

DOUGLASS CITY COUNCIL

CHECK LIST FOR CONSIDERATION OF A
REZONING AMENDMENT AND/OR SPECIAL USE CASE(S)

PURPOSE:

This check list is to assist: (1) the Mayor in conducting the discussion and decision on a rezoning amendment and/or special use case(s); (2) the City Clerk in an orderly process of minute taking; (3) the applicant in presenting new information; and (4) any property owners or persons who have new information or wish to know their rights in the matter. Although the order of the outline should be followed, the material will need to be modified to relate to the particular case and whether the case is for a rezoning amendment and/or a special use. If rezoning and special use cases are heard concurrently, separate consideration and action will need to be taken on the findings and factors and recommendations since the reasons for approval or disapproval or attaching any conditions may be different. The Mayor will find it helpful to have a check list marked up on each case(s) prior to the meeting so that important procedural points are not inadvertently missed. This check list is in keeping with the procedures in K.S.A. 12-757(c), (d) and (e) and the decision in Houston v. Board of (Wichita) City Commissioners, 218 Kan. 323 (1975). The latter determined that:

"Where the statutory requirements are fully met (Ed: Notice and public hearing) and a full and complete record of the substance of the planning commission proceedings is before the governing body, due process does not require the governing body to conduct a second public hearing on the advisability of the proposed change." (Syllabus)

CALL AGENDA ITEM(S):

I call Agenda item # _____ which is on Case(s) No(s). (Z _____ - _____) (and) (SU _____ - _____). (This is) (These are) for (a rezoning amendment requesting a change from the present _____ District to the _____ District) (and) (an application for the establishment of _____ as a special use in the _____ District.)

DISQUALIFICATION DECLARED AND QUORUM DETERMINED:

Before we proceed, I'll ask the Council if any of them intend to disqualify themselves from participating in this case because they have conflicts of interests or a particular bias on this matter. (Please let the minutes show that _____ has disqualified himself/herself because

_____ and has temporarily disassociated himself/herself from our Council.) We have a quorum of _____ present for the consideration of the case.

ANNEXATION:

In order to have jurisdiction over (the) (these) zoning matter(s), we need to have a motion to tentatively act upon their petition for annexation.

(Sample Motion: To authorize the publication of Ordinance No. _____ to annex the land for Case(s) No(s). (Z _____-_____) (and) (SU _____-_____) subject to approval of the related zoning application(s).)

PROTEST PETITIONS:

Has the City Clerk received any protest petitions on (either of) the case(s)? (If yes) Do they constitute the statutory required 20% necessitating a 3/4 vote of the Council to approve (either of) the case(s)? (If yes) Having determined that a valid protest petition has been submitted to the Clerk, I would remind the Council that _____ affirmative votes are necessary to approve (either of) the case(s).

SUMMARY OF HEARING:

I ask the Council members if they have all received copies of the (approved) (unapproved) Minutes of the Planning Commission for _____, 20__ which summarizes the hearing on (the) (these) case(s)? (If yes) Having determined that the members have received the required information, I am going to ask the applicant and members of the public present the first of two questions:

(1) To those who are present on (this) (these) case(s), do you feel that you had a fair and impartial hearing?

(Should any questions arise as to this matter, the Council with the assistance of the City Attorney needs to determine if such response(s) warrants returning the case(s) to the Planning Commission for a reconsideration of the issue(s) or a rehearing de novo, i.e., from the beginning.)

(2) After the Zoning Administrator's report, I will be asking the second question to the applicant and the public who may wish to speak to this item. Is there any new information on (this) (these) case(s) not otherwise presented at the hearing that should be brought to the attention of the Council?

The Council may also want to direct questions to the applicant, the staff or other persons present.

ZONING ADMINISTRATOR'S REPORT:

I call on our Zoning Administrator to provide us with a report on the case(s) and recommendation(s) of the Planning Commission.

Thank you for your presentation. Are there any questions for the Zoning Administrator from the Council members?

WRITTEN COMMUNICATIONS:

Are there any written communications or petitions? (Clerk could be asked to read them.)

APPLICANT'S RESPONSE:

Does the applicant wish to present any new information?

Thank you for your information. Are there any questions to the applicant from Council members?

FINAL PUBLIC COMMENTS:

Does anyone from the public wish to respond to the applicant's information or provide any new information?

COUNCIL DELIBERATION:

Assuming the Council has received all the information they need on (this) (these) case(s), I will outline the choices provided under the state statutes for Council action: (K.S.A. 12-757[c])

(Note: Each case will need to be acted upon separately.)

- (1) By a majority vote, move to adopt the findings and factors and recommendation of the Planning Commission on Case No. (Z-_____-_____) (SU-_____-_____) and to **approve** Ordinance No. _____. *
- (2) By a majority vote, move to adopt the findings and factors and recommendation of the Planning Commission to **disapprove** Case No. (Z-_____-_____) (SU-_____-_____).
- (3) By a 2/3 majority vote, move to **override** the Planning Commission's recommendation, **approve** Case No. (Z-_____-_____) (SU-_____-_____), describe in detail the findings and factors supporting the motion, attach appropriate conditions, if any, and **approve** Ordinance No. _____. *
- (4) By a 2/3 majority vote, move to **override** the Planning Commission's recommendation, **disapprove** Case No. (Z-_____-_____) (SU-_____-_____) and describe in detail the findings and factors supporting the motion.

* (Note: If a valid protest petition is determined, _____ affirmative votes will be needed to approve the case.)

- (5) By a majority vote, return the recommendation to the Planning Commission on Case No. (Z-_____-_____) (SU-_____-_____) for further consideration at its next regular meeting with a statement specifying the basis for the Council's concern whether to approve or disapprove the recommendation. **

** (Note: If the Council returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Upon the receipt of such recommendation, the Council, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by ordinance, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Council following the Planning Commission's next regular meeting after receipt of the Council's report, the Council shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. In either circumstance, the Council may take any action they desire by majority vote unless legal protest petitions are received which would necessitate a 3/4 vote.)

- (6) By a majority vote, move to table Case(s) No(s).
(Z-_____-_____) (and) (SU-_____-_____) until _____, 20__
at ____:____ p.m. in this same meeting room for more (information) (and)
(study) in regard to _____

CLOSING REMARKS:

(For approval)

Persons aggrieved by the final decision of the Council on this matter have 30 days after the effectuating ordinance is published within which to appeal to District Court.

(For disapproval)

Persons aggrieved by the final decision of the Council on this matter have 30 days after today's action within which to appeal to District Court.

We want to thank all of you for participating in this matter and you are welcome to stay for the remainder of our meeting. I call for Agenda item #_____.