

Standard of Review and Process Overview
200 Manabe Ow Road

STANDARD OF REVIEW

Whether a particular decision is adjudicative or legislative affects the requirements for findings to support the decision. Legislative decisions involve the adoption of broad policies applicable to many situations (for example, general plan amendments and zoning decisions). Legislative decisions need not be accompanied by findings unless a State law or City ordinance requires them.

Adjudicative (or “quasi-judicial”) decisions, on the other hand, apply already adopted policies or standards to individual cases, such as a variance or conditional use permit application. Adjudicative/quasi-judicial decisions are based on evidence and must always be supported by findings.

The decisions before the Planning Commission—a Special Use Permit with Design Review and a Specific Plan Amendment—are adjudicative/quasi-judicial decisions and require findings, either for denial, or as recommended, for approval that is supported by substantial evidence. *Toigo v Town of Ross (1998) 70 Cal App 4th 309*

If challenged, a reviewing court will consider whether the decision(s) considered the applicable policies and the extent to which the proposed project conforms with those policies and whether the City made appropriate findings.

PROCESS

Special Use Permit

Article 2(d) of the Deed Restrictions for the Manabe Ow Business Park Specific Plan (MOBPSP) area includes “distribution” and “warehousing” under the definition of “Business Park” as permitted job producing flex-industrial type uses. However, Section 3.5 of the MOBPSP includes a requirement that “any warehousing exceeding 30% of the floor area of a business will require a Special Use Permit.” The Planning Commission is authorized to issue Special Use Permits in accordance with the procedures set forth in WMC §14-12.509 through §14-12.513. The purpose of the Special Use Permit is to ensure the proper integration of uses which, because of their special nature, may be suitable only in certain locations or zoning districts or only provided that such uses are arranged or designed in a particular manner (WMC §14-12.500). This special review shall be for the purpose of determining that the proposed use is, and will continue to be, compatible with surrounding, existing, or planned uses; and for the further purpose of establishing such special conditions as may be necessary to ensure the harmonious integration and compatibility of uses in the neighborhood and with the surrounding area (WMC §14-12.501).

Design Review

All new construction, exterior remodeling, additions, or changes in use requiring additional parking, which involve structures used for multi-family residential, commercial, industrial or public purpose are subject to Design Review (WMC §14-12.400). No Building Permit shall be issued for a development subject to Design Review until a Design Review Permit has been approved in accordance with WMC Chapter 14-12 and conditions of approval have been met.

When considering applications for Design Review, the Planning Commission shall evaluate the impact of the Design Review on and its compatibility with surrounding properties and neighborhoods to ensure the appropriateness of the development and make the findings set

forth in WMC §14-12.403. The findings for a Design Review Permit are substantially similar to those required for Special Use Permits, except for the finding set forth in WMC §14-12.403(e), which requires that additional design elements be addressed.

Environmental Review

The California Environmental Quality Act requires local and state governments to consider the potential environmental effects of a project before making a decision on it. CEQA's purpose is to disclose the potential impacts of a project and suggest methods to minimize those impacts so that decision-makers will have full information upon which to base their decision. Below is a summary of key provisions for the consideration and adoption of a negative declaration or mitigated negative for a project.

1. **Consideration prior to approval.** Prior to approving a project, the decision-making body shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process.
2. **Standard.** The decision-making body can adopt the negative declaration or mitigated negative declaration only if it finds there is no substantial evidence that the project will have a significant effect on the environment.
3. **The Record.** The lead agency is to specify the location of the documents and materials constituting the record.
4. **Mitigation Monitoring and Reporting.** When adopting a mitigated negative declaration, the lead agency must also adopt a program for reporting or monitoring the changes it has required or made conditional on approval.

Specific Plan Amendment

California Government Code Sections 65450 to 65456 authorize the preparation of specific plans to implement a jurisdiction's General Plan. The Manabe-Ow Business Park Specific Plan and the provisions contained within it, which were adopted in 2010, constitute the primary land use and development standards for the project area. Within the Manabe-Ow Business Park (MOBP), the Land Use Plan serves as the main reference for all future planning work and implementation activities within the MOBP, and the development review process is used to determine a proposed development's consistency with the main components of the specific plan, such as the Land Use Plan and the Circulation Plan.

Amendments to the Specific Plan fall under one of two categories: (1) Administrative Amendments and (2) Other Amendments. Administrative Amendments are considered minor revisions and do not require formal approval by Planning Commission or City Council. Other Amendments are considered significant revisions because they deviate from the overall vision and intent of the MOBP and require formal approval by the Planning Commission and/or City Council. The Specific Plan specifically identifies changes to the Land Use Plan and circulation improvements as examples of Other Amendments.

WMC §14-12.905 requires specific plans to incorporate procedures to make amendments to the plan and identifies two types of amendments: Minor Amendments and Major Amendments. Minor Amendments may be considered by the Zoning Administrator and Major Amendments are required to be processed in the same manner as an application for original approval of the Specific Plan.

WMC §14-12.903 requires a Specific Plan to be reviewed by the Planning Commission and identifies the City Council, upon recommendation of the Planning Commission, as the final hearing body for Specific Plans. The Commission recommendation and City Council decision are subject to the findings required by WMC §14-12.904.

APPEAL PROCESS

If the Planning Commission's decision is appealed, the City Council will consider whether the action taken by the Planning Commission was erroneously taken and may sustain, modify, or overrule Planning Commission's action. In order for the Planning Commission's decision to be overturned on appeal, the City Council must find that the action taken by the Planning Commission was erroneous and inconsistent with the intent of the Zoning District regulations that regulate the proposed action (WMC § 14-10.1106).