

Planning Commission Handbook

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Community Development Department

PO Box 1995

Vancouver, WA 98668-1995

www.cityofvancouver.us

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The Role of the Planning Commission

The Planning Commission is an independent review body of local citizens that provides recommendations to the City Council on changes to the City's Comprehensive Plan and Land Use and Development Code (Title 20 of the Vancouver Municipal Code). This includes formal review via a public hearing process on Comprehensive Plan map and text changes and zoning code map and text changes, as well as subarea and district plans that will be adopted by reference into the Comprehensive Plan. The Planning Commission also provides informal and advisory review via public workshop on a variety of studies, analyses, reports and plans related to land use matters.

The Planning Commission is tasked with considering the long-term growth and development of the community, and the impact of land use decisions on community livability, safety, economic opportunity, efficiency, housing affordability, public services, the climate and environment, and achieving equitable outcomes for different groups within the community. The Commission brings along term community perspective to land use policy and is responsible for maintaining an accessible process that informs and educates the public.

Excerpted from the Washington Short Course on Local Planning Resource Guide. For more information: www.commerce.wa.gov/serving-communities/growth-management/short-course/

New to the Planning Commission? FAQ's

Serving on the Planning Commission is one of the most rewarding ways you can serve your community. As a commissioner, you will help set the long-term direction or vision for your community's future. Although the planning commission is an advisory body which rarely makes final decisions, it is one of the most important groups in local government. In recent years, growth management and environmental legislation have emphasized the importance of land use issues.

You will be advising your community on these issues through adoption or amendment of the comprehensive plan, and will help implement its subdivision, zoning, and shoreline regulations. You may review applications for individual projects ranging from mobile home parks to shopping centers. New Planning Commissioners must get up to speed quickly on the structure of local government and the laws and procedures that govern their actions.

Following are the answers to 4 questions that are commonly asked; we suggest you read them before conducting your first public meeting.

1. Who are the key actors in the planning process and what do they do?

Three groups have key roles:

1) City Council

City Council appoints Planning Commission members and has ultimate decision-making authority for all land use planning issues.

2) Planning Commission

The Planning Commission makes recommendations to the City Council for changes and updates to the comprehensive plan and the zoning code.

3) City Staff

City staff provide technical and policy expertise to the Planning Commission and City Council to help guide their decision-making. This includes communicating decision making criteria, providing an analysis of how a proposal relates to the criteria as well as overall policy priorities. City staff and the Planning Commission work together to develop clear and complete recommendation to the City Council, including the record of analysis and deliberations.

2. Can you tell me more about the planning commission?

In Washington State, a planning commission is an advisory body appointed by the city council or board of county commissioners to provide advice and recommendations on land use issues at the local level.

Although the key word here is advisory and planning commissions don't normally make the final decision, it is probably one of the most important bodies in local government.

3. I've been on the planning commission for a while now, and I'm still not clear on the difference between our "legislative" and "quasi-judicial" activities.

Everything you do as a planning commissioner will fall into one of these two categories. It's important to be clear on the difference, because when you're operating in a quasi-judicial mode, you're subject to the Appearance of Fairness Act.

Some basic definitions:

First, a **legislative action** is one which will affect the entire community, not just an individual property owner or single piece of land. Examples include updating or revising your community's comprehensive plan and adopting zoning code text amendment ordinances. When you change the community's comprehensive plan or zoning code, the rules change for everyone. No one is seeking or being granted special consideration.

A **quasi-judicial action** is one in which you're sitting "like a judge," evaluating a specific case or proposal submitted to you by individual parties. Examples include applications for variances, special use permits, and subdivisions. In each case, you are being asked to make a decision that affects an individual (or family, partnership, or corporation), but not the entire community. You are acting like a judge, weighing the merits of an individual case before the court. Guilty or not guilty? Grant the variance or deny it?

When you're dealing with these individual applications and project proposals, you are held to very high levels of scrutiny. These are contained in the **Appearance of Fairness Doctrine** (see Chapter 2 for a detailed discussion). Basically, all of your actions when you are in your quasi-judicial role must not only be fair in fact but must appear fair to the average person.

The question you must ask yourself is: Would a disinterested person, apprised of the totality of your personal interest or involvement in the matter which the planning commission is considering, be reasonably justified in thinking that your involvement might affect your judgment in reaching a decision?

4. What should we be doing, as far as record keeping goes?

At Planning Commission meetings, staff take minutes of the major issues and decisions.

All Planning Commission meeting audio is recorded and posted to the meeting website. Additionally, all meeting materials are posted to the City website on the corresponding meeting page. If one of your decisions is appealed, you must produce a word-for-word (“verbatim”) transcript of the hearing for the reviewing court. If you can’t provide this verbatim transcript, the court may order you to re-hear the issue.

To produce accurate, word-for-word meeting transcripts that will stand up on appeal, have speakers identify themselves each time they speak.

The Chair must control the testimony and discussion: Allow only one speaker at a time.

If the meeting is packed with a large group organized to support or oppose an application, the Chair should limit redundant testimony to save time. Members of the group should be instructed to state that they agree with the previous speakers’ testimony. Each participant’s testimony is limited to a maximum of 3 minutes.

If any members of the public become unruly or obnoxious, the planning commission can expel them. If the meeting still cannot be controlled, it can be adjourned to a different place and time.

Before closing a hearing to further testimony, be sure both sides of the issue have adequate time and opportunity to present their cases and arguments. Regardless of public sentiment in your community, the applicant is always entitled to a fair hearing.

Practical Tips for the Planning Commissioner

Paraphrased and excerpted from the [City of San Mateo Planning Commission Handbook](#) (rev. 01/06/14).

- 1. Become Familiar** with the Comprehensive Plan and Zoning Code – These documents provide the basis for many of the decisions you will make. Be aware of their contents. The zoning code is located in Title 20 of the Vancouver Municipal Code (VMC) and is often referred to as simply “Title 20.”
- 2. Read Your Packet** – A staff presentation will be made for each item on the Planning Commission’s agenda. However, the full details of a project or study can only be ascertained by a review of the packet material.
- 3. Visit Project Sites** – Frequently, visiting a project site can give you a much better understanding of the particular site conditions adjacent uses, and other relevant information about a specific project before the Planning Commission. Become familiar with the project, then visit the site.
- 4. Know All Sides of an Issue Before Forming an Opinion** – Review all staff material, related correspondence and consider all testimony given the night of the meeting before forming an opinion.
- 5. Rely on Facts, NOT personal Opinions** – This can be hard, but it is very important. For example, if someone tells you the Smith rezone is unwise, that is not a good reason to oppose it. If, however, staff recommendations or public testimony show it would be spot zoning, or violate the comprehensive plan, then you have a factual basis for a decision. Sometimes an issue is directly related to where you live or work giving you an added perspective in developing your opinion, but your role and decisions are based on the relevant decision criteria and for the city as a whole.
- 6. Use the Chair to Keep the Meeting Orderly** – Do not have extended one on one conversations with the applicant or public. Use the chair to direct questions and comments as appropriate. Extended dialogue and debate between a Planning Commissioner and an individual member of the public (or applicant) is inappropriate and makes it difficult for to have an orderly meeting.
- 7. Take Part in Debate** – As a rule, the quality of the Planning Commission's decision-making is improved when all members contribute to the discussion. Also, taking part in discussion lets other Planning Commissioners know a person's analytical and problem-solving strengths (and weaknesses!).
- 8. Ask Questions** – You've heard the expression, "there's no such thing as a dumb question." Well, it's true. If you don't ask, who will? If you don't know, how else will you find out? Don't leave your education on an issue up to chance; take the initiative and find out.
- 9. Seek Solutions - Be a problem-solver** – Contribute to debate in a way that will lead to solutions, and not merely add to the difficulty or complexity of a situation.
- 10. Focus on Issues, Not Details** – Details are important, but don't get lost in them while trying to resolve an issue. Sometimes it's more comfortable to deal with details when an issue is particularly thorny or difficult but doing so will not produce answers. You should always strive to understand the essence or substance of the matter you are addressing.

- 11. Respect Your Peers** – There is no rule that says Planning Commissioners have to be friends (although that many times occurs), but relationships should be courteous and professional and each member’s questions and comments should be respected. When a member directs a question to staff, let the staff member respond, even though you may believe you already know the answer.
- 12. Use the Staff** – Staff provides technical assistance. Don't ask staff to make a decision for you; instead, get from them the facts and other information you need to make the best decision you can.
- 13. Utilize Decision-Making Criteria** – Code specifies the specific criteria that should be used to make decisions, and staff reports contain information that address that specific criteria. Use this information to guide and shape your decision and explain how your decision responds to it. If you don’t agree with the criteria, state that clearly, so that the public and applicant understand why you made your decision. These deliberations are essential to providing councilmembers and the public with a context for why recommendations are made.
- 14. Dealing with Staff** – Don't surprise staff members at a meeting with critical comments. For example, if you have problems with a staff report that appears biased or wrong, contact the staff member beforehand and work out the problem. It is important to maintain a good working relationship with staff and enhance the quality of the dialogue and work of the commission at its meetings.
- 15. Being a Planning Commissioner Takes Lots of Time** – The time you actually spend at meetings is only a small part of the time it takes to be a good Planning Commissioner. Be prepared to spend a considerable amount of time remaining informed, active, and engaged as a Planning Commissioner.

Vancouver Planning Commission Bylaws

This document references the Bylaws adopted by the Vancouver Planning Commission July 24, 2018. Copies of the legal document adopted by the Planning Commission can be obtained by contacting: Julie Nischik at (360)487-7813 (Voice/TTY 487-8602), julie.nischik@cityofvancouver.us

ARTICLE I – NAME

Section 1. Name: The official name of the organization shall be the City of Vancouver Planning Commission as provided by Article VIII, Section 8.01 of the Vancouver City Charter.

ARTICLE II – OFFICIAL SEAT

Section 1. Official Seat: The official seat of the Planning Commission shall be in the City Hall of Vancouver, Washington, and meetings shall be held there except on such occasions and at such times as the Commission may, by a majority vote of those present at any regular, recessed or special meeting, otherwise direct, unless otherwise provided by law.

ARTICLE III – OFFICERS

Section 1. Officers: The elective officers of the Planning Commission shall consist of a Chairperson and Vice-Chairperson. The Long Range Planning Manager and his/her assistants shall provide professional services to the Commission, including performing the functions of secretary.

Section 2. Nomination and Election of Officers: Nomination of elective officers shall be made at the annual election meeting. The election shall follow immediately thereafter. A nominee receiving a majority vote of those present at the election meeting shall be declared elected.

Section 3. Terms of Officers: The elective officers shall take office at the first regular or special meeting in January and shall serve for a term of one year.

Section 4. Vacancies in Offices: Vacancies in elective offices shall be filled as soon as practicable by regular election procedure for the unexpired portion of the term.

Section 5. Duties of Officers:

- A. Chairperson: The duties of the Chairperson shall be
 1. preside at all meetings and public hearings of the Planning Commission and call special meetings when deemed necessary or required.
 2. appoint all committees, and shall be an ex-officio member of each, without power to vote.

3. sign all official papers and plans involving the authority of the Planning Commission.
 4. appoint a mentor to assist newly appointed Planning Commissioners and participate in their orientation or assign other Commissioners as appropriate.
 5. The Chairperson shall have the privilege of discussing all matters before the Planning Commission, making of motions, and voting thereon and shall perform such other duties as may be ordered by the Planning Commission except as otherwise provided in these Bylaws, in other Planning Commission resolutions, City Ordinances, or state laws.
- B. Vice-Chairperson: The Vice-Chairperson shall assume the duties and powers of the Chairperson in his/her absence. If the Chairperson and Vice-Chairperson are both absent, the Planning Commission members may elect a temporary Chairperson by a majority vote of those present at a regular, recessed or special meeting, who shall assume the duties and powers of the Chairperson and Vice-Chairperson during their absence.

ARTICLE IV – MEETINGS

Section 1. Regular Meetings: Time and Place: Regular meetings shall be held on the second and fourth Tuesday of every month. The fourth Tuesday will serve as the primary meeting date and the second Tuesday as a supplemental meeting date. When a regularly scheduled meeting falls on a holiday, the meeting shall not be held. Whenever a regularly scheduled meeting conflicts with a meeting of the City Council, the meeting shall be held on the next available regular or special meeting date. Planning Commission has the ability to vote to continue the meeting to the next available date.

Section 2. Recessed Meetings: Any regular meeting may be recessed to a definite time and place by a majority vote of the Planning Commission members present at the meeting as provided by R.C.W. Chapter 42.30.

Section 3. Special Meetings: Special meetings may be called by the Chairperson, or by a majority of the members of the Commission.

Section 4. Notice of Meetings: Written notice of all regular and special meetings shall be given by the Long Range Planning division to the members of the Planning Commission. Notice of all regular meetings shall be provided to all interested parties as required by RCW 42.30 (Open Public Meetings Act), VMC 20.210 (Decision Making), and other applicable regulations or postmarked at least four days (96 hours) prior to the meeting. Notice of all special meetings shall be postmarked at least four days (96 hours) prior to the meeting. The notice shall state the time and place of the meeting and shall be accompanied by an agenda of the matters to be considered by the Planning Commission at such meeting.

Petitions and communications from the audience and matters brought to the meeting by the Long Range Planning Manager and Commission members, which are not on the agenda for the meeting, may be received and discussed at the meeting. However, no official action may be taken on any matter at a Planning Commission meeting which is

not included on the agenda for such meeting or which has been added to the agenda after it has been mailed to the Planning Commission members except that this requirement may be suspended at any meeting by the unanimous vote of the members present at the meeting, if it is otherwise permitted by law to suspend such requirements.

Section 5. Order of Business:

- A. Call to order.
- B. Pledge of Allegiance
- C. Roll call.
- D. Approval of minutes.
- E. Communications
 - 1. Reports from Planning Commission members and committees.
 - 2. Council
 - 3. Citizens
 - 4. Report from the director and staff
- F. Unfinished Business.
- G. New Business.
- H. Public Hearings.
- I. Adjournment.
- J. The Chairperson, with the concurrence of a majority of the Planning Commissioners present, may change the order of business to accommodate special circumstances.

Section 6. Other Meetings: The Commission may hold additional meetings and workshops, upon the publication of proper notice (See Article 4, Section 4), as convenient to the members of the Commission.

Section 7. Public Hearing Procedure:

- A. Chairperson introduces the application, reads a summary of the application and hearing purpose into the record and asks staff to orally present the Staff Report. The Long Range Planning Manager or designate presents the Staff Report and adds any related or background information. Commissioners are permitted to request to be recognized by the Chair in order to ask any relevant questions about the application to the Chairperson or staff. A public hearing is then opened.
- B. The Applicant or his/her representative shall be given an opportunity to speak in favor of the application. Information submitted should be factual, relevant and not merely duplication of the previous staff presentation. A reasonable time shall be allowed the applicant; others may be limited to short supporting remarks. Each person speaking shall give name, address and nature of interest in the matter, and testimony shall be directed to the Planning Commission.
- C. Opponents in the audience shall then be given an opportunity to speak against the application. Information submitted should be factual, relevant and not merely a duplication of the previous presentation(s). A reasonable time shall be allowed for testimony, however time may be limited. Each person speaking shall give

name, address and nature of interest in the matter, and testimony shall be directed to the Planning Commission.

- D. Other interested parties shall be allowed to comment briefly or make inquiries. All questions shall be directed to the Chairperson, who may redirect as appropriate.
- E. At a quasi-judicial hearing, a brief rebuttal from proponents and opponents may then be heard separately and consecutively at the discretion of the Chairperson. The Chairperson may limit the time allocated to each side.
- F. Public hearing is then closed. Commissioners voice other significant considerations, and pose any relevant questions through the Chairperson. The Chairperson may question proper parties for answers.
- G. The Chairperson receives a motion for disposition and voting from the Commission. Discussion and amendment (if necessary) of the motion may then occur. When a vote is taken, each Commissioner may provide a brief reason related to the approval criteria, for his/her vote.

Section 8. Quorum: For the transaction of business and taking of official action, a quorum shall consist of a majority of the seated members of the Planning Commission, not including vacancies.

Section 9. Motions and Voting: Motions may be restated by the Chairperson before a vote is taken. The name of the members making and seconding a motion shall be recorded in the minutes of the meeting.

Any action taken by a majority of those present, when those present constitute a quorum, at any regular, recessed or special meeting of the Planning Commission shall be deemed and taken as the action of the Commission. Voting on amendments to the Comprehensive Plan, Development Code, and Maps, all matters requiring a public hearing before the Planning Commission and all matters referred to the Planning Commission by the City Council shall be by roll call vote and the vote of each member shall be recorded in the minutes of the meeting.

Section 10. Parliamentary Procedure: Parliamentary procedure in Planning Commission meetings shall be generally in accordance with Robert's Rules of Order, Revised, unless it is specifically provided otherwise in these Bylaws, in other Planning Commission resolutions, or in city Ordinances.

Section 11. Record Public: All regular, recessed and special meetings, hearings, records and accounts shall be open to the public.

ARTICLE V – COMMITTEES

Section 1. Establishment of Committees: The Planning Commission may establish and disband standing or special committees as it deems advisable and assign each committee specific duties or functions. Each standing committee shall consist of at least three members. No standing or special committee shall have the power to commit the Planning Commission to the endorsement of any plan or program without its submission to the body of the Commission.

Section 2. Appointment and Terms of Committee Members: The Chairperson of the Planning Commission shall appoint the members of each standing or special committee. The members of each standing committee shall be appointed at the first regular meeting in January. Special committees may be appointed at such times and for such purposes and terms as the Planning Commission approves. When a special committee is appointed with outside stakeholder membership, a Planning Commission member shall be appointed to chair the committee.

Section 3. Committee Vacancies: Vacancies on committees shall be filed as soon as practicable by the Chairperson of the Planning Commission for the unexpired portion of the term.

Section 4. Meetings of Committees: All committees shall meet at the convenience of the members, to be coordinated by the Long Range Planning Manager provided that the Chairperson of the Planning Commission shall also have the authority to call a special meeting of any committee at any time and upon such notice as s/he may specify.

Section 5. Quorum and Voting: A majority of the members appointed shall constitute a quorum of all committees. The affirmative vote of a majority of the committee membership shall be required for the adoption of a matter before the committee.

Section 6. Project Liaison: Members of the Planning Commission may serve as a liaison to Staff on special projects and multi-jurisdictional planning efforts. The function of the liaison is to provide input to staff on project efforts and to participate in public outreach events. The Planning Commissioner liaison shall keep the remainder of the Planning Commission apprised of project activities and their project involvement at regular meetings or workshops.

ARTICLE VI

Section 1. Attendance:

- A. Attendance at regular and special meetings is expected of all Commission members.
- B. Any member anticipating absence from an official meeting should notify the Chairperson or Long Range Planning division in advance.
- C. Any absence may be excused by the Commission, even an extended period. Unexcused absences from three consecutive regular meetings shall be reported to the City Council for appropriate action.

Section 2. Records:

- A. The following are the official records of the Commission:
 1. Agenda
 2. Minutes approved by the Commission
 3. The file of any agenda item.
 4. These bylaws of the Commission

- B. Copies of the Planning Commission Records shall be made available in the Long Range Planning Department for public review during regular business hours.

ARTICLE VII – AMENDMENTS

Section 1. Amendments: These Bylaws may be amended at any regular meeting by the affirmative vote of a quorum of the Planning Commission; provided that the proposed amendments have been submitted in writing at a previous meeting.

Vancouver Municipal Code 20.220.010 Planning Commission

This document references Vancouver Municipal Code 20.220.010 as amended by Ordinance M-4254 § 3(C), in 2018. Copies of the legal document can be obtained by contacting: Julie Nischik at (360) 487-7813 (Voice/TTY 487-8602), julie.nischik@cityofvancouver.us or viewed online at <https://vancouver.municipal.codes/VMC/20.220.010>

- A. Establishment. Pursuant to Article XI, Section 11 of the Washington State Constitution and Section 8.01 of the City Charter, a Vancouver Planning Commission shall be established and maintained consisting of seven residents of the city or Vancouver Urban Growth Area to be appointed by the Mayor with the approval of the City Council.
- B. Representative membership. In selecting members for appointment to the Planning Commission, the Mayor and City Council shall seek to provide representation to a wide variety of neighborhoods, businesses and other interests concerned with the land use, development and quality of life in Vancouver. The Mayor and City Council shall also strive for diversity among commission members, considering but not limited to the following factors when selecting new members: age, education, ethnicity, gender identity, national origin, race, sexual orientation, social class, veteran status, or religious or ethnic values systems. No more than one member of the Planning Commission may represent the unincorporated urban growth area intended to annex and develop as a part of the City of Vancouver.
- C. Authority and responsibilities.
 1. The Planning Commission shall have such powers and perform such duties as are prescribed by Chapter 35.63 RCW, other applicable state law, and the city code. The Planning Commission shall review and make recommendations to City Council on planned developments greater than 25 acres in size, amendments to the comprehensive land use plan, amendments to the zoning map of 25 acres or greater in size, and implementing standards and regulations that are generally legislative in nature that relate to land use and Title 20 of the Vancouver Municipal Code.
 2. The Planning Commission is responsible for the following:
 - a. Formal review of actions listed under Chapter 20.210 VMC.
 - b. Informal or advisory review of studies, analysis or reports related to land use matters as directed by City Council.
 - c. Other duties related to land use matters as directed by City Council, provided they are not inconsistent with state law.
- D. Terms. Except as provided in this section, the term of office for each member shall be four years, running from January 1st to December 31st. No member may serve more than three consecutive terms. Any vacancy that is not a result of the expiration of a term shall be filled for the un-expired term. Members may be

removed by the mayor with the concurrence of City Council, for misconduct or neglect of duties or for three consecutive unexcused absences.

E. Organization.

1. Each year, the Planning Commission shall elect a chair, vice-chair and such other officers as the Planning Commission determines it requires. The term of office for each officer shall run until the subsequent election, provided that vacancies caused by resignation or removal shall be filled for the remaining term of office.
2. The Planning Commission shall adopt rules for the transaction of its business.
3. The Planning Commission may appoint standing or special committees to which it may assign specific responsibilities, provided that such committee(s) shall make no recommendations except to the Planning Commission.

F. Meetings. The Planning Commission shall establish regular monthly or twice-monthly meetings dates pursuant to Chapter 42.30 RCW, provided that, if no matters are pending, a regular meeting may be canceled. Special meetings of the Planning Commission may be called pursuant to the provisions of state law.

G. Actions. All actions of the Planning Commission shall be determined by a majority vote in a meeting at which a quorum is present. A majority of total appointed membership of the Planning Commission shall constitute a quorum.

(Ord. M-4254 § 3(C), 2018; Ord. M-3931 § 5, 2009; Ord. M-3840 § 9, 2007; Ord. M-3691 § 1, 2005)

Vancouver Planning Commission Operating Principles

As adopted by the Vancouver Planning Commission on 06/12/02.

This document is about our personal operating principles as members of the Planning Commission. It speaks of how we expect to act today and every day. Against these operating principles we will measure our decisions, our actions and ourselves. They are a fundamental part of the way we do business. Our commitment to them means that all of our actions and relationships, whether involving citizens or ourselves, are based on these uncompromising principles.

WE ARE COMMITTED TO:

PERSONAL INTEGRITY: To choose to do the right thing rather than just the easy thing and to choose long-term benefit over short-term expediency.

HONESTY: To be fair and straightforward, to listen to all sides equally before making a decision and to explain the basis for individual decisions.

IMPARTIALITY: To make decisions based upon facts and findings and demonstrate the ability to place the good of the community above individual interests.

FORTHRIGHTNESS: To be direct and straight-forward in discussing issues and making decisions.

RESPECTFULNESS: To treat all persons with respect, dignity and courtesy.

COURAGE: To question one's own biases, to stand above personal perspectives and make decisions for the common good.

EFFECTIVENESS: To organize and execute around priorities and to demonstrate respect for others' personal sense of time while moving toward resolution.

STEWARDSHIP: To care for what has been entrusted to us.

CONSISTENCY: To be aware of the impact of our decisions and to make decisions utilizing consistent application of standards, policies and procedures.

COMMUNICATION WITH COUNCIL

Written Communication (Record to Council):

- It is each commissioner's responsibility to ensure that the record reflects the rationale for their vote.
- Verbatim records will be made on the motions only.

- Video-taped records are available for Council member's individual in-depth analysis.
- The motion shall contain findings and conclusions supporting the Planning Commission's decision/recommendation. These findings may be other than those contained in the staff report.
- There will be no separate minority report.

Member Attendance At Council Meetings:

- The Planning Commission may send a representative to City Council to explain a Planning Commission decision; however, the written record should be relied upon. The Planning Commissioner appointed to attend a City Council meeting shall present the decision in as fair and objective a manner as possible.
- When issues on Council agenda have not been before the Commission, and a Commission member chooses to attend a Council meeting and testify, they will declare their role as a citizen - not as a Commission representative.

ROLES AND RESPONSIBILITIES

Role of the Planning Commission:

- Create a forum for public input and the discussion of community planning policies and issues.
- Clearly evaluate issues based on facts, citizen input and technical considerations.
- Make timely recommendations and decisions reflecting consistency with the Comprehensive Plan & sound planning principles which reflect a balance of apparent competing interests.
- Educate the community and groups on the goals of the Comprehensive Plan and act as stewards and ambassadors of the Comprehensive Plan.
- Educate public on the role and processes of Planning Commission.
- Think and act for the community's long term interests, a 20+ year horizon.

Role of the Chair

- Convene and keep meetings on time and task. Control verbosity.
- Facilitate - guide meaningful dialogue.
- Mediate disagreements. Help individuals understand each other.
- Serve as a point of contact with staff.
- Form consensus, especially on legislative actions, to the extent possible.
- Sign official documents.
- Provide leadership without dominating.
- Contact fellow Commissioners periodically outside of meetings to hear concerns.
- Maintain decorum, respect, and order in public hearings.
- Actively work with Vice Chair in planning meetings, including meetings with staff.
- Educate and inform - Attend, as necessary, state and regional meetings conduct, as necessary, visitations to other cities and report back to the Commission.

- Speak for the Commission as necessary, providing accurate representation.

Role of the Vice-Chair

- Assume role of the Chair in the Chair's absence.
- Serve as sounding board and counsel for the Chair.
- Monitor meetings, group process and morale and provide suggestions for improvements.
- Actively work with Chair in planning meetings, including meetings with staff.

Role of the Planning Commissioner

- Understand the importance of and give priority to attendance at workshops and public hearings.
- Whenever possible, make on-site visits to items coming before a public hearing.
- Understand the difference between legislative and quasi-judicial issues and the role of the Planning Commissioner.
- Understand that the Planning Commissioner can always call staff for information.
- Read and understand the information compiled by staff prior to workshop and/or hearing.
- Be cautious about taking telephone calls from citizens regarding quasi-judicial issues scheduled to come before the Commission.
- Actively participate in Planning Commission workshops and public hearings.
- Utilize newspapers, planning journals, conferences, meetings and other means to stay current on land use planning and growth management issues.
- Act as a representative of the City of Vancouver Planning Commission.
- Act in an honest and ethical manner.
- Participate on other boards, committees, and sub committees as a representative of the Planning Commission as assigned.
- Assist new commissioners to fulfill their roles.
- Understand the public hearing process.
- Act in a respectful manner toward citizens, staff and other commissioners.

Role of the Designated Staff Liaison to the Planning Commission

- Conduct regular meetings with Chair and Vice Chair.
- Provide leadership and attend hearings and other meetings.
- Ensure staff has adequate resources to do the job.
- Provide copies of current organizational charts, staff roles and responsibilities.
- Provide opportunities for education and training.
- Consider meeting attendance time factors when scheduling hearings.
- Start workshops on time.
- Send information in advance.
- Have staff from other service areas attend meetings as appropriate.

Role of Staff

- Staff and Planning Commission will work cooperatively.
- Recommend alternatives with analysis, pros and cons.
- Give adequate information: facts, historical perspective, and future emphasis.
- Know processes and procedures and explain them clearly and thoroughly.
- Communicate fully.
- Provide realistic timelines and budgets.
- Provide technical support.
- Explain technical issues in plain language.
- Legal staff shall provide legal guidance on the Planning Commission process and on individual proposals as they are reviewed.

Vancouver Procedure

Adoption of Minutes

DATE: September 10, 2018

The following update is provided to clarify the procedure for the adoption of meeting minutes by the Planning Commission. After careful review of the Planning Commission Bylaws and the City's Boards and Commissions Administrative Manual, we have determined that the adoption of minutes is an action that requires appropriate public notice, and can be done at either a workshop or a hearing. The procedure for adopting minutes is outlined below.

Meeting minutes of the previous meeting will be provided to the commission members within two weeks of each meeting. Any comments or points of discussion that arise will be noted by the members and presented at the next meeting. Commissioners should not discuss proposed changes as a group, including via email, in the interim between meetings. This would be a violation of the Open Public Meetings Act, which prohibits discussion of substantive planning issues amongst the Commission outside of regular meetings, including via email.

Staff will notice the public of the upcoming meeting and proposed action.

At the following meeting, the draft minutes will be provided with the meeting materials packet. Under the "Approval of Minutes" agenda item, the Chair will open the floor for any discussion related to the minutes and any changes that may be needed. All actions taken by the Commission require a quorum of Commissioners to be present, including adoption of minutes. A simple majority of those present in favor of adoption is required for approval. The process for changing and/or approving the minutes will conform to the following standard procedure:

1. A member must make a motion to approve the minutes, as they are or with changes.
2. The motion requires a second from another member of the Commission.
3. A yea/nay vote is conducted. Members absent from the meeting summarized in the minutes may choose to vote or abstain.
4. A simple majority in favor of adoption is required for approval. A motion fails on a tie vote.
5. Upon approval, the Chair will sign the copy of minutes provided and staff will submit those minutes to the record.

Vancouver Procedure

Excusal of Absence

DATE: September 10, 2018

Attendance at all meetings is expected of all Commission members. All members shall inform the Chairperson and Long Range Planning staff in advance if they are unable to attend any Planning Commission meeting, or if they anticipate being late to any meeting. Any absence may be excused by the Commission through a majority vote, even an extended period of absence. In the case of an emergency, notice should be given as soon as possible.

The following update is provided to clarify the procedure for the excusal of absences from Planning Commission meetings. This procedure may be used at both hearings and workshops, as the vote to excuse an absence is not an action that requires notice.

At the start of the meeting, regardless of whether it starts with a workshop or hearing, Roll Call will be completed. Upon completion, Commissioners may make a motion to excuse any members that are absent. The approval procedure will follow the standard parliamentary procedures as follows:

1. A member must make a motion to excuse the absent Commissioner.
2. The motion requires a second from another member of the Commission.
3. A yea/nay vote is conducted.
4. A simple majority in favor of excusal is required for approval. A motion fails on a tie vote.
5. Staff will record the result of the vote.

Late arrivals and early departures will be noted by the Chair and entered into the record as well.

Attendance information will be used by City Council in their considerations for the reappointment of Planning Commission members. In the case of unexcused absences from three consecutive meetings or 35% of meetings within a calendar year, staff will notify and discuss the situation with the Council Committee Chair to determine appropriate action.

Vancouver Procedure

Appearance of Fairness

DATE: October 23, 2007

The purpose of this policy is to affirm the applicability of the Appearance of Fairness Doctrine to quasi-judicial proceedings before the Vancouver Planning Commission, and to establish procedures for implementation of the Appearance of Fairness Doctrine in quasi-judicial proceedings before the Vancouver Planning Commission.

DECLARATION OF POLICY

Applicability of Appearance of Fairness Doctrine: The Appearance of Fairness Doctrine is a requirement of Washington law that protects the integrity of quasi-judicial public hearings before the Vancouver Planning Commission. The Appearance of Fairness Doctrine imposes the following requirements: "When the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must appear to be so. It is a situation where appearances are quite as important as substance. The test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a board member's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided." *Zehring v. Bellevue*, 99 Wn.2d 488 (1983).

Procedures for Implementation of the Appearance of Fairness Doctrine: This Policy establishes procedures for implementation of the Appearance of Fairness Doctrine in quasi-judicial proceedings before the Vancouver Planning Commission

TYPES OF HEARINGS TO WHICH DOCTRINE APPLIES

The appearance of Fairness Doctrine applies only to quasi-judicial actions before the Planning Commission. Quasi-judicial actions are defined as actions of the Planning Commission that determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance (RCW 42.36.010). Some examples of quasi-judicial actions that may come before the Planning Commission are: rezones or reclassifications of specific parcels of property; Planned Unit Developments; Master Planned Developments and Mixed Use Master Plans, and special land use permits.

GENERAL OBLIGATIONS UNDER THE APPEARANCE OF FAIRNESS DOCTRINE

Planning Commissioners should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest. Rather, a violation of the Appearance of Fairness Doctrine occurs when there is an appearance of conflict of interest to the average person. This may involve the Planning Commissioner or a Planning Commissioner's business associate or a member of the Planning Commissioner's immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Planning Commissioner's employer with the proponents or opponents, announced predisposition, and the like.

PROCEDURES FOR IMPLEMENTATION OF THE APPEARANCE OF FAIRNESS DOCTRINE

Prior to any quasi-judicial hearing, each Planning Commissioner should give consideration to whether a potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Commissioner should disclose such facts to the City Attorney, or to the Community Planning Manager who will seek the opinion of the City Attorney, as to whether a potential violation of the Appearance of Fairness Doctrine exists. The City Attorney, or the Community Planning Manager, shall communicate such opinion to the Planning Commissioner and to the Planning Commission Chair.

Anyone, including a member of the public, seeking to disqualify a Planning Commissioner from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision. Upon failure to do so, the Doctrine may not be relied upon to invalidate the decision (RCW 42.36.080). The party seeking to disqualify the Planning Commissioner shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact. Should such challenge be made prior to the hearing, the Community Planning Manager shall direct the City Attorney to interview the Planning Commissioner and render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the Planning Commission Chair shall call a recess, if necessary, to permit the City Attorney to make such interview and render such opinion.

When Planning Commission conducts a hearing to which the Appearance of Fairness Doctrine applies, the Chair, or in the case of a potential violation by that individual, the Vice Chair of the Planning Commission, will ask if any Planning Commissioner knows of any reason which would require such member to excuse themselves pursuant to the Appearance of Fairness Doctrine. The form of the announcement is as follows: "All Planning Commissioners should now give consideration as to whether they have: (1) a demonstrated bias or prejudice for or against any party to the proceedings; (2) a direct

or indirect monetary interest in the outcome of the proceedings; (3) a prejudgment of the issue prior to hearing the facts on the record; or (4) ex parte contact with any individual, excluding Administrative staff, with regard to an issue prior to the hearing. If any Planning Commissioner should answer in the affirmative, then the Planning Commissioner should state the reason for their answer at this time so that the Chair may inquire of the City Attorney as to whether a violation of the Appearance of Fairness Doctrine exists."

The Planning Commission Chair shall have authority to request a Planning Commissioner to excuse himself/herself on the basis of an Appearance of Fairness violation. If two or more Planning Commissioners believe that another Planning Commissioner is in violation of the Appearance of Fairness Doctrine, such Planning Commissioners may move to request a Planning Commissioner to excuse himself/herself on the basis of an Appearance of Fairness violation. In making such request, the Chair or other Planning Commissioners shall take action that is consistent with the opinion of the City Attorney.

If an Appearance of Fairness challenge to a Planning Commissioner would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged Planning Commissioner shall be permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the Planning Commissioner publicly discloses the basis for disqualification prior to rendering a decision. Such participation shall not void the decision by reason of violation of the Appearance of Fairness Doctrine (RCW 42.36.090).

CONSEQUENCES OF VIOLATION OF THE APPEARANCE OF FAIRNESS DOCTRINE

The remedy for an action taken by the Planning Commission in violation of the Appearance of Fairness Doctrine is to void the action.

ACTIONS THAT DO NOT VIOLATE THE APPEARANCE OF FAIRNESS DOCTRINE

No member of the Planning Commission may be disqualified by the Appearance of Fairness Doctrine for conducting the business of his or her office with any constituent on any matter other than a quasi-judicial action then pending before the local legislative body. RCW 42.36.02. This means, for example, that the Planning Commission may exercise a power of proposing or reviewing legislative actions, such as comprehensive plan amendments, without violating the Appearance of Fairness Doctrine.

During the pendency of any quasi-judicial proceeding, no Planning Commissioner may engage in ex parte (outside the hearing) communications with proponents or opponents about a proposal involved in the pending proceeding, unless the Planning Commission member: (a) places on the record the substance of such oral or written communications; and (b) provides that a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication shall be made at each hearing where action is taken or considered on the subject. This does not prohibit correspondence between a citizen and a Planning Commissioner if the correspondence

is made a part of the record, when it pertains to the subject matter of a quasi-judicial proceeding (RCW 42.36.060).

Participation by a member of the Planning Commission in earlier proceedings that result in an advisory recommendation to the Planning Commission shall not disqualify that person, under the Appearance of Fairness Doctrine, from participating in any subsequent quasi-judicial proceeding. RCW 42.36.070. This means, for example, that the Planning Commission may attend events such as open houses or workshops on an issue, and may still participate in the Planning Commission's quasi-judicial decision on the issue.

Vancouver Procedure

Voting and Roll Call

The following update is provided to clarify the procedures for voting on motions during Planning Commission meetings. To simplify the meeting process, the procedures outlined will determine when a roll call vote is called and when a yea/nay vote is appropriate.

Attendance:

At the start of each Planning Commission meeting, the Chair will direct staff to conduct a roll call of the appointed Commissioners by name. This will determine who is and is not present at the meeting and establish whether a quorum exists. A quorum constitutes a majority of the seated members of the Planning Commission, not including vacancies, and is required in order to transact business and take official action.

Adoption of Minutes and Excusal of Absences:

Voting on the motions for approval and/or revisions of minutes, and excusals of absence only require a yea/nay vote. In these instances, the Chair will call for a yea/nay vote by the Commissioners. If it is unclear whether there is a majority of votes, the Chair may direct staff to call for a roll call vote to clarify.

Voting on a Formal Motion:

Voting on a motion related to a formal recommendation during a Public Hearing requires a roll call vote. In this instance, the Chair will direct staff to call the roll and Commissioners will individually vote yea or nay.

Abstention or Recusal:

In response to a call for a yea/nay vote, a Commissioner may on occasion abstain. A Commissioner has an obligation to abstain if there is a direct personal interest in the matter that amounts to a legal conflict of interest. In such instances, abstentions do not affect the quorum because they are counted and noted in response to the call for voting, but not as a yea or nay, therefore an abstention does not factor into the net voting result.

In some situations, a Commissioner may be required or elect to recuse themselves from an entire proceeding or matter. Recusal normally occurs when a Commissioner has a significant conflict of interest or has been disqualified from a quasi-judicial proceeding under the Appearance of Fairness doctrine. In a recusal, the recused Commissioner will not be counted in the quorum and will not take part in any phase of the proceeding, including the call for a vote.

Vancouver Procedure

Annual Election of Officers

In accordance with Article III of the Planning Commission Bylaws, the elected officers of the Planning Commission shall consist of a Chairperson and Vice-Chairperson, with nomination and election of these officers to be made annually at the first regular or special meeting of the year. The term of office is one year, with vacancies for an unexpired term to be filled for the remainder of that term as soon as practicable in accordance with this election procedure. The nominee for each office receiving a majority vote of those present at the election meeting shall be declared elected and the newly elected Chair shall then preside over the remainder of the election meeting.

OFFICER ELECTION PROCEDURE:

The procedure for the annual election of Planning Commission officers, followed first for the office of Chairperson and then for the office of Vice-Chairperson, shall be:

1. Call for Chairperson Nominations. Planning Commission staff, acting as Secretary in accordance with the Bylaws, will call for nominations to the office of Chairperson of the Planning Commission.
2. Call for Vice-Chairperson Nominations. After the election of the Chairperson, the newly elected Chairperson will call for nominations to the office of Vice-Chairperson of the Planning Commission and then follow the remaining procedure for nomination and election of the Vice-Chairperson.
3. Nominations. Nominations may be offered by the Chairperson or from the floor. Nominations for each office will be called for at least three times. Seconds are not necessary after each nomination.
4. Closure of Nominations. Nominations may be closed by the Planning Commission staff for nomination of the Chairperson, or by the Chairperson for nomination of the Vice-Chairperson, when it appears that no more nominations will be offered. Nominations may also be closed by a two-thirds majority vote, upon a motion and a second to close nominations for an office; this is not required, but any such motion to close nominations is appropriate only after a reasonable opportunity to make nominations has been given.
5. Voting. Planning Commission staff will then call for and record either: (a) a voice vote of yea or nay on each nominee for Chairperson, in the same order in which nominations were made; or (b) a roll call vote with each Commissioner identifying their preference for Chairperson (or Vice-Chairperson, as appropriate) when called. Planning Commission staff will announce the elected nominee for each office.

SUGGESTED FORMS MOTIONS:

1. I NOMINATE COMMISSIONER _____ AS CHAIRPERSON (VICE-CHAIRPERSON) (accept as many nominations as presented for each office).

2. I MOVE TO CLOSE NOMINATIONS FOR CHAIRPERSON (VICECHAIRPERSON) (a second and 2/3 majority vote in favor of such motion is required to fulfill this motion; motion is not required to close nominations, but may be made after at least three calls for nominations to each office).

GUIDELINES FOR NOMINATIONS

- As soon as nominations are opened, any Commissioner can bring forth a nomination. A Commissioner should know beforehand if the person to be nominated is both eligible and willing to serve.
- A Commissioner may decline the nomination during the nominating process and request that their name be removed from consideration.
- A Commissioner may self-nominate.
- A Commissioner may be nominated for more than one office.
- A Commissioner may not nominate more than one person for an office until all other Commissioners have had the opportunity to make nominations.
- Nominees do not have to leave the meeting during the nominations, when the vote is taken, or when the vote is counted.
- The presiding officer may continue presiding, even if nominated for office.
- After each nomination, it is appropriate for the Chairperson to repeat the name of the nominee and call for any further nominations.

OPMA – Obligations of Board & Commission Members Under the Washington State Open Public Meetings Act – RCW Chapter 42.30

Things to remember when interacting with members of the public or your fellow commissioners outside of a typical “public meeting.”

Can you talk to your fellow commissioners while out in public?

Apart from certain limited exceptions, any gathering that can be considered a “public” meeting of your Commission, which occurs most frequently when a quorum is present in the same location, must be open to the public, and may cause the participating commissioners to be subject to all the jurisdictional provisions of the OPMA. Furthermore, unplanned meetings that are deemed to be “public” meetings after the fact most likely violate that Public Notice requirement of the OPMA as well.

While a *quorum* is generally defined as “a majority of the members appointed to the Commission,” this notably excludes current vacancies. Thus, a quorum for the TMC would normally consist of 6 members, but if two positions are currently vacant, then 5 members would make up a quorum. Similarly, the PC needs only 4 members to establish quorum, but unfilled positions on the PC can lower that further.

What about communicating virtually?

If you communicate with other members of your commission by email or through social media platforms, a group exchange that includes a quorum of commissioners is considered the same as if you were meeting in person, and could be considered illegal under the OPMA. This likewise applies to text messaging, instant messaging, and direct messaging. It is also important to remember that even during a public meeting of your Commission that occurs virtually, because of Covid-19 restrictions (as one example), your use of the “chat” function of the videoconference platform hosting the virtual Commission meeting to converse with other commissioners in a manner that cannot be seen or recorded by members of the public can violate the OPMA.

Using email or text messaging to communicate with a fellow commissioner is generally permitted, but you cannot contact one member at a time with the intent of avoiding the quorum rule, by individually asking each commissioner the same question, or by asking the recipient to pass along the same question to the next person using a phone tree-type system. The length of time between each email or text exchange is irrelevant, as a “serial” or “rolling” meeting happens when a quorum of the Commission ends up involved in the exchange.

Tips & Tricks on how to communicate without worry

Passive receipt of information via email is permitted, but avoid responding and starting a discussion of issues amongst a quorum.

An email message to a quorum is allowed when the message is only to provide a specific reminder to all Commissioners prior to the next meeting.

Let staff do the work instead! Avoid the temptation to email something related to your Commission's work directly to your fellow members. Any item or issue can be sent directly to your Commission's staff, and then the staff members can communicate directly with the other Commissioners in preparation for an upcoming Commission meeting. Just know that the staff members will not share any email replies with the other Commissioners as part of that email exchange, unless it is deemed appropriate.

You should also always feel free to contact the City Attorney's Office as an additional resource if you are unsure about an issue. If the attorney who normally represents your Commission happens to be out, please know that all of the attorneys in the Civil Division have represented municipal boards and commissions, so there are very few questions they haven't heard before.

What are the consequences of not following the law?

Individual liability. If you participate in a "public meeting" of your Commission that violates the OPMA, *knowing specifically* that the meeting violates the law, then you are subject to personal liability and the court shall impose a civil fine of \$500. There is no criminal element. Subsequent violations carry a fine of \$1,000 for each violation.

Null and void. Actions taken by a Commission during a meeting that fails to comply with the OPMA, such as a resolution or action taken by "secret vote," are generally null and void.

Agency liability. Any person who prevails in court when alleging violation of the OPMA will be awarded all costs, including attorneys' fees, incurred in connection with the lawsuit. However, if the City proves that the lawsuit was frivolous and unreasonable, then that person must pay the City's costs.

What about talking to the public or others about your commission work?

The diversity of skills, ideas and perspectives that you bring to your respective Commissions comes not only from your past experiences, but from your current situations and relationships as well. Let your friends and neighbors know that you are on a City Commission, and tell them what that entails. Encourage them to become more engaged in the community, and listen to what they tell you about what is important to them. The key is LISTEN, though – and it is not always easy. You cannot talk about items that are pending before your Commission or are likely to come before your Commission in the foreseeable future. You cannot promise to vote a certain way on an upcoming item. You cannot bring books, charts, studies or other things that people give you to

Commission meetings. Encourage others to engage in the process- attend meetings, provide public comment, send written comments, and send any questions directly to the relevant program staff. Ask staff how to help others submit information to the City. You are also not precluded from attending the meetings of other boards, commissions, committees, councils, or other civic or political groups. You are not prevented from attending these meetings and identifying yourself as a member of your Commission; however, you *must be clear* that you are not representing your Commission when you speak, unless your Commission has voted affirmatively in advance to send you as its representative.

Thank you for all the work you do to help Vancouver continue to strive forward.

ADDITIONAL RESOURCES:

[Knowing the Territory: Basic Legal Guidelines for Washington City, County and Special Purpose District Officials \(mrsc.org\)](#)

[Open Government Training | Washington State](#)

[Additional Resources for Commissioners](#)

MEMORANDUM

DATE: February 10, 2022

TO: Chair Ledell and Planning Commission Members

CC: Rebecca Kennedy, Deputy Director, Community Development
Bryan Snodgrass, Principal Planner, Community Development

FROM: Becky Rude, Assistant City Attorney, City Attorney's Office

RE: **Spot Zoning**

In order to determine whether a zoning designation change complies with the Comprehensive Plan, many factors need to be considered with respect to the characteristics of that designation and the relationship to surrounding areas, such as public transit, topography, and proximity to employment centers. Consistency with the comprehensive plan, surrounding area, and public benefit are key considerations in determining whether such a request is justifiable.

Definition of "Spot Zoning"

"Spot zoning" is the rezoning of a small parcel of land within the limits of another zone. This type of zoning may be deemed illegal when it is done in a manner that is inconsistent with the comprehensive plan and surrounding land, or when it appears arbitrary or discriminatory and is done absent adequate public benefit (*Smith v. Skagit County*, 75 Wash. 2d 715 (1969)). Addressing the specific consideration of "public benefit" in review of rezoning requests, a treatise on Washington land use law notes:

The vice of "spot zoning" is not the differential regulation of adjacent land but the lack of public interest justification for such discrimination. Where differential zoning merely accommodates some private interest and bears no rational relationship to promoting legitimate public interest, it is "arbitrary and capricious" and hence "spot zoning." Richard L. Settle, *Washington Land Use and Environmental Law and Practice* § 2.11(c) (1983) (footnotes omitted).

Hypothetical Examples

Two examples of zoning applications that might constitute invalid spot zoning are:

- A request to rezone a single small parcel from Heavy Industrial (IH) to Low Density Residential (R-6) within an area designated for "Industrial" use under the Comprehensive plan;

- A proposed rezone of an isolated area within an Open Space/Parks Comprehensive Plan land use area designation to General Commercial (CG).

An example of spot zoning that might be valid is:

- An application to change property from one industrial use characterization to another (Light Industrial to Heavy Industrial) where the subject property borders other Heavy Industrial property to the south. In this situation, rather than create an island of Heavy Industrial, the proposal would instead extend the existing Heavy Industrial designation area further north. Such a rezone would not be considered illegal spot zoning unless it was shown that an expansion of land zoned Heavy Industrial land bore no rational relationship to promoting legitimate public interest.

Case Law Summaries

In *Pierce v. King County*, 62 Wn.2d 324, 382 P.2d 628 (1963), King County had designated two lots for a gas station in the heart of a neighborhood of single-family residences already served by commercial facilities situated in accordance with a comprehensive plan. The court held that such rezoning was arbitrary, capricious and unreasonable, and therefore void, because the record disclosed no basis for such zoning in furtherance of the public health, safety or as a contribution to the general welfare of the people in the area at large.

In the case of *Anderson v. City of Seattle*, 64 Wn.2d 198, 390 P.2d 994 (1964), the developer obtained approval for rezone of a property from low density multiple-family to high density multiple-family, where the rezoned property was surrounded to the west and the south by single family residence high density zone and to the east by a general industrial zone, and where the stated purpose of residential zones included providing protection against "hazards, objectionable influences, traffic, building congestion, and lack of light, air and privacy." (*Anderson* at page 201). The City Council had approved the rezone based on the developer's representation that the planned improvement was a six-story apartment building. However, the developer instead submitted plans for a 12-story apartment building. When the city council discovered this, it repealed the zoning ordinance, but the building permit had already been issued. Action was subsequently brought to invalidate the rezone. The Supreme Court noted that "spot zoning" was invalid when it was primarily for the private interest of the owner of the property affected and not related to the general plan for the community as a whole. In view of the general purposes of the pre-existing and abutting zoning ordinances, and testimony as to the negative effects of the building, the rezoning fell within the confines of invalid spot zoning.

Conclusion

In summary, illegal spot zoning is a zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from, and inconsistent with, the classification of surrounding land and not in accordance

with the Comprehensive Plan. Any such determination as to whether a relatively isolated reclassification for the permitted use of certain property is appropriate requires an inquiry into whether the proposed zoning action bears a substantial relationship to the general welfare of the affected community and has sufficient public benefit.

Community Forum Preface

Preface to be read at beginning of the Community Forum portion of each Planning Commission meeting:

A Community Forum is held at each meeting of the Planning Commission. During the Community Forum, the public is invited to provide input. Each speaker will be given three minutes to address the Commission. The Chair will help you keep track of time. Remarks should be directed to the Planning Commission as a body. Community members who wish to submit lengthy or detailed testimony are encouraged to email their comments to planningcommission@cityofvanocuver.us.

Please note that the Community Forum is different from testimony provided as part of a public hearing. In the case of public hearings, individuals that wish to testify on the public hearing item will be called upon during that portion of the agenda, not during the Community Forum. In other words, if you want to comment on the hearing item, the Chair will call upon you then.

We appreciate, welcome, and consider community input regarding land use policy.

Public Hearing Conduct Sheet

What to expect at Vancouver Planning Commission Hearings

Hearing Process:

- **Opening.** An instructional preamble is read and the Public Hearing is declared open by the Chair.
- **Staff Presentation.** City staff presents their Staff Report. Afterwards, Commissioners may ask questions.
- **Applicant Presentation.** The applicant presents. This may include entering written material into the public record and citing additional information not listed in the Staff Report. After their presentation, Commissioners may ask questions of the applicant.
- **Public Testimony.** The Chair will call on members of the public wishing to provide additional information and perspectives. If the Commissioners have questions, they will be directed through the Chair.
- **Closing.** After the close of public testimony, the Chair will close the hearing. No further public comments are taken. The Planning Commission will then discuss and announce its decision.

Be Courteous:

- Set phones and other electronic devices to silent before entering Council Chambers.
- If joining virtually, mute your microphone and turn off camera if you are not speaking.
- Respect all participants in the public hearing. Do not interrupt.
- Avoid demonstrations of support or opposition (including clapping, whistling, catcalls, etc.).

To Speak at the Hearing:

1. Pre-register on the Commission website by noon the day of the hearing and indicate if you will attend virtually or in person.
2. If attending in person and you did not pre-register online, complete a Public Testimony form and give it to staff. Forms are located on the counter by the door.
3. When called, either unmute your microphone or approach the speakers table and state your full name and address. If you are unable to sit at the table, a wireless microphone will be provided. Direct all questions and comments to the Chair.
4. Make your points clearly and avoid repeating any that have already been made. Limit your testimony to three minutes.

Hybrid Public Hearing Preamble

The role of the Planning Commission is to review and analyze proposed ordinances, comprehensive plan amendments, zoning changes and other land use related issues. We follow a public process, including holding hearings during which the public has an opportunity to provide additional perspectives and information.

In legislative matters, the role of the Commission is advisory. City Council will hold separate hearings, consider our recommendations, and make a final determination.

The Planning Commission will conduct a hearing tonight and take public testimony. Community members may register online or submit a speaker request form in person. The Chair will call upon you during the public testimony portion of the hearing.

If you are in person, when you are called, please come to the microphone. If you have joined remotely, when you are called, unmute your phone or microphone. State your name for the record. If you are providing the formal recommendation of a neighborhood association or other group, please tell us when the association voted on the matter, as well as how many people were for and against.

Please keep remarks brief and to the point. Remarks should be directed to the Planning Commission as a body, not the audience, staff, or the applicant. Please do not repeat testimony that has already been provided in print or verbally. As a reminder to my colleagues, please indicate to the chair when you want to be recognized.

At the conclusion of public testimony, the applicant may be given an opportunity to respond, after which the public portion of the hearing will be closed. The Commission will then deliberate and make a recommendation to Council.

Would anyone on the Planning Commission like to disclose any conflicts of interest?
(Chair pauses for several moments)

Before we begin the hearing, please ensure that your microphones are turned off or muted during the presentation. Please show respect for the people testifying tonight, whether you agree with their comments or not.

Parliamentary Procedures: "Cheat Sheet"

Main Motion:

1. A member must be recognized by the Chair in order to make a motion.
2. Requires a second.
3. Once seconded, the motion is "on the floor" for discussion. The Chair restates the motion prior to allowing discussion to ensue.
4. Requires simple majority for approval.

Debate/Discussion:

1. Once a motion is on the floor, if no one offers to discuss then the Chair immediately proceeds to a vote.
2. The person who moved the motion has the right to speak first after the Chair's call for discussion. The Chair must recognize that person first.
3. A member may only speak twice to a motion. The second chance to speak to a motion can occur after everyone speaks for the first time.

Closing Debate/Discussion:

1. A common mistake Chairs make is to close discussion.
2. The Chair does not have authority to close discussion on a motion.
3. Discussion is closed either through a lack of further member comments, or a successful calling of the question.
4. When a debate appears to the chair to be finished, he/she should inquire, "Are you ready for the question?".

Limiting Time of Debate/Discussion:

1. Requires a second.
2. Acted upon immediately and is not debatable.
3. Can not apply to anything but the motion before the Board at that time.
4. It is amendable.
5. Requires a 2/3 majority for approval.
6. If successful, the effect is to limit discussion to a certain time period (e.g., 30 minutes) including the main motion & amendments.

Amendment of a Main Motion:

1. Requires a second.
2. It is amendable (but the amendment of an amendment is not amendable; see Amendment of an Amendment below).
3. Can (1) add words, (2) strike words, or (3) substitute new language to the main motion.
4. Requires simple majority for approval.

Amendment of an Amendment:

1. Requires a second.
2. It is not amendable; that is, a first motion to amend is amendable, but an amendment to an amendment (amendment of the second degree) is not amendable.
3. Can (1) add words, (2) strike words, or (3) substitute new language to the first amendment motion.
4. Requires simple majority for approval.

Withdrawing a Motion:

1. May be made at any time before a vote on the motion has occurred.
2. Requires a second.
3. It is not debatable.
4. It is not amendable.
5. Requires a simple majority for approval.