



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 Too: (831) 454-2123  
**TOM BURNS, PLANNING DIRECTOR**

August 29, 2006

Agenda: September 13, 2006

**Item #: 8**

**Time: After 9 AM**

Planning Commission  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA. 95060

Subject: **Commission** Bylaws Update

Dear Commission Members:

Over the past couple of years there have been informal discussions with individual commissioners with regard to how ex-parte discussions and site visits are handled and disclosed as part of public hearings on proposed development projects. In response to those inquiries, staff and County Counsel have reviewed approaches used in other communities for addressing such concerns.

Through that review it appears that, while many communities attempt to address this issue, there is considerable breadth in how it is done. For example, in some communities ex-parte discussions are simply not allowed. In most communities that address this issue, however, the focus is more on proper disclosure of contacts, rather than attempting to limit dialogue. Based on this review, we believe that it would be appropriate for such discussions to be disclosed at the beginning of such public hearings.

The attached proposed changes to the Commission's Bylaws add a new provision to address this issue. As well, they include other minor clean-up changes that were discovered by staff in the course of addressing the ex-parte issue.

In order for bylaw changes to be effective it requires the Commission to first adopt the changes, with subsequent approval by the Board of Supervisors.

It is therefore **RECOMMENDED** that your Commission take the following actions:

1. Consider the proposed bylaw changes (Attachment 1); and
2. Adopt the revised bylaws and direct staff to forward them to the Board for final approval

Sincerely,

Tom Burns  
Planning Director

Attachment: Proposed Bylaw Changes

## PLANNING COMMISSION BYLAWS

While most of the rules governing the conduct of meetings of the Planning Commission are provided for in State and County statutes and ordinances, it is desirable for the Planning Commission to adopt bylaws. These bylaws are to assist the Planning Commission in conducting business in an orderly and efficient manner, and are adopted pursuant to County Code Section 2.38.140.

### 1. COUNTY'S COMMISSION'S ORDINANCE

The Planning Commission is subject to the County's Commission Ordinance (Chapter 2.38) attached hereto.

### 2. NOTICE OF PUBLIC MEETINGS

All meetings and actions of the Planning Commission shall be subject to the Brown Act (~~Govt. eCode No. § 54950-54961~~ et seq.).

### HEARINGS

~~Public hearings conducted by the Commission shall conform to all applicable provisions of law, except that a~~ Notice of public hearings shall be made pursuant to County Code Section 18.10.2201 et seq., even if such notice is in excess of that required by ~~S~~state ~~L~~law.

At least seventy-two (72) hours prior to each regular meeting, an agenda for the regular meeting shall be mailed to each Commission member, and to each representative of the news media and to each other person who has submitted a written request to the Commission for notification of meetings, and shall be posted at least seventy-two (72) hours prior to the regular meeting at a location that is freely accessible to the public. The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting. No action ~~or~~ discussion shall be undertaken on any item not appearing on the posted agenda except that members of the Commission may briefly respond to statements made or questions posed by persons exercising their public testimony rights or ask a question for clarification, refer the matter to staff or to other resources for factual information, or request staff to report back at a subsequent meeting concerning any matter. Notwithstanding the foregoing, action may be taken on an item of business not appearing on the posted agenda upon a determination by two-thirds vote of the membership of the Commission, or if less than two-thirds of the members are present, by unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the County subsequent to the agenda being posted.

The Chairperson, ~~or~~ in his/her absence, the Vice Chairperson, may direct the Secretary to send out notices for a special meeting; ~~or~~ three members wishing a special meeting called may, by letter, direct the Secretary to notify the Commission. Said notices shall be

provided to the Commissioners not less than twenty-four (24) ~~mailed three days~~ hours prior to the date of the meeting. The Secretary shall also notify Commissioners of such special meetings by telephone. Notice to the press and other news media of such special meetings shall be made pursuant to the provisions of State Law. At least ~~seventy-two (72)~~ twenty-four (24) hours prior to each special meeting, an agenda for the special meeting shall be ~~mailed to each commission member and to each representative of the news media and to each other person who has submitted a written request to the Commission for notification of meetings;~~ and shall be posted at least seventy-two (72) hours prior to the special meeting at a location that is freely accessible to members of the public. No business other than that listed on the agenda shall be considered at a special meeting.

### 3. OFFICERS

The officers of the Commission shall be a Chairperson, Vice Chairperson and Secretary. The Chairperson and Vice Chairperson shall be elected by members of the Commission. The Director of the Planning Department or other appointee shall serve as Secretary of the Commission.

The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson. The members may elect a Chairperson **pro tem** in the absence of both the Chairperson and Vice Chairperson.

The terms of office for the Chairperson and Vice Chairperson shall be one year beginning at the first meeting in January of each year.

### 4. MEETINGS SCHEDULE

The Commission shall hold two regular meetings each month. These shall generally fall on the second and fourth Wednesdays of each month and shall commence at 9:00 a.m. Regular meetings may be cancelled as warranted by special circumstances, such as holidays. The Commission may schedule additional meetings as necessary to meet the needs of the community, the Board of Supervisors or the Commission. Night and/or out-of-building meetings may also be scheduled as the Commission desires. The Commission may also hold special meetings and adjourned regular and adjourned special meetings as it deems necessary, in accordance with State law.

### 5. ATTENDANCE BY PLANNING COMMISSIONERS

Every Commissioner shall notify the Planning Department ~~Office Secretary~~ and his/her alternate ~~48 hours one week~~ in advance of any Planning Commission meeting h/she is not able to attend. In case of an emergency, notification shall occur at the earliest possible opportunity. If any regular Commissioner is absent from three consecutive Planning Commission meetings without his/her alternate member being present during any calendar year and without legitimate reason entered into the minutes, the Planning

Commission shall inform the Board of Supervisors that a vacancy exists, as provided in the County Code.

6. ALTERNATE MEMBERS

The Board of Supervisors shall appoint an alternate for each member of the Planning Commission. Alternates shall serve when requested by the regular Planning Commission member. The term of office for an alternate shall be the same as the regular members.

7. MISSED MEETINGS

In the event a Commissioner is absent from all or a portion of a public hearing, the Commissioner may not vote or participate in the discussion on that item unless the Commissioner:

- a. ~~the Commissioner. If~~ has reviewed the prior evidence and listened to the tape recording(s) of the prior testimony, and has so stated for the record, and
- b. ~~- Examines all of the documentary material received prior to or during the hearing, or portion of the hearing. from which the Commissioner was absent, and~~
- c. Deems oneself to be as familiar with the record and with the information presented at the hearing as the Commissioner would have been had he or she personally attended the entire hearing, and so states for the record.

8. QUORUM

A majority of the members of the Commission shall constitute a quorum for the conduct of all business: The affirmative vote of three Commissioners is required to approve any item. Whenever fewer than five members of the Commission are present, the Commission will generally grant requests for continuances by applicants or appellants so that a full Commission may hear the item. If fewer than five members are present and the Commission is unable to reach any decision on an application or appeal, the item will be continued to the next meeting of the Commission or to a later meeting when a full Commission is present. If no action is taken at such a continued hearing, the application or appeal shall be deemed denied.

9. CONTINUANCE OF PUBLIC HEARINGS

It is the policy of the Planning Commission to attempt to accommodate persons on the scheduling of items. The Planning Commission recognizes the interest of both applicants and other interested persons appearing before the Planning Commission. The Planning Commission, therefore, has discretion to continue items subject to applicable legal requirements. ~~will consider the continuation of certain public hearings to the Commission's next available meeting if the following conditions are met:~~

- a. ~~A petition must be submitted to the Planning Commission no later than 5:00 p.m. on Friday before the next scheduled Wednesday Planning Commission Meeting (for all~~

~~other scheduled hearings occurring on any day other than Wednesday, the petition must be submitted at least 72 hours prior to the scheduled meeting).~~

- ~~b. The petition must be signed by at least five interested persons and must state that said persons desire to participate in the particular hearing requested to be continued but are unable to attend the scheduled night meeting or day meeting, whichever the case may be.~~
- ~~e. The requested continuance does not conflict with any other provision of either State or County law or regulation which may require that the hearing be held at either the scheduled time or within a certain specified period of time.~~

~~When such a petition has been presented according to this rule~~

~~At its discretion, the commission may:~~

- ~~a. Continue the public hearing to the date requested, or to the next available agenda or to another future date at the discretion of the Commission, or~~
- ~~b. May hear the staff presentation, open the public hearing and hear the testimony of those who are present and wish to speak, and then continue the hearing for the hearing of additional testimony, or.~~
- ~~c. Determine to proceed with the public hearing and take action, despite the request for a continuance, if the Commission determines that there are overriding reasons to proceed with the hearing as scheduled.~~

~~Nothing contained in this rule is intended to preclude the Commission from continuing any matter from time to time if appropriate, or to imply the type of petition described above may be used to force a continuance of a particular hearing more than once.~~

## 10. THE CONDUCT OF MEETINGS

### ROLL CALL

### DIRECTOR'S REPORT

A Director's Report may be presented at the beginning of the agenda. The Director shall inform the Commission of all relevant actions by the Board of Supervisors which affect land use. Copies of Board Minute Orders shall be distributed as appropriate. The Director or Assistant Director shall attend all Planning Commission meetings.

### COUNTY COUNSEL'S REPORT

A report from the County Counsel's Office on matters of concern to the Commission may be presented.

### ADDITIONS AND CORRECTIONS TO THE AGENDA

At the beginning of the meeting, staff shall inform the Commission of any additions or corrections to the agenda, and inform the Commission of any requests for continuances of scheduled items. The Commission may elect to continue items at this time or to consider the requests at the scheduled time for the item. ~~Whenever there are only three members of the Commission present, the Commission will generally grant requests for continuances by applicants or appellants so that a full Commission may hear the item. The affirmative vote of three Commissioners is required to approve any item. If the Commission is unable to reach any decision on an application or appeal, the item will be continued to the next meeting of the Commission or to a later meeting when a full Commission is present. If no action is taken at such a continued hearing, the application or appeal shall be deemed denied. In cases other than appeals, the application shall be forwarded to the Board of Supervisors without payment of a fee.~~

### PUBLIC PARTICIPATION/ORAL COMMUNICATIONS

Public participation in Commission meetings shall be allowed as follows:

- a. An opportunity for members of the public to directly address the Commission on any item on the agenda of interest to the public shall be provided before or during the Commission's consideration of the item.
- b. In addition, the agenda will provide for community oral communications on items not on the agenda which are within the subject matter jurisdiction of the Commission at the beginning/at the end of each regular meeting agenda. This item is on the agenda before or after scheduled hearings for members of the public who wish to speak to the Commission on items not on the agenda. Unless otherwise determined by the Commission, speakers **are** limited to five minutes for items not on the agenda. The Commission allows 30 minutes at the beginning or end of the meeting for oral communications for items not on the agenda. ~~If further time is needed, it will be provided at the end of the meeting~~ At its discretion, the Commission can allow additional time to hear oral communications.
- c. **The** Chairperson of the Commission may establish reasonable limits on the amount of time allotted to each speaker on a particular item, and the Commission may establish reasonable limits on the total amount of time allotted for public testimony on a particular item ~~or the total time allotted for public testimony on a particular item or the total amount of time allotted for community oral communications. When further discussion is required, the Commission may vote to allot time in the agenda of the following meeting.~~

### CONSENT AGENDA

Consent items are those which staff recommends be approved and which do not require public hearings appear not to be controversial. If any person or Commission member ~~disagrees with the staff recommendation, or wishes to discuss a consent item~~, the item may be taken off the consent agenda and heard as a separate item at an appropriate place on the regular agenda, if approved by a majority vote of the Commission. Consent items are acted on at the beginning of the meeting.

### CONTINUED AGENDA

Continued items are those which were carried over from previous meetings for additional information and/or analysis. These items are generally considered as opened public hearings and any person may address the Commission regarding the item. In certain instances, the public hearing has been closed, but may be reopened at the request of the applicant, the public, or the Commission.

### PUBLIC HEARINGS

Public hearings shall be generally conducted as follows:

- a. Staff presents proposal, staff report, and recommendations. Any letters received before the hearing are summarized.
- b. Commission members may ask questions of staff.
- c. Public hearing is opened.
- d. Applicant may present justification for proposal and other pertinent information. Applicant given approximately 10 minutes.
- e. Commission members may ask questions of applicant.
- f. Members of the public may speak either for or against the proposal, or offer additional information. Speakers shall step to the podium and give their name and address. Members of the public generally given 5 minutes individually or 10 minutes for persons representing a group.
- g. Applicant may rebut arguments presented by the public. Applicants generally given 5 minutes. No new issues may be raised. No new evidence may be presented.
- h. Public hearing is closed
- i. Commission members may ask further questions of the public, the applicant, or staff.
- j. Commission members make motion for decision on the proposal, may discuss motion, and vote on motion.

~~k. Chairperson shall have the option of granting an additional five minutes to the applicant for summary.~~

k. The Chairperson shall have the option of granting additional time, as appropriate, to address unique issues related to the proposed project.

Questions by members of the Commission to the public, the applicant, or staff shall be directed to the Chairperson; also, questions from the public to the Commission shall be directed to the Chairperson.

11. AGENDA DEADLINES

Written materials to be included in agenda packets shall be submitted to the Planning Department by Monday noon of the week preceding the week of each meeting. The timelines for submittal of staff reports for public hearing items is subject to change. Contact the Secretary of the Commission for exact timelines.

12. CONDUCT OF BUSINESS

The most recent edition of Sturgis Rules of Parliamentary Procedure shall govern the conduct of meetings of the Commission except as otherwise provided herein, or by State or local law.

13. AMENDMENT

These rules may be amended by the Planning Commission at any time by three votes and subject to approval by the Board of Supervisors.

14. WRITTEN COMMUNICATIONS

All correspondence addressed to the Planning Commission, the Planning Department, or to the Director of the Planning Department, relating to items to be heard by the Commission, shall be answered by the Director of the Planning Department. The Director shall insure that the Commission is made aware of all correspondence addressed to the Commission, and of all correspondence addressed to either the Director or the Planning Department which relates to any item heard or to be heard before the Commission. Any correspondence addressed to the Commission or to the Director of the Planning Department which in the opinion of the Director of the Planning Department clearly requires Commission review prior to response shall be presented to the Planning Commission at a regularly scheduled meeting. Upon review of such correspondence, if the Planning Commission feels that the matter requires a response, it shall direct the Director of the Planning Department in the manner by which the correspondence is to be answered. The Director of the Planning Department shall then answer the correspondence as directed by the Commission, acting in his/her capacity as Secretary to the Commission.

15. CONFLICT OF INTEREST



Each Commissioner shall comply with the Conflict of Interest requirements of State law. Each Commissioner shall file a Conflict of Interest Disclosure Statement.

16. RECEIPT OF INFORMATION OUTSIDE OF HEARING BY COMMISSIONERS

A Commissioner who has received oral or written information outside of a hearing or has viewed the subject property, or is familiar with the subject property, shall fully disclose at the beginning of the hearing such information and his or her observations and familiarity with the property so that the applicant, opponents, interested persons, planning staff and other members of the Commission may be aware of the facts or information upon which he or she is relying and have an opportunity to support or controvert the facts or information. All written information received outside of the hearing shall be filed with the Commission Secretary. This requirement shall not apply to broad policy issues applicable County-wide as distinguished from projects affecting individual parcels of property or to factual inquiries made to and received from County staff.

~~16~~17. STAFF CONSULTATION

Pursuant to County Code Section 2.74.040C, staff members from the Public Works Department, Environmental Health Services, County Counsel, and other departments shall be available to the Commission upon assignment by the respective department heads.

~~17~~18. SUBCOMMITTEES

All subcommittees shall comply with the notice and agenda requirements otherwise applicable to the Commission by the by-laws, except for subcommittees composed solely of less than a quorum of the members of the Commission which are not standing subcommittees of the Commission with either a continuing subject matter jurisdiction or a meeting schedule **fixed** by resolution or other formal action of the Commission.

These bylaws are adopted on November 5, 1991.

Amended and approved on May 11, 1994.

Amended and approved on \_\_\_\_\_. 2006