

MARIPOSA COUNTY RESOLUTION No. 83-127

AMENDING RESOLUTION No. 81-217
RULES AND PROCEDURES FOR PUBLIC HEARINGS

WHEREAS, to simplify procedures for public hearings, particularly appeals from Planning Commission actions, it is necessary to amend the hearing procedures;

NOW THEREFORE be it resolved by the Board of Supervisors of Mariposa County that Resolution No. 81-217 is amended to read as set forth in Attachment A.

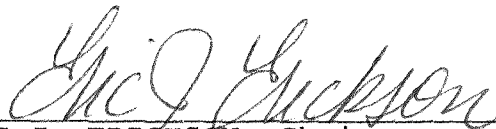
PASSED AND ADOPTED this 26th day of April, 1983, by the Board of Supervisors of Mariposa County by the following vote:

AYES: Barrick, Taber, Erickson, Dalton, Moffitt

NOES: None

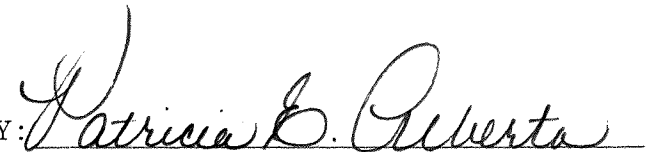
ABSENT: None

ABSTAINED: None


ERIC J. ERICKSON, Chairman
Board of Supervisors

ATTEST:

ELLEN BRONSON
ELLEN BRONSON, County Clerk and
Ex Officio Clerk of the Board

BY: 
PATRICIA E. ALBERTA
Clerk of the Board

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


RICHARD K. DENHALTER, County Counsel

Appeal rules adopted by Resolution No. _____, effective date: _____.

APPEALS

1. FILING OF APPEALS: A person or persons dissatisfied with the findings of the planning commission may appeal to the board by filing a notice of appeal with the county clerk within ten (10) days after the findings are filed.
2. STATEMENT OF GROUNDS FOR APPEAL: Persons appealing planning commission action shall submit with their appeal a written statement of each and every error, finding, or objection upon which the appeal is based. Appellants shall be allowed seven (7) calendar days from the date of filing of the appeal to file an amendment or supplement to their written statement of grounds forming the basis of the appeal. Mailed notices shall inform recipients of the availability of the statements and the possibility of amendments. The evidence considered at the hearing on the appeal shall be limited to the issues clearly identified in said written statement filed by appellants unless the board, at its discretion, opens the hearing to other issues. Copies of the appeal and statement of grounds for appeal shall be made available to the public and all interested parties, along with copies of these rules.
3. HEARING DATE: Any appeal of planning commission action filed with the board of supervisors will be set at the next available regular meeting of the board for a hearing at a date certain, generally no less than twenty-one (21) days from the date of setting nor more than thirty (30) days from the date of filing of the appeal, unless continued by consent of appellant and responding parties. In no event shall a hearing be set for a time later than sixty (60) days from the date the appeal is filed.
4. NOTICES: Notice by publication, posting, and by mail to adjacent property owners within at least 600 feet of the subject property, pursuant to requirements in Government Code §§65854, 65854.5, 65905 and other applicable provisions of law, shall be completed at least ten (10) days prior to the date of hearing. The board of supervisors may continue the hearing to provide for complete notice as required herein.
5. STAFF REPORTS: Written staff reports should be submitted for inclusion in the board agenda at least three (3) working days prior to the scheduled hearing, and shall be made available to the public and all interested parties. The board may accept staff reports along with documentary evidence received at the hearing, provided copies are available to interested parties.
6. LETTERS AND STATEMENTS: The board may receive written statements and letters concerning the appeal at any time up to the close of the public portion of the hearing, after which no such written evidence will be received into the record. The issues considered shall nevertheless be limited as set forth in these rules. Parties are requested to submit ten copies of all written materials to be considered.

HEARINGS

7. CONDUCT OF PUBLIC APPEAL HEARINGS: The following sequence and procedures, subject to the discretion of the chairman, shall be followed in any appeal of planning commission action filed with the board of supervisors for which a hearing is held:
 - A. The chairman opens the hearing and announces the purpose of the hearing.
 - B. The staff report is read and any oral presentations by staff called for.
 - C. Documentary evidence on file prior to the hearing is reviewed and made available to the board members.
 - D. The board directs questions to staff.
- PUBLIC PORTION
- E. Chairman recognizes appellant for presentation of evidence and witnesses.
 - F. Chairman calls for witnesses and evidence in opposition to the appeal.
 - G. Chairman invites questions and testimony from the general public.
 - H. Chairman recognizes appellant for rebuttal.
 - I. Chairman closes the public portion of the hearing.

DELIBERATION PORTION

- J. Chairman opens the matter for deliberation by the board:
 - 1) Board members may direct questions to staff or witnesses thru the chair.
 - 2) Board members discuss and deliberate without interruption from the public.
 - 3) Board members may take the matter under submission, investigate the location of subject property, call for further testimony subject to reopening of the public portion, or otherwise investigate the matter.
- K. Chairman calls for board action.
- L. Chairman announces the decision of the board.
- M. Chairman directs preparation of findings if prior written request received.

RULES

8. RULES FOR APPEAL HEARINGS: The following rules shall govern and control all appeal hearings of planning commission actions:

RULE ONE: QUESTIONS. Any board member may direct questions through the chairman to staff and witnesses at any time during the hearing or deliberations. During the deliberation portion of the meeting, answers shall be limited to the specific question only.

RULE TWO: REOPENING PUBLIC HEARING. The public portion of the hearing may be reopened by board motion at any time until final action is taken. After that, any reopening must be renoticed.

RULE THREE: IDENTIFICATION OF WITNESSES. All persons wishing to speak at the public hearing must approach the microphone and state their name and address.

RULE FOUR: CROSS-EXAMINATION. The opportunity to ask questions of persons testifying at the hearing shall be at the discretion of the chairman, but if allowed, shall be provided to principal spokesmen on both sides of the question. Questions for this purpose shall be directed to the chairman, identifying the witness from whom an answer is sought. Persons present who have not previously testified shall not be questioned except by the board.

RULE FIVE: ELIGIBILITY TO VOTE. Board members not present during the public portion of the hearing, or any part thereof, shall not be eligible to vote on the decision. In the event that less than three board members eligible to vote are present during the public portion of the hearing, the chairman shall continue the hearing until such time as at least three eligible supervisors are present to hear testimony.

RULE SIX: CONTINUANCE OF HEARING. All or any portion of the hearing may be continued to a time, date and place certain without further formal notice, provided the continuance is announced to all persons present at the hearing, and posted conspicuously at the time, date and place of the hearing.

RULE SEVEN: FINDINGS OF FACT. Findings of fact shall be prepared in all cases where the appealed decision is reversed, and in other cases when a request is received prior to the close of the public hearing by a legally interested party. Findings will be prepared at the direction of the board for adoption within two (2) weeks of final board action.

RULE EIGHT: VARIANCE FROM RULES. These rules and procedures may be varied by the chairman for good cause, or by a majority vote of the board.

RULE NINE: COPIES OF RULES. Copies of this resolution and any amendments hereto shall be made available to the general public and any interested principal parties prior to and during any appeal hearing.

RULE TEN: RECORD. A record, by tape or otherwise, shall be made of each public hearing on appeals of this type. Persons desiring copies of the record may purchase tape copies from the board clerk upon reasonable notice, or may arrange for a certified court reporter to be present at their own expense. Transcripts of hearing tapes shall be prepared by the county only upon prepayment of the estimated preparation cost and allowance of sufficient reasonable time for preparation.

RULE ELEVEN: JUDICIAL REVIEW. The time within which judicial review of any final decision of the board of supervisors must be sought is ninety (90) days from the date of such final decision pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 66499.37.