



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: June 6, 2019

AGENDA ITEM # 3

Project Description

Applicant: County of San Bernardino Land Use Services Department

Community: Countywide

Location: Countywide

Proposal: Revision to the Planning Commission Rules of Order

Report Prepared By: Heidi Duron

BACKGROUND

The Rules of Order of the Planning Commission (Commission) were established for the purpose of defining how the business and holding of regular meetings by the Commission shall be conducted. San Bernardino County Code Section 12.4125 states "Rules adopted by the Planning Commission for the time, place and conduct of its meetings shall take effect upon ratification by the Board of Supervisors." The last update to the Rules of Order occurred in 1997.

The proposed revisions to the Rules of Order include changes expressly given by the Commission during a public hearing held on March 21, 2019, as well as minor cleanup language, a summary of which include the following:

- Modify the length of testimony from five minutes to three minutes.
- Address the use of electronic multimedia as part of the rules of evidence.
- Include appeals in the order of presentation.
- Add posting on the County's website as a mechanism for notification of special meetings.
- Update the rule for closed sessions to include the presence of a County legal advisor.

RECOMMENDATION

That the Planning Commission:

- A. **CONSIDER** the proposed redline changes to the Planning Commission Rules of Order as contained in the staff report.
- B. **MAKE** alterations, if necessary, to proposed redline changes as contained in the staff report.
- C. **APPROVE** changes with recommendation to the Board of Supervisors for ratification.

ATTACHMENTS

Exhibit A: Proposed Changes to the Planning Commission Rules of Order (Red-lined Version)

COUNTY OF SAN BERNARDINO

PLANNING COMMISSION

Rules of Order

Jonathan Weldy
Raymond J. Allard
Michael Stoffel
Gabriel Chavez
Audrey Mathews

Chair person
Vice-Chair person
Commissioner
Commissioner
Commissioner

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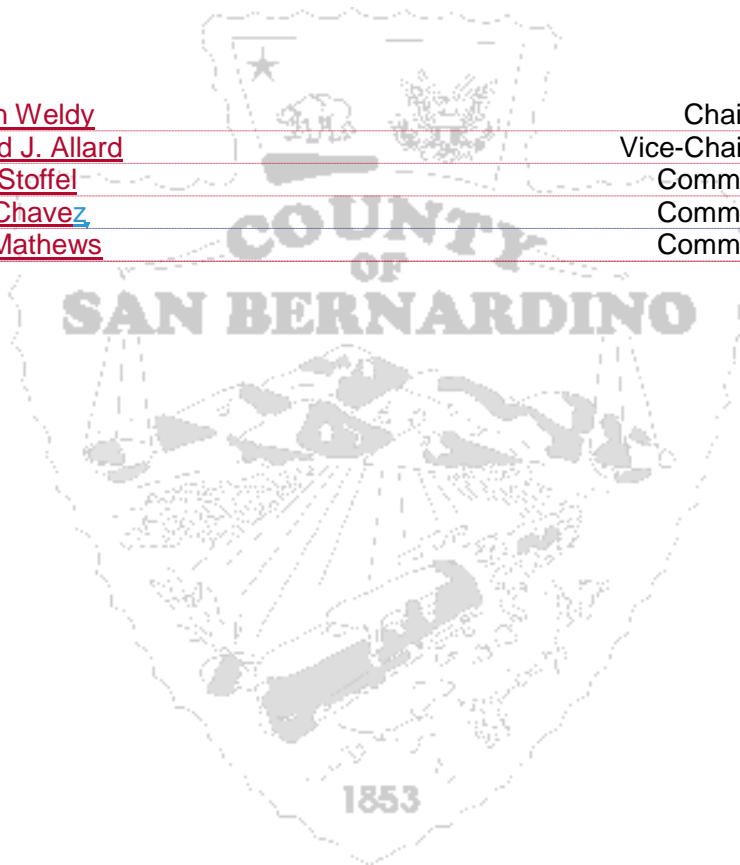
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Last Revision Approved by
San Bernardino County
Planning Commission
May 8, 1997

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County of San Bernardino Planning Commission Rules of Order, Continued

Rules of Order The following Rules of Order are hereby adopted for the conduct of business and the holding of regular meetings by the County Planning Commission.

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SECTION I MEETING FORMAT

**Rule 1
Date and Time** Regular meetings of the County Planning Commission shall be held on the first and third Thursday following the first Tuesday of the month. All regular meetings shall be called to order at 9:00 a.m., unless advertised differently, and reconvene in the afternoon at 1:30 p.m., unless advertised differently. Additional regular or special meetings may be scheduled as work load or circumstances require.

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**Rule 2
Location** Regular meetings will be held in a location as is legally advertised.

**Rule 3
Order of Business** The regular order of business of the County Planning Commission shall be:

- Call to order by the Chairperson.
- Invocation
- Flag Salute
- Approval of minutes
- Advance schedule
- Director's report
- Commissioner's comments
- Hearing items
- Workshop items
- Public comment
- Adjournment

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**Rule 4
Adjournment** The County Planning Commission may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the Planning Director or his or her designated representative may declare the meeting adjourned to a stated time and place, and he or she shall cause a written notice of the adjournment to be given in the same manner as provided herein for special meetings, unless such notice is waived.

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County of San Bernardino Planning Commission Rules of Order, Continued

SECTION II PUBLIC TESTIMONY AND EVIDENCE

**Rule 5
Public
Participation** All meetings of the County Planning Commission shall be open and public, and all persons shall be permitted to attend any meeting as otherwise provided herein.

**Rule 6
Request to
Speak Forms** The Chairperson shall announce at the beginning of the public hearing that any person wishing to speak must first complete a Request to Speak form and turn it in to the Planning Commission Secretary. Any person desiring to speak must first be recognized by the Chairperson. All comments must be made clearly and distinctly into a microphone. All speakers shall be requested to first state their names and addresses and the names of any person on whose behalf they are appearing.

**Rule 7
Length of
Testimony** In order to expedite the conduct of the hearing, the Chairperson may limit the amount of time which any individual may use in addressing the hearing body to three (3) minutes. The Chairperson may also limit the number of speakers or amount of testimony upon a particular issue in order to avoid repetitious and cumulative evidence.

**Rule 8
Rules of
Evidence** The hearing need not be conducted according to technical judicial rules of evidence. Any relevant evidence may be considered if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The Chairperson may authorize the use of County computer systems for electronic multimedia during an applicant's presentation of a proposal, if the electronic multimedia is submitted at least 24 hours in advance of the hearing to the Planning Commission Secretary in a readable digital format. While the public may not utilize the County's computer system during public comment, the Planning Commission may consider any electronic multimedia submitted in advance of or at the public hearing. The Chairperson may exclude irrelevant or redundant testimony and may make such other rulings as may be necessary for the orderly conduct of the proceedings while ensuring basic fairness and a full airing of the issues involved. Evidentiary objections shall be waived unless timely made to the hearing body.

**Rule 9
Burden of
Proof** The burden of proof of all legal prerequisites to the granting of the relief or action sought shall be upon the party requesting such relief or action.

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Rule 10 Swearing in of Witnesses

Witnesses will not ordinarily be sworn unless a specific request therefore is made and granted prior to the taking of testimony. The Chair~~person~~ may, upon request of any member or advice of County Counsel, require that all witnesses be sworn before giving testimony in a particular matter. Witnesses may be sworn as a group prior to the presentation of the staff report.

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Rule 11 Recording of Testimony

All public meetings of the County Planning Commission shall be recorded by electronic device. Any person desiring to have a meeting recorded by an electronic device or by a stenographic reporter, at his ~~or her~~ own expense, may do so, provided that he ~~or she~~ consults the hearing body's secretary to arrange facilities for such recording prior to commencement of the meeting. The official record of all hearings shall be the written minutes prepared by the Commission's Secretary.

Rule 12 Order of Presentation

Unless the Chair~~person~~ in his ~~or her~~ discretion shall direct otherwise, the order for presentation of proposals shall be as follows:

- a) Announcement of the proposal;
- b) Presentation ~~by~~ staff;
- c) Presentation ~~by~~ applicant;
- d) ~~Public speakers in order determined by the Chairperson;~~
- e) ~~Response by~~ applicant;
- f) Declaration that the public input to the hearing is closed;
- g) Discussion by the ~~Planning Commission;~~
- h) Action by the ~~Planning Commission.~~

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Unless the Chairperson in his or her discretion shall direct otherwise, the order for presentation of an appeal shall be as follows:

- a) Announcement of the appeal;
- b) Presentation ~~by~~ staff;
- c) Presentation ~~by~~ appellant;
- d) Presentation ~~by~~ appellee;
- e) ~~Public speakers in order determined by the Chairperson;~~
- f) Response and final statement by appellee;
- g) Response and final statement by appellant;
- h) Declaration that the public input to the hearing is closed;
- i) Discussion by the Planning Commission;
- j) Action by the Planning Commission.

The Chairperson may also provide specific time limits for the presentations and final responses and final statements of the appellee and appellant.

SECTION III

RULES OF ORDER AND VOTING

**Rule 13
Quorum**

A majority of members of the County Planning Commission constitutes a quorum for the transaction of business.

**Rule 14
Motions**

A motion to adopt or approve staff recommendations or simply to approve the action under consideration shall, unless otherwise particularly specified, be deemed to include adoption of all proposed findings and execution of all actions recommended in the staff report on file in the matter.

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County of San Bernardino Planning Commission Rules of Order, Continued

Rule 15 Voting

Voting upon a motion may, at the discretion of the Chair~~person~~, and shall, upon request of any member, be by roll call. When voting is not by roll call, the Chair~~person~~ may, in the absence of objection by any member, declare an item to be unanimously approved. No action of the County Planning Commission shall be valid or binding unless a majority of all members concur thereon. Except as otherwise provided in this Rule, failure to obtain a majority vote for approval constitutes a denial of the proposal without prejudice. A member may, however make a subsequent motion on any proposal where a prior motion is not approved by a majority vote of all members. The determination by a member to abstain from voting on any action does not indicate, and shall not be counted, as either an "AYE" or "NO" vote.

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SECTION IV OFFICERS

Rule 16 Suspension of Rules of Order

Any rules of order not required by law may be suspended by the vote of a majority of the members.

Rule 17 Eligibility

No member shall be eligible for the office of Chair~~person~~, or Vice Chair~~person~~, until he or she has served for at least one year. A member who has been elected two successive terms is ineligible for a third successive term.

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Rule 18 Time of Election

The Chair~~person~~ and Vice Chair~~person~~ shall be elected each by a vote of the majority of the members. Such elections shall be by voice or hand vote in a public session and shall be held during the first Planning Commission meeting of the calendar year.

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Rule 19 Chair~~person's~~ Role and Responsibility

The Chair~~person~~ shall preserve order and decorum and shall decide all questions of order. Any member may appeal the Chair~~person's~~ decision on any question of order. The appeal shall be decided by a majority vote of the Commission. The Chair~~person~~ of the County Planning Commission shall also have the right to make or second motions in the absence of a motion or a second made by a member. The Chair~~person~~ shall certify and sign the approved minutes and shall perform such other duties as required.

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County of San Bernardino Planning Commission Rules of Order, Continued

Rule 20 Vice Chairperson's Role and Responsibility

The Vice Chairperson shall act as Chairperson in the Chairperson's absence. In the absence of the Chairperson and the Vice Chairperson, the senior member present shall act as Chairperson.

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Rule 21 Removal of Officers

The Chairperson or Vice Chairperson may be removed from office at any time by a majority of the members of the County Planning Commission.

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SECTION V

COMMISSIONERS RESPONSIBILITIES

Rule 22 Participation

Except in emergencies or special circumstances, members shall punctually attend scheduled meetings, workshops and field trips. Subject to the discretion of the Chairperson, all members are expected to spend approximately the same amount of time on Planning Commission business.

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Rule 23 Absences

Individual members shall inform the Chairperson of anticipated absences at least one week in advance so that the Advance Schedule may be adjusted accordingly. In case of emergencies or special circumstances, members shall attempt to notify the Commission Secretary of anticipated absences at least 24 hours in advance.

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Rule 24 Alternative Participation

A member who is absent from any portion of a hearing may vote on the matter at the time it is acted upon provided that he or she has listened to the recording made of any portion of the hearing from which he or she was absent, and stated for the record prior to voting that he or she deems himself or herself to be as familiar with the record as he or she would have been had he or she personally attended the entire hearing.

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Rule 25 Conflict of Interest

No member of the County Planning Commission shall make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest.

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County of San Bernardino Planning Commission Rules of Order, Continued

Rule 26 Compensation

- a) Stipend: Members shall be compensated for attendance at scheduled meetings according to the County Code (i.e., a full day's compensation for attending a full day's hearings). In the event more than one-half day of hearings is scheduled and a member attends for one-half day or less, that member shall receive one-half the compensation specified in the Code. In the event more than a full day of meetings is scheduled and a member attends for more than the full day, the member shall receive one and one-half times the compensation specified in the Code. Meetings are defined to include regular, adjourned, or special meetings, workshops, field trips, and such other ~~meetings or~~ activities as are approved by the County Planning Commission and shown on the Advance Schedule.
- b) Expenses other than stipend: Expenses will be paid for Planning Commission member attendance at Annual and Regional California County Planning Commission Association (CCPCA) conferences or substitute training opportunity as may be approved by the Planning Director and Planning Commission Chair~~person~~. Where a substitute training opportunity is approved, the cost shall not exceed the amount budgeted for attendance at CCPCA conferences (no stipend is paid).

Mileage to official PC meetings shall be reimbursed if the round trip exceeds 20 miles from the members' homes.

Required overnight accommodations for PC field trips and evening hearings will be reimbursed when justified.

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SECTION VI ADMINISTRATIVE PROCEDURES

Rule 27 Committees

The Chair~~person~~, with the concurrence of the members, shall appoint such standing and special committees as deemed necessary

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Rule 28 Workshops

The County Planning Commission may hold a workshop as part of a regular, adjourned or special meeting. Public notice for workshops on specific matters for which public hearings are anticipated in the future shall be given in the same manner as that required for public hearings and a record of such workshops shall be entered into the minutes of any such future public hearings so that the hearing records will indicate whether any information received at the workshops was taken into consideration as evidence at the subsequent public hearings.

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County of San Bernardino Planning Commission Rules of Order, Continued

Rule 29 Development Review Committee and Environmental Review Committee Meetings

The Planning Commission Chair~~person~~, or other Commission member designated by the Chair~~person~~, ~~may~~ attend and observe each meeting of the Development Review Committee. The Commission member does not serve as an official member of either committee, but rather attends for the purpose of determining whether the project under consideration should be referred to the Planning Commission for action at a public hearing.

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Rule 30 Special Meetings

An emergency or special meeting may be called at any time by the Chair~~person~~, by delivering personally, or by mail, written notice to each member and to each local newspaper of general circulation, radio or television station requesting notice in writing and posting a notice on the County's Internet Web site. Such notice must be delivered personally or by mail at least twenty-four (24) hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. Such written notice may be dispensed with as to any member who, at or prior to the meeting convenes, files with the Planning Department a written waiver of notice. Such waiver may be given by electronic mail. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

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Rule 31 Advanced Schedule

To ensure efficiency and regularity in the conduct of business, the County Planning Commission will use an Advance Schedule indicating all regular and special activities. The Advance Schedule will serve as a guide to agenda preparation, continuation of hearing items, and coordination of attendance to ensure quorums and availability of members of staff.

Rule 32 Closed Session

The County Planning Commission may hold a closed session during a regular or special meeting to consider with the County legal advisor present, pending or potential litigation or such other matters that qualify for closed session under California law.

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SECTION VII FIELD TRIPS

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County of San Bernardino Planning Commission Rules of Order, Continued

Rule 33 Purpose

The County Planning Commission may take field trips to view a project site or for other purposes relevant to a hearing. All field trips shall be taken as part of a regular, adjourned or special meeting of the hearing body, and consistent with California law, all interested persons shall be afforded the opportunity to be present to view the project site and hear any reports or comments. In addition, less than a quorum may take field trips to view a project site that is the subject of a regular or special meeting of the County Planning Commission. A record of the field trips shall be entered into the minutes so the hearing record will indicate that the field trip was taken into consideration as evidence.

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Rule 34 Priority

Field trips may be arranged as follows:

- Full Planning Commission field trips may be scheduled for Area Plans, General Plan Land Use District Amendments involving significant acreage, and for major development proposals.
- Field trips of less than a quorum of members may be scheduled for all other General Plan Land Use District Amendments and agenda items relating to the development of property.
- A majority of the Planning Commission may determine that a field trip is unnecessary or make other modifications to the normal scheduling of field trips as deemed appropriate.
- Any trip by a Planning Commission member to view a site, other than a scheduled Planning Commission field trip or assignment by the Chairperson, shall be at the Planning Commission member's own expense.

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SECTION VII ADMINISTRATIVE SUPPORT

Rule 35 Responsibility

The Planning Department shall furnish professional and technical advice to the County Planning Commission.

Rule 36 Agenda and Staff Reports

An agenda and staff reports shall be prepared by the Planning Department for each meeting of the County Planning Commission.

Rule 37 Referrals

Any matter coming before the County Planning Commission, if deemed necessary, may be referred to the director or department concerned therewith for a report back to the County Planning Commission.

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County of San Bernardino Planning Commission Rules of Order, Continued

Rule 38 Findings

On any matter which State laws or County ordinances require the preparation of written findings, the staff report submitted on the matter shall contain findings proposed for adoption by the County Planning Commission. Any motion directly or impliedly rejecting such proposed findings must include a statement of alternative or modified findings or a direction that the matter under consideration be continued for a reasonable amount of time in order for staff to prepare a new set of proposed findings consistent with the evidence which has been presented and the decision which is anticipated.

Rule 39 County Counsel

All questions of law shall be referred to the County Counsel for opinion.

Rule 40 Meeting Attendance Verification and Payment

Signed attendance forms are required to verify a member's attendance at meetings. Staff will have the forms available at the meetings. Attendance forms will be accumulated by staff. At the last regular meeting of each month, the Chair~~person~~ or Vice Chair~~person~~ shall sign the submitted attendance slips prior to formal submittal to the Auditor for payment. The Department shall submit payments no later than the third working day of the subsequent month.

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