

Current Planning Information Guide

Protest And Appeal Process

For Special Procedure Permits

**As authorized by the Zoning Ordinance
of St. Louis County**

General Information

This brochure is intended to inform citizens and petitioners alike of the proper methods of filing a protest or appeal to a Planning Commission decision or recommendation regarding a Special Procedure request. Please note that this brochure is not a part of the Zoning Ordinance of St. Louis County and should not be construed as modifying, altering, or providing an official interpretation of the regulations set forth in that ordinance.

- **A Protest is** - A formal action taken by the owners of property located in proximity to a tract of land being petitioned for Special Procedure use who wish to state to County Council their opposition to the Planning Commission's decision or recommendation of approval of that Special Procedure.
- **An Appeal is** - The formal method by which a petitioner may request further consideration by County Council of the Planning Commission's denial or recommendation of denial of a Special Procedure request.

Both the Protest Process and Appeal Process are discussed in detail in separate sections of this document.

The Zoning Ordinance of St. Louis County only provides for formal protest or appeal methods for requests involving four Special Zoning Procedures: (1) Conditional Use Permits (C.U.P.), (2) Planned Environment Unit Procedure (P.E.U.), (3) Commercial-Industrial Designed Development Procedure (C.I.D.D.), and (4) Landmark and Preservation Area Procedure (L.P.A.). A definition of each of these procedures is given in the Glossary of Terms section of this brochure. It should be noted that a request for approval of any of the above special procedures may be filed in tandem with a rezoning request. However, a formal protest or appeal may only be filed to oppose or seek additional consideration of the Special Procedure request. Also note that the protest procedures set forth in the Missouri Revised Statutes for county zoning procedures do not apply to St. Louis County.

There is no protest or appeal procedure provided in the Zoning Ordinance for contesting a Planning Commission recommendation involving a request for rezoning to the "NU" Non-Urban District, "R" Residence Districts, "C" Commercial Districts (including "C-8" Planned Commercial District), "M" Industrial Districts (including "M-3" Planned Industrial District), or "MXD" Mixed Use Development District. In requests involving actual rezoning petitions, citizens in opposition are encouraged to voice their viewpoints at public hearing before the Planning Commission as well as to address letters and petitions to the Commission prior to that body's Executive Meeting. After a decision or recommendation has been made at Executive Meeting, individuals who spoke at the public hearing are notified of the Commission's action on that particular petition. All letters and petitions from opposing citizens as well as requests for further consideration by the petitioner should be addressed to the St. Louis County Council following the Executive Meeting. Although not required by the Zoning Ordinance, the Council may, at its discretion, hold a public hearing on the matter before the entire Council or its Committee on Planning and Zoning, which is titled Public Improvements Committee (P.I.C.). The P.I.C. is composed of three Council members who consider zoning and Special Procedure requests and related matters and submit recommendations to the entire Council. Whether or not a public hearing is held by County Council, the recourse for opposing a Council rezoning decision is through suit in Circuit Court.

PROTEST PROCESS ...

<p>1. FOLLOWING PLANNING COMMISSION ACTION AT EXECUTIVE MEETING</p> <p>Where the Commission has approved a C.U.P. or recommended approval of a P.E.U., C.I.D.D., or L.P.A.</p> <p>1. Protester's Action: *Notice of Protest may be submitted to County Council after County Council's receipt of Planning Commission's report at a regular meeting.</p> <p>2. Protester's Action : *Formal protest statement may be submitted to County Council after receipt of Planning Commission's report by County Council at a regular meeting.</p> <p>3. County Action: County Council refers Notice of Protest and protest statement to Planning Commission for consideration.</p> <p>4. County Action: Department of Planning analyzes Notice of Protest to determine validity of signatures and percent of land represented.</p> <p>5. County Action: Planning Commission considers protest statement at Executive Meeting or Executive Session and submits report to County Council.</p> <p>6. County Action: Party (Parties) filing protest is notified of Planning Commission action.</p>	<p>2. FOLLOWING PLANNING COMMISSION REPORT TO COUNTY COUNCIL ON PROTEST STATEMENT</p> <p>1. County Action: *If protest meets ordinance requirements, County Council sets matter for public hearing before entire Council or its Committee on Planning and Zoning. Written notice is given to persons filing the protest, the petitioner, and to all other persons who spoke in opposition to the application at public hearing before the Planning Commission.</p> <p>2. Protester's Action: Attend and speak (if desired) at public hearing before entire Council or its Committee on Planning and Zoning.</p> <p>*If a protest fails to meet ordinance requirements, County Council is not obliged to hold a public hearing on matter, but may do so at its own discretion except for C.U.P. With this procedure, Council must exercise its power of review in order to hold a public hearing if a valid protest or appeal has not been filed.</p>
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*Specific protest requirements for all Special Procedures are listed on page 5 of this brochure.

Upon approval of a Conditional Use Permit (C.U.P.) application or a recommendation of approval of a P.E.U., C.I.D.D., or L.P.A. Special Procedure request by the Planning Commission, certain area residents may protest the Commission's decision or recommendation. The following description of the formal protest process, as specified by the Zoning Ordinance of St. Louis County, indicates when and how this action may be taken. The protest process is similar for all Special Procedure requests.

<p>3. FOLLOWING PUBLIC HEARING BEFORE COUNTY COUNCIL OR ITS COMMITTEE ON PLANNING AND ZONING</p> <p>1. County Action: Council may reverse or modify any determination of Planning Commission with respect to a C.U.P. or may adopt an ordinance for another Special Procedure request which is contrary to the recommendation of the Commission by vote of 5 members of whole County Council.</p> <p>2. County Action: Majority vote of whole Council is sufficient to affirm Planning Commission decision or recommendation.</p>	<p>4. AFTER COUNTY COUNCIL DECISION</p> <p>1. Protester's Action: Suit in Circuit Court.</p> <p>2. County Action: Participation by County Counselor's Office in Circuit Court action.</p>
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Note: County Council normally receives Planning Commission's initial report on a Special Procedure request considered at public hearing 22 days after Commission's Executive Meeting. However, Commission reports on protested items may be received by Council as soon as its Thursday meeting following the Commission's Executive Meeting. The Planning Commission Executive Meeting is usually held on the first Monday of every month, except in cases of County holidays when the meeting is rescheduled. Interested parties should contact the Department of Planning for specific dates regarding the above.

Specific Protest Requirements

All Notices of Protest and protest statements are required to be filed in writing and in duplicate. The Notice of Protest must be accompanied by a list of signatures of all protesting property owners. The list of signatures is required to be accompanied by a notarized verification from the person(s) collecting the protestants' signatures certifying that all signatures are correct and real. The party with whom the documents should be filed, the time requirements for said filing, and the percentage of property owner representation within a certain specified area surrounding the property in question that is required for a valid protest are listed for all Special Procedures in the following table. Names on the list of signatures cannot be added or deleted after the filing deadline for a Notice of Protest.

Protest Procedure Requirement	All Special Procedures
File protest petition with >>>	County Clerk
Time period in which documents are to be filed after County Council receives Planning Commission's report at a regular meeting:	
a. Notice of Protest >>>	10 calendar days
b. Additional time allowed for filing of protest statement if Notice of Protest is first filed prior to actual protest statement* >>>	30 calendar days (total of 40 calendar days from Council's receipt of Commission's report)
Minimum percentage of surrounding land ownership required for valid protest statement. >>>	25%
Maximum distance from site in question for properties to be counted as part of valid protest statement. >>>	1,000 feet of site

NOTE: No fee is required for the filing of a protest petition.

*The petition signatures must be filed with the Notice of Protest for the protest to be valid. The signatures need not accompany the protest statement to be filed at a later date. A protest statement may also be submitted at the same time that a Notice of Protest is filed or may be submitted without such notice; however, in such cases the statement must be accompanied by required signatures and notarized verification of signatures as well as be filed within the initial 10 day period.

Additional Information

• **A. Protest Criteria:** The Zoning Ordinance requires that a formal protest statement filed in opposition to a Special Procedure request must address certain issues. While the actual items to be addressed may vary slightly with each type of Special Procedure request, and are stated in more detail in the Zoning Ordinance, the following issues should generally be considered in the protest statement:

- i. Why the request is not consistent with good general planning practice or good site planning.
- ii. Why the proposal cannot be operated in a manner that is not detrimental to the permitted developments and uses in the district.
- iii. Why the proposed development is not visually compatible with the permitted uses in the surrounding area.
- iv. Why the request is not consistent with the general welfare of St. Louis County.

It is not sufficient merely to recite the standards set forth in the applicable section of the Zoning Ordinance. The protest statement must assert facts and reasoning to explain why the development should not be approved under the pertinent standards.

• **B. Time of Filing:** The Notice of Protest and protest statement must be filed in the proper office at the required time. A late Notice of Protest or protest statement has no legal effect and may be disregarded.

• **C. Legal Signatures:** For a protest to a Special Procedure request to be valid, only legal signatures of actual property owners, which excludes renters, tenants, children, etc., can be counted in determining whether the area representation requirement of the Zoning Ordinance has been met. As advised by the County Counselor's Office of St. Louis County, the following general rules apply in determining a legal signature.

1. Each property owner signature should represent the actual ownership of the property as indicated on the General Warranty Deed last conveying the property as filed with the Recorder of Deeds of St. Louis County. To further illustrate this point, the following examples are provided:
 - a. Single Ownership - If property is owned by an individual, the party should sign his full legal name, (example of acceptable signature: John R. Doe).
 - b. Husband/Wife Ownership - If property is owned jointly by husband and wife, both names should be represented in signature, (example of acceptable signatures: John R. Doe, Mary S. Doe, as signed individually by each party). However, either husband or wife may sign both names, (example of acceptable signatures: John R. and Mary S. Doe, or Mr. and Mrs. John R. Doe, as signed by either party).
 - c. Other Joint Ownership - All parties must sign their own legal names, (example of acceptable signatures: John R. Doe, Joseph S. Doe; or John R. Doe, Mary B. Smith)
 - d. Et al Owners - Generally, all parties who have legal interest in property must sign the protest to constitute a valid signature, (example of acceptable signatures: property

owned by John R. Doe, et al, should include additional signatures of Joe S. Doe and Mary B. Smith, if those two parties also are part owners of property).

- e. Subdivision Common Ground - Generally, the legal signatures of all subdivision trustees should be represented in the protest to constitute a valid statement of opposition by the Joint owners of common ground, (example of acceptable signatures: John R. Doe, Chairman of Trustees; Paul E. Smith, Trustee; Mary B. Smith, Trustee, and name of subdivision). NOTE: The Trust Indenture of each subdivision may limit the trustee's power to represent all property owners in such matters.
 - f. Condominium Ownership - Generally, the Declaration of Condominium for land developed with such units assigns a percentage of land ownership to each unit owner. Thus, the percentage of land ownership opposing a Special Procedure for an area designated as a condominium development is equal to the amount of land under the ownership of those parties signing the petition. NOTE: The Declaration of Condominium for a particular development of this type may specify another formula for land ownership or may limit the power of individual owner(s) in such matters. Thus, consultation with an attorney is advised when signatures are to be submitted by condominium owners. Although not specifically required, a statement by an attorney certifying that the submission of signatures by individual condominium owner(s) is not in conflict with the provisions of the governing Declaration of Condominium as well as the percentage of land ownership of the total development represented by the signatures is strongly advised. (Example of acceptable signatures: see a. through e. above for rules applicable to different types of ownership.)
2. In all the above cases, the addresses of the property owners should accompany all signatures. While owners do not have to reside on the property being represented, the home address of the owner as well as the address of the property being represented should accompany the signature if they are different.
 3. A printed or typed name and address should accompany all signatures. While not specifically required, the provision of this information will help to prevent an otherwise valid signature from not being counted due to illegibility.
 4. The list of signatures is required to be accompanied by a notarized verification from the person(s) collecting the protestants' signatures certifying that all signatures are correct and real.

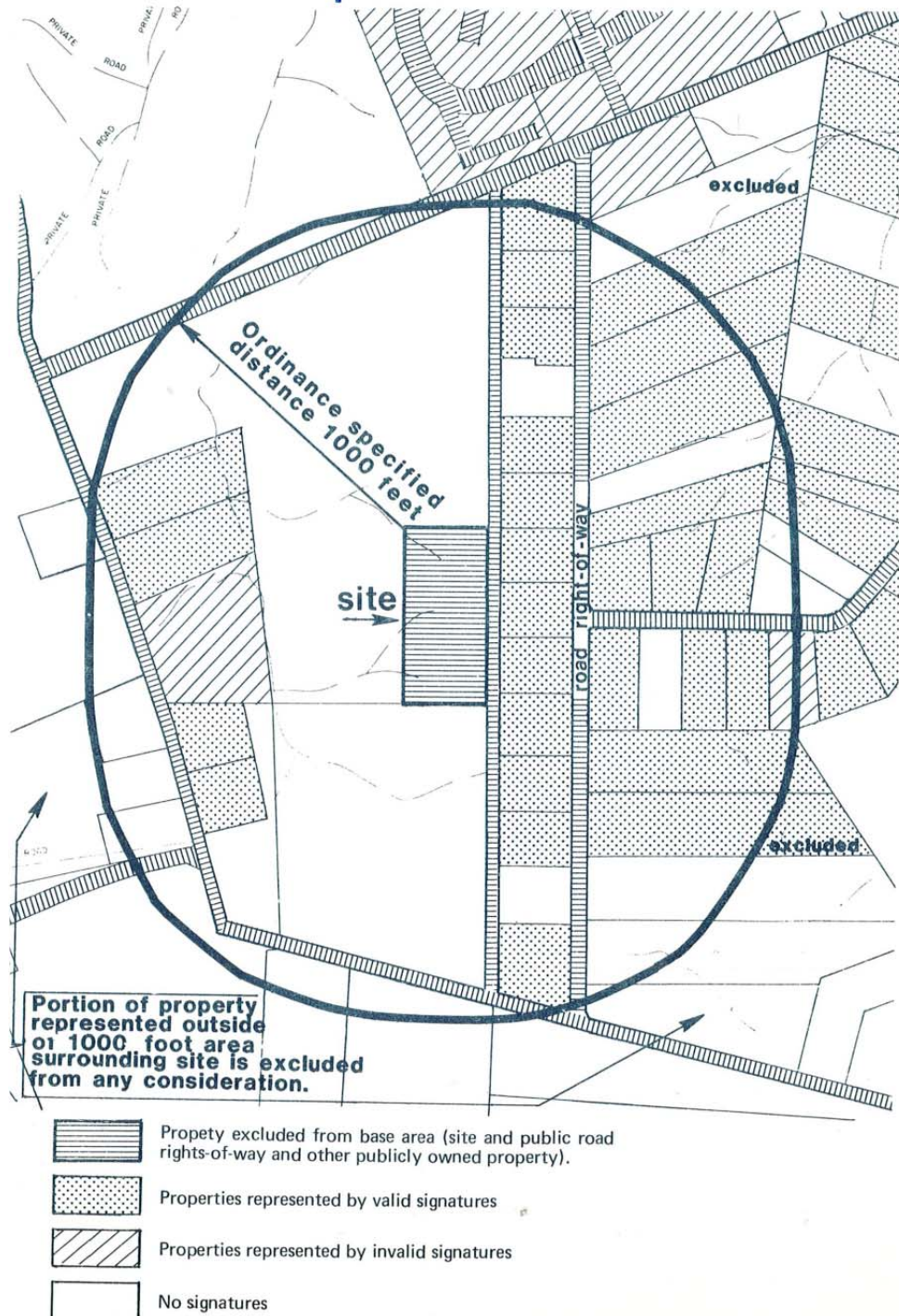
A Protest Petition form is included as the last page of this document.

• **D. How Percent of Area Representation is Determined:** Prior to the Planning Commission's Executive Meeting, protest petitions referred to the Planning Commission by County Council are analyzed by the Department of Planning to verify the validity of each signature and to determine the area represented. In determining the area represented, the following rules apply:

1. The countable signature area consists of a 1,000 foot area surrounding the site less all street rights-of-way, other public property, and the site itself. Subdivision common ground is a countable area. The countable area need not be in the unincorporated area of St. Louis County.
2. The area of properties represented by valid protest signatures is totaled to determine the percentage of land ownership opposing the Special Procedure.

The following sketch depicts a sample map prepared by the Department.

Sample Map of Area Represented



APPEAL PROCESS..

1. FOLLOWING PLANNING COMMISSION ACTION AT EXECUTIVE MEETING	2. FOLLOWING PLANNING COMMISSION REPORT TO COUNTY COUNCIL ON APPEAL STATEMENT
<p>Where the Commission has denied a C.U.P. or recommended denial of a P.E.U., C.I.D.D., or L.P.A.</p> <p>1. Appellant's Action: *Notice of Appeal may be submitted to County Council after receipt of Planning Commission's report by County Council at a regular meeting.</p> <p>2. Appellant's Action: *Formal appeal statement may be submitted to County Council after receipt of Planning Commission's report by County Council at a regular meeting.</p> <p>3. County Action: County Council refers appeal to Planning Commission for consideration.</p> <p>4. County Action: Planning Commission considers appeal statement at Executive Meeting or Executive Session and submits report to County Council.</p> <p>5. County Action: Party (Parties) filing appeal is notified of Planning Commission action.</p> <p>*Specific appeal requirements for all Special Procedures are listed on page 11 of this brochure.</p>	<p>1. County Action: *County Council sets matter for public hearing before entire Council or its Committee on Planning and Zoning. Written notice is given to appellant and to all other persons who spoke in opposition to the application at public hearing before Planning Commission.</p> <p>2. Appellant's Action: Attend and speak at public hearing before entire Council or its Committee on Planning and Zoning.</p> <p>*If an appeal fails to meet ordinance requirements, County Council is not obliged to hold a public hearing on mailer, but may do so at its own discretion, except for C.U.P. With this procedure, Council must exercise its power of review in order to hold a public hearing if a valid appeal or protest has not been filed.</p>

Upon denial of a Conditional Use Permit (C.U.P.) application or a recommendation of denial of a P.E.U., C.I.D.D., or L.P.A. Special Procedure request by the Planning Commission, the applicant or his designated representative may appeal the Commission's decision or recommendation. The following description of the formal appeal process, as specified by the Zoning Ordinance of St. Louis County indicates when and how that action may be taken. The appeal process is similar for all Special Procedure requests.

<p>3. FOLLOWING PUBLIC HEARING BEFORE COUNTY COUNCIL OR ITS COMMITTEE ON PLANNING AND ZONING</p> <p>1 . County Action: Council may reverse or modify any determination of Planning Commission with respect to a C.U.P. or may adopt an ordinance for any other Special Procedure request which is contrary to the recommendation of the Commission by vote of 5 members of whole County Council.</p> <p>2. County Action: Majority vote of whole Council is sufficient to affirm Planning Commission decision or recommendation.</p>	<p>4. AFTER COUNTY COUNCIL DECISION</p> <p>1. Appellant's Action: Suit in Circuit Court</p> <p>2. County Action: Participation by County Counselor's Office in Circuit Court action.</p>
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NOTE: County Council normally receives Planning Commission's initial report on a Special Procedure request considered at public hearing 22 days after Commission's Executive Meeting. However, Commission's report on appealed item may be received by Council as soon as its Tuesday meeting one week following the Commission's Executive Meeting. The Planning Commission's Executive Meeting is usually held on the first Monday of every month, except in cases of County holidays when meeting is rescheduled. Interested parties should contact the Department of Planning for specific dates regarding the above.

Specific Appeal Requirements

All Notices of Appeal and appeal statements are required to be filed in writing and in duplicate by the appellant or his appointed representative. The persons filing the appeal should sign their name and clearly note their relationship to the request.

The party with whom the Notice of Appeal and appeal statement should be filed, the time requirements for said filing, and the filing fees necessary are listed for all Special Procedures in the following table:

Appeal Procedure Requirements	All Special Procedures
Notice of Appeal and appeal statement to be filed with >>>	County Clerk
Time period in which documents are to be filed after County Council receives Planning Commission report at a regular meeting:	
a. Notice of Appeal* >>>	10 calendar days**
b. Additional time allowed for filing of appeal statement if Notice of Appeal is first filed prior to actual appeal statement* >>>	30 calendar days (total of 40 calendar days from Council's receipt of Commission's report)
Fee required with filing of Notice of Appeal statement if filed without Notice of Appeal). >>>	\$200

* An appeal statement may be submitted at the time that a Notice of Appeal is filed or may be submitted without such notice. In the above cases, the deadline for filing the appeal statement shall be the 10 day period of time that is required for submitting a Notice of Appeal.

Additional Information

- A. **Appeal Criteria:** The Zoning Ordinance requires that a formal appeal filed in response to the Planning Commission's decision or recommendation of denial on a Special Procedure request must address certain issues. While the actual items to be addressed may vary slightly with each type of Special Procedure request, and are stated in more detail in the Zoning Ordinance, the following issues should generally be considered in the appeal statement:
 - i. Why the proposal is consistent with good planning practice and good site planning.
 - ii. How the proposed development can be operated in a manner that is not detrimental to permitted developments and uses in the district.
 - iii. How the proposed development can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area.
 - iv. Why the request is essential or desirable to promote the general welfare of St. Louis County.

It is not sufficient merely to recite the standards set forth in the applicable section of the Zoning Ordinance. The appeal statement must assert facts and reasoning to explain why the development should be approved under the pertinent standards.

- B. **Time of Filing:** The Notice of Appeal and appeal statement must be filed in the proper office at the proper time. A late Notice of Appeal or appeal statement has no legal effect and may be disregarded.

If you have questions or need additional information, please contact the Department of Planning at 314 615-2520 RelayMO 711 or 800-735-2866 or pldept@stlouisco.com

Glossary of terms

Special Procedure - The Special Procedures of the St. Louis County Zoning Ordinance are established to assure the compatibility of certain land uses with other developments in a particular zoning district and to provide for a mixture of flexibility in types of development in appropriate circumstances. Each Special Procedure request must receive separate consideration and approval by the Planning Commission and County Council, except for a C.U.P., which may be authorized only by Commission approval. A tract of land on which a Special Procedure has been approved is also governed by an underlying zoning district, such as one of the "R" Residence Districts, "C" Commercial Districts, or "M" Industrial Districts. The four Special Procedures, C.U.P., P.E.U., C.I.D.D., and L.P.A. discussed in this brochure are described in the following text.

Conditional Use Permit (C.U.P.) - Certain land uses and developments which may be permitted in a particular zoning district require special review and approval because their operation may present certain problems with respect to their location and relationship to other land uses. Thus, in order to obtain a Conditional Use Permit to allow those uses which are specified in the Zoning Ordinance, a public hearing before the Planning Commission is required. The Planning Commission makes the actual decision of approval or denial of the request at its Executive Meeting. Approved C.U.P.'s are governed by development conditions adopted by the Commission.

If no action is taken by County Council within 15 calendar days following receipt of the Commission's report, the C.U.P. permit is issued. However, following Commission action, County Council, within 15 calendar days of receipt of the Commission's report, may exercise its power of review on the matter if a motion to do so is adopted by majority vote of Council. Review by County Council is required by the Zoning Ordinance if a duly filed protest or appeal is submitted after the Commission's action on the request. In all cases, any review of the Commission's action on a C.U.P. by County Council would follow the basic procedure outlined in this document. When County council modifies any decision of the Commission, approved C.U.P.'s are governed by development conditions approved by Council resolution.

Planned Environment Unit Procedure (P.E.U.) - This Special Procedure was established to permit flexibility in building types, encourage economic and efficient subdivision design, and the provision of supporting community facilities in developments of 5 or more lots or units, while maintaining the actual density of development allowed by the governing residential zoning district. This procedure may be utilized in any "R" Residence District. The use of the P.E.U. Procedure requires a public hearing before the Planning Commission. Following receipt of the Commission's recommendation, County Council must review and approve use of the procedure by ordinance, which would include various development conditions.

Commercial • Industrial Designed Development Procedure (C.I.D.D.) - This Special Procedure was established to permit minor flexibility in commercial and industrial land uses beyond those uses permitted in areas zoned "C" Commercial District or "M" Industrial District. In order to utilize the C.I.D.D. Procedure, a public hearing before the Planning Commission is required. Following receipt of the Commission's recommendation, County Council must review and approve use of the procedure by ordinance, which would include various development conditions.

Landmark and Preservation Area Procedure (LP.A.) - This Special Procedure was established to promote the preservation of buildings, sites, structures, monuments and neighborhoods of historic, architectural, cultural or archeological significance and to encourage their adaptation to contemporary uses. In order to utilize the property in question for certain uses specified in the Zoning Ordinance that are not permitted by the underlying zoning district in which the property may be located, a public hearing before the Planning Commission is required. Following receipt of the commission's recommendation, County Council must review and approve use of this procedure by ordinance, which would include various development conditions.

PETITION NO. _____ PETITION NAME: _____

Statement in opposition to Petition – May be attached as separate document

Print Name and Address	Signature	For Dept. of Planning Use
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

The undersigned is the circulator of the forgoing list containing _____ signatures. Each signature was made in my presence and is the genuine signature of the person whose name it purports to be.

Name:

State of Missouri)
) SS
County of St. Louis)

On this _____ day of _____, 201__, before me

(name of notary), a Notary Public in and for said state, appeared

(name of individual) known to me to be the person who signed and acknowledged that he/she circulated the petition.

(official signature and official seal of notary)