



City of Rockville

MEMORANDUM

July 2, 2010

TO: Planning Commission

FROM: Jim Wasilak, Chief of Planning

SUBJECT: Planning Commission Rules of Procedure

Attached is a draft containing suggested revisions to the Commission's adopted Rules of Procedure. The revisions primarily cover meeting minutes, the conduct of business, recusal and reconsideration.

Attachments

1. Planning Commission Rules of Procedure, June 17, 2010 draft

PLANNING COMMISSION
City of Rockville, Maryland

RULES OF PROCEDURE
DRAFT 6/17/10

I. Powers and Duties

The powers and duties of the Commission are set forth in the Annotated Code of Maryland, Article 66B, and the Laws of Rockville.

II. Chair

The Commission shall elect a Chair from one of its appointed members to serve a term of one (1) year. The election shall be by a majority of the members, and take place at the first meeting in December, or such other time as designated by a majority of the members.

The Chair shall preside at hearings and meetings of the Commission, may freely participate in debate, and shall call special meetings as needed. The Chair shall designate a member of the Commission to serve in their absence; or in the absence of such designee, a member selected by the Commission shall preside.

III. Staff

The Planning Division serves as staff to the Commission, and provides professional and clerical support. The staff shall prepare and maintain written minutes of all public meetings and hearings for approval by the Commission. The minutes shall record the outcome of each vote; and where a vote is by roll call, the vote of each member, upon each question, shall be recorded.

The Commission Secretary prepares the minutes for the approval of the Commission. Any audio or video recording will not be the official record of the meeting, but if available can serve as documentation of detailed meeting discussion. Minutes shall be submitted for approval within one month of the meeting date, and shall include a list of the Parties of Record (as defined in the Zoning Ordinance), a brief summary of items discussed and contain an accurate recording of the motions made and actions taken. A quorum of the Commission is required for approval of the minutes, but such quorum does not need to be made up of the same Commissioners present for the action taken that is the subject of the minutes to be approved.

IV. Filing and Application

Applications to be reviewed by the Planning Commission may be filed at any time during normal business hours with the City Clerk or Planning Division as required by the Laws of Rockville.

V. Meetings

- A. Time and Place – Generally, the Planning Commission holds two regular meetings on the second and fourth Wednesday of every month. Worksessions are generally scheduled for the second Wednesday as needed. Schedule adjustments are made regularly to avoid conflict with common public holidays. The meetings are held in City Hall or such other public place as determined by the Commission, and begin promptly at 7:00 p.m. No new agenda items will be taken up after 10:00 p.m., unless two-thirds of the Commissioners consent to extending the meeting. All meetings are public and open except that closed sessions may be held for the purposes set forth in Article 76A, Sections 7-15 of the Annotated Code of Maryland, and for certain deliberations as permitted by law.
- B. Special Meetings – Following at least twenty-four (24) hours notice (if possible) to each member of the Commission and reasonable public notice, as needed, special meetings may be called by the Chair, by a majority of the members of the Commission or upon request of the Mayor and Council.
- C. Scheduling – The number of meetings per month may vary depending upon the workload of the Commission. The Chair and the staff shall determine if a meeting will take place based on the number of applications, review items, or other business that may come before the Commission.
- D. Agenda – The staff shall, with the concurrence of the Chair, prepare a draft agenda, which shall be available to the Commission and the public on the Friday twelve (12) days prior to the next meeting. Applications shall be placed on the agenda within a reasonable period following staff review. Items may be placed on future agendas by the Chair or at the request of two Commissioners.
- E. Public Notice – The agenda shall be available in City Hall and on the City's web site for a reasonable period prior to the meeting. Notice will be posted at City Hall on the day of each meeting.
- F. Briefing Materials – The staff shall furnish the Commission with briefing materials twelve (12) days prior to the next meeting. Copies of staff reports shall be available to the public at the same time.

- G. Quorum – A majority of the members of the Commission constitutes a quorum for the transaction of business.
- H. Absences – Each member of the Commission who has knowledge of the fact that he/she will not be able to attend a scheduled meeting of the Planning Commission shall notify the Chief of Planning and the Chair, at the earliest possible opportunity.
- I. Voting Order – Voting will be by verbal vote, roll call, or show of hands at the discretion of the Chair, with the Chair voting last.
- J. General Order of Business
 - 1. The general order of business is as follows, but may vary from time to time at the discretion of the Chair.

Consent Agenda

Scheduled Matters (order may vary)

- Public Hearings and Forums
- Preliminary Subdivisions, Record and Ownership Plats
- Site Plans
- Recommendations to Board of Appeals or Mayor and Council (including project plans, special exceptions and appeals)
- Worksessions

Other Matters

- Chief of Planning Report
- FYI and Correspondence
- Old Business
- New Business
- Minutes

Adjournment

- K. Rules of Order – Unless otherwise specified herein, Robert’s Rules of Order is generally followed.
- L. Consent Agenda – Items may be placed on a consent agenda for adoption as a group with a single motion to endorse the recommendation in the staff report and any recommended conditions. An item may be removed from the consent agenda at the request of any Commissioner, and will then be considered as a separate agenda item by the Commission. The types of review items to be placed on the consent agenda shall be agreed upon by the majority of the Commission.

M. Public Hearings – In addition to those required by law or directed by the Mayor and Council, the Commission may, at its discretion, hold public hearings when it decides that such hearings will be in the public interest. The Commission may adopt such rules as are reasonably necessary for the orderly conduct of the hearing. Notice of public hearings shall be as required by law and City policy and practice. For all required hearings, a transcript of the proceedings shall be made and kept in the case file. Hearings may be adjourned from time to time; and if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice of such continued hearing shall be required; otherwise, notice thereof shall be given as in the case of the original hearing.

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N. Conduct of Business – Applications and Review Items. Business will be conducted in the following manner.

1. Staff presents the staff report, providing a brief summary of the application as proposed as well as a summary of the important issues addressed during the Development Review Committee (DRC) review. Staff should also highlight specific conditions of approval related to the application, and provide any relevant additional information that has become available since the staff report was issued.
2. The Commission may ask clarifying questions regarding the staff presentation and recommendations; questions related to applications should be directed toward the applicant.
3. A representative of another City Board or Commission may present the official position or recommendation of that Commission, and be limited to five (5) minutes.
- ~~3.4.~~ The applicant and/or designated representatives should present the rationale for the application, highlight important details not touched on by staff, and whether the conditions of approval are agreeable. Applicants are generally limited to ten (10) minutes. If additional time is needed, it should be coordinated with staff in advance.
- ~~4.A~~ A representative of another City Board or Commission may present the official position or recommendation of that Commission, and be limited to five (5) minutes.
5. Parties interested in addressing the Commission shall be given an opportunity to do so. The Commission may impose a time limitation on comments, and may otherwise regulate the time and manner in which comments are made. One representative of a recognized group shall be given five (5) minutes, while individuals shall be given three (3) minutes. Speakers may cede speaking time to another speaker, at the discretion of the Chair.

- All questions of any party shall be posed to the Commission. The commission may, in turn, pose the question to staff or the appropriate party.
6. The Commission may ask pertinent questions it may have of applicants, members of the public or staff.
 7. The Commission engages in discussion among the members, and then takes a vote.
- O. Decision – The Commission shall approve or deny an application. Failure to receive a majority vote for approval constitutes denial; failure to receive a majority vote for denial does not, however, constitute approval. An approved application may also be subject to conditions the Commission deems necessary.
1. Recommendation – On those items which the Commission acts in an advisory capacity to another decision-making body, the recommendation will be sent to the appropriate decision-making body in the form of a memo from the Commission. The memo will report the vote of the Commission, any conditions the Commission would recommend for the approval of the application, and, any discussion that the Commission deems important to explain the application or the vote. Recommendations are drafted by staff and circulated among Commission members. The Commission must review its recommendation prior to submission to the Board of Appeals or Mayor and Council.
 2. Notice of Decision – The Commission shall provide written notice of its decision to the applicant in the form of a letter signed by the Chief of Planning. This letter shall be signed and returned to the Planning and Zoning Division by the applicant to indicate agreement with any conditions attached to the approval.
 3. Withdrawal – An applicant may withdraw an application over which the Commission has final authority at any time prior to the agenda item being called and the presentation of the application has begun.
 4. Postponement – The Commission may postpone an item of business or consideration thereof for consideration at a subsequent meeting at the discretion of the Chair.
 5. Deferral – The Commission may defer action on an application by a vote of a majority of the members present.

P. On-site Inspection

1. Commissioners are encouraged to visit the sites of applications that are on the agenda. Applicants should facilitate access to the degree possible.

Q. Recusal — Commissioners shall comply with Chapter 16 of the Rockville City Code entitled, “Public Ethics.” ~~Recusal is the action by a Commission member in removing themselves from participation in the meeting or decision related to a matter pending before the Commission.~~

~~1. A member should recuse themselves if the member feels they are unable to render a fair and impartial decision, or if there is an actual conflict or appearance of a conflict, even if the member believes they can render an impartial and objective decision.~~

~~2. In order to preserve the integrity of the Commission and its decisions, Commission members should generally recuse themselves when requested to do so by a party who believes that a conflict exists or that the Commission members cannot fairly decide the case, even if the member disagrees. However, if the participation of the challenged member is needed for a quorum or the challenge is clearly without merit, the challenged member may participate if there in fact is no conflict under the law and the member believes that they are able to render a fair and impartial decision.~~

~~3. A member should recuse themselves as soon as they are aware of the need to do so. The meeting minutes should reflect the recusal and the reason.~~

R. Reconsideration

1. Request to Reconsider - A request to reconsider request for reconsideration of the decision of the Commission must be filed within ten (10) days after the date upon which the original decision was issued in writing by the Commission. Such request must be made in writing and must state fully all grounds for reconsideration including mistake of fact or law, inadvertence, surprise, fraud, or other good cause. set forth specifically the reasons for requesting reconsideration. The filing of a request to reconsider does not toll the period for appeal allowed pursuant to the Maryland Rules.

The party or agent submitting a request for requesting reconsideration (“Requestor”) shall also give written notice to all ny person who became a pParties of Record on the same day it files its request for reconsideration

with the City. interest in accordance with the Zoning Ordinance on the same day that the request was filed with the Commission. Within five (5) days of filing the request for reconsideration, a copy of the notice and a certification that the notice was provided to all Parties of Record must be filed with the Chief of Planning. Parties of Record Those persons should shall have seven (15) days from the date of the notice to submit written comments regarding the request.

At the next possible meeting, the Commission shall either grant or deny the request. Parties of Record need not be present at such meeting. The Commission may, however, question staff or any party then present to clarify points raised in the written request, otherwise testimony will not be heard. The Commission may grant a request for reconsideration if it finds mistake of fact or law, inadvertence, surprise, fraud, or other good cause, and must state its reasons for such approval on the record.

If the Commission grants the request, it shall schedule a hearing on the matters to be reconsidered. It shall set the date of such hearing during the meeting at which it granted the request, and Planning staff shall notify the Requestor within five (5) days thereafter of the date of the hearing. The Requestor shall notice all Parties of Record within fifteen (15) days of the date of the hearing.

2. Motion to Reconsider - The Commission may also reconsider a decision on its own motion, provided that such motion is made no later than the Commission's next meeting following the date when the original decision was made. In considering a motion to reconsider, no public hearing is required. The Commission may grant a motion for reconsideration if it finds mistake of fact or law, inadvertence, surprise, fraud, or other good cause, and must state its reasons for such approval on the record.

If the Commission approves such a motion, it shall schedule a hearing on the matters to be reconsidered. It shall set the date of such hearing during the meeting at which it granted the motion. Planning staff shall notice all Parties of Record within fifteen (15) days of the date of the hearing.

3. Effect of the Commission's Decision on a Request to Reconsider or Motion to Reconsider - If the Commission approves a request to reconsider or a motion to reconsider, such approval shall deem the original decision void. If the Commission denies a request to reconsider or a motion to reconsider, the original decision shall remain in full force and effect.

~~When reconsideration is granted, the Commission may conduct a hearing, with notice given in accordance with the Zoning Ordinance. At the hearing, no new evidence shall be submitted or accepted.~~

4. Hearing on Matters Reconsidered – If the Commission grants a request to reconsider or approves a motion to reconsider, it shall conduct a hearing on the matters reconsidered. The scope of the hearing must include the reason the Commission cited for reconsideration of the decision and any other issues that the Commission deems to be relevant. At least ten (10) days before the hearing, planning staff shall post the following in accordance with Paragraph V.E above; (a) the Commission’s decision to reconsider its decision; (b) the date of the hearing on the reconsideration; and (c) a summary of the reasons for the reconsideration.

5. Effect of the Commission’s Decision After Hearing: If after a hearing, the Commission determines that it will not change its original decision, the original decision shall be reissued and the appeal period shall run from the date of the reissuance. If after a hearing, the Commission determines that it will change the original decision, the original decision shall be revised based on such change, and reissued.

VI. Committees

The Commission may appoint committees made up of Commission members for specific purposes and advisory committees to the Commission to advise on specific issues such as master planning, urban design, zoning, neighborhood planning, subdivision regulations, or other issues that a majority of the Commission feels are necessary for further study. The advisory committee shall be appointed in the following manner.

- A. Notice – In the case of advisory committees, the Commission shall print a notice in the City newsletter of its intent to form a committee to allow interested citizens and/or professionals the opportunity to apply.
- B. Appointment – The Chair shall appoint the Chair and members of the committee with the concurrence of a majority of the Planning Commission.
- C. Staff support – A member of the Planning Division staff shall attend each meeting of the committee in an advisory capacity.
- D. Dissolution – The Committee can be dissolved at any time at the discretion of a majority of the members of the Commission.

- E. Rules – Neighborhood Planning Advisory Groups (NPAG) shall be governed by the rules for such bodies as may be adopted by the Planning Commission. Other advisory committees shall adopt procedural rules for conduct of business.

VII. Amending the Rules of Procedure

The rules of procedure may be amended at any meeting of the Commission by a majority vote of the Commission, provided that notice of said proposed amendment is given to each member in writing at least two weeks prior to said meeting.

VIII. Rules Not Jurisdictional

These Rules of Procedure serve as guide to the operation of the Commission. They do not constitute jurisdictional requirements, and do not confer rights or impose obligations not otherwise conferred or imposed by law. Failure of the Commission, its staff, or any party to comply with any provision of these Rules shall not invalidate any otherwise valid decision or action of the Commission.

IX. Separability

The provisions of these Rules are severable, and if any court of competent jurisdiction holds any of their provisions invalid, the decision of such court shall not affect or impair any of the remaining provisions.

X. Conflict

Whenever any conflict occurs between these Rules, the Annotated Code of Maryland and the Laws of Rockville, the Annotated Code of Maryland and the Laws of Rockville shall prevail.

XI. Appeals

Unless another method of review is provided in Chapter 25 (zoning and Planning Ordinance) of the “Laws of Rockville”, any person aggrieved by any decision of the Commission may appeal the same to the Circuit Court for Montgomery County. Such appeals shall be taken according to the Maryland Rules as set forth in Chapter 1100, Subtitle B.

XII. Effective Date

These Rules shall be effective after adoption by a majority of the full Commission and filing with the City Clerk and Secretary of Planning for the State of Maryland.

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Adopted June 1, 1988
Section III Amended September 26, 1990
Amended March 1997
~~Proposed amendments September 24, 2008~~
~~Proposed amendments December 9, 2009~~
Amended February 24, 2010
Proposed amendments June 23, 2010