



**A JOINT WORKSHOP OF THE CITY COUNCIL  
AND THE PLANNING COMMISSION  
APRIL 13, 2026, 12:00 NOON  
LIBRARY COMMUNITY ROOM  
702 E. FRONT AVENUE**

**MEETING AGENDA**

1. Call to Order
2. Presentation: Local Land Use Planning

**Presented by: Randy Adams, City Attorney  
and Hilary Patterson, Community Planning Director**

3. Discussion
4. Adjournment

NOTE: The City will make reasonable accommodations for anyone attending this meeting who require special assistance for hearing, physical or other impairments. Please contact the City Clerk at (208) 769-2231 at least 72 hours in advance of the meeting date and time.

## LOCAL LAND USE PLANNING WORKSHOP

### I. Generally

- A. The Commission consists of seven (7) members, appointed by the Mayor and confirmed by Council. Members can be removed in the same way. All members of the Commission must have continuously resided in the County for two (2) years prior to their appointment. The members of the Commission must be residents of the City during their term of office, except that three (3) members may be nonresidents living within Kootenai County and employed within the City limits.
- B. The term of office is six (6) years “or until his successor is appointed and qualified.” M.C. § 2.48.020(A).
- C. Members may be removed may, in like manner, be removed. M.C. § 2.48.020(A). Members may be removed for cause by a majority vote of the City Council. M.C. § 2.48.020(B).
- D. The duties of the Commission are: to recommend and make suggestions to the Council for the adoption of coordinated plans for the physical development of the City; to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, make reports, hold public hearings and perform all other duties as may be prescribed by the Idaho Code and the Zoning Ordinance; to serve as the Development Impact Fee Advisory Committee performing all duties prescribed by the Idaho Code; and to comply with all City policies, procedures, and regulations. M.C. § 2.48.030. The Commission shall also endeavor to promote a public interest in and understanding of the Commission’s activities. I.C. § 67-6507.
- E. The Commissioners elect a Chair and any other officers they feel are appropriate. However, the Chair is still a member and votes on all matters. There is no provision in the law for the Chair to break ties. I.C. § 67-6504(b).
- F. The Commission can establish subcommittees, advisory committees, or neighborhood groups to advise and assist, and may appoint nonvoting ex officio advisors. I.C. § 67-6504(b).
- G. When the Commission hears an application, it has a reasonable time to make a decision and/or make a recommendation to Council. The Commission or Council must establish by rule a time period within which a recommendation or decision must be made. I.C. § 67-6519(2).
- H. Every final decision shall include a notice regarding the applicant’s right to request a regulatory taking analysis. I.C. § 67-6519(6). We also generally provide a notice of the right to appeal a decision, although that is not by statute.
- I. An applicant denied an application or aggrieved by a final decision may within

twenty-eight (28) days after all remedies have been exhausted under the Zoning Ordinance seek judicial review. I.C. § 67-6519(6). This generally means after Council has made its decision or reviewed the Commission's decision, and rendered a final decision on a matter.

- J. In addition to granting or denying an application, either the Commission or Council can delay, or table, a matter for a definite period of time to allow further study or an additional hearing. I.C. § 67-6521(1)(c)(ii).
- K. Member of Council and the Commission may not participate in any proceeding or action when the member, an, business partner, business associate, or any person related by affinity or consanguinity within the second degree has an economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. For purposes of this rule the term "participation" means engaging in activities which constitute deliberations pursuant to the open meeting act. No member of Council or the Commission with a conflict of interest shall participate in any aspect of the decision-making process concerning a matter involving the conflict of interest. A knowing violation of this section shall be a misdemeanor." I.C. § 67-6506.
- L. Conflicts of Interest
  - 1. Under the Local Land Use Planning Act, "A member or employee of [Council or the] [C]ommission, shall not participate in any proceeding or action when the member or employee or his employer, business partner, business associate, or any person related to him by affinity or consanguinity within the second degree has an economic interest in the procedure or action. I.C. § 67-6506.
  - 2. Second degree of consanguinity includes: Parents, Grandparents, Brothers and Sisters, Aunts and Uncles, Children, Grandchildren, Nieces and Nephews.
  - 3. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. For purposes of this section the term "participation" means engaging in activities which constitute deliberations pursuant to the open meeting act. I.C. § 67-6506.
  - 4. No member of a governing board or a planning and zoning commission with a conflict of interest shall participate in any aspect of the decision-making process concerning a matter involving the conflict of interest. A knowing violation of this section shall be a misdemeanor. I.C. § 67-6506.
  - 5. Economic interest or pecuniary benefit may mean an "increase in pecuniary

value from sources other than lawful compensation as a public official.” I.C. § 74-403(5)

6. A violation of these rules constitutes a misdemeanor.

#### M. Public Hearings

1. When a public hearing is required by statute, Council and the Commission must follow the Rules of Procedure adopted by Council and codified as Municipal Code § 1.11.010.
2. Among the Rules are: C.R.P. 5: The speaker shall not be interrupted by members of the hearing body until his time limit has been expended or until he has finished his statement. And
3. C.R.P. 7: When the public hearing is quasi-judicial in nature or one after which the hearing body is required by law to make findings of fact, each speaker must swear or affirm that his testimony will be true and correct.
4. The term “quasi-judicial” means that Council or the Commission are acting as the judges of the facts of a matter. Certain due process rights are afforded in a quasi-judicial hearing, such as the right to be heard and the right to have the matter determined on the record presented at the hearing.
5. Council or the Commission acts as the judge of the facts when the matter affects a specific property or person, as opposed to the City or its citizens as a whole.
6. When Council or the Commission address a matter applicable to the City as a whole, they are acting in a legislative capacity, such as when an ordinance or ordinance amendment is proposed. When Council or the Commission acts in a legislative capacity, testimony is not taken. On legislative matters, the public may speak on the matter during public comment.
7. Annexations and Zoning Code amendments require public hearings by statute, but they are not “quasi-judicial” in nature.

#### II. Comprehensive Plan

- A. One of the duties of the Commission is to conduct a comprehensive planning process designed to prepare, implement, review, and update a comprehensive plan. I.C. § 67-6508.
- B. The Commission may make recommendations to Council concerning the Comp Plan, planning process or implementation of the plan at any time. I.C. § 67-6507.

- C. The Commission must conduct at least one (1) public hearing to consider changes to the Comp Plan. At that hearing, interested persons shall have an opportunity to be heard. The notice of hearing must contain a summary of the plan amendments to be discussed. I.C. § 67-6509(1).
- D. If, at the hearing, the Commission recommends a material change to a proposed amendments to the Comp Plan, it must conduct another public hearing concerning the matter unless Council is not going to conduct its own public hearing. I.C. § 67-6509(1).
- E. If the Commission conducts the required public hearing or hearings, Council may, but is not required to, conduct a public hearing on the adoption, amendment, or repeal of the Comp Plan. I.C. § 67-6509(2).
- F. The Comp Plan is adopted or amended by Resolution of Council. I.C. § 67-6509(3).
- G. Any person may petition the Commission for an amendment to the Comp Plan unless Council has established by Resolution a minimum interval between consideration of requests to amend, which interval shall not exceed six (6) months. I.C. § 67-6509(4).

### III. Zoning

- A. The zoning of property is accomplished by Ordinance. I.C. § 67-6511. Only Council can pass an Ordinance. I.C. § 67-6504. Under State law, Council and the Planning Commission have specific roles and responsibilities with respect to Zoning.
- B. Establishment and Change of Zoning Designation
  - 1. When a zone change is contemplated, or when property is zoned for the first time during annexation, the Commission is required to make a recommendation for zoning to Council. I.C. § 67-6511(2). Reminder, the Commission doesn't set the zoning for the property because that can only be accomplished by ordinance.
  - 2. The Commission will hold a public hearing on the zoning decision, whether it is initial zoning or a change in zoning. I.C. §§ 67-6509(1), 67-6511(2)(b).
    - a. Any property owner entitled to notice of the hearing shall have a right to participate in public hearings before the Commission, subject to applicable procedures. I.C. § 67-6511(2)(b).
  - 3. In making a recommendation, the Commission is required to consider the Comp Plan and also to "evaluate the request to determine the extent and nature of the amendment requested." Particular consideration is to "be given

to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction.” I.C. § 67-6511(2)(a) and (b).

4. The Commission may recommend that Council adopt or reject a zoning designation.
5. After the Commission makes a recommendation, Council will make the final decision.
6. Whether zoning in conjunction with an annexation or rezoning of property in the City, Council will hold a public hearing. I.C. §§ 50-222(3)(e), 67-6511(1)(b). In the case of annexation, Council will decide whether to annex the property and, if so, what the property should be zoned. In the case of a zone change, Council will decide whether to approve or reject the rezone. Council can follow the recommendation of the Commission, but it doesn't have to.
7. Council is required to analyze the recommended zoning to ensure that it isn't in conflict with the Comprehensive Plan and, like the Commission, must consider “the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction.”
5. Council can adopt the Commission's recommendation, reject the recommendation, or decide that a different zoning district is appropriate.
6. In addition, if Council finds that the recommended zoning is in conflict with the Comp Plan, or would result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services within the planning jurisdiction, Council may send the matter back to the Commission to consider an amendment to the Comp Plan. I.C. § 67-6511(2)(c). If the Comp Plan is amended, the zoning process starts over.
7. If Council rezones property at the request of a property owner, the zoning can't be changed for 4 years without the consent of the property owner. I.C. § 67-6511(2)(d).
8. Changing the zoning of property without the consent of the property owner, or even refusing to change zoning upon request, could constitute a Taking entitling the property owner to just compensation. I.C. § 67-6511(2)(a).

#### C. Appeals

1. An applicant for zoning in conjunction with annexation or for a change in zoning, or any other affected person, may seek judicial review of the

decision, but must file a request for reconsideration by Council within 14 days of the decision. I.C. § 67-6535(2)(b).

2. If reconsideration is denied, the applicant, or any other affected person, may seek judicial review by filing a petition under the Administrative Procedure Act within 28 days. I.C. § 67-6519(6).
3. An affected person is someone who has a bona fide interest in real property which may be adversely affected by an ordinance first establishing a zoning district upon annexation, the approval or denial of an application to change the zoning district, or the approval or denial of an application for conditional rezoning. I.C. § 67-6521(1)(a).

D. New Zoning Legislation

1. HB707: Cities *may* “establish an administrative process for land division, which shall not be subject to subdivision platting requirements, for the purpose of facilitating a mortgage or financing division of land that contains an existing or approved accessory dwelling unit or secondary residential structure. The need for a mortgage or financing division of land shall be evidenced by a letter from a lender or mortgage underwriter demonstrating that parcel separation is required for financing. Such process may be used if: (a) The division is solely for mortgage or financing purposes and does not create additional residential entitlements or increase allowable density beyond what is permitted by applicable zoning regulations; (b) The division does not authorize additional dwelling units or further land divisions on either parcel created by the division and the division attaches to the original parcel and runs with the land; and (c) Each resulting parcel has adequate legal access and utility service in accordance with applicable local standards. (2) Nothing in this section shall be construed to permit serial or recursive division through conveyance, reconfiguration, or recombination and re-split methods. (3) Divisions made pursuant to the process provided in this section shall be recorded with the county recorder and shall include a declaration restricting further division or development inconsistent with this section.”
2. SB 1354: (1) No homeowner's association may limit or prohibit ADUs on any property within its jurisdiction, unless the owner of the affected property expressly agrees in writing to such restriction. (2) No city may enact or enforce any ordinance, rule, regulation, or policy that bans ADUs in any residential zoning area within its jurisdiction. An ADU shall be classified as a residential land use for zoning purposes subject to all applicable zoning requirements. The City cannot prohibit imposing impact fees or utility connection fees on ADUs that are greater than those imposed on other single-family dwellings; prohibit limiting the size of an accessory dwelling unit to less than 1000 square feet or 75% of the size of the primary

dwelling; prohibit an owner-occupancy requirement for the primary dwelling or for the ADU; prohibit imposing a limit on building height that is less than the height of an existing single-family primary dwelling on a lot; or prohibit restrictions for ADUs that are more restrictive than restrictions for single-family dwellings within the same zoning district with regard to setbacks, lot size, or coverage or building frontage. ADUs subject to this new law must be approved administratively as a matter of right. The City's regulations cannot discourage ADUs through unreasonable cost or delay. The City can still enforce building codes, fire codes, and laws related to water, sewer, and stormwater drainage, road access, and steep slopes. The City can enforce setback requirements for rights-of-way and easements.

3. SB 1352: The City cannot ban starter home subdivisions in any residential zoning area. "Starter home subdivision" means a residential subdivision on at least 4 acres that is designed to provide attainable homeownership opportunities with single-family detached dwellings on smaller lots that are no greater than 1,500 square feet per lot, have compact home sizes, and have efficient site design that reduces development costs while maintaining compatibility with surrounding neighborhoods. By February 1, 2027, the City must amend its Comp Plan and land use regulations to allow starter home subdivisions in residential zoning districts, except for lands falling within an historic district. The City cannot require front or rear setbacks exceeding 15 feet or side setbacks exceeding 5 feet for a primary residential structure on a lot, except that setbacks along the perimeter of a project may be required to match setbacks of abutting zoning districts. The City cannot require lot frontage exceeding 30 feet. The City cannot require lot depths exceeding 70 feet. The City can impose single-family permit, development impact, and utility connection fees. The City can still enforce building codes, fire codes, and laws related to water, sewer, and stormwater drainage, road access, and steep slopes. The City can enforce setback requirements for rights-of-way and easements.
4. HB 800: Adds that the term "manufactured home" includes a multidwelling unit manufactured home that is constructed in accordance with the HUD manufactured home construction and safety standards. Manufactured homes can be sited on any lot where single-family dwelling are allowed. A multidwelling manufactured home can be sited on any lot where multifamily dwellings are allowed. A manufactured home covered by this law must have at least 400 square feet of floor space and a multidwelling manufactured home must have at least 800 square feet of floor space.
5. Last, but certainly not least, is the Legislature's further restriction on local governments regulating short term rentals. HB 583 generally prohibits local regulations on short term rentals except those that are reasonable and "necessary to safeguard the public health and safety." However, even regulations safeguarding public health and safety cannot be different that

such regulations on single-family dwellings or similar structures, except as specifically provided by the amended I.C. § 67-6539. Thus, cities cannot require owner occupation for any amount of time, a professional property manager, additional insurance, any kind of reporting, any additional fire protection, any additional or improved ingress or egress, additional parking, structural modifications, inspections of any kind, signage, notices, diagrams, limitations on the number of days a unit can be rented, increased sewer or utility capacity, a conditional use permit, proximity limitations, the number of STRs, upgrades to meet current building code. Local governments also cannot require a license, permit, fee, certification, or registration. The Legislature graciously allows local governments to require smoke alarms in every sleeping area (including living and family rooms), fire extinguishers, carbon monoxide detectors, removable escape ladders, occupancy limits that are the same as non-transient residential limits, and informational handouts, although without inspections it's unclear how such regulations would be enforced.

#### IV. Subdivisions

- A. Council establishes the standards and processes for applications for subdivisions. I.C. § 67-6513.
- B. State law provides that the City “may provide for mitigation of the effects of subdivision development on the ability of political subdivisions of the state, including school districts, to deliver services without compromising quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision. Fees established for purposes of mitigating the financial impacts of development must comply with the provisions of chapter 82, title 67, Idaho Code [re Development Impact Fees].”
- C. A subdivision is defined as “the division of a parcel of land into two (2) or more lots, tracts, or parcels for the purpose (whether immediate or future) of transfer of ownership, and divisions of land made for condominium or townhome ownership purposes.” M.C. § 16.05.020.
- D. There are two stages for subdivision approval: preliminary plat approval and final plat approval.
- F. All preliminary formal plats must be submitted first to the Commission. I.C. § 50-1308.
- G. Preliminary formal plats are approved by the Commission after a public hearing. M.C. § 16.25.030. To approve a preliminary formal plat, the Commission must make 4 findings: (1) that all of the required general preliminary plat requirements for a formal plat have been met as determined by the City Engineer; (2) that the provisions for sidewalks, streets, alleys, rights-of-way, easements, street lighting,

fire protection, planting, drainage, pedestrian and bicycle facilities and utilities are adequate; (3) that the proposed preliminary plat complies with all of the design standards and can comply, upon construction, with all of the improvement standards contained in Title 16 or that a deviation from a specific standard has been requested and granted; and (4) that all of the lots proposed in the preliminary plat meet the requirements of the applicable zoning district. M.C. § 16.25.030(A).

1. The Commission’s decision to grant or deny an application must state:
  - (a) the ordinance and standards used in evaluating the application;
  - (b) the reasons for approval or denial; and
  - (c) if denied, the actions, if any, that the applicant could take to obtain approval. I.C. § 67-6519(5).
  
- H. The Commission may authorize deviations from the design standards and/or the improvement standards, but only where the literal interpretation and strict application of the provisions or requirements of this title would cause undue and unnecessary hardship. No deviation from the provisions or requirements of this title may be authorized by the Commission unless it finds that all of the following facts and conditions exist: (1) exceptional or extraordinary circumstances or conditions exist warranting the approval of the requested deviation that does not generally apply to other properties in similar subdivisions or in subdivisions in the vicinity of the proposed subdivision; (2) approval of the deviation is necessary for the preservation and enjoyment of a substantial property right of the developer or is necessary for the reasonable and acceptable development of the property; (3) approval of the deviation will not be injurious to property in the vicinity in which the subdivision is located; and (4) approval of the deviation is consistent with the Comprehensive Plan. M.C. § 16.25.040.
  
- I. The Commission’s approval of a preliminary formal plat is final unless the decision is appealed by an aggrieved person. M.C. § 16.05.050(B). An aggrieved person is “any resident of the City of Coeur d’Alene; or any person having interest in real property in the City of Coeur d’Alene; or any person with an interest in real property located within three hundred feet (300’) of the external boundaries of the land being considered.” M.C. § 17.02.030(N). “ An aggrieved person must file “a notice of appeal to the City Council with the Planning Director within fifteen (15) days after the date of the decision. The appeal, which must be accompanied by the required fee, must be in writing and state the basis for the appeal. Upon receiving notice of appeal, the City Clerk will set a date for a review of the matter, which will be held within thirty (30) days of the date of the appeal
  
- J. In deciding an appeal, the City Council reviews all relevant records and may take such additional evidence and argument as it deems relevant. The City Council may overrule or alter the decision of the Planning Commission, provided, however, that the City Council must interpret the provisions of this title in such a way as to carry out the purposes and intent of” the title. M.C. § 16.05.050.
  
- K. “The approval of a preliminary plat does not guarantee final approval of the plat or

subdivision, and shall not constitute an acceptance of the subdivision. Rather, the approval authorizes the developer to proceed with the preparation of the final plat in a manner that incorporates all substantive requirements of the approved preliminary plat.” M.C. § 16.25.060.

- L. Final plat approval is done by Council. M.C. § 16.50.010. No public hearing is required.
  - M. The City Engineer first reviews the final plat to determine if it is complete and meets the standards of the Code. He then makes a recommendation to Council whether to approve or reject the final plat. M.C. § 16.50.040.
  - N. Council must make a decision within 120 after filing of the formal plat or refile if corrections were required by the City Engineer. The decision can be approval, disapproval, or to return to the developer for modification or correction. Failure to act within 120 days results in a denial of the plat. M.C. § 16.50.050.
    - 1. When Council grants or denies an application, it must state: (a) the ordinance and standards used in evaluating the application; (b) the reasons for approval or denial; and (c) the actions, if any, that the applicant could take to obtain approval.” I.C. § 67-6519(5).
  - O. Upon approval, the final plat is signed and recorded.
  - P. “Denial of a subdivision permit or approval of a subdivision permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis.” I.C. § 67-6513.
  - Q. An applicant denied a final plat may, within twenty-eight (28) days after all remedies have been exhausted under the ordinance, seek judicial review. I.C. § 6519(6).
- V. Planned Unit Developments
- A. Planned Unit Developments permit the development of tracts of land using comprehensive planning and providing flexibility in the application of certain regulations in a manner consistent with the general purpose of the zoning ordinance. M.C. § 17.07.205(B).
  - B. Planned Unit Developments may be approved on parcels of land greater than 1-1/2 acres in size. Limited Design Plan Unit Developments require a parcel of land, adjacent tracts of land, or multiple parcels of fifteen (15) or more acres in size. M.C. § 17.07.205(C) and (D).
  - C. The Commission will conduct a public hearing. M.C. § 17.09.470.

- D. A PUD may be approved only if the Commission is satisfied that the proposal is in conformance with the comprehensive plan, that the design and planning of the site is compatible with the location, setting and existing uses on adjacent properties, that the proposal is compatible with natural features of the site and adjoining properties, and is in conformance with the hillside overlay ordinance, that the location, design, and size of the proposal are such that the development will be adequately served by existing streets, public facilities and services, that the proposal provides adequate private common open space area, as determined by the commission, no less than ten percent (10%) of gross land area, that off street parking provides parking sufficient for users of the development, and that the proposal provides for an acceptable method for the perpetual maintenance of all common property.
- E. The Commission or Council has the authority to require the utilization of appropriate competent professionals for specific input regarding special areas of concern, as a condition for approval of a PUD or a Limited Design PUD. M.C. § 17.07.225.
- F. The Commission may approve, approve with conditions, deny, or deny without prejudice. M.C. § 17.09.472. The difference between a denial and a denial without prejudice is that a denial without prejudice allows the applicant to modify the request and come before the Commission again without having to start the PUD process all over again. A flat denial typically means the matter is at an end. Any future request would require a new application and the payment of PUD fees.
- G. The Commission's decision is effective after fifteen (15) days unless an appeal has been made by any affected party to Council. M.C. § 17.09.472(E).
- H. An aggrieved party may appeal to Council from the approval of a PUD by the Commission, A written notice of appeal must be filed with the Planning Director within fifteen (15) days after the Commission makes its decision. The notice must state specifically the objections to the decision or abuse of discretion or wherein a decision is not supported by the evidence in the record. The notice should be accompanied by such information as may be required to facilitate review, and by the fee as referenced in the fee schedule. M.C. § 17.09.710.
- I. The Council will hold a public hearing. On appeal, Council is to consider the purpose and intent, as well as the language, of the relevant Code provisions. Council may affirm, affirm with conditions, or reverse the Commission's determination within forty (40) days of the hearing.
- J. Denial of a Planned Unit Development permit or approval of a Planned Unit Development permit with conditions unacceptable to the landowner may be a regulatory taking requiring just compensation.
- K. The approval of a PUD terminates unless the applicant files a final development

plan for the entire development or for the appropriate phase of development within one year. The approval period may be extended by the Commission for one year without public notice upon written request filed before said period has expired and upon stating conditions requiring the extension. M.C. § 17.09.478. The denial of an extension can be appealed to Council.

- L. After the final development plan is submitted, the Planning Director must prepare a written report regarding the compliance of the final development with the approved development plan. M.C. § 17.09.480(A). If the Planning Director finds any major departure from applicable criteria or standards in the final development plan, or in the limited design planned unit development plan, the development will be found in noncompliance and permits shall not be issued. In such case the applicant shall be notified by mail and informed of the reasons and conditions of the noncompliance. M.C. § 17.09.485. A determination of noncompliance may be appealed to the City Council. M.C. § 17.09.490.

## VI. Special Use Permits

- A. Special use permits accommodate uses on property with special site or design requirements, operating characteristics or potential adverse effects on surroundings, through review and, where necessary, the imposition of special conditions of approval. M.C. § 17.09.205.
- B. Each zoning district has uses allowed by right and uses which may be allowed with a special use permit.
- C. The Commission will conduct a public hearing. M.C. § 17.09.206(A).
- D. The Commission determines whether the proposal conforms to the special use permit criteria, and may grant or deny the application or require changes or impose such reasonable conditions of approval as may be necessary to ensure conformity with the criteria. M.C. § 17.09.215(C).
- E. The criteria to be considered are whether the proposal is in conformance with the comprehensive plan, whether the design and planning of the site is compatible with the location, setting and existing uses on adjacent properties, and whether the location, design, and size of the proposal are such that the development will be adequately served by existing streets, public facilities and services. M.C. § 17.09.220.
- F. The Commission can require studies of the social, economic, fiscal, and environmental effects and any aviation hazard of the requested special use permit prior to granting a permit. I.C. § 67-6512(e).
- G. Conditions may be attached to a special use permit. Those conditions may include measures to minimize the adverse impact on other development, requirements as to

the sequence, timing, and/or duration of development, requirements to assure that the development is maintained properly, designation of the exact location and nature of development, requirements as to on-site or off-site public facilities or services, more restrictive standards than those generally required in an ordinance, and measures to mitigate the effects of the proposed development on service delivery by any political subdivision. I.C. § 67-6512(d).

- H. An affected person may appeal to the Council. In considering the appeal, Council will determine whether the proposed use conforms to the applicable special use permit criteria. Council may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to the criteria. M.C. § 17.09.225.
- I. Again, an affected person is any resident of the City of Coeur d'Alene, any person having interest in real property in the City of Coeur d'Alene, or any person with an interest in real property located within three hundred feet (300') of the external boundaries of the land being considered. M.C. § 17.02.030(N).
- J. A special use permit terminates one year from its effective date unless substantial development or actual commencement of authorized activities has occurred, or if there is a cessation of use or occupancy of the property for two (2) years. The Commission may extend the permit for one year, without public notice, upon written request filed at any time before the permit has expired and upon a showing of unusual hardship not caused by the owner or applicant. M.C. § 17.09.230.
- K. If the Commission denies an extension, the applicant can appeal to Council by submitting a written notice of appeal to the Planning Director within 10 days. Failure to timely appeal means that the Commission decision is final.
- L. Denial of a special use permit or approval of a special use permit with conditions unacceptable to the landowner may be a regulatory taking requiring just compensation.

## VII. Variances

- A. A variance is the relaxation of specific provisions of this title, either to relieve a hardship, or as authorized in the Zoning Ordinance. M.C. § 17.09.605
- B. A variance can be requested as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking provisions, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots or the size of lots. M.C. § 17.09.615(A).
- C. A variance isn't a matter of right, but may be granted only on a showing of undue hardship because of characteristics of the site and if the variance is not in conflict with the public interest. M.C. § 17.09.615(A); I.C. § 67-6516.

- D. The Commission will conduct a public hearing on a request for a variance. M.C. § 17.09.615(B).
- E. Notice and an opportunity to be heard must be provided to property owners adjoining the parcel under consideration. I.C. § 67-6516.
- F. To grant a variance, the Commission must find that there is an undue hardship because of the physical characteristics of the site, that the variance is not in conflict with the public interest, and that the variance is in conformance with the Comp Plan. M.C. § 17.09.620; I.C. § 67-6516.
- G. An appeal can be taken to Council. In considering the appeal, the Council must determine whether the conditions required the Zoning Ordinance exist. Council may approve, deny, deny without prejudice, or require such changes in the proposed use or impose such conditions of approval necessary to satisfy the purposes of the Zoning Ordinance.
- H. Denial of a variance or approval of a variance with conditions unacceptable to the landowner may be a regulatory taking subject to just compensation.

#### VIII. Development Agreements

- A. As a condition for approval of an application which requires an amendment to the zoning ordinance and map, including a zone change in conjunction with annexation, a planned unit development, a special use permit for a density increase, or a conditional zoning request, the developer and/or owner may be required to enter into a development agreement with the City. M.C. § 17.50.020(A).
- B. The Commission may require a development agreement as a condition for approval of an application following a public hearing on the application. In making the determination that a development agreement should be required, the best interests of the City, and the purpose and intent of this Chapter, shall be considered. M.C. § 17.50.020(B).
- C. If the Commission decides that a development agreement is appropriate, the it will include the requirement for such an agreement as a condition for the approval of an application. M.C. § 17.50.020(C).
- D. The Planning Director and the City Attorney prepare the development agreement. and present it to City Council for review. M.C. § 17.50.020(D). Council can approve the agreement, modify it, or decide not to require an agreement.
- E. The development agreement is generally not effective until approved by Council. M.C. § 17.50.020(D). However, in the case of zoning, it is effective when Council adopts the amendment to the zoning ordinance.

- F. Development agreements binding on the signer and any subsequent purchasers of the property who have actual notice of the agreement. If the agreement is recorded, and it should be, that constitutes actual notice of the agreement. I.C. § 67-6511A.
- G. A development agreement may only be modified with the permission of Council and after a public hearing.
- H. A development agreement may be terminated by the Commission. A public hearing will be held and the Commission must determine if the circumstances support termination and if termination is in the best interests of the City. In case of termination, the zoning designation of the property shall revert to the zoning designation of the property prior to the development agreement. The Planning and Zoning Commission's determination on termination may be appealed to the City Council. M.C. § 17.50.080(C); I.C. § 67-6511A.
- I. If termination is accomplished by the mutual agreement of the City and the developer and/or owner, or their successors. In such case, the zoning designation of the property shall revert to the zoning designation it held prior to the development agreement, in whole or in part, at the sole discretion of Council. M.C. § 17.50.080(D).

IX. Written Decisions

- A. The approval or denial of any application must be based on the standards and criteria set out in the Comp Plan, the Zoning Ordinance, or other appropriate ordinance or regulation of the City. The written decision generally should identify aspects of compliance or noncompliance with relevant approval standards and criteria. I.C. § 67-6535(1).
- B. The approval or denial must be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the Comp Plan, the relevant ordinances and statutory provisions, pertinent constitutional principles, and factual information contained in the record." I.C. § 67-6535(2).
- C. The case of *Veterans Park Neighborhood Ass'n, Inc., v. City of Boise*, 564 P.3d 350 (2025), is the most recent case which demonstrates the importance of an adequate written decision.
- D. "It is well established that LLUPA requires a decision-maker to issue a written statement in support of its decision, setting forth the relevant contested facts relied upon, and explaining the criteria and standards it considered relevant. I.C. § 67-6535(2)." *Veterans Park Neighborhood Ass'n*, 564 P.3d at 364.

- E. Failure to do so is grounds to invalidate the decision on appeal. I.C. § 67-6535(2)(a).
- F. What are inadequate findings? In *Workman Family Partnership v. City of Twin Falls*, 104 Idaho 32 (1982), the city council’s factual findings explained that a rezone application was denied because the rezone imposed “[t]oo great a change,” would devalue nearby residential properties, and “would violate the integrity of existing residential zoning districts.” *Id.* at 37. The Supreme Court held that these statements were merely conclusions and revealed nothing of the underlying facts or policies considered by council, and provided very little insight into the decision.
- G. In *Cooper v. Board of County Commissioners of Ada County*, 101 Idaho 407 (1980), the Supreme Court held that a board of county commissioners’ findings and conclusions, although supplemented by a staff report that stated some of the shortcomings for which the application was denied, were *inadequate* where the board simply stated that the denial was “because of items 1, 2, 3 and 4 and Agricultural Policies No. 4 and No. 5 and also because of the school district.” *Id.* at 408-09.
- H. The Supreme Court succinctly stated that a “reasoned statement must plainly state the resolution of factual disputes, identify the evidence supporting that factual determination, and explain the basis for legal conclusions, including identification of the pertinent laws and/or regulations upon which the legal conclusions rest.” *Jasso v. Camas County*, 151 Idaho 790, 794 (2011).
- I. A written decision of the Commission or Council will be inadequate where it contained only “recitations of procedural history, not findings of fact” and where the “conclusions of law contain[ed] no explanatory language whatsoever, instead offering only broad conclusions.” *Jasso, supra* at 795.
- J. A reviewing court will not make even reasonable inferences that may support the implied findings and legal conclusions because LLUPA requires more than conclusory statements from which a decision-maker’s resolution of disputed facts and legal reasoning may be inferred.
- K. Where nothing in the Commission’s or Council’s conclusions reveal that there was consideration of any underlying specific fact or source of law, the written decision will be inadequate. And when the decision-maker “[does] not explicitly respond to the factual and legal questions raised by the parties, and it manifestly fail[s] to provide an explanation as to how the . . . application complied with [relevant] ordinances,” the written statement does not satisfy LLUPA. *Jasso, supra* at 795, quoted in *Veterans Park Neighborhood Ass’n, Inc., supra*, 564 P.3d at 365 (2025).
- L. In *Veterans Park Neighborhood Ass’n, Inc.*, “the City Council rendered a one and one-half page reasoned statement, along with 30 new conditions for approval. The body of the reasoned statement contained five paragraphs of text purporting to

explain the Council's reasoning for determining that the PZC was incorrect and that the CUP satisfied the CUP criteria. ***While the reasoned statement touched on relevant factors and pieces of information important to the Council's decision, we agree that it was conclusory and flatly failed to resolve the outstanding factual disputes that were before the Council.***" *Id.* (emphasis added).

- M. A recitation of conditions does not suffice. The reasoned statement must address any of the controversies and disputes, providing sufficient explanation of how its decision explicitly responds to any factual and legal questions raised. The decision must identify how the conditions would address concerns and must cite specific evidence supporting any of its factual findings.
- N. The written decision must the address the question of not only whether the request actually complies with the Comp Plan, but also whether the Council adequately explains any apparent lack of compliance with the Plan.
- O. Failure to satisfy the requirements of LLUPA, as interpreted by the Supreme Court, will result in an invalidation of the acts of the Commission and/or Council.
- P. Staff provides a template for the findings and conclusions required. However, these are not intended to be read into the record without question. The Commission and Council are charged with adopting adequate findings and conclusions. The Commission and Council are intended to provide thoughtful analysis of the application in light of the applicable Code and law. Expand on the template to explain why you are ruling in a particular way.
- Q. And, when there are disputed facts, you will have to explain why you choosing to accept one version of the facts over the other. This can be based on the credibility of those who testify, on conflicts with admitted facts, and/or the weight of the evidence as a whole. If you explain what you are deciding, but don't explain why you are deciding, your decision is subject to attack and could be invalidated by the courts.

# Local Land Use Planning: Council and Commission Roles

Presented by:

Hilary Patterson, Community Planning Director  
Randy Adams, City Attorney



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## Local Land Use Planning

1. In General
2. The Comprehensive Plan
3. Zoning & Legislation
4. Subdivisions
5. Planned Unit Developments
6. Special Use Permits
7. Variances
8. Development Agreements
9. Written Decisions
10. Questions?



2

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## In General

The duties of the Commission are:

- To recommend and make suggestions to the Council for the physical development of the City
- To recommend the boundaries of zoning districts and appropriate regulations, make reports, hold public hearings, and perform all other duties as may be prescribed by the Idaho Code and the Zoning Ordinance
- To serve as the Development Impact Fee Advisory Committee
- To comply with all City policies, procedures, and regulations (M.C. § 2.48.030)
- To promote a public interest in and understanding of the Commission's activities (I.C. § 67-6507)



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## In General, cont.

The Duties of Council are:

- To approve or disapprove Zone changes
- To approve a Comp Plan and amendments thereto
- To approve final plats for subdivisions
- To approve Development Agreements
- To hear appeals from the Commission and staff



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## In General, cont.

### Conflicts of Interest:

- In Land Use Planning matters, no member of Council or the Commission with a conflict of interest may participate in any aspect of the decision-making process concerning a matter involving the conflict of interest. I.C. § 67-6506
- In addition, any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered.
- A conflict of interest exists when the member, or anyone related by blood or marriage within the second degree, or business, has an economic interest in the procedure or action or will receive a pecuniary benefit from the action.
- A member with a conflict of interest should leave the dais for all phases of the proceeding.

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## In General, cont.

### Public Hearings:

- When a public hearing is required by statute, Council and the Commission must follow the Rules of Procedure adopted by Council and codified as Municipal Code § 1.11.010.
- Among the Rules are:
  - C.R.P. 5: The speaker shall not be interrupted by members of the hearing body until his time limit has been expended or until he has finished his statement.
  - C.R.P. 7: When the public hearing is quasi-judicial in nature or one after which the hearing body is required by law to make findings of fact, each speaker must swear or affirm that his testimony will be true and correct.

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## In General, cont.

- The term “quasi-judicial” means that Council or the Commission are acting as the judges of the facts of the matter before them.
- Certain due process rights are afforded in a quasi-judicial hearing, such as the right to be heard and the right to have the matter determined on the record presented at the hearing. No ex parte contact is permitted.
- Council or the Commission acts as the judge of the facts when the matter affects a specific property or person, as opposed to the City or its citizens as a whole.
- When Council or the Commission address a matter applicable to the City as a whole, they are acting in a legislative capacity, such as when an ordinance or ordinance amendment is proposed.
- When Council or the Commission acts in a legislative capacity, testimony is not taken.
- On legislative matters, the public may speak on the matter during public comment.



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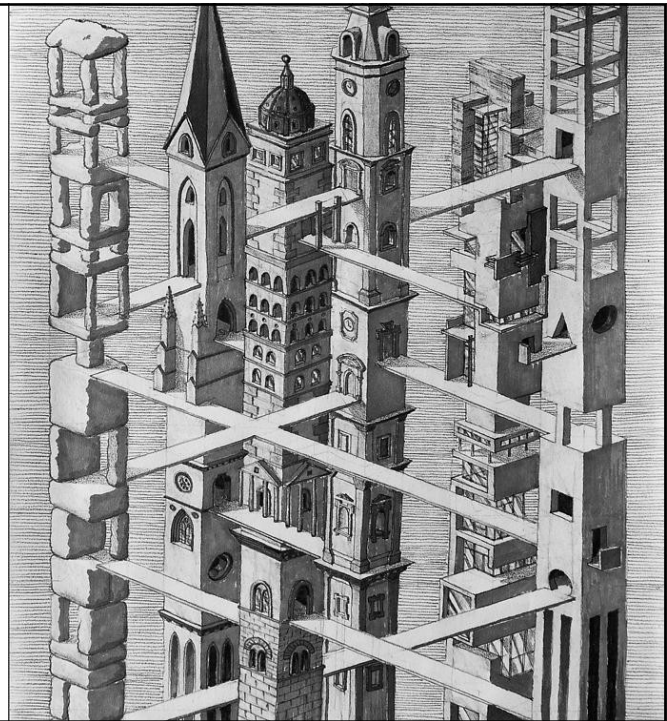
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## Comp Plan

Council and the Commission each have an important role in matters related to the Comp Plan.

- A Comp Plan is not legally controlling zoning law, but only serves to guide the City in making zoning decisions
- The Commission conducts a comprehensive planning process to prepare, implement, review, and update a Comp Plan.
- The Commission conducts at least 1 public hearing to consider changes to the Comp Plan and makes a recommendation to Council.
- If the Commission conducts the required public hearing, Council may, but is not required to, conduct a public hearing on the adoption, amendment, or repeal of the Comp Plan.
- The Comp Plan is adopted or amended by Resolution of Council.
- Because it is not law, there is no appeal to the courts to review the adopted Comp Plan except as to the procedure employed in adopting it.

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## Zoning

- When a zone change is contemplated, or when property is zoned for the first time during annexation, the Commission is required to make a recommendation for zoning to Council.
- The Commission will hold a public hearing.
- The Commission considers the Comp Plan and evaluates the request to determine the extent and nature of the amendment requested.
- The Commission may recommend that Council adopt or reject a zoning designation.
- After the Commission makes a recommendation, Council will make the final decision.
- Council will hold a public hearing.
- Council can follow the recommendation of the Commission, but it doesn't have to.
- The zoning of property is accomplished only by Ordinance,

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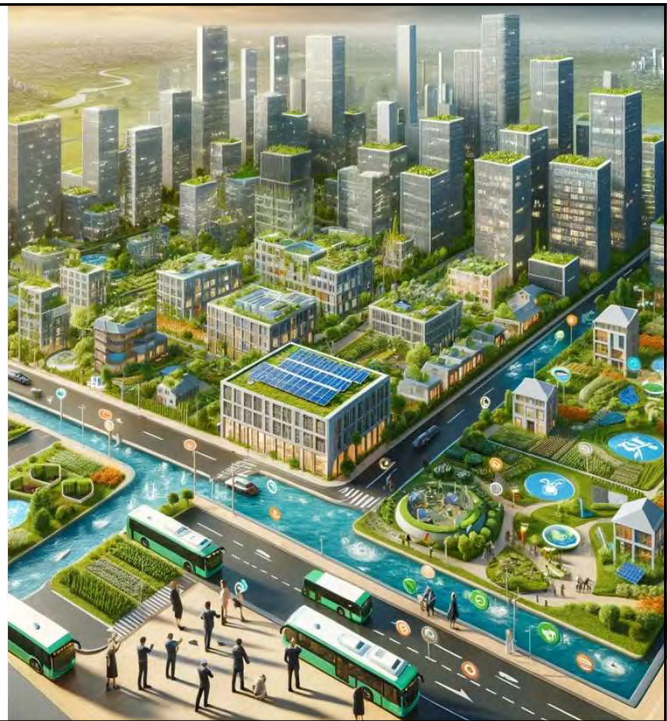


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## Zoning, cont.

- Changing the zoning of property without the consent of the property owner, or even refusing to change zoning upon request, could constitute a Taking entitling the property owner to just compensation.
- An affected person may seek judicial review of Council's decision.

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## Zoning – New Legislation

### HB 707 – Land Division, Process:

- Cities *may* establish an administrative process for land division, which shall not be subject to subdivision platting requirements, for the purpose of facilitating a mortgage or financing division of land that contains an existing or approved ADU or secondary residential structure.
- Such process may be used if the division is solely for mortgage or financing purposes.
- This process may not create additional residential entitlements or increase allowable density beyond what is permitted by applicable zoning regulations.



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## New Legislation, cont.

### SB 1354 – Accessory Dwelling Units:

- (1) No homeowner's association may limit or prohibit ADUs on any property within its jurisdiction, unless the owner of the affected property expressly agrees in writing to such restriction. (2) No city may enact or enforce any ordinance, rule, regulation, or policy that bans ADUs in any residential zoning area within its jurisdiction. (3) By February 1, 2027, the City must amend its Comp Plan and land use regulations for all land zoned for single family residential uses, except for lands falling within an historic district, to allow for an internal ADU or 1 detached ADU per lot in the rear yard or subject to setbacks required of the primary dwelling. In addition, the City may not require any off-street parking or guest parking for any ADU unless the principal dwelling unit does not have off-street parking or the street is not paved and designed or constructed for on-street parking or unless the principal dwelling unit is within 1/4 mile of transit, an employment area, or commercial services.



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## New Legislation, cont.

### SB 1354, cont. – Accessory Dwelling Units:

- Prohibits the City from imposing impact fees or utility connection fees on ADUs that are greater than those imposed on other single-family dwellings; and
- Prohibits the City from limiting the size of an ADU to less than 1000 square feet or seventy-five percent (75%) of the size of the primary dwelling; and
- Prohibits the City from requiring owner-occupancy for the primary dwelling or for the ADU; and
- Prohibits the City from imposing a limit on building height that is less than the height of an existing single-family primary dwelling on a lot; and
- Prohibits the City from enacting restrictions for ADUs that are more restrictive than restrictions for single-family dwellings within the same zoning district with regard to setbacks, lot size, or coverage or building frontage.

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## New Legislation, cont.

### SB 1354, cont. – Accessory Dwelling Units:

- ADUs subject to this new law must be approved administratively as a matter of right.
- The City's regulations cannot discourage ADUs through unreasonable cost or delay.
- The City can still enforce building codes, fire codes, and laws related to water, sewer, and stormwater drainage, road access, and steep slopes.
- The City can enforce setback requirements for rights-of-way and easements.

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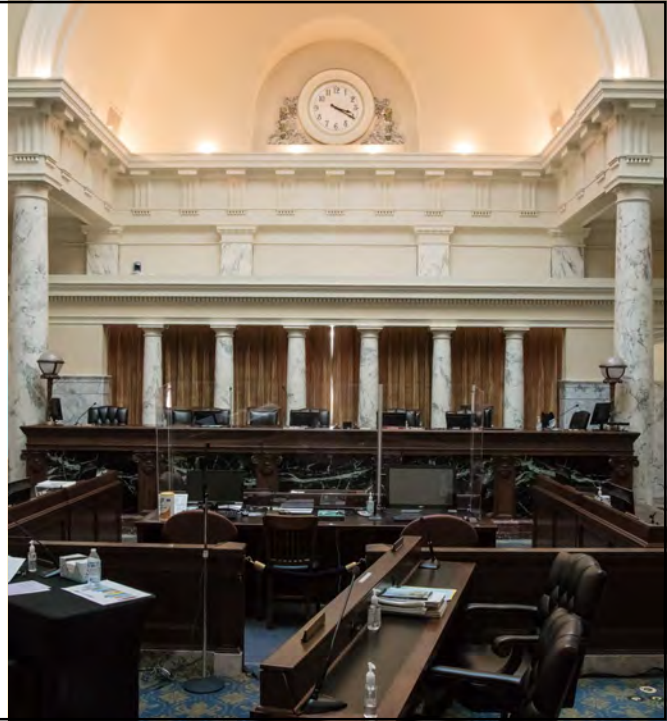
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## New Legislation, cont.

### SB 1352 – Starter Home Subdivisions:

- The City cannot ban starter home subdivisions in any residential zoning area.
- "Starter home subdivision" means a residential subdivision on at least 4 acres that is designed to provide attainable homeownership opportunities with single-family detached dwellings on smaller lots that are no greater than 1,500 square feet per lot, have compact home sizes, and have efficient site design that reduces development costs while maintaining compatibility with surrounding neighborhoods.
- By February 1, 2027, the City must amend its Comp Plan and land use regulations to allow starter home subdivisions in residential zoning districts, except for lands falling within an historic district and historic properties.

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## New Legislation, cont.

### SB 1352, cont. – Starter Home Subdivisions :

- The City cannot require front or rear setbacks exceeding 15 feet or side setbacks exceeding 5 feet for a primary residential structure on a lot, except that setbacks along the perimeter of a project may be required to match setbacks of abutting zoning districts.
- The City cannot require lot frontage exceeding 30 feet.
- The City cannot require lot depths exceeding 70 feet.
- The City can impose single-family permit, development impact, and utility connection fees.
- The City can still enforce building codes, fire codes, and laws related to water, sewer, and stormwater drainage, road access, and steep slopes.
- The City can enforce setback requirements for rights-of-way and easements.

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## New Legislation, cont.

### HB 800 – Manufactured Homes:

- Adds that the term “manufactured home” includes a multidwelling unit manufactured home that is constructed in accordance with the HUD manufactured home construction and safety standards.
- Manufactured homes can be sited on any lot where single-family dwelling are allowed.
- A multidwelling manufactured home can be sited on any lot where multifamily dwellings are allowed.
- A manufactured home covered by this law must have at least 400 square feet of floor space and a multidwelling manufactured home must have at least 800 square feet of floor space.



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## New Legislation, cont.

### HB 583 – Short Term Rentals

- Local regulations on short term rentals are prohibited except those that are reasonable and “necessary to safeguard the public health and safety.”
- Even regulations safeguarding public health and safety cannot be different that such regulations on single-family dwellings or similar structures, except as specifically provided by the amended I.C. § 67-6539.
- Thus, cities cannot require owner occupation for any amount of time, a professional property manager, additional insurance, any kind of reporting, any additional fire protection, any additional or improved ingress or egress, additional parking, structural modifications, inspections of any kind, or signage, notices, or diagrams,



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## New Legislation, cont.

### HB 583, cont. – Short Term Rentals

- Local governments cannot impose limitations on the number of days a unit can be rented, or require increased sewer or utility capacity, a conditional use permit, proximity limitations, the number of STRs in the jurisdiction, or upgrades to meet current building code.
- Local governments also cannot require a license, permit, fee, certification, or registration.
- The Legislature graciously allows local governments to require smoke alarms in every sleeping area (including living and family rooms), fire extinguishers, carbon monoxide detectors, removable escape ladders, occupancy limits that are the same as non-transient residential limits, and informational handouts, although without inspections it's unclear how such regulations would be enforced.

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## Zoning, cont.

On the bright side, the following bills did not advance:

- Proposed bill to allow multifamily and mixed use housing developments on property owned by religious organizations. HB 801, HB 937, and SB 1278
- Proposed bill to requires cities to allow twin homes and duplexes wherever single-family dwellings are allowed. SB 1353
- Proposed bill to make multifamily dwellings in commercial zones a matter of right. HB 802

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## Subdivisions

- A subdivision is “the division of a parcel of land into two (2) or more lots, tracts, or parcels for the purpose (whether immediate or future) of transfer of ownership, and divisions of land made for condominium or townhome ownership purposes.”
- There are two stages for subdivision approval: preliminary plat approval and final plat approval.
- All preliminary formal plats are submitted first to the Commission.
- The Commission conducts a public hearing on preliminary formal plats.
- Short plats (4 or fewer lots) follow a separate administrative process.



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## Subdivisions, cont.

- To approve a preliminary formal plat, the Commission must make 4 findings:
  - (1) that all of the requirements for a formal plat have been met as determined by the City Engineer;
  - (2) that the provisions for sidewalks, streets, alleys, rights-of-way, easements, street lighting, fire protection, planting, drainage, pedestrian and bicycle facilities and utilities are adequate;
  - (3) that the proposed preliminary plat complies with all of the design standards and can comply, upon construction, with all of the improvement standards contained in Title 16 or that a deviation from a specific standard has been requested and granted; and
  - (4) that all of the lots proposed in the preliminary plat meet the requirements of the applicable zoning district.



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## Subdivisions, cont.

- The Commission's decision to grant or deny an application must state:
  - (1) the ordinance and standards used in evaluating the application;
  - (2) the reasons for approval or denial; and
  - (3) if denied, the actions, if any, that the applicant could take to obtain approval.
- The Commission may authorize deviations from the design standards and/or the improvement standards, but only where the literal interpretation and strict application of the provisions or requirements of this title would cause undue and unnecessary hardship.
- The Commission's approval of a preliminary formal plat is final unless the decision is appealed by an aggrieved person.



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## Subdivisions, cont.

- On appeal, Council reviews all relevant records and may take additional evidence and argument. The Council may overrule or alter the decision of the Commission.
- Council must interpret the provisions of Title 16 in such a way as to carry out its purposes and intent.
- The approval of a preliminary plat does not guarantee final approval of the plat or subdivision, and does not constitute an acceptance of the subdivision.
- Final plat approval is done by Council.
- No public hearing is required.
- The City Engineer reviews the final plat to determine if it is complete and meets the standards of the Code, and then makes a recommendation to Council whether to approve or reject the final plat.



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## Subdivisions, cont.

- When Council grants or denies a final plat, it must state: (a) the ordinance and standards used in evaluating the application; (b) the reasons for approval or denial; and (c) the actions, if any, that the applicant could take to obtain approval.
- After approval, the final plat is signed and recorded.
- Denial of plat approval or approval of a subdivision with conditions unacceptable to the landowner may be subject to the regulatory taking analysis.



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## Planned Unit Developments (PUD)

- Planned Unit Developments permit the development of tracts of land using comprehensive planning and providing flexibility in the application of certain regulations in a manner consistent with the general purpose of the zoning ordinance.
- Planned Unit Developments may be approved on parcels of land greater than 1-1/2 acres in size. Limited Design Plan Unit Developments require a parcel of land, adjacent tracts of land, or multiple parcels of fifteen (15) or more acres in size.
- The Commission conducts a public hearing.



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## PUD, cont.

- A PUD may be approved if the Commission is satisfied:
  - (1) that the proposal is in conformance with the Comp Plan;
  - (2) that the site design and plan is compatible with adjacent properties;
  - (3) that the proposal is compatible with natural features of the site;
  - (4) that the proposal will be adequately served by existing facilities and services;
  - (5) that the proposal provides adequate open space, no less than 10% of gross land area;
  - (6) that parking is sufficient for users of the development; and
  - (7) that there is an acceptable method for the perpetual maintenance of all common property.



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## PUD, cont.

- The Commission may approve, approve with conditions, deny, or deny without prejudice.
- Approval or denial of the development plan becomes effective 15 days after the Commission's decision unless there's an appeal.
- An aggrieved party may appeal to Council by filing a written notice of appeal within 15 days after the Commission's decision.
- Council will hold a public hearing on the appeal.
- Denial of a PUD or approval of a PUD with conditions unacceptable to the landowner may be a regulatory taking requiring just compensation.



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## PUD, cont.

- The approval of a PUD terminates unless the applicant files a final development plan within one year. The approval period may be extended by the Commission for one year without public notice.
- When the Planning Director finds a major departure from applicable criteria or standards, the plan shall be found in noncompliance and permits shall not be issued.
- A determination of noncompliance may be appealed to Council.



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## Special Use Permits (SUP)

- Special use permits accommodate uses on property with special site or design requirements, operating characteristics, or potential adverse effects on surroundings.
- The Commission will conduct a public hearing.
- The criteria are:
  - (1) whether the proposal is in conformance with the Comp Plan;
  - (2) whether the design and planning is compatible with the location, setting and existing uses on adjacent properties; and
  - (3) whether the proposed development will be adequately served by existing streets, public facilities, and services.
- Conditions may be attached to an SUP to minimize the adverse impact on other development.



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## SUP, cont.

- Each Zoning District has a list of uses allowed with an SUP.
- An affected person may appeal to Council.
- Council may also impose reasonable conditions of approval as may, in its judgment, be necessary to ensure conformity to the SUP criteria.
- An SUP terminates one year from its effective date unless substantial development or actual commencement of authorized activities has occurred, or if there is a cessation of use or occupancy of the property for two (2) years. The Commission may extend the SUP for one year, without public notice. A denial of an extension may be appealed to Council,
- Denial of a SUP or approval with conditions unacceptable to the landowner may be a regulatory taking requiring just compensation.



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## Variances

- A variance can be obtained for lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking provisions, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots or the size of lots.
- A variance isn't a matter of right, but may be granted only on a showing of undue hardship because of characteristics of the site and if the variance is not in conflict with the public interest.
- The Commission will conduct a public hearing on a request for a variance.
- An appeal can be taken to Council.
- Denial of a variance may be a regulatory taking subject to just compensation.



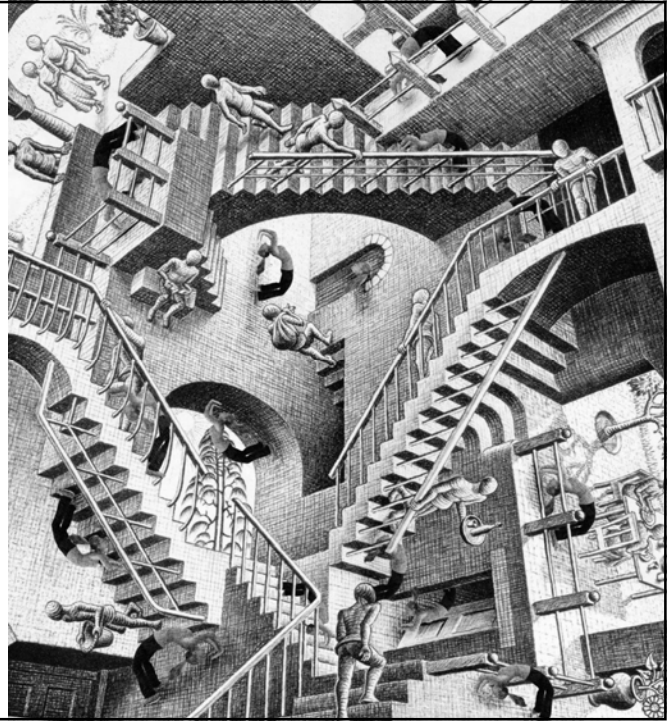
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## Development Agreements

- A development agreement may be required as a condition for approval of an application requiring an amendment to the zoning ordinance, a zone change in conjunction with annexation, a PUD, an SUP for a density increase, or a conditional zoning request.
- A development agreement should be required only if it is in the best interests of the City and an agreement would serve a public purpose.
- Either the Commission or the Planning Director may require a development agreement as a condition to approval of an application.
- Council makes the final decision whether to approve, approve with modifications, or reject a development agreement. Council can decide that a development agreement should not be required.

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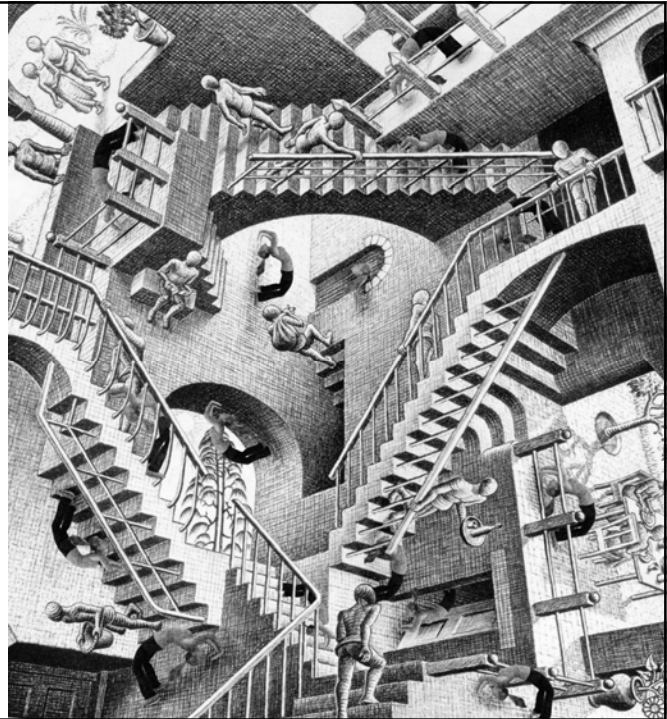


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## Development Agreements, cont.

- Development agreements must be recorded with the County recorder to bind future purchasers of the property.
- A development agreement may only be modified with the permission of Council and after a public hearing.
- A development agreement may be terminated by the Commission after a public hearing.
- In case of termination, the zoning of the property will return to the zoning it had prior to the agreement.
- The Commission's determination on termination may be appealed to Council.
- If the owner and City mutually agree to termination of the development agreement, the zoning of the property will return to the zoning it had prior to the agreement in the sole discretion of the City.

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## Written Decisions

- The approval or denial of any application must be based on the standards and criteria set out in the Comp Plan, the Zoning Ordinance, or other appropriate ordinance or regulation of the City.
- The approval or denial by either Council or the Commission must be in writing and accompanied by a "reasoned statement."
- The reasoned statement must explain the relevant criteria and standards, state the relevant contested facts, and explain the rationale for the decision based on the applicable provisions of the Comp Plan, the relevant ordinances and statutory provisions, and factual information contained in the record.

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## Written Decisions, cont.

- Conclusions are inadequate. The decision must be explained.
- Factual disputes and controversies must be resolved on the evidence.
- You will have to explain why you choosing to accept one version of the facts over the other.
- A recitation of conditions does not suffice. The decision must identify how the conditions would address concerns and must cite specific evidence supporting any of its factual findings.
- The written decision must adequately explain any apparent lack of compliance with the Comp Plan.
- Failure to satisfy the requirements of LLUPA, as interpreted by the Supreme Court, will result in an invalidation of the acts of the Commission and/or Council.

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**Questions?**

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