

Quasi-Judicial Hearing

“Special Use Hearings are quasi-judicial evidentiary hearings. That means they are like court hearings and the state law sets specific procedures and rules concerning how this Council must make its decisions.

The Council must base its decision upon competent, material and substantial evidence presented during the hearing. If you will be speaking as a witness, please focus on facts and standards, not personal preference or opinion.

This meeting is open to the public and everyone is welcome to watch. However, only parties with standing have rights to participate fully. Parties may present evidence, call witnesses, and make legal arguments. Parties are limited to:

- people or entities with an ownership or lease interest in the property;
- the applicant;
- the City of High Point; and
- individuals who can show they will suffer special damages as a result of the decision.

Council will only allow non-party testimony as long as it is relevant to the matter under consideration and limited to facts, not opinions.

For certain topics, the Council may hear opinion testimony from expert witnesses. Individuals providing expert opinion must be qualified as experts and must provide the factual evidence upon which they base their expert opinion.”

Open the Hearing

“I now open the evidentiary hearing for

(CASE NAME/NUMBER)”

Swear-in or Affirm Witnesses

“Witnesses must swear or affirm their testimony. At this time, all individuals present who intend to provide witness testimony for this matter should come forward and be sworn or affirmed.”

Disclosure

“The Parties to this case are entitled to an impartial Council. A Council member may not participate in this hearing if he or she is not impartial. For example, a Council member may not participate if he or she has a fixed opinion prior to the hearing that is not susceptible to change, a financial interest in the outcome of the matter, or a close familial or business relationship with an affected person. Does any Council member have any partiality to disclose or recusal to offer?”

(IF THERE IS A RECUSAL: MOTION TO ACCEPT RECUSAL, SECOND, DISCUSSION, VOTE) It is the policy of this Council that a recused member shall step down from the dais and retire to the conference room behind the chamber. The Council member may return to the dais for the next matter. *(allow member to retire to the conference room)*

“Also, Council members must disclose any *ex parte* communications. *Ex parte* communication is any communication about the case outside of the hearing. That may include site visits as well as conversations with parties, staff, or the general public. Does any Council member have a site visit, conversation or other communication to disclose?” *(consult w/ attorney if necessary)*

Staff Presentation

* “At this time Council will hear staff testimony. Before you start, please confirm for the record that you were sworn at the start of the hearing.”

(HEAR STAFF SUMMARY OF CASE AND TESTIMONY)

“Does the Council have questions for staff?”

“Does any party have questions for staff?”

Applicant Testimony and Argument

“The Council will now ask the applicant to present evidence and legal arguments. As a reminder, any evidence and argument must focus on the applicable standards. Documents and other physical evidence referred to or used by witnesses will need to be entered into the record, and a copy left with the City Clerk for that purpose.”

* “Before you begin, please state for the record your name, address, and relation to the case and confirm for the record that you were sworn at the start of the hearing.”

(HEAR TESTIMONY & LEGAL ARGUMENT)

“Does the Council have questions for this witness?”

“Does any party have questions for this witness?”

“Does the applicant wish to call any other witnesses to speak on behalf of your case?”

(REPEAT FOR EACH WITNESS)

Opportunity for Non-Party Testimony

“As a reminder: Council will only allow non-party testimony IF it is relevant to the matter and it is factual and not opinion. Are there any non-party individuals that have factual testimony or evidence to offer?”

(HEAR TESTIMONY & EVIDENCE)

“Does the Council have questions for this witness?”

“Does any party have questions for this witness?”

Deliberation and Vote

“Does the Council have any more questions for any of the Parties or witnesses before we move into deliberation?”

(QUESTIONS FROM COUNCIL, IF ANY)

“Hearing no additional questions, the Council will begin its deliberation.”

“Please note that the evidentiary hearing remains open so that the Council may ask clarifying questions, if needed.”

“As a reminder, this Council is tasked with making a decision based on the evidence presented during this hearing. This decision cannot be based on the personal preference of Council members. Council members are reminded to reference applicable standards and specific evidence in your deliberation.

Finally, if during our deliberation, the Council should pose a question to a party or a non-party witness, please come back to the podium and respond only to what is asked.”

“I will now call for a motion.” (PAUSE FOR MOTION/SECOND)

“A motion has been made and seconded. The Council will now begin its deliberation.”

“IT IS IMPORTANT THAT THE COUNCIL ADDRESS EACH OF THE REQUIRED FINDINGS IN ITS DISCUSSION, AND CLEARLY STATE HOW THE REQUEST DOES OR DOES NOT MEET EACH ONE.”

Decision and Closing

“A written Order of the decision of the Council decision will be provided to the applicant and other parties with a right to such notice as required by state law. Parties have 30 days from receipt of the Order to appeal this decision to Superior Court.

This hearing is now concluded.”