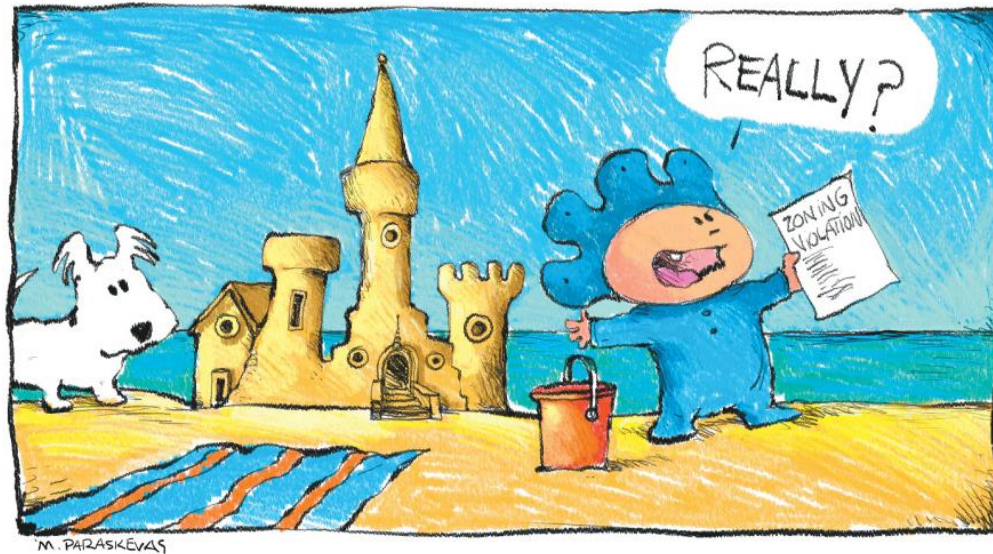


LAND USE COMMISSION

June 8, 2022



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STANDARDS FOR APPROVAL

- Every Standard must be met in order to vote to approve a case.
- A Standard can be conditionally met.
- Opposing findings on individual Standards must be specifically stated with explanation.
- Silence indicates agreement with the finding stated.

STAFF RECOMMENDATIONS

- Staff will clearly address each Standard within the memo.
- Findings of Standards may change based on testimony presented at LUC.
- It is okay to disagree with staff or other board members, but must articulate reasoning why there is a disagreement so that the record is clear.

WHY STANDARDS MATTER

- Standards provide findings of fact that show a determination was not arbitrary or erroneous.
- Failure to substantiate findings can lead to litigation.
- Findings are given to the City Council for every LUC recommendation.

WHAT IF A STANDARD IS VAGUE?

- Example: “The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.”
- This is a somewhat vague standard as “substantial adverse impact” is not defined.
- In this instance, the Commission should look to the word “substantial” and when deciding if this standard is met, be sure to articulate why or why not a “substantial” adverse impact exists.
- It is most important in these instances to be clear in the findings why the LUC finds that this standard is met or not met.

WHAT IF A STANDARD IS VAGUE? - CONTINUED

- **Example # 2: “The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.”**
- **The LUC is left to determine what is a mere inconvenience versus a particular hardship or practical difficulty.**
- **The key words here include “particular”, “practical” and “mere”.**
- **Once again, it is most important for the LUC to determine if this standard is met or not and be able to articulate why.**
- **Consider the other standards to assist in determining the intent behind the other standards.**
- **In this instance, the 3rd standard states “The alleged hardship or practical difficulty is peculiar to the property.”**
- **This standard can assist the LUC in specifying that the “hardship or practical difficulty” cannot be something that exists for similar properties in the area.**

SUMMARY

- If you do not clearly see how a Standard is met, ask the applicant.
- Do not bypass a Standard – ie. *I don't know that this Standard is met but it's a good project so...*
- Be specific – ie. *This Standard is not met because the applicant said they could revise the plan but...*
- Not all Standards apply to every case.
- Agree to disagree – findings are interpretive, so differing points of view are expected.
- LUC can only weigh the application and testimony with the standards.
- All standards must be met to approve a project.