

**CITY OF ALPINE
PLANNING & ZONING COMMISSION MEETING
MONDAY, OCTOBER 24, 2022 - 5:30 P.M.**

NOTICE IS HEREBY GIVEN THAT THE PLANNING & ZONING COMMISSION OF THE CITY OF ALPINE, TEXAS WILL HOLD A SPECIAL MEETING AT 5:30 P.M. ON MONDAY, OCTOBER 24, 2022 AT CITY COUNCIL CHAMBERS LOCATED AT 803 WEST HOLLAND AVENUE AND VIA ZOOM FOR THE PURPOSE OF CONSIDERING THE ATTACHED AGENDA. THIS NOTICE IS POSTED PURSUANT TO THE TEXAS OPEN MEETINGS ACT. ACTION ITEMS APPROVED AT THIS MEETING WILL BE CONSIDERED BY THE CITY COUNCIL FOR FINAL ACTION.

AGENDA

1. Call to Order.

2. Public Comments.

3. Public Hearings – None.

4. Approval of minutes of previous Board Meeting –

a) September 26, 2022, Regular Meeting Minutes.

5. Discussion Items –

a) Discussion between Commissioners and City Staff regarding procedural items, questions, and/or recent Planning & Zoning related items.

b) Discuss the Planning & Zoning Commissioners Handbook.

c) Discuss implementing a requirement for letters to be sent to surrounding property owners for prospective annexations.

d) Discuss the possibility of a Historic District.

e) Continuation of the discussion on the Coin-Operated Machine ordinance.

6. Action Items – None.

7. Board Member Comments.

8. Adjourn.

CERTIFICATION

I, Geoffrey R. Calderon, hereby certify that this notice was posted at City Hall, a convenient and readily accessible place to the general public, and to the City website at www.cityofalpine.com pursuant to Section 551.043, Texas Government Code. The said notice was posted at 5:00 P.M. on October 20, 2022, and remained so posted for at least 72 hours preceding the scheduled time of the said meeting. This facility is wheelchair accessible and accessible parking space is available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the Office of the City Secretary at (432) 837-3301, option 1, or email city.secretary@ci.alpine.tx.us for further information.



Geoffrey R. Calderon, City Secretary



**CITY OF ALPINE
PLANNING & ZONING COMMISSION MEETING
MONDAY, SEPTEMBER 26, 2022 - 5:30 P.M.
MINUTES**

1. Call to Order – Acting Chair, Abbey Branch, Chair of the Planning & Zoning Commission, called the meeting to order at 5:30 P.M. The meeting was held in City Council Chambers located at 803 West Holland Avenue, Alpine, Texas, 79830 and via Zoom video conference.

Commissioners Physical Present:

Amit Rangra, Chair of the Commission
Lucy Escovedo, Commissioner
Wendy Little, Commissioner
Eileen Rouke, Commissioner
Abbey Branch, Commissioner
Michael Eason, Commissioner

City Staff Present:

Geoffrey R. Calderon, City Secretary
Andrew Devaney, Director of Building Services
Jessica Boorse, Permit Technician

Commissioners Not Present: None.

Commissioners Present via Zoom: None.

2. Public Comments – None.

3. Public Hearings –

- a) Public Hearing to obtain citizen views and comments regarding a replat application to allow applicant, Horse Apple 118, LLC, a replat for the purpose of consolidating lots for commercial retail development. The property in question is located at 1911 N. State Highway 118. The record property owner is Horse Apple 118 LLC.

4. Approval of minutes of previous Board Meeting –

- a) July 25, 2022, Regular Meeting Minutes.

On a motion by Commissioner Escovedo and seconded by Commissioner Branch to accept the minutes as is, the Planning & Zoning Commission unanimously voted to adopt the motion.

5. Discussion Items –

- a) Discussion between Commissioners and City Staff regarding procedural items, questions, and/or recent Planning & Zoning related items.

6. Action Items –

- a) Approve a recommendation to City Council to approve a replat application to allow applicant, Horse Apple 118, LLC, a replat for the purpose of consolidating lots for commercial retail development. The property in question is located at 1911 N. State Highway 118. The record property owner is Horse Apple 118 LLC.

Due to a lack of a motion, the action item was lost.

7. Board Member Comments.

8. Adjourn (6:10 P.M.)

APPROVED:

Amit Rangra, Chair of the Planning & Zoning Commission

CERTIFICATION

I, Geoffrey R. Calderon, hereby certify that this notice was posted at City Hall, a convenient and readily accessible place to the general public, and to the City website at www.cityofalpine.com pursuant to Section 551.043, Texas Government Code. The said notice was posted at 5:00 P.M. on September 19, 2022, and remained so posted for at least 72 hours preceding the scheduled time of the said meeting. This facility is wheelchair accessible and accessible parking space is available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the Office of the City Secretary at (432) 837-3301, option 1, or email city.secretary@ci.alpine.tx.us for further information.

Geoffrey R. Calderon, City Secretary



Planning Commissioners Handbook

Planning & Zoning Job Summary:

This position provides customer service to the public; assists with submittal and distribution of rezoning requests, variances, preliminary plats, subdivision plats, site plans and special use/conditional use applications.

Introduction:

Welcome!

You have volunteered to provide a valuable service to your community and your time and efforts are much appreciated.

You may find yourself a little overwhelmed. You have been asked to do an almost impossible job, using confusing documents, about which you know next to nothing. Experience is not one of the conditions of appointment to the planning commission, you may wonder just what it is you are supposed to be doing?

During your term as a planning commissioner, you will encounter a wide variety of situations, people, and problems. You will need patience, tact, and diplomacy. Knowing how to act in stressful circumstances is one of the most important parts of the job, and one that is best learned through experience. Why are you doing this you may ask?

- Perhaps you had a desire to give something back to the community.
- Maybe something happened in your neighborhood that disturbed you.

The planning commissioner wears many hats from mediator, interpreter, visionary, researcher, or teacher to community builder.

Rather than trying to teach you about the laws and regulations governing planning and zoning, the concentration is on **what you might expect to encounter as a commissioner and some of the methods you may use to prepare, make and enforce your decisions.**

To accomplish this, commissioners will need a clear vision of the future of their community, more sophisticated regulations, and a degree of sensitivity in dealing with the public.

Ultimately, you will have to decide what kind of commissioner you will be.

What is the Planning Commission?

Early in the history of zoning, it was recognized that when reviewing zoning and land use matters, elected officials **needed input from a group of individuals** who were **not affected by political concerns**. Having a group of interested volunteers judge land use decisions for the community was intended to allow a wide range of views to be fairly represented.

As a planning commissioner, you are a representative of the people, having a variety of personalities on the commission serves a purpose. This means that the members of the commission represent the various interests found in the community, such as professionals, business owners and homemakers.

Regardless of whether you agree with them or not, keep in mind that the reason the commission has more than one member is to allow for this variety of opinions. Even though every commissioner has the best interests of the community at heart, their approaches may differ from yours since each is based on their own philosophy. Over time you may come to understand some of the motivations of the other commissioners and may find yourself appreciating their views.

This allows a planning commissioner to act without the political considerations that influence elected officials.

THE JOB:

As a Planning Commissioner, you will be dealing with people & land. Your decisions can have a great impact on the use and value of land in your community. *Decisions must be made with long term interests in the community.* Dealing with those who jealously guard their view of the community and those who may seem as though they are intent on destroying it.

This may not be easy, as you may know some of the landowners, applicants or neighbors personally.

The planning commissioner's job is to help create and carry out policies regarding the physical development of their community. The planning commissions must **constantly ensure that they treat each person and property in a fair and consistent manner.**

The Term: Two years coinciding with the appointing council member. A member shall continue to serve until the replacement has been filled. The terms of office for the commission members shall be staggered in intervals, to provide continuity in policy and personnel.

****Commissioners shall be resident of the City of Alpine.**

Duties & Powers: Comprehensive Plan. It shall be the duty of the commission, after holding public hearings, to create and recommend to City Council a comprehensive plan for the physical development of the City of Alpine (including what is permitted in the ETJ).

The Comprehensive plan shall include:

1. Official Maps.

2. Growth and land use.
3. Commercial/industrial uses.
4. Transportation and utilities.
5. Community facilities.
6. Housing.
7. Environment.
8. Geologic/natural hazards.

The commission shall be permitted to recommend amendments to the comprehensive plan regarding the administration or maintenance of the code.

Deputies: The Building/Code Official may appoint officers and other employees from time to time authorized to carry out the functions of this code. The code official shall be authorized to undertake reviews, make recommendations and grant approvals set forth in the code. The Code Official shall assist the planning commission in the development and implementation of the comprehensive plan.

THE LAND USE CHALLENGES:

New development often brings out concerns over land use. Residents become concerned about losing the character of their community. Those who propose changes are acting to protect their own investment, whether personal or professional. Decision makers must, **within the constraints of the law, allow for development which is consistent with the existing or planned character of the community and reject that which is not.**

Weighing the interest: Activists for development and preservation have common goals. Typically, they both seek better use of the land from their own perspectives: the developer to protect his or her financial interest, and the neighbors to maintain their quality of life.

We do not want to be down the road and ask ourselves:

“How did we get into this mess?”

Every community needs to plan locations for development:

This outlines goals and objectives and maps areas of different land uses.

Comprehensive “Master” Plan: A city that elects to enact zoning regulations must, under Section 212.004, adopt ordinances that are “in accordance with a comprehensive plan designed to:

- (1) lessen congestion in the streets
- (2) secure safety from fire, panic, and other dangers
- (3) promote health and the general welfare
- (4) provide adequate light and air
- (5) prevent the overcrowding of land
- (6) avoid undue concentration of population
- (7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

- Natural features and the environment are protected
- Community character will not be diminished
- It may be appropriate in designated areas rich with historical buildings and character.
- Expenses for new roads and services will be at a minimum
- May include* Rehabilitating existing structures and reclaiming unused or abandoned properties as well as developing new areas.
- Policies concerning growth, are the anchor the rest of the community and allow for orderly development.

The need to provide design flexibility, coupled with the desire to maintain some degree of control, has created the need to find innovative regulations.

Natural features may also be integrated into a site allowing them to remain as natural as possible. This could include the use of small wetlands as aesthetic features or maintaining vegetated areas as screening or visual interest. In this way, natural features often help market projects.

- Safety of vehicular and pedestrian circulation.

The purpose of reviewing circulation is to ensure proper driveway spacing, adequate setbacks for clear visibility and proper placement of parking areas. Requiring parking lot setbacks, particularly along the roadway, can foster driveway safety.

Ensuring adequate emergency access; Involve the fire and police authorities in the site plan review

- process and have them submit a recommendation to you.
- Exterior Lighting (Dark Skies Ordinance) should be adequate to illuminate the area, yet not shine on adjacent properties.
Requiring “cut-off” fixtures or reducing the height of light poles can be effective ways to meet this standard.

The planning commission remains the authors of the first draft of the zoning ordinance, however, this

requires more involvement by the legislative body in the planning and adoption process. City council is to be the adopting authority of the master plan (Vision for the future).

This statute, to a large degree, describes what zoning is, particularly with regard the use of property, the size of buildings, number of units per acres, type of construction. Zoning is the most intense governmental regulation of land use that exists in Texas and is often the most useful tool a city has to make itself the type of community its citizens desire. Conversely, exercise of its zoning authority frequently become a buzz saw of resistance and opposition for Texas cities.

Zoning, on the other hand, is limited to a city's corporate limits and may not be extended to its ETJ. Whereas subdivision regulation has significant focus on the construction, availability and access to public facilities such as streets and utility systems, zoning addresses how land may be used.

Planning and Zoning Commission: Establishing and amending zoning regulations and amendments thereto, establishing and authorizing changes to zoning classifications and establishing and authorizing changes to zoning district boundaries. Note, however, that a Zoning Commission is essentially only an advisory body. Final zoning action must be approved by the city's governing body. In many cities, the Zoning Commission is also the body that approves plats. [MUNILAW101.pdf \(isatexas.com\)](#) MUNICIPAL LAW 101 Basic Municipal Laws and Issues for Texas City Officials

The rules governing these districts are listed in a zoning ordinance that contains provisions controlling the type and intensity of development allowed.

Once the **master plan** and zoning ordinance are in place, it is **important that they be kept current**. A master plan that is not kept up-to-date and actively followed and implemented may lead to problems for the community in the future.

Zoning ordinance must be constantly reviewed to ensure that binding court rulings are included, new legislation recognized, and master plan changes noted (e.g., new land use classifications).

The master plan should be reviewed each year to make sure it stays relevant to current conditions. A comprehensive review should be considered about every five years.

After preparing a proposed plan, the planning commission must submit the proposed plan to the legislative body for review and comment. Before the adoption process can proceed, the legislative body must approve the distribution of the proposed plan. If it does not, it must return the plan to the Commission with its objections. The Commission must then revise the plan until it is accepted by the legislative body.

FUTURE LAND USE VS. ZONING IS NOT THE SAME:

The primary difference between future land use and zoning is a matter of timing. The future land use map shows the intended use of land at the end of the planning period, which could be many years in the future. The zoning map shows land as it is intended to be used today. Accordingly, the two maps will not be identical in every respect. Inexperienced commissioners can easily be sidetracked by discussions of landscaping, setbacks and other issues. Site plans are essentially meaningless during a rezoning.

Example, one area of the community may have a future land use designation for residential use. The goals and objectives of the master plan may indicate that residential uses should not be established without public water and sewer services. **Failure to consistently follow the plan may discredit its use as a defense for**

actions that may be challenged by property owners or developers.

Consistent and vigorous use of the plan will lend credibility to the community's attempts to implement controversial decisions on rezoning or other zoning actions.

PREPARING FOR MEETINGS:

The greatest responsibility of the commission is to provide guidance for land use and development in the community.

Planning commissioners cannot reach a fair and impartial decision without a firm base of knowledge about the matters placed before them. Gaining this knowledge will take the efforts of the community's staff, the applicant, and each commissioner. To make sure you are ready to make the best possible decision – based not on perception, but on facts.

Visiting the site is often a critical step in the decision-making process. Even if you have lived in the community all your life, individual sites take on a new personality when a specific project is to be built.

- Please note*. **Site visits should always be made individually rather than as a group.** Meeting on site (even with less than a quorum) raises several concerns.
- Look closely at traffic conditions, natural features, surrounding land uses and general neighborhood characteristics, possibly, at different times and on different days of the week would also be useful.
- A site plan is merely a depiction of the property showing proposed buildings, parking areas, streets and other details. Your objective when looking at a site plan is to ensure that at least the minimum dimensional standards of the zoning ordinance are met with respect to yards, signs, parking, etc., and that the proposed use is designed in harmony with its existing and future surroundings.
- You need to be familiar with some basic site planning principles as they relate to the standards of the zoning ordinance.

Side discussions can violate the spirit as well as the letter of the Open Meetings Act.

- Do not go onto the site unless specific written permission has been granted by the property owner or the site is otherwise available to the public. This can help avoid misunderstandings and problems with trespassing.
- Do not allow your decision to be influenced by the applicant's reluctance to allow you on the site. Many people are concerned about liability, or they simply are determined to protect their privacy. There are other ways to gather the information and you should not decide until the information is obtained.
- Do not discuss the proposal with the property owner, neighbors or applicant
**The intent of information gathering is to ensure that everyone has the same information on which to base a decision. This is not possible if individual commissioners contact or are contacted by interested parties outside of the meeting.

MAKING THE DECISIONS STICK

We do not want to rely on the members who have the most experience to remember past actions. No doubt that their memories are valuable, but their recall may not be complete. The only reliable methods of documenting actions are the written word and demonstrations.

1. All the work put into the meetings will be worthless if you fail to properly document what you did.
2. Keeping Minutes should contain enough detail so that a person not present can understand:
 - What matters were discussed (nature of the request, applicant, location);
 - Who spoke at the meeting and the general content of their comments (including name and address);
 - What action was taken by the commission (including the vote and any conditions attached);
 - Why that action was taken and on what standards of the ordinance it was based.

MOTIONS: A motion must have: a maker and second; a description of the nature of the request; the action taken (approval, approval with conditions, denial, tabling); any conditions attached to affirmative decisions (except rezonings, to which conditions cannot be attached); and the reasons for the action taken (applicability of standards).

- Take the time when the motion is made to make the wording right. To ensure accurate recording of the minutes.
- Reference relevant sections of the ordinance and staff reports. If discussion on the issue is thoroughly documented in the minutes.
- If the motion includes the need for further action, it should state who will be responsible to see that action completed.

For example, "a revised site plan shall be submitted for the building official to certify that all conditions have been met.

- Conditions attached to a decision have one purpose: to make sure that the standards used to make the decision are met. If the condition were not in place, the project would fail to meet the standards of the ordinance and must be denied.
- The administrative requirements include ensuring that notices are mailed and published, meeting procedures followed and other similar actions
- Findings and minutes are not official until reviewed and adopted by the commission.
- There are some administrative steps that should be taken to help complete the record.
- All records regarding zoning applications are considered permanent.

LEGAL

*Governments are always open to lawsuits, regardless of the quality of their decisions. Far too often, disappointed applicants or neighbors look to the courts to solve their problems. As a result, you should not be overly influenced or concerned about whether your decision will result in a lawsuit –
provided you have followed the ordinance and acted within your authority*

Make sure that you properly use the judgmental factors to make effective zoning decisions. The standards provided in the zoning ordinance are the clearest guide you use to reach a decision. All decisions must be based on these standards and the facts

QUESTIONS TO ASK YOURSELF:

1. Do you have your zoning ordinance or other applicable ordinances?
2. Have you examined the agenda and related materials?
3. Do you have your questions written down?
4. Have you completed the site visit? (If not, at least drive by the sites on the way to the meeting.)
5. Have you reviewed the standards that will be used for each decision?
6. Remind yourself that the purpose of preparing for the meeting is not to **decide**, it is only to gather the information needed to **prepare** you for the decision that is to come.

PROPER DECISION MAKING STARTS WITH THE BASICS:

- a) Knowledge of the zoning ordinance.
 - b) Knowledge of relevant case facts; and
 - c) Using ordinance standards to reach a decision.
- If you are contacted by the applicant or others, be prepared to tell them that you are required to conduct all of your discussions only when the other commissioners are present.
 - Encourage them to come to the meeting (tell them when and where) or ask them to submit their comments in writing (tell them to whom and by what date).
 - If a contact cannot be avoided, it should be reported to the rest of the members during the meeting, along with the general content of the conversation.
 - You may feel free to request information from the city of Alpine staff. But whatever information you receive should also be made available to each of the other members.
- ** Remember** – you are only one person on the planning commission. The only time you should act as a commissioner is in the presence of the other members at a scheduled meeting.

BEING FAIR:

Many Planning Commissioners attempt to follow Robert's Rules of Order in their meetings.

1. Everyone must have the opportunity to speak and present evidence at public hearings.
2. Recognize emotional responses and treat them with concern and understanding.
*** Try to look beyond the mannerisms and nervousness to find the speaker's message.*
3. To oppose or support a project, you must represent the long-term interests of entire community, not just those at the public hearing.
***Petitions, letters and other written expressions of concern are useful, but only to the point where they provide new information.*
4. **Listen.** Public meetings are your chance to take the pulse of the community and to learn more about the neighborhood in which a project is planned. Take advantage of the effort those attending the meeting have made and learn as much as you can.
5. Playing fair means playing by the rules. Having an effective set of meeting rules helps provide a sense of professionalism as well as ensuring that meetings are orderly.
6. Follow the Rules, but they do not need to be rigid. They occasionally need to be altered to take certain events into account.
7. If you learn that notices were not sent or published properly, stop the process and start over.

THE AUDIENCE:

Neighbors can provide a unique perspective on the neighborhood which may create the need for further study or information to be provided by the applicant or gathered by the community.

- **Direct all comments to the chairman.** The chairman of the commission is entrusted with enforcing meeting rules. Having a strong chairman is important both to the operation of the commission and to public perception.

***The role of the chairman is to maintain order throughout the meeting. The chairman should announce each agenda item and note the rules that apply to the hearing. During the meeting, the chairman should ensure that courtesy is maintained and that speakers are not interrupted*
- **Limit speaking time, when necessary.** It is appropriate to limit the time of each speaker to 3-5 minutes, except for the applicant.
- **Limit the number of times one person may speak.**
- **The chairman may also ask if there is a spokesperson for the audience.** The chairman should allow those for whom the spokesperson is speaking to be recognized, either through a show of hands or by standing. The spokesperson may be given additional time in recognition of his/her role.

- **After the public hearing is closed, it should remain closed.** Further comments should not be accepted unless specifically requested by a commissioner.

The Commissioners:

- **All comments should be directed to the chairman.** Just as the audience must be recognized by the chairman, so too should the commissioners.
- **All discussions should be in the open.** This goes beyond strict legal requirements. It is important that the audience view the commission as an open, fair and deliberative body.
- **Do not hold private conferences prior to the meeting.**

People are generally suspicious of government. Don't add substance to that perception.

1. **Express your opinions.** Do not just vote without letting everyone know why you are voting whether for or against the issue. Your comments may help others to decide (or change their vote). It also lets the applicant and the audience know the strengths or weaknesses of the proposal.
2. **Do not attempt to always answer every question.** Some comments cannot be answered.
3. **If things get out of hand, take a recess.** Long evenings and emotional topics can make for short tempers.
4. **Do not feel compelled to make a hasty decision** on the night of the hearing. Everyone should feel comfortable with their vote – if not, obtain whatever additional information is needed before proceeding with the decision.
5. **If the decision is challenged** the importance of using the ordinance's standards becomes self-evident. A well supported decision provides the background needed to build a solid legal foundation for the decision. The use of standards will help avoid the "arbitrary and capricious" label often given to zoning decisions that are not well supported.

Following rules of fairness, preparing for meetings, and making effective decisions can affirm the confidence placed in you by those who appointed you and those you serve.

- There is an increase of litigation and public participation, it is not enough to deny an application because of a vague notion that the use is not a good idea, or that it will hurt the neighborhood. Even applications that are approved need to be well supported.

ZONING ORDINANCES

Each planning commissioner must be familiar with the relevant parts of the ordinance when reviewing an application for a zoning decision.

1. Meaning of the regulation
2. Understands its purpose
3. Property right laws tell us that zoning has a public interest that will allow residents to have the right to peace and quiet of their neighborhood and to have the value of their property protected. On the other hand, the law holds that owners of property have a right to a reasonable return on their investment and that zoning cannot unreasonably deprive the owner of that return.
4. The entire zoning process, starting from the time that a person first approaches the community, to the issuance of the occupancy permit, should be clearly understood by all parties involved.

***A roomful of people who show up to oppose a project should not be the only reason for denial. You are obligated to protect the interests of the applicant, the neighbors, and the entire community.*

5. The intent of zoning is to help commissions avoid the necessity of trying to judge between them. Instead, zoning decisions should treat each person, property, and point of view in a fair and consistent manner.

***Approvals and denials must be thoroughly supported, clearly stating how the ordinance standards were or were not met.*

6. Decisions are always based on standards of the ordinance facts, not on emotion or opinion of the applicant.

***If you are unclear about whether a standard is met and are not ready to decide – don't. Zoning decisions are permanent. Take care that the decision you make is well supported. On the other hand, do not drag out the review unnecessarily*

7. Your municipal staff members are trained in their various fields and are providing you with their professional opinion. Their recommendations should be supported by the facts and application of the ordinance standards just as your decisions are expected to be. Their view of how the facts relate to the standards may differ from yours. Ultimately, it is the decision of the commission that will stand.

A Zoning plan is a document used in the present and future. A Zoning plan is adopted by a municipality, providing direction and control of the development of land within its boundaries (City Limits & ETJ).

A zoning map outlines the various uses within the boundaries of the municipality (Residential, Commercial, Industrial).

Zoning Code: It shall be the duty of the Planning commission to develop and recommend to City Council a zoning code, in accordance with the comprehensive plan, establishing zones within the City of Alpine. Regarding the character of each district and most appropriate use of land within the City of Alpine.

*** The Planning commission shall make periodic reports to the City Council.*

CONDITIONAL & SPECIAL USES

If there are doubts about an applicant's performance, make proper use of conditional approvals (except for rezonings), performance bonds and proper documentation for possible enforcement later.

The principal objective of the zoning code is to provide for an orderly arrangement of compatible buildings and land uses, and for the proper location of all types of uses required for the social and economic welfare of the community.

Conditional Uses require considerations as to their proper location to adjacent, established or intended uses, or to the planned growth of the community.

The code official shall receive all applications for conditional uses, amendments, and variances.

Conditional-use permits and variances: The Code official shall receive all applications for conditional-uses and variances or other plans as shall be permitted or approved by this code.

A **Variance** is the relaxation of the strict provisions of the ordinance. The board might grant a variance when it would cause undue hardship for the owner of the land to strictly comply with the ordinance.

A **Conditional Use (Special Use)** is permitted in a designated zoning area that has to meet certain criteria or conditions for the location and operation as outlined in the ordinance. Providing controls to prevent the use from having an adverse effect on the surrounding environment/residence.

Placement of the building, the hours of operation, noise and landscaping are all things that need to be addressed before allowing a Conditional Use.

A **nonconforming use** is defined as a structure that complied with the zoning ordinance at the time it was built but no longer conforms to the regulations due to the adoption, revision, or amendment of zoning ordinance.

Lawfully established buildings and uses in existence at the time of the adoption of the code shall be permitted to have their existing use or occupancy continued, provided that such continued use is not dangerous to life.

Spot Zoning (Micro Zoning) occurs when a parcel of land is arbitrarily selected for a zoning classification that is unrelated to the surrounding uses and zoning districts and cannot be justified based on health, safety, or general welfare of the community.

Covenants are an agreement or promise between two or more people to either do something or refrain from doing something. In some cases, a restrictive deeds or covenants can limit the use or prohibit certain uses (encumbrance).

Zoning Decisions are Rarely Easy!

They are not usually a matter of right and wrong. Balancing the needs of the community and the private property owner has been entrusted to you, and it is essential that you honor that trust.

CHAPTER 12

CONDITIONAL USES

User note:

About this chapter: The intent of Chapter 12 is to allow for the occasional need for a use not normally permitted in a particular zoning district due to the unique characteristics and service that use provides to the public. This chapter establishes the requirements for conditional uses, such as minimum documentation required to support a conditional-use property, conditional-use permits and fees, and the criteria for expiration and revocation of conditional-use permits.

SECTION 1201 GENERAL

1201.1 Conditional-use permit. A *conditional-use* permit shall be obtained for certain uses, which would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions and located in specific locations within a zone, but shall not be allowed under the general conditions of the zone as stated in this code.

SECTION 1202 APPLICATIONS

1202.1 Submittal. *Conditional-use* permit applications shall be submitted to the code official as provided in this code. Applications shall be accompanied by maps, drawings, statements or other documents in accordance with the provisions of Section 103.7.4. An appropriate fee shall be collected at the time of submittal as determined by the jurisdiction.

SECTION 1203 PUBLIC HEARING

1203.1 Hearing and action. Prior to the approval, amending or denial of a *conditional-use* permit, a public hearing shall be held in accordance with the provisions of Section 109.1. Upon the completion of said public hearing, the commission or examiner shall render a decision within a time limit as required by law.

SECTION 1204 DETERMINATION

1204.1 Authorization. The hearing examiner on appeal, shall have the authority to impose conditions and safeguards as deemed necessary to protect and enhance the health, safety and welfare of the surrounding area. The authorization of a *conditional-use* permit shall not be made unless the evidence presented is such to establish:

1. That such use will not, under the specific circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area and that the proposed use is necessary or desirable and provides a service or facility that contributes to the general well being of the surrounding area.

2. That such use will comply with the regulations and conditions specified in this code for such use.
3. The planning commission or hearing examiner shall itemize, describe or justify, then have recorded and filed in writing, the conditions imposed on the use.

SECTION 1205 EXPIRATION AND REVOCATION

1205.1 General. A *conditional-use* permit shall be considered to be exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When such permit is abandoned or discontinued for a period of 1 year, it shall not be reestablished, unless authorized by the planning commission, hearing examiner or legislative body on appeal.

A *conditional-use* permit shall be revoked where the applicant fails to comply with conditions imposed by the hearing examiner.

SECTION 1206 AMENDMENTS

1206.1 General. An amendment to an approved *conditional-use* permit shall be submitted to the code official accompanied by supporting information. The planning commission or hearing examiner shall review the amendment and shall be permitted to grant, deny or amend such amendment and impose conditions deemed necessary.

SECTION 1207 CONDITIONAL USE REVIEW CRITERIA

1207.1 General. A request for a *conditional use* shall be approved, approved with conditions or denied. Each request for a *conditional use* approval shall be consistent with the criteria listed in Items 1 through 9 as follows:

1. The request is consistent with all applicable provisions of the comprehensive plan.
2. The request shall not adversely affect adjacent properties.
3. The request is compatible with the existing or allowable uses of adjacent properties.

CONDITIONAL USES

4. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
5. The request can demonstrate adequate provision for maintenance of the use and associated structures.
6. The request has minimized, to the degree possible, adverse effects on the natural environment.
7. The request will not create undue traffic congestion.
8. The request will not adversely affect the public health, safety or welfare.
9. The request conforms to all applicable provisions of this code.