comprehensive Plan.
8. Whether the proposed amendment corrects an error or omission in the Zoning Map.
9. The extent to which the proposed amendment creates nonconformities.
10. The trend of development, if any, in the general area of the property in question.

The Plan Commission shall record its findings regarding these matters in relation to the proposed amendment, and shall transmit those findings to the City Council with its recommendation. The Plan Commission recommendation shall be based upon the preponderance of the evidence presented and the Commission shall not be required to find each finding of fact in the affirmative to recommend approval of an application for Map Amendment.

GENERAL AMENDMENT (TEXT AMENDMENT) APPLICATIONS

A General Amendment (or Text Amendment) is an application requesting a change to the Zoning Ordinance, Title 17 of the City Code. A change may be requested to a numerical standard (such as a setback requirement) or to any other text of the Zoning Ordinance. A public hearing is required for all General Amendment applications.

Often, a General Amendment is proposed to change the standards that apply to a specific zoning district or a specific land use or business category. Changes to the text apply to all properties in the City that are located in the same zoning district or fall within the same category of land use or business.

A General Amendment application may also involve changes to procedures or application requirements that are listed in the Zoning Ordinance.

Findings of Fact & Recommendation

In making its recommendation to grant or deny an application for a Zoning Text Amendment, the Plan Commission shall consider:

1. The consistency of the proposed amendment with the City's Comprehensive Plan.
2. The consistency of the proposed amendment with the intent and general regulations of the Zoning Ordinance.
3. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change in policy.
4. The extent to which the proposed amendment would be in the public interest and would not serve solely the interest of the applicant.
5. The extent to which the proposed amendment creates nonconformities.
6. The implications of the proposed amendment on all similarly zoned property in the City.

SPECIAL USE APPLICATIONS

Special Uses listed within the various zoning districts include those uses that may be acceptable if established in an appropriate manner and location within a zoning district, but may not be acceptable if established in a different manner or location. Special Uses may include, but are not limited to, public and quasi-public uses affected with the public interest, and uses that may have a unique, special or unusual impact upon the use or enjoyment of neighboring property.

Testimony given in relation to a Special Use application should relate to the findings of fact as outlined below. The law requires that before the City can approve a Special Use, it must state "findings of fact" which show that the standards outlined below will be met.

Findings of Fact & Recommendation

On the basis of the evidence presented at the public hearing, the Plan Commission shall record its reasons for recommending approval or denial of the petition (findings of fact) in accordance with the following standards:

- a. Public Convenience: The Special Use will serve the public convenience at the proposed location.
- b. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.
- c. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.
- d. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- e. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.
- f. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.

No Special Use or amendment to Special Use shall be recommended by the Plan Commission unless it finds that the proposed Special Use or amendment to Special Use will conform to each of these standards. The Plan Commission shall submit its written findings together with its recommendations to the City Council after the conclusion of the Public Hearing, and also may recommend such conditions as it may deem necessary to ensure conformance with these standards.

SPECIAL USE FOR PLANNED UNIT DEVELOPMENT (PUD) APPLICATIONS

Planned Unit Developments (PUD's) are a unique type of Special Use request. PUD's are intended to accommodate projects that incorporate a single use or mix of uses, which are planned and developed, or redeveloped, as a unit. PUD review encompasses zoning regulations for development of private facilities as well as subdivision and other land development regulations for development of public facilities. Therefore, the standards to be considered in reviewing PUD's have a wider scope than for other types of applications. PUD's should provide amenities not otherwise required, and the PUD process should not be employed solely as a means of intensifying the use of the land.

Findings of Fact & Recommendation

The Plan Commission shall not favorably recommend, and the City Council shall not approve, a Special Use for a PUD or an amendment to a Special Use for a PUD unless they each make findings of fact based on the application and the evidence presented at the public hearing that the PUD is in the public interest, based on the following criteria:

- i. The proposed PUD advances one or more of the purposes of the Planned Unit Development procedure. The purposes of the PUD process are:
 1. To promote a creative approach to site improvements and building design that results in a distinctive, attractive development that has a strong sense of place, yet becomes an integral part of the community.
 2. To create places oriented to the pedestrian that promote physical activity and social interaction, including but not limited to walkable neighborhoods, usable open space and recreational facilities for the enjoyment of all.
 3. To encourage a harmonious mix of land uses and a variety of housing types and prices.
 4. To preserve native vegetation, topographic and geological features, and environmentally sensitive areas.
 5. To promote the economical development and efficient use of land, utilities, street improvements, drainage facilities, structures and other facilities.
 6. To encourage redevelopment of sites containing obsolete or inappropriate buildings or uses.
 7. To encourage a collaborative process among developers, neighboring property owners and residents, governmental bodies, and the community.
- ii. The proposed PUD and PUD Preliminary Plans conform to the requirements of the underlying zoning district or districts in which the PUD is located and to the applicable Design Review Standards contained in Chapter 17.06, except where:

- a) Conforming to the requirements would inhibit creative design that serves community goals, or
- b) Conforming to the requirements would be impractical and the proposed PUD will provide benefits that outweigh those that would have been realized by conforming to the applicable requirements.

Factors to be considered in this determination shall include, but are not limited to the following:

1. The PUD will provide community amenities beyond those required by ordinance, such as recreational facilities, public plazas, gardens, public art, pedestrian and transit facilities.
2. The PUD will preserve open space, natural beauty and critical environmental areas in excess of what is required by ordinance or other regulation.
3. The PUD will provide superior landscaping, buffering or screening.
4. The buildings within the PUD offer high quality architectural design.
5. The PUD provides for energy efficient building and site design.
6. The PUD provides for the use of innovative stormwater management techniques.
7. The PUD provides accessible dwelling units in numbers or with features beyond what is required by the Americans with Disabilities Act (ADA) or other applicable codes.
8. The PUD provides affordable dwelling units in conformance with, or in excess of, City policies and ordinances.
9. The PUD preserves historic buildings, sites or neighborhoods.

- iii. The proposed PUD conforms with the standards applicable to Special Uses. These standards are:
 - a. Public Convenience: The Special Use will serve the public convenience at the proposed location;
 - b. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided;
 - c. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood;
 - d. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - e. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.
 - f. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.
- iv. The proposed PUD will be beneficial to the physical development, diversity, tax base and economic well-being of the City.
- v. The proposed PUD conforms to the purposes and intent of the Comprehensive Plan.