

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

Variations and Appeals Boards

- Variations 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?

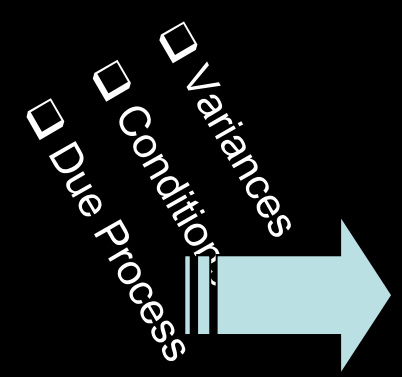
- Role: PC: Recommendations to BOC or Mayor/Council to arm them, as non-political body
- Role: PC: leadership role...don't be shy
- Role: Zoning Board of Appeals: decisions to determine intent, stay within intent of written ordinances
 - Over time, cumulative effect of variances (still meeting intent?)
 - 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?