

Public Outreach – Municipal Code Changes Regarding the Appeals Process

Appellant Focus Group – June 6, 2019

(Invitation sent to all appellants who had been involved in appeals in the last three years)

City Staff Delynn Coldiron, City Clerk
Present: Sylvia Tatman-Burruss, Development Review Liaison

Participants: Three Attendees

Meeting

Specifics: Wednesday, June 6th, 6:00 P.M. 281 North College Ave.

Discussion:

Definitions:

- Clarify that a party-in-interest can be opposed or in support of an appeal.

Ex Parte Communications:

- Is ex parte communication something that is an appealable issue?
 - If someone believes that a decision-maker was biased or had received information outside of the public hearing process, that can be offered as a reason for applying for an appeal.
- During a City Council appeal site visit, the City didn't outline clearly what was ex parte communication during that visit. The Assistant City Attorney did not allow the appellant to enter the conversation, but the developer was allowed to joke with the attorney. Maybe an unaffiliated third party can run the meeting to keep there from being bias in the process.
 - Perhaps the site visits could be facilitated by the Development Review Liaison (she explained the role of the Development Review Liaison).

General Comments:

- Decision-maker should only be offering a decision in writing and not during a public hearing.
 - Because people who appeal projects may not want to read a written decision and would rather see deliberation and decision-making occur in a public setting, it is better to have a decision rendered at a hearing. One could then have both a written and verbal decisions available.
- The larger issue here is that the City does not follow its codes and procedures. Another issue is that citizens enter into the appeals process without an understanding of the process, which creates a lot of confusion. People don't know that they need to refer to the Land Use Code rather than referring to subjective information.
 - Valid concerns, however, not part of this particular code change or update.
- In the past, the Planning and Zoning board has reached decisions too quickly. The neighborhood meeting is an important part of the process, but those meetings have been skewed to benefit the developer rather than the community. The key sticking point on The Union (on Elizabeth) was density and height. Ultimately, no compromise was reached to allay community concerns. The decision was therefore not made fairly by the Planning and Zoning Board.

- Development Review staff and the developer seem to be too friendly.
- Someone can sit through a hearing and know something isn't meeting the Land Use Code, but it only comes out during an appeal. The City should clarify for someone whether there are grounds for appeal and, if not, should coach someone not to pursue it.
- There are no standards that appellants have to meet; they can file anything. Think the process is biased towards the appellant. Can standards be created?
- The City's website should be updated to make it easier to understand how to make comments regarding development review projects.
 - The Development Review website is currently being updated to provide greater clarity to customers, including how they can be involved in the Development Review process.

Notice:

- It is a problem that only property owners receive notification of a development proposal and not renters. This keeps renters from knowing that a project may be coming into their neighborhood.
 - The proposed changes attempt to match the current requirement in the Land Use Code. Planning and Development is considering changing this policy to include renters in the notification list. If this gets done, staff would move forward with a recommended change to this policy to ensure consistency.

Timelines:

- Why is 77 days the number of days? Is there a reason why both sides don't get the chance to extend that date?
 - Review of deadlines dates was done. The change in the number of days is meant to allow for greater equity among parties in the appeal. There is a chance to extend these in extenuating circumstances. The goal of the 77 days is to ensure an appeal is not delayed indefinitely. The move from 75 to 77 days is in keeping with staff's efforts to ensure deadlines do not fall on weekends (moving to multiples of 7). Similar things were done for the election code deadlines.
- Reinforce that there could be new evidence submitted that is either in opposition or support of the appeal, not just in opposition to the appeal. Deadlines need to take this into account.
- A pre-appeal meeting would be nice to make sure that all evidence has been accounted for.