



CITY OF ELEPHANT BUTTE PLANNING & ZONING COMMISSION
SPECIAL MEETING
OPEN TO THE PUBLIC
Tuesday, October 13, 2015
Municipal Building – 103 Water Street

COMMISSION AGENDA – 9:00am

1. CALL TO ORDER AND ROLL CALL

Chairman Charles Looney
Vice Chairperson Cathy Vickers
Commissioner Sheridan Fuss
Commissioner Bill Kirikos
Commissioner Rick Harrison
Alternate Commissioner Nathan LaFont

2. DECLARATION OF CONFLICT OF INTEREST & STATEMENT OF OPEN MEETINGS ACT

**The Open Meetings Act is in effect and there is a five minute limit per speaker on all non-agenda items.*

3. APPROVAL OF MINUTES

a. Approval of Special Meeting Minutes, September 29, 2015

4. PUBLIC HEARING ACTION ITEMS

a. None.

5. NEW BUSINESS

- a. Annual Election of Chair
- b. Annual Election of Vice-Chair
- c. Commission Rules of Procedure
- d. Comprehensive Plan Discussion: Arterial Roads – ROW, Driveway Access & Permits

6. OLD BUSINESS

a. None.

7. ZONING ADMINISTRATOR'S REPORT

8. COMMISSIONER'S COMMENTS

9. PUBLIC INPUT

10. ADJOURNMENT



City of Elephant Butte
Planning & Zoning Commission

City Hall - 103 Water Street, Elephant Butte, NM

DRAFT Un-Official Meeting Minutes
Tuesday, September 29, 2015 Special Meeting

- I. **Call to Order** - Chairman Chuck Looney called the special meeting to order at 9:04 a.m.
Roll Call - City Manager Andrew Finzen took roll with Chairman Looney, Vice-Chair Cathy Vickers, Commissioner Nathan LaFont and Commissioner Sheridan Fuss present. Commissioner Rick Harrison provided advance notice of his absence. Mayor Eunice Kent and Mayor Pro-Tem Kim Skinner were also in attendance.
- II. **Minutes** - Approval of the minutes for June 25, August 4, and August 18 were delayed until later in the meeting due to printing issues. Motion was made at 9:40 a.m.

***Motion:** To approve the June 25, August 4, and August 18 meeting and workshop minutes as submitted.*

***Made:** Commissioner Fuss **Second:** Commissioner LaFont **Vote:** Carried 4-0*

III. **Public Hearing Action Item -**

A. Conditional Use - Case #CU-15-03: Bentley's Plumbing & Heating

Establishing a construction yard.

Elephant Butte Estates Unit 13/Block 1/ Lot 1; 701 Butte Blvd; C-2 zoning

Applicant/Owner: Mr. Gary Bentley

Vice-Chair Vickers, a notary public, swore in Mr. Finzen, Mr. Bentley, as well as attendees Neal Harper, Janet Harper Rutledge, Debra Fisk, Timothy Yanaga. Mr. Finzen then presented the case report, a copy of which is made as part of the case record and attested that all public notice requirements had been met. As part of his report, Mr. Finzen conveyed that the Applicant proposed to open a plumbing and heating retail facility and contractor's yard at 701 Butte Blvd, housing retail items and tools within the 2,000 square foot building. Mr. Finzen discussed the property's parking and found it suitable for the volume of vehicles.

Vice-Chair Vickers inquired about the access gate on Mr. Bentley's property. According to the site plan presented, the gate to enter and/or exit the contractor's yard portion is located at the east side of the fence. It was discovered that this gate location meant incoming and outgoing traffic would have to travel through another owner's property in order to properly use the gated area. Commissioner LaFont noted that this is problematic for both property owners, as a neighbor could easily erect a fence and entirely block off access to the gated area.

Chairman Looney opened the hearing to public comment. Janet Harper inquired if the purpose of this meeting was to change the zoning designation of the area. Commissioner LaFont explained that this was not the purpose of the meeting, and proceeded to explain what a “conditional use” entails and why Mr. Bentley is required to receive approval from the Commission. Mr. Timothy Y. stated that he is a residential property owner in the area and that in the past he has had issues with the previous owner at 701 Butte Blvd about the discharging of firearms on the property, which is against City code. The Commission and Mr. Bentley reassured everyone that such actions would not be going on at the property going forward.

Hearing no further public comment on the case, the Commissioner Looney entertained a motion to approve the application subject to the following conditions:

1. Hours of operation should not extend beyond the City’s established “quiet hours” of 9:00 p.m. – 7:00 a.m. per §90.05 unless a separate temporary/special use or conditional use is submitted.
2. Primary access to the property shall be from the proposed driveway fronting on Butte Blvd. Mr. Bentley must submit a revised site plan showing a relocation of his gate to allow for access that would not require the use of another person’s property.
3. 4 parking spaces shall be provided in the front parking area and shall be provided with at least 9 feet x 20 feet and accessed by a 24-foot wide aisle. These 8 spaces shall include the provision of at least 1 handicap accessible space per §155.033(I)(6).
4. All equipment and materials shall be contained neat and orderly onsite within the existing fenced yard. Certain scrap and hazardous materials should also be stored within an enclosed container or building after business hours.
5. A fence 6 feet in height shall be provided around the rear construction yard area in accordance with §155.033(G)(8).
6. A Final Landscaping Plan and Schedule shall be provided to the City Manager prior to final issuance of the conditional use and zoning permit. The Final Landscaping Plan and Schedule shall detail the number and general types of landscaping elements including approximate area coverage and meet any buffering or screening requirements located along the street frontage, northwest lot line and portions of the southern lot line as indicated on the Site Plan.
7. All applicable State and Federal permits shall be obtained and furnished to the City prior to operations commencing – including any CID and NMED permits.

Motion: *Based upon the foregoing findings of fact per §155.006(C) and §155.006(F) and in accordance with §155.033 of the City Code, I move to approve the application in Case #CU-15-03 with the conditions as outlined in the Case Report.*

Made: Vice-Chair Vickers 9:40 a.m. **Second:** Commissioner Buchanan **Vote:** Carried 4-0

- IV. **Staff Report** – City Manager Finzen informed the Commission of the upcoming Planning & Zoning Meeting to be held on October 13 at 9:00 a.m.
- V. **Public Comment** – Mayor Eunice Kent and Mayor Pro-Tem Kim Skinner updated the Commission on personnel changes that have taken place with the City. Mayor Kent notified the Commission that for the time being, City Manager Finzen will take over all Planning & Zoning responsibilities previously handled by the City Planner.
- VI. **Adjournment** – **Motion:** To adjourn the special meeting at 10:57am.
Made: Commissioner LaFont **Second:** Commissioner Fuss **Vote:** Carried 4-0

Minutes Approved:

Respectfully prepared and submitted:

Charles Looney
Chairman

Andrew Finzen
City Manager



City of Elephant Butte
Planning & Zoning Commission

City Hall - 103 Water Street, Elephant Butte, NM

Official Commission Rules of Procedure

General Policies

1.1 Meetings

- A. Meetings of the Planning and Zoning Commission shall be held in compliance with the Open Meetings Act, 10-15-1 et seq. NMSA 1978 in addition to §155.006(A)(3)(a) of the City Code.
- B. Notice of all meetings shall be in accordance with the City Open Meetings Resolution.
- C. Meetings shall be held according to the Commission's adopted annual Meetings & Submission Schedule, to be adopted annually in December.
- D. All binding actions of the Commission shall be taken at regular meetings, special meetings or emergency meetings. Workshops may be held for the purpose of examining issues, but no official action may be taken. Workshops may further be scheduled to precede or follow any regular or special meeting, providing that workshop and meeting are discrete and conducted as such.
- E. The Commission may recess and reconvene a meeting to a subsequent date provided that prior to recessing, the Chair specifies the date, time, and place for continuation. Notice for the reconvened meeting shall be immediately posted in City Hall. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.

1.2 Attendance

- A. Members of the Planning and Zoning Commission are expected to attend all scheduled meetings and shall make every effort to attend all special meetings.
- B. Failure of a member to attend meetings in accordance with §155.006(A)(3)(a) of the City Code shall be addressed as proscribed therein.

1.3 Duties of Officers

- A. The officers shall be a Chairperson and Vice-Chairperson as established by §155.006(A)(3) of the City Code as follows:
 - (3) *Organization. The Planning and Zoning Commission shall elect from its members a chairperson and a vice-chairperson in October of each year, or as required due to unforeseen vacancies. They shall serve for 1 year following their elections. The*

chairperson and vice-chairperson may be re-elected for more than 1 term. Alternate members are not eligible to be elected chairperson or vice-chairperson.

- B. The Chairman shall possess the powers and perform the following duties:
1. Preserve the order and decorum and have general direction of the meeting room.
 2. Identify, for the minutes, the voting members for the meeting. In the absence of a commissioner, an alternate will be designated to vote, if available. The alternate with the greatest seniority shall be the designate.
 3. Announce the business before the body in order in which it is to be acted upon.
 4. Recognize the speakers entitled to the floor.
 5. Call for public input on agenda items setting a time limit to each speaker.
 6. Decide all points of order, subject to appeal, unless he prefers to submit the question to the decision of the Planning and Zoning Commission.
 7. Put to vote all questions which are regularly moved or otherwise arise in the course of the proceedings.
 - a. The Chair shall be a voting member at the meeting.
 - b. When the Chair asks for a motion three times with no response, the Chair shall offer the motion.
 8. Approve the meetings and/or workshop Agenda prepared by City staff.
 9. As specifically provided within the Subdivision Code in Chapter 151 and the Zoning Code in Chapter 155, the Chairperson shall be the authorized signatory on required plans, plats, permits and/or correspondence serving on behalf of the Commission as a whole. The Chairman and/or City staff liaison to the Commission may prepare and sign official correspondence and recommendations as directed by the majority of the Commission.
- C. In the absence of the Chairman, or upon the request of the Chairman, the Vice-Chairman shall preside and shall all the powers and authority of the Chairman. In the absence of the Chairman and the Vice-Chairman, the member with the greatest seniority on the Planning and Zoning Commission on the Planning and Zoning Commission shall preside.

1.4 Duties of Commission Members –

- A. A voting member of the commission has the power to put forth motions, discuss Planning & Zoning business and vote on said motions. Each panel member will vote “Yes” or “No” on any given issue. In the event that a conflict of interest should arise

and the member needs to abstain from voting, the member shall state the reason for the record.

1.5 Duties of an Alternate Member of the Planning and Zoning Commission

- A. The duties of an alternate member of the Planning and Zoning Commission are to observe the Commission proceedings.
- B. In the absence of a voting member, the alternate with the greatest seniority shall be designated to fill in for the voting member and assume all voting member duties.

1.6 Adopted Rules

- A. Any matter not covered by these rules shall be governed by the decision of the Chair, applying Robert's Rules of Procedure, Newly Revised Edition.
- B. Violation of Rules: Violation of these rules does not invalidate action of the Planning and Zoning Commission.
- C. Amendments to Adopted Rules. The process for amending rules shall require an introduction of the proposed amendment by any permanent member of the Commission or by the City staff advisor. An amendment shall be discussed by the Commission at a whole during a workshop and/or meeting and then may be adopted at a subsequent regular meeting by the affirmative roll call vote of 4 of 5 voting members. Amendments shall then become effective immediately.

Procedures

2.1 Minutes

- A. Minutes shall include at a minimum the date, time, and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions.
- B. Unless a reading of the minutes is requested by a member, the minutes of the previous meetings may be corrected and approved without reading.
- C. Previously approved minutes may be corrected when a typographical, grammatical, spelling or factual error is noticed. Such corrections may only be initiated and voted upon by the majority of members present at that meeting within six (6) months from the adoption date of the minutes in question.
- D. Only members attending a specific meeting can vote to approve the minutes of that meeting.

2.2 Order of Business

The order of business of the Planning and Zoning Commission shall generally be conducted in the following order; provided, however that the Chair may, during a meeting, rearrange items on the agenda to conduct the business more efficiently:

- a. Call to order
- b. Roll Call/Identification of Voting Members
- c. Statement of Open Meetings Act
- d. Public Input
- e. Approval of Minutes
- f. Public Hearing Action Items
- g. New Business
- h. Old Business
- i. Staff Report
- j. Commissioners' Comments
- k. Public Input
- l. Adjournment

2.3 Cancellation of a meeting.

- A. If, by the agenda deadline, no items are received for the agenda, the staff liaison to the Commission will notify the members and post a notice of cancellation for the meeting.

2.3 Hearing Procedures

- A. Hearings shall be conducted in the manner described herein.
- B. Once a determination has been made in a hearing, the issue shall not be brought to Planning and Zoning Commission again for action for a period of two calendar years, unless remanded to the Commission by the City Council.
- C. Ex parte Communication.
 1. Commissioners shall not engage in ex parte communication about any filed or prospective application requiring quasi-judicial proceedings with any person or organization interested in such application. For purposes of these rules, an ex parte communication shall be defined as a substantive communication, outside the public hearing process, between a Commissioner and any member of the public.
 2. Communications with the staff of the Planning Department or the City Attorney shall not be considered ex parte communications. Communication with staff outside of an open meeting regarding the substance of a case shall be by email. This communication shall be made part of the public record. Any material received by a Commissioner from any person or organization shall be forwarded to the staff of the Planning Department for distribution to the Commission. Copies of all such materials shall be submitted to the Planning Department.

3. Attendance at meetings, seminars, open houses or other similar functions in which a pending or prospective application is discussed incidentally or in general terms for information purposes only, without any communications being directed to or by the Commissioner, shall not constitute an ex parte communication. However, such an incident shall be disclosed by the Commissioner at the public hearing on said application.
4. A Commissioner who has engaged in ex parte communication shall recuse himself or herself from hearing the application. Commissioners shall disclose any instance of an attempted ex parte communication; however, any such attempt should not, in and of itself, be grounds for recusal.
5. Commissioners shall not conduct independent fact-finding investigations of any property that is the subject of a quasi-judicial proceeding before the Planning & Zoning Commission. However, a cursory site visit by an individual Commissioner to generally familiarize that Commissioner with the location and environs of such a property, that does not include an independent fact finding investigation, is permitted. Furthermore, a publicized and organized visit involving the entire Commission, the public, and any other parties shall be permitted if scheduled in advance of the hearing date with notice provided in accordance with the City's adopted Open Meetings Act Resolution.

D. Types of Hearings and General Provisions

1. The Commission conducts two types of hearings: quasi-judicial proceedings and non-quasi-judicial proceedings. Only complete and officially-submitted applications shall be considered and the Commission shall not give advice on how it might rule in future cases or might have ruled in past cases. After a staff report is distributed to the Planning & Zoning Commission, withdrawal of an application requires Commission approval.

- a. Quasi-judicial proceedings are those in which the Commission must provide particularized procedural due process rights to both the applicant and those members of the public with standing. Commission hearings on applications initiated by the owner of a particular property, or by such owner's agent (including, but not limited to, zone changes, site development plans for subdivision, site development plans for building permits or amendments to sector development plans) are most often conducted as quasi-judicial proceedings. Other types of applications may also require quasi-judicial proceedings, as determined on a case-by-case basis.
- b. Non-quasi-judicial proceedings do not require the same procedural protections as are provided during a quasi-judicial proceeding. Hearings on applications for a recommendation from the Commission to the City Council regarding proposed amendments to city-wide Codes and Ordinances are most often conducted as non-quasi-judicial proceedings.

Other types of applications may also not require quasi-judicial proceedings, as determined on a case-by-case basis.

2. Any party may appear on their own behalf or may be represented by an agent. In the absence of any personal appearance on behalf of an applicant, the Commission may proceed with such matter.

3. Any changes to the meeting agenda, barring emergencies or unusual circumstances, shall be announced at the beginning of each meeting and should be posted for the public.

a. The agenda, as amended, shall be approved at the beginning of each meeting and shall be a part of the record of the meeting. There shall be no consent agenda.

b. Applications shall be considered in the order in which they appear on the approved agenda. An approved agenda may be changed at any time by the Commission, for good cause shown, upon motion passed by majority vote.

4. The Chair shall require that all people wishing to address the Commission be sworn in giving their names and the community in which they live prior to the discussion of any new item on the agenda. The Chair may ask whether they wish to speak as a proponent, opponent, or otherwise. Any person who fails to be sworn in shall not be permitted to speak until sworn in.

a. The Chair may set the order of speakers so that testimony is heard in the most logical grouping, e.g. proponents, opponents, adjacent owners, vested interests, etc.

b. The Chair has authority, subject to a Commissioner's right to appeal to the Commission as a whole, to limit repetitive, irrelevant or inappropriate testimony, evidence and cross examination presented at a public hearing, as well as limit a Commissioner's comments, questions, or arguments that are repetitive, irrelevant, or otherwise inappropriate. Commissioners and speakers shall confine their remarks to the question under discussion or debate.

c. The Chair will introduce the item, open the public hearing, request the pertinent staff member to present the application and call upon the applicant to describe the matter under consideration.

8. The order of considering an application shall be as follows unless the Commission approves a motion to alter the order of presentation:

a. Planning staff presentation

b. Applicant's presentation

c. Testimony by other concerned parties

d. Applicant's response and cross-examination, if any

- e. Other concerned parties' cross-examination, if any
- f. Staff response
- g. Floor is closed
- h. Chair's summary of the issues (when appropriate)
- i. Comments by Commissioners
- j. Motions including findings, and any conditions that may be required

9. Planning & Zoning Commissioners may ask clarifying questions of any speakers at a public hearing at any time prior to closing of the floor. Persons with standing may cross-examine any person speaking at a hearing, as permitted by these rules. The Chair has the discretion to allow additional comment and response while the floor is open.

10. The Chair is responsible for the management and administration of Commission hearings. Five hours shall be the maximum time allotted for public hearings. It shall be the responsibility of the Chair to monitor the time of a public hearing and seek a motion to continue the hearing to a date and time specified by the Commission. At hearings, time limits on presentations and testimony are generally as follows:

- a. 20 minutes for staff presentation
- b. 25 minutes for the applicant's presentation
- c. 2 minutes for each public speaker
- d. Up to 10 minutes for a recognized organization with standing
- e. 5 minutes applicant's response/rebuttal
- f. 5 minutes staff response

11. Recognized organizations with standing shall appoint one or more spokespersons to express common viewpoints. The Chair shall determine appropriate time limits under such circumstances and may grant additional time to any speaker as is appropriate. Individual speakers may not cede their speaking time to others.

12. Cross examination shall be afforded to anyone with standing who requests the opportunity to question an opposing speaker regarding matters relevant to the application.

- a. Persons with standing are:
 - 1) The applicant; or
 - 2) any person who owns a property interest within 500 feet of the subject-site (excluding the public right-of-way) and recognized organizations whom have provided a copy of their adopted bylaws and a statement demonstrating their pecuniary, health or safety interest in the application which right or interest must be more than merely nominal or remote; or
 - 3) any person who demonstrates a personal or pecuniary interest or property right that may be adversely affected by the

Commission's decision, which right or interest must be more than merely nominal or remote.

b. Notice of the right of cross-examination shall be prominently placed in the agenda for each Commission hearing.

c. Persons with standing desiring to question any other person who has testified during the hearing shall sign a list maintained by Commission staff. The Chair may restate the person's questions and may require that questions be addressed to the Chair. The Chair shall rule as out of order any improper, irrelevant or unnecessarily long questions or answers.

E. Motions and Voting

1. The Commission will vote on motions to approve, defer, continue or deny any matter brought before it. If any such motion fails for lack of a second, such motion dies.
2. A majority vote by the members present and voting of the Commission is required to approve any motion, unless otherwise specified in these Rules.
3. When approving a motion to approve, deny, continue or defer an application, the Commission will adopt findings of fact, based on the record, upon which it has based its decision. The Commission may impose conditions on the approval of an application as may be appropriate under the circumstances.
4. The Commission may continue or defer a matter to another hearing at the request of staff, an applicant or other interested party or when the Commission determines that additional information is necessary or beneficial to render a decision. When the applicant or his agent or a member of the public is present and objects to continuation or deferral to another day, the affirmative vote of a simple majority of the Commissioners present and voting is required to continue or defer the hearing.
5. In the event of a tie vote on any motion, only that motion fails. However, if there are motions to approve, deny, continue or defer an application, and all four types of motions end in a tie vote and/or fail, then the application is denied and no findings shall be adopted.
6. The Chair may vote on any motion, second any motion, and may make any motions, providing that a motion is sought from another member at least twice before initiating.
7. The Commission may recess and reconvene a meeting to a subsequent date provided that prior to recessing, the Chair specifies the date, time and place for continuation. Notice for the reconvened meeting shall be immediately posted in City Hall and published as a legal advertisement in a newspaper of

general circulation. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.

8. The Commission may continue or defer an application to a later date.
 - a. A continuance is usually approved because the Commission needs more time to consider the case before them. The subsequent hearing picks up where it left off. If public testimony has been taken, taking additional testimony is optional, provided that, if the Applicant modifies the application at all, the Commission must give an opportunity for public testimony on the changed portion(s) of the application only. In order to vote at a subsequent hearing, Commissioners who were not present at the original hearing(s) must review the entire oral and written record of previous hearing(s).
 - b. A deferral is usually approved to allow for additional information to be presented to the Commission, i.e. revisions to site plans, additional justification from the applicant, additional meetings with the public, etc. In order to vote at a subsequent hearing, Commissioners who were not present at the original hearing(s) must review the entire oral and written record of previous hearing(s).

Amended Rules of Procedure Adopted this _____ day of _____ 2015.

By:

Commission Chair

Commission Vice-Chair or Member



DRAFT REVISIONS Official Rules of Procedure

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- Roll Call/Identification of Voting Members
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- New Business**
- Old Business
- ~~New Business~~
- Staff Report**
- Commissioners' Comments**
- Public Input
- Adjournment

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- A. Hearings shall be conducted in the manner described ~~by attachments herein~~.
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 - 2. **Communications with the staff of the Planning Department or the City Attorney shall not be considered ex parte communications. Communication with staff outside of an open meeting regarding the substance of a case shall be by email. This communication shall be made part of the public record. Any material received by a Commissioner from any person or organization shall be forwarded to the staff of the Planning Department for distribution to the Commission. Copies of all such materials shall be submitted to the Planning Department.**

3. Attendance at meetings, seminars, open houses or other similar functions in which a pending or prospective application is discussed incidentally or in general terms for information purposes only, without any communications being directed to or by the Commissioner, shall not constitute an ex parte communication. However, such an incident shall be disclosed by the Commissioner at the public hearing on said application.
4. A Commissioner who has engaged in ex parte communication shall recuse himself or herself from hearing the application. Commissioners shall disclose any instance of an attempted ex parte communication; however, any such attempt should not, in and of itself, be grounds for recusal.
5. Commissioners shall not conduct independent fact-finding investigations of any property that is the subject of a quasi-judicial proceeding before the Planning & Zoning Commission. However, a cursory site visit by an individual Commissioner to generally familiarize that Commissioner with the location and environs of such a property, that does not include an independent fact finding investigation, is permitted. Furthermore, a publicized and organized visit involving the entire Commission, the public, and any other parties shall be permitted if scheduled in advance of the hearing date with notice provided in accordance with the City's adopted Open Meetings Act Resolution.

D. Types of Hearings and General Provisions

1. The Commission conducts two types of hearings: quasi-judicial proceedings and non-quasi-judicial proceedings. Only complete and officially-submitted applications shall be considered and the Commission shall not give advice on how it might rule in future cases or might have ruled in past cases. After a staff report is distributed to the Planning & Zoning Commission, withdrawal of an application requires Commission approval.

a. Quasi-judicial proceedings are those in which the Commission must provide particularized procedural due process rights to both the applicant and those members of the public with standing. Commission hearings on applications initiated by the owner of a particular property, or by such owner's agent (including, but not limited to, zone changes, site development plans for subdivision, site development plans for building permits or amendments to sector development plans) are most often conducted as quasi-judicial proceedings. Other types of applications may also require quasi-judicial proceedings, as determined on a case-by-case basis.

b. Non-quasi-judicial proceedings do not require the same procedural protections as are provided during a quasi-judicial proceeding. Hearings on applications for a recommendation from the Commission

to the City Council regarding proposed amendments to city-wide Codes and Ordinances are most often conducted as non-quasi-judicial proceedings. Other types of applications may also not require quasi-judicial proceedings, as determined on a case-by-case basis.

2. Any party may appear on their own behalf or may be represented by an agent. In the absence of any personal appearance on behalf of an applicant, the Commission may proceed with such matter.

3. Any changes to the meeting agenda, barring emergencies or unusual circumstances, shall be announced at the beginning of each meeting and should be posted for the public.

a. The agenda, as amended, shall be approved at the beginning of each meeting and shall be a part of the record of the meeting. There shall be no consent agenda.

b. Applications shall be considered in the order in which they appear on the approved agenda. An approved agenda may be changed at any time by the Commission, for good cause shown, upon motion passed by majority vote.

4. The Chair shall require that all people wishing to address the Commission be sworn in giving their names and the community in which they live prior to the discussion of any new item on the agenda. The Chair may ask whether they wish to speak as a proponent, opponent, or otherwise. Any person who fails to be sworn in shall not be permitted to speak until sworn in.

a. The Chair may set the order of speakers so that testimony is heard in the most logical grouping, e.g. proponents, opponents, adjacent owners, vested interests, etc.

b. The Chair has authority, subject to a Commissioner's right to appeal to the Commission as a whole, to limit repetitive, irrelevant or inappropriate testimony, evidence and cross examination presented at a public hearing, as well as limit a Commissioner's comments, questions, or arguments that are repetitive, irrelevant, or otherwise inappropriate. Commissioners and speakers shall confine their remarks to the question under discussion or debate.

c. The Chair will introduce the item, open the public hearing, request the pertinent staff member to present the application and call upon the applicant to describe the matter under consideration.

8. The order of considering an application shall be as follows unless the Commission approves a motion to alter the order of presentation:

a. Planning staff presentation

b. Applicant's presentation

c. Testimony by other concerned parties

- d. Applicant's response and cross-examination, if any
- e. Other concerned parties' cross-examination, if any
- f. Staff response
- g. Floor is closed
- h. Chair's summary of the issues (when appropriate)
- i. Comments by Commissioners
- j. Motions including findings, and any conditions that may be required

9. Planning & Zoning Commissioners may ask clarifying questions of any speakers at a public hearing at any time prior to closing of the floor. Persons with standing may cross-examine any person speaking at a hearing, as permitted by these rules. The Chair has the discretion to allow additional comment and response while the floor is open.

10. The Chair is responsible for the management and administration of Commission hearings. Five hours shall be the maximum time allotted for public hearings. It shall be the responsibility of the Chair to monitor the time of a public hearing and seek a motion to continue the hearing to a date and time specified by the Commission. At hearings, time limits on presentations and testimony are generally as follows:

- a. 20 minutes for staff presentation
- b. 25 minutes for the applicant's presentation
- c. 2 minutes for each public speaker
- d. Up to 10 minutes for a recognized organization with standing
- e. 5 minutes applicant's response/rebuttal
- f. 5 minutes staff response

11. Recognized organizations with standing shall appoint one or more spokespersons to express common viewpoints. The Chair shall determine appropriate time limits under such circumstances and may grant additional time to any speaker as is appropriate. Individual speakers may not cede their speaking time to others.

12. Cross examination shall be afforded to anyone with standing who requests the opportunity to question an opposing speaker regarding matters relevant to the application.

a. Persons with standing are:

1) The applicant; or

2) any person who owns a property interest within 500 feet of the subject-site (excluding the public right-of-way) and recognized organizations whom have provided a copy of their adopted bylaws and a statement demonstrating their pecuniary, health or safety interest in the application which right or interest must be more than merely nominal or remote; or

3) any person who demonstrates a personal or pecuniary interest or property right that may be adversely affected by the

Commission's decision, which right or interest must be more than merely nominal or remote.

b. Notice of the right of cross-examination shall be prominently placed in the agenda for each Commission hearing.

c. Persons with standing desiring to question any other person who has testified during the hearing shall sign a list maintained by Commission staff. The Chair may restate the person's questions and may require that questions be addressed to the Chair. The Chair shall rule as out of order any improper, irrelevant or unnecessarily long questions or answers.

E. Motions and Voting

1. The Commission will vote on motions to approve, defer, continue or deny any matter brought before it. If any such motion fails for lack of a second, such motion dies.
2. A majority vote by the members present and voting of the Commission is required to approve any motion, unless otherwise specified in these Rules.
3. When approving a motion to approve, deny, continue or defer an application, the Commission will adopt findings of fact, based on the record, upon which it has based its decision. The Commission may impose conditions on the approval of an application as may be appropriate under the circumstances.
4. The Commission may continue or defer a matter to another hearing at the request of staff, an applicant or other interested party or when the Commission determines that additional information is necessary or beneficial to render a decision. When the applicant or his agent or a member of the public is present and objects to continuation or deferral to another day, the affirmative vote of a simple majority of the Commissioners present and voting is required to continue or defer the hearing.
5. In the event of a tie vote on any motion, only that motion fails. However, if there are motions to approve, deny, continue or defer an application, and all four types of motions end in a tie vote and/or fail, then the application is denied and no findings shall be adopted.
6. The Chair may vote on any motion, second any motion, and may make any motions, providing that a motion is sought from another member at least twice before initiating.
7. The Commission may recess and reconvene a meeting to a subsequent date provided that prior to recessing, the Chair specifies the date, time and place for continuation. Notice for the reconvened meeting shall be

immediately posted in City Hall and published as a legal advertisement in a newspaper of general circulation. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.

8. The Commission may continue or defer an application to a later date.
 - a. A continuance is usually approved because the Commission needs more time to consider the case before them. The subsequent hearing picks up where it left off. If public testimony has been taken, taking additional testimony is optional, provided that, if the Applicant modifies the application at all, the Commission must give an opportunity for public testimony on the changed portion(s) of the application only. In order to vote at a subsequent hearing, Commissioners who were not present at the original hearing(s) must review the entire oral and written record of previous hearing(s).
 - b. A deferral is usually approved to allow for additional information to be presented to the Commission, i.e. revisions to site plans, additional justification from the applicant, additional meetings with the public, etc. In order to vote at a subsequent hearing, Commissioners who were not present at the original hearing(s) must review the entire oral and written record of previous hearing(s).

Amended Rules of Procedure Adopted this _____ day of _____ 2015.

By:

Commission Chair

Commission Vice-Chair or Member