Resolution
No. 2015-004  A Resolution Adopting Rules for the Conduct of Public Hearings Held by the Planning Commission of Mariposa County

WHEREAS, Title 2 of Mariposa County Code, Chapter 2.52 establishes general provisions for the functioning and authorities of the Mariposa County Planning Commission (Commission); and

WHEREAS, Mariposa County Code, Section 2.52.120 “Adoption of rules” states, “The Commission shall adopt rules for the transaction of its business and shall keep a public record its resolutions, transactions, findings and determinations”; and

WHEREAS, Mariposa County Code, Section 2.52.180 “Applications—Scope of matters to be heard by Commission” states the range of matters the Commission shall hear and render decisions on; and

WHEREAS, the Commission adopted rules for the conduct of public hearings in January 2008 and amended these rules in February 2009; and

WHEREAS, it is the desire of the Commission to update these rules and adopt them by resolution; and

WHEREAS, the Commission believes these rules of conduct further the Commission’s goal and mandate to provide a consistently fair and equitable service to all interested parties; and

WHEREAS, on the 10th day of July, 2015 the Mariposa County Planning Staff presented the Commission with updated rules for the conduct of public hearings for review; and

WHEREAS, the updated rules for the conduct of public hearings as contained herein were developed based on consideration of Mariposa County Code Chapter 17.132, the Board of Supervisors’ adopted rules for the conduct of public hearings, and the Planning Commission’s previously adopted rules for the conduct of public hearings; and

WHEREAS, the Commission discussed these rules of conduct of public hearings at their regularly scheduled meeting on the 10th day of July, 2015 and considered all public input.

NOW, THEREFORE BE IT RESOLVED THAT, in accordance with the requirements of Mariposa County Code, Section 2.52.120, and in accordance with the authority granted to it by that section, the Planning Commission of the County of Mariposa hereby adopts the rules for the conduct of public hearings of the Planning Commission shown as Exhibit A.
BE IT THEREFORE FINALLY RESOLVED THAT the rules shown in Attachment A shall replace and supersede any and all previously adopted rules for the Planning Commission’s conduct of public hearings.

ON MOTION BY Commissioner Bernikoff, seconded by Commissioner Kennec this resolution is duly passed and adopted this 10th day of July, 2015 by the following vote:

AYES: Becker, Bernikoff, Harris, Harter, Kennec

NOES:

EXCUSED:

ABSTAIN:

Larry Harris, Chair
Mariposa County Planning Commission

Attest:

Susan Hunter, Secretary
Mariposa County Planning Commission
EXHIBIT A

Rules for the Conduct of Public Hearings
Held by the Planning Commission of Mariposa County

Planning Commission meetings are conducted under the direction of the Chair. All public hearings scheduled for the Planning Commission shall be conducted in accordance with these procedures and rules. The Chair will announce the process for conduct of the hearing. All questions and/or presentations shall be directed to the Planning Commission. Any Commissioner may direct questions to staff and witnesses at any time during the hearing or deliberation process.

The hearing will be conducted as follows:

1. Open Public Hearing

   The Chair shall open the public hearing on the specific agendized hearing item and shall announce the title of the hearing item.

2. Staff Presentation

   A. Planning staff will present their report on the matter being heard.

      The report shall include facts regarding the history of the matter and the authority and basis for the decision to be rendered.

      The report may contain a recommended action.

   B. The Commission will be provided an opportunity to ask questions of staff about the staff report. Only questions should be asked at this time. There should be no discussion or deliberation regarding the recommendation or conditions, including any discussion on amending the conditions. All commenting agencies, including state agencies, are considered staff.

3. Open Public Portion of Public Hearing

   A. The Chair will open up the public portion of the public hearing.

   B. Persons presenting testimony to the Planning Commission are not required to sign in or state their name. Other rules for public testimony are established by Section 4 below.

   C. The Chair will ask the project applicant and/or agent (appellant, if appeal hearing) to present their testimony. (This step shall be skipped if there is no applicant, agent or appellant). The Commission may ask questions of the applicant and/or agent or appellant about the testimony or the project.
D. The Chair will ask those in support of the application or project (or appellant) to come to the podium to present any testimony they wish to give in regard to the proposal or appeal. The Commission may ask questions about the testimony.

E. The Chair will ask those in opposition to the application or project (or appellant) to come to the podium to present any testimony they wish to give in regard to the proposal (or appeal). The Commission may ask questions about the testimony.

F. The Chair will ask those with general comments to address the Commission. The Commission may ask questions about the testimony.

G. The Chair will offer the project applicant and/or agent (or appellant) an opportunity for rebuttal of any testimony against the proposal (or appeal) or to clarify information previously presented. (This step shall be skipped if there is no applicant, agent or appellant).

H. Any documentary evidence submitted to the Planning Commission during the public portion of the public hearing shall also be provided to the Planning Commission Secretary, Planning staff and the applicant and/or agent. Photographs or similar information submitted to the Planning Commission are part of the official record and must be retained by the Planning Commission Secretary.

4. Rules for Public Testimony

All persons presenting testimony to the Planning Commission in a public hearing must observe the following rules:

A. All testimony shall be presented from the podium. If an individual is unable to speak from the podium, a hand held microphone may be used. Since all meetings are recorded, speakers are requested to speak clearly and use the microphone provided.

B. All remarks must be addressed to the Chair. Conversations or debate between a speaker at the podium and a member of the audience or staff is not permitted.

C. Testimony should be kept as brief as possible and speakers are asked to avoid duplicate testimony.

D. Planning Commission hearings can involve highly emotional issues. It is important that all participants conduct themselves with courtesy, dignity and respect.

E. The Planning Commission Chair may call a break or the Planning Commission may continue an item to another date, should there not be appropriate conduct exercised by the public in attendance at a public hearing.
F. Written testimony may be presented in place of, or together with oral testimony. Written testimony must be submitted prior to the close of the public input portion of the public hearing. Written correspondence does not need to be re-read into the record.

5. Summary and Clarifications by Staff

A. The Chair will ask staff for a summary wrap-up or a response to issues or questions raised by speakers. Staff may make recommendations on issues raised. All commenting agencies, including state agencies, are considered staff.

B. Staff may inform the Commission that, based on the evidence presented, additional time for staff research is required or additional information from the applicant, proponent and/or proponents is needed.

If it is known how long it will take to obtain the additional information, the Planning Commission may continue the public hearing to a “date and time certain” and further public noticing of the public hearing need not occur (other than appearing on the agenda of the meeting to which the hearing was continued).

If it is not known how long it will take to obtain the additional information, the public hearing may be closed. Full public hearing noticing will need to occur prior to continued conduct of the hearing in the future.

C. If new information is provided as determined by the Commission during this wrap-up/question period, the Chair shall provide an opportunity for additional public input on the new information only.

6. Close Public Input Portion of Public Hearing

The Chair will close the public input portion of the public hearing.

7. Planning Commission Deliberation

A. The Planning Commission will conduct their deliberations on the matter. This is the time during which the Commission may discuss their positions regarding the recommendations and/or any specific conditions without interruption from the public.

B. No further public testimony may be taken during deliberations without reopening the public portion of the public hearing to anyone wishing to present additional testimony.

8. Planning Commission Action
A. The Planning Commission shall take action on the project (or appeal) in the form of a formal resolution. Rules governing voting are established by separate resolution adopting Planning Commission’s Rules of Procedure for meetings.

B. If the Planning Commission takes action on the project (or appeal) and that action is an appealable action, the Chair shall announce the appeal period to the public.

C. If the Planning Commission needs additional information or additional time in order to act on the project (or appeal), or if the draft resolution needs to be revised based on the commission’s deliberation, the Planning Commission may continue the public hearing to a “date and time certain” and further noticing of the public hearing need not occur (other than appearing on the agenda of the meeting to which the hearing was continued).

D. A Commissioner who has not listened to all of the public testimony on a project (or appeal) may not vote on the project (or appeal). A Commissioner who is excused for one meeting, but present for a meeting at which a continued public hearing is conducted, may only vote on that project (or appeal) if he/she has listened to the recording of the public hearing and reviewed all of the information in the record.

9. Formal rules of evidence or procedure applicable in judicial proceedings shall not apply in any Planning Commission proceeding.