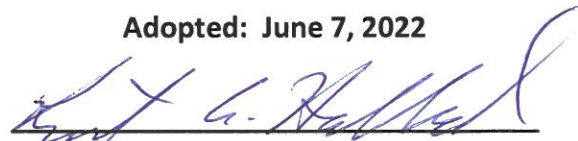


City of Harlem
Policies and Procedures
(Adopted pursuant to O.C.G.A. 36-66-5)

Adopted: June 7, 2022



Chairman, Harlem Planning Commission

These policies and procedures of the City of Harlem Planning Commission have been adopted pursuant to O.C.G.A. 36-66-4, O.C.G.A. 36-66-5, Harlem Code of Ordinance Sec. 108-309, Sec. 108-377, and Sec. 108-403.

1. Pursuant to O.C.G.A. 36-66-4, the City of Harlem Planning Commission conducts the required public hearing for a zoning decision request.
2. The Official Zoning Map of the City of Harlem is incorporated by reference in all Planning Commission recommendation decisions and is available at all Planning Commission meetings and public hearings.
3. Printed copies of these policies and procedures are available for distribution to the general public at Harlem City Hall as well as at all meetings of the Harlem Planning Commission.
4. These policies and procedures shall be utilized for zoning decision requests for appeals, conditional use permit requests, conditional use permit revocations, land use text amendments, matters of interpretation, modification of zoning conditions requests, rezoning requests, variance requests, and zoning map amendments.
5. Pursuant to O.C.G.A. 36-66-5 (a), the applicant and application proponents shall have ten minutes for presentation of data, evidence, and opinions. Also, application opponents shall have ten minutes for presentation of data, evidence, and opinions. Each group shall decide amongst its members the allocation of time available for presentation. The Commissioners may, by vote before the public hearing begins, provide for additional equal time to be made available to both proponents and opponents. Periods for presentation will be times with remaining available time visible to the presenter.
6. All those providing evidence or comments are urged to either speak or submit written comments/evidence.
7. Authorized action by the Harlem Planning Commission, with respect to any motion pending before it, consists of one of the following: Approval, approval with conditions, denial, deferral, tabled, withdrawal without prejudice, or deferral to a time certain.

8. Following the example provided by the City of Harlem, the Chairman of the Harlem Planning Commission shall only vote if there is a tie-vote amongst the remaining four Commissioners.
9. If a rezoning decision contains conditions, the vote for recommendation shall be made pursuant with stipulations presented by the applicant or Planning Commission staff with these stipulations being recorded in the official public minutes of the City of Harlem Planning Commission.
10. Decisions of the City of Harlem Planning Commission shall be reduced to writing and provided to all appropriate and required parties by the City of Harlem Community Development Director.
11. Digital videos and digital photographs should be submitted before the Thursday before the Planning Commission meeting to assure adequate time for distribution and review.
12. Submission of written evidence later than 5:00 P.M. on the Thursday before the Planning Commission meeting will be presented to the Commission at its meeting.
13. Following Harlem Code of Ordinances Sec. 108-309, all planning commission meetings shall generally be conducted in accordance with the following procedures whenever a zoning decision request is under consideration:
 - a. The application will be presented to the Planning Commission by the Community Development Director.
 - b. The community development director will present the background for the request.
 - c. The applicant will be asked to make their presentation. An opportunity to rebut comments in opposition to the application will be provided from the full presentation time. Also, the presentation time will include the applicant, experts, and any application proponents attending the meeting.
 - d. Commission members will question the applicant on the request.
 - e. Comments in support of the change will be invited from the public using available applicant presentation time. NOTE: Registration for comments will be on a first-come, first-made basis; however, those in attendance will be urged to allocate time amongst themselves.
 - f. Comments in opposition to the change will be invited from the public, realizing the available comment time. NOTE: Registration for comments will be on a first-come, first-made basis; however, those in attendance will be urged to allocate time amongst themselves.
 - g. The applicant will be allowed to rebut opponent comments using remaining applicant time.
 - h. Recommendations from the community development director will be read or presented.

- i. All public comments having been heard, that portion of the hearing will be closed, and the commission members will discuss the request among themselves.
- j. Upon a motion and second by members, the commission will vote to recommend action to be taken on the request.

Sec. 108-402. Criteria for approval. (Conditional Use Permit)

The following criteria shall be considered for each application for a conditional use permit:

- (1) Whether the proposed conditional use is a listed conditional use in the appropriate article of this chapter for the zoning district in which the property is located.
- (2) Whether the development standards of the zoning district in which the property is located are being complied with.
- (3) Whether the proposed use will create an undue burden on public facilities and services such as streets, utilities, schools and refuse disposal.
- (4) Whether the proposed use will be detrimental to existing and future neighboring uses, and will involve a use, structure or condition of operation that constitutes a nuisance or hazard to any persons or property.

Sec. 108-353. Relevant factors in rezoning evaluation. (Rezoning)

In the city, the following factors are considered when applying the balancing test which is required to arrive at a rezoning decision. Those factors are as follows:

- (1) *Existing uses and zoning of nearby property.* Would the requested zoning permit land uses of a similar nature to those uses of similarly situated nearby land?
- (2) *Extent to which property value is diminished by present zoning.* How much more would the property be worth if the rezoning request were approved?
- (3) *Extent to which destruction of the property value of the petitioner promotes the health, safety, morality, or general public welfare.* How would approval of the request adversely impact the public interest? There may be many valid considerations here depending upon the nature of the request. Among them are:
 - a. *Traffic.* Potential increase in congestion resulting from approval of the request;
 - b. *Diminution of value.* Immediate diminution of gradual diminution resulting from deterioration of a neighborhood over a period of time;
 - c. *Environmental impact.* Potential for generation of noise, air pollution, or deterioration of unique or sensitive environmental conditions.
- (4) *Zoning of the property when purchased.* Is the request a result of speculative purchase of the property?
- (5) *The suitability of the subject property for the current zoning.* Are natural environmental features conducive to the type of development permitted by the present zoning? Are the utilities present for development of the site? Would the topography or other natural environmental characteristics of the site be conducive to development under the present zoning?
- (6) *Length of time the property has been vacant as zoned.* Considered in the context of land development in the area in the vicinity of the property.
- (7) *Conformity.* The extent to which rezoning request conforms with the city comprehensive plan.
- (8) *Districts.* The possible creation of an isolated district unrelated to adjacent and nearby districts.

- (9) *Public effects.* The population density pattern and possible increase or overtaxing of the load on public facilities including, but not limited to, schools, utilities, and streets.
- (10) *Boundaries.* Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.
- (11) *Changing conditions.* Whether changed or changing conditions make the passage of the proposed amendment necessary.
- (12) *Drainage.* Whether the proposed change will create a drainage problem.
- (13) *Effects.* Whether the proposed change will seriously reduce light and air to adjacent areas.
- (14) *Property values.* Whether the proposed change will adversely affect property values in the adjacent area.
- (15) *Adjacent property.* Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.
- (16) *Privilege.* Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.
- (17) *Need for change.* Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.
- (18) *Neighborhood.* Whether the change suggested is out of scale with the needs of the neighborhood or would adversely affect living conditions in the neighborhood.
- (19) *State Waters.* Have state waters been documented as being on the site? Have state waters been designated by the community development director for the purpose of facilitating stormwater and erosion control? Would the topography or other natural environmental characteristics of the site be a possible factor in future stormwater and erosion control? The United States Department of Agriculture Web Soil Survey or equivalent shall be utilized in conducting this analysis.
- (20) *Land Clearing Analysis.* Would the project result in wholesale removal of trees, shrubbery, and other ground cover? Has a forestry management plan been developed for the property to include harvesting and replanting? Are land disturbance activities expected to take place during traditionally rainy periods of the year? Would existing soil types and topography require special land clearance actions? Have all buffers been proposed that would protect environmental features and also adjacent property owners from adverse impacts?
- (21) *General.* Any other factors relevant to balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property.

Sec. 108-377. Authority to grant variances.

- (b) *Conditions and criteria for granting a variance.* The planning and zoning commission, in cases where specifically authorized, may make a recommendation to the council to grant a variance only after consideration and adoption of findings of fact that all of the following conditions exist and criteria are met.
 - (1) There are unusual, exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other property in the same vicinity or use district, and such conditions are not the result of the owner or occupant's own actions. The conditions may include topography, unique natural conditions, surroundings of the subject property, or the size or peculiar shape of the lot.
 - (2) As a result of such unusual circumstance or conditions, there is an unnecessary hardship or practical difficulty that renders it difficult to carry out the provisions of this division.
 - (3) The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, and the variance will be in harmony with the general purposes and intent of the provisions of this division.

- (4) The variance approved is the minimum variance that will make possible the legal use of the land, building or structure.
- (5) The variance does not permit a use of land, building or structure which is not permitted by right in the land use intensity district in which the proposed development is located.

Planning & Zoning Chairman Announcement

“Good evening and welcome to the _____ meeting of the City of Harlem Planning and Zoning Commission. We are a recommending body to the Harlem City Council. Decisions made on zoning decision requests and other issues tonight will be forwarded to the Harlem City Council for final action at their upcoming meeting as noted on the agenda. Tonight’s agenda, a sign-in sheet and a copy of public hearing procedures are available on the table at the front of the room. This is the procedure we follow:

- a. The application will be presented to the Planning Commission by the Community Development Director.
- b. The community development director will present the background for the request.
- c. The applicant will be asked to make their presentation. An opportunity to rebut comments in opposition to the application will be provided from the full presentation time. Also, the presentation time will include the applicant, experts, and any application proponents attending the meeting.
- d. Commission members will question the applicant on the request.
- e. Comments in support of the change will be invited from the public using available applicant presentation time. NOTE: Registration for comments will be on a first-come, first-made basis; however, those in attendance will be urged to allocate time amongst themselves. There is a ten-minute limit to presentation time.
- f. Comments in opposition to the change will be invited from the public, realizing the available comment time. NOTE: Registration for comments will be on a first-come, first-made basis; however, those in attendance will be urged to allocate time amongst themselves. There is a ten-minute limit to presentation time.
- g. The applicant will be allowed to rebut opponent comments using remaining applicant time.
- h. Recommendations from the community development director will be read or presented.
- i. All public comments having been heard, that portion of the hearing will be closed, and the commission members will discuss the request among themselves.
- j. Upon a motion and second by members, the commission will vote to recommend action to be taken on the request.

We ask that you observe the following regarding public input:

1. Upon approaching the podium, please provide your name and home address.
2. Please direct your comments to the Planning & Zoning Commission and not to the audience.
3. We ask the audience to extend the courtesy of not applauding or jeering any of the speakers.

At this time, I ask that you please turn-off or silence cell phones to avoid interference with the audio recording system, public input, and Planning & Zoning Commission discussion.”