Implementation, Variances, and Appeals for State Master Plans

Draft considerations and procedures for implementing and changing state master plans or land use plans

Draft September 22, 2022

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Bodies and Responsibilities

Body	Responsibilities Required by Title 31	State flexibility
State Planning Office	• Direct implementation of CIP • Ensure compliance with master plan and land use control laws • Issue Building/Development/Use Permits (in line with State law) □ Principal uses • Authorized to grant zoning variances • Hear appeals for reconsideration of a decision of the State Planning Office	• Can hold hearings and conduct investigations • **Determine the parameters for the Planning Office to grant zoning variances**
State Planning Commission	• Disclose its master plan to the Regional Commission and any state affected by the plan (all border states and sharing a mutual resource) • Prepare and **Recommend** for adoption by the legislature (master plan, subsidiary plans, land use control laws, CIPs, and amendments) • Official review **at least once every 2 years**	• Empowered to receive gifts, financial aid, grants • Can enter into contracts • Issue Building/Development/Use Permits (in line with State

Body	Responsibilities Required by Title 31	State flexibility
	• Recommend any elimination of nonconforming uses	Law) □ Conditional and Special Uses
Legislature	• Adopt or amend plans into law • Authorized to enact Zoning laws • Legislation regarding procedure for state master plan amendment • Require public hearings prior to state master plan adoption or amendment • Authorized to eliminate nonconforming use and compensate owners (by law)	• Procedures for amending plan
Governor	• Adoption of laws	
State Government	"Land use control laws" meaning zoning, subdivision, building, housing, official map and any other laws which control the use of land and improvements on the land that the state government has been delegated the power to enact by law	
Palau Court	• Hear denied appeals, grievances	

Implementing Procedures

Master Plan element	Implementation (Required by Title 31)	State Flexibility
Permitting: Principal Uses	State Planning Office* □ Approve or Deny	*State can determine parameters Reserve right to send to Commission if atypical
Permitting: Conditional Uses	State Planning Office sends recommendation □ Commission □ Approve or Deny No clear public hearing requirement	Public hearings?
Permitting: Special permit, Unique characteristic permitting, Temporary Uses, Special conditions etc.	State Planning Office sends recommendation □ Commission □ Approve or Deny No clear public hearing requirement	Public hearings?

Procedures for changing master plan elements

Master Plan element	Process for changing (Required by Title 31)	Other
Amend Master Plan (priorities, CIP priorities)	Requires Public Hearing prior to adoption Commission makes recommendation to Legislature State Government passes Can appeal to Palau Supreme Court Must disclose adopted amendments to Regional Planning Commission and to Neighboring states or any states sharing a resource Review at least once every 2 years	More frequent? *Airai: only change every 5 years* *Airai: No spot zoning*
Amend Zoning Code (definitions, principal and conditional uses, setbacks, bulk area requirements)		
Amend Land use law (zones) (Rezoning)		
Rezoning – N/A	See above – Requires amending land use law	
Variance** (variance from setbacks, height, lot coverage)	State Planning Office can issue variance Approve or Deny Applicant must demonstrate hardship	State can set parameters Role of Commission? Public hearing?
Appeal Variance Decision	State Planning Office Palau court	State can set parameters Role of Commission? Public hearing? State Planning Office Commission Court? Role of legislature?
Appeal Denial of Principal Uses Permit		
Appeal Denial of Conditional Uses Permit or Special Permit decision		

** *"a modification of the literal provisions of the zoning law granted when strict enforcement of the law would cause undue hardship owing to circumstances unique to the individual property"*

Other elements

Timeline?

- Principal uses permit:
- Conditional uses permit:
- Special permits:

Meetings?

- Incorporate into regular meetings?
- Hold special meetings?

DRAFT TEMPLATE

APPLICATION PROCESS
Landowners who are considering building a house, opening a new business, or doing any type of site improvements should review this Land Use Plan and meet with the State Planning Office BEFORE beginning.

Here are the steps to take:

National Steps:

1. Go to Palau EQPB and obtain Earthmoving Application Process paperwork.
    a. That paperwork will list the application fee and other required materials, such as Land Use Right, Project Plan, Septic Tank & Leaching Field Plan, Historical Preservation Office (HPO) Clearance (from the Bureau of Arts and Culture), and Erosion & Sediment Control Plan.

State Steps:

2. Locate your property on the Land Use Map to determine what Land Use Designation you are in.
3. Review zoning codes to determine if the use you are considering is under "Principal Uses Permitted," "Conditional Uses," or is not listed, and apply for a [Building/Development/Use] permit if your project is permitted.
    a. If your project is not permitted or the requirements cause a hardship you may:
        i. Redesign your project
        ii. Apply for a variance in addition to a [Building/Development/Use] permit (for setbacks, height, or area bulk requirements)
        iii. Rezoning requests [will / will not] be considered on [ ] schedule
4. Work with the State Planning Office to properly complete and submit your application.

ADMINISTRATION & ENFORCEMENT
Application Review Process:

Principal Uses – application will be reviewed and approved by the State Planning Office staff. The Office reserves the right to give the final decision to the State Planning Commission if the application includes something atypical.

Conditional Use Permit – application will be reviewed by the State Planning Office, who will then make a recommendation to the State Planning Commission. [Public hearings are required], and will be conducted by the Commission. [The State Planning Commission will make the final determination.] *Please be advised that the State Planning Office is required to bring any and all applications to the State Planning Commission that have potential impacts to the public, such as odor, noise, smoke, pollution, or other public health or safety concerns, regardless of whether or not the applicant includes these*

potential impacts on their application. Public concerns also include large-scale projects that may cause potential impacts to existing infrastructure, such as roads, water, sewer, etc.

Review Time:

- Decisions on Principal uses will be made within [20 working days] of submittal.
- Decisions on Conditional Uses will be made within [25 working days] of submittal.

If Approved

If the application is approved in its original form, the permit will be issued, and the applicant may begin construction immediately upon notification. (Application will be stamped with a starting date.)

If Denied

- If the application is denied, the applicant will be encouraged to work with the State Planning Office to modify the project plan until it meets approval.
- You may appeal the decision following these procedures:
    - o [ ]

Duration of Permit

Once a Permit is issued, it will be in effect for [2 years]. Permits will expire 2 years after issuance if construction has not commenced. Permits are non-transferable, meaning they are NOT linked to the land. Therefore, if a piece of land is sold, the permit is no longer valid. The new landowner must re-apply.

Inspections

Site inspections will be conducted by State Planning Office staff to ensure permittee is following permit specifications.

Violations

Any permit violation may result in suspension until an amendment that is suitable to the State Planning Commission has been approved. Repeated permit violation will result in revocation. (Fines may also be levied per … [ ].)

Land Use Designation Changes

Changes to Land Use Designations and/or their boundaries will only be considered during the [2-Year Review] process. Land-owners who are interested in proposing such a change should work with the State Planning Office to follow the proper procedure to make the proposal to the State Planning Commission. [The State does not allow “spot zoning”].

2-Year Review

The State Master Plan and Land Use Plan shall be reviewed and may be revised every [two] years. The process should be led by the State Planning Commission, and should include at least one public hearing.