



City of Federal Heights Planning & Zoning Commission

January 28, 2025



Federal Heights

Planning and Zoning Commission

City Council Chambers | 2380 W. 90th Avenue, Federal Heights, CO 80260

AGENDA: REGULAR MEETING

JANUARY 28, 2025
6:00 P.M.

CALL TO ORDER

Roll Call

- 1. Election of Officers**
- 2. Approval of Minutes: June 26, 2024**
- 3. Planning Commission Training** (*Tim Williams*)
- 4. Adoption of Planning and Zoning By-Laws** (*Tim Williams*)
- 5. Call to the Public**
- 6. Staff Comments**
- 7. Commissioners' Comments**
- 8. Adjournment**



Federal Heights

Planning and Zoning Commission

SPECIAL MEETING MINUTES

June 26, 2024

6:00 P.M.

City Hall

2380 W. 90th Avenue
Federal Heights, CO 80260

303-428-3526

303-412-3598 Fax

CALL TO ORDER

The June 26, 2024 Special Meeting of the Planning and Zoning Commission was called to order by Chair Richardson at 6:03 p.m.

ROLL CALL

Commission members in attendance were Chair Sharon Richardson, Vice Chair Ken Murphy and Commissioners Kevin Dougherty and Mike Vallero. Also present were Community Development Director Tim Williams and City Planner Stephanie Lubanovic. Commissioner Thomas Acosta was absent and Commissioner Rita Parke was excused. It was announced that a quorum was in attendance.

APPROVAL OF MINUTES: JANUARY 30, 2024

MOTION was made by Commissioner Vallero, seconded by Vice Chair Murphy for approval of the Minutes of January 30, 2024. All commissioners present voted yes.

PRESENTATION: COMPREHENSIVE PLAN EXISTING CONDITIONS REPORT

(Community Development Director Tim Williams)

Community Development Director Williams gave a presentation on the 2024 Comprehensive Plan Existing Conditions Report.

CALL TO THE PUBLIC

No public comments were offered.

STAFF COMMENTS

No comments were offered.

COMMISSIONERS' COMMENTS

The commissioners thanked staff for the presentation and said that they had appreciated receiving the answers to their questions.

ADJOURNMENT

The meeting was adjourned at 7:23 p.m.

Respectfully Submitted,

Commission Chair

ATTEST:

Tim Williams, Community Development Director

BYLAWS OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF FEDERAL HEIGHTS

APPOINTMENTS.

- The Planning and Zoning Commission (the Commission) shall consist of seven (7) members appointed by City Council.
 - One member from each ward appointed by the City Council;
 - Four members at large from the city appointed by the City Council.
- The term for each member shall begin on January 1, following appointment by the City Council. If City Council's appointment of a member occurs after January 1, the member's term will be deemed to have begun on January 1 prior to such appointment. The term of each member shall be two years or until their successor takes office.
- Members shall be appointed and may be removed by an affirmative vote of a majority of the City Council. Members serve at the pleasure of the City Council.
- Vacancies occurring other than upon the expiration of a term shall be filled for the remainder of the unexpired term by the City Council.
- Unless excused by the Commission, a member of the Commission shall be deemed to have vacated their position upon failure to attend required training or upon failure to attend four regular meetings within a calendar year. A member shall, after being absent from three regular meetings within a calendar year, be provided with written notice from the Mayor that such member shall be deemed to have vacated their position if absent from any other regular meeting that year.
- The Commission shall elect a Chair and Vice-Chair at the first meeting of each calendar year. Such terms shall expire at the first meeting of the following calendar year, upon the election or re-election of a Chair and Vice-Chair. In the absence or unavailability of the Chair, the Vice-Chair shall exercise all the powers of the Chair.
- The City Clerk or City Clerk's designee shall not be a member of the Commission but shall serve as secretary to the Commission.

ATTENDANCE.

- It is the policy of the Commission to have its members regularly attend Commission meetings. Regular attendance is vital to conduct the business of the Commission, to have a quorum of the Commission, to have informed Commission members and quality participation, and to respect the time and interest of the public.
- If any member of the Commission will be absent from any regular meeting, such member shall notify the City Clerk (or the Clerk's designee) by telephone or e-mail before 12:00 noon on the meeting day and shall give the reason for the absence. The City Clerk (or the Clerk's designee) shall notify the Chair of the member's absence and the reason therefor as soon as possible on the meeting day. The Secretary of the Commission shall keep records of each Commissioner's attendance and whether each absence is excused or unexcused.
- Absences may be deemed excused by a majority vote of the members of the Commission present at that meeting, or at the next meeting if the reason for the absence is unknown.

POSITION VACATION.

A Commissioner shall be deemed to have vacated their position upon failure to attend required training unless excused by the City Council or upon failure to attend four regular meetings within a calendar year. A Commissioner shall, after being absent from three regular meetings within a calendar year, be provided with written notice from the Mayor that such Commissioner shall be deemed to have vacated their position if absent from any other regular meeting that year.

PUBLIC STATEMENTS

No individual Commissioner shall make public statements on behalf of the Commission, without prior consent and approval of the Commission. Nothing in this section shall limit or infringe on the Commissioner's right to free speech and expression as an individual.

QUORUM.

For the conduct of any hearing or the taking of any action, a quorum of four Commissioners shall be necessary.

VOTING.

Unless otherwise provided for by ordinance, all actions of the Commission must be taken by the concurring vote of the majority of the Commissioners present. All votes shall be roll-call voice votes.

DUTIES AND RESPONSIBILITIES.

- (a) Subject to the approval of and appropriation by the City Council the Commission may contract with municipal planners, engineers and architects and other consultants for service as it requires.
- (b) The Commission shall make and adopt a Master Plan for the physical development of the City. Such plan shall include, but not be limited to, streets, bridges, waterways, parks, utilities, open space, buildings and zoning. Such plan may be adopted in whole or in part by resolution. The adoption of the plan, any part, amendment, extension or addition requires an affirmative vote by not less than two-thirds vote of the entire membership of the Commission.
- (c) The adoption of a Master Plan or any part thereof requires adoption by the City Council, certification of the Commission Chair, and filing with the County Clerk and Recorder.
- (d) The City Council may overrule the Commission by two-thirds vote of the entire Council.
- (e) The Commission may adopt Bylaws regarding its administrative duties and procedures, regarding matters to include, but not limited to, meetings, quorums, voting, attendance, and public hearings, provided that such Bylaws do not conflict with the Code or the Charter.

VARIANCES.

The Commission shall have the power to authorize, upon appeal in specific cases, such variances from the terms of Chapter 70 of the Federal Heights Municipal Code as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of Chapter 70 of the Federal Heights Municipal Code will result in unnecessary hardship upon the applicant. Every variance authorized hereunder shall not be personal to the applicant therefor but shall be transferable and shall run with the land. No variance shall be authorized hereunder unless the Commission shall find that all of the following conditions exist:

- (a) That the variance will not authorize the operation of a use other than those uses specifically enumerated as used by right for the district in which the subject property is located.

- (b) That owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of Chapter 70 of the Federal Heights Municipal Code will result in unnecessary hardship upon the applicant.
- (c) That the circumstances aforesaid were not created by the owner of the property or their predecessors and are not due to, or the result of, general conditions in the district in which the property is located.
- (d) That the development or use of the property for which the variance is sought, if limited by a literal enforcement of the provisions of Chapter 70 of the Federal Heights Municipal Code, cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same district.
- (e) That the variance will not substantially or permanently injure the use of adjacent conforming property in the same district.
- (f) That the variance will not alter the essential character of the district in which the subject property is located.
- (g) That the variance will not impair the general purposes of Chapter 70 of the Federal Heights Municipal Code, or the regulations established for the district in which the subject property is located.
- (h) That the variance will be in harmony with the purposes of Chapter 70 of the Federal Heights Municipal Code.
- (i) That the variance will not adversely affect the public health, safety or welfare.

NONCONFORMING USES.

The Commission shall have the power, upon appeal, to grant a variance permitting an increase in either or both the land area or the floor area in a structure or structures occupied by the nonconforming use, subject to terms and conditions fixed by the Commission, as will not be contrary to the public interest, where, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of Article IV of Chapter 70 of the Federal Heights Municipal Code, will result in an unnecessary hardship to the applicant. No variance shall be authorized hereunder unless the Commission shall find that all of the following conditions exist:

- (a) That the use is a nonconforming use as defined by Article IV of Chapter 70 of the Federal Heights Municipal Code and is in full compliance with all requirements of said chapter applicable to nonconforming uses.
- (b) That owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of said chapter will result in an unnecessary hardship to the applicant.
- (c) That the circumstances aforesaid were not created by the current owner of the use.
- (d) That the variance will not further impair the appropriate use of adjacent conforming property in the same district.
- (e) That the variance will not alter the essential character of the district in which the subject property is located.
- (f) That the variance will not impair the general purposes of Chapter 70 of the Federal Heights Municipal Code, or the regulations established for the district in which the subject property is located.
- (g) That the variance will be in harmony with the purposes of Chapter 70 of the Federal Heights Municipal Code.
- (h) That the variance will not adversely affect the public health, safety or welfare.

MEETINGS.

- (a) Subject to the cancellation provisions of this section, the Commission shall hold one regular meeting each month. Such regular meeting shall be held on the last Tuesday of each month; provided, however, that the Commission may reschedule the regular meeting for any particular month if the last Tuesday falls on a legal holiday or for such other good cause as may be determined by the Commission.
- (b) In the event that the Chair is informed by City Staff that there will be no substantive business to be considered by the Commission at the regular meeting for any particular month, the Chair may, in their discretion, cancel the regular meeting for such month. In the event of such cancellation, Commissioners shall be notified of the cancellation by the most practical means available. Notice of cancellation shall be posted at the City's designated location for public notices.

In the event that the Chair is informed by City Staff that the review of an item is required at an earlier date than the regularly scheduled meeting, the Chair may schedule a special meeting on a date when a quorum of Commissioners is available to meet. Commissioners shall be notified of the rescheduled meeting by the most practical means available. A notice of the rescheduled meeting shall be posted at the City's designated location for public notices.

MINUTES AND RECORDS

The Commission shall keep a record of its proceedings, and the record of proceedings shall include all testimony, documents and physical evidence presented for the matter. The record of proceedings shall be filed in the office of the City Clerk.

COMMISSION HEARINGS

Commission public hearings should be conducted in accordance with the procedures outlined in **Appendix A**. For any matters not covered by Appendix A, the Commission shall follow the parliamentary procedures set forth in Rule V. and VI.A. of the City Council Rules of Procedure, to the extent that such rules are applicable to matters before the Commission or allowable by law. In the event that the Commission utilizes the procedures in Rule V of the City Council Rules of Procedure, all references to "Councilmember(s)" shall be synonymous with "Commission member(s)", and all references to "Mayor" shall be synonymous with "Chair" of the Commission.

BYLAW AMENDMENTS

These Bylaws may be amended at any meeting of the Commission by a concurring vote of a majority of the current members of the Commission.

ADOPTION OF BYLAWS

These Bylaws and Appendices were adopted by the Federal Heights Planning and Zoning Commission on the 28th day of January 2025.

Chair of the Planning & Zoning Commission

APPENDIX A - NOTICE AND PROCEDURES FOR PUBLIC HEARINGS

PUBLIC HEARINGS GENERALLY

NOTICE OF PUBLIC HEARINGS.

- Public hearings shall be listed on the meeting agenda.
- Agendas shall be distributed to Commission members and distributed to any member of the public by request.
- Public notice shall be given of all hearings and all hearings shall be open to the public.
- Notice of all hearings shall consist of publication once in a newspaper of general circulation within the City not less than 15 days prior to such hearing and posting of the property shall consist of placing one sign, at least 30 inches square with lettering not less than 1¼ inches in height, facing and legible from the public highway on the premises of the property for which the variance is requested.
- At the public hearing, any interested party may appear in person or by agent or by attorney, offer evidence and testimony. The Chair, or in their absence, the Vice-Chair, shall administer oaths from all witnesses.
- The Commission may take judicial notice of facts to the same extent and in the same manner as courts of record.
- All evidence and testimony shall be presented publicly. The Commission may take judicial notice of facts to the same extent and in the same manner as courts of record.
- The Commission shall keep a record of its proceedings, and the record of proceedings shall include all testimony, documents and physical evidence presented for the matter. The record of proceedings shall be filed in the office of the City Clerk.

PROCEDURES

OPENING THE HEARING

The Chair will announce the subject of the public hearing, review the public hearing process and declare the hearing open.

STAFF PRESENTATION

A staff member from Community Planning and Development or other city agency will summarize the proposal and the criteria for evaluation.

APPLICANT PRESENTATION

The applicant will present the content of the proposal.

STAFF RECOMMENDATION

- The staff member will analyze how the proposal does and does not meet established criteria.
- The staff member will recommend approval, approval with conditions, or denial of the proposal.

PUBLIC TESTIMONY

- The Chair will call speakers for the public hearing in an orderly manner.
- The Chair may, in their discretion, specify a time limit for those who wish to speak. The Chair will advise speakers when their time has expired.
- Speakers must state their name and address before making a statement. They should indicate whether they support, oppose or are neutral about the proposal.

- The Commission will make its recommendation based on the applicable criteria established by state statute, ordinance, rule, regulation or law.

QUESTIONS BY COMMISSION MEMBERS

Commissioners may ask questions of people who have testified at the public hearing including the applicant and staff.

CLOSING THE HEARING

After the question period, the Chair may close the public hearing unless the Commission votes to continue the hearing to a date certain.

COMMISSION DELIBERATION

- After the hearing is closed, the Commission will discuss the proposal. Members of the public shall not participate in the Commission discussion.
- When considering *quasi-judicial matters*, the Commission will consider only the evidence and testimony presented during the public hearing and shall not consider any information gathered or received outside of the public hearing. No member of the Commission is permitted to engage in *ex parte communication* on a pending *quasi-judicial matter*.
- The Commission will make its decision based on the evidence and testimony presented during the public hearing and on the applicable criteria established by state statute, ordinance, rule, regulation or law.

COMMISSION DECISION

- A Commissioner may make a motion to approve, approve with conditions, or to deny the application.
- The Commission shall make findings when required by ordinance or regulations.
- Methodologies for making official findings may include:
 - Adopting the staff report, with or without revisions.
 - Directing staff to write findings to be adopted at a later date .
 - Including findings in the oral motion, which findings shall set forth in the meeting minutes.
 - A vote shall be taken and recorded in the minutes.

QUASI-JUDICIAL HEARING PROCEDURES.

- Quasi-judicial meetings may be held by Electronic Participation in the event of a local disaster emergency subject to the requirements set forth in **Appendix B**.
- In the event that a matter is scheduled for a public hearing that is a quasi-judicial matter and due to applicable timelines must be held during the time that a local disaster emergency is in effect, the Commission shall notify the applicant of such circumstances and present the applicant with options for proceeding with the application. Upon notice from the Commission, the applicant shall authorize the Commission to proceed with one of the following options:
 - Conduct the public hearing under this policy with accommodations made for electronic participation by the applicant and the public; or
 - Suspend any and all review and decision deadlines until such time that the local disaster emergency declaration is terminated and the Commission can schedule a meeting at which an in-person quorum will be present.
- To the extent reasonably possible the Commission shall provide adequate opportunity for the applicant and the public to participate in the quasi-judicial matter in a manner that

approximates as closely as possible the opportunity that is routinely provided during in-person meetings – for example, an opportunity for members of the public to comment on the matter during the public comment portion of the hearing. Such opportunity shall include, at a minimum, the ability for the public to listen and as appropriate comment electronically during the hearing. Nothing in this policy shall prevent members of the public from submitting written comments in advance of the meeting at which the quasi-judicial matter will be considered. If written comments are received on a quasi-judicial matter being considered at a meeting conducted via electronic participation, such comments shall be read into the record by a Commissioner or member of City staff.

- Any documents, exhibits, or other materials (collectively, “Materials”), to be presented by the applicant, City staff, other parties (if any), or members of the public during the public hearing, must be clearly marked for identification and must be submitted to the City Clerk at least five (5) days prior to the hearing date, in addition to any obligation of the applicant, City staff, or other parties, if any, may have by law to provide such materials to other parties prior to the hearing. Notice of the public hearing issued by the Commission shall include notice of this requirement to submit Materials to the City Clerk, and shall state where, how, and when such Materials must be submitted. The Commission will include the Materials in the meeting packet with a cover sheet identifying the name of the party submitting the materials, and will make such materials available to the public on the City’s website and or City Hall if feasible at least 24 hours before the hearing.
- The participants in the public hearing, discussion, and decision should endeavor to identify themselves for the record upon speaking or asking questions. The Chair will endeavor to ensure the participants in the public hearing clearly identify themselves and any Materials referenced during the hearing for purposes of creating an adequate record.
- A record of the public hearing, including all presentations, testimony, documents and other materials submitted, discussion, and decision shall be made and kept by the Commission, including a full audio recording or, if the meeting is conducted using video, a full audio and video recording.

APPENDIX B - ELECTRONIC PARTICIPATION MEETING POLICY

PURPOSE.

The purpose of this Policy is to specify the circumstances under which a Commissioner may participate in regular, study or special meetings by telephone or other electronic means of participation, such as video-conferencing ("Electronic Participation"). Electronic Participation has inherent limitations because Electronic Participation effectively precludes a Commissioner from contemporaneously observing documentary information presented during meetings; from fully evaluating a speaker's non-verbal language in assessing veracity or credibility; and from observing nonverbal explanations (pointing at graphs and charts) during a speaker's presentation or testimony. A Commissioner may find that these limitations in Electronic Participation may produce inefficiencies in meetings and may undermine the decision-making process and thus desires to permit Electronic Participation only under emergency situations.

POLICY.

A Commissioner may participate by Electronic Participation in a Commission meeting only in accordance with this Policy.

EMERGENCY SITUATIONS.

In the event the Commission is unable to meet at the day, hour, and place fixed by the rules and procedures of the Commission because meeting in-person is not practical or prudent due to an emergency, resulting from, for example, an accident, illness, weather condition or other natural disaster, epidemic or pandemic, meetings when necessary to conduct Commission business may be conducted by Electronic Participation only if all of the following conditions are met:

- The Chair determines that meeting in person is not practical or prudent, because of an emergency;
- All participating Commissioners can hear one another or otherwise communicate with one another and can hear or read all discussion and testimony in a manner designed to provide maximum notice and participation;
- Members of the public present at the regular meeting location can hear or read all discussion, testimony and votes, unless not feasible due to the emergency. In the event that the nature of the emergency precludes the physical attendance of the public, appropriate arrangements, if feasible will be made to permit the public to remotely observe and listen to the meeting and provide public comment.
- At least one Commissioner is present at the regular meeting location, unless not feasible due to the emergency;
- All votes are conducted by roll call;
- Minutes of the regular or special meeting are taken and promptly recorded, and such records are open to public inspection; and
- To the extent possible, full and timely notice is given to the public setting forth the time of the meeting, advising that some members of the Commission may participate electronically, and if feasible, the right of the public to monitor the meeting from another location.

ARRANGING FOR ELECTRONIC PARTICIPATION.

To arrange to participate via Electronic Participation, a Commissioner shall:

- Contact the Chair in advance of the meeting to determine if arrangement for Electronic Participation is possible. Commissioners shall endeavor to advise the Chair of their intent to

participate via Electronic Participation at the earliest possible time and not less than twenty-four (24) hours prior to the requested participation.

- The Commission shall to the extent feasible initiate the Electronic Participation not more than ten (10) minutes prior to the scheduled time of the meeting. Upon disconnection during a meeting, the Chair shall attempt to re-initiate the connection.

EFFECT OF ELECTRONIC PARTICIPATION.

Electronic Participation shall, except as specifically provided herein, only constitute actual attendance for meetings during which no quasi-judicial matters will be heard, considered or decided.

LIMITED APPLICABILITY OF POLICY.

This Policy shall only apply to regular meetings of the Commission.

REASONABLE ACCOMMODATIONS.

The Commission shall provide reasonable accommodation and may modify provisions of this policy to provide disabled members of the Commission or public access to Commission meetings.