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City of Burlingame

Planning Commission Protocols

Approved by City Council on xxxxxxxx

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1. PURPOSE

These Rules of Procedure are adopted pursuant to Burlingame Municipal Code § 3.40.030 to guide proceedings before the Commission. Any failure to follow a specific provision of these rules shall not be grounds for overturning any decision or action of the Planning Commission nor shall any improper admission or rejection of evidence or any other error, irregularity, informality, neglect, or omission as to any matter pertaining to any matter before the Commission, unless the misstep was prejudicial and that the party complaining or appealing suffered substantial injury from that error and that a different result would have been probable if the error had not occurred. There shall be no presumption that the misstep was prejudicial or that injury was done if the misstep is shown.

2. OFFICERS

- a. *Offices.* There will be a Chair and a Vice Chair of the Commission.
- b. *Term of office.* Each officer of the Commission will serve for a one-year term and hold office until the officer's successor is rotated to the office, or the Commissioner's term as Commissioner ends, whichever occurs first.
- c. *Rotation of officers.* Officers will be rotated each year. The rotation order is as follows:
 - i. The Vice Chair becomes Chair.
 - ii. The Secretary becomes Vice Chair.
 - iii. Commissioner who is not an officer, who has served the longest period of time on the Commission, and who has not yet served as Chair becomes Vice Chair.
 - iv. If two or more Commissioners have the same length of service on the Commission are eligible under subpart C above, then the Vice Chair shall be chosen from among them by a random draw.
 - v. If all Commissioners who are not then officers have served as Chair making subparagraph (3) inapplicable, then the Vice Chair shall be the Commissioner whose service as Chair was the most distant in time.
 - vi. A Commissioner eligible under this subpart may decline to serve, in which case the next Commissioners in the rotation process shall be rotated to the offices affected.
- d. *Vacancies.* If an office becomes vacant during the year, rotations for that office shall be made as provided in subpart (c) above at the next regular meeting of the Commission following the occurrence of the vacancy. The persons rotated to new offices when such a vacancy occurs shall serve the balance of the one-year term for the offices; however, if the office that was vacant is the Chair and the term remaining is less than 6 months, then the rotated officers shall serve the balance of the term plus an additional one-year term.

- e. *Duties of the Chair.* The Chair performs the following duties:
 - i. Presides at all meetings of the Commission.
 - ii. Signs correspondence on behalf of the Commission.
 - iii. Performs other duties necessary or customary to office of the Chair.
- f. *Duties of the Vice Chair.* In the event of the absence, disability, or disqualification of the Chair to act as Chair, the Vice Chair performs the duties of the Chair.
- g. *Duties of the Secretary.* The Secretary performs the following duties:
 - i. Executes resolutions of the Commission.
 - ii. In the event of the absence, disability, or disqualification of the Chair and the Vice Chair to act as Chair, the Secretary performs the duties of the Chair.
- h. *Absence of officers.* If none of the two (2) elected officers are able to perform the duties of Chair because of absence, disability, or disqualification, the remaining Commissioners shall elect one of themselves to act as temporary Chair.

3. TYPES AND PLACES OF MEETINGS

3.1 REGULAR MEETINGS

Annually, the meeting schedule is adopted by the Planning Commission and shall be held at the agreed upon date and time in the City Council Chambers of City Hall. Regular meetings of the Planning Commission may be cancelled and/or rescheduled by the Community Development Department as necessary. The Commission may cancel a regular meeting, or may schedule a regular meeting at a different date and time or place within the City than the adopted schedule. The Commission may also adjourn or continue a meeting to such date as the Commission may determine.

3.2 SPECIAL MEETINGS

A special meeting may be called at any time by the Chair of the Planning Commission, by a majority of its membership, or by the Community Development Director. The agenda and information for the special meeting shall be posted at least seventy-two (72) hours before the time of a special meeting in the same manner as a regular meeting of the Planning Commission. The notice shall specify the time and place of the special meeting and the business to be transacted.

3.3 ADJOURNED MEETINGS

The Planning Commission may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment pursuant to the procedures set forth in the Brown Act Government Code Section 54950.

3.4 STUDY SESSIONS

The Planning Commission may hold a study session as part of a regular, adjourned or special meeting. In general, the purpose of study sessions will be to gather information from staff, consultants, or members of the public regarding matters within the purview of the Planning Commission and, at most, provide further direction to staff while not rendering a formal decision or action on a particular matter. When a matter is set for a study session, the time allowed for individual public testimony time limits may be reasonably limited at the discretion of the Chairperson. Public notice for study sessions on specific matters for which public hearings are anticipated in the future shall be given to all interested parties who have requested such notice.

4. HEARING PROCEDURES

4.1 AGENDAS

At least 72 hours before a regular meeting, the Planning Commission agenda shall be posted online on the city website, at City Hall and made available to any person at the Community Development public counter during normal business hours. In accordance with the Brown Act, the Commission may not discuss or take action on any item that did not appear on the posted agenda unless an exception is made, as permitted under Government Code Section 54954.2.

4.2 ORDER OF BUSINESS

The usual order of business at a regular meeting of the Commission will be:

- a. Call to Order.
- b. Roll Call.
- c. Approval of minutes of previous meetings.
- d. Review of agenda.
- e. Public Comment period for items not appearing on the meeting agenda.
- f. Consent calendar.
- g. Items for public hearing or action, or both.
- h. Study session.
- i. Staff/Commission Reports
- j. Adjournment.

The Planning Commission and/or Community Development Director may add additional items, as they deem necessary.

4.3 CONSENT CALENDAR

Items are placed on the consent calendar because either Staff believes that they have little or no controversy or the Commission has directed their placement on the consent calendar for faster consideration and approval. However, an item will be removed from the consent calendar if:

- a. During the public comment period, any interested person requests that the item be removed from the consent calendar.
- b. Any commissioner requests that the item be removed from the consent calendar.

Any item removed from the consent calendar will normally be heard during the public hearing calendar on that evening's agenda in the same order as set on the agenda.

4.4 ORDER OF PUBLIC HEARING AND ACTION ITEMS

The procedure for the conduct of public hearings is generally as follows:

- a. The Chairperson opens the public hearing and Chairperson announces the Item.
- b. City staff provides a presentation and staff recommendation.
- c. Questions of staff by members of the Planning Commission. Comments are not made at this time.
- d. Presentation by the applicant. Applicant and/or applicant representative gives a presentation of the project, The Applicant is given ten (10 minutes maximum. The Chair has the ability to grant additional and/or less time.
- e. Questions of the applicant by members of the Planning Commission. Comments or not made at this time.
- f. The Chair opens the meeting for members of the public to speak. The public may speak for three (3) minutes. If there are more than 10 speakers, the Planning Commission may choose to reduce the time or set other requirements consistent with the Brown Act. The Chair alone has the discretion to implement such requirements. Any changes to the speaker's time or procedures will be clearly stated by the Chair and will apply to all speakers for the item.
- g. The applicant has the opportunity to provide a five (5) minute rebuttal.
- h. The Chair closes the public hearing.
- i. Commission Members deliberate on the item.
- j. If the Planning Commission raises new issues through deliberation and

seeks to take additional public testimony (questions of the public or applicant) the public hearing must be reopened. At the conclusion of the public testimony the public hearing is again closed.

- k. The Planning Commission deliberates and makes a motion.

4.5 RECORDING OF MEETINGS

Hearings will generally be recorded by electronic device and preserved for a period of ten (10) years or as may be otherwise specified by the City Council in its adoption of City-wide records retention policies.

4.6 ACTION MINUTES

Minutes of the Planning Commission will be action minutes. Action minutes include final motions with votes. The minutes will also reflect the names of public speakers. Planning Commission and City staff discussion and comments will not be included in the minutes. Minutes of all meetings are required to be kept by the department. Generally, minutes are provided to the Planning Commission for approval at the next regular meeting.

4.7 QUASI-JUDICIAL PROCEEDINGS

- a. In quasi-judicial proceedings, the Commission sits as the judge and jury, and is required to make recommendations based on the evidence and records presented. Examples of quasi-judicial proceedings heard by the Commission include, but are not necessarily limited to, design review, conditional use permits, variances, and special permits.
- b. Ex Parte Communications. An ex parte communication is a communication made with a Commissioner outside the public hearing with any person except the City staff concerning a quasi-judicial proceeding to be heard by the Planning Commission. This includes the applicant, members of the public, and other Commission and Council members.
 - i. When a Commissioner has an ex parte communication concerning a subject that is the basis of a quasi-judicial proceeding before the Planning Commission, the Commissioner must state for the public record the nature of that communication prior to the Planning Commission consideration of that subject. Commissioners must indicate with whom the ex parte communication was made and provide a brief statement as to the substance of the communication.
 - ii. If written correspondence, such as emails, are sent to a Commissioner regarding an item to be heard before the Planning Commission by any persons except City staff, the correspondence should be sent to City staff to be distributed to the remainder of the Commission and made available to the public.

Correspondences with property owners for the purpose of scheduling site visits do not need to be sent to City staff for distribution.

- c. Deliberations. Commissioners shall not reach any conclusion on an application before the close of the public hearing. The determination of the Commission is to be based on the record presented to the Commission as well as the Commissioners' experience and knowledge of the community. Commissioners are responsible for making their best efforts to articulate the reasons for their determination are discussed on the record and findings made as discussed below.
- d. Site Visits. It is expected that Commissioners will visit the site of a proposed project on an individual basis. Although not expected or required, individual Commissioners may discuss or meet with the applicant or other interested persons, but in no event shall any Commissioner commit to a particular vote or decision before the close of the public hearings on that item. Commissioners are responsible for ensuring the actual integrity of the process and the public's confidence in that process by being even-handed to all interested persons.

4.8 PUBLIC COMMUNICATIONS

- a. Prior to the meeting, or during the meeting prior to the agenda item being reached, persons wishing to address the Planning Commission should fill out a speaker card and submit it to City Staff.
- b. Any person desiring to address the Planning Commission must first be recognized by the Chair. All comments should be made clearly and audibly, and all speakers should first state their full names and the names of any persons in whose behalf they are appearing.
- c. The project applicant shall have a total of fifteen (15) minutes for their presentations. The initial comments or presentation shall be limited to ten (10) minutes and the rebuttal or concluding comments shall be limited to five (5) minutes. The Chair has the ability to grant additional time.
- d. In order to conduct orderly and timely meetings, the Chair may limit the time provided to public speakers to less than three (3) minutes when there are more than ten (10) speakers. Except when necessary for immediate clarification of a particular point, no person shall be allowed to speak a second time on an item.
- e. In order to expedite matters and to avoid repetitious presentations, the designation of a spokesperson is encouraged.
 - i. Whenever any group of persons, all of whom are present, wishes to address the Planning Commission on the same subject matter, the group is encouraged to designate a spokesperson to address the Commission. Each member of the group shall complete a speaker card

in advance of the matter being called and shall note on the card the person whom they wish to have speak on their behalf. By allowing another person to speak on their behalf, each group member shall relinquish their right to speak on the matter.

- f. Persons (other than applicants) who anticipate oral presentations exceeding three (3) minutes are encouraged to submit comments in writing, in advance of the meeting for prior distribution to the Planning Commission.
- g. Decorum. No person shall use loud, profane, threatening, or personally abusive language, or engage in any other disorderly conduct so as to disrupt or otherwise significantly impede the orderly conduct of any Planning Commission meeting. Persons who violate this rule may be barred from attendance for the remainder of the Planning Commission meeting, provided that the Chair has notified the person to conduct him or herself in a manner consistent with this rule and warned the person that they will be removed if they continue to disrupt the Planning Commission meeting. If after notification and warning the person persists in disrupting the meeting, the Chair shall order the person to leave the meeting. If the person does not remove himself or herself, the Chair may request any law enforcement officer who is on duty to remove that person from the meeting room and/or building.
- h. Any person other than a Commissioner desiring to direct a question to a speaker or staff member shall submit the question to the Chair, who shall determine whether the question is relevant to the subject of the hearing and whether or not it should be answered by the speaker or staff member. Direct questioning of speakers or staff members may be allowed in extraordinary circumstances, only at the discretion of the Chair.

4.9 SUPPLEMENTAL PACKETS – PUBLIC COMMENTS

Members of the public who may not be able to attend a meeting or hearing may submit written comments electronically. The written evidence from members of the public not at the meeting shall be sent to the Planning Commission via email before the meeting if received prior to 4:00 p.m. the day of the meeting in a supplemental packet.

- a. Regular Submissions. All materials delivered in advance of the staff report becoming publicly available, must be submitted ten (10) days prior to the Planning Commission meeting. An electronic copy should be sent to publiccomment@burlingame.org which will be provided to the Planning Commission with the agenda packet.
- b. Supplemental Submissions. All materials delivered in response to either the staff report or opposing submissions must be submitted no later than 4:00 p.m. the day of the Planning Commission meeting. Submissions, including exhibits, may not exceed five (5) pages and should be submitted electronically to publiccomment@burlingame.org which will be provided to the Planning Commission in a supplemental packet.

4.10 SUPPLEMENTAL PACKETS – INFORMATIONAL

Additional or revised information may be provided to the Planning Commission after the agenda has been posted in the form of a supplemental packet. The additional or revised information shall be sent to the Planning Commission via email before the meeting up until 4:00 p.m. the day of the meeting in a supplemental packet and made available to the public.

4.11 CHANGES TO AGENDA ORDER

The Chair may, prior to consideration of the Consent Items on the meeting agenda, poll Commissioners on the movement of any items on the agenda to a different order on the agenda.

5 MOTIONS

5.1 MOTION - SECOND

Any member may propose action upon an order, resolution, ordinance or any other action of the Planning Commission by a motion. The Chairperson may make a motion only after all other members of the Commission present have had an opportunity to make a motion. Before a motion can be considered or debated it must be seconded, at which time it shall be on the floor and must be considered. If not seconded, the motion is lost for lack of a second and shall be so declared by the Chairperson.

5.2 FRIENDLY AMENDMENT TO A MOTION

A motion on the floor may be amended at any time before adoption or rejection. When an amendment is offered, the motion maker must agree to amendment, otherwise, a substitute motion should be made.

5.3 SUBSTITUTE MOTION

A substitute motion can be made when another motion is on the floor before adoption or rejection. When a substitute motion is offered, the Planning Commission will debate and take action on the substitute motion before acting on the original motion. If the substitute motion is not adopted, the original motion will then be considered. If the substitute motion is adopted, it replaces the original motion.

5.4 WITHDRAWAL OF MOTION OR SECOND

A motion may be withdrawn by the maker at any time before adoption or rejection.

5.5 TABLING A MOTION

At any time after a motion has been seconded but not *voted* upon, any member may *move* to table it. If tabling the motion is adopted by a majority

of Planning Commission present, it will remain on the floor but may not be considered again at the meeting at which it was made. Instead, the tabled motion will be considered at a future regular meeting of the Planning Commission, the date of which shall be specified in the motion, unless again tabled at that future regular meeting. If not considered at the specific future meeting, it will be deemed lost.

5.6 DISCUSSION CLOSURE AND QUESTION

After a motion has been seconded, any member may discuss or comment on the subject of the motion. The Chairperson will recognize members of the Planning Commission with the desire to speak, beginning with the motion maker, and will protect each speaker from disturbance or interference. When no member wishes to discuss or comment further, the Chairperson shall call for a *vote* on the motion. Any member of the Planning Commission may at any time *move* to close the discussion.

6 DECISION-MAKING

6.1 VOTING

Approval of any motion brought before the Planning Commission shall require the affirmative vote of a majority of the members present and voting, and never less than three (3), unless otherwise specified by law. Resolutions granting or denying design review, conditional uses, variances and other quasi-judicial approvals shall be adopted by a majority of those Commissioners present and voting.

- a. Quorum. Four Commissioners, a majority of the membership of the Commission, constitutes a quorum for purposes of conducting any business of the Commission. However, a meeting may be continued to a new date and time with less than a quorum present at a regular or special meeting of the Commission.
- b. Tie Votes. A tie vote defeats a motion. Unless a subsequent motion is made and adopted, a tie vote on the merits of a planning application before the Commission means a denial of the application. When acting on a recommendation to the Council on legislation, the Commission may forward the results of its discussion to the Council although the Commission was unable to reach a majority vote on a specific recommendation.
- c. Abstentions. Abstentions shall not count as votes for the purpose of determining whether there has been an affirmative vote of a majority of the members present but shall be counted for the purpose of determining whether a quorum is present, unless the member is abstaining because of a potential conflict of interest in the matter at hand.
- d. Manner of Voting. Votes may be taken by voice vote or roll call at the discretion of the Chair. Any Commissioner may request a roll call vote, which shall then be taken. No votes shall be by secret ballot.

- e. Motions Include Staff Recommendations. 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 adopting of all proposed findings, proposed conditions of approval and execution of all related actions recommended in the staff report on file on the matter.
- f. Absentees. A Commissioner shall be eligible to vote on an administrative application even though the Commissioner was absent from a prior hearing on the same application if the Commissioner has listened to the audiotape or if available, the videotape of that prior hearing. A Commissioner is eligible to vote on a procedural matter or legislative recommendation regardless of the Commissioner's attendance at a prior discussion or hearing, without having listened to a tape of the prior proceeding.

6.2 FINDINGS

On any matter for which State law or City ordinance requires the preparation of written findings, the staff report or draft resolution submitted on the matter will contain findings proposed for adoption by the Planning Commission. Any motion directly or impliedly rejecting the proposed findings must include a statement of alternative or modified findings or a direction that the matter under consideration be continued for a reasonable period 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.

6.3 CONSENT ITEMS

Items that require little or no discussion by the Planning Commission may be considered as consent items. The Planning Commission will act on these items in one motion at the beginning of the meeting. Approval by the Planning Commission of consent items means that the staff recommendation was approved along with the findings and conditions set forth in the staff report. Any member of the Planning Commission, the applicant, or members of the public may request that consent items be considered in their regular order on the agenda.

6.4 CONTINUANCES

Upon a showing of good cause and by request of the applicant, City Staff, or member of the Planning Commission, the Chairperson, at the time set for a hearing on a particular item, may, with the concurrence of a majority of the Commission present, order the hearing to be continued to a specified date and time, by roll call vote of all members present.

7 CONSTRUCTION AND EFFECT

7.1 RULES OF ORDER

When there is no provision of these rules of procedure applicable to the particular

question of conduct or order that may arise in the course of such meeting or hearing, the protocols of the City Council shall apply.

7.2 COMMISSIONER AS PART OF APPLICANT TEAM

In order to avoid conflicts of interest and the appearance of conflicts, Commissioners shall not become a part of an applicant team after submittal or after the project has been heard. The Commissioner shall recuse themselves from any item their firm is involved with and allow another member of their firm or applicant team conduct the presentations and hearing discussions with the remainder of the Planning Commission.

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