

Planning Commission Hearing Procedures—September 2017

The Calaveras County Planning Commission finds that adoption of specific procedures to be followed in hearings before the Planning Commission will help make the hearing process uniform, fair, and efficient.

The following procedures shall apply to all hearings (including appeals) held before the Calaveras County Planning Commission.

I. Order of Public Hearing

- A. Hearings shall be conducted in the order set forth below. Commissioners should allow presenters to speak uninterrupted at each of the hearing stages described herein but may ask questions of staff, public and/or the applicant/appellant at any stage of the proceedings after the speaker has finished.
 1. Opening of the hearing by the Chair.
 2. Acknowledgment of timely filed correspondence and briefs related to the agenda item, which correspondence may be read, circulated, and/or acknowledged and made part of the record (copies made available to public if not filed prior to publication of agenda).
 3. Presentation of staff report and recommendation. (15 mins total)
 4. Applicant/appellant's presentation (including the applicant's agent, engineer, or representatives) (15 minutes).
 5. If applicant is not appellant, applicant's presentation (15 minutes)
 6. Public comments (5 minutes per speaker).
 7. Rebuttal and summation by staff, responses to comments of applicant/appellant and public (10 mins total).
 8. Rebuttal by applicant/appellant (including the applicant's agent, engineer, or representatives) (10 minutes total).
 9. Follow-up questions from Commissioners to applicant/appellant, staff or members of the public.
 10. Close of public hearing.
 11. Discussion and deliberation by Commissioners.

12. Staff's recommendation and resolution; discussion of corrections to it.
 13. Entertainment of motion and second; call for the vote by Chair.
 14. Statement on the record of vote results (including how individual Commissioners voted and who was absent).
If appeal/application denied, statement of appeal rights.
- B. The Chair retains discretion to deviate from the prescribed order of events, to alter the above-described time limits, or, at any time before the vote, to re-open an event listed above as he/she deems necessary to ensure a full, fair, or efficient hearing.
 - C. The Chair will provide instructions on the time limits imposed and shall impose them with the goal of striving for a balance of time for arguments in favor and opposition to the matter at issue.
 - D. Rebuttal is restricted to addressing issues raised earlier in the hearing. It is intended to provide corrections, counter arguments, counter evidence, or explanations of issues brought up during the hearing. Rebuttal shall not be a mere restating of a party's prior testimony or argument.

II. Written Comments, Letters, Briefs, and Other Hearing Submissions:

- A. Written comments, letters, briefs, or other documents related to a Planning Commission hearing may be filed (electronically, or in hard copy by mail or in person) by applicants, appellants, and interested parties (or their designated agents) no later than 5:00 p.m. on the Monday before the hearing with the Clerk of the Planning Commission. For the purposes of this hearing procedures document, "filed" means actually received by the Clerk of the Planning Commission, either (1) in hard copy or (2) electronically in a form that can be opened by the Clerk.
- B. Timely filed written submissions will be forwarded electronically by the Clerk to Commissioners and relevant staff as soon as possible after they are submitted and no later than 5:00 p.m. the Tuesday before the scheduled hearing date.
- C. The party submitting the document by mail or electronically assumes the risk that the Clerk of the Planning Commission will not receive it or will not be able to open the electronic file.
- D. Unless documentary submissions are filed with the Clerk of the Planning Commission by 5:00 p.m. on the Thursday two weeks before the hearing date, **the party submitting the document must bring at least twelve**

(12) copies of the documentary submissions to the Planning Commission hearing—eight for Commissioners and staff and at least four to be offered to interested members of the public.

- E. Applicants/appellants should not expect an untimely-submitted document to be read or considered by the Commission or staff prior to or during the hearing, although the Commission retains discretion to do so.
- F. Applicants/appellants should not expect a continuance to be granted solely to allow an untimely-submitted document to be read by the Commission or staff, although the Commission retains discretion to do so pursuant to *Section III. Continuances*.
- G. Appellants wishing to use a slideshow to present their case must submit the slideshow to the Clerk of the Planning Commission at least forty-eight (48) hours in advance of the hearing. Appellant assumes the risk of his/her technology not being compatible with County infrastructure or of the County's own technology and infrastructure not working as planned. Applicants/appellants should not expect to be granted additional presentation time to accommodate a slideshow, but the Commission retains discretion to grant it. A copy of the presentation shall be provided to the Clerk for the record.
- H. All documents used as part of a presentation become the property of the County.
- I. Screen views of photos, videos, text messages, or other documents that exist on a personal electronic device, digital camera or computer, but which have not been downloaded and provided to the Commission pursuant to the provisions of this hearing procedures document, shall not be considered by the Commission as evidence, unless a copy is provided to the Clerk before the conclusion of the hearing.

III. Continuances

- A. The Planning Commission retains discretion to continue public hearings and deliberations to future meetings on its own motion or on a request of an applicant/appellant or staff.
- B. An applicant's/appellant's request for a continuance shall be filed with the Clerk of the Planning Commission pursuant to Section II above, unless the Commission determines that the circumstances giving rise to the request could not reasonably have been anticipated prior to the provided deadline. Any such request shall describe the basis for the request and any supporting documents shall be attached.

- C. Requests for continuance shall be heard at the beginning of a hearing, in a bifurcated manner, with the Order of Hearing proceeding first with respect to the request for continuance and then, if the request is denied by majority vote, with respect to the merits.
- D. If only three Commissioners are present for a hearing, a continuance shall be granted by right if requested by an applicant/appellant prior to the commencement of the hearing.

IV. General Public Comment Period

- A. During the General Public Comment Period which precedes public hearing of any agenda item, comments to the Planning Commission shall be limited to subjects not on the Agenda but within the subject matter jurisdiction of the Commission. Such comments shall be limited to five (5) minutes per person, subject to the discretion of the Chair. Comments shall be directed to the Commission, not staff, parties, applicants, or other members of the public.
- B. The Chair retains discretion to alter time limits on public comment depending on the length of the agenda, the complexity of issues, and the number of people desiring to speak.
- C. Comments are limited to issues within the subject matter jurisdiction of the Planning Commission.
- D. Neither the Planning Commission nor staff is obligated to respond to questions asked by the public during the general public comment period.
- E. The Planning Commission may request staff to place an item on a future agenda or report back to the Planning Commission regarding concerns raised during public comment period.

V. Reconsideration

- A. At any time before the Board of Supervisors takes final action on a recommendation of or appeal from the Planning Commission, the Planning Commission may reconsider its action in the following manner:
 - 1. Any Commissioner who voted in the majority or was absent may direct the Planning Director to place on an upcoming Planning Commission agenda a request that the Commission vote to reconsider an item that was previously acted upon by the Commission.
 - 2. Upon such a request, the Planning Director will agendize at the next available hearing a discussion and vote on whether or not the decision, or a portion of the decision, should be opened for reconsideration.

3. If a majority of the Planning Commission votes to reconsider a decision or a portion of a decision, the Commission will direct Planning staff to schedule a reconsideration hearing on a subsequent agenda and to provide the same notice to parties and the public as was required for the original hearing.
 4. At this subsequent hearing, the Planning Commission will re-hear the item pursuant to the provisions of this hearing procedure document, and shall adopt a new resolution for the reconsidered item. If changes are made to the decision(s) or action(s) previously taken, the original project or action shall be null and void and the new action shall stand. If no changes are made to the original decision or action, the new resolution shall incorporate by reference the findings made in the original resolution.
- B. The decision to reconsider an action by the Planning Commission can only be initiated by a member of the Planning Commission. No applicant, appellant, or member of the public shall have a right to directly initiate reconsideration of a Planning Commission decision. Petitions or letter requests for reconsideration from an appellant/applicant or member of the public can be submitted to the Clerk of the Planning Commission for forwarding to those Commissioners qualified to request reconsideration pursuant to this Subsection (A)(1). If a reconsideration hearing is granted, all such petitions or letter requests shall be included with the staff report.
- C. Whenever a request is made by a Commissioner under Section V.A.1, and whenever the Planning Commission grants a request for reconsideration, the Planning Director shall notify the Clerk of the Board of Supervisors as soon as possible.