
BOARD OF COUNTY COMMISSIONERS (BOCC) HEARING

1.1. PURPOSE

The purpose of this procedure is to describe the scheduling of development applications for review before and final action by the Board of County Commissioners (BoCC) and the general procedures followed by the Board of County Commissioners in hearing and acting on an item (application).

1.2. DESCRIPTION

The Board of County Commissioners is the primary body charged with making decisions concerning all matters related to the orderly growth and development of El Paso County, including applications for approval of sketch plans, planned unit developments (PUD), rezonings, variance of uses, preliminary plans, and all associated major amendments to such applications, as well as any amendments to the County's Land Development Code (LDC). The authority of the Board of County Commissioners to conduct its activities is established by state statute. The manner in which those activities are conducted is established by the BoCC's Legislative and Parliamentary Rules and Procedures, adopted annually. The Board of County Commissioners' specific authorities are identified in Section 2.2.1 of the LDC. In addition to the authorities described in the LDC, the Board of County Commissioners shall:

- Regulate the course and decorum of a hearing;
- Rule on procedural matters;
- Rule on the relevance of evidence and testimony;
- Seek the opinion of the County Attorney on legal questions pertaining to any matter before the Board of County Commissioners; and
- Take other action necessary to lawfully conduct a hearing.

The Board of County Commissioners establishes its own procedures which are set forth in its adopted Legislative and Parliamentary Rules and Procedures. This procedure is intended to outline generally how the Board operates and how items are brought before the Board. Any conflict between this procedure and the Board's adopted Bylaws and Procedures shall be considered unintentional and the Board's Bylaws and Procedures shall prevail for the purpose of resolving such conflicts

The PCD serves to support the Board of County Commissioners with respect to the administration of the LDC and is responsible for preparing all land use related items for review and final action by the Board of County Commissioners and scheduling such items on the BOCC agenda through coordination with the Clerk to the Board.

1.2.1. Types of Hearings

(A) Legislative Public Hearings

The purpose of a legislative public hearing is to obtain public input on legislative decisions on matters of policy. Legislative public hearings are required for such things as amendments to the Land Development Code where new rules are being established that affect many properties. These public hearings are generally less formal than quasi-judicial public hearings and do not involve the legal rights of specific, private parties in a contested setting, but rather affect a wider range of citizens.

(B) Quasi-Judicial Public Hearings

Quasi-judicial hearings are subject to stricter procedural requirements than legislative hearings as they involve the determination of legal rights of specific parties through the application of preexisting standards. As such, decisions made as a result of such hearings must be based upon and supported by the record developed at the hearing. Most quasi-judicial hearings include land use matters such as, but not limited to, special use, final plat, rezoning, and preliminary plan applications.

1.3. PROCESS**1.3.1. Scheduling a Development Application for Review**

No development application shall be scheduled for hearing before the Board of County Commissioners until the PCD Director, in consultation with the assigned PCD Planner and Engineer, determines that the review has been completed and all review comments have been adequately addressed. Until all issues have been addressed to the satisfaction of the PCD Director, the development application will not be scheduled before the Board of County Commissioners. If the applicant objects to the development application not being scheduled for a hearing by Board of County Commissioners then the applicant shall work with the PCD Planner or reviewers to resolve any outstanding issues. In unique instances in which the applicant is unable or for whatever reason unwilling to work with the PCD Planner or reviewers to resolve the outstanding issues, the applicant may seek a final determination on the need to resolve the issue through the issue resolution process, which shall be presided over by the PCD Director and may require technical input from the County Engineer.

When the development application is ready for Board of County Commissioners hearing, the PCD Planner shall work with the PCD Administrative Staff to contact the Clerk to the Board to identify the first available Board of County Commissioners meeting date that will allow any required or courtesy notice to be prepared and provided in accordance with public notice. In scheduling a hearing, due regard will be given primarily to the availability and convenience of the Board and the Secretary and, secondarily, to the availability and convenience of the applicant, known persons in opposition to the application, and other known interested parties (and their representatives or lawyers).

The PCD Planner, through the PCD Administrative Staff, shall provide the Clerk to the Board a blurb describing the application. This blurb shall include, at a minimum, a detailed description of the proposed project or activity for the agenda including the name of the applicant, file number, application type, a short description of the project, a description of the location of the property relative to the nearest major intersection, and Assessor's schedule number. The PCD Planner shall work with the PCD Administrative Staff to provide the Clerk to the Board with a copy of the staff report.

1.3.2. Limit on Number of Items Heard by Board of County Commissioners

The Board of County Commissioners may limit the number of development applications that will be heard on any particular hearing date. Complete development applications will generally be scheduled only after all issues have been resolved to the satisfaction of reviewers and the applicant which may include recommended conditions and restrictions to address particular issues or concerns and provide conformity with County rules, regulations, codes, standards and ordinances.

1.4. NOTICE

Notice shall be provided as required by State law, the LDC, or other County rule, regulations, or ordinance and the public notice requirements outlined in the specific application type procedures sections contained in this Manual.

1.5. FORM OF ACTION

The Board of County Commissioners typically takes action by resolution which shall include findings and conclusions supporting the action.

1.6. REFERENCE

1.6.1. Applicable Statutes and Regulations

C.R.S. §§30-28-101 et seq.

LDC Sections: 2.1.2 and 2.2.1