

CITY COUNCIL POLICY #9

Adopted November 12, 1996

Subject: Zoning and Other Planning Items, Consideration of

General Policy: The City Council's policy is to not hold a public hearing concerning any zoning or other planning items on which the Metropolitan Area Planning Commission (MAPC) has already held an official public hearing. Instead, the Council's consideration will be based on the written record of the MAPC hearings, the recommendations of MAPC and staff, information submitted to the MAPC before or during their hearing, and the District Advisory Board's (DAB) comments, where applicable.

Applicability: This policy applies to zoning change requests, including Planned Unit Developments (PUDs), and cases involving Protective Overlay (P-O) zones, zoning text amendments, Comprehensive Plan amendments, original approvals of Community Unit Plans (CUPs), and appeals of MAPC decisions on Conditional Uses (CUs) and on amendments to CUPs.

Policy Implementation Procedures:

(1) MAPC Hearing

Prior to the public hearings by the MAPC, the Chair will announce the different procedures for considering such items, and advise all interested persons that if, after consideration of the case, they do not feel that they have had a complete hearing or if they should have additional new information to present, they must submit their statement in writing to the City Clerk.

(2) After the Public Hearing

(a) The referral sheet to the City Council will be accompanied by minutes of the MAPC hearing, along with the recommendations of the MAPC and staff, plus letters, informal petitions, and other information provided to the MAPC before or during the public hearing, plus comments from the DAB(s), where applicable. The case will be scheduled 26 days from the MAPC meeting unless otherwise directed by the Planning Commission or the City Manager's office.

(b) Should a more restrictive classification or a reduced area or other substantial change be proposed by either an applicant or the MAPC, this new information will be presented to the DAB, where applicable, so that they may reconsider their original recommendation within the 26 days prior to the case being scheduled before the City Council. If this time period is exceeded, it shall be interpreted that the DAB has no recommendation on the revision.

(c) Appeals of MAPC decisions on Conditional Uses or amendments to Community Unit Plans must be appealed within the required timeframe as stated in the zoning code. Valid protest petitions by opponents constitute an appeal. Introduction of new evidence or arguments about the completeness of the hearing shall be filed, in writing, in the office of the City Clerk by 5 p.m. on the Wednesday before the Tuesday City Council meeting.

Statements of new evidence must specify in detail the description of its nature and source and why it was unavailable at the MAPC public hearing (examples may be newly published material, i.e. theory, traffic counts not previously available, or expert witnesses). Statements repetitive of former arguments before the MAPC will not be considered. Statements of new evidence will be sent to the Planning Department and to the City Council. Statements as to the completeness of the public hearing will identify the issues of procedure involved. Procedural deficiencies, such as failure to allow applicants rebuttal time, are examples of an incomplete hearing. A decision unfavorable to the applicant is not an incomplete hearing.

(3) City Council Procedure

(a) The City Council will base its decision on information contained in the MAPC minutes and submitted to the MAPC, recommendations of the MAPC and staff, and comments of the DAB(s), where applicable.

(b) In the event new evidence has been filed, the City Council shall determine whether or not it is such to warrant returning the request to the MAPC for a rehearing or reconsideration without rehearing.

(c) The Planning staff, and proponents and opponents, may be called upon by the City Council to clarify and items pertaining to the request.

(d) The City Council may reverse or modify the recommendation of the MAPC, or may return the application for its reconsideration, stating the reasons for the action.

(e) The City Council may concur in the recommendation of the MAPC by taking such action as suggested on the agenda.