

PLANNING COMMISSION MEETING

In compliance with Americans with Disabilities Act, If you need special assistance to participate in this meeting, please contact the Planning Secretary at (805) 524-1500 ext. 113, 48 hours prior to the meeting in order for the City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).

No New Business will be Considered by the Planning Commission after the Hour of 11:00 p.m. unless a Majority of the Planning Commission Determines to Continue beyond that Hour.

Memorandums: Memorandums relating to agenda items are on file in the Planning Department. If you have questions regarding the agenda, you may call the Planning Dept. (805) 524-1500 ext. 113 or visit the Planning Dept. in City Hall for information. Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Planning Dept. in City Hall during normal business hours.

AGENDA

- | ITEM | REFERENCE |
|---|------------------|
| 1. CALL TO ORDER | |
| 2. PLEDGE OF ALLEGIANCE | |
| 3. OATH OF ALLEGIANCE | |
| 3a. City Clerk Clay Westling administers the Oath of Allegiance to:
Barbara Cavalli, Mark S. Greenwell, Christopher J. Hoy and Robert Smith
who were appointed to the Planning Commission by Mayor Washburn during
the October 11, 2011 City Council meeting. | Oral |
| 5. INTRODUCTION OF PLANNING COMMISSIONERS | |
| 5a. Each Commissioner to introduce themselves to the community. | Oral |
| 6. ELECTIONS | |
| 6a. Planning Commission Chair | |
| 6b. Planning Commission Vice Chair | |
| 7. ORAL COMMUNICATIONS | |
| 7a. This is the opportunity for citizen presentations or comments not related to
agenda items, but within responsibility of the Planning Commission (please
do not exceed 5 minutes per topic). | |
| 8. CONSENT CALENDAR - None | |

9. BUSINESS ITEM

9a. Training: Review Authority of Commission and Findings.

Memo

Purpose: Discuss the process for reviewing a project and decision making.

1. Discuss the role of the Planning Commission as the Final Review Authority and as a recommending body to the City Council.
2. Review five common Findings that must be made to support the Commission’s decision to approve or deny a project (Compatibility; General Plan; Zoning Ordinance; Public Services; CEQA).

10. REPORTS and COMMUNICATIONS

10a. Community Development Director

Oral

10b. Planning Commission

Oral

11. ADJOURNMENT

11a. The Planning Commission adjourns to the next regular Planning Commission meeting scheduled for November 16, 2011, 6:30 p.m., in the City Council Chambers, 250 Central Ave., Fillmore, CA 93015.

PLEASE NOTE: If you challenge the actions of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in the public notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing (Calif. Gov’t Code § 65009).

Any legal action by an applicant seeking to obtain judicial review of the Planning Commission’s decision on a hearing listed on this agenda may be subject to the 90-day filing period of, and governed by, Code of Civil Procedure Section 1094.6.



CITY OF FILLMORE
CENTRAL PARK PLAZA
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Fillmore, California 93015-1907
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October 19, 2011

TO: Planning Commission
FROM: Kevin McSweeney, Community Development Director 
SUBJECT: Training: Planning Commission Review and Findings

RECOMMENDATION

The Planning Department staff recommends the Planning Commission take the following action:

- Receive and file staff report.

BACKGROUND

The Fillmore Municipal code section 6.04 is the Zoning Ordinance. The Zoning Ordinance Section 6.04.50001 Table IV explains the decision making of the Review Authority into 3 distinct categories; Staff, Planning Commission and City Council.

City Staff:

City staff has the ability to approve projects such as Home Occupation Permits to Minor Conditional Use Permits. This can consist of approving a business in a residential unit to approving the construction of a new residential unit to approving commercial buildings under 10,000 sq.ft. The City Staff's decisions can be appealed to the Planning Commission. City staff also has the ability to defer a decision to the Planning Commission.

Planning Commission:

In accordance with the Zoning Ordinance Section 6.04.5001 Table IV-I, the Planning Commission is considered the final Review Authority for most entitlements such as Development Permits, Conditional Use Permits, Variances, Parcel Maps and can approve environmental documents for those entitlements. Planning Commission decisions on these entitlements are final unless the decision is appealed to the City Council.

The Planning Commission is not the final review authority on legislative issues such as Tentative Tract Maps, General Plan Amendments, Zoning Ordinance Amendments, Annexations and Specific Plan adoptions. In these cases, the Planning Commission serves as an advisory body to the City Council and will make a recommendation to the City Council. The Council then becomes the "decision making body."

Five Essential Findings:

All projects reviewed by the Planning Commission must adopt "findings." These are questions that commissioners should ask themselves during the review of a project.

1. Is the project consistent with the General Plan?
2. Is the project consistent with the Zoning Ordinance?
3. Is the project compatible to the surrounding neighborhood?
4. Can the project be served by utilities and infrastructure?
5. Has the project been reviewed per the California Environmental Quality Act (CEQA)?

These findings and an explanation of how a project does or does not answer the findings are in every Planning Commission resolution.

Public Hearings:

Projects seeking development approval require public hearings. City staff will mail notices to property owners within 300 feet of the project and publish a notice in the paper. The public can then attend a public hearing and voice concerns or comments about a project.

City Staff Recommendation:

City staff will suggest a recommendation to approve, deny, conditionally approve or continue a project. When City staff makes a recommendation, they usually do not have the full benefit of a public hearing. Therefore, recommendations could appear to be made in a vacuum or a sterile recommendation indicating a project meets code.

The Planning Commission is not obligated to follow the recommendations of staff. Due to public comments on a project or Planning Commission opinions, the Commission can make a decision different than what was recommended.

Forming a Decision:

The Planning Commission has ability to use its "discretion" in determining if a project can be approved. According to CEQA section 1537, a discretion requires the exercise of judgment (opinion) or deliberation as distinguished from the determination from statutory review of compliance to ordinances and regulations. Therefore, the Commission may decide that although a project complies with ordinances, the Commission can use their judgment to alter, amend, modify, condition or deny a project, subject to certain legal restrictions.

ANALYSIS

Through the exercise of judgment and after public comment period, the Commission can determine to support staff's recommendation or not. This is done during the "motion" for a decision.

The decision options available to the Commission are the following:

1. Motion to approve project... based upon conditions and findings.
This means the Commission supports the project as presented and recommended by staff.

(OR)

2. Motion to approve project subject to modifications to the project based upon conditions and findings.

This means the Commission supports the project but after reviewing the project it is determined that changes need to be made but they are considered minor and the project is conditioned to make the required modification.

(OR)

3. Motion to continue the project to another date.
This means the Commission has identified issues that need to be resolved prior to approval and the Commission continues the public hearing to another date. For instance, the Commission may have a concern about the circulation pattern and requires the applicant to modify the design of the project.

(OR)

4. Motion to Deny the project
After public comments, staff analysis and Commission discussion, the Commission may determine to deny the project. This can be contrary to the staff recommendation. The project may simply not be the best project for the site and surrounding area or there may be issues i.e. traffic, noise that caused difficulty with the project.

According to the Zoning Ordinance Section 6.04.8065, Reapplication, when an application is denied, no application or substantially the same application can be submitted within a 12-month period.

It is important to note that the Commission decisions can be appealed to the City Council during a 15-day period.

Attachments

1. Planning Commission Authority per the Zoning Ordinance section 6.04.0215.1
2. Zoning Ordinance Section 6.05001 Table IV-1.
3. Role of a Commissioner

- 7. Provide a diversity of areas characterized by differing land use activity, scale and intensity, while maintaining community identity and quality development; and
- 8. Maintain Fillmore as a unique/distinctive and secure environment for the City's residents and businesses.

6.04.0210 AUTHORITY AND GENERAL PLAN CONSISTENCY

This Ordinance is the primary tool for implementing the policies of the Fillmore General Plan, in compliance with the mandated provisions of State Law and other applicable Local, Regional, State and Federal requirements as they may be amended/replaced from time to time.

All development within the unincorporated area of the City's Sphere of Influence should be consistent with the General Plan. All development within the incorporated area of the City shall be consistent with the General Plan.

6.04.0215 REVIEW AUTHORITY

The development review process involves the participation of the following:

1. PLANNING COMMISSION

A. APPOINTMENT

The Planning Commission shall consist of 5 members who are appointed by the Mayor, with the approval of the City Council, and who serve in compliance with the provisions of Chapter 2.32 of the Municipal Code.

B. TERMS OF OFFICE

Members shall be appointed for a term of 4 years.

C. MEETINGS

The Commission shall hold at least one regularly scheduled meeting each month.

Special meetings may be scheduled as needed, by the Chairperson or 3 Commission members with written notice being provided to each member at least 24 hours prior to the scheduled meeting.

All meetings of the Commission shall be open and public. The Commission shall adopt rules for the transaction of business and shall keep a public record of its actions.

D. QUORUM

Three members of the Commission shall constitute a quorum for the transaction of business. A majority vote of those present (a minimum of 3 members) shall be required for formal action on any planning matter.

E. DUTIES

The Commission shall perform the duties and functions prescribed in this Ordinance. The Commission shall prepare, recommend adoption, implement and periodically review and recommend revisions to the General Plan and this Ordinance for the desired physical development of the City, and any land within its Sphere of Influence.

F. AUTHORITY

The Commission has the authority to grant final approval for the following:

1. Variances;
2. Conditional Use Permits;
3. Residential Developments including 4 or more dwelling units;
4. Non-residential Developments including 10,000+ square feet of total structure area or more than a 10% addition to an existing structure;
5. Tentative Parcel Maps;
6. Sign Programs; and
7. Certification/approval of appropriate environmental documentation in compliance with the California Environmental Quality Act (CEQA).

All of the above listed determinations are subject to appeal to the City Council in compliance with Section 6.04.80 (Hearings and Appeals).

Also, the Commission shall make recommendations to the City Council/Redevelopment Agency (RDA) for final determination regarding the following:

1. Specific Plans;
2. General Plan Amendments;

3. Zoning Map Amendments;
4. Zoning Ordinance Amendments;
5. Development Agreements;
6. Tentative Tract Maps; and
7. Other applicable ordinances or regulations which are zoning in nature.

2. COMMUNITY DEVELOPMENT DIRECTOR

A. APPOINTMENT

The Community Development Director shall be appointed by the City Manager.

B. DUTIES

The Director shall perform the duties and functions prescribed in this Ordinance, in addition to the day-to-day and long range management of the Community Development Department.

C. AUTHORITY

The Director has the authority to grant final approval for the following:

1. Occupancy Clearances;
2. Structure Relocation Permits;
3. Sign Permits;
4. Home Occupation Permits;
5. Temporary Use Permits;
6. Minor Modifications;
7. Minor Variances;
8. Minor Conditional Use Permits;
9. Residential Developments including up to 3 dwelling units;

10. Non-residential Developments with less than 10,000 square feet of total structure area or less than a 10% addition to an existing structure;
11. Lot Line/Boundary Adjustments; and
12. Interpretation/definition of "permitted uses" in compliance with Subsection 6.04.0225(3)

All of the above listed "powers" are subject to referral/appeal to the Planning Commission in compliance with Section 6.04.80 (Hearings and Appeals).

6.04.0220 ESTABLISHMENT OF ZONING DISTRICTS

1. ESTABLISHMENT OF ZONES

The City of Fillmore is divided into zoning districts which consistently implement the General Plan. The following zoning districts are established:

RPD-R	(RESIDENTIAL-RURAL) ZONE
RPD-L	(RESIDENTIAL-LOW) ZONE
RPD-M	(RESIDENTIAL-MEDIUM) ZONE
RPD-M/H	(RESIDENTIAL-MEDIUM/HIGH) ZONE
RPD-H	(RESIDENTIAL-HIGH) ZONE
CN	(COMMERCIAL NEIGHBORHOOD) ZONE
CBD	(CENTRAL BUSINESS DISTRICT) ZONE
CO	(COMMERCIAL OFFICE) ZONE
CH	(COMMERCIAL HIGHWAY) ZONE
MPD	(MANUFACTURING/INDUSTRIAL) ZONE
O-S	(OPEN SPACE) ZONE
P-F	(PUBLIC FACILITIES) ZONE
SFIP	(SOUTH FILLMORE INDUSTRIAL PARK) OVERLAY ZONE

2. ADOPTION OF ZONING MAP

The boundaries of the zoning districts established by this Subsection shall be shown upon the map designated as the "City of Fillmore Official Zoning Map," on file with the City Clerk, and available at the Department.

3. RULES APPLYING TO UNCERTAIN BOUNDARIES ON ZONING MAP

The following shall apply in determining uncertain boundaries of a district as shown on the Official Zoning Map:

- A. Where a boundary follows a public street or alley, the centerline of the street shall be the boundary. Where a boundary follows a parcel line, the parcel line shall be the boundary;

ARTICLE IV ADMINISTRATION

SECTION 6.04.50 INTRODUCTION

6.04.5001 INTRODUCTION

The purpose/intent of this Article is to outline procedures together with various land use permit options, in addition to providing for amendments to the General Plan, the Zoning Map and this Ordinance.

Table IV-1 (Threshold of Review) identifies the full range of land use permit options and applicable Review Authority.

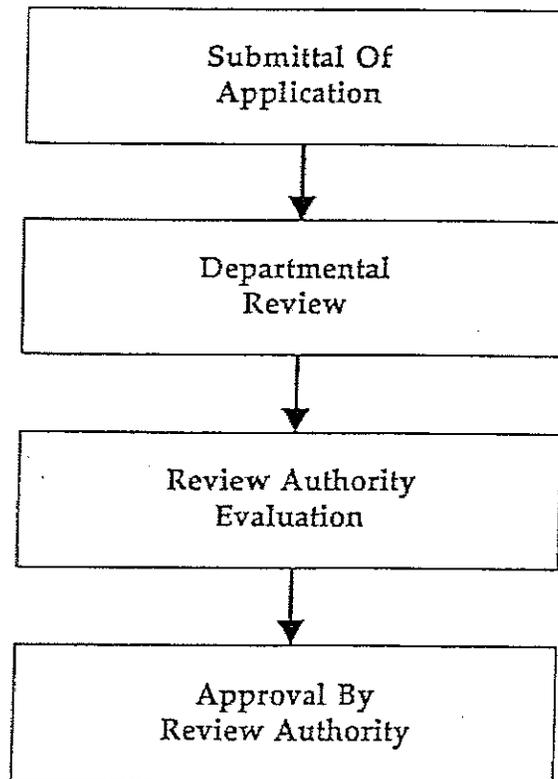


TABLE IV-1
THRESHOLD OF REVIEW

<u>Item</u>	<u>Director</u> ¹	<u>Commission</u>	<u>Council</u>
Occupancy Clearances	X		
Home Occupation Permits	X		
Sign Permits ²	X		
Structure Relocation Permits	X		
Interpretations	X		
Temporary Use Permits	X		
Minor Modifications ²	X		
Minor Variances ²	X		
Minor Conditional Use Permits ²	X		
Sign Programs ²		X	
Variances ²		X	
Development Permits ²			
Residential			
1-3 Dwelling Units	X		
4+ Dwelling Units		X	
Non-residential			
1-9,999 sq. ft.	X		
10,000+		X	
Conditional Use Permits ²		X	
Lot Line/Boundary Adjustments	X		
Tentative Parcel Maps		X	
Tentative Tract Maps		X ³	X
Vesting Tentative Maps		X ³	X
Final Maps			X ⁴
Design Review Procedures	X		
Specific Plans		X ³	X
General Plan Amendment Screening		X ³	X
General Plan Amendments		X ³	X
Zoning Map Amendments		X ³	X
Zoning Ordinance Amendments		X ³	X
Development Agreements		X ³	X

- ¹ The Director may refer any entitlement application to the Commission for final determination.
- ² Subject to Design Review procedures (Subsection 6.04.6620) when alteration/construction is involved.
- ³ Commission recommends to Council for final determination.
- ⁴ Following approval by the Council, the Final Map shall be filed with the Department.

6.04.5005 MULTIPLE PERMIT APPLICATIONS

An applicant for a development project, which requires the filing of more than one land use permit application, shall file all related permits concurrently, unless waived by the Director, and submit appropriate processing deposits/fees in compliance with Section 6.04.78 (Applications and Fees).

Permit processing and environmental/design review shall be concurrent and the final decision on the project shall be made by the highest level of Review Authority, in compliance with Table IV-1 (Threshold of Review). For example, a project requiring a Development Permit (i.e., 4 dwelling units) and Tentative Parcel Map shall be determined by the Commission, while a project requiring a Development Permit, Tentative Tract Map, and General Plan Amendment shall ultimately be determined by the Council.

6.04.5010 PRE-APPLICATION CONFERENCE

A prospective applicant is encouraged to request a pre-application conference with the Department prior to submittal of a single land use permit application. This conference is required for development projects involving multiple permit applications.

This conference should take place prior to any substantial investment (i.e., land acquisition, site, engineering and construction plans, etc.) in the preparation of the proposed development project application. During the conference, the Department representative(s) shall inform the applicant of applicable General Plan policies, plans, and requirements as they apply to the proposed development project, review the appropriate procedures outlined in this Ordinance, and examine possible alternatives or modifications relating to the proposed project. Preliminary evaluation of environmental issues shall be addressed and potential technical studies relating to future environmental review should be identified.

Neither pre-application review nor the provision of available information and/or pertinent policies shall be construed as a recommendation for approval/disapproval by the Department representative(s). A fee may be imposed for the pre-application conference in compliance with the City's "Schedule of Fees".

PLANNING COMMISSIONER'S ROLE

The Planning Commission is a recommending body to the City Council. The City Council approves all policies and legislative matters.

To streamline review of development projects, the Planning Commission does have the authority to approve some smaller development projects. To further reduce the review period of a project, the City Council authorized City Staff to approve even smaller projects. All projects reviewed by the Planning Commission will include a recommendation and analysis from City staff and will be presented in a staff report one week before the Planning Commission meeting.

Comments made by the Planning Commission regarding development projects are taken very seriously by City Staff and the City Council. Those comments have the ability to change, improve, approve or deny a development project. Comments are very influential and can set the "tone" to the development and the developers approach to the City.

ANALYSIS OF PROJECTS

General Plan:

All development projects are first reviewed in accordance with the City of Fillmore General Plan particularly the Land Use Element (2003). City staff will analyze a project for consistency with the land use designation and consistency with the goals, policies, objectives and implementation measures of the General Plan. All projects are required to be consistent with General Plan. Essentially the General Plan ensures that all projects comply with the vision statement of the General Plan;

"Foster a thriving small-town atmosphere in which civic pride, personal well-being, and a balanced economy are nurtured and protected."

Zoning Ordinance (1994):

The "how-to's" or nuts and bolts of the General Plan is reflected in the Zoning Ordinance (1994) which is also chapter 6.04 of the Fillmore Municipal Code. Therefore, it is considered as the law. Detailed development standards are identified in the Zoning Ordinance such as land use, parking, landscaping, sign size, trash enclosure size and etc. The Zoning Ordinance implements the General Plan and because of that, people mistakenly believe Planning is simply the Zoning Ordinance. There is flexibility within the Zoning Ordinance and the City Council appreciates the flexibility when projects are attempting to negotiate City standards. Often times, the City Council will demand an increase in the quality of a project while reducing other standards if the project can be determined to outweigh any of the Zoning Ordinance standards and benefits the community.

Specific Plans:

The City of Fillmore has 3 Specific Plans; Downtown, Heritage Valley and North Fillmore. As the name states, these documents are extremely specific and detailed and are consistent in

content with the General Plan and Zoning Ordinance. Architectural requirements are especially detailed. The City Council adherence to the Specific Plans is uncompromising. Please note: Measure I requires the North Fillmore Specific Plan to be re-drafted.

Ventura Street Design Guideline:

The City Council adopted an architectural guideline along the highway; Craftsman and Railroad architecture. This is a guideline only and is not considered as law. The City Council approach to this has been a very liberal interpretation.

Visions 2020:

The City Council adopted a vision document called Vision 2020. This not a Planning document and is not used to review development projects but is considered a community document to guide service clubs, church groups and Fillmore organizations to the same goal. However, Vision 2020 was instrumental in creating the goals of the General Plan. Vision 2020 is a great document to summarize the direction the community.

Environmental Review

All development projects are reviewed environmentally as required by the State of California per the California Environmental Quality Act. In many cases, projects can be considered as “exempt” from review such as room additions, one single family home or smaller projects.

If a project is not exempt, then City Staff prepare an Initial Study to determine the level of impact a project will have on the environment. In many cases, a Negative Declaration is prepared after the Initial Study indicating that there is no impact on the environmental.

In some cases, a Mitigated Negative Declaration is prepared indicating that the City must adopted measure to mitigate the environmental impact to a level called “insignificant”.

In rare cases and for extremely large projects, an Environmental Impact Report is created indicating that no matter what type of mitigation measure is created, a project will have an impact on the environment. However, a project may be determined to be beneficial to the community and a “Statement of Overriding Consideration” to override the environmental impact.

The Planning Commissioners role in environmental review is to simply discover if there is adequate information in the environmental document. Sometimes there is not enough information and the Planning Commission may request more studies such as Noise, traffic, air quality, biology or compatibility with surrounding neighbors. Consultants, attorneys and City Staff are there to provide help in reviewing these documents.

State and Federal Laws:

City Staff will make Planning Commissioners of any State or Federal Laws that projects will need to follow. There are numerous.

Site Design:

All the above can be reduced to good site design and it only takes a common sense approach for site plan review. A Commissioner does not need to be an architect or engineer to review site

design or development plans. There is just one real criteria a Planning Commissioner needs to keep in mind; Is the project compatible with the surrounding neighborhood? For instance, will a project be too loud or a driveway location placed in a dangerous area or is the entire use incompatible with the neighborhood.

City Staff Approach to Development Projects:

City Staff will provide a summary in the Staff Report on the information above but a development project will not go before the Planning Commission until City Staff is confident the Planning Commissioners will be satisfied with a development project. But, in some cases, a developer maybe insistent on a Planning Commission decision when a project is not prepared. This will be clearly evident.

City staff always reviews a project as if to better the community and this causes nearly all projects to be slightly re-designed for improvements during project review.

Due Process:

Development projects are required a public hearing. This means that property owners within 300' to the project are notified and the community is notified in the paper. These people have the ability to state their opinion about a project and it has been know that the public comments can change the design of a project or cause the denial of a project. State, County and local agencies and utility companies are also notified of proposed developments

Behavior at Commission meeting:

The Planning Commission meeting is televised live. All comments, mannerism and behavior are on view for all. Sometimes the meetings can be informal in appearance but serious business is being conducted. When an applicant is investing millions of dollars to a project, they appreciate the courtesy of attentiveness in the review. Likewise, neighbors commenting on projects appreciate that their comments are taken seriously and not blown-off.

Process of meetings:

City staff will present their staff report to the Planning Commission. The Commission will then have the ability to ask City staff questions. The applicant will then make a presentation in an attempt to "sell" the project to the Commissioners. The Commission can then ask the applicant questions. The public will then present their comments. After all the comments and Commission questions are over, the Commission Chair will close the meeting and the Commission will begin discussion amongst themselves. The Commission may direct further question to staff. The Commission may impose conditions on the project during the discussion period. All conditions imposed on a project must be made by motion.

