

CITY OF PARK RIDGE - PLANNING AND ZONING COMMISSION TRAINING

PART ONE: JURISDICTION, PROCEDURES, AND PUBLIC HEARINGS

I. STATUTORY AUTHORITY

The Park Ridge Planning and Zoning Commission (“Commission”) serves in the role of a statutory “plan commission,” and can be made up of as many individuals as a community desires. The members are not required to be City officers. The plan commission is statutorily authorized to review and make recommendations on subdivision plans and comprehensive plans. Some communities (like Park Ridge) have expanded the plan commission’s authority to include review of other zoning applications such as special uses, planned unit developments, and zoning text and map amendments.

II. PLANNING AND ZONING COMMISSION JURISDICTION (pursuant to Park Ridge City Code and Zoning Ordinance)

- Special Uses (section 4.6 of zoning ordinance)
- Planned Unit Developments (section 4.7 and 5 of zoning ordinance)
- Zoning Map and Text Amendments (section 4.8 of zoning ordinance)
- Site Plans (section 4.5 of zoning ordinance)
- Comprehensive Plan
- Subdivisions (chapter 2, article 6 of city code)

III. PUBLIC HEARING VS. PUBLIC MEETING

A. What is a Public Hearing? A formal and structured process that provides a forum for the public to express its opinions and comments about a zoning application.

B. What Notice is Required for a Public Hearing?

1. State law requirements:

- Newspaper publication (15 - 30 days prior to the hearing).
- Compliance with Open Meetings Act (posting at meeting place, etc)

2. City Code requirements:

- Newspaper publication (section 3.3A of zoning ordinance) (15 - 30 days prior to the hearing)
- Mailed notice (section 3.3B of zoning ordinance) – applications for special uses, planned developments, and zoning amendments require notice mailed to properties within 250 feet from the subject property (15-30 days prior to the hearing)
- Sign posted (section 3.3C of zoning ordinance) – applications for special uses, planned developments, zoning amendments, and site plans require sign posted on the subject property (15-30 days prior to the hearing)

C. Order of Procedure at a Public Hearing (detailed outline on Ex. A):

1. Introduction of the matter by the Chair
2. City staff summary of the petition
3. Petitioner's presentation
4. Public testimony and comment
5. Cross-examination
6. Response by Petitioner
7. Questions by Commissioners
8. Close public hearing (alternatively, the public hearing can remain open and will automatically close upon a vote on the zoning petition)
9. Commission discussion and deliberation
10. Commission action on the petition (continuance or vote)

D. When is a Hearing Required? State statute will expressly state that a hearing is required for specific zoning relief. The following zoning applications require a public hearing:

- Zoning Code and Map Amendments (text amendments and rezonings)
- Special Uses
- Planned Unit Developments

E. When is a Public Meeting (not hearing) Sufficient? Not all matters require a public hearing. For example, the following petitions can be considered at a regular meeting, without the necessity of conducting a public hearing:

- Subdivision plans and subdivision variances
- Comprehensive plan
- Site plans

IV. STANDARDS FOR REQUESTED RELIEF

The City Code or Zoning Ordinance, as the case may be, sets forth the applicable standards for recommending or granting the particular relief being requested. The Commission should keep these standards in mind as they listen to the petitioner's presentation and public comment, as well in their discussions and deliberations.

- A. Zoning code amendments (text amendments) – section 4.8D of zoning ordinance
- B. Zoning map amendment (rezonings) – section 4.8D of zoning ordinance
- C. Special uses – section 4.6E of zoning ordinance
- D. Planned unit developments - section 5.4 of zoning ordinance
- E. Subdivision plans and subdivision variances – section 6-2-3 of city code
- F. Comprehensive plan

V. ACTIONS

A. Recommendations/Final Decisions.

- The Commission is a recommending body on text and map amendments, special uses, planned developments, comprehensive plans, and subdivisions. The Commission's recommendations on these applications go to the City Council for final action, whether the Commission's recommendation is in favor or against. The City Council may accept in whole or in part or reject a Commission recommendation. If the Commission issues a negative recommendation on a special use, planned development, or text/map amendment, then a supermajority vote of the Aldermen is required to approve the application pursuant to Ordinance No. 2016-49.
- The Commission is a final decision-making body on site plan applications. Planning and Zoning Commission denial of a site plan. Pursuant to Ordinance No. 2016-49, an applicant may appeal the Planning and Zoning Commission's denial of its site plan to the City Council by submitting a written request to the Zoning Administrator within ten (10) days of the notice of the denial. The City Council will consider the applicant's appeal within 60 days of receipt of the applicant's request. The City Council has the authority to grant the applicant's appeal and approve the site plan, with or without modifications, or deny the applicant's appeal and uphold the denial of the site plan.

B. Findings of Fact.

- Certain applications (special use or planned unit development) require the adoption of written findings of fact.
- The findings of fact should state the reasons for the recommendation, and those reasons should relate to the standards set forth in the City Code for the particular relief being requested.
- Pursuant to Ordinance 2016-49, the findings of fact requirement can be satisfied by incorporating findings into the minutes of the Commission or City Council, the ordinance approving the application, or other written record.

VI. Due Process

- Impartiality. Because Commission members act in a "quasi-judicial" capacity when they consider special uses, planned developments, and amendments, they must maintain impartiality during the hearing process.
- Ex Parte Communications. Commission members should avoid any "ex parte" communications or contact with any parties to the proceeding, including the applicant or homeowner and any neighbors who have appeared as objectors to the pending application.
- Site Visits. While Commission members can visit the site of an application, they should be careful not to engage in extensive discussions with the owner or others outside of the hearing, which is the appropriate venue for testimony and evidence about a particular application.

PART TWO: OMA, FOIA, AND ETHICS

I. Open Meetings Act – Meetings

- A. Gathering of a majority of a quorum of a public body for the purpose of discussing public business
1. Gathering: In person, over the phone, by email/text, or other means
 2. Public Body: Applies to all public bodies, including the Commission
 3. Majority of a Quorum: (Quorum is required to conduct business)
 - On a 9 member Commission, a quorum is 5, so a majority of a quorum is 3.
 - That means that 2 members can gather to discuss public business.
 - 3 cannot gather without complying with notice/public requirements of the OMA
 4. For the purpose of discussing public business
 - Social, political or other conversations/communications are not covered under OMA
 5. Members must be careful not to engage in discussions about a pending application with other members that would constitute a meeting. That includes emails and text messages.
- B. Notices:
1. Annual schedule of regular meetings adopted each year and posted at city hall and on website. Regular meeting notices also must be posted in same locations
 2. Special meetings must be noticed up at least 48 hours in advance; posted at city hall.
- C. Agendas:
1. Agenda for a regular, special, rescheduled or emergency meeting must be posted at least 48 hours in advance at city hall and on website.
 2. Must identify the “general subject matter” of any ordinance or resolution to be acted on at a meeting.
 3. Must also list on the agenda any item, even a motion, that will be acted upon in any way, including a formal vote or even a consensus.
 4. However, public bodies can discuss any item at a regular meeting without listing it on an agenda so long as they do not take a vote on that item.
- D. Minutes:
1. All public bodies must keep minutes of their meetings. Those minutes must be approved within 30 days or at the meeting after the next meeting after which the minutes were taken.
 2. The minutes must include a record of who was present and what action was taken.
 3. Minutes must be posted on the website within 10 days after they are approved and must be kept for 60 days on the website.
 4. Closed session minutes are confidential until the public body approves them for release to the public. Must conduct semi-annual review of closed session minutes in closed session.
 5. Must also record all closed sessions – these tapes are confidential and should be approved for destruction 18 months after the meeting.
- E. Recording: Anyone can record an open meeting.

- F. Open and Convenient: Meetings must be held at locations and in places that are convenient to the public.
- G. Public Comment:
 - 1. 2.06(g) requires public bodies to provide an opportunity for public comment.
 - 2. PAC interprets this to mean public comment must be allowed at every meeting, including Commission meetings.
 - 3. Can place reasonable time limits and restrictions on public comment but must be pursuant to written rules.
- H. Closed Sessions: OMA allows a public body to go into closed session to discuss certain topics.
 - 1. Litigation
 - 2. Personnel
 - 3. Property acquisition
 - 4. Collective bargaining
 - 5. Closed session minutes
- I. Training: All members of a public body (including Commission members) must complete the online OMA training program on the Attorney General's website.
- J. Enforcement: Enforcement of the OMA can be by the PAC office or the court. Violations of the OMA can have criminal penalties.
- K. Electronic Communications: Important to remember that electronic communications (emails, text messages, social media) can also create a "meeting" that triggers OMA compliance.

II. Freedom of Information Act

- A. Each public body must appoint a FOIA Officer to administer FOIA
- B. All "public records" of a public body can be inspected/copied upon request
- C. Applies to electronic records, although court limited records on purely private devices to those records that are (1) sent/received during a meeting; (2) forwarded to an official city account; or (3) sent to a quorum of the public body
- D. Does not apply to private records, such as emails relating to a personal or social nature
- E. 5 business days to respond, with ability to extend for 5 more
- F. If the FOIA officer asks you for records, you may have to turn them over
- G. Denials must be in writing
- H. Appeals now go to PAC office

- I. There are exemptions to release: private information; investigatory records; criminal records; attorney-client communications; performance evaluations; preliminary drafts; building plans; etc.
- J. Can request that a request be narrowed or deny for unduly burdensome – very difficult to establish, though
- K. Commercial requests can take more time
- L. Enforcement through PAC or court

III. Ethics

- A. Gift Ban Act:
 - 1. Prohibits officials and employees from accepting gifts from “prohibited sources
 - 2. Gifts can include discounts, food, trips, tickets, etc.
 - 3. There are a number of exemptions:
 - a) Political contributions
 - b) Educational missions
 - c) Food or refreshments not exceeding \$75/person/day
 - d) Any item of less than \$100 (calendar year)
 - 4. You can return the gift, pay for it, or donate the value to charity
- B. Prohibited Political Activities: Cannot solicit contributions, campaign for a candidate or referendum, solicit votes, or conduct any other political activities on city compensated time or using city resources or require an employee to do so on city compensated time.
- C. Disclosure of Economic Interests: Must file form disclosing various interests on an annual basis.
- D. Conflicts of Interest:
 - 1. Elected and appointed officials, including Commission members, cannot have a direct or indirect financial interest in any contract or work where the cost of the contract or work would be paid out of municipal funds where the official may be called upon to act or vote on the contract or work.
 - 2. Municipal official cannot take any gift or bribe to influence his or her vote.
 - 3. Municipal official cannot have a direct or indirect interest in the purchase of any property that belongs to the city.
 - 4. There are exemptions:
 - a. Small contracts (\$25,000 year aggregate) if the officer owns less than 7 ½ share of the company, discloses its interest, abstains from voting and sealed bid process.

- b. Smaller contracts (\$2,000 each/\$4,000 annual) if the officer discloses its interest, abstains from voting.
 - c. Minor interests (less than 1% share in company) if discloses its interest, abstains from voting
 - d. Local bank: municipal official can approve contract with financial institution in which member is a director, officer, employee or owns less than 7 1/2 percent if discloses its interest, abstains from voting
5. Financial conflict of interest (common law) where there is an “appearance of impropriety” – it does not disqualify an officer from office.
- E. Official Misconduct Statute: Municipal official and employee may be guilty of misconduct if in an official capacity, he or she:
- 1. Intentionally or recklessly fails to perform a mandatory duty
 - 2. Knowingly performs an act that he or she is forbidden by law to perform
 - 3. Performs an act outside his or her authority with the intent to profit
 - 4. Solicits a bribe

CONDUCT OF PUBLIC HEARINGS (SAMPLE)

1. **Introduction by the Chairman.** The Chair will begin each public hearing by announcing the name of the applicant and the relief requested in the petition. The Chair will explain the procedures for the conduct of the public hearing or ask the attorney to do so. An oath should be administered to all persons intending to testify during the course of the public hearing. In a hearing that was continued from a previous meeting, the Chair should remind those that were previously sworn that they remain under oath.
2. **Staff's Summary of Petition.** City Staff will summarize the basic facts and relief requested in the petition.
3. **Applicant's Presentation.** The applicant will present its petition with testimony of witnesses and other evidence. In general, the applicant should be allowed to make this presentation without interruption, except for questions raised by the hearing body members that may be immediately necessary to aid the members or the public in understanding the presentation.
4. **Public Testimony and Comment.**
 - **General.** At the start of the period for public testimony and comment, the Chair should advise the public of the amount of time permitted for public testimony and comment; ask all speakers to state their names and addresses; request that the public avoid repetition; and remind the public that all information presented is under oath. Each speaker will be permitted to speak one time only, unless the Chair determines that allowing a speaker to address the hearing body again will contribute new testimony or other evidence.
 - **Testimony, Evidence, and Questions.** Members of the public may address to the hearing body their questions, testimony, evidence, and comments about the relief requested and the evidence presented by the petitioner and other members of the public. The Chair will determine how the questions from the public should be addressed. Following the conclusion of all public participation, the Chair will direct the questions from the public to the applicant for response.
5. **Cross-Examination.** The Chair should open the floor for cross-examination for those interested parties who have requested the right to cross-examine. The Chair should determine relevancy, and has the responsibility to enforce proper decorum. Questions must be relevant to the subject matter of the application before the hearing body.
6. **Response/Rebuttal by the Petitioner.** The Chair will allow the applicant a reasonable time to respond to the public testimony and comments presented.
7. **Questions by the Members.** Members of the hearing body may ask questions of any individual that may be necessary to clarify material presented or the relief requested.
8. **Hearing Body Discussion and Deliberation.** During the hearing body's discussion, members of the hearing body may direct additional questions to the applicant, witnesses for the applicant, or members of the public who testified. Except to respond to questions, the applicant, witnesses for the applicant, or members of the public may not address the hearing body during this portion of the meeting without the consent of the Chair.
9. **Hearing Body Action.** Following the deliberations, the hearing body will take action (vote) on the application and make its recommendation to the corporate authorities to (a) approve, (b) approve with conditions, or (c) deny the application. Alternatively, the hearing body can continue the hearing to a date certain to require the applicant, staff, and/or the attorney to provide new or additional information needed by the hearing body to make a decision.

10.

11. 4822-2647-5312, v. 2