

## **FACTORS CONSIDERED BY PLANNING COMMISSION AND LAND USE & ENVIRONMENT COMMITTEE**

1. Both the Hearing Examiner and Planning Commission membership are selected by the City Council. If the regular Examiner is unable to hear a particular matter, a temporary Examiner is selected by the Community Planning and Development Director from a list pre-approved by the Council.
2. Unlike a voting body such as the Commission, an Examiner's decision cannot result in a tie vote. Similarly, conflicting statements or opinions expressed by different commissioners can result in greater legal risk when quasi-judicial decisions, such as site-specific rezones, are reviewed on appeal.
3. Since the Commission's review must occur at public meetings with due notice, review and recommendation; reaching a decision generally requires more time for a Commission than if review is conducted by an Examiner. (Examiners are generally limited to a 14-day review period.)
4. The Planning Commission's work program is typically very full throughout the year. Adding site-specific rezone requests likely would affect the timeliness for completing consideration of other items on their meeting agendas. The Hearing Examiner is available as needed to address site-specific rezones.
5. Unlike a single Examiner, the recommendation of a Planning Commission can turn on the particular members who participate in the proceeding, and especially who attends the meeting where the final vote occurs.
6. Site-specific rezones are 'quasi-judicial' matters subject to extraordinary procedural requirements. Among these are requirements to ensure that the process is not only fair in fact, but that it appears fair to a reasonable person; contact with interested parties outside of the hearing is generally prohibited; and specific findings and conclusions supporting the decision are usually needed. In general, professional Hearing Examiners are better trained in complying with these requirements than lay Planning Commissioners. In addition, the higher number of commissioners can lead to greater opportunity for inappropriate contact with interested parties.
7. Hearing Examiners usually are responsible for reviewing development proposals, while Planning Commissions generally address broader policy questions. Site-specific rezones include aspects of both types of decisions. Like development proposals, they must be decided based on specific criteria, but like broader code amendments they are a regulation change and not approval to construct a specific development.
8. Hearing Examiners are trained professionals accustomed to the quasi-judicial format and process required for site-specific rezone reviews, while Planning Commissioners are generally appointed based on other considerations.
9. Although site-specific rezones must be reviewed according to court-mandated and

adopted legal criteria, both proponents and opponents will often seek to have reviewing parties consider factors outside these standards.

10. Site-specific rezones not associated with a Comprehensive Plan amendment are subject to the Washington Local Project Review Act. Thus any appeal is to Superior Court instead of the Growth Hearings Board, and the Court's review is different in form and substance from that of the Board. For instance, the Court will generally review the City's decision for consistency with the Comprehensive Plan but not for consistency with the Growth Management Act. The Court's review will usually be based on the City's hearing record and written decision.
11. Site-specific rezones can be the subject of only one 'open-record' (evidentiary) hearing and, pursuant to a recently adopted City code, are reviewed in two sets each year and must be decided within 180 days.
12. The direct cost to a rezone applicant is greater when review is conducted by a Hearing Examiner since the City requires the applicant to reimburse the City for the cost of employing an Examiner.
13. Unlike a Comprehensive Plan amendment proposal, any application for a site-specific rezone is to be considered on its merits; i.e., unlike Plan amendments, there is no 'screening' step by which the City can decline to consider a rezone application. It is difficult to predict how many such applications will be received each year. In general the Hearing Examiner can adapt more readily than the Commission's calendar to workload surges.
14. The proposed amendment would not be applicable to the 'master planned development' approvals of 'centers and villages' which are a hybrid of development approval and zoning map amendment. Such master plans are reviewed by both the Hearing Examiner and the Design Review Board and subject to final action by the Council. Unlike 'pure' rezones such map amendments simply add a note referencing the master plan approval consistent with the zoning. (Some citizens have suggested that the Commission, instead of the Examiner, should also hold the hearings related to these types of developments.)
15. Although rezone proposals must be judged against specific criteria including those in Olympia Municipal Code 18.59.050, these criteria are much broader in nature than the prescriptive measurements and criteria usually applicable to specific development proposals. Olympia's rezone criteria set forth more specifically in Olympia Municipal Code 18.59.050 and 18.59.055 can be summarized as whether:
  - The rezone is consistent with the Comprehensive Plan and its Future Land Use Map
  - The rezone will maintain the public health, safety, or welfare
  - The rezone is consistent with other development regulations
  - The rezone will result in a zoning district that is compatible with adjoining district
  - Existing and planned public facilities are adequate and likely available to serve the potential development