

## **Alamo MAC Findings Information**

**The following are the findings/standards that the County makes for various development projects; listed below are findings for;**

- 1. Land Use Permit**
- 2. Variance**
- 3. Small Lot Review / Development Plan**
- 4. Tree Permit**
- 5. Subdivisions**
- 6. Rezoning**
- 7. Findings for a Preliminary or Final Development Plan when rezoning to P-1,**

### **1. Findings for a Land Use Permit:**

#### **County Code 26-2.2008**

An application for a conditional use permit, also known as a land use permit, is an application to establish a conditional land use within a land use district which does not allow establishment by right, but does allow the granting of a land use permit after a public hearing. The division of the planning agency hearing the matter either initially or on appeal, shall find the following before granting the permit:

- (1) That the proposed conditional land use shall not be detrimental to the health, safety and general welfare of the county;
- (2) That it shall not adversely affect the orderly development of property within the county;
- (3) That it shall not adversely affect the preservation of property values and the protection of the tax base within the county;
- (4) That it shall not adversely affect the policy and goals as set by the general plan;
- (5) That it shall not create a nuisance and/or enforcement problem within the neighborhood or community;

- (6) That it shall not encourage marginal development within the neighborhood;
- (7) That special conditions or unique characteristics of the subject property and its location or surroundings are established. Failure to so find shall result in a denial.

## **2. Findings for a Variance**

### **County Code 26-2.2006**

An application for a variance permit is an application to modify zoning regulations as they pertain to lot area, lot building coverage, average lot width, side yard, rear yard setback, auto parking space, building or structure height, or any other regulation pertaining to the size, dimension, shape or design of a lot, parcel, building or structure, or the placement of a building or structure on a lot or parcel. The division of the planning agency hearing the matter either initially or on appeal shall find the following conditions that must exist prior to approval of an application:

- (1) That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located;
- (2) That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district;
- (3) That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located. Failure to so find shall result in a denial.

## **3. Findings for a Small Lot Development Plan**

### **County Code 82.10.002 (c)**

**Small Lot Review.** If a lot does not meet the required area or width required by the Zoning Code it is considered a Small Lot. If a small lot qualifies for occupancy by a single-family dwelling or other structure, then a building permit cannot be issued unless the zoning administrator determines that the proposed dwelling or structure appears to be compatible with the surrounding neighborhood. If the zoning administrator makes that determination, the zoning administrator may, but is not required to, schedule a public hearing to review the proposed **dwelling's or structure's compatibility with and impact on the surrounding neighborhood, in terms of its location, size, height and design.** If a public hearing is scheduled, the notice provisions of Section 26-2.2004 shall

apply. After such determination, at the conclusion of the hearing, or if no hearing is held, the zoning administrator may deny, approve or conditionally approve the proposed dwelling in order to provide neighborhood compatibility.

#### **4. Findings for a Tree Permit**

##### **County Code 816-6.8010**

The following are, A, findings for granting a tree permit and B, findings for denying a tree permit.

- A. **Required Factors for Granting Permit.** The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied as marked:
1. The arborist report indicates that the subject tree is in poor health and cannot be saved.
  2. The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means.
  3. The tree is in danger of falling and cannot be saved by some other means.
  4. The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.
  5. The tree is a species known to be highly combustible and is determined to be a fire hazard.
  6. The proposed tree species or the form of the tree does not merit saving.
  7. Reasonable development of the property would require the alteration or removal of the trees and this development could not be reasonably accommodated on another area of the lot.
  8. The tree is a species known to develop weaknesses that affect the health of the tree or the safety of people and property. These species characteristics include but are not limited to short-lived, weak wooded and subject to limb breakage, shallow rooted and subject to toppling.
  9. Where the arborist or forester report has been required, and the Director is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.
  10. None of the above factors apply.

- B. **Required Factors for Denying a Tree Permit.** The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application have been satisfied as marked:
1. The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for non-discretionary permits).
  2. It is reasonably likely that alteration or removal of a healthy tree will cause problems with drainage, erosion control, land suitability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree.
  3. The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival.
  4. The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner.
  5. If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements.
  6. Any other reasonable and relevant factors specified by the Community Development Director.
  7. None of the above factors apply.

## **5. Findings for a Subdivision**

### **County Code 94-2.806**

The following findings shall be made for approval of both Parcel and Tentative Maps; A Parcel Map, or Minor Subdivision, is 4 lots or less and a Tentative Map, or Major Subdivision, is 5 or more lots

- (1) The advisory agency shall not approve a Parcel or Tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general and specific plans required by law.
- (2) When approving the Parcel or Tentative map, the advisory agency shall make findings as required concerning the fulfillment of construction requirements.

Also, the following Growth Management Standards, as found in Chapter 4 of the County General Plan apply to both Parcel and Tentative Maps as well as Land Use Permits.

Traffic: The project is required to provide a traffic study if the project generates more than 100 peak hours trips in accordance with Measure C.

Water: The County shall require new development to demonstrate that adequate water quantity and quality can be provided.

Sanitary Sewer: The County shall require new development to demonstrate that adequate sewer quantity and quality can be provided.

Fire Protection: Fire stations shall be located within one and one-half miles of developments in urban, suburban and central business district areas. Automatic fire sprinkler systems may be used to satisfy this standard.

Public Protection: The Growth Management Element standard is 155 square feet of Sheriff facility station per 1,000 population.

Parks and Recreation: A park dedication fee will be collected prior to issuance of building permits on the newly created lots to mitigate impacts on parks and recreation in the area.

Flood Control and Drainage: Compliance with the Public Works Department drainage requirements is required.

## **6. Findings for a Rezoning**

### **County Code 26-2.1806**

An application for rezoning is a request for change of the land use district applicable to the subject property or to amend the uses permitted in a land use district. Before ordering such change the planning agency shall determine that:

- (1) The change proposed will substantially comply with the general plan;
- (2) The uses authorized or proposed in the land use district are compatible within the district and to uses authorized in adjacent districts;

(3) Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.

**7. Findings for a Preliminary or Final Development Plan when Rezoning to P-1, Planned Unit District - County Code 84-66.1406.**

When approving and adopting the rezoning application to P-1, Planned Unit District with a preliminary development plan or the final development plan, the planning commission and/or board of supervisors as the case may be, shall be satisfied that:

- (1) The applicant intends to start construction within two and one-half years from effective date of zoning change and plan approval;
- (2) The proposed planned unit development is consistent with the county general plan;
- (3) In the case of residential development, it will constitute a residential environment of sustained desirability and stability, and will be in harmony with the character of the surrounding neighborhood and community;
- (4) In the case of the commercial development, it is needed at the proposed location to provide adequate commercial facilities of the type proposed, and that traffic congestion will not likely be created by the proposed center, or will be obviated by presently projected improvements and by demonstrable provisions in the plan for proper entrances and exits, and by internal provisions for traffic and parking, and that the development will be an attractive and efficient center which will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding development;
- (5) In the case of proposed industrial development, it is fully in conformity with the applicable performance standards, and will constitute an efficient and well organized development, with adequate provisions for railroad and/or truck access service and necessary storage, and that such development will have no adverse effect upon adjacent or surrounding development; and
- (6) The development of a harmonious, integrated plan justifies exceptions from the normal application of this code.