



October 12, 2021

TO: Dave Corliss, Town Manager

FROM: Tara Vargish, PE, Director of Development Services

SUBJECT: Memorandum on Development Services Land Use Item Motions

Executive Summary

Development Services staff supports four Boards and Commissions that hold public hearings for land use applications, and also takes major land use items to Town Council for public hearings. For land use actions going to Planning Commission and Town Council, staff reports have historically only included the motion language that concurs with the staff recommendation for that item, for example if the staff recommendation is for approval, then only that motion is included in the staff report and presented on the presentation slide. In comparison, staff reports for land use items going to the Historic Preservation Board, Design Review Board, and Board of Adjustment variances have included all possible motions on an item: approval, approval with conditions, denial, or continuance. These three Boards have historically had fewer land use items scheduled annually than either Planning Commission or Town Council. Due to the lower case volume these Boards meet less often, sometimes going months between public hearing items, therefore staff has provided all possible motions to those Boards as a reminder of the options. It is staff's understanding through legal trainings and previous discussions, that Planning Commission and Town Council members are aware of all of the motion options, therefore they are not currently listed in staff reports to those hearing bodies.

Discussion

Quasi-judicial land use items are considered by several Town Boards and Commissions, as well as Town Council. In these public hearings, the hearing body (board, commission or council) sits as a judge hearing the case. Specific Town code criteria is reviewed and staff demonstrates a recommendation to approve or to deny an application based on the specific code criteria. Staff reports detail the applicable code sections, project description, and demonstrates how the proposal either meets or does not meet the Town code. Staff reports typically end with a staff recommendation and proposed motion.

Historically, staff reports for land use items going to the Historic Preservation Board, Design Review Board, and Board of Adjustment variances have included all possible motions on an item. For land use applications where these boards are the final deciding body, the motions listed include: Approve, Approve with Conditions, Deny, and Continue the Public Hearing. For land use applications where the board is the recommending body to Town Council, the motions listed include: Recommend Approval to Town Council, Recommend Approval with Conditions to Town Council, Recommend Denial to Town Council, and Continue this Public Hearing. These boards may have months or years with infrequent applications or meetings, therefore staff has historically provided these boards all of the options in order to assist them in their decision making and to keep the meeting moving smoothly.

Following is an example of motions options from a Historic Preservation land use item, which is similar in style to the other two boards, depending on the application type:

Option 1 Motion: Approval

"I move to approve this design review request for project XYZ."

Option 2 Motion: Approval with Conditions

"I move to approve this design review request for project XYZ with the following conditions: (list conditions)."

Option 3 Motion: Denial

"I move to deny this design review request for project XYZ based on the following findings: (list specific code sections that support the reasons for denial)."

Option 4 Motion: Continue item to the next hearing (if more information is needed to make decision)

"I move to continue this item to the next regular Historic Preservation Board meeting on xx date to allow additional time to (list information needed)."

Planning Commission and Town Council staff reports have historically only included the motion language that concurs with the staff recommendation. For example, if the staff recommendation is for approval, then only that motion is included in the staff report and presented on the presentation slide. The same goes for the associated Resolution or Ordinance, only the recommended motion of either approval or denial is used to draft the resolution or ordinance.

Following is an example of the motion section of a Planning Commission staff report:

Proposed Motion:

"I move to recommend approval of project XYZ Site Development Plan to Town Council."

Following is an example of the motion section of a Town Council staff report:

Proposed Motion:

"I move to recommend approval of the resolution as introduced by title."

Planning Commission is scheduled to meet twice per month, and although they can have meetings cancelled for lack of agenda items, they tend to meet more often than the previously discussed three boards. Town Council typically meets twice per month, and sees a much larger volume of motions on a regular basis. Staff reports and presentations to both of these hearing bodies have not included all possible motions, as it was understood that Commission and Council members were aware that they can make alternative motions. In addition, at the beginning of each Quasi-Judicial portion of both of these meetings, the Chair or Mayor reads a Quasi-judicial statement that includes the options of either approve, approve with condition, deny, or continue to a specified date.

Recommendation

Staff recognizes that it may be valuable to both Planning Commission and Town Council if all options for motions are included for land use items. Staff recommends that staff reports continue to provide the recommendation motion, and then add into the report and presentations a section on "Alternative Motions". This Alternative Motions section can provide the basic elements of the alternative motions, however the Commission or Council will need to supply the specific criteria, code section or other reasoning needed to support the alternative motion. As each land use

application is different, the specific criteria for that application must be described in detail. When selecting the staff recommendation, the staff report has already detailed the criteria, so the proposed motion is backed up legally by the staff report. When making an alternative motion, the hearing body needs to be clear on the specific review criteria to make sure it supports the motion for the legal record.

Following is an example of how the motions section of a staff report can show both the Proposed Motion and the Alternative motions. A Site Development Plan example is used:

Proposed Motion:

"I move to recommend approval of the resolution as introduced by title."

Alternate Motions:

If Town Council desires to make a different motion than the staff recommendation above, the following alternative motions have been provided as options. If Town Council chooses one of these motions, or crafts a different one, then additional information will be needed such as specifying which code or statute sections are not being met; or what additional conditions are required; or why a continuation is needed. If Council is choosing one of these alternate motions, it is recommended that they have clear discussion on the record concerning the code or statute provision that is not being met, and consider continuing the hearing so the wording for the specific reason can be finalized with the Town Attorney's office, and brought back for final action at a future date.

Alternate Motion: Approve with Conditions:

"I move to **approve the Resolution** as introduced by title **with conditions**. These additional conditions are: _____."

Alternate Motion: Denial

"I move to **deny** the Resolution, as introduced by title, based on this application not meeting the following requirements from Title 17.38.040 Site Development Plan review and approval criteria:

(call out the specific requirement that **is not met** from 17.38.040 listed below:

A. Community vision/land use entitlements

1. Generally conforms to the Town's guiding documents that include, but are not limited to, Town Vision, Comprehensive Master Plans, Sub Area Plans, Design Guidelines, Corridor Plans and any other guiding document so long as the application of such document does not restrict the project's entitle use(s) and density.

2. Complies with existing Intergovernmental Agreements applicable to the development proposed.

3. Complies with any applicable Zoning Overlay Regulations and, if applicable, Skyline/Ridgeline Regulations.

4.Complies with the approved Planned Development Plan and Zoning Regulations.

5.Conforms to the Town's architectural goals by proposing architectural details that incorporate the use of high quality materials in a unique and varied design, while eliminating monolithic expanses of walls and rooflines through the use of varying planes and architectural projections to ensure a complete 360 degree architectural design.

6.Complies with all other relevant requirements of the CRMC

B. Site layout.

1.Conforms to Chapter 17.50 Residential/Non-Residential Interface of the CRMC.

2.Site design shall be designed to maintain pedestrian and vehicle safety, provide for adequate fire safety, and mitigate impacts upon adjacent properties by ensuring all vehicular, fire and mitigation regulations contained within the CRMC, including technical criteria, have been met.

3.Provides adequate parking, on-site circulation and loading in accordance with Town regulations.

4.Provides appropriate screening and/or enclosure of outdoor storage of merchandise/materials, loading areas, trash receptacles, mechanical units, site utility equipment and building mounted utility hardware.

5.Provides adequate site design to protect major environmental characteristics that would include unique topographic features and significant vegetation where possible.

C. Circulation and connectivity.

1.Complies with all CRMC and technical criteria associated with circulation and connectivity.

2.Complies with all Fire regulations associated with land development.

3.Provides for pedestrian and bicycle traffic in a safe and convenient manner.

4.Provides for a high level of pedestrian connectivity between neighborhoods, schools, trails/open space and commercial areas.

D. Services, phasing and off-site impacts.

1.Complies with any phasing requirements associated with the approved zoning for the property. Provides phased improvements in a logical and efficient manner.

2.Adequate water resources have been conveyed or purchased. Existing or proposed water and wastewater systems can support the proposed development pattern, uses and density.

3.Existing or proposed stormwater systems can support the development and comply with applicable regulations.

4.Provides adequate consideration for the future extension of streets and utilities to adjacent properties.

5.Identifies and appropriately provides on-site and off-site public improvements to mitigate traffic impacts as required by the CRCMC and technical criteria.

E. Open space, public lands and recreation amenities.

1.Provides adequate trail systems in terms of internal circulation and appropriate external connections deemed necessary by the Town to achieve connectivity goals.

2.Ensures functional and accessible open space, consistent with the overall open space plan for development and preserves significant natural features.

3.Ensures appropriate buffering, utilizing open space and/or setbacks to lessen any identified negative impacts.”

Alternate Motion: Continue Public Hearing if Additional information is needed

“I move to *continue this public hearing to (insert specific date), to allow (insert specific reason)*.”

At Town Council direction, staff reports for land use items can be updated to include additional Alternative Motion options.