



## MEMORANDUM

**Date:** February 11, 2014  
**To:** City Council  
**From:** Bryan Montgomery, City Manager

**SUBJECT:** Report on Item 6.1(a) Regarding Planning Commission

### **Background Review**

This discussion is continued from the January 28, 2014 City Council Meeting. At that meeting a request to bring back information pertaining to Planning related items over the past six months for the purpose of learning how many items recently approved by the City Council would have been subject to a Planning Commission hearing under the current City ordinances.

There were 13 project items that came to the City Council over the past six months and 6 of them would have been eligible for just Planning Commission approval, if a separate Commission had existed. The remaining 7 items would have had to go to the City Council for ultimate approval, whether the Planning Commission reviewed them or not. Here is a summary of these Planning items:

#### **Planning Commission Final Approval**

Brownstone Gardens CUP Amendment  
Oakley Plaza Monument Sign  
Emerson Ranch Design Review  
Gilbert Final Development Plan  
6115 Bridgehead Road CUP  
New Life Church Design Review

#### **City Council Final Approval**

CBH Tentative Parcel Map  
Accessory Structure Ordinance Amendment  
Burroughs Development Agreement  
Gilbert Development Agreement  
Bella Estates Prelim. General Plan Amendment  
Sign Ordinance Amendment  
Cola & Pagano Prelim. General Plan Amendment

Attached is the Staff Memorandum presented at the January 28, 2014 City Council Meeting and Staff seeks further direction regarding the status of the Planning Commission (currently being the City Council), or alternatives to a Planning Commission that may meet the goal of the City Council that further public input be sought on some or all Planning items.

One such alternative that was briefly discussed at the January 28<sup>th</sup> Meeting is the selection of five citizen "Advisory Planning Commissioners" that could be involved very early in the process of some or all Planning items. This could be achieved by the Council appointing Commissioners that would be provided project review information at the same time that other agencies are notified for input (this is generally just 2-3 days after an application is submitted). Like the other reviewing agencies, these Advisory Planning Commissioners would be given a deadline to submit comments that can be addressed one by one by Staff in writing. The comments and

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accompanying comments/action taken by Staff would then be included for the City Council in the agenda packet. This alternative would not require too much additional Staff time and cost, but would still provide an additional citizen review and input to assist the City Council with its decisions on Planning matters.

**Recommendation**

Staff recommends that the City Council review and continue the discussions from the January 28<sup>th</sup> Council Meeting and provide any specific direction to Staff. Direction could include further exploration of alternatives, such as the Advisory Planning Commissioners alternative mentioned above, or the designation of a separate Planning Commission. (Staff does recommend that if a separate Planning Commission is desired, a new ordinance be proposed in lieu of the current ordinance that is out-dated and in many instances unclear).

**Attachment**

1. Memorandum from January 28, 2014 Meeting



Agenda Date: 01/28/2014  
Agenda Item: 6.1a

## MEMORANDUM

**Date:** January 28, 2014  
**To:** City Council  
**From:** Bryan Montgomery, City Manager  
Josh McMurray, Sr. Planner  
Ken Strelo, Sr. Planner

**SUBJECT:** Discussion regarding the Planning Commission

### Background and Analysis

As allowed by State law, the City Council assumed the role of the Planning Commission in February of 2009. At that time the decision to assign the functions of the Planning Commission were budgetary in nature, though the fact that there weren't many planning items on the horizon was also a critical factor. The costs to solicit candidates, select and then train new Planning Commissioners and the Staff costs (Planning, Engineering, Legal and others) are significant. Depending on the frequency of the meetings and the items discussed, the cost of reinstating and operating a new Planning Commission is likely around \$40,000 for the first year and about \$30,000 per year thereafter.

In 2009 the City was in the middle of the national economic recession and the current economic conditions have improved to where the City is currently seeing some increase in development applications and activity. At the time the Planning Commission's role was assumed by the City Council, it was stated that a majority of the project approvals would have required a City Council action after an initial Planning Commission hearing and subsequent recommendation. With a majority of those projects already approved, it is anticipated that a majority of the upcoming and future projects would only require a Planning Commission approval, if it is re-established as a separate body. Some of these project types would include approvals for Conditional Use Permits, Variances, Tentative Maps (Minor and Major), and Design Review. Although these types of projects could be appealable to the City Council, a separate Planning Commission would ultimately have the authority to approve or deny such projects, without ever being seen by the City Council. Staff is not sure that is what the Council desires or intends. Staff has attached part one of *The Planning Commissioner's Book* to provide a more in-depth description of the duties and responsibilities of a Planning Commission.

There are other options available to the City Council that may deserve consideration. Staff has researched other advisory level boards or commissions that assist other cities in reviewing and commenting on development applications. Design Review

Boards or Planning Advisory Committees are other ways to get community input without the formal structure and cost of a separate Planning Commission. Typically, these types of groups have less decision making authority, but still have the ability to raise questions and comment on project and design related issues during the public process. An idea that would also save time and money would be to have a City Council Planning Subcommittee that would "staff" meetings with the citizen advisory committee and be able to report back to the full Council the input when the items are on the City Council Meeting agenda.

Over the past few years the City Council has discussed the need to identify financial and functional thresholds to consider re-establishing the Planning Commission as a separate body and this was further identified as Action Item 2.h. in the 2012-2014 Strategic Plan. Staff has conducted the analysis and doesn't believe there are enough items on the horizon to warrant a separate Planning Commission, especially if the City Council would still want to weigh in on the likely matters to come forward (Conditional Use Permits, Variances, Design Review, etc).

The key options to consider appear to be the following:

- ♦ Continue with the City Council acting as the Planning Commission
- ♦ Re-establish the Planning Commission as a separate body
- ♦ Form a Design Review Board or similar Planning Advisory Committee

Some critical areas of analysis of these options include at least the following:

- ♦ Increase in Staff time
- ♦ Increase in staffing levels for the Planning Department
- ♦ Additional operational costs (Engineering, Building, City Attorney, City Clerk)
- ♦ Training of Commissioners
- ♦ Re-evaluating the approval authority of discretionary projects
- ♦ The need for a separate decision making body (i.e. alleviate the need for Planning Items on the City Council agenda)

### **Recommendation**

Review the various issues related to the City Council continuing to serve as the Planning Commission, creating separate Planning Commission, or some alternative advisory body.

### **Attachments**

1. *The Planning Commissioner's Book: Part One*



## Part One The Planning Commission

### Four Basic Questions

#### *1. What is the planning commission?*

It is a permanent committee of 5 or more citizens who have been appointed by the city council (or the mayor in some cities) or county board of supervisors to review matters related to planning and development. A commission holds public hearings on a regular schedule (in some jurisdictions, as often as once a week) to consider land use matters. These include such things as the local general plan, specific plans, rezonings, use permits, and subdivisions. Commissioners serve at the pleasure of the council or supervisors, so commission membership changes in response to changes in those bodies.

The commission is the city council's or county board of supervisors' advisor on land use planning. The council or board may choose to follow the recommendations of the commission or not. Accordingly, they may reverse or modify commission actions or send proposals back to the commission for further review. In addition, commission decisions are subject to appeal to the council or board. The council and board have the final say in all city and county matters, respectively.

Because the commission focuses on planning issues, it is a valuable intermediary between the public and the city council or county board of supervisors. When matters run smoothly, the commission has a low profile. However, when there is a controversy, it is there, in the thick of things, doing its best to sort through the facts and make a good decision.

#### *2. Why have a planning commission?*

The idea of appointing a group of laymen to make decisions and recommendations about land use planning originated at the turn of the century. Government reformers, seeking to take local government out of the hands of party "machines," reorganized administrative procedures in an attempt to reduce political influence on decisions. One solution was to create a planning commission, made up of appointed citizens, that would be responsible for setting the community's development direction.

California law does not require each city and county to have a planning commission. Nonetheless, almost all do. In those jurisdictions that don't, Kern County for example, the city council or county supervisors considers planning matters directly. On the other hand, some jurisdictions, such as Sacramento County, think that planning commissions are so useful they have two.

#### *3. How does it relate to the planning department?*

The city or county planning department is the commission's research staff. The planners can advise the commission on the general plan, specific plans, zoning ordinance, subdivision ordinance and other land use regulations. In addition, they provide background information and recommendations on the proposals that are under the commission's consideration, answer technical questions, and make sure that meetings have been

properly advertised in advance. A planning department staff member will always be in attendance at commission meetings. Other attendees may include representatives of the city attorney's or county counsel's office and of the public works department.

#### **4. What does it do?**

Cities and counties "plan" in order to identify important community issues (such as the direction of growth, housing needs, and environmental protection), project future demand for services (sewers, roads, fire protection, etc.), address potential problems (such as overloaded sewers or crowded roads), and establish goals and policies for directing and managing future development.

The city council or county supervisors may assign any or all of the following tasks to its planning commission (Government Code sections 65103, 65401, 65402):

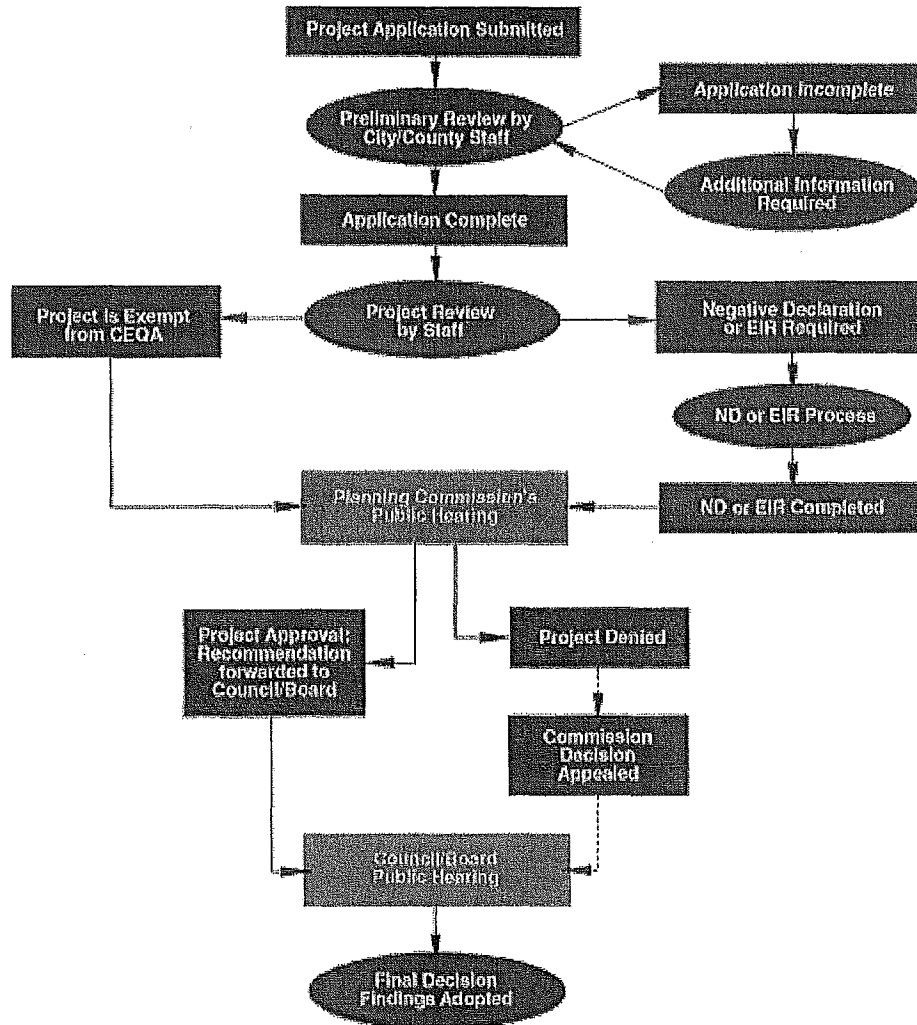
- Assist in writing the general plan and community or specific plans and hold public hearings on such plans;
- Hold hearings and act upon proposed amendments to the general plan and community or specific plans;
- Hold hearings and act upon proposed changes to the zoning ordinance and zoning maps;
- Hold hearings and act on tentative subdivision maps;
- Annually review the jurisdiction's capital improvement program and the public works projects of other local agencies for consistency with the general plan;
- Promote public interest in the general plan;
- Consult with and advise public officials and agencies, utilities, organizations and citizens regarding implementation of the general plan;
- Coordinate local plans and programs with those of other public agencies;
- Report to the legislative body on the conformity of proposed public land acquisition or disposal with the adopted general plan; and,
- Undertake special planning studies as needed.

Commissioners can learn about their commission's particular responsibilities by asking the planning department and referring to their local zoning and subdivision ordinances.

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Figure 1

### **Development Project Flow Chart**



**Note:** Local procedures may vary. Negative Declaration and EIR documents vary in processing time.

## Meetings

The planning commission holds meetings -- lots of them. State law requires public hearings before planning actions are taken. At its regularly scheduled hearings, the planning commission weighs planning proposals in light of state and local regulations and potential environmental effects and listens to testimony from interested parties. If necessary, the commission may continue a hearing to a later time to allow more information to be gathered or to take additional testimony. The commission usually considers several items at each hearing; considering each proposal separately and taking action before moving on to the next item on the agenda.

Depending upon local ordinance provisions, the commission's decision on a project may be: (1) referred to the city council or board of supervisors as a recommendation for action (this is common for general plan amendments and rezonings); or (2) considered a final action unless appealed to the council or board (this is common for subdivisions, variances, and use permits). The council or board will hold a noticed public hearing on the projects referred to it by the commission (or received on appeal).

Pursuant to the Ralph M. Brown Act (Government Code section 54950), all meetings, including study sessions and workshops, must be open and public. This means that a quorum of commissioners can only discuss commission business in a public meeting. Furthermore, meeting agendas must be posted at least 72 hours in advance and topics are limited to those on the agenda. For more information on the Brown Act see *California Land Use and Planning Law*, by Daniel J. Curtin, Jr., and *Open and Public: A Users Guide to the Ralph M. Brown Act*, published by the League of California Cities.

## Notice

In counties and general law cities, the planning commission must publish advance notice of general plan, specific plan, zone change, conditional use permit, variance, and subdivision public hearings in a newspaper of general circulation. Notice of proposed general plan and specific plan adoption or amendment must be mailed directly to the involved property owners. When a zone change, conditional use permit, variance or subdivision is involved, notice must also be mailed to the owners of property within 300 feet of the project boundaries. Charter cities may adopt different notification procedures than the above.

## The Chairperson

The commission chairperson is responsible for making sure that meetings proceed in a fashion conducive to rational decisionmaking. The chair must be familiar with the commission's procedures and with the agenda items to be discussed at each meeting. The chairperson sets the tone of the hearing, keeps the discussion on track, encourages fairness, moderates and contributes to discussions, and helps direct testimony to the issues at hand. The chairperson will usually:

### Open the meeting.

- Explain why the meeting is being held.
- Review the agenda and note any changes thereto.
- Review the procedures, rules and time limits to be in effect.

### Moderate discussion.

- Describe, or ask staff to describe, the item to be discussed.
- Ask that speakers identify themselves and take turns when giving testimony.
- Ask speakers to limit themselves to new testimony.
- Ask that commission members wait to be recognized prior to speaking.
- Intervene when necessary to prevent more than one speaker from talking at one time.
- Ask staff for information or clarification, as necessary.
- Intervene when speakers ramble or get away from the issues.
- Close the meeting to testimony prior to deliberations.

### Lead deliberations.

- Summarize the issues.
- Ask for input from the commission as a whole.



- Ask for more information from staff if necessary.
- When commissioners disagree, assist them in expressing their various concerns.
- When a motion is proposed, make sure that it is stated understandably and in full before a vote is taken.
- Encourage the commissioners to make timely decisions.
- Make sure that findings are adopted when required.

## An Important Lesson - "Be Prepared"

Prior to every hearing, each of the commissioners should have reviewed the items on the meeting agenda. This means reading the staff report and environmental assessment document, looking at the general plan and zoning ordinance sections pertinent to the particular project, and asking questions of the planning staff when necessary.

At the hearing, commissioners should be able to both ask and answer questions about the project, its relationship to the general plan and to the zoning or subdivision ordinances, and its potential impacts on the community. If legal questions arise, don't be afraid to ask the city attorney or county counsel for his/her opinion. Don't take legal advice from anyone but the city's or county's own lawyer.

## Recipe for an Effective Planning Commission

Effective planning commissions share certain qualities. These include:

- **Ability to focus on the subject under consideration.** Focusing means not being distracted by personalities, groups or issues that do not have anything to do with the agenda item being discussed.
- **A clear view of the big picture.** A good commission has the aggregate ability to identify the main points of an issue and to concentrate on addressing those. Keeping the big picture in mind is important so that the commission doesn't bog down in excessive attention to minor detail.
- **Established rules for conducting meetings.** These needn't be as formal as Robert's Rules of Order, but they should define the responsibilities of the chairperson, the other commissioners, and the staff. They should also establish the rules for testimony, such as the length of time available, speaker identification, etc.
- **Effective leadership.** An effective chairperson assists the flow of ideas and helps keep the proceedings on track.
- **Informed commissioners.** Prior to the hearing, commissioners should have read the staff reports, reviewed the pertinent sections of the general plan, zoning ordinance or other codes, and looked through the environmental assessment pertinent to each agenda item.
- **Attention to legal requirements.** A commissioner must keep basic legal requirements in mind. Among them: Is the proposal consistent with the general plan? Does it meet all applicable zoning or subdivision ordinance requirements? Are the environmental impacts of the project, if any, being reduced or eliminated by the conditions of approval? Is the commission's decision supported by findings of fact based on substantial evidence in the record? When in doubt, ask the city attorney or county counsel for their advice.
- **An open flow of ideas.** The chairperson and the other commissioners share responsibility for seeing that there is a continuing flow of ideas and discussion among all parties, including applicants, staff, members of the public, and the commissioners themselves. Be objective and ask questions.
- **A sense of pace.** The chair should be able to recognize that point in time at which testimony must be closed off so the commission can deliberate. Commissioners should hold their motions until the discussion

has reached its conclusion. Both the chair and the other commissioners should know whether to continue a hearing or to make a decision.

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## **The Commissioner's "Survival Kit"**

Commissioners should bring the following to every meeting:

- The meeting agenda.
  - Staff reports and environmental documents for each of the projects to be considered.
  - A copy of the general plan.
  - A copy of the zoning ordinance.
  - If subdivisions are to be considered, a copy of the subdivision ordinance.
  - A pad of paper and pencils.
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State of California

### **Governor's Office of Planning and Research**

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