

How Can I Stop the City From Rezoning My Neighborhood?

Dealing with a developer that has applied to rezone a neighborhood from low density residential to high density residential.

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Let's say you are living in a pleasant, low density residential neighborhood, but a notice arrives one day from your city: A developer has applied to rezone your neighborhood to high density residential. Perhaps the developer wants to put a large apartment complex a few blocks away. Inevitably, you will be concerned the rezone will change the character of the neighborhood, possibly leading to more people, traffic, safety issues, and noise, as well as a reduction in property values .

Read Any Directions on How to Object to the City's Rezoning Plans

As an initial step, you will want to make note of any procedural requirements the city laid out for registering your opinion or objection. Depending on the rules where you live, you might receive written notice including information about the proposed zone change, as well as applicable deadlines and upcoming hearings.

While this initial notice is helpful, you should confirm for yourself any procedural requirements that might apply, by reviewing the applicable zoning ordinance (sometimes called a "development code"). If the ordinance is unclear, promptly contact a land use attorney to help make sure you do not miss deadlines or important hearings. If you do, you

may lose your right to appeal.

Being familiar with the procedural requirements will also help you make sure the city and developer follow the rules.

Learn the Possible Grounds for Objecting to a Rezoning

In addition to the procedural requirements, the zoning ordinance will describe the substantive standards that apply to the rezone application. For example, the zoning ordinance might require the applicant to show:

- **That the zone change is consistent with any applicable comprehensive plan for the area.** A comprehensive plan is a general plan that directs the future use and development of land. A "comp plan" might state, for example, that a certain area should be preserved as low density residential. A zone change seeking high density might be inconsistent with that statement in the comprehensive plan. If a proposed zone change is not consistent with the comprehensive plan, the application should be denied. Sometimes, if a proposed zone change is inconsistent with the plan, the applicant will simultaneously seek a plan amendment that allows the zone change to be consistent with the amended comprehensive plan. If so, you will also want to become familiar with the standards that apply to a comprehensive plan amendment.
- **That there is a need for the zone change.** Sometimes this standard will require that the proponent of the change show that there's been a change in circumstances or that a mistake was made when the property was originally zoned. As an example, if there was no mistake made when the neighborhood was originally zoned, and there is sufficient land elsewhere for high density residential use, the fact the applicant wants to develop a specific piece of

property might not be enough to justify a zone change, since there is no need to rezone the neighborhood.

- **That the zone change will be consistent with surrounding uses.** This could require the applicant to show the zone change will not result in property values going down, or interfere with existing development. For example, rezoning a neighborhood from low density residential to heavy industrial, when the neighborhood is surrounded by other residential uses, is likely to be found inconsistent with surrounding uses.
- **That the zone change is consistent with the orderly development of public services.** A zone change might not be appropriate in an area with no public services, especially if another part of town already has the services and can support the same type of development the proposed zone change will allow. Such a requirement might also require the applicant to show that the zone change will not significantly impact traffic.

By becoming familiar with the approval criteria, you will be in a better position to identify any weaknesses in the application and to argue that the applicant cannot demonstrate compliance with some or all of the approval criteria.

Look Into Applicable State and Federal Laws

In addition to the approval criteria found in the zoning ordinance, there might be state and federal laws that apply to this type or area of land. A land use attorney can help you identify all applicable laws and regulations that must be complied with by the applicant.

Preparing to Attend a Public Hearing on the Land Use or Zoning Decision

In addition to becoming familiar with both the procedural and substantive requirements that apply to the zone change request, you will also want to put together a strong showing in opposition to the proposal. To do this, some people host neighborhood meetings to see how others in the area feel about the proposal. Putting together a vocal group in opposition can influence decision makers.

The decision maker is usually a hearings officer, planning commission, city council, county board. Since land use decisions like zone changes are political in nature, a well-organized, vocal group in opposition to a proposal can influence decision makers who might be concerned about the next election.

All those opposing the zone change should plan to speak out against it at the scheduled public hearing. In fact, to preserve your right to appeal, you will likely need to participate in the hearing. In some cases, you might be able to "make an appearance" by submitting written testimony, but you should confirm whether you can do that with a local land use attorney.

Consider Filing a Petition Opposing the Land Use

Sometimes a petition put together by opponents to a land use proposal can be helpful. A petition is most effective if it clearly states what the signatories are opposing and why. However, a petition will most likely not be sufficient to preserve anyone's right to appeal, should the zone change be approved.

If the Developer Seeks a Variance

It might also be possible for the developer to seek a "variance" to the zoning ordinance that allows the use (i.e. the apartment complex)

despite the uses permitted under current zoning. Variances can be difficult to obtain, so perhaps the developer believes the zone change is the best way to proceed. However, if you are more concerned about the zone change than a single apartment complex, it could be possible to negotiate a solution that allows the apartment complex through a variance, but avoids a complete rezone of the neighborhood.

Zone changes can be complicated applications. Opposing the application can also be complicated, so it is important to be familiar with the procedural and substantive requirements. A land use attorney familiar with the standards that the city or county will apply is a valuable resource in these cases.