ITEMS OF NOTE

• Did you know that we have tablets available if you would like to view your agenda packet electronically? Please let us know if you would like to check one out. Tablets must be returned to the City when you vacate your position.

• As a reminder, Board Members and Commissioners are required to complete the “Statement of Economic Interests” Form 700 annually and ethics training every two years (sorry, this doesn’t count).

• Your training binders contain additional information on subject areas that may not be covered today.
WHAT WE WILL BE COVERING TODAY

• How decisions are made
• How to be an effective decision maker
• How to run an efficient meeting
How Decisions Are Made

The Role of the Board of Zoning Adjustments and Planning Commission in the Deliberation Process
The Role of the BZA and PC

- San Leandro is unique with both a Planning Commission and BZA
- Primary duty - make land use decisions consistent with the policies/plans adopted by City Council
- Review the proposal and weigh the input from the public, staff, and applicants…and then make a decision
- Learn as much as you can about the process…but you don’t need to know everything
Understanding Each Other’s Roles

Planning Staff
- Frames the Decisions
- Identifies established policies and regulations for project applications
- Works with other departments and agencies, such as Fire, Engineering and Building, to incorporate comments and technical recommendations into a project

Board and Commission
- Makes the Decisions
- Balances staff analysis, including agency goals and policies, with community input
- Evaluates land use aspects of projects; leaves the technical issues for staff review and implementation
Understanding Roles

Planning Staff
• Implement established policies and codes
• Prepares a professional analysis and recommendation(s)
• Monitors project implementation after the decision is made
• Conducts public outreach and consensus-building meetings on significant projects

Boards and Commissions
• Planning Commission recommends to City Council on policy, legislative matters, subdivisions & PDs
• BZA renders decisions based on findings of fact acting in a quasi-judicial/adjudicatory capacity
• Discusses only those projects or topics scheduled for public hearing or action before them
• Hosts a fair and efficient public hearing, considers public comments before reaching a decision
Be Mindful of Established Policies and Procedures

- Adopted policies (i.e., General Plan) lay the groundwork for how you approach a decision
- Staff presents established policies and code requirements in the staff report
- Codes/policies are reiterated in the recommended findings for approval
- It’s hard to make a defensible decision that works against existing General Plan policy…and it’s impossible to make one that defies the Code or State law
How Decisions Are Made

Findings are the basis for your decision.
Findings of Fact

• A finding is a statement of the standards, facts, and conclusions used in making a decision.

• Findings explain how staff processed the evidence presented to reach its decision or recommendation.

• The law requires specific findings be made for certain types of decisions and when you approve or deny a project:
  - Quasi-judicial and non-legislative decisions (CUP, PD, SPR).
  - Legislative decisions (i.e., ordinance or rezoning) do not require support by findings.
Findings of Fact

• Findings provide the framework for a principled decision and are integral to a reasoned decision making process
• Findings keep your decision on track with logical analysis and demonstrate a clear path for your decision from evidence to conclusion
• Findings help demonstrate that your decision-making process was reasonable and impartial
• Findings can be long and detailed – must have an adequate record of the decision if it is challenged in court.
5-2212 Required Findings

An application for a use permit or variance as it was applied for or in modified form as required by the Board, shall be approved if, on the basis of the application, plans, materials, and testimony submitted, the Board finds:

A. For All Use Permits.

1. That the proposed location of the use is in accord with the objectives of this Code and the purposes of the district in which the site is located;

2. That the proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City;

3. That the proposed use will comply with the provisions of this Code, including any specific condition required for the proposed use in the district in which it would be located; and

4. That the proposed use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.
Findings of Fact

• The City’s Zoning Code requires findings for “quasi-judicial” land use proposals

  • Conditional Use Permits (Board of Zoning Adjustments)
  • Tentative Tract Maps / Subdivision Maps* (Planning Commission)
  • Site Plan Review (Board of Zoning Adjustments)
  • Variances* (Board of Zoning Adjustments)
  • Planned Developments (Planning Commission)

*State law establishes specific findings as reflected in our Zoning Code
Findings of Fact

• Findings are also necessary when you impose:
  • Conditions of Approval (Findings support the COAs)
  • Fees
  • Dedications of land or easements
  • General Plan limitations on the number of housing units (specific requirement in State law)
  • Design criteria
The Takeaway about Findings

• Findings demonstrate the relationship between the requirement being imposed on a project and the project’s impact.

• Use findings to validate your reasons.

• Well-written findings explain why & don’t just repeat the Zoning Code
  • Use the word “Because”
  • Tie your finding back to an adopted plan, policy or standard
  • Show the connection between the evidence/facts/issues and your decision
How Decisions Are Made

When it’s time to make a motion
Making a Decision with Reason

• Explain why - bridge the gap between evidence/facts and your motion to impose a condition of approval

• Support with evidence in the record (e.g., project plans, application materials, staff report, special studies, transcripts) and not based on speculation or assumptions.

• Must have a “rational nexus” - a reasonable and “proportionate” connection between the condition of approval being imposed and the impact of a development project under consideration.
How Do We Require That?

- Street widening?
- Utilities lines put underground?
- Bicycle lanes?
- Public art?
- Illuminated sidewalks?
- Decorative paving?
What if you Disagree with the Staff Recommendation?

• It happens…staff understands

• It’s okay to say no…
  • If findings are required, make sure you can state a basis for the decision
  • If findings are not required, you are not required to do so, but it helps if you explain to staff and the public your denial
  • Be mindful that it takes time to draft revised findings that line up with your direction
Sometimes it **Needs to be Continued**

- If the decision is adjudicatory or quasi-judicial and you disagree or differ from the staff recommendation, you will need to make new findings.
- It’s hard for staff to write new findings on the spot during the hearing.
- Elaborate your reasons and direct staff to return at the next meeting in your motion.
- If there is ever a legal issue, ask staff or staff will intervene.
When Considering Your Decision

• There is no right answer
• Beware of “analysis paralysis” – more information doesn’t mean a better decision
• Everyone has the right to propose a project – staff can’t say no or prevent someone from applying
• The microphone is on. Think before you speak or converse with colleagues
• Trust your knowledge and experience - you know your own community
When Considering Your Decision

- Sometimes the benefit of the project is greater than its impact
  - A project can be environmentally benign and still a bad idea
  - A project can have an environmental impact and still be a good idea
    - We have Environmental Impact Reports with Statements of Overriding Consideration for that sort of thing
- You don’t need to be an expert – your informed opinion is what matters
On Running an Efficient Meeting…
Before the Hearing Begins

• Read the agenda packet materials and come prepared
• Ask questions of staff in advance of the hearing, especially if you don’t understand something
• Feel free to alert staff to special concerns you intend to raise during the meeting so that you have the best answer possible
• Think about the specific reasons for your own decisions and how you might craft your recommendation or motion
The Role of the Chair

The chair should:

• Welcome everyone and explain the meeting process
• Keep the meeting moving efficiently
• Always be fair
• Does not allow the audience to interrupt when someone else has the floor
• Maintains equitable time/patiently listens to each person who wishes to speak
• Guides the Board/PC towards reaching a reasonable and clear decision
How you can help keep the meeting moving efficiently

• Ask staff questions in advance - this saves meeting time and enables staff to prepare more comprehensive answers at the hearing
• Avoid using public meetings as an opportunity to make personal judgements or grandstand
• Be respectful of who has the floor
• Avoid engaging with the audience
How you can help keep the meeting moving efficiently

• Use the button on your microphone when you want to speak. Wait for the Chair to call on you.
• Statements and opinions should be pertinent and related to the hearing item
• Avoid unnecessary questions, such as those that entertain a curiosity or an unrelated interest or issue.
Keep In Mind

• Projects are thoroughly reviewed by staff from multiple departments and have often been revised multiple times before they get to hearing

• As an appointed representative of the City Council, your roles are typically limited to what’s on the meeting agenda

• Fairness should be your guide

• Maintaining impartiality – avoid revealing your decision publicly before a hearing
Last minute written comments submitted at the hearing? Surprise unexpected new information suddenly presented?

- Consider taking an appropriately timed recess to review what was submitted (“pause the meeting”)
- Staff will help you make the call if something needs to be continued or not

Know how to respond when weirdness happens
No consensus can be reached when making a decision?

- The Chair can help point out/reiterate those areas where members/commissioners agree and have consensus

- Consider the reasons why consensus cannot be reached. Continue the item if necessary
Unruly audience? Public comments getting testy?
Are people getting angry? Have things gone too far?

- The Chair should politely discourage and call out interruptions and remind them who has the floor.

- The Chair should promptly and decisively call out booing, cheering and any off-limits behavior such as name calling. Notify troublemakers they are violating rules.

- When conversations get heated, motion for a recess. Give everyone a chance to calm down.
CEQA IN FIVE SLIDES

What Does CEQA do?

- **IDENTIFY**: Ensure that governmental decision makers make informed decisions regarding the potential significant environmental impacts of proposed projects and project-related activities.

- **DISCLOSE**: Inform the public about the potential significant environmental impacts of proposed activities being considered by governmental decision makers.

- **HOLD ACCOUNTABLE**: Hold governmental decision makers accountable for their decisions regarding potential environmental impacts, requiring them to articulate reasons for their decisions.

- **PROVIDE A SOLUTION**: Require that significant environmental impacts be mitigated if feasible (and explain why if not feasible).

- **PROVIDE ALTERNATIVES**: Require adoption of environmentally beneficial alternatives if feasible (and explain why if alternatives are not feasible).
TYPES OF CEQA DETERMINATIONS

There are different kinds of CEQA Determinations:

• **CEQA Exemption** - CEQA doesn’t apply
• **Negative Declaration** - No impact
• **Mitigated Negative Declaration** - No impact with mitigation
• **Environmental Impact Report** - Impact may or may not be mitigated

The course of action is based on the initial study.

There can also be Amendments and Addendums...
WHAT IS A MITIGATION MEASURE?

• A mitigation measure is an action to be taken to reduce or avoid a significant impact resulting from a proposed project.

• Mitigation cannot be proposed or required where there is no impact or a less than significant impact.

• Mitigation measures are also Conditions of Approval, except that if the measure(s) are not applied, the project will have unmitigated environmental impacts.
What to Read

• Project Description
• Comment Letters & Response to Comments
• Impacts that lead to Mitigation
• Staff Report

What to Skim

• Introduction & Summary
• Methodology & Thresholds
• Technical Appendices
IN A NUTSHELL, CEQA:

• Provides Information about the probable effects of the project on the environment

• Lets you know the possible consequences of your decisions

• Requires a solution to a project’s environmental impacts if possible; or

• Allows consideration of the project even if there is no environmental solution