

EXCERPT

Planning Commission

Meeting Minutes - Final

- 4 [14-0749](#) Introduce an Ordinance to Amend Title 19 (Zoning) Regarding the Appeal Process for Land Use Projects (Study Issue, CDD 14-15); Repeal Council Policy 1.1.4 on Appeals; and make a Finding that the Proposed Project is Exempt from the Requirements of the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines 15061(b)(3)
(Planning File: 2014-7434)
Staff Contact: Rosemarie Zulueta, (408) 730-7437, rzulueta@sunnyvale.ca.gov

Rosemarie Zulueta, Associate Planner, presented the staff report and noted that a corrected version of the Ordinance has been provided on the dais.

Comm. Harrison verified with Trudi Ryan, Planning Officer, that the Planning Commission will be made aware of decisions of the Director of Community Development via annotated agendas sent after each Zoning Administrator hearing.

Comm. Klein discussed with Ms. Ryan how meetings will be held during instances where there are multiple appellants, and discussed decisions that may be appealed to the Heritage Preservation and Arts Commissions. Comm. Klein and Ms. Ryan discussed the number and type of Variances approved by the Zoning Administrator.

Comm. Rheume confirmed with Ms. Ryan the definitions of Zoning Administrator and Director of Community Development, and that this proposal would allow the Planning Commission to call an item up to be reviewed.

In response to Comm. Harrison's inquiry, Ms. Ryan provided an example of the Miscellaneous Plan Permit - Findings of Public Convenience and Necessity permit type.

Chair Melton noted that he sees potential benefits in having a call for review process, and confirmed with Ms. Zulueta that if the City Council implements a process that allows a call for review without an explanation, the ensuing public hearing would be a de novo and not a limited scope public hearing. Chair Melton and Kathryn Berry, Senior Assistant City Attorney, discussed the merits of de novo and limited scope public hearings, and he confirmed with Ms. Zulueta that a City Council-requested call for review could be withdrawn after submission. Chair Melton discussed with Ms. Ryan the pros and cons of being able to withdraw an appeal or call for review, confirmed that members of the public are required to state their reasons for appeal, and discussed with staff the number of people required for a call for review.

Comm. Durham discussed further with Ms. Ryan the call for review and withdrawal

EXCERPT

Planning Commission

Meeting Minutes - Final

process.

Chair Melton opened the public hearing, and upon seeing no speakers for this item, closed the public hearing.

Comm. Durham moved to recommend to City Council Alternatives:

1. Find that the project is exempt from CEQA pursuant to CEQA Guideline 15061(b)(3).
2. Introduce an ordinance to amend Sunnyvale Municipal Code Section 19.98.070, regarding appeals of land use decisions, as set forth in Attachment 4, which:
 - Creates a call for review process that requires a minimum of two Council Members or Planning Commissioners to request City Council or Planning Commission review of a decision;
 - Clarifies and simplifies the appeal process consistent with the City's continuous efforts to "Retool the Zoning Code";
 - Formalizes the current practice of conducting appeals as de novo hearings; and
 - Allows an appellant to withdraw their appeal.
3. Repeal Council Policy 1.1.4.

Comm. Rheume seconded.

Comm. Durham said he thinks it is a good idea to go through this plan, that the improvements will work out better and provide more clarity and that staff has done an excellent job.

Comm. Rheume said the goal of this study is to clarify regulations and procedures which is what this is doing, and that staff did great job.

Chair Melton said he appreciates the effort of staff to do all of the research and craft the ordinance which makes a lot of sense, and that he is especially in favor of the potential new call for review process.

MOTION: Comm. Durham moved to recommend to City Council Alternatives:

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EXCERPT

Planning Commission

Meeting Minutes - Final

- Clarifies and simplifies the appeal process consistent with the City's continuous efforts to "Retool the Zoning Code";
- Formalizes the current practice of conducting appeals as de novo hearings; and
- Allows an appellant to withdraw their appeal.

3. Repeal Council Policy 1.1.4.

Comm. Rheume seconded. The motion carried by the following vote:

Yes: 6 - Chair Melton
Commissioner Durham
Commissioner Harrison
Commissioner Klein
Commissioner Rheume
Commissioner Simons

No: 0

Absent: 1 - Vice Chair Olevson

NON-AGENDA ITEMS AND COMMENTS**COMMISSIONER ORAL COMMENTS**

Chair Melton provided clarification on his recusal from item 1.B.

STAFF ORAL COMMENTS

Ms. Ryan provided an overview of upcoming items going to, and those recently heard by, City Council.

INFORMATION ONLY ITEMS

None.

ADJOURNMENT

With no further business Chair Melton adjourned the meeting at 10:42 p.m.