
PLANNING COMMISSION HEARING

1.1. PURPOSE

The purpose of this procedure is to describe the scheduling of development applications for review before and action by the Planning Commission and the general procedures followed by the Planning Commission in hearing and acting on an item (application).

1.2. BACKGROUND

The Planning Commission is a nine (9) voting member volunteer board appointed by the Board of County Commissioners (BoCC).

The Planning Commission advises the Board of County Commissioners on all matters related to the orderly growth and development of El Paso County, including applications for rezoning, special use, preliminary and final development plans, subdivisions, variance of uses, and all associated major amendments to such applications, as well as any amendments to the County's LDC. The Planning Commission is not a final decision making body except with respect to master plan adoption or amendments and location approvals. The Planning Commission also serves to make recommendations to the Board of County Commissioners on a variety of other land use applications.

The Planning Commission provides citizens with an opportunity to voice their support for or concerns with an application for development in and around their community. The Planning Commission's specific authorities are identified in Section 2.2.2(B) of the LDC. In addition to the authorities described in the LDC, the Planning Commission shall:

- Regulate the course and decorum of a hearing;
- Rule on procedural matters;
- Rule on the relevance of evidence and testimony;
- Seek the opinion of the County Attorney on legal questions pertaining to any matter before the Planning Commission; and
- Take other action necessary to lawfully conduct a hearing.

The Commission proposes its own procedures which are set forth in the Planning Commission Bylaws and Procedures. This section of the Procedures Manual is intended to outline how the Commission operates and how items are brought before the Commission. Any conflict between this procedure and the Planning Commission's adopted Bylaws and Procedures shall be considered unintentional and the Commission's Bylaws and Procedures shall prevail for the purpose of resolving such conflicts.

The PCD serves as the support staff to the Planning Commission and is responsible for preparing all items for review by the Planning Commission, scheduling items on the agenda, preparing the agenda, and keeping the official records of the Commission.

1.2.1. Types of Hearings

(A) Legislative Public Hearings

The purpose of a legislative public hearing is to obtain public input on legislative decisions on matters of policy. Legislative public hearings are required for such things as amendments to the County zoning code or master plan where new rules are being established that affect many properties. These public hearings are generally less formal than quasi-judicial public hearings and do not involve the legal rights of

specific, private parties in a contested setting, but rather affect a wider range of citizens.

(B) Quasi-Judicial Public Hearings

Quasi-judicial hearings are subject to stricter procedural requirements than legislative hearings as they involve the determination of legal rights of specific parties through the application of preexisting standards. As such, decisions made as a result of such hearings must be based upon and supported by the “record” developed at the hearing. Most quasi-judicial hearings include land use matters such as, but not limited to, special use, final plat, and preliminary plan applications.

1.3. PROCESS

1.3.1. Scheduling a Development Application for Hearing

No development application shall be scheduled for hearing before the Planning Commission until the PCD Planner determines that the review has been completed, all review comments have been addressed to the satisfaction of the PCD Director, or other waiver requests have been included that, if approved by the BOCC, would address the remaining outstanding issues. Until all issues have been addressed to the satisfaction of the PCD Director, the development application will not be scheduled before the Planning Commission. If the applicant objects to the development application not being scheduled for a hearing by Planning Commission then the applicant shall work with the PCD Planner or reviewers to resolve any outstanding issues. In unique instances in which the applicant is unable or for whatever reason unwilling to work with the PCD Planner or reviewers to resolved the outstanding issues, the applicant may seek a final determination on the need to resolve the issue through the issue resolution process, which shall be presided over by the PCD Director and may require technical input from the County Engineer.

When the development application is ready for Planning Commission hearing, the PCD Planner shall coordinate with the Clerk to the Planning Commission to identify the first available Planning Commission hearing date that will allow any required or courtesy notice to be prepared and provided in accordance with the public notice section(s) of this Procedures Manual. In scheduling a hearing, due regard will be given primarily to the availability and convenience of the Commission and the Secretary and, secondarily, to the availability and convenience of the applicant, known persons in opposition to the application, and other known interested parties (and their representatives or lawyers). The PCD Planner shall provide the Clerk with a blurb describing the application. The blurb shall include, at a minimum, a detailed description of the proposed project or activity for the agenda including the name of the applicant, file number, application type, short description of the project, nearest major intersection, the associated Assessor's Schedule Number(s). The PCD Planner shall provide the Clerk to the Planning Commission with a copy of the staff report.

1.3.2. Limit on Number of Items Heard by Planning Commission

The Planning Commission may limit the number of development applications that will be heard on any particular hearing date. Complete development applications will generally be scheduled only after all issues have been resolved to the satisfaction of the PCD Director.

1.3.3. Hearings

Hearings before the Planning Commission are open hearings on specific development applications and serve as an opportunity for the public to speak in support of or in opposition

to the specific development applications. The purpose of the public hearing is to allow the Commission to gather factual information to assist it in formulating a recommendation to the Board of County Commissioners based upon review criteria identified in the LDC for the respective application type. The hearing should be conducted in a manner so as to ensure that it is not a back-and-forth debate or a question and answer session with the audience.

The Planning Commission, in conducting a quasi-judicial hearing, shall acknowledge that all parties are entitled to an opportunity to appear in person or by a representative or counsel, to present and rebut testimony and evidence to an impartial approval authority, and to have the proceedings recorded.

The Planning Commission Chair (Chair) generally conducts the public hearing in accordance with the adopted bylaws.

1.3.4. Actions by the Planning Commission

Except as otherwise provided, the Planning Commission shall deliberate and make a recommendation to the Board of County Commissioners to approve, approve with conditions, or deny an application at the conclusion of the presentation of evidence and testimony on each application.

The Planning Commission shall seek to imposed conditions of approval proposed by PCD Staff or may propose differing conditions of approval or no conditions at all. A recommendation to approve or deny must be accompanied by findings supporting such recommendation based upon the respective review criteria for the specific application type.

Any hearing before the Planning Commission may be continued to a date and time certain, whereupon a recommendation on that application shall be made or the hearing further continued to a date certain. No additional public notice is required when the Planning Commission continues a hearing on a specific application to a date certain. The hearing on a specific application may also be continued until such time as a certain event occurs or until requested information is provided.

1.4. NOTICE

Notice shall be provided as required by State law, the LDC, or other County rule, regulations, or ordinance and the public notice requirements associated with the particular application type.

1.5. FORM OF ACTION

The Planning Commission takes action by resolution which shall include findings and conclusions which support the action.

1.6. REFERENCE

1.6.1. Applicable Statues and Regulations

C.R.S. §30-28-103 and C.R.S. §§30-28-101

LDC Sections: 2.1.2; 2.2.2 and 2.2.4