ZONING
ABC's
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Presentation Overview

• Presentation expectations
• Zoning: to achieve Comp Plan Vision
• Zoning Procedures Law
• Local Zoning Ordinance
• Review Criteria
• What’s it mean to me?
• Zoning: to achieve Comp Plan Vision
What is Zoning?

- Exercise of Police Power
- A rezoning is a legislative act
- Defines use and development of a property
- State Zoning Procedures Law establishes the minimum requirement regarding the zoning process for Georgia
- Tool for achieving Comprehensive Plan vision
State Zoning Procedures Law

- Establishes minimum requirements
- Requires a zoning ordinance that meets due process, equal protection and takings consideration
- Requires local adoption of procedures governing hearings and adoption of standards governing exercise of zoning power
State Zoning Procedures Law

- Defines “Zoning Decision”
  - Adoption of Zoning Ordinance
  - Text Amendment
  - Rezoning of Property
  - Zoning Annexed Property
  - Grant of Permit for Special Use
State Zoning Procedures Law

- GA Zoning Procedures Act (Title 36, Chapter 66)
- The zoning regulations include the ordinance, zoning map and records of rezoning decisions (often with conditions)
Zoning Procedures Law

Public notification: sign
✓ “Conspicuous Place”
✓ 15 Days prior to hearing
✓ Information required by local ordinance

Standards Required: your local ordinance may have more requirements
Zoning Procedures Law

• If rezoning denied, local government may not consider rezoning proposal for same property for six months following date of denial

• Special Provisions
  Annexation
  Drug Rehab Centers/Halfway Houses
  Proposals within 3,000 feet of military base
Zoning Ordinance Components

- Districts requirements - stated uses, setbacks, lot size, size of structures, special uses, parking requirements
- Site design, improvements, location requirements
- Variances – When strict adherence to rules cause hardship for applicant, applicant can request relief…however not a legislative act
- Procedures, criteria, enforcement, appeals
Zoning Ordinance: Uses

- Use by right – currently permitted
- Legal Non-conforming uses
- Change of use – applications for a zoning map or district change, special uses
- Modern codes: not just use, but form, location, and infrastructure (new ground)
Standards of Review (Steinberg)

- Suitability of use in view of nearby property
- Adverse impacts on nearby properties
- Reasonable economic use as currently zoned
- Excessive burden on streets, transportation facilities, utilities or schools
- Conformity with policies and intent of land use plan
- Existing or changing conditions affecting use and development of the property
Standards of Review: Minimize Vulnerability

• “Book, chapter, verse”….if deny, cite the section of code for reason why
• If deny, evidence to substantiate
• If you know it should be denied, but code does not let you, consider text amendments
Standards of Review: additional considerations

- Additional criteria per local zoning ordinance
- Reference other official documents...careful: shall vs. “should”; standards vs. guidelines
- Supplemental Regulations
- Adverse environmental impacts
- Comprehensive Plan is more than the map
Types of Applications

- Text Amendment - Change the ordinance
- Map Amendment - Site Specific
- Use Permit (Not permitted by right – “conditional” or “special”)…administrative or legislative
Rezoning Process

- Application filed (Processed if complete and accurate)
- Legal Ad
- Sign posted on property
- Letters sent to nearby property owners
- Neighborhood notification/meeting(s) (varies)
- Staff report prepared (usually Planning, input others)
- Planning Commission Hearing
- Staff report revised to include PC recommendation
- Public Participation report submitted (some ordinances)
- Commissioners or Council Public Hearing
Applications

- Change Zoning classification
- Adjust/alter conditions, which may include significant changes to site plan
- Modifications
- Concurrent Variances
Who May Initiate a Rezoning?

- Owner/authorized owner agent (application)
- Mayor & Council or County Commissioners
  - Usually with study, changing conditions, etc
  - Still must follow public hearing rules
  - Not required to send each property owner in jurisdiction a notification
Common Snags: Hearings Process

• Many require two public hearings – Planning Commission and Commissioner/City Council
• Rezoning Application must be legally advertised
  ✓ Sign posted prior to public hearing,
  ✓ Legal Ad sent to legal organ (15-45 days prior to first public hearing)
Public Notification Process

Some ordinances additionally require…

• Public participation program (Plan & Report)
• Mailed notification to nearby property owners (some distance)
• Applicant/neighborhood meeting (formal – NPU, Community Council or informal)
Common Snags: Conditions of Zoning

• Should mitigate negative effects of proposal on adjacent or nearby properties

• Conditions of zoning should state “who, what, when, where, how, and why” they have been proposed
Conditions of Zoning

Acceptable conditions:

- The owner/developer shall dedicate ten (10) additional feet of right-of-way along the total property frontage along Smith Road to provide for a right-of-way width of forty (40) feet from the existing centerline of Smith Road. Such dedication of right-of-way shall be submitted to the Community Development Director prior to the issuance of the land development permit.

- The subject property shall be limited to a maximum of three (3) dwelling units per acre.
Conditions of Zoning

• **Unacceptable condition:**
  - Limit the use of the property to service commercial, retail and accessory uses: *McDonalds and non-locally owned coin laundry businesses are prohibited.*
  - The owner/developer shall grade the property to the minimal extent possible.
  - The owner/developer shall come to agreement with adjoining properties regarding buffering.

• **Additional Condition phrases to avoid:**
  - “may,” “endeavor to,” “should,” etc…
Additional Zoning Considerations/Terms

- Variances/Board of Zoning Appeals
- Development/Plan Review
- Design Standards
- Overlay
- Sign Ordinance
- Subdivision Regulations/Land Development
Development Review

- Application filed (Processed if complete and accurate)
- Plan review: different models
  - Staff review (some cities send to county or external)
  - Development or Technical Review Committee (varies)
  - Development Review Board, per local ordinance
    - Limits and extent of your authority
- Plan approval to permitting: different models
Variances and Appeals Boards

- Variances not a “zoning decision” category under zoning procedures law
- Not a legislative act
- Follow local rules regarding public hearings
- Some ordinances stipulate items that may not be varied (density, height are typical)
What’s it mean to me?

- **Conditions:** Can staff enforce? How is compliance measured? Who does the review? Does it violate an existing ordinance (authority)? Is it physically possible?
- **Revisions:** Has staff – roads, water, planning -- reviewed? If not, sure that revisions meet code?
- **Resources:** staff; consultants; ask for annual legal debriefing; RDC/ARC/DCA; request joint meetings with Council/BOC/ZBA/Architectural Review etc
What's it mean to me?

- Role: PC: Recommendations to BOC or Mayor/Council to arm them, as non-political body
- Role: PC: leadership role…don’t be shy
- Role: Zoning Board of Appeals: decisions to determine intent, stay within intent of written ordinances
  - Over time, cumulative effect of variances (still meeting intent?)
  - ZBA input to ordinances and plans
  - PC/BOC/Council input to ZBA
  - Staff review of variances…need ordinance amendment?
What’s it mean to community?

• Public hearing: decorum on the dais can instill confidence in process and reduce legal vulnerability (don’t let it be a foregone conclusion, disclose conflicts, discuss items in terms of public welfare, use the structure to help you (e.g., speak to chair))
What’s it mean to community?

- Zoning Districts
- Design Guidelines
- Land Development
- Sign, Tree Ordinances

Built Environment
What’s it mean to community?

Over time, zoning and board decisions can achieve - or fail to achieve - the built environment that reflects your community vision.
Questions?
Recent experiences?
Tips for each other?