

Land Use Permits

Participating in the land use process can be a very daunting experience even for those who do it for a living. It is the goal of the County Community Development Department (CDD) to make this process open and understandable to everyone. All information provided to the Planning Division on any application is placed into a file on that application and is available for review by members of the public.

Land Use Application

Land use applications are submitted on a form provided by the County Planning Division. Fees for land use applications are calculated to cover the full cost of processing an application of each specific type. The applicant for a development action or a land use action carries the "burden of proof". The Planning Division serves as a sort of clearing house for obtaining information from the public, private organizations, and public agencies. Applications are reviewed by determining all applicable standards and criteria and comparing the proposal to see if the standards and criteria have or can be met.

What is a "Land Use"?

A land use is defined as "the purpose for which land or a structure is designed, arranged, or intended or for which it is occupied or maintained." All land uses must comply with local Zoning and Planning requirements, Environmental Health regulations and Building Codes.

Types of Review

All land uses require approval of the County Planning Division for conformance with zoning, land division, and processing procedures regulations. There are 3 types of review handled by the Planning process:

Development Action - means review of any permit authorization or determination involving the application of the County Zoning Ordinance, Subdivision/Partition Ordinance and Sign Ordinance. Development Actions are reviewed by an Administrative process in which the County staff apply clear and objective standards that do not require significant discretion. This process does not provide public notice of the application or decision. Only the applicant can appeal the decision. Simple development actions such as setback review can occur on the spot, at the front counter. More complex applications can require permits such as a Lot Line Adjustment and Sign Permits and usually take from 15 to 20 days to complete.

Land Use Action - includes any consideration for approval of an application of county zoning, subdivision or partition standards involving the exercise of significant discretion in applying the approval standards. This includes such things as Conditional Use Permits, Landscape Management Site Plan Review, farm or non-farm dwellings, Partitions and Subdivisions and Variances. Public notice and an opportunity for public comment or a hearing is provided. Any person who comments in writing or gives oral testimony at a hearing can appeal a decision. The Planning Director has the authority to decide which of three different review processes to follow. These include:

Administrative Decision without prior notice. In this process all persons within the notification area receive notice that a decision has been made. This decision can be appealed to the Hearings Officer. Decisions of this type typically take from 15 to 20 days to complete.

Administrative Decisions with prior notice. In this case, all persons within the notification area receive written notice and a sign is posted on the property, providing notice of the proposed land use. Additionally, public agencies, such as irrigation districts, fire districts, road departments and other affected public agencies are notified. All persons are given at least 10 days to respond to the notice. Upon receipt of responses to the notice, a Planner prepares a "Findings and Decision" which is signed by the Planning Director. Any person within the notification area is a "party" and can appeal the decision to the Hearings Officer. The Planning Director also can decide to send the subject application to a hearing if issues raised in the review process cannot be adequately resolved in the decision. This process typically takes from 35 to 40 days.

Public Hearing by Hearings Officer. This type of review is typical for large developments with complex issues and applies a mix of objective and subjective standards that allow considerable discretion. The County contracts with the Hearings Officer who hears and reviews all evidence and determines if the applicable criteria are or can be satisfied. A person who participates in the Hearing verbally or in writing is a "party" and can appeal the decision to the Board of County Commissioners. The public notice for issues sent directly to the Hearings Officer are mailed at least 20 days prior to the hearing and a staff report is available seven days prior to the hearing. This type of review typically takes between 60 and 90 days to complete.

Legislative Changes - generally involve broad public policy decisions that apply to other than an individual property owner. These include changes to the text of the Comprehensive Plan and Zoning Ordinances, Subdivision/Partition Ordinances and changes in zoning or property affecting several parcels of land. Legislative review considers and may enact or amend laws and can be initiated in a number of ways.

Persons seeking a change may make an application with the Planning Division for a legislative change. The Board of County Commissioners can recommend that the Planning Commission consider legislative changes. The Planning

Commission can initiate legislative changes. The Planning staff proposes several legislative changes each year, as part of a work program. The Board adopts a Work Program each year which guides the Planning Division's workload.

All legislative changes are reviewed by the Planning Commission. Public notices and hearings are provided in the legislative review process. There are no time limits for the legislative process, however, the Planning staff generally seeks to establish a timeline when the project is initiated. All legislative changes must be adopted by the Board of County Commissioners.

Applicable criteria

Standards and criteria may be either clear and objective - such as fixed setback distances or they may be subjective - such as criteria employing such vague terms as "compatible" or "orderly development". Subjective criteria allow for flexibility in the land use system. However, such criteria may have different meanings to different persons. Therefore, where such criteria are present, the decision-maker will generally need to apply and interpret the meaning of the criteria to the facts as developed during the approval process. A recurring problem with testimony on land use applications is the failure of the applicant or public to address how facts of the particular case relate to the approval criteria. Approval or denial of an application for a land use permit is not a popularity contest; approval or denial must be based upon whether the proposal meets the applicable criteria of the zoning ordinance. Knowing and understanding the criteria that need to be addressed helps to focus testimony on the issues that the decision-maker must address. The applicable criteria and the facts supporting a land use application are set forth in the staff report or a findings and decision document.

Hearing process

Members of the public may participate in the land use process by commenting on an application, either in writing or by testifying at a hearing. Written comments addressed to the Planning Division or the decision-maker referencing a particular application will be considered so long as the comments are received before the record of a particular proceeding is closed. A land use hearing on an application generally proceeds as follows:

Hearing Statement: The Hearing Body (decision-maker) reads a statement that sets out the hearings process, discloses any contacts about the application outside the hearings process (ex parte contacts) and allows members of the public to challenge the decision-maker for bias or prejudice. Staff Report. Planning staff gives a staff report, in which the approval criteria are referenced, the facts supporting the approval are summarized and any issues or deficiencies of evidence are noted. Public Testimony. Applicants proceed to give their testimony first, followed by any persons who support the application. Opponents or neutral parties are then given an opportunity to give their testimony. Rebuttal

by the applicant is allowed, with rebuttal by the opponents allowed at the discretion of the decision-maker.

Persons who decide to testify are asked to step to the podium and state their names and addresses clearly for the record and to sign in on a sign-up sheet provided at the podium. This assists the County in determining to whom a written copy of the decision should be sent. Persons with a written statement to submit need not read the statement verbatim; all written materials received are reviewed by the decision-maker. Persons wishing to testify are asked to avoid testimony that is repetitious of other viewpoints presented. The decision-maker has the right to limit testimony that is not relevant or is overly repetitious of other testimony previously received. Persons planning to present photographs or maps with their testimony and who desire that such information be made part of the record need to be prepared to leave the information with the decision-maker. Such materials cannot be returned until after the proceedings has been concluded and any appeals are finished. Persons in the audience are asked to conduct themselves in a courteous manner and to avoid clapping, shouting or any other disruptive behavior during the hearing. At the end of the testimony, the decision-maker can close the record, continue the hearing until a subsequent meeting, or close the record except for further written material. Upon request, the decision-maker is required to grant a continuance if new material is submitted at the hearing. In addition, upon request, the decision-maker is required to allow an additional period of time for the submission of written testimony.

Decision Process: In most cases, the decision-maker will not indicate at the time of the hearing whether the application will be approved or not. In all cases, the decision will be in writing in a document known as a "Findings and Decision" document. The decision-maker must decide whether or not to approve the application based solely on the applicable criteria and on the information provided in the record. The decision-maker may not base their decision on information that is received outside the hearing process. If there is something that the decision-maker should know about a development proposal, that information needs to be brought to the decision-maker's attention during the course of the proceedings.
