



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Council Subcommittee on Boards and Commissions Recommendation to Dissolve the Board of Building Code Appeals and Have City Council Serve as the Local Appeals Board as set Forth in the California Building Code Section 1.8.8.1

BACKGROUND

The Board of Building Code Appeals (BBCA) has decision-making authority in all appeals related to building construction including interpretation of the building codes. The Board consists of five members of the public; the state codes require that they be experienced in building construction matters. It meets annually and on an as-needed basis. The BBCA has not met to consider an appeal in well over 20 years (although a couple of items were appealed and scheduled, the appeals were withdrawn prior to the BBCA meeting). Other meetings were held for more informational purposes such as meeting staff, selecting a chair/vice chair, selecting a representative for a study issue committee, etc. Due to the infrequency of meetings to consider appeals, the City Council may choose to transfer the responsibilities of the Board to the City Council.

On August 2, 2022, the Council Subcommittee on Boards and Commissions recommended the City Council disband the Board of Building Code Appeals pursuant to California State Law and have City Council take on the role of hearing appeals of the Building Code. The Subcommittee also directed staff to consider having the Planning Commission hear Green Building Regulation appeals (see Attachment 3 for draft meeting minutes).

EXISTING POLICY

The State Building Code Section 1.8.8.1 (Attachment 1) and the City's Municipal Code require a body to consider appeals of a building official's determination on compliance with the building codes. Sunnyvale has had a Board of Building Code of Appeals since 1949 (see Resolution No. 992 - Attachment 2), following the adoption of the City Charter.

Council Policy 7.2.19 Boards and Commissions - Eligibility and Membership and Appointment: To recommend to City Council specific policy-related issues for possible Council study and action.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

DISCUSSION

The Board of Building Code Appeals (BBCA) convenes annually and on an as-needed basis. Its determinations and decisions are related to the application and interpretation of the building codes. If an appeal to the board's decision is filed, the City Council is the hearing body. In the absence of a Board of Building Code Appeals, the City Council fills this responsibility.

Due to the infrequency of meeting and its low influence on City policies and procedures, interest in applying for a position on the Board is low. The Council has a policy on serving on one board/commission at a time. However, based on the minimal time investment to the board, a citizen may serve on two boards or commissions if the combination includes serving on the Board of Building Code Appeals (Council Policy 7.2.19, Section 2.B.(I)). Board members are required to be knowledgeable in the applicable building codes, regulations and ordinances (Municipal Code Section 16.08.020). The potential member's construction knowledge qualification narrows the eligibility pool. Per state law, specialized knowledge of building codes and regulations is not required if the City Council serves as the appeals board.

Building Code Considerations

In accordance with Section 16.16.020 of the Sunnyvale Municipal Code (SMC), the BBCA considers and makes determinations on appeals of building code decisions made by the Chief Building Official or Fire Marshal. If the BBCA is dissolved, the State Building Code allows for these appeals to be considered by the City Council.

Zoning Code Considerations

In accordance with SMC Chapter 19.39 (Green Building Regulations), the BBCA considers and makes determinations on appeals of green building requirements made by the Director of Community Development. If the BBCA is dissolved, these appeals (See SMC Section 19.39.070) could be considered by the City Council or one of its subordinate bodies, such as the Planning Commission.

Decisions and Next Steps

Should Council choose to dissolve the BBCA, Council will take on the role of hearing appeals of the Building Code. Direction from Council will be needed regarding Zoning Code appeals; Council could take on the role of hearing appeals related to Green Building regulations pursuant to SMC Section 19.39.070 or delegate this to one of its subordinate bodies.

If Council chooses to dissolve the BBCA, staff will return with an Ordinance updating the effected portions of the Sunnyvale Municipal Code as well as a Resolution to dissolve the BBCA and corresponding updates to Council Policy 7.2.19 (Boards and Commissions).

FISCAL IMPACT

No fiscal impact since staff time and effort will not be affected by the change.

PUBLIC CONTACT

Public contact was made by posting the Board agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Public Library, Senior Center, Community Center and in the Department of Public Safety Lobby. In addition, the agenda and report are available at the Sunnyvale Public Library, Office of the City Clerk, and on the City's website.

ALTERNATIVES

1. Direct staff to return with an Ordinance and related actions to dissolve the Board of Building Code Appeals and have City Council serve as the Local Appeals Board as set forth in the California Building Code Section 1.8.8.1 for appeals of the Building Code and Green Building Regulations.
2. Direct staff to return with an Ordinance and related actions to dissolve the Board of Building Code Appeals and have City Council serve as the Local Appeals Board as set forth in the California Building Code Section 1.8.8.1 for appeals of the Building Code and have the Planning Commission hear appeals of Green Building Regulations.
3. Other direction as provided by Council.

RECOMMENDATION

Staff makes no recommendation. This report is developed to facilitate conversation for the public hearing and action by the City Council.

Prepared by: Suzanne Park, Chief Building Official

Reviewed by David Carnahan, City Clerk

Reviewed by: Trudi Ryan, Director, Community Development Department

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. California Building Code Section 1.8.8.1 (Appeals Board)
2. Resolution No. 992
3. DRAFT Excerpt Council Subcommittee on Boards and Commission Meeting Minutes of 8/2/2022