

GROUP 3, ITEM C.1
HEARING EXAMINER POWERS AND DUTIES

AMENDMENT SUMMARY

Issue: The LDC provides the Hearing Examiner final-decision-making authority on certain amendments to planned developments, as adopted by County Ordinance 22-11 on May 17, 2022. Per the codified language, the Hearing Examiner does not have final-decision-making authority for matters that affect intensity, with limited use-specific exceptions. Intensity is defined by Land Development Code Section 34-2 as “a measurement of the degree of customarily nonresidential uses based on use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation or floor area ratios.”

The Director of Community Development has similar authority to grant administrative amendments to planned developments, in that the administrative amendments do not increase height, density or intensity of the development. In the interest of time, the Hearing Examiner’s final decision-making authority through the public hearing process is proposed to be expanded with respect to intensity to consider additional elements of intensity that do not increase non-residential floor areas or traffic generation originally permitted by the planned development approval. For example, a deviation from the maximum sign height to enhance visibility along a project corridor in an existing planned development is, by definition, an increase in intensity and requires Board approval due to the broad definition of intensity in the LDC.

Solution: Expand the Hearing Examiner’s decision-making authority to capture additional elements of intensity.

Outcome: Reduces decision rendering timeframe for certain public hearing amendment requests as intended by Ordinance 22-11.

Chapter 34 – ZONING

ARTICLE II. – ADMINISTRATION

DIVISION 4. – HEARING EXAMINER

Sec. 34-145. Functions and authority.

The Hearing Examiner is limited to the authority that is conferred by the following:

Subsections (a) through (c) remain unchanged.

(d) *Zoning matters.*

(1) *Authority.*

- a. The Hearing Examiner will hear and decide applications for conventional rezoning, amendments to approved planned developments pursuant to Subsection (d)(1)e of this section, and, notwithstanding Section 34-1038(b), amendments to planned unit developments that are not subject to separate ordinance.
- b. The Hearing Examiner serves in an advisory capacity to the Board on new planned development zoning requests, amendments to planned developments exceeding the scope of amendments permitted by Subsection (d)(1)e.3 of this section, amendments to approved MEPDs, and amendments to planned unit developments approved by separate ordinance.

- c. The Hearing Examiner may not recommend approval of a rezoning that is more expansive than the request published in the newspaper. The Hearing Examiner may recommend approval of a zoning district that is more restrictive than the published request.
- d. The Hearing Examiner may impose conditions of approval on requests to amend planned developments where the Hearing Examiner retains final decision-making authority. The Hearing Examiner may recommend conditions of approval on requests for new planned developments or amendments to existing planned developments subject to Board approval.
- e. The Hearing Examiner has the final decision-making authority on the following matters:
 - 1. Board-initiated applications to rezone County-owned property to the Environmentally Critical (EC) District.
 - 2. Applications for conventional rezoning.
 - 3. Applications for amendments to planned developments when the request is limited to:
 - i. Amendments to the master concept plan, schedule of uses, or property development regulations that do not ~~affect~~increase the maximum density or non-residential floor area or intensity permitted in the planned development, except as provided in subsection vi below;
 - ii. Requests for consumption on premises;
 - iii. Requests for wireless telecommunication facilities;
 - iv. Requests for an increase in the maximum number of fuel pumps in conjunction with a convenience food and beverage store or automobile service station provided that the use is already approved in the planned development;
 - v. Changes to conditions and deviations; or
 - vi. Requests to establish or increase density within the Mixed Use Overlay;
~~and~~
 - 4. Notwithstanding Section 34-1038(b), amendments to planned unit developments that are not subject to separate ordinance.
 - 5. An applicant or agent applying for a conventional rezoning or an amendment to a planned development in which the Hearing Examiner has the final decision-making authority may request a public hearing before the Board of County Commissioners in accordance with Section 34-83(a)(1). Such a request must be made prior to the ~~conclusion of the public hearing before~~ issuance of a final decision by the Hearing Examiner.

Remainder of section remains unchanged.