

Citizen Planner Program - Understanding the Planning and Zoning Context

MICHIGAN STATE UNIVERSITY Extension

Sources of Planning and Zoning Authority

- Derived from state's sovereign **police power**, reserved by government to protect health, safety and welfare
- Zoning is a legislative modification of nuisance law.
 - Designed to limit the harm one landowner may do to another, or to society as a whole, based on his or her use of the land

What zoning
can affect

MICHIGAN STATE UNIVERSITY Extension

Sources of Planning and Zoning Authority

***Village of Euclid (Ohio) v. Ambler Realty Co.*, 272 U.S. 365 (1926)**

- U.S. Supreme Court upheld zoning as a proper exercise of the police power to protect the public welfare.



Why it's
legal

MICHIGAN STATE UNIVERSITY Extension

Sources of Planning and Zoning Authority

***Village of Euclid (Ohio) v. Ambler Realty Co.*, 272 U.S. 365 (1926)**

- But U.S. Supreme Court warned that zoning ordinances must "find their justification in some (proper) aspect of ... protecting the public welfare."
 - e.g., child safety and security, fire protection, traffic control, disease prevention, noises, odors, unsightliness, etc.



Reasonable
limits on
property rights

READING - Major Planning and Zoning Case Law



MICHIGAN ZONING ENABLING ACT
Act 110 of 2006

AN ACT to codify the laws regarding local units of government regulating the land, to provide for the adoption of zoning ordinances, to provide for the establishment, alteration, and dissolution of zoning districts, to prescribe the powers and duties of local units of government in the administration of zoning, to provide for the assessment and collection of fees, to authorize the issuance of bonds, to provide for the imposition of fines and penalties, and to repeal acts and parts of acts.

History: 2006, Act 110, Eff. July 1, 2006

The People of the State of Michigan enact:

ARTICLE I
GENERAL PROVISIONS

125.3101 Short title.
Sec. 101 This act shall be known and may be cited as the "Michigan zoning enabling act."
History: 2006, Act 110, Eff. July 1, 2006.

125.3102 Definitions.
Sec. 102 As used in this act:

- The Planning and Zoning Enabling Acts give permission to adopt a master plan and zoning ordinance
- Provides direction as to what approvals can be made, who must review them, and how decisions are to be made. Development processes are not defined
- Requires municipality to consider land use factors for the proposed new, replacement use/development, not consequences of the loss of the previous use
- Additional legislation further preempts planning practices at local level (i.e. inclusionary zoning, Federal Fair Housing)

- Guide for the future
- Establishes Vision
- Facilitates investment decisions
- Coordinates programs, policies, and funding to support desired outcomes
- Policy document
- Not law

An aerial photograph of a residential development. In the center-left, there is a large, long, white building with a gabled roof, possibly a community center or school. To its right, a cluster of smaller, single-story houses with gabled roofs is visible. The area is landscaped with trees and shrubs. A road or path runs through the center of the development.

- Adopted as part of the Master Plan
- Establishes land use and development goals for a particular area of the city
- Protects character, encourages reinvestment and revitalization
- Provides a strategic focus for neighborhood and business organizations
- Utilized by investors, developers, City Staff and Planning Commission when evaluating a redevelopment project
- Not law

The collage consists of four black and white images. Top left: A photograph of a two-story historic house with a porch and a small garden. Top right: A portion of a zoning map showing various districts labeled 'M-DR', 'HOS', and 'M-1'. Bottom left: A photograph of the lower portion of a large, classical building facade with arched windows and columns. Bottom right: A photograph of a building's dome and upper facade, featuring a statue on top of the dome.

- Law
- Comprised of text and maps
- Purpose and Intent
- Neighborhood character
- Sets policies and procedures
- Requires neighbor input
- Implements Master Plan and Area Specific Plans

Roles & Responsibilities

- Community – information and input
- City Commission - legislative
- Planning Commission - administrative
- Board of Zoning Appeals – quasi-judicial
- Historic Preservation Commission - administrative
- Planning Director – administrative

How do they decide?

- City Commission – Zone Change Standards
- Planning Commission – Special Land Use Standards, Zone Change Standards, Site Plan Review Standards
- Board of Zoning Appeals – Dimensional and Use Variance Standards
- Historic Preservation Commission – Federal Secretary of the Interior Standards
- Planning Director – Administrative Departure Standards, Site Plan Review Standards, other ordinance requirements

Who approves what?

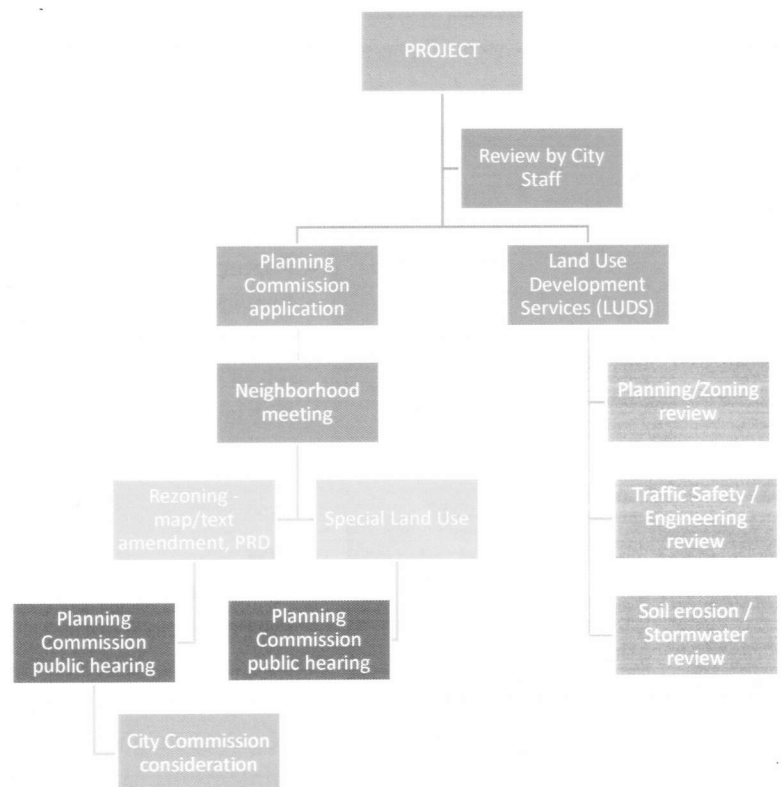
- City Commission – Ordinances (Text and Maps)
- Planning Commission – Special Land Uses, Certain “Waivers”, Site Plans, Recommends to CC Ordinances
- Board of Zoning Appeals – Dimensional Variances, Use Variances, Interpretations
- Historic Preservation Commission – Buildings and sites in historic districts
- Planning Director – Administrative Departures, Uses/projects as allowed by the Zoning Ordinance

Articles 12 and 13 of the City of Grand Rapids Zoning Ordinance provides process and procedure information for all private development applications. The Ordinance outlines several possible review paths depending on the nature of the application.

In general, the review path is dictated by the proposed use of the project. City staff works with applicant to understand the scope of a project and direct the project through the appropriate review path. Staff suggestions are made based on our expertise, experience and knowledge of the Master Plan and Zoning Ordinance.

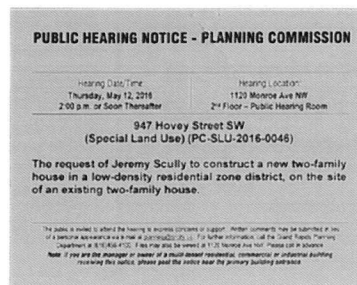
Tools in decision making process

- 2002 Master Plan, Green Grand Rapids, GR Forward and Area-Specific Plans
- Public Testimony
- Data, maps, aerial photographs
- Site visits
- Neighborhood context and history of the area



Community and neighborhood engagement happen at varying points of a redevelopment process.

- 1) For projects that propose a “permitted use” and meet all of the zoning ordinance regulations, neither a neighborhood meeting nor a public hearing is held on the individual project. The community/neighborhood engagement process happened during the development of the Master Plan, Area Specific Plan and Zoning Ordinance – where the community vision (Master Plan) and regulations to implement that vision (Zoning Ordinance) are established. If the project meets the requirements of the Ordinance, then it reviewed administratively via the LUDS permit process. Staff does encourage a developer to contact the neighborhood/business association to discuss their project prior to a LUDS submission.
- 2) For projects that require Commission and/or Board approval (i.e. Special Land Use, Planned Redevelopment District, rezoning, etc.), a developer is strongly encouraged to meet with the neighborhood or business association prior to application. The Planning Commission is required to hold a public hearing to gather input from the general public, and the application is reviewed for compliance with the standards of the Zoning Ordinance. The Michigan Zoning Enabling Act requires the City to send notice to all properties within 300 feet of the request and publish in the newspaper.



“The purpose of the neighborhood meeting is to educate occupants and owners of nearby properties about the proposed development application, receive comments and address concerns about the development proposal; and resolve conflicts and outstanding issues, where possible. The meeting is intended to result in an application that is responsive to neighborhood concerns and to expedite and lessen the expense of the review process by avoiding needless delays, appeals, remands or denials.”

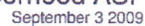
Section 5.12.04 Neighborhood Meeting

REDEVELOPMENT CHALLENGES

- GR is rapidly developing
- New people/out of town in development
- Developers don't always listen to “suggestions”
- Concern for equitable development and affordable housing
- Balancing flexibility with prior community issues
- Preservation versus redevelopment
- Emerging business opportunities
- Managing change

[illegible]

CITY OF GRAND RAPIDS PLANNING DEPARTMENT 07/18



**BELKNAP AREA SPECIFIC PLAN
CONTEXT DISTRICT SUMMARY**

	BELKNAP TR Traditional Family Housing	BELKNAP MH Mixed Housing District	BELKNAP CR Cottage Retail District	BELKNAP NT Neighborhood Transitional	BELKNAP NC Neighborhood Center District
BUILDING TYPE					
Single-Family House	■■■	■■■	■■■	■■■	■■■
Duplex / Triplex	■■■	■■■	■■■	■■■	■■■
Rowhouse		■■■		■■■	■■■
Apartment House		■■■		■■■	■■■
Apartment Center Hall		■■■		■■■	■■■
Cottage Retail Building			■■■	■■■	■■■
Mixed-Use Building				■■■	■■■
BUILDING HEIGHT (max.)	35 feet	35 feet	35 feet	35 feet	45 feet

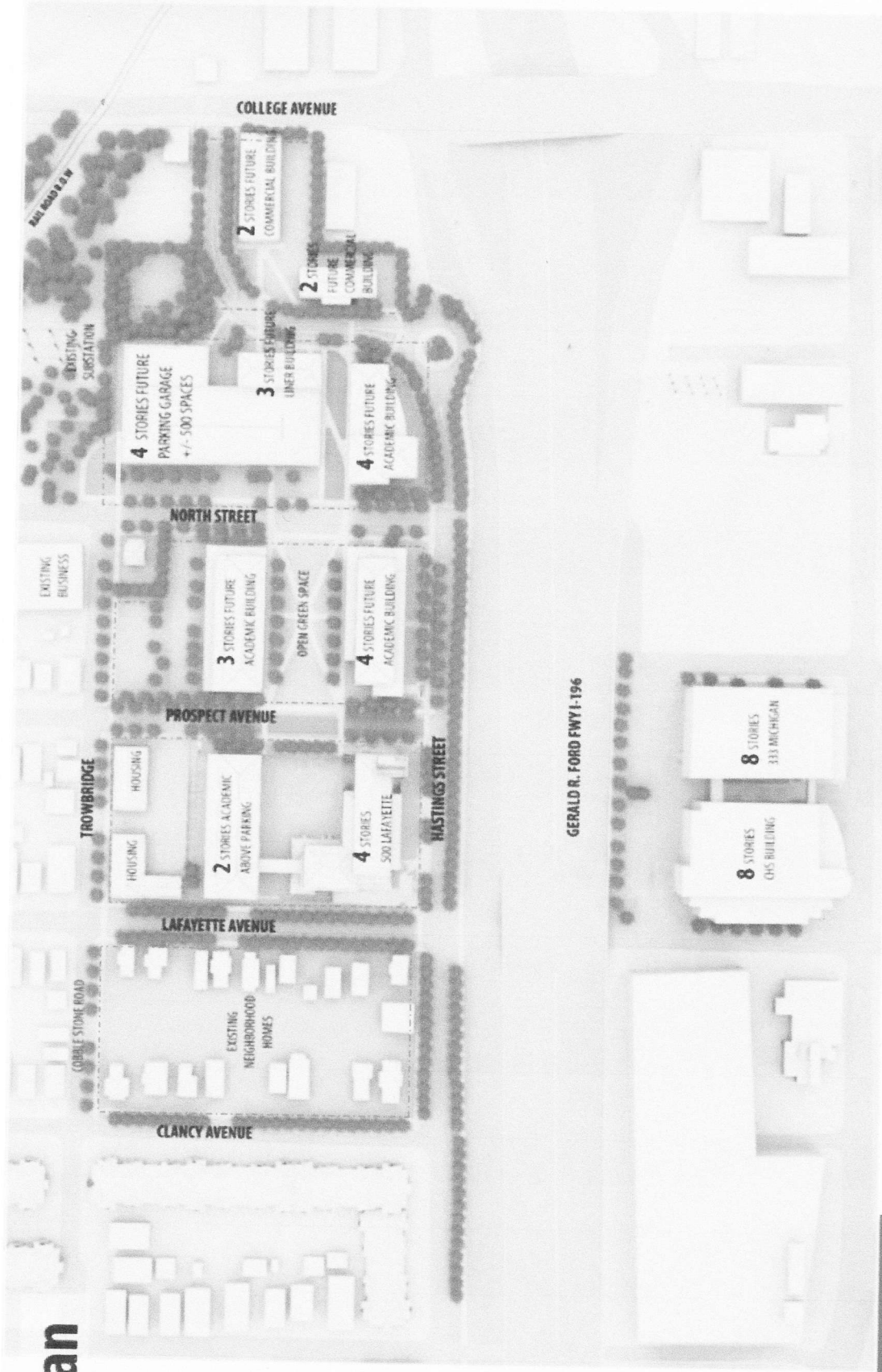
■■■ Denotes that Building Type is permitted in District by right.
(Building Types not indicated as permitted by right are NOT allowed within the District.)

Types of buildings
allowed in different
areas

Use to guide official opinion
on whether to support projects
at public hearings.

Adjustment for GVSU Campus

Master Plan



GVSU BELKNAP MASTER PLAN

SMITHGROUP JJR

Treat as historic - used w/ federal funding



Show no damage
will occur

✓ = finished

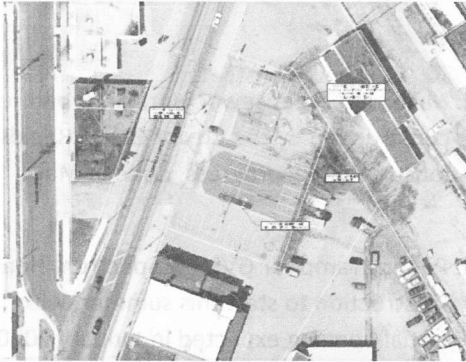
X = abandoned ? = not sure of timing

Belknap Lookout Neighborhood
Summary of Local Construction Projects 2018

Spring

Project: Parking lot on Plainfield (SLU) for use by Homewood Suites guests & employees

Status: Passed Planning Commission



Project: Road construction on Newberry (Monroe to Division) by the City of Grand Rapids

Status: Planned for 2018

Project: Embassy Suites at 710 Monroe (Liquor License)

Status: Construction in progress. 246 suites, Sports Bar and Grill. Expected to open summer 2019.



✓ **Project:** Self Storage on Clancy (SLU) by CopperRock Construction

Status: Construction in progress

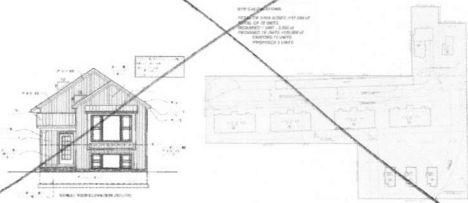


✓ **Project:** Coit Park renovations by the City of Grand Rapids Parks Department

Status: Construction in progress. Moving playground, new picnic area, replacing restroom.

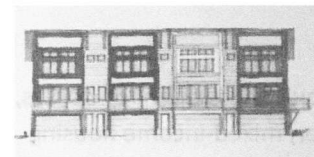
~~**Project:** 3 Single Family Homes on Coldbrook (SLU) by Green Light Management~~

~~**Status:** Preparing for Planning Commission, still making changes (no NOBL decision has been made)~~



✓ **Project:** Fairview Condos (SLU) by CopperRock Construction

Status: Construction in progress



Streetview, above.

Buildings behind on hill, left.

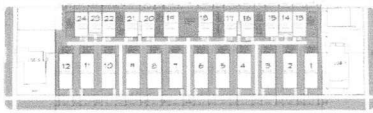
? **Project:** Mixed Use Project at Bradford & Lafayette (Zone Change) by Bazzani

Status: Zone Change passed Planning Commission, not anticipating SLU. Securing financing.

? **Project:** Condos at 637 Coit (SLU) by RJM Properties

Status: Preparing for Planning Commission, still making changes (no NOBL decision has been made)

Project: Coit Square (PRD) by the Artesian Group
Status: Passed Planning and City Commission, currently seeking Brownfield financing

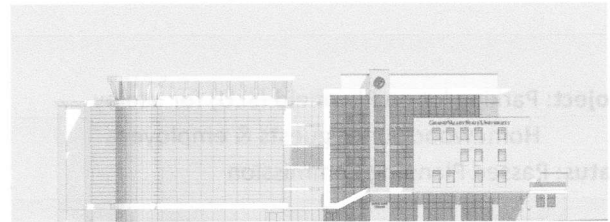


Site plan, left

Renderings, below

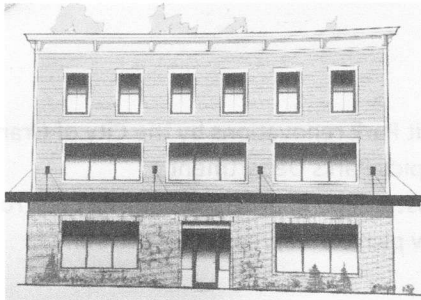


Project: 433 Michigan
Status: Construction to start this fall.



✓ **Project:** Michigan Street sewer work and road reconstruction by the City of Grand Rapids
Status: Construction in progress, done in May.

? **Project:** Tear down and rebuilt L&L Market over 2 lots (SLU) by L&L with RJM as contractor
Status: Preparing for Planning Commission (NOBL has approved with conditions in an MOU)



Project: Parking ramp for GVSU & Spectrum Health
Status: Construction to start this summer, with partial opening expected in January 2020.



✓ **Project:** Lafayette Avenue sewer work and road reconstruction by the City of Grand Rapids
Status: Construction in progress, done in August.

? **Project:** 719 Prospect sale by the State Land Bank
Status: Agreement is in negotiation but will include NOBL in purchaser's design process

✓ **Project:** 500 Lafayette block
Status: New health sciences building is open for classes, dedicating this summer; mixed-income housing on Trowbridge applying for LIHTC credits this fall



Jan 2019

Under construction
Awaiting Approval

Parking lot

Newbury

Embassy

601 Bond

Bell

Coit Spr

516

Bellamy Place

516

601 Bond
601 Bond
601 Bond

UCBL



PLANNING COMMISSION REVIEW STANDARDS

SPECIAL LAND USE Review Standards

The Planning Commission shall consider whether the proposed Special Land Use meets the following standards:

☐ **1. Master Plan/Zoning Ordinance**

The proposed use will be consistent with the purpose and intent of the *Master Plan* and Zoning Ordinance, including the Zone District.

☐ **2. Neighborhood**

- a. The proposed use will be compatible, harmonious and appropriate with the existing or planned character and uses of the neighborhood, adjacent properties, and the natural environment.
- b. Potentially adverse effects arising from the proposed use on the neighborhood and adjacent properties will be minimized through the provision of adequate parking, the placement of buildings, structures and entrances, as well as the location of screening, fencing, landscaping, buffers or setbacks.
- c. The proposed use will not be detrimental, hazardous, or disturbing to existing or future adjacent uses or to the public welfare by reason of excessive traffic, noise, smoke, odors, glare, visual clutter, and electrical or electromagnetic interference.
- d. The proposed use will not adversely affect the walkability of the neighborhood, impair pedestrian circulation patterns, disrupt the continuity of the urban street wall or otherwise hinder the creation of a pedestrian-oriented environment.

☐ **3. Environment**

The proposed use will retain as many natural features of the landscape as practicable, particularly where the natural features assist in preserving the general character of the neighborhood.

☐ **4. Public Facilities**

- a. Adequate public or private infrastructure and services already exist or will be provided at no additional cost, and will safeguard the health, safety, morals, and general welfare of the public.
- b. The proposed use will not be detrimental to the financial stability and economic welfare of the City.
- c. The proposed use will comply with all other applicable City ordinances and policies and all applicable State laws.

☐ **5. Sale and/or Consumption of Alcohol**

Alcohol-related uses tend to have a particularly detrimental effect on a neighborhood where there is a concentration of such uses in proximity to each other. The standards of review for alcohol sales in Section 5.9.05.E. of the Zoning Ordinance shall be used in conjunction with the Special Land Use Review Standards.

Note: Applicable Site Plan Review Standards of Section 5.12.08.D. also apply to Special Land Uses.



PLANNING COMMISSION REVIEW STANDARDS

ZONE CHANGE MAP Review Standards

The Planning Commission shall consider, and the City Commission may consider, whether the proposed amendment meets the following standards:

☐ **1. Master Plan/Zoning Ordinance**

- a. The proposed Zone District or Neighborhood Classification designation is consistent with the purpose and intent of the *Master Plan*, including the Future Land Use Map.
- b. The proposed Zone District or Neighborhood Classification designation will further the themes and objectives of the *Master Plan*, as well as any relevant adopted Area Specific Plans.
- c. Any property to be re-zoned can accommodate the requirements of the proposed Zone District.

☐ **2. Neighborhood**

The proposed Zone District or Neighborhood Classification is compatible with the Zone District(s) and Neighborhood Classification(s) in the neighborhood.

☐ **3. Environment**

The physical, geological, hydrological and other environmental features of the property to be re-zoned are compatible with the full range of uses in the proposed Zone District.

☐ **4. Public Facilities**

- a. Adequate public facilities already exist or will be provided at no additional cost, and will safeguard the health, safety, morals and general welfare of the public.
- b. The proposed Zone District or Neighborhood Classification will not be detrimental to the financial stability and economic welfare of the City.

☐ **5. Other**

- a. The proposed Zone District or Neighborhood Classification is consistent with the trend of development in the neighborhood; **or**
- b. The property to be re-zoned was improperly zoned or classified when the Zoning Ordinance was adopted or amended.
- c. Rezoning the property as proposed would negatively impact the condition of any nearby parcels currently zoned Mixed-Use Commercial, especially considering existing vacancy rates, current per-square-foot lease or sale rates, and other impacts.



BOARD OF ZONING APPEALS REVIEW STANDARDS

USE VARIANCE Review Standards

Purpose

The Variance process is intended to provide limited relief from the requirements of the Zoning Ordinance in those cases where strict application of a particular requirement would create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed in the Zoning Ordinance.

It is not intended that Variances be granted merely to remove inconveniences or financial burdens. The possibility that compliance with the Zoning Ordinance may prove to be more costly or time consuming shall not be part of the consideration of the Board of Zoning Appeals (BZA).

Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by an act or omission of the property owner or previous property owners.

The Board of Zoning Appeals (BZA) may allow a Use Variance where all of the following conditions are met:

- ☐ **1. Unnecessary Hardship.** The condition, location, or situation of the specific property or intended use of the property that contains an unnecessary hardship is unique to that property and the Zone District.
- ☐ **2. Not Self Created.** The need for the Variance was not created by the applicant or the applicant's predecessors in title.
- ☐ **3. No Substantial Detriment.** The Use Variance shall not alter the essential character of the neighborhood, nor be a detriment to adjacent properties.
- ☐ **4. Cannot Be Reasonably Used.** The land, building or structure cannot be reasonably used for the permitted uses in the Zone District.
- ☐ **5. Master Plan/Zoning Ordinance.** The Variance shall be consistent with, and not materially impair, the purpose and intent of the *Master Plan* and Zoning Ordinance, including the Zone District.

Planning Commission Opinion

Prior to reaching a decision on a Use Variance, the BZA may request that the Planning Commission, following presentation of the request by the applicant, forward an opinion to the BZA. The Planning Commission opinion is advisory and is limited to the effect of the proposed Use Variance on the existing or intended character of the neighborhood and the ability of the property owner to use the property for a use already permitted under the Zone District.



BOARD OF ZONING APPEALS REVIEW STANDARDS

DIMENSIONAL VARIANCE Review Standards

Purpose

The Variance process is intended to provide limited relief from the requirements of the Zoning Ordinance in those cases where strict application of a particular requirement would create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed in the Zoning Ordinance.

It is not intended that Variances be granted merely to remove inconveniences or financial burdens. The possibility that compliance with the Zoning Ordinance may prove to be more costly or time consuming shall not be part of the consideration of the Board of Zoning Appeals (BZA).

Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by an act or omission of the applicant or the applicant's predecessors in title.

The Board of Zoning Appeals may allow a Dimensional Variance where all of the following conditions are met:

- ☐ **1. Exceptional or Extraordinary Circumstances or Conditions.** There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same Zone District or in the general vicinity. Exceptional or extraordinary circumstances or conditions may include:
 - a. Shape of Lot.** Exceptional narrowness, shallowness or shape of a specific property in existence on the effective date of the Zoning Ordinance or amendment; or
 - b. Environmental Conditions.** Exceptional topographic or environmental conditions or other extraordinary situations on the land, building or structure; or
 - c. Abutting Property.** The use or development of the property immediately adjacent to the subject property would prohibit the literal enforcement of the requirements of the Zoning Ordinance or would involve significant practical difficulties.
- ☐ **2. Substantial Property Right.** The Variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same Zone District and in the neighboring area.
- ☐ **3. Not Self Created.** The immediate practical difficulty causing the need for the Variance was not created by the applicant or the applicant's predecessors in title.
- ☐ **4. No Substantial Detriment.** The Variance shall not cause substantial detriment to adjacent property and the surrounding neighborhood.
- ☐ **5. Master Plan/Zoning Ordinance.** The Variance shall be consistent with, and not materially impair, the purpose and intent of the *Master Plan* and Zoning Ordinance, including the Zone District.