

	City of Lee's Summit Development Services Memorandum	
	To:	Steve Arbo
	From:	David Bushek, Chief Counsel of Economic Development & Planning Josh Johnson, Assistant Director of Plan Services Ryan A. Elam, Director of Development Services
	Date:	December 11, 2018
	Re:	Joint City Council – Planning Commission meeting held on November 20, 2018

This memo is intended to outline various topics discussed at the Joint City Council and Planning Commission meeting held on November 20, 2018, and to propose various options for addressing those items discussed in the meeting.

Planning Commission

Primary Issue:

The City Council wants to empower the Planning Commission to work through and discuss issues thoroughly before allowing an application to continue through the development process. There is a general feeling by applicants and the public that the relevant hearing is at the City Council level and the earlier part of the process is of less importance.

Actions:

- Require Planning Commission to formally make a recommendation for approval or denial prior to sending an application on to the City Council for final processing. For example, a failed motion for approval would need to be followed by a motion for denial that is fully voted on by the Commission.
- Require a 2/3 Council majority when the Planning Commission recommends denial of an application. This would incentivize applicants to work at the Commission level to create solutions so the threshold at the Council level is not greater than a simple majority.
- Remove language from the UDO minimizing the importance of the Comprehensive Plan. The UDO has language stating the Comprehensive Plan should not be used to deny an application. The Commission approves the Comprehensive Plan, so increasing its importance in the process would inherently give the Commission more leverage to ask for changes to the application based upon long term planning goals.

- Require amendments to the Comprehensive Plan if an application is not in conformance with the currently adopted Comprehensive Plan. This would ensure projects brought forward to the City Council are in conformance with adopted plans and has the potential to eliminate misunderstandings by the public at the City Council level.
- Institute quarterly training and onboarding for the Commission. Beyond clarifying the Commission’s role in the process, staff can provide updates on case law and latest trends in development.
- Provide leeway in schedule deadlines to allow the Commission more time to review additional information if needed.

Public Engagement

Primary Issue:

There seems to be a general consensus the public should be aware of applications earlier in the process.

Actions:

- Require Neighborhood Meetings for all applications requiring public hearings; rezoning, preliminary development plan and special use permit. This would require an amendment to the UDO.
- The purpose of the neighborhood meeting is to inform neighbors about the pending application, provide a summary of the development resulting from the application, and receive comments from the neighbors.
- Potential process changes that can be added to the UDO through the UDO amendment process include:
 - One neighborhood meeting is required for each application, which must occur within the initial 10 day review period and prior to re-submission of the application. More than one neighborhood meeting may be held on an application, at the option of the Applicant.
 - Timing and Location: Within two miles of the project site, Monday through Thursday, excluding holidays; and start between 6:00 P.M. and 8:00 P.M. If a location for the meeting is not available within [2] miles of the subject property, the applicant shall select a location outside this area that is reasonably close to these boundaries.
 - Notification shall be sent or delivered to property owners within 185 feet of the site. Mailed notices shall be postmarked at least seven days prior to the meeting. Hand-deliveries must occur at least five days prior to the meeting.

- The Applicant shall take sufficient notes at the neighborhood meeting to recall issues raised by the participants, in order to report on and discuss them at public hearings before City governmental bodies on the application.
- Staff is increasing the use of the City’s project portal to provide the public with application documents after a project is submitted. The project list now includes direct links to a project specific website with a list of submitted documents and anticipated public hearing dates. There is also a button to submit public comments related to applications. The comments received through this method will be included in the list of exhibits the same way a formal letter or email are currently included.
- Staff will also work on educating the public, through the City’s website and when there are calls on projects, on the process and the intent behind each step.
- Modifications to the posted “Yellow Public Hearing Signs” to increase their impact and direct citizens to additional information:
 - Current signs are 18 inches by 24 inches. The signage size can be increased to 5 feet by 4 feet.
 - Contents of the sign can be limited to increase the message impact and direct citizens where to find additional information.

Modifications

Primary Issue:

Councilmembers, Planning Commissioners and the public have expressed concern the City approves a significant number of modifications to UDO requirements, which appears to be contrary to the general spirit and intent of establishing zoning regulations that apply uniformly to all zoning districts in the City. Section 2.320.C of the UDO provides modifications to the underlying district regulations may be provided through approval of the PDP when the Council concludes the development:

- will provide sustainable value to the City,
- incorporates sound planning principles and design elements compatible with surrounding property and consistent throughout the proposed project,
- effectively uses land upon which the development is proposed, and
- the modification furthers the goals, spirit and intent of the UDO.

The purpose of modifications is to provide flexibility in the zoning process and provide balance for the applicant since the planned zoning process requires the applicant to submit additional information and details about the project on a preliminary development plan.

Actions:

- Staff can elaborate on the above points in greater detail on each request so the Commission and Council can better evaluate the merits of the individual modifications.

- Amend frequently modified UDO regulations such as unit density for multifamily developments, FAR requirements and landscaping and screening requirements. This will reduce the number of modifications being requested and align the UDO more closely with current practices.
- Provide additional training on the purpose and intent of planned zoning for the City Council and Planning Commission for better understanding of the modifications.

Public Hearings

Primary Issue:

The length of Public Hearings at the City Council level was discussed, and there was a general desire to shorten the amount of time spent on development issues at the Council Hearings to allow additional time for other city business.

The concept of holding only a “new evidence” hearing at the City Council was discussed. Section 89.050, RSMo only requires the City to hold one public hearing on a rezoning application (which includes a hearing on a preliminary development plan application). This requirement is legally satisfied when the Planning Commission holds a public hearing on the application. The City Council has a long history of holding a full public hearing including testimony that fully repeats the Planning Commission testimony from the applicant, City staff and the public.

At the joint Council-Planning Commission meeting, there appeared to be mixed responses to the idea of holding only a “new evidence” hearing before the City Council on rezoning, preliminary development plan and special use permit applications. However, there seems to be a general consensus on the desire to shorten the length of the City Council public hearings and reduce redundant testimony. It was not desired to limit the Public’s opportunity to comment on a project and to be heard. The general desire is exactly the opposite and is focused on providing avenues for the public to provide new information related to a project, and reaffirming to the public they have been heard. It may be difficult to craft UDO amendments which limit public testimony in order to reduce redundancy, but at the same time allow all interested persons to speak on an application which naturally may duplicate testimony received by the Planning Commission.

Actions:

Guidelines for Public Testimony in Lieu of a “New Evidence” Hearing Approach

As a possible alternative, the Council could consider establishing some guidelines for public hearing testimony in an effort to reduce redundancy, tighten up the duration of meetings and enhance the significance of the Planning Commission in the evaluation process. Some options to consider for Council guidelines on public testimony could include the following:

- The City Council will allow all interested persons to provide testimony and evidence at public hearings. The public is encouraged to avoid redundant testimony by repeating testimony presented previously.
- Councilmembers are responsible for reviewing and understanding the evidence and testimony entered into the record before the Planning Commission, as well as the documentation presented in the City Council meeting packets.

- The City Council may request the applicant provide a short summary, but not a full presentation of the same testimony presented to the Planning Commission.
- The City Council may request City staff provide a short summary, but not a full presentation, or may forego an initial staff presentation, and ask staff any questions necessary to provide a full evaluation of the application.
- It is the intention of the City Council to rely on the record created by the Planning Commission and use additional and new evidence necessary at the City Council meeting to make a fully-informed decision on an application.