



PLANNING COMMISSION:
*Roles, Responsibilities and
Restrictions*

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Jolie Houston – Los Altos City Attorney
Nick Zornes – Los Altos Development Services Director



Source of Powers – Charter Cities

City Charter - Commissions: Intent and Purpose

- Except as otherwise provided in this Article, the appointive commissions established by or pursuant to a Charter are intended to serve as *advisory bodies to the Council* and the City Manager in carrying out their respective duties.
- "*Advisory*" means making recommendations, not setting policy.



Source of Powers

- City Charter
- City Code
- Government Code – Sections 65100 & 65103
- Commission Handbook is usually not a source of power- it is a *reference* manual



Source of Powers – Charter Cities

City Charter –

The Council may:

- Created by *ordinance* such advisory boards or commissions as in its judgment are required; and
- Grant them such powers and duties as are consistent with the provisions of the Charter.

Sources of Power – Charter Cities *and* State Law

In addition to the powers and duties of the individual commissions as outlined in a Charter –
Planning Commission must also follow:

- State Law
- City Code
- Ethics Laws



Sources of Power – State Law (Govt. Code Section 65100-65101)

State Law requires a planning agency to carry out the purpose of the State Planning Laws.

The City Council shall by ordinance:

- Assign the functions of the planning agency to the planning department.
- Specify the number of Commissioners (at least 5).

Sources of Power – State Law (Govt. Code Section 65103)

The Planning Commission shall have the following State Law general powers, duties and responsibilities:

- Prepare, periodically review, and revise, as necessary, the general plan.
- Implement the general plan through actions including, but not limited to, the administration of specific plans and zoning and subdivision ordinances.

Sources of Power – State Law

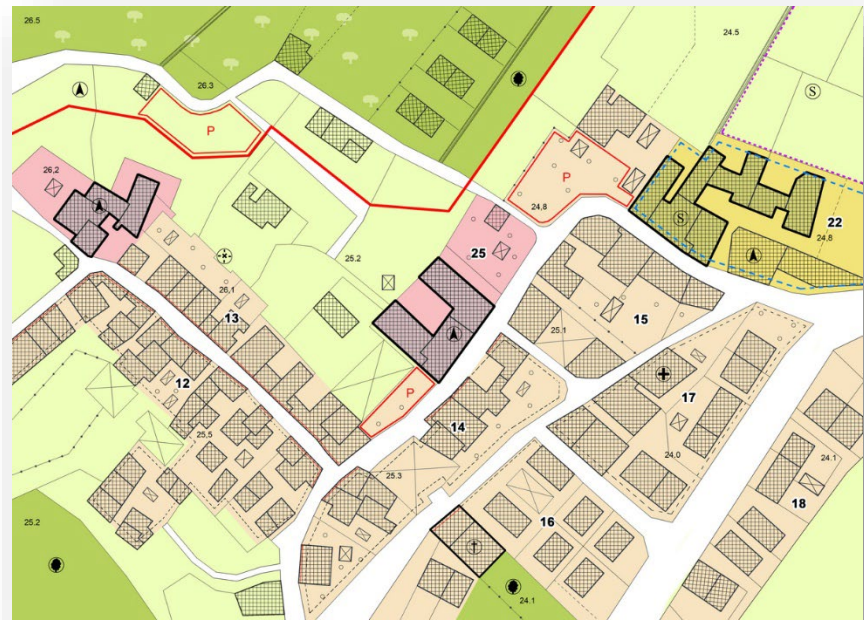
- Annually review the capital improvement program (CIP) of the city or county and the local public works projects of other local agencies for their consistency with the general plan.
- Endeavor to promote public interest in, comment on, and understanding of the general plan, and regulations relating to it.

Sources of Power – State Law and City Code

- Consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens generally concerning implementation of the general plan.
- Promote the coordination of local plans and programs with the plans and programs of other public agencies.
- Perform other functions as the legislative body provides, including conducting studies and preparing plans other than those required or authorized by State Law.

Planning Commission's Role

- Advise the City Council on the following:
 - General and Specific Plans and Zoning
 - Conditional Use Permits (CUPs)
 - Variances
 - Subdivisions
 - Historic resources
 - CEQA



Planning Commission's Role

The Planning Commission reviews projects in *two* ways:

Quasi-Legislative body

- General Plan, Specific Plan and Zoning
- Findings not required
- Make Recommendation to City Council
 - Action is not final until adopt by the City Council



Planning Commission's Role

Quasi-Judicial

- CUPs
- Variance
- Design Review (*new housing laws have restricted this role)
- Findings required
 - Objective
 - Subjective
 - HAA, SB 330 and SB 35



Commission Action

- Planning Commission acts as a body.
- Accomplished through a majority of the body voting on a matter.
- Majority of the full body (3 of 5) OR (4 of 7)



Commission Action

- May be a final action-
 - CUP or Variance
 - Findings are required
 - Usually appealable to City Council
 - Findings explain the Commission's action



Commission Action

- Commissioner's statements or comments are *not* direction – must be IN the motion.
 - Contained in the Project Conditions of Approval
- Previous Commission actions (ordinances, resolutions, policies) remain in effect until changed by a subsequent vote of the Council or Commission.
- Planning hearing require public hearings
 - Notice and opportunity to be heard
 - Due process

Commission Action

- Commissioners are not policy makers.
- Commissioners should refrain from making land use decisions based solely on economics, personal judgment and/or opinion.
- Commissioners should only consider projects that come before them in the normal review process or are their approved work plans.
 - Going outside normal scope of its review, the commission creates unnecessary work for planning staff

CONFLICTS OF INTERESTS

Political Reform Act

- Having a conflict of interest does not mean you did something wrong.
- Requires that public officials / City Councilmembers or Commissioners should not make, participate in making or attempt to use his/her official position to influence a governmental decision if he/she knows they have a financial interest.

CONFLICTS OF INTERESTS

Political Reform Act

- Requires public official to file financial disclosure (Form 700).
 - *Disclosure* requirements (\$50).
 - *Disqualification* requirement.



TYPES OF CONFLICTS

- Source of income-
 - \$500 within 12 months prior to decision.
- Interest in real property-
 - Direct or indirect interest of \$2,000.
 - Month to month tenancies not considered.
- Business entity investment-
 - Direct indirect investment of \$2,000.
- Employee/manager of business entity-
 - Director, officer, partner, position of management.
- Gifts-
 - \$590 total within 12 months of decision.



OWNERSHIP OF REAL PROPERTY

Could the decision affect the value of real property located within 500 feet of the official's property line.

*NEW rule: AKA DONUT RULE

Now there is a presumption that:

A decision involving property within 500 feet of an official's property will have a material impact on the official's interest.

OWNERSHIP OF REAL PROPERTY

- For decisions involving property located between 500 and 1,000 feet from the official's property, whether the decision creates a conflict now depends on a number of factors:
- Would it change the parcel's development potential, income-producing potential, highest and best use, market value, or,
- Would it would change the parcel's "character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality."

Recusal

- Publicly identify the financial interest.
- Refrain from discussing it and/or voting on it.
- Step down from the dais and leave the room- *except*
 - Consent items (must id conflict).
 - Personal interest.
 - ✓ Cannot participate in closed session.
 - ✓ Disqualified member doesn't count towards the quorum.
 - ✓ Contact the City Attorney early!

Ethical Rules

- *Perception* is as important as reality.
- FPPC rules are the minimum - what you "must do."
- Ethics - what you "ought to do."
- Common law conflicts.
- Due process and fair hearings.
 - Public expects you to be impartial and avoid favoritism.
 - *Ex parte* contacts.
- Ex parte disclosures.
- Abstentions – duty to vote (counted towards quorum- not vote).

QUESTIONS?



Contact

Jolie Houston, Esq.

Jolie.houston@berliner.com

408.286.5800