

The Permanent Rules *of the* Planning Commission





PLANNING COMMISSION RESOLUTION NO. PC-4652 THE PERMANENT RULES OF THE PLANNING COMMISSION

WHEREAS, the Planning Commission, established in San Diego Charter section 41(c), conducts public hearings on a variety of land use related actions including land development permits, subdivision maps, re-zonings, community plans and the General Plan, and considers land use ordinances, programs and such other improvements as the City Council may, by ordinance, determine; and

WHEREAS, pursuant to the City Charter and San Diego Municipal Code Section 22.0101, the City Council has been operating under the Permanent Rules of Council for many decades; however no rules have ever been formally established for the Planning Commission; and

WHEREAS, the Planning Commission requested the establishment of permanent rules in order to more consistently, effectively and efficiently fulfill its obligations to conduct public hearings on planning and land use matters, to assist in procedural issues that have frequently generated questions during hearings, and to improve the management and efficiency of the meetings; and

WHEREAS, with City staff support the Planning Commission drafted a set of permanent rules, and conducted two public hearings to review, discuss and propose edits to these rules.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego that The Permanent Rules of the Planning Commission, dated January 29, 2015, are hereby approved by the Planning Commission, a copy of which is attached hereto and made a part hereof.

A handwritten signature in black ink, appearing to read "Tim Golba", written over a horizontal line.

Tim Golba
Chair of the Planning Commission

A handwritten signature in blue ink, appearing to read "Stephen Haase", written over a horizontal line.

Stephen Haase
Vice Chair of the Planning Commission

Adopted on: January 29, 2015 by a vote of 7-0.

Permanent Rules of the Planning Commission

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Rule 1: TIME AND PLACE OF MEETINGS

1.1. Time: The regular meetings of the Planning Commission (Commission) shall be scheduled on Thursday and begin at 9:00 a.m.

1.2. Place: Regular Commission meetings shall be held in the Council Chambers of the City Administration Building, Community Concourse, located at 202 C Street, 12th Floor, San Diego, California, 92101.

1.3. Change of Time and Place: The Commission may change the time and place of meetings, provided all public noticing procedures are followed.

Rule 2: PROCEDURE FOR COMMISSION MEETINGS

2.1. Docket: A docket covering the Commission meeting shall be produced by the Planning Commission Secretary.

2.2. Order of Business: The order of business for Commission meetings shall be as follows:

1. Announcements/Non-Agenda Public Comment.
2. Requests for Items to be Continued or Withdrawn.
3. Requests for Items to be placed on the Consent Agenda.
4. Approval of the Agenda.
5. Director's Report.
6. Commission Comment.
7. Agenda Items.
8. Adjournment.

2.3. Non-Agenda Public Comment: Every docket for a regular Commission meeting shall provide a period on the docket for members of the public to address the Commission on items of interest to the public that are not on the docket but are within the jurisdiction of the Planning Commission. Speakers shall be limited to three minutes each and comments shall be limited to three minutes per subject regardless of the number of people registering to speak on that matter. The allowable time to speak may be limited to less than three minutes at the Chair's discretion. The Chair shall not permit any communication, oral or written, to be made or read where it does not bear on something which is within the subject matter jurisdiction of the Commission.

2.4. Parliamentary Procedure: In all cases not provided by these Rules, or other ordinance or resolution, Robert's Rules of Order Newly Revised will be used as a guide to the Commission's parliamentary procedure. Robert's Rules of Order notwithstanding, a "majority" of Commissioners means four Commissioners. The Commission is composed of seven (7) members. A "majority vote" means the affirmative vote of four Commissioners. A "two-thirds vote" means the affirmative vote of five Commissioners.

2.5. Procedure for Docket Items: The following guidelines may be used in considering any item and may be modified at the discretion of the Commission Chair or by a majority vote of the Commission setting different time limits:

- (a) Staff presentation.
- (b) Clarifying questions from the Commission.
- (c) Testimony by members of the public regarding the item (maximum of three minutes each or as the Chair determines appropriate).
- (d) **Planning Commission Questions and Discussion:** The goal of the Commission is to ensure a balanced dialogue among its members, staff and the public. Each Commissioner shall be provided an equal period of time to initially speak based upon the order of recognition as determined by the Chair in accordance with the recognition light panel or as determined during the hearing. Subsequent to all Commissioners recognized by the Chair completing their initial round of comments, an additional equal amount of time shall be provided to each Commissioner in the initial order of recognition. Any Commissioner who did not previously comment may be recognized upon completion of the comments of Commissioners initially recognized by the Chair. Commissioners shall continue to be recognized and provided additional time subsequent to the initial or following rounds of discussion to ensure all questions and comments have been provided prior to the vote on the motion.
- (e) **Commissioner Comment Time Period:** It is the goal of the Commission for a motion and second to be placed for consideration in a timely manner. Each Commissioner shall be provided up to (15) minutes for individual comments or as determined by the Chair to include response by staff and the public to their respective questions. An additional ten (10) minutes shall be provided for subsequent comments until all Commissioners have responded to their satisfaction. The time period for initial and subsequent comments may be modified at the discretion of the Chair or a majority vote of the Commission. It is not the intent of the Planning Commission to limit comment unless otherwise acted upon under the provisions of Robert's Rules of Order Newly Revised.
- (f) Call for a vote on the main motion or where no motion has been made, a request for a motion.

2.6. Procedure for Reconsideration: The Commission may vote to reconsider any matter to permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a changed situation that has developed since the taking of the original vote. A motion for reconsideration of any matter is subject to the following:

- (a) The Commission must first suspend these Permanent Rules by a two-thirds vote before it may vote on the request for reconsideration.
- (b) The motion to reconsider must be made by a member who voted on the prevailing side of the motion to be reconsidered.
- (c) A motion to reconsider shall be approved by a majority vote of the Commission.
- (d) If a motion to reconsider is approved, it shall set a date to rehear the matter, subject to all applicable noticing requirements.

2.7. Suspension of Permanent Rules: Any permanent rule of the Commission may be suspended temporarily by a vote of two-thirds of the Commission, provided that such temporary suspension shall apply only to the matter under immediate consideration, and in no case shall it extend beyond an adjournment.

Rule 3: DUTIES OF COMMISSIONERS

3.1. Collective Concurrence Prohibited: Except as authorized pursuant to California Government Code section 54953 allowing teleconferencing, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the Commission to develop a collective concurrence as to action to be taken on an item by the members of the Commission is prohibited.

3.2. Ex Parte Communications: In the interest of protecting the fair hearing process as well as preventing any appearance of bias on behalf of the Planning Commission, it shall be the policy of the Commission to avoid ex parte communication. Contact with applicants, appellants, citizen groups or other parties outside of the noticed hearing is considered ex parte communication.

3.3. Disclosure of Ex Parte Communications: If Commissioners receive or participate in ex parte communications, the time, identity of the persons who participated, and a description of the content of the communication should be disclosed at the commencement of the hearing on that item. Any written communication accepted by a Commissioner shall be immediately provided to the Planning Commission Secretary for distribution to the full Commission.

3.4. Voting After Absence from a Meeting: Commission business shall not be impeded by the absence of a member as long as a quorum is present. Members absent from a Commission meeting shall be required to study and review applicable material and the audio/visual evidence before voting thereafter on any such matters. Should a Commissioner be unable to prepare for the subsequent hearing, that Commissioner shall recuse from participating in that matter to allow the business of the Commission to proceed in a timely fashion.

3.5. Scheduling of Planning Commission Meetings: The Planning Commission Secretary shall establish a Tentative Schedule of Thursday Meetings as will permit a full attendance of all of the Planning Commissioners at all meetings. Any member of the Planning Commission may request a revision to the Tentative Schedule of Meetings at any time to assist in assuring that full quorums are present at all meetings.

3.6. Attendance at Meetings: It shall be the duty of each Commissioner to attend all scheduled meetings, and to participate and act on all items posted on the agenda (except on matters involving conflicts of interest). Any Commissioner who is unable to attend a meeting, or is unable to be available for the entire meeting, shall provide at least two weeks advance notice prior to that meeting. An unexcused absence shall be recorded for any Commissioner who fails to provide advance notice.

3.7. Conflict of Interest: Commissioners are subject to the California Political Reform Act and the City of San Diego's Ethics Ordinance and are required to file Statements of Economic Interest.

Rule 4: APPOINTMENT OF THE CHAIR AND VICE-CHAIR

4.1. Title: The official title of the Commission's presiding officers shall be Chair of the Planning Commission, and Vice-Chair of the Planning Commission.

4.2. Appointment of the Chair and Vice-Chair: Pursuant to the Office of the Mayor's practice, the Chair and Vice-Chair of the Planning Commission are designated by the Mayor. In the absence of a Mayor-appointed Chair and/or Vice-Chair, the Commission shall elect the Chair and/or Vice-Chair by majority vote. The Chair and/or Vice-Chair shall serve until successors are appointed by the Mayor.

4.3. Procedure When Both the Chair and Vice-Chair are Absent: In the absence of both the Chair and Vice-Chair, any member may call the meeting to order, and the Commission shall elect a Chair to preside during that session. Such office is terminated by the entrance of the Chair or Vice-Chair, or by the election of another temporary Chair, or the completion of the meeting where the election took place.

Rule 5: THE PLANNING COMMISSION DOCKET AND BACK-UP MATERIAL

5.1. Preparation and Delivery: The Planning Commission Docket and back-up material are prepared by, and delivered to the Commission by the Planning Commission Secretary. The Docket and back-up material are delivered to each Commissioner at least one week prior to the hearing.

5.2. Docket Order: The Planning Commission Secretary shall format the Docket, and the action agenda items shall be listed in the following order: expedite projects; trailed items; appeals; continued items; all other items. The Chair, with consent from the Commission, may elect to hear projects out of order as the Commission or staff find appropriate.

5.3. Posting of the Docket: In order to comply with the Brown Act, the Planning Commission Secretary shall post the Planning Commission Docket each week at least 72 hours prior to the hearing date. The Docket shall be posted both on the City's website, and in the breezeway of the City Administration Building.

5.4. Material Submitted by Interested Persons: Written material submitted to the Planning Commission Secretary 10 calendar days prior to the hearing date shall be included in the back-up material distributed to the Commission in advance of the hearing. Large packets (five or more pages) submitted by interested persons must include 12 copies. All other material will be distributed to the Commission on the day of the hearing.

Rule 6: VOTING RULES AND POLICIES

6.1. Votes: It takes four affirmative votes from the Commission to take any action, unless otherwise stated herein or as may be required by law.

6.2. Appeals: Process 2 and 3 project decisions appealed to the Planning Commission require at least four affirmative votes to overrule the previous decision. If four affirmative votes cannot be obtained, the previous decision on the project stands.

6.3. Inability to Obtain Four Votes: If four affirmative votes cannot be obtained and the hearing presents a situation where an absent commissioner(s) is capable of participating at a future hearing, the matter is automatically trailed as unfinished business to the next meeting where the absent commissioner(s) can vote. The absent commissioner(s) should review the audio and/or visual record of the hearing and review all evidence before voting.

If four affirmative votes cannot be obtained and the circumstances above do not apply, the Commission may vote to continue the matter for additional information where there is a reasonable likelihood that additional information could alter the vote (subject to limitation set forth in the Permit Streamlining Act and generally not to exceed 90 days).

Alternatively, where a continuance for new information does not change the vote, the Commission may move to “table the item” or move to “take the item off docket”. An action with four affirmative votes to “table the item” or “take the item off docket” is then considered a denial, which is appealable to the City Council by an interested person.

For Process Five decisions, where a continuance for new information does not change the vote, the Commission may act to forward the matter on to City Council with “No Recommendation” or with a “Split Recommendation.”

6.4. When a Bare Quorum is Present: In any circumstance where only the bare quorum of commissioners are present (4) for a hearing, and an absent commissioner is capable of participating at a future hearing, it shall be the policy of the Commission to offer any applicant or appellant an opportunity to request a one-time continuance to a date certain when the absent commissioner(s) are expected to be present. When such a request is made by an interested person, it shall be the policy of the Commission to grant the continuance.

Rule 7: AMENDMENT OF PERMANENT RULES

No Permanent Rule of the Commission shall be amended except by a two-thirds majority vote of the Commission.