

Overview of Petitions at Each Stage of Zoning Process

From the data already discussed in this report we know that the Zoning Process did not result in the implementation of the Comprehensive Plan and that the overwhelming result was the approval of rezoning requests during our study time frame. This was in spite of the fact that nearly equal numbers of petitions fit as did not fit the Comprehensive Plan. But, how was that overarching result achieved? In order to understand the final outcome, we looked at the Zoning Process in detail and compared the positions of the 4 decision-making groups (Staff, Public, HE, and MDC).

As suggested by the flow chart of the Zoning Process (Figure 1) the number of cases considered by each of the 4 decision-making groups is in fact different. Figure 5 shows the number of petitions each group had to consider as a fraction of all cases decided in our study time frame. As can be seen, both Staff and the Public had the opportunity to form opinions on all 198 cases, while the HE heard 74 and the MDC heard 35 petitions. As a reminder that the number of petitions available to each group is different, all subsequent pie charts will show the actual number represented by the chart. That number will be shown just to the right of each chart.

Figure 6 shows that as the petitions moved through the Zoning Process, the fraction of petitions that do not comply with the Comprehensive Plan increased. This reflects increased opposition to those cases that do not fit over those that do fit the Comprehensive Plan, as will be shown in more detail later. Likewise, the fraction of special use petitions decreased as these petitions moved through the Zoning Process.

During our study time frame, 16 petitions were withdrawn or dismissed after being docketed for initial hearing. Of these, 3 complied with the Comprehensive Plan, 8 did not comply with the Comprehensive Plan, 2 requested special uses, and there was no information in the public record for 3 petitions regarding the Comprehensive Plan. Staff supported 6, opposed 7, and the public record about 3 does not state a position. The Hearing Examiner heard 2 of the petitions that did not fit the Comprehensive Plan, recommending denial for both. Both also saw opposition by Staff and the Public and both were withdrawn prior to hearing before the MDC. As we will show in subsequent sections of this report, the HE denied very few petitions. These two denials impact the percentages of the HE determinations and the size of that impact will be noted in the appropriate places. These two withdrawn petitions do not substantially affect the percentages of either the Staff or the Public determinations.

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Actionable Petitions

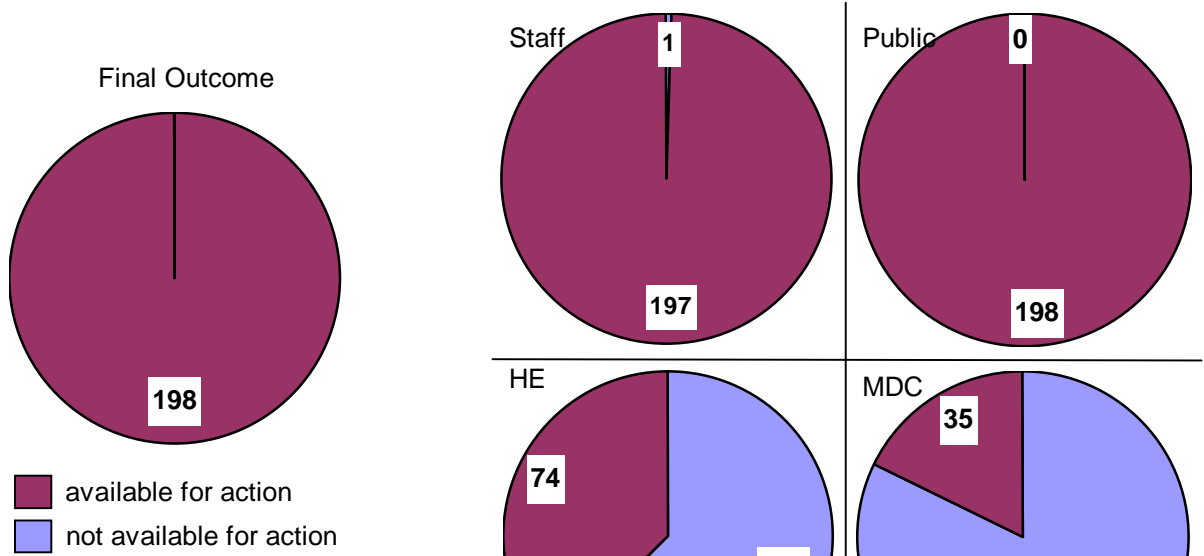


FIGURE 5: Actionable Petitions by decision-making groups. Actionable Petitions were those available for a decision of support or opposition, approval or denial. Also shown are the number of petitions in each category.

Compliance of Petitions with the Comprehensive Plan

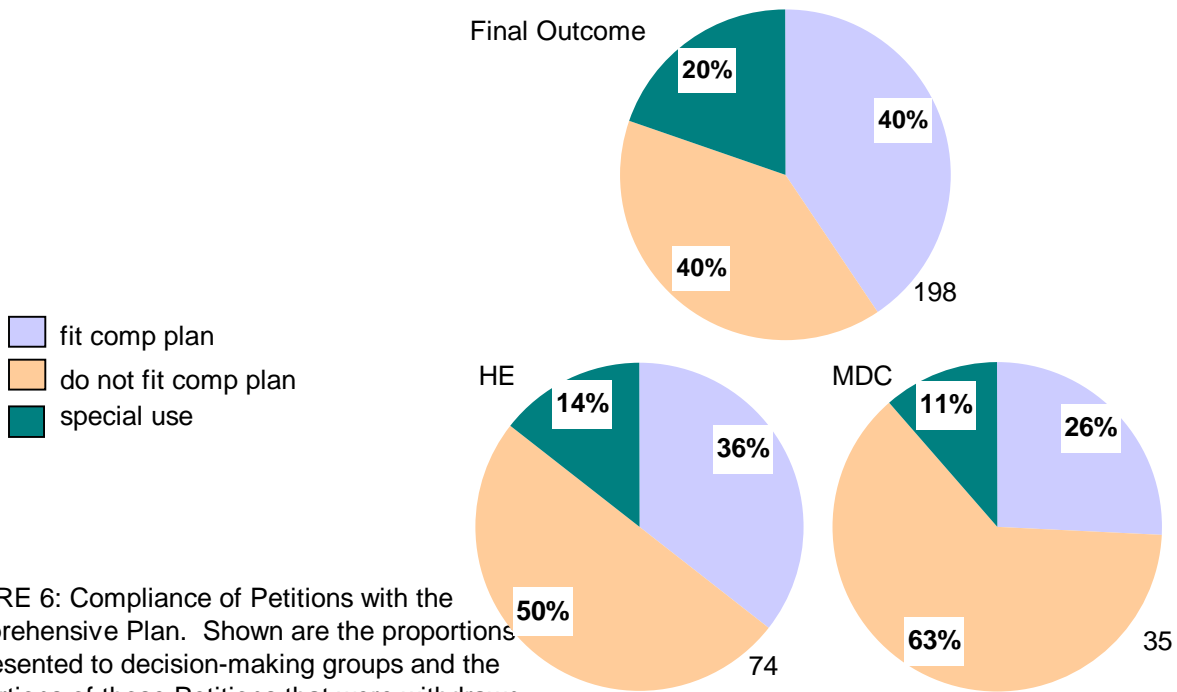


FIGURE 6: Compliance of Petitions with the Comprehensive Plan. Shown are the proportions as presented to decision-making groups and the proportions of those Petitions that were withdrawn from consideration. Also shown are the number of petitions in each category

Final Outcome by Decision-Making Group

At this point we understand that the final outcome of rezoning petitions decided in 2004 was a dismal 5% denied overall with 4% denial of petitions that fit the Comprehensive Plan and 6% denial of petitions that did not fit the Comprehensive Plan. But, what was the opinion of each of the 4 decision-making groups that resulted in that dismal outcome?

Figure 7 shows the overall disposition of petitions by each of the groups. While the Staff and Public only make recommendations and the HE and MDC make decisions, we will refer to all of these groups as making decisions to approve or deny the petitions that they review. In addition, because we could not find definitive information regarding the Public's position in all cases, we created a category "?" to show that uncertainty.

From Figure 7 we can see that the Hearing Examiner denied a smaller percentage of petitions than any other group. Of the cases that went all the way through the MDC during 2004, the HE denied only 7 petitions. As mentioned previously, the HE also denied 2 that were subsequently withdrawn. If those 2 denials are added into the totals shown in Figure 7, the % denied by the HE rises to 12%.

The Public denied between 23% and 34% of the petitions available to them. The Public led the 4 decision-making groups in % denied, even with the uncertainty expressed by the "?" category. It should also be noted here that all 4 groups approved over half of the petitions available to them. While the reputation may be that the Public only opposes petitions, it is far from the truth, as demonstrated here.

Of 198 petitions reviewed by Staff and the Public, both groups approved at least 105, causing those petitions to be docketed on the 'expedited' portion of the HE agenda.

The overall outcome (5% denied) was statistically significantly different than the positions held by Staff ($p < 0.002$), the Public ($p < 0.0001$), or the decisions made by the MDC in cases for which they held a public hearing ($p < 0.0005$). But, the overall outcome was statistically significantly different than the decisions of the HE in cases for which the HE held a public hearing only if the 2 withdrawn petitions were considered ($p < 0.02$).

The final outcome appears to be the result, to some extent, of the high approval rate of the Staff and the Public and, to great extent, on the low denial rate of the HE. The former moved over half of the petitions to the 'expedited' portion of the HE agenda and the latter approved the vast majority of remaining petitions. While the MDC has much prestige and overall responsibility, they had only minimal impact on final outcome of rezoning petitions in our study time frame.

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Disposition of All Petitions

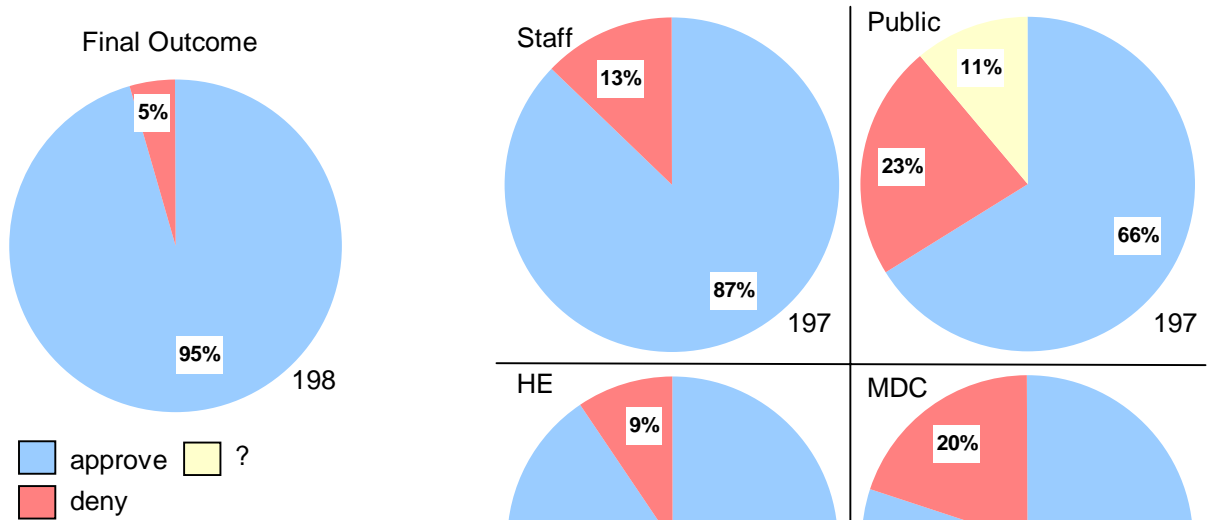


FIGURE 7: Disposition of Petitions by decision-making groups. Staff and the Public make recommendations to approve or deny the Petition. The HE and the MDC make decisions to approve or deny. For ease, all groups are said to approve or deny the Petitions. The percentage of petitions in each category are shown. The total number of petitions is shown to the right of the pie chart.

Disposition of Special Use Petitions

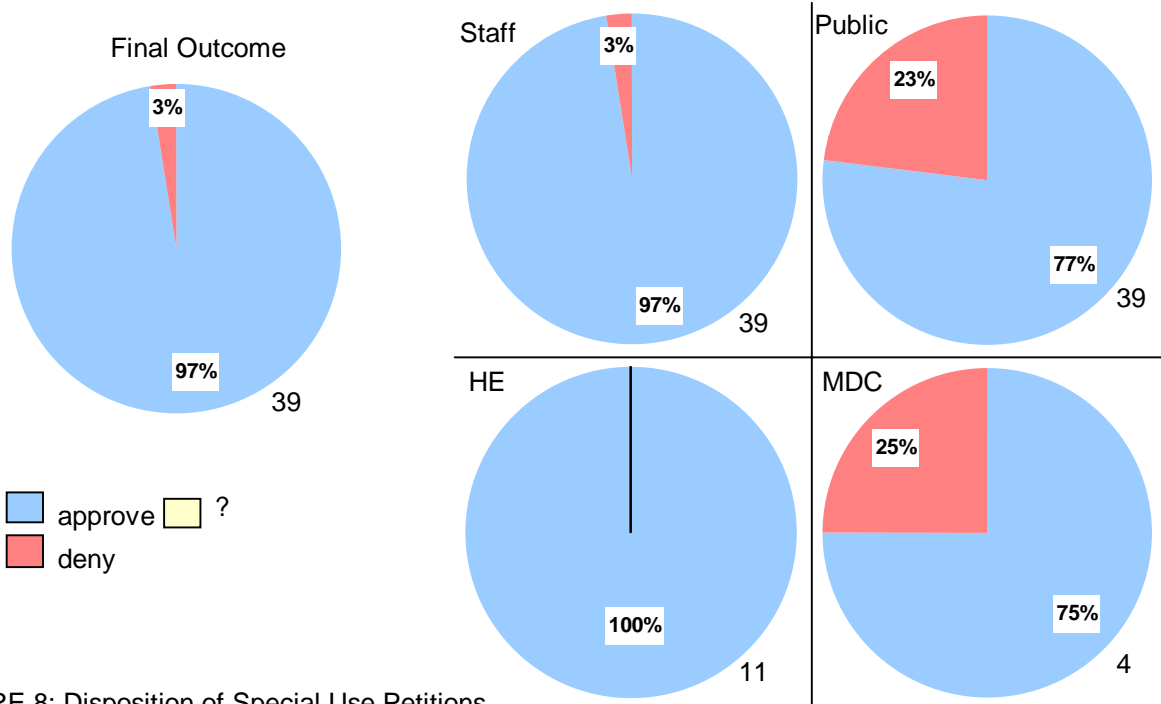


FIGURE 8: Disposition of Special Use Petitions

Disposition of Special Use Petitions by Decision-Making Group

The Special Use petitions can neither be said to fit or not fit the Comprehensive Plan, as they are not included in the Comprehensive Plan in a meaningful way. The disposition of these cases may give us a glimpse at any other criteria being applied by the 4 decision-making groups, clear of complications by Comprehensive Plan compliance.

Figure 8 shows the outcome of the special use petitions by the 4 decision-making groups and compared to the final outcome. As can be seen, only the Public denied a substantial percentage of these petitions. There were no special use petitions that fell into the "?" category. While the MDC denied 25% of these petitions, they only heard a total of 4 and denied 1, so their record here must be interpreted very carefully.

Ignoring the MDC, because of insufficient data, only the Public clearly has other criteria they applied to cases beyond the Comprehensive Plan. The Staff and HE may have approved 97% and 100% of special use petitions, respectively, out of reluctance to oppose requests of churches, schools and other agencies. They may well have other criteria besides the Comprehensive Plan which they apply to other cases, but it is not apparent by these special use petitions.

Compliance With the Comprehensive Plan by Decision-Making Group

The most important document to be considered in rezoning cases, legally and as a matter of City policy, is the Comprehensive Plan. Indeed, many Marion County citizens take this document as a compact or promise for the future of their neighborhood. Because of its importance, we examined the disposition of petitions by the 4 decision-making groups according to whether the petitions complied with the Comprehensive Plan or did not comply.

Figure 9 shows the positions of the 4 groups when the petitions fit the Comprehensive Plan. Also shown is the final disposition of the petitions. Again we see that Staff and the HE supported almost all of the petitions that fit the Comprehensive Plan. The Public and the MDC were more likely to deny these petitions. The Public denied between 14 and 27% and the MDC denied 33% of these petitions.

Figure 10 shows the positions of the 4 groups when the petitions did not fit the Comprehensive Plan. The Staff and HE positions increased to a denial rate of 29% and 16%, respectively. If the two petitions that were withdrawn after the HE decision are included, the HE denial rate increases to 20%. The Public continued to deny more than the Staff or the HE, denying between 32 and 16% of the petitions that did not fit the Comprehensive Plan.

Interestingly enough, during our study time frame, the MDC denied a greater percentage of cases that fit the Comprehensive Plan than those that did not fit the Plan.

All groups approved more than half of the petitions they reviewed, regardless of compliance with the Comprehensive Plan. This led to 60% of the petitions that fit the Comprehensive Plan being expedited on the HE agenda while only 36% of those petitions that did not fit were so expedited.

To understand the role of the Comprehensive Plan in individual decisions and the overall outcome of rezoning cases, we must focus only on these cases and follow them as they moved through the Zoning Process.

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Disposition of Petitions that Fit the Comprehensive Plan

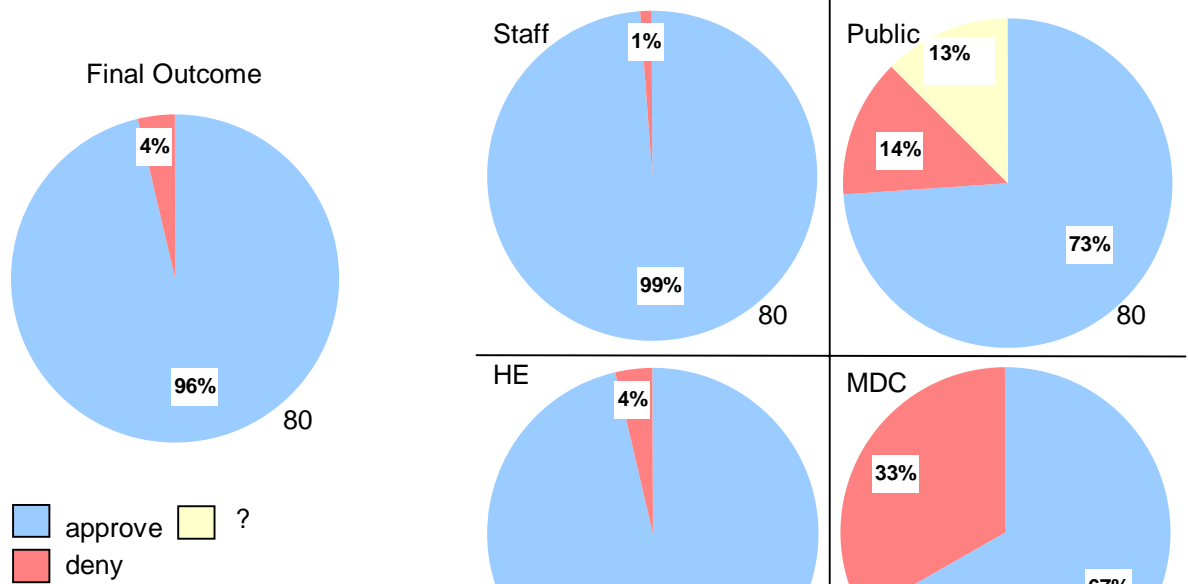


FIGURE 9: Disposition of Petitions that comply with the recommendations of the Comprehensive Plan by decision-making groups. Also shown is the percentage of petitions in each category and the total number of petitions.

Disposition of Petitions that Did Not Fit the Comprehensive Plan

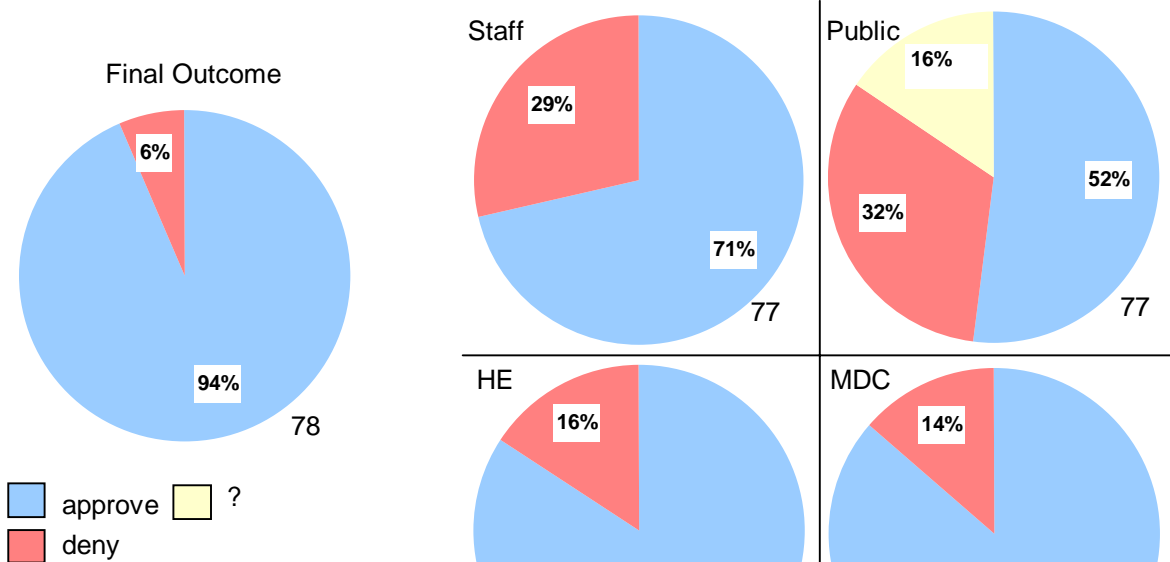


FIGURE 10: Disposition of Petitions that did not comply with the recommendations of the Comprehensive Plan by decision-making groups. Also shown is the percentage of petitions in each category and the total number of petitions.

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Who Agreed With Whom in 2004?

In the next few sections of this report we will look at each of the decision-making groups from two perspectives, how much agreement they received from the other three groups when they approved or denied petitions, and how their approval or denial related to the petition's compliance with the Comprehensive Plan. We will take the groups in the order in which they review petitions. Also, no special use petitions are included in this part of our report.

Who Agreed With Staff in 2004?

Staff approved 134 (85%) and denied 23 (15%) of the 157 petitions that either fit or did not fit the Comprehensive Plan. Figure 11 shows the agreement they received from the other decision-making groups. This figure has two rows of three pie charts. The top row represents the petitions that Staff approved (represented by blue) and what the Public, HE, and MDC positions were on this set of petitions. Again, the "?" category of the Public's decision represents petitions for which we could not find definitive information regarding the Public's stand. The bottom row represents the petitions that Staff denied (represented by salmon color) and the positions of the other groups.

When Staff approved petitions, it was met with over 71% agreement by all three of the other groups. The Public was most likely to disagree with Staff in these cases and did disagree between 18 and 29% of the time. The HE only disagreed with Staff twice (4%), while the MDC disagreed three times (15%).

On the other hand, when Staff denied petitions, only the Public was more likely than not to agree. The Public disagreed with Staff's decision to deny between 17 and 47% of the time. The HE and the MDC disagreed with that position 74% and 70% of the time, respectively.

The bottom line for Staff in 2004 was, if they wanted to prevail in their position on a petition, they needed to approve the petition. Only the Public was likely to agree with Staff in any case.

Figure 12 shows two pie charts. The one on the left represents the petitions that Staff approved and what percentage fit the Comprehensive Plan. The chart on the right represents the petitions that Staff denied and what percentage of those petitions fit the Comprehensive Plan.

During our study time frame, 59% of the petitions that Staff approved fit the Comprehensive Plan, while only 4% of the petitions that Staff denied fit the Comprehensive Plan. If Staff used the Comprehensive Plan as its one and only determining factor, we would expect to see the left hand pie chart all lavender (100% fit the Comprehensive Plan) and the right hand pie chart all tan (100% did not fit the Comprehensive Plan). If Staff used the Comprehensive Plan as one of several criteria, we would expect to see mirror images on the two charts. Neither is the case. It would appear that Staff finds compliance with the Comprehensive Plan sufficient to approve a petition. But, if a petition does not fit the Comprehensive Plan, Staff requires substantially more reason to deny the petition. Of the 77 petitions that did not fit the Comprehensive Plan, Staff denied only 22.

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Who Agreed With Staff Recommendations?

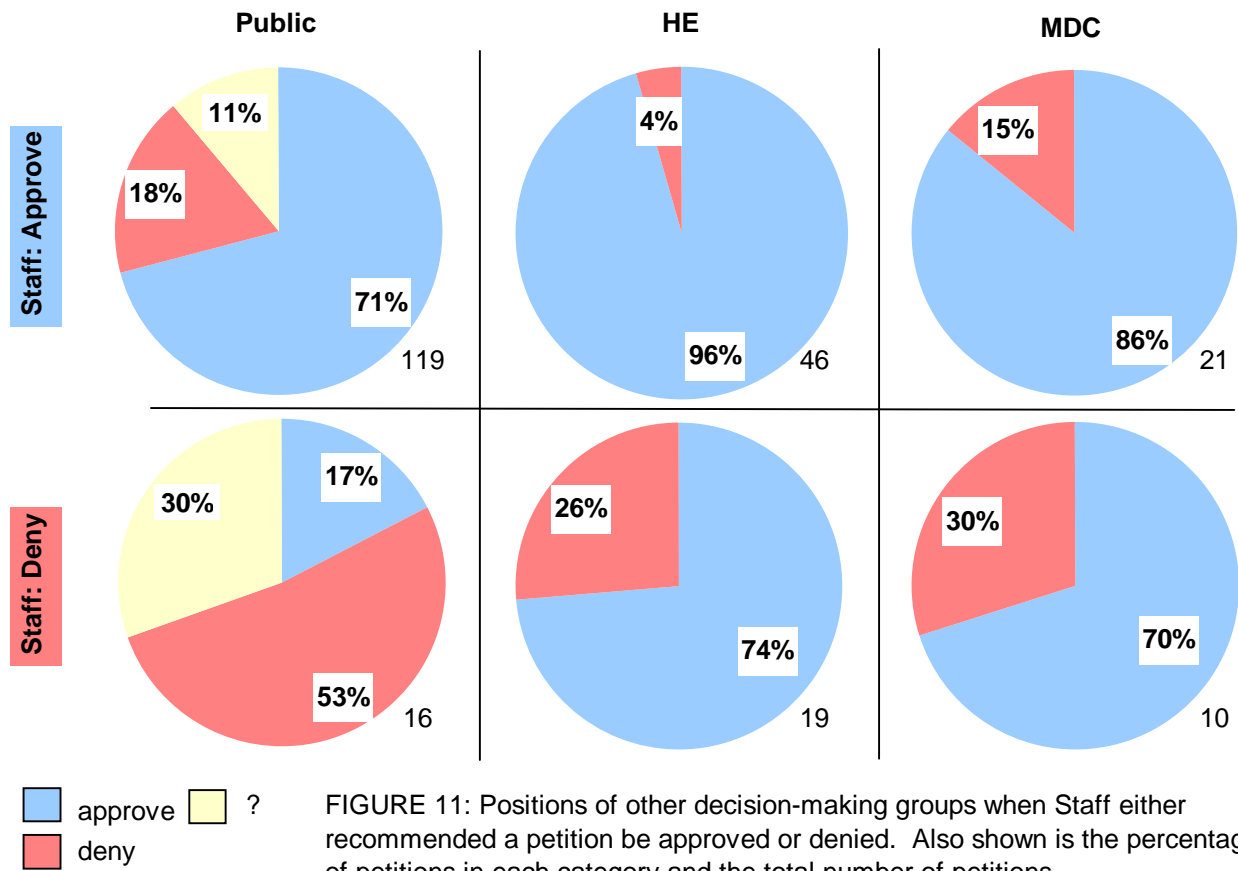


FIGURE 11: Positions of other decision-making groups when Staff either recommended a petition be approved or denied. Also shown is the percentage of petitions in each category and the total number of petitions.

Did Staff Comply with Comprehensive Plan?

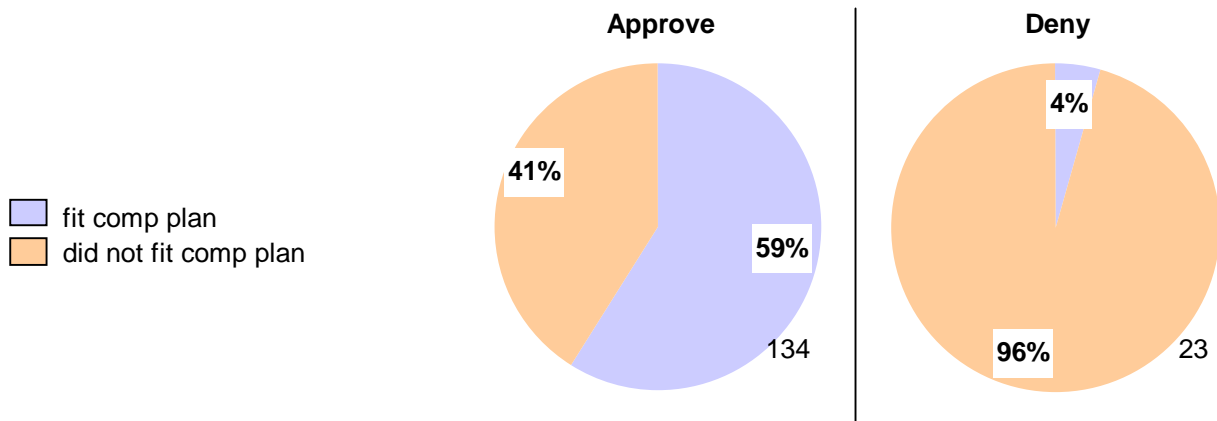


FIGURE 12: Compliance of Petitions with the Comprehensive Plan, depending upon Staff recommendation. For reference, the proportion of Staff recommended actions is show. Also shown is the percentage of petitions in each category and the total