

General Standard of Review of Land Use Applications

In reviewing the submittals presented in connection with a final land development approval, the Commission must determine whether the application meets the requirements identified in the Subdivision and Land Development Ordinance and the Zoning Ordinance. The cost of any project and the tax effect of any project are not issues that can be considered by the Commission. Any denials must specifically reference the ordinance provisions that were not met, and conditions must be supported by the ordinances.

In addition to the foregoing, a final land development application must normally be granted if it is consistent with (i) any preliminary approval that has previously been given and (ii) any ordinance requirements that apply to final approval.

In reviewing the submittals and evidence presented in connection with an approval or a conditional use, the standard is essentially the same, i.e. the Commission must determine whether the application meets the requirements identified in the Zoning Ordinance. Any denials must specifically reference the ordinance provisions that were not met, and conditions must be supported by the ordinances or be reasonable in light of the evidence presented.

Denials or conditions can also be supported if a “substantial threat” to the community is demonstrated by competent evidence. Meeting this standard is a heavy burden. A substantial threat is more than bald assertions, personal opinions and perceptions of the use and its effect on the neighborhood. Meeting this standard requires a high degree of probability that the proposed use will substantially affect the health, safety and welfare of the community, and in a way that is greater than what is normally expected from that type of use.