

ARTICLE XII. AMENDMENTS AND VARIANCE REQUESTS

Sec. 56-261. Amendments to text and zoning map.

- (a) This chapter, may be amended from time to time by the board of commissioners of the county, but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the county planning commission for review and recommendation. The planning commission shall have 30 days after hearing such proposal to submit a report. If the planning commission fails to submit a report within a 30-day period, it shall be deemed to have approved the proposed amendment.
- (b) Before enacting an amendment to this chapter or map, the county shall hold a public hearing thereon, prior notice of the time and place of which shall be published in a newspaper of general circulation in the county at least 15 days but no more than 45 days prior to the date of the hearing. Such public hearing shall be advertised and held by the county board of commissioners; however, the board of commissioners of the county may in its discretion hold such other and additional hearings as it deems appropriate. The notice shall state the time, place and purpose of the hearing. Proponents of any zoning decision shall have no less than ten minutes to express their views and present data, evidence and opinions on the proposed zoning decision. Opponents of any zoning decision shall have no less than ten minutes to express their views and present data, evidence and opinions on the proposed zoning decision.

(Ord. of 8-28-2007(1), § 161)

Sec. 56-262. Application for zoning map amendment and/or variance request by individuals.

- (a) A zoning map amendment and/or zoning variance request may be proposed by an individual or an entity owning fee-simple title to the subject property, or by one with written authorization to act on behalf of such owner or owners, by:
 - (1) Obtaining an application for a zoning map amendment or variance request from the administrative officer of the planning commission in the county courthouse.
 - (2) Filing with the administrative officer the completed application along with a plat of the subject property outlining its proposed use and an advertising fee as set by the planning commission.
- (b) Notification of public hearing. Before the county planning commission makes a recommendation regarding an application for zoning map amendment or variance request by an individual property owner to the county board of commissioners, the commission shall hold a public meeting or hearing thereon, official notice of which shall be advertised in the current legal organ of the county (Clayton Tribune) or its successor at least 15 days, but not more than 45 days, prior to the hearing. The notice of the public hearing shall include the time, place and purpose of the hearing, the location of the property, the present and proposed zoning classifications, and the name of the owner or owners. Signs shall be posted on the subject property in a conspicuous place at least 15 days before the public hearing is to be held. Signs shall contain the time, date, place of public hearing and the present and proposed zoning of property.
- (c) Hearing on proposed zoning map or zoning text amendment and/or variance request by individuals.
 - (1) A public meeting or hearing to consider a zoning map amendment and/or variance request will be heard before the county planning commission. Proponents of any zoning decision shall have no less than ten minutes to express their views and present data, evidence and opinions on the proposed

zoning decision. Opponents of any zoning decision shall have no less than ten minutes to express their views and present data, evidence and opinions on the proposed zoning decision.

- (2) In hearings on rezoning and/or variance applications, if the owner applicant, or an attorney representing the applicant, cannot be present for the hearing, a written document signed by the applicant and notarized, designating a person who will be appearing on his behalf must be furnished to the planning commission no later than 72 hours prior to the scheduled date of the hearing.
 - (3) It will be the responsibility of the applicant to prove to the planning commission, through use of witnesses, written statements, technical data, field data or any other materials the applicant deems relevant to the subject property, the need for the rezoning and that the rezoning will be compatible with the long range requirements of the public health, safety and welfare, and is not contrary to the overall objective to this zoning chapter. Provisions for all utilities must be submitted at the hearing.
 - (4) After all parties present have had an opportunity to express their views and present evidence on the proposed zoning decision and after the planning commission has discussed, propounded questions to the applicant and participants, and considered the rezoning request or variance request, the chairman will call for a motion to be made by one of the members of the planning commission. If the motion is made and seconded, a vote will be made by the members of the commission, with the chairman voting only in the event that the vote is tied.
- (d) Standards on which the planning commission will base their decision. The planning commission will base their decision, for or against, on the following six standards:
- (1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
 - (2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
 - (3) Whether the property to be affected by the zoning proposal has reasonable economic use as currently zoned;
 - (4) Whether the zoning proposal will result in a use which will, or could, cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;
 - (5) If the local government has an adopted land use plan, whether the zoning proposal is in conformity with the policy and intent of the land use plan;
 - (6) Whether there are other existing or changing conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the proposed zoning amendment.
- (e) Recommendations of planning commission. The decision of the planning commission will be forwarded to the board of commissioners, in the form of a recommendation, for their review. The board of commissioners will then make the final decision as to whether or not the zoning change will be made.
- (f) Hearing before board of commissioners.
- (1) Notice is hereby given that the same notice and advertising requirements pertain to the hearing to be held before the board of commissioners as those that pertain to the hearing before the planning commission. It is the responsibility of the applicant to assure, through the county board of commissioners that the necessary notices are published in the legal organ of the county (Clayton Tribune) and to present sufficient evidence before the board of commissioners, either to refute the recommendation of the county planning commission, or to support recommendation under the same standards set out in subsection (d) of this section. The applicant has the same burden before the board

of commissioners as before the planning commission and must be present, or be represented, at all hearings.

- (2) Proponents of any zoning decision shall have no less than ten minutes to express their views and present data, evidence and opinions on the proposed zoning decision. Opponents of any zoning decision shall have no less than ten minutes to express their views and present data, evidence and opinions on the proposed zoning decision.

(Ord. of 8-28-2007(1), § 162)

Sec. 56-263. Defeated zoning or variance requests.

If the zoning decision of the board of commissioners is for the rezoning of property or for a variance request concerning property, and the amendment to the zoning ordinance to accomplish the rezoning or the variance request is defeated, then the same property may not again be considered for rezoning or for a variance request until the expiration of at least six months immediately following the defeat of the rezoning or variance request by the board of commissioners.

(Ord. of 8-26-2014)

Secs. 56-264—56-287. Reserved.