

# DURHAM PLANNING COMMISSION REVISED RULES OF PROCEDURE

Revised November 10, 2009

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## SECTION 1: INTRODUCTION

### 1.1 Purpose

To establish procedures for organizing and executing the duties and responsibilities of the Durham Planning Commission (“the Commission”), a joint Commission established pursuant to state statute and interlocal agreement by the City and County of Durham.

### 1.2 Authority

The Commission shall be governed by the terms of the Durham City/County Unified Development Ordinance, by the terms of the Interlocal Cooperation Agreement between the City of Durham and the County of Durham (Interlocal Agreement), by the terms of State statutes, in particular N.C.G.S. 160A-360 to 160A-387 and N.C.G.S 153A as they may be amended or revised, and by these rules to the extent that they do not conflict with the law.

### 1.3 Functions of the Planning Commission [See Also: Interlocal Agreement Section III]

The Planning Commission shall have the following duties:

- a. Propose and review policies and procedures for encouraging broad public input on all comprehensive, area, sub-area, neighborhood and functional plans.
- b. Review and make recommendations on the Planning Department’s annual work program. The Planning Commission shall report to the Governing Bodies on an annual basis concerning the conditions of the planning jurisdiction and the status of planning activities.
- c. Review reports of ad hoc committees that may be appointed.
- d. Review and make recommendations on major planning policies and planning implementation actions. Such review and recommendations shall be transmitted to the appropriate Governing Bodies for consideration during their deliberations.
- e. Coordinate with the City, County, and Planning Department in order to accommodate Work Program and Annual Budget changes that may result from the application for, or the receipt of funds by the City or County from the federal government and its agencies, the state government and its

agencies, any local government and its agencies, or any private or civic sources.

- f. Coordinate with the City, County, and Planning Department in accommodating work program and annual budget changes that may result from contracts between the City or County and federal government and its agencies, or the state government and its agencies, under which financial assistance for planning and implementation is made available to the City or County.
- g. Coordinate with the City, County and Planning Department in accommodating work program and Annual Budget changes that may result from the City and County contracting with any other city, county, or regional council or planning agency under which agreement is made to furnish technical planning assistance between entities.
- h. Advise and cooperate with units of local government, State government or Federal government on any matter within the Planning Commission's powers and duties.
- i. Review and make recommendations to the appropriate Governing Body concerning plan amendments, rezonings and proposed Unified Development Ordinance changes.
- j. Members of the Planning Commission shall serve on the following boards, commissions and committees, and any others when provision for Planning Commission representation has been made by the appropriate Governing Body:
  - (1) Bike Pedestrian Commission
  - (2) Development Review Board
  - (3) Durham/Chapel Hill Working Group
  - (4) Joint City/County Planning Committee
  - (5) Open Space and Trails Commission
  - (6) Others as may be authorized

Appointments shall be made by the Chair of the Planning Commission in consultation with the Vice Chair.

- k. Carry out such duties as may from time to time be given or directed by either Governing Body, so long as no conflict exists between the City and County concerning work priorities or use of resources. Where a conflict exists, the Joint City/County Planning Committee shall work out a resolution of the conflict sufficient for the Governing Bodies to agree upon.

## **SECTION 2: MEMBERSHIP AND OFFICERS**

### **2.1 Membership**

## Appointments by Governing Bodies

- a. Number, Composition. As provided in the Interlocal Agreement, the Planning Commission consists of 14 members, of whom seven are appointed by the County and seven are appointed by the City. Terms are staggered so that some terms expire each year.
- b. Subsequent Appointments. Appointments made to fill Commission vacancies shall be made by the Governing Body that made the initial appointment, and shall be for three (3) year terms except for appointments to replace members who have become disqualified, or have been removed, which shall be for the remainder of the replaced member's term. New appointments should be made by the Governing Bodies at least 90 days prior to the expiration of a term to ensure that the newly appointed member is afforded ample opportunity to observe Planning Commission meetings prior to assuming office.
- c. District Representation. The Governing Bodies shall use district representation plans adopted by each body for appointments to the Commission, as those plans may be revised from time to time.

### 2.2 Chair

The Chair shall preside at all meetings and public hearings of the full Commission, make committee appointments in consultation with the Vice Chair, and decide all points of order and procedures subject to these rules, unless directed otherwise by a majority of the Commission in session at that time. The Chair shall have the right to vote.

### 2.3 Vice Chair

The Vice Chair shall serve as acting Chair in the absence of the Chair and at such time have all the powers, duties and voting rights as the Chair.

### 2.4 Temporary Chair

In the absence of both the Chair and Vice Chair, the Commission may appoint any of its members to serve as Temporary Chair until such time that either the Chair or Vice Chair is present. The Temporary Chair shall preside at all meetings and public hearings of the full Commission, decide all points of order and procedures subject to these rules, unless directed otherwise by a majority of the Commission in session at that time, and have the right to vote.

### 2.5 Clerk

The Clerk provided by the Planning Department shall, subject to the direction of the Chair and Commission, keep all records, conduct all correspondence of the Commission, and generally supervise the clerical work of the Commission and its

ad hoc committees. The minutes shall include all important facts pertaining to each meeting, including:

- a. Every resolution acted upon by the Commission;
- b. All votes of the Commission members upon any recommendation, resolution or other final determination of any question before the Commission; and
- c. A record of all votes in a and b above, indicating the names of members voting for, against, absent or excused from voting.

## 2.6 Election of Officers

The officers of the Planning Commission shall be a Chairperson and Vice Chairperson, one of whom shall be a City appointee and one of whom shall be a County appointee. The positions shall alternate between a City appointee and a County appointee at least every two years

The Chair and Vice Chair shall be elected annually at the Commission's regular meeting in September. During the election of both the Chairperson and Vice Chairperson the Planning Director or designee shall preside. The term of office will begin as of the adjournment of the meeting and continue until the adjournment of the meeting in which the successor is elected. The Chair and Vice Chair shall serve terms of one year and shall be eligible for re-election. A majority vote of members present shall be necessary to elect officers.

## 2.7 Vacancy

- a. A vacancy in the office of Chair shall be filled by the Vice Chair succeeding to the office for the balance of the unexpired term.
- b. A vacancy in the office of Vice Chair (including a vacancy due to Section 2.6 a above) shall be filled by election of a Vice Chair from the Commission for the balance of the unexpired term.

## 2.8 Public Representation

Only the Chair, or a member designated by the Chair, may speak officially for the Commission. Commission members may speak publicly as private citizens on planning matters; however, they should indicate in such cases that they are presenting their own opinions. Violators of 2.8 shall be notified of said infraction by the Chair. Repeated infractions shall be reported to the appropriate governing bodies.

# **SECTION 3: MEETINGS**

## 3.1 Open Meetings

All meetings, public hearings, records, and minutes of the Commission and its committees shall be open to the public and shall conform to the North Carolina Open Meetings Law, N.C.G.S Chapter 143, Article 33C.

### 3.2 Regular Meetings

- a. Planning Commission - Regular meetings of the Planning Commission shall be held in the Council Chambers of City Hall at a day and time determined by the Planning Commission in consultation with the Planning Director.
- b. In the event there are a large number of agenda items to be considered, the Planning Commission, in consultation with the Planning Director, may schedule additional meetings with proper notice to Commission members, the press, applicants and the public.
- c. The Planning Commission may change the time and location of future meetings at any regular meeting, with appropriate notice to Commission members, the press, applicants, and public.
- d. When a regular meeting day falls on a legal holiday, the Commission shall reschedule or cancel the meeting prior to the date notices are sent to citizens.

### 3.3 Special Meetings

Special meetings of the Commission may be called by the Chair or by written request of two members of the Commission submitted to the Chair. Written or oral notice of special meetings shall be given to all members at least 48 hours prior to the meeting and shall state the time, place and purpose of the meeting. Notice to the public shall be given as required by law.

### 3.4 Cancellation of Meetings

Whenever there is no business to come before the Commission, the Chair, after consultation with the Planning Director, may dispense with a regular meeting by giving notice to all the members not less 24 hours prior to the time set for the meeting.

### 3.5 Quorum

A quorum of the Commission shall consist of eight members. The number required for a quorum shall not be affected by vacancies. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted present for the purpose of determining whether or not a quorum is present.

### 3.6 Order of Business

- a. The order of business at regular meetings of the Planning Commission shall be as follows:
  - i. Call to order
  - ii. Roll call
  - iii. Approval of minutes
  - iv. Adjustments to the agenda
  - v. Public hearings on requested changes to the Durham Comprehensive Plan Future Land Use Map (without a concurrent zoning map change)
    - a. Continued cases
    - b. New cases
  - vi. Public hearings on requested changes to the Durham Comprehensive Plan Future Land Use Map and concurrent zoning map changes
    - a. Continued cases
    - b. New cases
  - vii. Public hearings on requested changes to the zoning map
    - a. Continued cases
    - b. New cases
  - viii. Public hearings on text amendments to the Unified Development Ordinance
  - ix. Public hearing on text amendments to the Durham Comprehensive Plan
  - x. Unfinished business
  - xi. New business
  - xii. Adjournment
- b. Public hearings in items v through viii above are followed immediately by discussion, a motion and a vote on a recommendation to the appropriate governing body. For items v & vi, public hearings on requested changes to the zoning map are also followed immediately by a polling of the Commission as to whether the requested change is in compliance with the Durham Comprehensive Plan.
- c. The order of business may be varied by majority consent of the members present. Commissioners may make requests for information or ask questions of a general nature, not regarding a specific agenda item, under “new business.”

### 3.7 Establishing Time Limits

- a. The Commission may limit the length of a meeting or set a time for adjournment by a majority vote of the members present.
- b. The Commission may limit the time each person at a public hearing is allowed to speak by a majority vote of the members present.

### 3.8 Conduct of Public Hearings

The time allotted for the public hearing for a plan amendment, map change, or text amendment shall be twenty minutes. Of this time proponents and opponents

shall be allotted ten minutes per side. However, the time allotted may be extended by a majority vote of the Commission members present, provided the same time extension is provided to each side.

In order to ensure full consideration of matters before the Commission public hearings shall be conducted in the following order:

- a. Staff presentation
- b. Presentation by applicant and other speakers in support of the request. (Speakers may reserve time for rebuttal from the original time allotment.)
- c. Presentation or comments by speakers in opposition to the request. (Speakers may reserve time for rebuttal from the original time allotment.)
- d. Rebuttal by proponents, if time has been reserved.
- e. Rebuttal by opponents, if time has been reserved.
- f. Questions by Commission members
- g. Comments and voting by Commission members

### 3.9 Agenda

- a. The agenda for each regular and special meeting, public hearing or Commission meeting shall be prepared by the Clerk of the Commission, after consultation with the Chair.
- b. The agenda for each meeting shall be distributed to all Commission members at least ten calendar days prior to the scheduled meeting or hearing, except in the case of special meetings called under Section 3.2 in which case the agenda will be delivered or orally transmitted, as appropriate, to the members no later than 48 hours prior to the scheduled meeting or hearing.
- c. Copies of the agenda and staff report shall be made available to the applicant, the press and the public at the office of the City-County Planning Department at the time of delivery to the Commission members. Copies of the agenda and staff report shall be available at the Commission meeting.
- d. The Commission may consider no business, either old or new, unless such item properly appears on the agenda or unless such matter is approved for consideration by a majority vote of the members present.

### 3.10 Attendance

A member who will be unable to attend a regular meeting of the Commission must contact the Clerk and the Chair at least 24 hours before the scheduled meeting and indicate the general reason for being absent. Earlier notification is encouraged. The Commission will be notified of the absence and reason at the meeting.

Attendance will be taken at each meeting with each Commissioner noted as being:

- a. Present
- b. Tardy (more than 15 minutes late)
- c. Excused absence
- d. Unexcused absence

The Chair shall direct the Clerk to notify the appropriate Governing Body of the attendance record of any member, who misses:

- a. Three consecutive regular meetings of the Commission
- b. More than three meetings in a 12 month period without being excused due to the illness of the member or a death or illness within the member's immediate family, which absences shall not count toward the 75% attendance requirement.
- c. More than four meetings in a twelve 12 month period

#### **SECTION 4: CONDUCTING BUSINESS**

##### 4.1 Decisions

The vote of a majority of those members present shall be sufficient to decide any matter before the Commission, provided a quorum is present. No member shall be excused from voting except as required in Section 4.2 or Section 4.4. In all other cases, a failure to vote by a member who is physically present in the meeting room or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as a vote to approve the motion. All voting shall be by a show of hands or by a roll call. A tie vote shall result in a defeat of the motion. For recommendations to the Governing Bodies a defeat of the motion shall result in a recommendation for denial.

##### 4.2 Adopted Ethics Policy

Commission members shall follow state statutory mandates and, in addition, the County Ethics Policy, as provided by the Interlocal Agreement, as such policy may be amended from time to time and annually shall complete the disclosure form provided by the County. Such forms shall be transmitted by the Clerk to both the Office of the County Clerk and the Office of the City Clerk.

##### 4.3 Disclosure of Interests

A Commission member shall disclose any personal or financial interest in a case before the Commission when it concerns property in which the Commission

member, a close relative (spouse, sibling, child, or parent), a business associate or employer:

- a. Is the applicant before the Commission;
- b. Owns property within close proximity of the subject property (this shall be interpreted as being within the required notification area); or
- c. Has a financial interest in the subject property or improvements to be undertaken thereon.

#### 4.4 Conflict of Interest

No Commission member shall take part in any hearings, consideration, determination or vote concerning a property in which the Commission member or a close relative (spouse, sibling, child, or parent):

- a. Is the applicant before the Commission;
- b. Owns property within close proximity of the subject property (this shall be interpreted as being within the required notification area); or
- c. Has a financial interest in the subject property or improvements to be undertaken thereon.

In addition, a Commission member may request a vote of the Commission excusing the member from taking part in any hearing, consideration, determination or vote concerning a property in which a business associate or employer of the Commission member:

- a. Is the applicant before the Commission or;
- b. Owns property within close proximity of the subject property (this shall be interpreted as being within the required notification area); or
- c. Has a financial interest in the subject property or improvements to be undertaken thereon.

#### 4.5 Motions

The Commission shall proceed by motion. All motions shall be stated in the affirmative. For recommendations to the Governing Bodies the motion shall be for a recommendation of approval. Members who intend to vote against the motion may make a motion for approval, and are welcome to preface their motion with an explanation of this procedure. Any member, except the presiding Chair, may make a motion or second a motion. The member who made a motion may withdraw that motion at any time before a vote.

After a motion has been properly made and seconded, any member of the Commission, other than the maker and seconder of the original motion, may offer a substitute motion. If the substitute motion is properly seconded, it shall be discussed and voted upon prior to consideration of the original underlying motion.

No more than two substitute motions may be made to the original motion.

#### 4.6 Debate

The Chair shall state the motion and then open the floor to debate on it. The member who made the motion is entitled to speak first. A member who has not spoken on the issue shall be recognized before someone who has already spoken.

#### 4.7 Commissioner Comments

Commissioners may provide individual written comments for inclusion in the report provided to the governing body. Such comments are not an official part of the meeting and will not be recorded in the minutes.

#### 4.8 Written Recommendation

Upon determination of a recommendation to the governing body regarding a requested change to the zoning map to the governing body, the Planning Commission shall provide a written explanation of the recommendation, including whether the request is consistent with the maps and text of the Durham Comprehensive Plan. The method for providing the recommendation shall be determined by the Planning Commission and may be changed from time to time as deemed necessary.

#### 4.9 Committees

From time to time, as need arises, the Commission may at its sole discretion establish committees. The Commission shall charge every committee and every committee shall report on its activities as it is directed to do by the Commission. Committee appointments shall be made by the Chair in consultation with the Vice Chair.

#### 4.10 Suspension of Rules

The Commission may, upon affirmative vote of two-thirds (2/3) of its membership, suspend these rules of procedure for consideration of any matter before the Commission.

### **SECTION 5: AMENDMENTS**

The rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than eight (8) members of the Commission, provided that such amendment shall have first been presented to the membership in writing at a regular or special meeting preceding the meeting at which the vote was taken. Any change to the

adopted rules of procedures shall be submitted to both Governing Bodies for review and comment.