IMPROVING THE ZONING HEARING PROCESS

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Create a professional atmosphere at the public hearing

- Place those holding the hearing on a dais.
- Hold the hearings at night, and at the same time and place each month.
- Establish reasonable time limits for speakers at the public hearing (min. 10 minutes per side).
Create a professional atmosphere at the public hearing

• Adhere to a schedule of hearing from the applicant first, then the opposition and then rebuttal (with time limits).

• The Chair should call each case for hearing and control the flow of the meeting. Staff should play no role during the hearing portion except to indicate what the request is and where the property is located, and to answer questions.
MORGAN COUNTY PUBLIC HEARING PROCEDURES

Section 32.1.2 Order of Public Hearing.

(a) The public hearing shall be called to order by the Chairman.

(b) The Chairman shall explain the procedures to be followed in the conduct of the public hearing. A list of those procedures will be provided in writing at every public hearing, and it will include at minimum:
a. recognition of applications on the order they are presented in the agenda;
b. recognition of planning staff to provide staff reports in accordance with Chapter 32.2 of this Article.
c. recognition of members of the public in attendance to speak for or against the application
d. call for a motion for each application.
(c) Applicantions will be heard in the order they are listed on the agenda. If an applicant is not present at the time their item is called for consideration, it will be moved to the end of the agenda to allow time for the applicant to arrive. If the applicant has not arrived by the time all other items have been considered, the Planning Commission, Resource Advisory Board, or Board of Commissioners may proceed with one of the following actions:

a. table the application to a specified date;

b. proceed with the public hearing of the application including the staff report and comments from members of the public in attendance to speak for or against the application.
Section 32.1.3 Recognition of Speakers.

(a) The Chairman shall call upon the Director of Planning and Development or his designee to introduce the application and give the staff report.

(b) After the staff report has been given, the Chairman will call upon the applicant or their representative to provide any additional comment to the staff report. At minimum, the applicant and/or their representative shall collectively have no less than ten (10) minutes for presentation of data, evidence, and opinion.
(c) After the applicant or their representative has given additional comment, the Chairman will open the floor to individuals with comments in favor of the application. Comments may be limited at the discretion of the chairman in accordance with O.C.G.A. section 36.65.5. At minimum, those individuals wishing to speak in favor of the application shall collectively have no less than ten (10) minutes for presentation of data, evidence, and opinion. All speakers are urged to make their comments briefly and concisely, and they should avoid repeating others’ comments.
(d) After individuals with comments in favor of the application have spoken, the Chairman will open the floor to individuals with comments opposed to the application. Comments may be limited according at the discretion of the Chairman in accordance with O.C.G.A. section 36.65.5. At minimum, those individuals wishing to speak in opposition to the application shall collectively have no less than ten (10) minutes for presentation of data, evidence, and opinion. All speakers are urged to make their comments briefly and concisely, and they should avoid repeating others’ comments.
(e) After individuals with comments in opposition to the application have spoken, the Chairman will formally close the floor for further comment from the public. The Chairman shall call upon the applicant or their representative to make any final summary remarks regarding their application. The Chairman shall call upon the planning staff to make any final summary remarks regarding the application.
(f) At any time during the public hearing, members may ask questions of the planning staff, the county attorney, the applicant and/or their representative, members of the public, or any other individual present at the meeting. At any time during the meeting the members may provide commentary on any remarks made by the planning staff, the county attorney, the applicant and/or their representative, members of the public, or any other individual present at the meeting.
Increase communication between the Planning Commission and the Elected Officials

- Review the Comprehensive Plan each year on a formal basis.
- Hold an annual meeting between both groups to discuss the past year's cases and final disposition.
USING STANDARDS
For Rezoning
(a) Compatibility with Adjacent Uses and Districts: Existing uses and use districts of surrounding and nearby properties, whether the proposed use district is suitable in light of such existing uses and use districts of surrounding and nearby properties, and whether the proposal will adversely affect the existing use or usability of adjacent or nearby properties.
(b) Property Value: The existing value of the property contained in the petition under the existing use district classification, the extent to which the property value of the subject property is diminished by the existing use district classification, and whether the subject property has a reasonable economic use under the current use district.

(c) Suitability: The suitability of the subject property under the existing use district classification, and the suitability of the subject property under the proposed use district classification of the property.
(d) Vacancy and Marketing: The length of time the property has been vacant or unused as currently used under the current use district classification; and any efforts taken by the property owner(s) to use the property or sell the property under the existing use district classification.

(e) Evidence of Need: The amount of undeveloped land in the general area affected which has the same use district classification as the map change requested. It shall be the duty of the applicant to carry the burden of proof that the proposed application promotes public health, safety, morality or general welfare.
(f) Public Facilities Impacts: Whether the proposal will result in a use, which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities and services.

(g) Consistency with Comprehensive Plan: Whether the proposal is in conformity with the policy and intent of the locally adopted comprehensive plan. 2 9-7

(h) Other Conditions. Whether there are any other existing or changing conditions affecting the use and development of the property that give supporting grounds for either approval or disapproval of the proposal.
MORGAN COUNTY CONDITIONAL USE STANDARDS

In determining the compatibility of a use with adjacent properties and the overall community, the Planning Commission and Board of Commissioners must make the following findings if the use is to be approved or approved with conditions:

(a) Adequate provision is made by the applicant to reduce any adverse environmental impacts of the proposed use to an acceptable level;
(b) Vehicular traffic and pedestrian movement on adjacent streets will not be substantially hindered or endangered;

(c) Off-street parking and loading, and the entrance to and exit from such parking and loading, will be adequate in terms of location, amount and design to service the use;

(d) Public facilities and utilities are capable of adequately serving the proposed use;
(e) Granting the request would not be an illogical extension of a use which would intrude a damaging volume of (1) agricultural, (2) commercial, (3) industrial, or (4) high density apartment use into a stable neighborhood of well-maintained single-family homes, and likely lead to decreasing surrounding property values, neighborhood deterioration, spreading of blight, and additional requests of a similar nature which would expand the problem;

(f) Granting the request would not lead to congestion, noise and traffic hazards or overload public facilities, current or planned;
(g) Granting this request would conform to the general expectations for the area population growth and distribution according to the Comprehensive Land Use Plan;

(h) Granting this request would not lead to a major negative change in existing (1) levels of public service, (2) government employees or (3) fiscal stability;

Granting this request would not have a "domino effect," in that it becomes the opening wedge for further rapid growth, urbanization or other land-use change beyond what is indicated in the Comprehensive Land Use Plan.
CONFLICT OF INTEREST
IN ZONING ACT

O.C.G.A. Chapter 36-67(A)
DISCLOSE/DISQUALIFY

• PUBLIC OFFICIALS

• APPLICANTS/ ATTORNEYS

• OPPOSITION/ ATTORNEYS
WHEN?

• ONLY REZONING
WHICH PUBLIC OFFICIALS?

- PLANNING COMMISSION
- GOVERNING AUTHORITY
  - MAYOR
  - COUNCIL
  - COUNTY COMMISSION
PUBLIC OFFICIALS

• Any ownership interest
  • Disclose and disqualify

• Financial Interest in entity w/ any ownership
  • Financial interest = 10%
  • Disclose and disqualify
PUBLIC OFFICIALS (continued)

- Family members with ownership or financial interest
  - Family = sp, m, f, s, b, s, d
  - Disclose

- Campaign contributions
  - None
ETHICAL CONSIDERATIONS CONCERNING VOTING
Ethical Issues


LEGISLATIVE v. ADMINISTRATIVE DECISION-MAKING
1. Set up procedures for calling and conducting of the hearing as required by O.C.G.A. §36-66-5(a).

LEGISLATIVE HEARINGS

3. Copy the entire zoning file for each application to be considered at the public hearing and distribute one copy to each planning commission member or elected official at least seventy-two hours before the hearing.

4. Record the public hearing, either by a tape recorder or a court reporter. If the case is appealed, prepare a transcript.
5. Prepare an agenda before the meeting listing all the applications with a description of each and provide the order in which they will be considered by the hearing board. A copy should be available for all attendees.

6. Prepare a copy of the procedures for distribution to the attendees as required by O.C.G.A. §36-66-5(a).
LEGISLATIVE HEARINGS

7. Have the official zoning map and the future land use plan present during the public hearing.

8. Have a professional staff member give a report and make a recommendation to the hearing board.
9. A motion respecting the decision of the hearing board should be stated clearly. Especially, this is true in the case of conditions which apply to a rezoning.

10. The Planning Commission is not required to make findings, but it may do so in accordance with the standards previously adopted by the local governing authority.
1. Provide the required notice of the hearing as set forth in the local ordinance.

2. Establish written procedures for conduct of the hearing and provide a copy to all attendees.
The recommended procedures are as follows:

a. Allow the applicant to make the first presentation.

b. Provide for witness testimony.
c. Allow for cross-examination by interested parties (require interested parties to be represented by someone).

d. Allow interested parties to introduce evidence.

e. Allow cross-examination of the interested parties by applicant.
ADMINISTRATIVE HEARINGS

f. Require that all documents be marked as exhibits.

g. Upon conclusion of the hearing for each application, make a decision.

h. Reduce all decisions to writing or have a verbatim transcript of the motion and vote on each decision.
3. Prepare a record or file for each application which should include the application and any documents introduced or provided as exhibits and the transcript of the hearing. It is especially important that this be prepared in the event of an appeal.
4. Have a professional staff member explain the case to the Board. Allow him or her to be examined as appropriate by the applicant or interested parties. The professional staff may make a recommendation of a desired result, but it is not required.
5. Provide the same file to the applicant as is provided to each board member. Make sure each board member has a copy of the file prior to the hearing. Make the file available to the parties interested upon request.
ADMINISTRATIVE HEARINGS

6. Have the official zoning map and future land use plan present at the hearing for use by anyone at the hearing.

7. Record the public hearing, either by a tape recorder or a court reporter. If the case is appealed, prepare a transcript.
PUBLIC HEARING DO'S AND DON'TS FOR PUBLIC OFFICIALS
I. DO EXPRESS A CONTINUOUSLY OPEN MIND ABOUT THE ZONING ISSUE BEFORE, DURING, AND AFTER THE PUBLIC HEARING
II.
DON'T PROMISE A VOTE
III.

DO MAKE YOUR STATEMENTS TO THE CHAIR--
AVOID ARGUING WITH YOUR COLLEAGUES OR ANYONE IN THE AUDIENCE
IV.
DON'T INTERJECT PERSONALITIES INTO YOUR STATEMENTS
V.
DO ELICIT AGREEMENTS
FROM THE PROPERTY
OWNER FOR CONDITIONS
TO PROTECT NEIGHBORING
PROPERTY OWNERS
VI.
DO MAKE YOUR VOTE BASED ON THE RECORD OF THE PUBLIC HEARING
VII.
DO STATE ANY CONFLICTS OF
INTEREST AT THE BEGINNING OF THE
HEARING
ON THE ZONING MATTER AND EITHER
SIT QUIETLY BY OR EXCUSE
YOURSELF FROM THE HEARING ROOM
VIII.
DON'T BASE A DECISION ON FACTORS NOT CONNECTED WITH THE ESTABLISHED ZONING STANDARDS
IX.
DON'T TELL THE PROPERTY OWNER AND NEIGHBORHOOD TO GO "WORK IT OUT"
X.
DON'T TALK ABOUT CAMPAIGN CONTRIBUTIONS DURING THE HEARING
QUESTIONS AND ANSWERS

FIRE AWAY ...