

PROTEST PETITION PROCEDURES

In order for a protest petition to be found valid it must meet the following criteria:

1. **It must be filed with the City Clerk's Office within 14 days after the Public Hearing conducted by the Planning Commission.** In this regard, I have visited with the City Clerk and they know that when a protest petition is filed with their office, the petition needs to be time dated. That is, on what day and at what time was the petition filed with the Clerk's Office. **Petitions not received by the City Clerk within 14 days after the Public Hearing before the Planning Commission are not valid.**
2. **At least one of the owner's signatures must be acknowledged by a notary public.** For a petition on which all signatures are not acknowledged by a notary public, an affidavit signed by one of the persons whose signature is acknowledged by a notary public must be attached to the protest petition. This affidavit shall state that he or she knew personally all of the persons who had signed the petition, had witnessed their signatures, and that all signed voluntarily. **Petitions that do not include a notary acknowledgment for at least one of the signatures are not assumed valid.**
3. The signature(s) must substantially match the name referenced on the certified ownership list. **Petitions with a signature(s) that does not precisely match the name referenced on the ownership may, by a court in the future, be determined to be invalid.** However, for our purposes, a signature that is missing a middle initial referenced on the ownership list or which is accompanied by the word Jr., when the ownership list did not include Jr., **DOES NOT** cause the petition to be marked invalid.

Page Two
Protest Petition Procedure
July 25, 2000

4. If the property subject to the protest petition is owned by a corporation, partnership or other organization, **the person signing the petition must state their capacity or authority to sign on behalf of the corporation, partnership or other organization.** If this is not done, then the petition is considered to be invalid.

The staff person responsible for collecting the protest petitions from the City Clerk is the City Planner. This is done on the Monday following the 14-day period following the Thursday Public Hearing. **It is also the City Planner's responsibility to determine whether the protest petitions submitted are valid.** Petitions are to be sorted into two groups; those found to be valid and those found not to be valid. If a question arises as to whether a petition is valid or not, it shall be forward to the Director of Planning along with a statement identifying why it is difficult to determine if the petition is valid or not. The Director of Planning will then discuss the matter with the City Attorney. **Valid petitions are to be so noted with the word "VALID" in the lower right hand corner of the petition.**

Once the City Planner has determined which petitions are valid and which are not, they forward the valid petitions to the Project Coordinator along with a copy of the certified ownership list. Petitions determined **INVALID** are two-hole punched and securely fastened in the rezoning case file. **On the front of these petitions the City Planner indicates the reason why the petitions were determined to be invalid.**

The Project Coordinator is responsible for calculating the percentage of the legal notification area, represented by one or more valid protest petitions. This is accomplished by plotting the legal notification area around the perimeter of the rezoning case and also plotting the perimeter of the parcels of ground owned by each person who has submitted a valid protest petition. In order to make this task easier, **and in order to assure consistency with the County's ownership records,** the Project Coordinator is to order a copy of the most recent County Quarter Sections Maps. These maps will allow the legal on the protest petition to be matched up with a parcel depicted on the Quarter Section Maps. If questions arise about who owns what, the Tax Key Number provided on the Quarter Section Map can be used to cross-check the names on the ownership list. In any regard, **IT IS IMPERATIVE THAT THE MAP PREPARED BY THE PROJECT COORDINATOR MATCH THE OWNERSHIP CONFIGURATION DEPICTED ON THE COUNTY'S QUARTER SECTION MAPS.**

The legal protest area outside the City boundary is a 1000-foot radius from the perimeter of the rezoning application area. The legal protest area in the City is a 200-foot radius from the perimeter of the rezoning application area. **Streets rights-of-way are excluded in calculating both the notification area and the protest area. If a question arises regarding the plotting of the legal protest area, the Project Coordinator shall address the question to the Director of Planning.**

Page Three
Protest Petition Procedure
July 25, 2000

As part of the Project Coordinator's calculation of the percentage of protest, they are to prepare an 8 and one-half inch by 11-inch map depicting the following: 1) rezoning application area, 2) the extent of the legal protest areas including the configuration of all properties within that area, and 3) those properties for which valid protest petitions were filed. **They also note on the map the percentage of protest.** A copy of this map will be provided to the City Council members when they consider the rezoning case. Also, this map will be used as evidence if the rezoning case is subject to judicial review. As such, **neatness and accuracy are very important.**

Once the Project Coordinator has completed their calculations, they are to return the protest petitions along with the map depicting the protest area to the City Planner. The City Planner is responsible for seeing that the original protest petitions are two-hole punched and securely fastened in the rezoning case file. **The Project Coordinator also provides the City Planner with the percentage of protest so the City Planner may complete the City Council Action Report for the rezoning case.**

It is the responsibility of the City Planner to forward to the zone case applicant a copy of the map prepared by the Project Coordinator. The standard letter drafted by the City Attorney shall accompany the map. This standard letter is located in Plancomm / Protest Petition Letter.

Should either of you have any questions about this procedure, please let me know.

C: Charlie Brown, Director of Community Development
Phil Alexander, City Attorney
Jean Epperson, City Clerk