

1 [Prohibition of ex parte communications during consideration of conditional use and
2 encroachment appeals before the Board of Supervisors.]

3 **Motion amending the Rules of Order of the Board of Supervisors by adding Rule 1.10,**
4 **which prohibits members of the Board of Supervisors from knowingly receiving,**
5 **making, or participating in an ex parte communication with a party or interested**
6 **member of the public regarding a conditional use appeal or a minor sidewalk**
7 **encroachment appeal being considered by the Board.**

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9 Note: This entire Rule is new.

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11 MOVED, That Rule 1.10 is hereby added to the Rules of Order of the Board of
12 Supervisors, to read as follows:

13 **RULE 1.10. Prohibition of ex parte communications during consideration of**
14 **conditional use and minor sidewalk encroachment appeals.**

15 (a) Appeals governed by this Rule. The following appeals to the Board of Supervisors
16 are governed by this Rule: (i) appeals of decisions of the Planning Commission regarding
17 conditional use applications under Planning Code Section 308.1, and (ii) appeals of decisions
18 of the Director of Public Works regarding minor sidewalk encroachment permits under Public
19 Works Code Section 723.2.

20 (b) Prohibition. From the time that the Board of Supervisors first considers at a Board
21 meeting an appeal described in subparagraph (a), until the time that the Board of Supervisors
22 issues a final decision in the appeal, no member of the Board of Supervisors may knowingly
23 receive, make, or participate in an ex parte communication with a party or interested member
24 of the public regarding the appeal.

25 (c) Definition of ex parte communication. The term “ex parte communication” means

1 any oral or written communication regarding the merits of an appeal that was not on the public
2 record, or with reasonable prior notice given to all of the Supervisors, parties, and interested
3 members of the public, or presented as a part of public testimony during the consideration of a
4 pending appeal, and that takes place between a party to the proceedings (including such
5 person's counsel or other agent), or an interested member of the public, and a member of the
6 Board of Supervisors (including the member's staff or other agent). The term "ex parte
7 communication" does not include a request for information regarding the status of the
8 proceeding.

9 (d) Disclosure of ex parte communications. A communication shall not be deemed a
10 prohibited ex parte communication if, in the case of written material, copies are provided to all
11 Supervisors, parties, and interested members of the public prior to the close of the opportunity
12 for public testimony regarding the appeal. A communication shall not be deemed a prohibited
13 communication if, in the case of an oral communication, the substance of the communication
14 is revealed by a statement on the public record prior to the close of the opportunity for public
15 testimony regarding the appeal.

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