

TOWN OF JUNO BEACH PROCEDURES FOR CONDUCT OF QUASI-JUDICIAL HEARINGS

1. Definitions:

- A. *Applicant* - the owner of record, or owner's agent, or any person with a legal or equitable interest in the property that is the subject of the proceeding.
- B. *Council* - The Town Council, Planning and Zoning Board, or any other Board to which this policy is made applicable.
- C. *Ex parte Communications* - any written or oral communication with the Council members other than those made on the record at the time of the hearing and site visits to the property as set forth in Section 4(C) below.
- D. *Interested Person* – any person, natural or corporate, who owns property within three hundred (300) feet of the property that is the subjection of the application or any person, natural or corporate, who will suffer a negative effect to a protected interest as a result of the quasi-judicial application where such interest exceeds in degree the general interest of the community or public at large.
- ⊘ E. *Participants* - those members of the general public other than the Applicant or an Interested Person who attends a public hearing for the purpose of being heard on a particular application.
- ⊘ F. *Relevancy* - In order to be relevant, the evidence submitted must strengthen or weaken the application by supporting or disproving factual assertions contained in the application or be directly related to the application. The Council shall determine the relevancy of the evidence.

2. General Standards:

- A. Ex Parte Communications Between Council Members and Public. Applicants, participants, and other members of the general public may communicate freely with the Council members regarding any issue which may be heard by the Council. Members of the Town Council and the Planning and Zoning Board shall not engage in private oral or written communications with the Applicant or the Applicant's agents prior to the completion of the quasi-judicial hearing. Notwithstanding the foregoing, members of the Town Council and the Planning and Zoning Board may privately meet with the Applicant or the Applicant's agents prior to the completion of the quasi-judicial hearing when accompanied by a member of Town Staff.
- B. Town Staff Report. The staff report on the case and all supporting materials shall be sent to the Council members and be available to the general public at least three (3) five (5) business days prior to the hearing on the case.

C. Appearances and Evidence.

- (1) Persons claiming to represent a group or organization must demonstrate proof of membership of that group and proof that the person representing the group has actual authority to do so.
- (2) All participants must state their name, address, and the party they represent at the time they wish to speak.

3. Communications Between Council and Town Staff

- A. Councilpersons may communicate with Town staff including discussions relative to the staff report and recommendations. Staff may answer questions and render opinions.
- B. The Town Attorney may render legal opinions when requested by the Council members, but shall not advocate one party's position over another, except to the extent necessary to respond fully to a legal question.

4. Ex-Parte Communications.

- A. Written Communications. All written communications received by the Council members concerning an application or pending case shall be deemed public information if made a part of the record prior to final action on the matter.
- B. Oral Communications. Except as **limited** by Section 2(A) above, oral ~~Oral~~ communication may be permitted and shall be deemed public information provided the substance of the communication and with whom the communication took place is divulged and made part of the record prior to final action in the matter.
- C. **View Inspection of Property.** Members of the Council may ~~drive by and~~ physically inspect the property. Such investigation or site visits shall be disclosed and made a part of the record prior to final action on the matter.

5. Town Staff File. All written communications shall be included in the file maintained by staff and available for public inspection. Any written communication received by staff shall be reported as part of the oral staff report. The staff report, any petitions or other submissions from the public, and all other documents pertaining to the case shall also be kept in the file and available for public inspection. During its presentation, staff shall offer all such written communications into evidence, subject to any objections imposed by participants.

6. Disclosure. At the public hearing at which a vote is to be taken on the matter, a Council person who has received an ex parte communication, conducted an investigation, received expert opinions, or has physically inspected the property, shall summarize for the record the substance of the communication, the person making the same, the nature of the investigation, substance of the expert opinion or the date of the inspection.

7. Basis of Decision. All decisions by the Council shall be based on the record of the evidence presented to the Council at the hearing on the case, which shall include staff testimony of all witnesses, and other evidence presented. Strict rules of evidence shall not apply, but evidence must be relevant to the issues before the Council.
8. Public Presentations. Prior to any quasi-judicial proceeding before the Planning and Zoning Board or Town Council, the Applicant shall conduct two public presentations for all major projects. For the purposes of this section, a major project includes all new commercial developments, multi-family residential developments, mixed-use developments, and planned unit developments.
9. Interested Persons. Any Interested Person desiring to become a party to quasi-judicial proceeding shall provide written notice to the Planning and Zoning Department which notice shall, at a minimum, set forth the Interested Person's name, address, e-mail address and telephone number and indicate how the person qualifies as an Interested Person for the proceeding at issue. The filing of notice with the Planning and Zoning Department shall serve as notice of the Interested Person's request to appear at the applicable quasi-judicial proceeding to testify, present evidence, bring forth witnesses, and cross-examine witnesses. The required notice must be received by the Planning and Zoning Department no later than the close of business (5:00 p.m.) five (5) business days prior to the hearing. The Department, in consultation with the Town Attorney, shall verify that the person seeking designation as an Interested Person satisfies the requirements for such status and shall provide written confirmation. In the event that multiple Interested Persons seeking to become a party in a quasi-judicial proceeding share the same protected interest and are members of the same community or association, the Town shall recognize the community or association as the Interested Party absent a compelling reason for each Interested Person to be recognized as a separate party.
- 9 10. Conduct of Hearing. The order of appearance at the hearing shall be as follows:
 - A. ~~The Town Staff shall present its reports and offer its file into evidence;~~
 - B A. Council members shall summarize the substance of any ex parte communication; including the identity of the person, group, or entity with whom the communication took place;
 - B. The Town Staff shall present its reports and offer its file into evidence.
 - C. The Applicant shall present its case and/or respond to or refute any ex parte communication;
 - D. Interested Persons shall present their case and/or respond to or refute any ex parte communication.

~~D~~ E. Participants shall present their case and/or respond to or refute any ex parte communications.

~~E~~ F. Cross-examination of the witnesses;

~~F~~ G. Council discussion and decision.

Testimony may be subject to cross-examination, upon request, by the Applicant, Interested Persons, the designated representative of the Participants and the Town staff. The Applicant or its representative, Interested Persons or their representative, and the designated representative of the Participants wishing to cross-examine witnesses must reserve that right at the beginning of their presentation. Council members may interpose questions at any time during the conduct of the hearing.

~~10~~ 11. Testimony Under Oath or Affirmation.

The Applicant, Interested Persons, witnesses and all Participants asking to speak shall be sworn collectively at the beginning of the hearing.

~~11~~ 12. Cross Examination

- A. The Applicant, Interested Persons, Participants, and all witnesses are subject to cross-examination during the hearing.
- B. The cross-examination of the Applicant, Interested Persons, witnesses and Participants shall be limited to five (5) minutes by the individual conducting the cross-examination for the adverse party.
- C. The scope of the cross-examination shall be limited to the facts alleged by the participant, witness, or applicant in relation to the application.
- D. The cross-examination cannot be designed to merely harass, intimidate, or embarrass the participants, applicant, or witnesses.
- E. The Mayor or presiding officer will determine the scope of the cross-examination on his or her own initiative, or when the individual being questioned objects to the cross-examination for going beyond the scope of the facts alleged by the individual.
- F. The Mayor or presiding officer may defer to the Town Attorney to determine the scope of the cross-examination.
- G. The Mayor or presiding officer may direct the party conducting the cross-examination to stop a particular line of questioning that is not relevant and beyond the scope of the facts alleged by the individual being cross-examined.

- H. If the party conducting the cross-examination continuously violates directions from the Mayor or presiding officer to end a line of questioning deemed irrelevant and merely designed to harass, intimidate, or embarrass the individual, the Mayor or presiding officer may terminate the cross-examination.
- I. The purpose of cross-examination is not to debate a particular matter or issue but is permitted for the sole purpose of testing the credibility of a witness or the particular weight a particular piece of evidence should be given.

12 13. Time Limits.

A. Applicant - Up to thirty (30) minutes.

B. Interested Person - Up to thirty (30) minutes.

~~B~~ C. Participants –

- i. members of the public - three (3) minutes each speaker.
- ii. speakers representing a group of six (6) or more in attendance at the meeting - five (5) minutes each speaker.
- iii. speakers representing an organization - five (5) minutes each speaker.

~~C~~ D. Participants shall be given one opportunity to present their evidence and/or comments and must present their testimony at that time. Multiple opportunities for the same participant to speak and a debate style format are not permitted.

~~D~~ E. Expert Witnesses - ten (10) minutes.

~~E~~ F. At the discretion of the Mayor or presiding officer, the time allowed for any testimony may be extended.

13 14. Record of the Case. All evidence admitted at the hearing, Town staff reports, and the adopted resolution, ordinance or minutes setting forth the decision of the Council shall be maintained in a file constituting the record of the case. The record shall be kept in custody of the appropriate staff at all times during the pendency of the case, except that any member of the public may examine the file in the appropriate Town Staff Office.

14 15. Applicability. These rules shall apply to all site specific rezonings, special exception and variance proceedings and at any time the Town Council or Planning and Zoning Board sits in a quasi-judicial or an appellate capacity, including administrative appeals.

16. Rehearing/Reconsideration and Appeal. A final determination of the Town Council or the Planning and Zoning Board acting in its quasi-judicial capacity is subject to judicial review in a court of competent jurisdiction within thirty (30) days of the Council or Commission's

rendition of its written determination. The Council or Board may only entertain a request for rehearing or reconsideration of a previously entered quasi-judicial order prior to the filing of a petition for writ of certiorari challenging the order or prior to the expiration of the thirty (30) day appeal period, whichever first occurs.