

CONDITIONAL USE HEARINGS
RULES OF PROCEDURE

1. CONDITIONAL USE PERMIT CASES. Conditional Use Permit cases shall have an evidentiary hearing under oath affording the applicant and interested parties with the opportunity to offer oral and written evidence to the Board of Commissioners and cross-examine witnesses as herein provided. While strict rules of evidence shall not be required, all testimony shall be relevant and material to the issue. Hearsay and lay opinion testimony from non-interested parties may be denied admission and shall not be considered by the Board of Commissioners.

2. CONDITIONAL USE DISTRICT REZONING CASES. Conditional Use District rezoning cases shall have separate legislative and evidentiary hearings on the issues of rezoning and the issuance of a conditional use permit.

A) LEGISLATIVE. The rezoning hearing shall be held in legislative manner with broad public input invited. Any member of the public may address the Board of Commissioners. Reasonable limitations as to number of speakers and length of comment period may be imposed. All rezoning cases shall be heard before any evidentiary hearings. Each speaker may be required to register in advance of the hearing and his comments shall be limited to not more than three minutes. No speaker may yield unused time to any other speaker. The maximum length of any legislative hearing shall be not more than 30 minutes for proponents in support of a request and not more than 30 minutes for those in opposition. For good cause shown, the Board of Commissioners may extend the length of comment periods set forth herein.

B) EVIDENTIARY. The conditional use permit issue shall be subject to a separate evidentiary hearing under oath affording the applicant and interested parties with the

opportunity to offer oral and written evidence to the Board of Commissioners and cross-examine witnesses as herein provided. While strict rules of evidence shall not be required, all testimony shall be relevant and material to the issue. Hearsay and lay opinion testimony from non-interested parties may be denied admission and shall not be considered by the Board of Commissioners. Evidentiary conditional use hearings may, but need not, be held at the same date as the associated rezoning public hearing. For the convenience of the Board of Commissioners, the applicant and other interested parties, the evidentiary hearing may be rescheduled for a particular time and date certain, but not more than 30 days from the date of the rezoning hearing.

3. LEGISLATIVE HEARING ORDER OF PRESENTATION. The order of presentation at a legislative hearing shall be substantially as follows:

A) County Staff shall present the request with sufficient detail to adequately describe the requested map amendment, the location of the property affected, and any other matters relevant for consideration by the Board of Commissioners.

B) The applicant shall present his request. The Board of Commissioners or county staff may ask questions of the applicant or any of his witnesses in the order of their appearance.

C) Any other member of the public may address the Board of Commissioners in support of or in opposition to the requested rezoning. Such persons desiring to speak at the hearing may be required to register in advance of the hearing and called to speak in the order in which registered as a proponent or as an opponent. All such testimony presented by the public shall be relevant and non-repetitive. The Board of Commissioners may ask questions of the speakers. All such persons shall identify themselves prior to addressing the Board of Commissioners.

4. EVIDENTIARY HEARING - WITNESSES UNDER OATH, NO EX PARTE COMMUNICATION All parties intending to testify or present evidence in an evidentiary hearing shall be under oath administered by the Chair prior to the start of the hearing. Since all interested parties have the right to know the evidence upon which a decision is to be made, the Board of Commissioners shall consider only the evidence introduced at the evidentiary hearing and it is improper for the applicant or any other person to communicate with the Board of Commissioners outside of the hearing.

5. EVIDENTIARY HEARING ORDER OF PRESENTATION. The order of presentation of evidence at an evidentiary hearing shall be substantially as follows:

A) County Staff shall present the request with sufficient detail to adequately describe the requested permit, the location of the property affected, and any other matters relevant for consideration by the Board of Commissioners.

B) The applicant shall present his request with such supporting evidence as is relevant and non-repetitive. The Board of Commissioners may ask questions of the applicant or any of his witnesses in the order of their appearance.

C) Any other interested parties may testify or present evidence for consideration by the Board of Commissioners. Such persons desiring to speak at the evidentiary hearing may be required to register in advance of the hearing and called to testify in the order in which registered as a proponent or an opponent. All such testimony presented by interested persons shall be relevant and non-repetitive. The Board of Commissioners may ask questions of the interested parties. All such parties shall identify themselves for the Record prior to testifying and indicate whether they have taken the required oath.

D) Interested parties may cross-examine the applicant or his witnesses through counsel or, if not represented by counsel, through questions submitted to the Chair. The applicant may cross-examine witnesses in opposition to the requested permit through counsel or, if not represented by counsel, through questions submitted to the Chair. All such cross-examination of witnesses shall be done in the order of their appearance.

E) The Board of Commissioners through the Chair may also take whatever action is necessary to limit testimony to the presentation of new factual evidence that is material to the petition, to ensure fair and orderly proceedings, and to otherwise promote the efficient and effective gathering of evidence. Such actions may include barring the presentation of obvious hearsay evidence (e.g., another person's statement supporting or opposing the proposal), barring the presentation of non-expert opinion (i.e., an opinion from a person lacking sufficient experience or knowledge to form a basis for the opinion), interrupting digressions into immaterial testimony, interrupting repetitive testimony, reasonably limiting the time allotted each witness on cross-examination, providing for the selection of spokespersons to represent groups of persons with common interests, interrupting personal attacks, and ordering an end to disorderly conduct.

6. INTERESTED PARTIES. Interested parties to a conditional use permit request shall include those persons who can demonstrate some specific personal and legal interest in the property involved in the proceeding which may be adversely affected thereby in some real, substantial, and concrete way different than that shared by members of the general public at large, and shall include the applicant, persons with an ownership interest in the property in question, owners of property in such close proximity to the property in question that the use of

said property as authorized by the requested permit would adversely affect that person's use or enjoyment of his or her property or would adversely affect its value, and any person whose economic interest would be directly affected by the use requested.

7. CONTINUATION OF HEARING. The evidentiary hearing shall be closed upon the conclusion of oral testimony, although the Board may continue the hearing to a later meeting to accommodate additional witnesses or the presentation of additional testimony or evidence. If the time and place of the continued hearing is announced in open session during the hearing, no further notice need be given for the continued hearing. If the applicant or other interested party desires to submit relevant, non-repetitive supplemental written evidence based upon new information adduced at the evidentiary hearing, or substantially modify the application in response to the concerns raised in the hearing or in Board discussion, the Board of Commissioners may, but need not, consider the modification or submission of supplemental evidence in the same manner as the original application, including an evidentiary hearing.

8. PLANNING BOARD RECOMMENDATION. Prior to making a decision upon a requested amendment to the zoning map, the Board of Commissioners shall have referred the matter to the Planning Board for its review and recommendation as by law provided. The Planning Board review may include specific conditions for the conditional use permit attributable to the requested rezoning if approval is recommended. The Board of Commissioners shall consider the Planning Board review and recommendation.

9. BOARD OF COMMISSIONERS DECISIONS IN CONDITIONAL USE DISTRICT REZONING CASES. The Board of Commissioners shall consider a zoning classification request prior to making a decision on any conditional use permit request in a conditional use district rezoning case. In the event the Board of Commissioners adopts a

conditional use district zoning map amendment request, it shall then immediately consider the issuance of a conditional use permit. The Board of Commissioners shall not consider any incompetent, irrelevant or immaterial evidence introduced at the evidentiary hearing on the conditional use issue, nor any ex parte communication received outside of the evidentiary hearing. In all instances, the decision shall be based upon substantial, material and competent evidence in the record. In the event the Board of Commissioners denies a conditional use district zoning map amendment request, it shall then immediately deny the requested conditional use permit.

10. BOARD OF COMMISSIONERS DECISIONS IN CONDITIONAL USE PERMIT CASES. The Board of Commissioners shall not consider any incompetent, irrelevant or immaterial evidence introduced at an evidentiary hearing on a conditional use permit request, nor any ex parte communications received outside of the evidentiary hearing. In all instances, the decision shall be based upon substantial, material and competent evidence in the record.

11. APPLICABILITY. These rules shall be applicable to all hearings, whether legislative or evidentiary, arising in connection with conditional use rezoning and permit requests following adoption by the Board of Commissioners.