

When Planning Commission Meetings Go Sideways

How to Get Back on Track!

Focus of the Session

- ▶ How to keep things focused and productive in a Planning Commission meeting
- ▶ **Avoiding taking the meeting off course as a Commissioner.....**
 - ▶ Want to provide input and add value to projects
 - ▶ How to do that productively
 - ▶ What are the four corners of what should be discussed and considered
- ▶ **Responding to the Public and / or Applicant**
 - ▶ Applicant last minute changes
 - ▶ Responding to public requests

► **MODERATOR:**

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Community Development Director
City of Campbell

SPEAKERS:

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Planning Commissioner
City of Santa Rosa

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Case Study

What to Avoid

Setting the Foundations and Bookends

Context: The General Plan

- ▶ The “constitution for future development.”
Legally inadequate general plan leads to vulnerable land use approvals and potential loss of permitting authority.



General Plan: Land Use

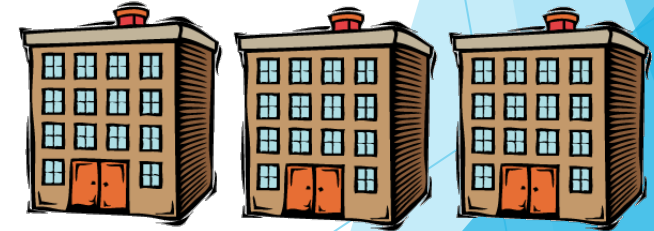
Land Use - designates the general location and intensity of housing, business, industry, open space, education, public buildings and other land uses.



General Plan: Housing

- ▶ Housing - comprehensive assessment of current and projected housing needs for all economic segments of the community. The only element the State requires updated every 4, 5, or 8 years - must be submitted and approved by the State.
 - ▶ The State of California is very involved in housing, taking many options away from local governments

HOUSING

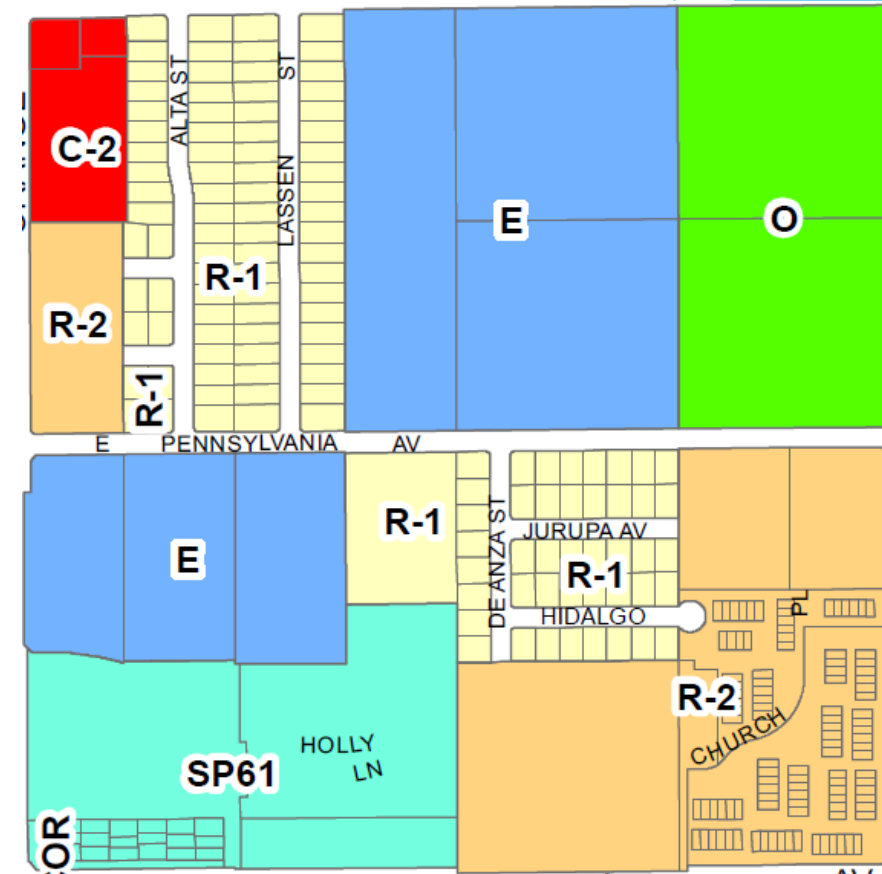


Context: Zoning

- ▶ “[Z]oning is a separation of the municipality into districts, and the regulation of buildings and structures, according to their construction, and the nature and extent of their use, and the nature and extent of the uses of land.”
(*O’Loane v. O’Rourke* (1965))

Zoning

- ▶ The distribution of residential, commercial, industrial, and other zones must be based on the pattern of land uses established by the General Plan.
- ▶ Zoning maps illustrate how all uses are distributed geographically.



Zoning (Continued)

- ▶ Goal of Zoning: Ensure that neighboring land uses are compatible.
- ▶ Example: Residential uses are generally not compatible with heavy industrial uses or hazardous materials, and should be separated.
- ▶ Designation of a zone does not confer an unconditional development right, and zoning designations are subject to change.

Zoning (Continued)

- ▶ Each piece of property to a zone which describes the rules under which that land may be used.
- ▶ Each zone identifies allowable uses and lets standards such as minimum lot size, maximum building height, and minimum front yard depth.



Specific Plans

- ▶ Specific Plans are optional, and are often used for larger areas.
- ▶ At a minimum, the Specific Plan must include a statement of relationship to the General Plan.
- ▶ Often used for unique planning challenges, master plans, or opportunities.

Entitlements

- ▶ Land use approvals required for final development of property, as permitted by the development code.
- ▶ Must be understood in the context of the General Plan and development code, as consistency with these is required of every entitlement.
- ▶ May be discretionary or administrative.
- ▶ Development Permits, Conditional Use Permits, Subdivisions, Planned Development or Concept Plan, etc.

PC Hearings are Quasi-Judicial

- ▶ The Planning Commission's role is to apply existing law to determine specific rights based upon facts ascertained from evidence presented at a hearing.
- ▶ Similar to a panel of judges in a court proceeding, hearing all of the relevant evidence and then applying the law to reach a conclusion with respect to the specific facts of the case.
- ▶ The applicants and others directly affected by the decision are entitled to due process and a fair hearing.

Due Process

- ▶ Public agencies must afford due process before depriving a person of a recognized property or liberty interest.
- ▶ Judge the application based on evidence presented.
- ▶ Advanced notice and a meaningful opportunity to be heard and rebut matters during the proceeding.
 - ▶ Interested parties must be informed of any legal action that affects their rights or interests.

Due Process (Continued)

- ▶ Fair treatment of applicants and impartial decision-makers in quasi-judicial proceedings.
 - ▶ Actual fairness and the appearance of fairness required
- ▶ Decision-makers of the City to remain neutral and unbiased.
- ▶ Best practices for Commissioners during hearings:
 - ▶ Come prepared.
 - ▶ Pay attention.
 - ▶ Keep an open mind.

Fair Hearings/Bias

- ▶ Decision-makers subject to disqualification for bias, prejudices, or personal interests in the proceeding.
- ▶ Courts presume decision-makers are unbiased unless established otherwise.
- ▶ Proof of actual bias not required if an unacceptable probability of actual bias is established through objective evidence.
- ▶ Abstention from decisions.

Ex-parte Communications

- ▶ Ex parte communications can give rise to due process challenges
 - ▶ Refrain from making any pre-hearing commitments about your voting decision.
 - ▶ Maintain compliance with Brown Act
- ▶ Recommended disclosures at the start of hearing to ensure due process:
 - ▶ Relevant information received from any source with sufficient detail to ensure interested parties can appropriately respond
 - ▶ Site visits prior to the hearing
- ▶ Ensure all decisions based on evidence in the record

Before the Meeting - Be Prepared

- Read all of the information
- Make site visits
- Meet with applicant and/or neighbors
- Ask questions of staff

Commissioner Tips and Feedback

During the Meeting - Be Engaged

- Be respectful
- Keep an open mind
- Pay attention to your fellow commissioners and comments from the public
- Help out your chairperson

After the Meeting

- Defend your Commission's decisions, even if you did not vote with the majority

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Scenarios

Q&A

Thank You!