



Architectural Review Board

Staff Report (ID # 9765)

Report Type: Study Session **Meeting Date:** 11/1/2018

Summary Title: Ex-parte Communications: Study Session

Title: Study Session on Ex-parte Communications Between Architectural Review Board Members and Applicants/Developers and Other Persons

From: Jonathan Lait

Recommendation

Staff recommends the Architectural Review Board (ARB):

1. Discuss ex parte communications

Background

The ARB Chair recently requested a study session to discuss ex parte communications regarding when it is best to have discussions with applicants/developers/architects and gain a common understanding from the City Attorney's Office on any requirements that should be followed.

Ex parte is a Latin phrase that literally means "from one party". Generally speaking, an ex parte communication is any material or substantive oral or written communication with a decision maker that is relevant to the merits of an adjudicatory or quasi-judicial decision making matters, and which takes place outside of a noticed proceeding open to all parties to the matter.

The ARB's current practice is for individual board members to be open to meeting with applicants/neighbors before the first public hearing. In this way, the ARB is able to better understand the proposed project before deliberations begin. While this is a long standing practice, the regulations as stated in the ARB's Procedural Rules Section III are limited. The Procedural Rules state that Board member "will refrain from any contacts pertaining to the item, other than clarifying questions directed to City staff" following closure of the hearing and prior to a final decision. As many of the ARB's items are continued, this leaves room for communications with the applicant and/or public after the first hearing. For this reason, the ARB may wish to update the Procedural Rules. The ARB's By-laws and Procedural Rules can be found on the City's webpage at <http://bit.ly/paloaltoARB> and in Attachment A and B.

City of Palo Alto
 Planning & Community Environment
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The procedural rules also require ARB members to track their ex parte contacts and disclose their occurrence and the substance of the information conveyed. Disclosures should be made in writing or orally as early in the proceeding as possible.

ARB¹ Liaison & Report Author

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Attachments:

- Attachment A: ARB By-laws (PDF)
- Attachment B: ARB Procedural Rules (PDF)

¹ Emails may be sent directly to the ARB using the following address: arb@cityofpaloalto.org

RULES AND REGULATIONS AND BY-LAWS OF THE
PALO ALTO ARCHITECTURAL REVIEW BOARD

ARTICLE I

NAME

Section 1.0 The name of this board shall be the PALO ALTO ARCHITECTURAL REVIEW BOARD (ARB)

ARTICLE II

Section 2.0 This board shall perform any duties imposed upon it by Ordinances of the City of Palo Alto and by applicable State and Federal law, or as requested by the City Council of the City of Palo Alto.

ARTICLE III

Officers

Section 3.0 The officers of the Board Shall consist of a Chairperson, a Vice Chairperson, and a Secretary who shall be a non-voting member.

Section 3.1 The offices of Chairperson and Vice Chairperson shall be elected from among the appointed members of the Board, and the person so elected shall serve for a term of one year or until a successor is elected. Elections shall be held at the first organizational meeting of the Board in 1973, and at the first meeting in October of each subsequent year.

Section 3.2 The Director of Planning and Community Environment of the City of Palo Alto or his/her designated representative shall be the Secretary of the Board.

Section 3.3 The duties of the offices of the ARB shall be as follows:

Section 3.31 It shall be the duty of the Chairperson to preside over all meeting of the Board, to appoint committees and to serve as an ex-officio member of the committees so appointed, to call special meetings of the Board and to designate the time and place of such meeting, to set the date and time for the public hearing held by the Board, to sign documents and correspondence in the name of the Board, and to represent the Board before the City Council, its commissions and committees, and such other groups and organizations as may be appropriate. The Chairperson may designate the Vice Chair, or in the Vice Chairperson's absence, another member of the Board to act in his/her stead.

Section 3.32 It shall be the duty of the Vice Chairperson to assist the Chairperson and to act in his/her stead during his/her absence.

Section 3.33 It shall be the duty of the Secretary to keep a record of all meeting of the Board, to accept in the name of the Board documents and correspondence addressed to it, to present such correspondence to the Board, and perform other staff functions as deemed necessary by the Board. The Secretary will determine the agenda for all public meeting of the Board, based upon an assessment of the applications made to the City requiring architectural review, and based also upon the desirability of hearing such other matters as may be deemed, by the Chairperson or by the Secretary, to be of concern to the Board.

ARTICLE IV

Committees

Section 4.0 The Chairperson shall appoint special committees as they be desired or required.

ARTICLE V

Quorums and Voting

Section 5.0 Three members of the Board shall constitute a quorum for the purposes of conducting business.

Section 5.1 All actions taken must be by affirmative vote of majority of those Board members present, except to adjourn or continue for lack of a quorum.

A tie vote constitutes a denial of an item, except that a member of the Board may then move that the item be reconsidered or continued to another meeting. A majority of the Board may then vote to reconsider or continue the item to another meeting

ARTICLE VI

Meetings

Section 6.0 Regular meetings of the ARB shall be held not less than twice a month. The Chairperson shall establish the dates of the meetings. Meetings shall be held on Thursday at 8:30 A.M. in the Palo Alto City Hall. Regular meetings may be adjourned and reconvened upon a majority vote of the members present.

Section 6.1 Special meetings may be called at any time by the Chairperson, or at the request of three members, by a written or oral notice given to each member at least 48 hours before the time specified for the proposed meeting.

ARTICLE VIIRules

Section 7.0 All meetings of the Board shall be conducted in accordance with a modified Robert's Rules of Order.

ARTICLE VIIIDesign Awards

Section 8.0 Design Awards for outstanding built projects may be awarded every five years beginning in 2005. Award-winning projects shall be selected from those reviewed by the ARB, and completed since the last awards were made.

Section 8.1 Criteria and number of awards shall be determined by the awarding board.

Section 8.2 Winning projects may be displayed in the City Hall lobby for one month following the presentation of awards. The ARB shall request that the Mayor of the City of Palo Alto issue an appropriate proclamation.

THE FOREGOING BY-LAWS WERE ADOPTED BY A MAJORITY VOTE OF THE PALO ALTO ARCHITECTURAL REVIEW BOARD THE 28TH DAY OF JUNE, 1973.

Amended: July 3, 1974
 May 19, 1977
 August 4, 2005
 February 5, 2015



ARCHITECTURAL REVIEW BOARD PROCEDURAL RULES

Introduction & Contents

These Procedural Rules supplement the Bylaws of the Architectural Review Board (“Board”) and are to be construed consistent with those Bylaws. In the event of any conflict between these Rules and the Bylaws, the Bylaws shall prevail.

These rules are organized in three sections:

I. Public Participation in Board Meetings

This section explains the basic rules for speaking to the Board. The Board follows a modified Roberts’ Rules of Order.

II. Motions, Debate & Voting

This section explains the simplified rules of parliamentary procedure the Board follows (like Roberts’ Rules of Order, but simpler!).

III. Quasi-Judicial Proceedings

This section explains the special way the Board handles hearings that raise constitutional due process concerns. These are usually hearings that seriously impact someone’s life, liberty or property.