Council Bill #2021-1912
Planning Commission Briefing
Proposed Zoning Code Text Amendment
Development Review Procedures

November 23, 2021
WHAT DOES BILL #2012-1912 DO?

The Zoning Administrator

• Requires the Zoning Administrator to notify Council in writing within three (3) business days when:

  • A completed application for planning approvals for:

  • Applications requiring site plans in excess of 8,000 sq. ft.;
  • Applications involving Project Development Plans;
  • Applications for Planned Unit Developments or Specially-Planned Districts
WHAT DOES BILL #2012-1912 DO?

City Council

- Requires Council to notify the Zoning Administrator within fourteen (14) calendar days of the Administrator’s notification if:
  - A Councilmember notifies the Administrator that Council will be responsible for making the final decision on the following applications:
    - Applications requiring site plans in excess of 8,000 sq. ft.;
    - Applications involving Project Development Plans;
    - Applications for Planned Unit Developments or Specially-Planned Districts
      - An amendment under discussion would require that Council, by majority vote, make this notification, not just a single Councilmember.
WHAT DOES BILL #2012-1912 DO?

**Planning Commission**

- If Council submits the required notification, the Planning Commission is then required to:
  - Hold a public hearing and issue a recommendation to Council to approve, approve with conditions, or reject the application within 60 days of the receipt of Council’s notification (an amendment under discussion would raise this time period to 120 days.);
  - If the Commission fails to act within 60 days (120 days in the proposed amendment), then the recommendation would be deemed to have been rendered as a recommendation of approval to City Council.
WHAT DOES BILL #2012-1912 DO?

City Council

• Once the Planning Commission issues a recommendation to Council, or 120 days has passed, Council must:
  • Schedule and hold an additional public hearing within 120 days of receipt of the Planning Commission’s recommendations, or the application is deemed denied.
  • Within 90 days of the public hearing, take final action to approve or deny the application. However, if the Planning Commission forwards a negative recommendation to Council, seven (7) members of Council must vote to override the Commission’s negative recommendation.
WHY CHANGE THE APPROVAL PROCESS?

Councilman Burgess is committed to enacting policies which will, working in concert, result in:

• The preservation of existing affordable housing;

• Construction of new affordable housing;

• Ensuring that affordable housing is being built in low- and moderate-income neighborhoods and wealthier, more affluent neighborhoods alike.

• Ensuring that all large-scale development is done equitably.
WHY CHANGE THE APPROVAL PROCESS?

Over the past 7 years, City Council and the Mayor have enacted policies which:

• Require the permitting and licensing of rental housing units;
• Increased taxes on real estate transfers to raise revenue to directly fund the preservation and creation of affordable housing;
• Prohibited discrimination by landlords against federal voucher holders;
• Revised City property tax abatements to favor affordable housing;
• Require the inclusion of a set percentage of affordable rental units in market-rate housing construction.
WHY CHANGE THE APPROVAL PROCESS?

Despite these legislative and policy changes:

• The City continues to lose affordable housing units faster than new ones can be built;
• Major developments continue to be approved and built whose footprints have massive, adverse impacts upon the communities they are situated in;
• Low-income residents and families of color continue to be pushed out of historically-distressed neighborhoods;
• Affluent and predominately-White neighborhoods continue to become more affluent and even more White.

THE CITY MUST DO MORE TO HELP ITS RESIDENTS!!!
WHY CHANGE THE APPROVAL PROCESS?

“Zoning is a local matter, controlled by the governing, or legislative body.”

• In 1927, the Pennsylvania General Assembly granted to Pittsburgh the right to utilize its police power to regulate land development and growth within the municipality.

• That power is exercised in two ways:
  • A planning commission charged with the responsibility to adopt a comprehensive master plan for the future development of the City, to recommend both the boundaries of the various zoning districts and the regulations to be enforced within, and to make recommendations to City Council whenever those regulations (the Zoning Code) is to be amended or supplemented, and total control over the subdivision of land;
  • City Council’s right, at all times, to provide for the manner in which these regulations and restrictions are to be enforced and amended or changed, except for subdivision controls.

Council Bill #2021-1912 – Zoning Code Text Amendment
WHY CHANGE THE APPROVAL PROCESS?

“Zoning is a local matter, controlled by the governing, or legislative body.”

- Under both the Second Class Cities Law and the Pittsburgh Home Rule Charter, City Council is the legislative and policy-making branch of local government;
- The model Standard Zoning Enabling Act, published by the Hoover Administration in 1922, and the Zoning Law for Cities of the Second Class enacted by the General Assembly, placed few restrictions on City Council’s authority to act on issues of land use and development;
- The principal restriction state law (and the Zoning Code) placed upon City Council was that it could not act on a land-use matter without first receiving a recommendation from the Planning Commission as to whether a contemplated action was consistent with the City’s comprehensive plan, its adopted plans and policies, and that Council was required to vote with a three-fourths (3/4) majority to override the Commission’s negative recommendation, to ensure Council seriously considers the advice of professional planners.
WHY CHANGE THE APPROVAL PROCESS?

“Zoning is a local matter, controlled by the governing, or legislative body.”

• City Council has declared its intention for much more aggressive policies in the land-use arena where governmental decisions will have an adverse impact on equitable development;
• Large developments, developments requiring project development plans, planned-unit developments and specially-planned districts are often major decisions that have significant impact on neighborhoods and communities;
• Some, though not all, of these decisions should be made by the legislative body, the body that represents the residents in these communities, and who can be held accountable by those residents for these decisions.
WHY CHANGE THE APPROVAL PROCESS?

But won’t this just make the review and approval process even longer?

• **YES.** It will add to the time it takes for the approval of applications.

• **ANY** process designed to increase fairness and equity is likely to increase the length of time needed to review and approve or reject an application.

• The Commission has remarked in recent years that its hands are often tied by the criteria in the Zoning Code, such that even when they act in the best interest of the residents, those decisions are often overturned by reviewing courts;

• Council’s authority is slightly different than the Commission’s, even when it chooses to act in its administrative capacity;

• These changes will make the process of reviewing large development projects more deliberative, not more political.
WHY CHANGE THE APPROVAL PROCESS?

But this will just introduce an additional layer of politics into land-use decisions...

- It will open the door for more effective community input on certain large developments;
- It will add a community oversight framework to the review and approval of large projects;
- Not all neighborhoods have registered community organizations (RCOs);
- Not all RCOs are the same, or equally effective;
- Every neighborhood, every resident has a City Councilmember.
WHY CHANGE THE APPROVAL PROCESS?

But is this fair?

• These provisions are equally available to the applicant and the residents alike;
• Conditional Use processes are available only to the applicant/property owner;
• Conditional Uses are, by law, permitted uses, subject to conditions to ensure safety, and must be granted by Council if the Code’s criteria are met;
• This is a different process, requiring standard review by the Commission, and then a final decision by Council
WHY CHANGE THE APPROVAL PROCESS?

But is this fair?

There are times, for good or bad, when City Council should make the final decision.

Large developments whose footprints absorb large amounts of land and whose construction and operation impact the ability of the City to enforce its policies to protect its residents require a different approval process.
Thank You