

Staff Report
Workshop Discussion
LUPP Amendment Procedural Considerations
May 17, 2011

The Council will recall that in April of last year, you invited input from the development community on what they believed were code impediments to development. One of the suggestions that came from that meeting was to develop a better defined process for amending the Land Use Policy Plan. In response to that suggestion, the Council included the development of an LUPP amendment process in its list of Planning & Housing Department priorities for FY 10-11. To facilitate discussion of what that process might entail, staff has drafted the attached *LUPP Amendment Procedural Considerations* as a framework for beginning that discussion.

Currently, there are no defined procedures for amending the LUPP apart from standards that define the Planning & Zoning Commission's role in amending the LUPP. By standard practice, we have required referral by Council of a proposed amendment, and the submittal of a standard application form and fees. In reviewing the application, we have primarily referred to adopted goals and policies to determine the merits of a proposed amendment. But we do not have any defined procedures, guidelines or criteria that an amendment decision might be based upon. The attached considerations identify potential means of better defining the process and include examples of the types of criteria that Council may wish to adopt for reviewing amendment proposals. It is important to note that the Procedural Considerations do not suggest a scored approach to decision making; rather, they would provide guidance for discussion and areas to be considered when reviewing a proposal. It should also be noted that this discussion does not pertain to amendments to the Urban Fringe Plan. Those standards will be part of the 28E Agreement, which will be before the Council no later than June 14.

Staff will more fully discuss with Council the attached considerations at the May 17 workshop, and looks forward to Council's input and directions on this matter.

LUPP Amendments - Procedural Considerations -

LUPP Amendment Goals

It would be helpful to identify our goals for the amendment process.

Examples for discussion:

- Promote stability & predictability in plans
- Account for unanticipated conditions and changes
- Ensure broad public notice and participation
- Ensure concurrent review of multiple applications to determine cumulative effect.
- Other

Nominations for Amendments

Do we want to define different types of LUPP amendments?

Examples for discussion:

- Minor Amendments – Generally consistent with vision, goals and policies of current LUPP.
- Major Amendments – Differ from adopted vision, goals and policies.

The Amendment type might be determined in a pre-application meeting. This determination could be dovetailed into determining when an application might be reviewed (see Amendment Schedule section below).

Concurrent Review

Should amendments be reviewed concurrently to determine their cumulative land use impacts? (This dovetails into question below of establishing a set review schedule)

Amendment Schedule

Should we retain our current “upon-request” review process, or

Should we establish a schedule for reviewing amendment proposals?

Examples for discussion:

- Annual for minor amendments
- Bi-annual for major amendments
- Established periodic update schedule (e.g., every 5 years)

Criteria for Approval

Develop criteria for approving proposed amendments.

Examples for discussion:

1. Impact on Resources
 - Does the City have the resources, including staff and budget, necessary to implement the proposed amendment?
 - Will the amendment result in development that has significant adverse effects on community resources, including but not limited to: water resources, utilities, transportation, parks or schools.
 - Will the amendment adversely affect the city's ability to provide the full range of public facilities and services at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies?
2. Internal Consistency. Is the amendment consistent with the comprehensive plan and other adopted policies, including:
 - Land use allocations and growth projections that are the basis of the comprehensive plan.
 - The overall intent of the comprehensive plan, including the community vision, overriding principles, and overall goals that guide the plan.
3. Cumulative Effect.
 - Consider amendments concurrently in order to evaluate their cumulative effect on the comprehensive plan text and map, development regulations, capital facilities program, adopted environmental policies and other relevant implementation measures.
4. Land Use Impacts.
 - Will the amendment adversely affect public health, safety or welfare?
 - Does amendment ensure compatibility with neighboring land uses and surrounding neighborhoods, if applicable?
5. Land Use Supply
 - Does the amendment address an identified deficiency in the supply of land for given uses, based upon projected or identified need?
 - Does the amendment result in a glut or over-supply of land for a given use, based upon projected or identified need?

Public Input Process

Do we need to redefine our public input process to ensure that the level of public input reflects the potential impacts of the amendment? E.g.,

- For major amendments, solicit input from citizen boards or neighborhood representatives (or use of similar outreach methods used when plan was first developed).
- For major and minor amendments, require published and mailed notice of hearings before both the City Council and the Planning & Zoning Commission.

Application

Define what is required for a complete application for LUPP amendments.

Define deadlines for consideration during a specified amendment cycle (if we choose to adopt an amendment cycle).

Process

Do we want to amend the Planning & Zoning Commission's role in the LUPP amendment process? Currently, the code specifies that LUPP amendments are adopted by the P&Z and requires the affirmative vote of at least four P&Z members.

Concurrent Applications

We have in some instances allowed submittal of both an LUPP amendment application and a rezone application for concurrent review. This consolidated approach may help to expedite the process for customers that have specific deadlines for beginning a project. The question is whether we should continued allowing this process. It can be problematic because:

1. There is no deadline for a final decision on an LUPP amendment. However, a final decision on a site specific rezone is defined in the code. If processed concurrently, the rezone deadline may force an early or premature decision on the LUPP amendment if additional time is necessary to facilitate public input or to determine the effect and impact of the LUPP amendment.
2. The appearance of fairness doctrine applies to the quasi-judicial application, but not to the LUPP plan amendments. If the City processes the LUPP amendment with the site specific rezone, an argument could be made that the city is precluded from discussing the LUPP amendment outside the public hearing.
3. Consolidated applications can make the process to appeal a decision on either the LUPP amendment decision or the rezone decision confusing to the applicant. It may not be clear what decision is being appealed, or what must be included in the appeal.