

Land Use Issues - "Meaningful" Comments ^{Should Be} ~~Are~~ Valued

The Land Use Chair for a Neighborhood needs to become very familiar with State Administrative Rules Chapter 660 -Land Use and all of City Development Code. Other Board members become familiar over time with Code and where it allows opportunities for meaningful Neighborhood input. Together it is the job of the Land Use Chair and Board Members to help the NA members direct their comments at public meeting toward issues that can, by Code, be considered and addressed.

There are two levels on which the City requests Neighborhood Association (NA) input on issues 1. how Code is being applied to a specific land use application, and 2. discussions regarding the initiation or change of City Code or Policy. On the first level the notion of "meaningful comment" is important because where existing Code is being applied to a land use application the decision making individual or body is bound by law to not consider public comment protesting the proper application of established "clear and objective" Code standards. However when City Code or policy are the issue being considered the scope of what can be addressed in a public meeting is only limited by the discussion agenda. An NA and it's Land Use Chair can contribute considerably to the long term benefit of members and the City through active participation in discussions of Code/Policy/Comp. Plan changes and long term planning for infrastructure and UGB. This is where the NA can best address issues of livability, density, traffic congestion, etc., but only with the support of neighborhood members en-mass.

Any land use application, from Comprehensive Plan amendment to master plan to site plan, starts with a presentation of the proposal at a public meeting prior to a Planning Division "completeness check" and formal application to the City. For this reason the developer presentation may be very "incomplete" making NA impact in this meeting may be limited to "meaningless" comment. It then becomes the task of the Land Use Chair to follow the application through "completeness" to identify where Code standards are not met and bring them to the attention of the NA members and encourage their written comment on these specific exceptions. Only written "meaningful" comments at the public meeting or during the comment period assure "standing" for persons wishing to be heard in any further hearings.

It is important understand which of the two approval paths available to developers - Type II "clear and objective" and Type III "discretionary" - is being initiated with a public meeting. In a Type III proposal the Code exceptions are clearly laid out. A Type II proposal is a plan that suggests that it follows all Code requirements. Approval may be granted by the Development Services Director without any further public hearing following public notice, public meeting, and comment period without receiving "meaningful comment" suggesting denial or additional hearing. **It then becomes the neighborhood's job to point out to the Development Services Director the plan's misinterpretations of or exceptions to "clear and objective" Code that require either denial or further hearings where they can be addressed.**

Because a Type II proposal could be different after completeness check from what was presented at the public meeting, the Land Use Chair needs to review the actual application during comment period and inform NA members of any concerns regarding plan violations of "clear and objective standards" (quantifiable, conditional, prohibitive, or prerequisite) in Code or the granting of Code exceptions. The Development Services Director may elevate a Type II application to a Type III requiring further hearing **IF** public comment supports the following conditions for a successful hearing: 1. the process is bound to result in a decision; 2. the decision is bound to apply preexisting criteria (Code) to concrete facts; and 3. the action is customarily directed at a closely circumscribed factual situation or small number of persons. (BDC 4.1.426) This is what constitutes "meaningful comment" from the initial public meeting or comment period that can be considered by the Development Services Director when deciding an approval, denial or elevation to Type III. It is therefore the job of the NA Land Use Chair to review proposals and plans to identify the Code exceptions that are the basis for meaningful comment and convey that to members.