

Critical Area Commission

MEMORANDUM

To: Critical Area Commission

From: Kate Charbonneau, Executive Director

Re: Updated Procedure Policies for the Critical Area Commission

Date: December 18, 2024

The Commission has adopted several formal policies and procedures since 1984 with the purpose of clarifying how the Commission conducted business or made decisions. One of those procedures (adopted by the Commission on December 7, 1994) was titled ‘Procedures for Subcommittee, Panel and Commission Meetings’.

Many of the procedures noted in this document are out of date. Therefore, Commission staff have drafted two new procedure documents with the intention of replacing the 1994 document. Staff will review the documents at the Commission meeting for discussion.

Attachments

1. Procedures for the Commission, Committees and Workgroups (New)
2. Procedures for Panels of the Commission (New)
3. Procedures for Subcommittee, Panel and Commission Meetings (Old)

PROCEDURES FOR THE COMMISSION, COMMITTEES, AND WORKGROUPS

Approved, (Insert Date)

PURPOSE

The purpose of this document is to describe the meeting procedures associated with Commission meetings, Committee meetings and workgroup meetings. The primary role and responsibility of Commission staff is to ensure these procedures are followed and to ensure coordination with local jurisdictions whenever necessary.

I. FULL COMMISSION MEETINGS

Commission Schedule

The Critical Area Commission meets on a schedule determined by the Chair to formally consider State and local development projects in the Critical Area, local Critical Area Program changes, regulatory updates and other items of business. Meetings will be held virtually or in person at a location determined by the Chair.

The annual Commission meeting schedule, including time and location, shall be published on the Commission's website by no later than November 15th of the preceding year. The Chair may modify the schedule or meeting location in case of inclement weather, other emergency, or lack of business.

Agendas and Presentations

The Agenda for each full Commission meeting shall be published on the Commission's website by no later than one week prior to the scheduled meeting. The Agenda will consist of the following:

- Approval of Minutes
- Project Committee Items
- Program Committee Items
- Regulations, Policies, and Workgroup Items
- Old Business
- New Business
- Legal Updates

Presentations to the Commission will be made by staff when appropriate. The Chair shall note on the Agenda whether an item is eligible for consent, summary report, or full presentation as follows:

❖ Consent Items:

If an item is recommended for approval by a Committee without conditions, or with no changes to the conditions recommended in the staff report, that item is eligible for consent. Consent items may move to a vote without a presentation by staff. Any member may move an item to a summary report for a presentation before voting.

❖ Summary Report Items:

Commission staff and the Committee Chair will briefly review Summary Report items. Staff will provide a brief description of the application and the Committee Chair shall highlight major discussion points, including any concerns raised by Commission members and local or State agency staff, before the Commission votes on the item. Summary Report items may include items that generated significant discussion at the Committee meeting, items with updated information or conditions recommended at or subsequent to the Committee meeting, and any other item requested for Summary Report by a Commission member.

❖ Full Presentation Items:

These include any items recommended for denial or return, along with panel reports, workgroup products, and other items that do not appear before a Committee. Commission staff will provide a complete presentation on items before voting.

II. COMMITTEES

The Chair has established two standing committees - the Project Committee and the Program Committee. These committees are subject to the Open Meetings Act. The Committees meet virtually on a schedule determined by the Chair which shall be published on the Commission's website by no later than November 15th of the preceding year.

The **Project Committee** considers and makes recommendations on certain development projects in the Critical Area proposed by a State or local agency. Those recommendations are brought to the full Critical Area Commission for final review and approval. The Project Committee may consider State and local projects for preliminary feedback as well as projects that have requested formal review and approval. The Project Committee will only consider formal review and approval for those applicants that have provided a complete submission in accordance with the Formal Project Subcommittee Application and Checklist and have met all public notice requirements. The Application and Checklist shall be maintained on the Commission's website.

The **Program Committee** considers all local Critical Area program changes proposed by counties and towns. The Program Committee may consider proposals by local jurisdictions for preliminary feedback, as well as formal Program Amendments and Refinements. The review process for formal Program Amendments and Refinements shall be governed by Section 8-1809 of the Natural Resources Article. Commission staff will use the Program Amendment Handbook for processing the request.

The Chair may establish any other committee of the Commission as necessary.

Agendas and Coordination

Commission staff is responsible for coordinating directly with local jurisdiction and State agency contacts on items to be considered by the Commission. Once an item is placed on an agenda,

staff will notify the appropriate local or State contact of the date and time of the meeting and provide a copy of the Agenda and Staff Report. If the meeting is virtual, the Planner shall provide an invitation to the virtual meeting.

Local and State agency staff will be afforded the opportunity to answer questions or to comment during the Committee meeting should the occasion arise.

III. WORKGROUPS

In addition to committees, the Chair may designate informal workgroups to consider and make recommendations on various policy issues. Workgroups shall meet on a schedule determined by the Chair and coordinated by Commission staff. The workgroups may consist of members of the Commission and other outside experts as necessary. The Chair will designate a Commission staff member to organize and lead workgroup discussions. Any final workgroup recommendations will be presented to the Commission.

PROCEDURES FOR PANELS OF THE COMMISSION

Approved, (Insert Date)

Purpose

The purpose of this document is to specify the procedures for appointing a panel of the Commission, holding a public hearing, and formulating a panel recommendation to the full Commission. The Chair may appoint a panel of 5 Commission members for the purpose of hearing a program amendment by a local jurisdiction. A program amendment is defined in Section 8-1802 of the Natural Resources Article and deadlines and requirements are governed by Section 8-1809(q) of the Natural Resources Article .

Panel Members and Panel Chair

The Chair of the Commission shall designate five panel members from any of the other 28 Commission members. Consideration shall be given to expertise, distance to the hearing and diverse representation. The Commission Chair shall designate one panel member as Panel Chair for the purposes of leading the hearing and subsequent discussion.

Panel Hearing - Scheduling, Notice, Accessibility

Panel hearings shall be held in the local jurisdiction and in person at a location open to the public. Commission staff shall schedule the panel hearing in coordination with the local jurisdiction. Staff shall ensure the selected date allows for the local jurisdiction, local applicant (if applicable), and all panel members to attend.

Commission staff shall ensure public notice of the hearing is published in a paper of general circulation in the locality, at least fourteen (14) days prior to the meeting and place a notice on the Commission's website. The notice on the website shall also include a copy of the amendment application and a copy of the Panel Report, once i

Panel hearings shall consist of an introduction of the item by Commission staff and a presentation by the local government (the applicant). While not considered the applicant, the Panel Chair may allow the property owner/developer to make comments. The Panel Chair shall provide an opportunity for Panel members to ask questions of the local jurisdiction and property owner/developer. At the conclusion of any questions, the Panel Chair shall provide an opportunity for public comment. It will be at the discretion of the Panel Chair as to whether there is a time limit for comments. The Panel Chair shall keep the record open for a minimum of 5 days after the hearing.

Panel hearings shall be recorded and, where possible, live streamed to the Commission's YouTube channel. A recording of the panel hearing shall be posted to the Commission's website within 24 hours of the hearing.

Panel Meetings

After the hearing, the Panel shall meet to discuss the proposed program amendment and formally make a recommendation to the full Commission. A meeting notice shall be posted on the Commission's website at least seven (7) days prior to the meeting. Panel meetings may be held virtually. All meetings shall be live streamed to the Commission's YouTube channel.

All Panel meeting recordings shall be posted to the Commission's website within 24 hours of the meeting.

Panel Recommendation

A quorum of the Panel shall consider the proposed amendment and make a formal recommendation to the full Commission by vote, to include one of the following decisions:

- 1 - Approve the proposed amendment;
- 2 - Deny the proposed amendment;
- 3 - Approve the proposed amendment subject to one or more conditions; or
- 4 - Return the proposed amendment with a list of changes to be made.

The Commission must vote on the Panel's recommendation within 130 days of the Commission's acceptance of the proposed amendment.

**PROCEDURES FOR SUBCOMMITTEE, PANEL AND
COMMISSION MEETINGS
APPROVED BY THE COMMISSION ON DECEMBER 7, 1994**

INTRODUCTION

There are three types of meetings that involve Commission members, Commission staff, local government and the public. They are:

- 1) Subcommittee meetings of the Commission,
- 2) Panel hearings and meetings and
- 3) the monthly meeting of the full Commission membership.

During these meetings, the Commission may consider a myriad of items for information and voting. These include project applications, amendments and refinements to local Critical Area programs, comprehensive reviews, policies, procedures and the promulgation of regulations. The working relationship among all parties concerned is important.

PURPOSE

The purpose of presenting these procedures is to describe and clarify the receptive roles of all parties involved in these meetings. The procedures were requested by the local planners.

SUBCOMMITTEE MEETINGS

There are three standing Subcommittees of the Commission: 1) project evaluation, 2) program amendment and refinement, and 3) **special issues** (dealing with legislation and areas not covered by the other two Subcommittees). Whether the item is a policy, a regulation, or a procedure the process will be the following for each Subcommittee:

- Once an item is assigned to a Subcommittee, the Commission staff person handling that item in the Subcommittee will notify the appropriate local planner(s) as to when and where the Subcommittee will be meeting. Field trips will be coordinated by the staff person involving the Subcommittee members and the local planner(s). Draft positions, reports, etc. will be provided to the Subcommittee members as well as to the local planner(s) for review and comment prior to the meeting.

When the Subcommittee meets to develop its recommendation to the Commission, the local planner(s) will be notified and provided with the opportunity to attend to answer questions or to comment during the meeting should the occasion arise.

- When the staff person reports on the item to the full Commission, concerns raised by the local governments as well as by the Subcommittee members will be mentioned as part of the background synopsis.

PANEL HEARINGS

A panel of five (5) Commission members is appointed by the Chairman of the Commission for the purpose of hearing an amendment(s) to a local Critical Area Program (i.e. growth allocation), or for reviewing a submitted local Critical Area Program in its entirety as a result of a comprehensive review of that program by the local jurisdiction. For either item, the process will be the following:

- The Commission staff person who works with the local jurisdiction will be responsible for scheduling the panel hearing(s) in conjunction with the local government planner and the panel members. This will ensure that all parties who need to be at the hearing will be able to attend.
- The staff person will make sure that a public notice is placed in a newspaper of general circulation in the locality at least two weeks in advance of the hearing so that timely notice will have been provided for the public.
- The staff person will also be responsible for checking out the meeting room arrangements for adequacy and for seeing to it that the meeting is recorded and/or transcribed so that a record exists.
- If desired by the panel or local jurisdiction, the staff person can arrange for a pre-hearing meeting of the panel with the local planner to go over matters of importance or to conduct a site visit to a particular area.
- The Commission staff person will coordinate with the Panel Chair to make sure that the Chair is prepared ahead of the hearing. The staff person will also prepare and coordinate written reports and visuals with the local planner and the panel so that all parties are prepared ahead of time and are knowledgeable about the item. If the staff person prepares a report on the

item, the report should contain references to the local program ordinances and to the Criteria and Law regarding consistency of the item being considered.

2

- When the hearing is held, it is the Panel Chair's responsibility to commence the hearing, to introduce the members of the panel, and to state the purpose of the hearing. It is then the Chair's responsibility to recognize Commission staff, any local officials present and the local government planner who will present the item(s) for consideration. The Commission staff person may follow the local government presentation should additional information need to be shared with the panel. Even though a property owner or developer is not considered an applicant before the Commission, the Panel Chair can provide the opportunity for that individual to speak and comment on the application as well as answer questions. The Chair may choose to allow for questions from those in attendance prior to taking formal testimony from the public. Based on the nature and complexity of the hearing, it will be at the Chair's discretion as to how many days will be provided for public comment to be received and for the record remain open. This decision can be based on a request from the public to keep the record open. If circumstances such as those mentioned in the previous sentence are not evident, the record of the hearing will not be kept open after the public hearing is held and an announcement to that effect will be made by the Chair before concluding the hearing.
- The panel will meet prior to making a recommendation to the Commission which will enable discussion of the information presented as well as evaluation of the proposed item for consistency with applicable laws and regulations. This can occur immediately after the hearing is held, between the hearing and the next Commission meeting, or during the morning of the next scheduled Commission meeting. The staff person will coordinate this meeting with the other panel members and the local planner(s) so that as many individuals will be able to attend as possible.

COMMISSION MEETINGS

- Prior to the Commission meeting, a copy of the agenda will be provided to the interested jurisdiction(s) to inform the planner(s) that an item is up for information or is up for a vote. In addition, the staff people coordinating the item will call the planner(s) regarding the meeting and afford the planner(s) an opportunity to attend.

- A staff report for the Commission will be prepared by the staff person and distributed to the Commission membership prior to the meeting. A copy of the staff report will also be provided to the local planner(s) prior to the Commission meeting.

3

- At the meeting, the Commission staff person will present the item(s) for information or for a vote. After the presentation, the interested local jurisdiction(s) will be given the opportunity to comment and answer questions. As appropriate, the attending public will also be given the opportunity to speak by the Commission Chairman. Prior to the Commission meeting, individuals will be encouraged to notify the Commission that they wish to be heard as this will help the Chairman schedule ample time. Public comment should be made on the merit of the item being considered with respect to the Critical Area Law, the Criteria and the local program. The Chairman will note this requirement before taking public comment and will set a limit of time for comment if needed. This tape from the meeting will be kept as record of the presentation and discussion about the item.

NOTE

If the local government(s) and the Commission staff agree that an item is non controversial and uncomplicated, presentation of the information about the item as well as a vote may occur at the same Commission meeting to streamline the process. Alternatively, an item can be presented for information at one meeting and be voted on at a subsequent meeting.

