



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: November 5, 2014

PLANNER: Christopher Wright, Associate Planner

SUBJECT: Zoning Amendment 14-056, Zoning Permit Streamlining, an update and overview of zoning amendments being drafted that streamline some permit processes and make wireless antenna reviews consistent with federal law.

BACKGROUND

At this meeting, staff will provide an update and overview of code changes that are intended to accomplish three goals:

1. Clarify the review process.
2. Streamline some permit processes while maintaining or enhancing quality of life.
3. Modify wireless antenna procedures to meet federal law, which requires to review wireless antenna changes at a staff level.

This is the second phase of the Zoning Ordinance update — an implementation measure of the Centennial General Plan. Staff requests the Planning Commission to review and comment on the attached list and description of proposed code changes. Following this meeting, staff will finish writing the ordinance and schedule for the Commission to review it likely in December.

The Planning Commission had three study sessions on the review process, design review, staff waivers, the appeal process, and the need to balance streamlining with enhancing quality of life. A public workshop occurred on February 19th to get ideas for improving the review process. Study session and workshop minutes are Attachments 2-3. The previous study session report is Attachment 4.

DISCUSSION

The ordinance would modify several sections of the Municipal Code within the Zoning Ordinance (Title 17) and Title 2, "Administration." Attachment 1 provides an overview of code changes staff proposes. Of these code changes, customer service is most likely to improve by clarifying the review process and rewording staff waiver findings so staff can approve quality projects that are not of significant public concern.

Clarifying the review process

The ordinance would clarify the review process in several ways. Text would be reworded, reorganized, and added to describe the function of the Planning Commission, Design

Review Subcommittee, and Zoning Administrator. A new table would identify the types of permits that may require Design Review Subcommittee review, adds cross-references, and provide common examples of design issues that are reviewed. Also, some processes would be simplified or removed that are ineffective or unnecessary. Overall, the changes should reduce the amount of staff resources required to answer simple questions on the review process. As a result, staff could spend more time on high-priority projects, such as the adoption of a Local Coastal Plan.

Modify architectural review permits and waivers

Currently, the Zoning Ordinance allows, the City Planner to approve staff waivers for projects when the project: 1) “does not significantly alter the visual appearance and/or architectural integrity of the property or structure”, and 2) it is consistent with the Secretary of Interior Standards for Historic Resources. Unfortunately, staff must require customers to go through a public hearing process to allow minor additions or exterior changes that significantly “improve” properties or structures. Requiring a process in these instances acts as a disincentive for an applicant to move forward with improvements. In many instances, the City Planner wants to approve projects when it is clear that a project is an aesthetic improvement that brings the project more in line with the goals of the Design Guidelines and the General Plan and is more compatible and in character with surrounding properties. While a project may be desirable, the code does not provide the City Planner the authority to make these kinds of common sense decisions.

At the study sessions, the Commission supported code changes that would allow more permits to be waived, provided that projects are not of significant public concern and there is oversight of City Planner decisions. The Commission supported the creation of a new appeal process for staff waivers that would allow the Commission to “call-up” waivers from the consent part of meetings by a majority vote. Also, there was some interest in making the Commission, rather than the City Council, the final appeal body for waivers. Below is an update on the direction staff is proposing on the staff waivers section of the Zoning Ordinance.

Modify staff waiver findings

The following staff waiver findings are proposed:

1. *The project meets the required findings for the permit that is being waived per Section 17.16.100(F). [Note: the findings are provided as Attachment 5]*
2. *The proposed project is not a significant public concern. This may include but is not limited to the following projects:*
 - a. *Minor exterior modifications to buildings (excluding historic structures and landmarks) maintain the architectural style of the building's exterior, do not alter the footprint and height of the building, and bring the buildings and structures into closer conformance with Design Guidelines and General Plan policies.*

- b. *Additions or modifications of hardscape and landscaping that is entirely or mostly screened from public view, or projects that are visible but clearly improve the aesthetics of a site and makes it more conforming with landscaping standards.*
- c. *New residential buildings and exterior additions, and new accessory structures mostly screened from the street frontage of properties in which historic resources and landmarks are located and that are entirely screened from view corridors.*

The findings above require the City Planner to meet all the standard findings of permits and exceed them with additional findings in order to grant a waiver. The permit findings require projects to be consistent with Design Guidelines, General Plan policies, zoning standards, and be in character with neighborhood. Also, for some types of projects specific findings also must be made for the Architectural Overlay district and/or historic preservation. In addition to the standard permit findings, an additional finding would be required for City Planner waiver decisions: “the project is not of significant public concern.” This would prompt the City Planner to issue waivers when a project can clearly meet or exceed required findings for permits. Also, the City Planner would need to assess if a project is of “significant public concern” in terms of General Plan policies and public opinion. The City Planner could assess public opinion from testimony at public hearings, comments from the Council and Commission on waivers, or feedback that planning liaisons may receive at outreach meetings, such as Downtown Business Association meetings.

The Commission had concerns about oversight. There was support for the creation of a special appeals process for waivers that allows the Commission to call-up waivers and may make the Commission the final appeal body, instead of the City Council. Staff considered these ideas and does not recommend changes to the appeals process. If the Commission could “call-up” waivers, it may provide more oversight, but could cause unintended delays, which could diminish or eliminate the streamlining benefits of waivers. The existing appeals process can provide adequate oversight. Simple steps can be taken to provide more accessible and descriptive information on staff waiver decisions, so the public or City Council can decide whether to appeal a decision.

Staff waivers can be posted in the permitting system in a way that allows the public to access them on the internet. Lastly, Commission meetings can be setup so waivers are reviewed as consent items. This would allow the Commission to pull waivers from the consent calendar that are of interest to ask questions and provide comments. If the Commission believes a waiver is issued in error, the City Planner can use the Commission’s feedback to make decisions in the future. And, the Commission’s comments would be noted in the minutes and on video recordings for the Council to review.

Add some exemptions

Staff proposes to exempt some projects from architectural permits. A Cultural Heritage Permit is required to construct or modify triplexes (or more units) on properties located within 300 feet of historic structures and landmarks. Staff proposes to exempt projects that aren’t visible from street frontage that abuts properties in which historic structures and landmarks are located.

Make some projects ineligible for waivers

The Commission did not support staff waivers for additions to historic structures. Staff would make it clear that “exterior” additions are ineligible for waivers. This wording may allow basement additions that are 100 percent below grade. Also, waivers would be ineligible for nonresidential walls over six feet high.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Review and comment on the proposed approach for the draft ordinance.
2. Direct staff to finish writing the ordinance and schedule an upcoming Commission meeting to review the ordinance.

Attachments:

1. Summary of proposed amendments
2. Study session meeting minutes: March 5th, March 19th, and June 4th
3. Workshop meeting minutes
4. June 4th Study Session staff report
5. Required findings for Architectural Permits and Cultural Heritage Permits

Row #	Municipal Code reference	Subject	Description of code changes
1	17.12.020	Review authorities	Main changes: 1) allow the City Planner to refer projects to the Zoning Administrator, 2) clarify that the Zoning Administrator may refer projects to the Planning Commission [currently this is possible for most but not all Zoning Administrator decisions], 3) delete text that moved to Municipal Code Chapter 2.32
2	17.12.025	Design Review Subcommittee	Section and table added to clarify the function of the Design Review Subcommittee, the types of permits that often require design review, and examples of design issues often reviewed by the Subcommittee. The new section also clarifies that all review authorities have the authority to refer applications to the Subcommittee. The section is added to Chapter 17.12 "review procedures"; a visible and intuitive location for general review processes.
3	17.12.175	City initiated changes or revocation of approved applications	Section added to clarify processes for city modifications or revocation of permits to resolve a nuisance, conditions are violated, or applications provide misleading information. The procedures are moved to Chapter 17.12 "review procedures." The procedures are standardized and the wording is simplified. Lastly, the City Manager is enabled to reconsider all administrative permits and forward a recommendation to the City Council on whether to modify or revoke a permit. Currently, the City Manager does not need the City Council to initiate a modification or revocation process for two types of applications: staff waivers and temporary use permits. Now, the City Manager wouldn't need the City Council to initiate a process for any administrative application
4	17.12.180	Modifications to approved applications	Renames section to "Applicant requests to change approved applications. This would distinguish it from the new section (see row #3) for permit modifications that are initiated by the city to address nuisances and other issues with approved permits
5	Section index of Chapter 17.16	Index of Applications chapter	Strikes "Planning Commission/Zoning Administrator waivers of Cultural Heritage and Minor Cultural Heritage Permits" because the ordinance removes this application type. It would not be needed with proposed changes to staff waivers
6	17.16.050	Site Plan Permits and Minor Site Plan Permits	Main changes: 1) simplify wording, 2) make it so model home complexes and sales offices no longer require a Minor Site Plan Permit [now a Temporary Use Permit would be required]; 3) reword and add text to clearly describe common steps in the review process, 4) formalize policy of requiring Design Review Subcommittee review for Site Plan Permits, 5) require design review for Minor Site Plan Permits when City Planner determines a project doesn't meet required findings and/or that a project has significant public concerns or impacts; 6) state that staff reports should mention when the City Planner determines that DRSC review is unnecessary, 7) update section references

Row #	Municipal Code reference	Subject	Description of code changes
7	17.16.060	Conditional Use Permits	Main changes: 1) simplify wording, 2) reword and add text to clearly describe common steps in the review process, 3) formalize policy of requiring Design Review Subcommittee review, for development related requests, such as new wireless antenna projects and development standard exceptions; 4) update section references to reflect code changes
8	17.16.070	Minor Conditional Use Permits	Main changes are to: 1) simplify wording, 2) reword and add text to clearly describe common steps in the review process; and 3) update section references
9	17.16.080	Variances	Main changes: 1) simplify wording, 2) reword review processes and clarifies that Design Review Subcommittee review is required; 3) updates section references
10	17.16.090	Minor Exception Permits	Main changes: 1) simplify wording, 2) reword review processes, and 3) update section references
11	17.16.100	Architectural Permits, Cultural Heritage Permits, Minor Architectural Permits, Minor Cultural Heritage Permits	Main changes: 1) simplify wording, 2) reword review processes and clarifies that Design Review Subcommittee (DRSC) review is required for Architectural Permits and Cultural Heritage Permits, and requires DRSC review for Minor Architectural Permits and Minor Cultural Heritage Permits if the City Planner determines a project doesn't meet required findings or that projects have significant public concerns or impacts; 3) exempt residential projects on sites with three or more units that do not abut historic structures and landmarks and are not located within an Architectural Overlay district, when projects aren't visible from street frontage that abuts properties with historic structures or landmarks; 4) exempt solar installations because State law doesn't allow cities to require discretionary permits or design review; 5) allow the Zoning Administrator to approve residential additions up to 500 s.f. or less than 50 percent [currently Planning Commission approval is required for additions over 200 s.f.]; 6) clarify that the Zoning Administrator may refer projects to the Planning Commission, 7) delete reference to Outdoor Dining Permits [staff proposes to eliminate them because they are unnecessary and haven't been enforced for some time], 8) specify that "exterior" additions to historic structures and landmarks are ineligible for staff waivers; 9) make it so nonresidential walls over six feet high are ineligible for waivers, 10) note that staff reports should mention when the City Planner does not require Design Review Subcommittee review; 11) update section references
12	17.16.110	Staff waivers of Architectural Permits, Cultural Heritage Permits, Minor Architectural	Main changes: 1) simplify wording, 2) update section references, and 3) modify staff waiver findings. With the revised findings, the City Planner may approve waivers if projects meet all the standard findings of permits and exceed them with additional findings in order to grant a waiver. The permit findings require projects to be consistent with Design Guidelines, General Plan policies, zoning standards, and be in character with neighborhood. Also, for some types of projects specific findings also must

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		Permits, Minor Cultural Heritage Permits	be made for the Architectural Overlay district and/or historic preservation. In addition to the standard permit findings, an additional finding would be required for City Planner waiver decisions: "the project is not of significant public concern." This would prompt the City Planner to issue waivers when a project can clearly meet or exceed required findings for permits. Also, the City Planner would need to assess if a project is of "significant public concern" in terms of General Plan policies and public opinion. The City Planner could assess public opinion from testimony at public hearings, comments from the Council and Commission on waivers, or feedback that planning liaisons may receive at outreach meetings, such as Downtown Business Association meetings. Measures could be taken to provide more information on waiver decisions, make waiver documents accessible online, and make it so the Commission can review waivers on the consent portion of meetings to easily ask questions and provide feedback if the Commission believes a waiver is approved in error. Comments would be recorded for the public and Council to receive
13	17.16.120	Planning Commission/ Zoning Administrator waivers of Cultural Heritage and Minor Cultural Heritage Permits	Section deleted. Planning Commission/Zoning Administrator waivers are unnecessary if staff waivers are changed
14	17.16.130	City Antenna Permits	Main changes: 1) simplify wording, 2) rewords review processes; 3) update section references, 4) allows the City Planner to approve changes to antennas [currently discretionary permits are required] to comply with federal law that doesn't allow cities from requiring discretionary review of wireless antenna changes that do not "substantial alter their size"
15	17.16.140(F)	Home Occupation Permit, Review Procedures	Simplifies wording and clarifies review processes
16	17.16.140(J)	Home Occupation Permit, Modifications/ Revocations Initiated by City	Simplifies wording and updates section references

Row #	Municipal Code reference	Subject	Description of code changes
17	17.16.150	Temporary Use Permits	Main changes: 1) simplify wording, 2) clarify review processes, 3) allow model home complexes and sales offices with Temporary Use Permit [this would be required in lieu of a Minor Site Plan Permit], 4) remove mention of Planning Commission/Zoning Administrator waivers [because that section and application is deleted], 5) update section references
18	17.16.155	Special Activity Permits	Simplifies wording, clarifies review processes, and updates section references
19	17.16.240	Administrative Sign Permits	Simplifies wording, clarifies review processes, and updates section references
20	17.16.250	Discretionary Sign Permits	Main changes: 1) simplify wording, 2) reword and add text to clearly describe common steps in the review process, 3) clarify that Design Review Subcommittee review is required when the City Planner determines a project doesn't meet required findings and/or that a project has significant public concerns or impacts; 4) state that staff reports should mention when the City Planner determines that DRSC review is unnecessary, 5) update section references
21	17.16.260	Sign Exception Permits	Main changes: 1) simplify wording, 2) reword and add text to clearly describe common steps in the review process, 3) formalize policy of requiring Design Review Subcommittee review for Sign Exception Permits; 4) update section references to reflect code changes
22	Table 17.16.080(B)	Maximum Encroachments into Setbacks and Height Limits	Allows pools, spas, hot tubs, and other water deeper than 18 inches to encroach into required side and yard setback [that do not abut streets] without a Minor Exception Permit. The permit is unnecessary because there are building codes to address health and safety issues and noise regulations to address noise from equipment pumps. Also, when a Minor Exception Permit has been requested, they almost always are approved without any public comments or attendees at Zoning Administrator hearings
23	17.24.080(B), Footnote 14	Maximum Encroachments into Setbacks and Height Limits	Amends footnotes to reflect changes to pool, spa, hot tub encroachments (see row # 22)
24	17.24.090	Fences, Walls, and Hedges	Main changes: 1) reorganize and reword rules so existing rules apply to residential walls, 2) create a new subsection that allows the height limit, materials, and other features of nonresidential walls to be determined through a discretionary process, instead of limiting these walls to six feet high. Currently, a Variance is required for nonresidential walls to exceed six feet high, which is difficult to obtain and does not provide design flexibility for projects and locations in which taller walls would be compatible or even desirable as an accent architectural feature. In some instances, architects have found creative ways to get around the six foot height limit by designing walls so they can be categorized as patio covers, which can be taller than six feet

Row #	Municipal Code reference	Subject	Description of code changes
25	17.24.110	Height Limitations, Visual Analysis Tools	Formalizes Planning Commission interpretation. Clarify that story poles are meant to be required for three story residential projects when they are located in the Architectural Overlay district
26	17.24.180	Retaining Walls	Main changes: 1) reorganize and reword rules so existing rules apply to residential walls, 2) create a new subsection that allows the height limit, materials, and other features of nonresidential walls to be determined through a discretionary process, instead of limiting these walls to six feet high. Currently, a Variance is required for nonresidential walls to exceed six feet high, which is difficult to obtain and does not provide design flexibility for projects and locations in which taller walls would be compatible or even desirable as an accent architectural feature. In some instances, architects have found creative ways to get around the six foot height limit by designing walls so they can be categorized as patio covers, which can be taller than six feet; 3) allow the City Planner to determine if residential guardrail are "open enough" to minimize visual impacts when walls are in the front yard and or exceed five feet high. Currently, a Minor Exception Permit is required to allow exceptions to guardrail picket spacing or picket widths, which seems unnecessary
27	17.28.070	Antennas on City Property	Main changes: 1) simplify wording, 2) reword review processes; 3) updates section references, 4) allow the City Planner to approve changes to antennas [currently discretionary permits are required] to comply with federal law that doesn't allow cities from requiring discretionary review of wireless antenna changes that do not "substantial alter their size"
28	17.28.205	Outdoor Dining Areas on Public Property, Permanent and Accessory	Main changes: 1) renames the section to "Outdoor Dining Areas", 2) consolidates outdoor dining area standards for public property from Section 17.16.206, 3) allow the Community Development Director to approve larger outdoor dining areas on private property with more than 16 seats and 4 tables, provided that there is no alcohol or entertainment service and exterior modifications can be approved with a staff waiver of a Minor Architectural Permit or Minor Cultural Heritage Permit. If a staff waiver can't be approved, then a Zoning Administrator approval of a Minor Architectural Permit or Minor Cultural Heritage Permit is required for exterior modifications. Currently, a Minor Conditional Use Permit is required even when no alcohol or entertainment is proposed; 4) delete references to Outdoor Dining Permits, which aren't enforced and aren't necessary because other permits are required to ensure there aren't visual or land use impacts; 5) clarify that a Minor Conditional Use Permit is required to waive parking spaces for outdoor dining outside the Downtown Parking Study Area

Row #	Municipal Code reference	Subject	Description of code changes
29	17.28.206	Outdoor Dining Areas on Private Property, Permanent and Accessory	Section deleted. It is unnecessary because all outdoor dining area standards are moved to Section 17.16.205 as a result of changes described in row #28
30	17.28.240	Public Utilities	Main changes: 1) simplify wording, 2) reword review processes; 3) update section references, 4) allow the City Planner to approve changes to antennas [currently discretionary permits are required] to comply with federal law that doesn't allow cities from requiring discretionary review of wireless antenna changes that do not "substantial alter their size"
31	17.28.290(E)	Converted Service Stations	Main changes: 1) require conversions to modify or remove structure or other service station improvements to make sites compatible with neighborhoods and conforming to standards, 2) make it so a Minor Conditional Use Permit isn't required to allow the conversion of service stations to other uses. Currently, this is required to determine if service station structures or improvements must be modified or removed. This isn't needed if change (1) is made; 3) clarify that a Minor Architectural Permit or Minor Cultural Heritage Permit is required to make exterior modifications, unless a staff waiver may be approved; 4) simplify wording
32	17.28.300(F)	Temporary Uses and Structures, Model Home Complexes and Sales Offices	Main changes: 1) simply wording, 2) streamline review of Model Home Complexes and Sales Offices by requiring City Planner approval of a Temporary Use Permit [currently Zoning Administrator must approve a Minor Site Plan Permit; 3) streamline time extensions by allowing the City Planner to approve up to two 180 day time extensions, rather than requiring the Zoning Administrator to approve time extensions; 4) update section references
33	17.28.300(F)	Temporary Uses and Structures, General Temporary Outdoor Display (excluding Grocery Stores)	Allow without Temporary Use Permit. This is business friendly and reflects policy of allowing outdoor display without enforcement of Temporary Use Permit requirement. This code change allows code enforcement to focus more attention on violations that have a greater effect on quality of life
34	Table 17.36.020(5)	Commercial Zone Uses, "Group Counseling and Instrucion"	Allow group counseling and instruction uses in NC2, NC3, CC1, CC2, CC3 zoning districts with a Minor Conditional Use Permit [currently a Conditional Use Permit is required]. This change is consistent with how the land use is regulated in other parts of the city that are more sensitive than NC2, NC3, CC1, CC2, CC3 zoning districts, including the downtown core and neighborhood commercial zones (NC1.1, NC1.2) which are closer to residential areas, such as the commercial center near the Shorecliffs community. In these areas, a Minor Conditional Use Permit is

Row #	Municipal Code reference	Subject	Description of code changes
			required, or in the Central Business district overlay, the land use is permitted by-right [no discretionary review] when businesses are not in pedestrian oriented space. Often, the main reason why group instruction and counseling requires a discretionary process is to ensure there is adequate parking. This can be verified and conditioned through the Minor Conditional Use Permit process
35	Table 17.36.020(8)	Commercial Zone Uses, "Internet Access Studio/Internet Café"	Eliminate use from use tables. It is an outdated reference/use. Computer terminals would still be allowed at cafes as accessory use
36	Table 17.36.020, Footnote 18	Commercial Zone Uses	Delete footnote. It is unnecessary as a result of changes in row 35
37	Table 17.40.030(4)	Mixed Use Zones Uses, "Internet Access Studio/Internet Café"	Eliminate use from use tables. It is an outdated reference/use. Computer terminals would still be allowed at cafes as accessory use
38	Table 17.40.030, Footnote 22	Mixed Use Zones Uses	Delete footnote. It is unnecessary as a result of changes in row 35
39	17.64.125(B)(7)	Waivers of Parking Standards Outside the Downtown Parking Study Area	Main changes: 1) clarify that a Minor Conditional Use Permit is required to allow parking waivers for outdoor dining areas outside the Downtown Parking Study Area; 2) includes findings from the outdoor dining area section so the public does not need to search for them in another part of the code
40	Table 17.84.040(A)	Matrix of Sign Types, "Construction Signs"	Allow without permit but keep requirements for signs to be displayed only while a building permit is active for a project. This code change allows code enforcement to focus more attention on violations that have a greater effect on quality of life
41	Table 17.84.040(A)	Matrix of Sign Types, "Real Estate Signs"	Allow without permit. Rarely do real estate agents apply for sign permits. This code change allows code enforcement to focus more attention on violations that have a greater effect on quality of life
42	17.88.030	Definition "Retaining Wall, Guardrail Open"	Deletes guardrail material requirements in the definition. Definitions are to clarify terms, not to impose or identify regulations. The guardrail standards and review processes are moved to the retaining wall section where they should be found

Row #	Municipal Code reference	Subject	Description of code changes
43	2.32	Planning Commission	Main changes: 1) clarify the Planning Commission's function and duties in one section, 2) clarify that the Commission serves as the Design Review Subcommittee (DRSC) and describe the DRSC's function and duties
44	2.34	Zoning Administrator	Adds section and moves text about the Zoning Administrator (from Section 17.12.020) to Title 2 "administration" which is the intended part of the Municipal Code for information about decision making bodies

**MINUTES OF THE REGULAR STUDY SESSION
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
June 4, 2014 @ 6:00 p.m.
City Council Chambers
100 Avenida Presidio
San Clemente, CA 92672**

CALL TO ORDER

Chair Darden called the Regular Study Session of the Planning Commission of the City of San Clemente to order at 6:03 p.m. in City Council Chambers, located at 100 Avenida Presidio, San Clemente, CA 92672.

ROLL CALL

Commissioners Present: Wayne Eggleston, Michael Kaupp, Jim Ruehlin, and Kathleen Ward; Chair pro tem Barton Crandell, Vice Chair Donald Brown and Chair Julia Darden

Commissioners Absent: None

Staff Present: Jim Pechous, City Planner
Christopher Wright, Associate Planner
Eileen White, Recording Secretary

AGENDA

A. Zoning Permit Streamlining (Wright)

This is a request to receive suggestions on code and policy changes that would improve customer service and maintain quality of life. The next phase of the Zoning Ordinance update is to improve discretionary permit procedures. The Commission's comments will be used to prepare code changes that the Planning Commission will consider at a future public hearing.

Christopher Wright, Associate Planner, summarized the staff report, which answered questions from prior study sessions, provided information that was requested, and outlined some potential code and policy changes that address the principles, concerns, and ideas the Commission identified at prior study sessions. Specifically, staff identified several recommendations: 1) make the Commission the appeal body for staff waivers, rather than the City Council, so that the potential appeal process is reduced from one month to two weeks and to provide improved oversight, 2) identify staff

waivers on the consent calendar for the Commission to review the City Planner's approval of staff waivers, 3) formalize procedures for the City Planner to consult with the Design Review Subcommittee on projects, 4) clarifies that projects should be reviewed by the Design Review Subcommittee when they projects are of significant concern, 5) report City Planner waivers of design review to the Commission, and 6) expand the scope of staff waivers with modified findings to ensure projects are not of significant concern and maintain or improve quality of life. Staff explained a draft set of revised findings for staff waivers and provided a list of potential projects that could be approved with the findings. Lastly, staff provided a mock-up of an information that could be provided to the Commission to review staff waivers on the consent calendar if they were given new authority to serve as the appeal body for those decisions. Staff recommended the Commission comment and provide direction on whether staff has an accurate understanding of the principles, issues, and concerns the Commission has regarding the streamlining ordinance; whether the Commission supports the new strategy to make modest streamlining changes to allow staff to focus on General Plan implementation; whether staff should proceed to draft a streamlining ordinance for the Commission to consider.

During the ensuing discussion, of major concern to the Commissioners was the process for them to review staff waivers, ask questions, and potentially revise or reject a decision made at the staff level.

Associate Planner Wright stated that the Commission could use a process to review staff waivers that is similar to the one used by the City Council to review Planning Commission hearing minutes. The consent calendar would identify a list of approved staff waivers. The Commission would receive a project descriptions, analysis of required findings, and conditions of approval for each waiver decision within Commission meeting packets. The City Planner would have additional information on-hand at meetings in the event the Commission has questions about a staff waiver. This information would include a binder of materials for staff waiver applications. The Commission could concur with staff waiver decisions with one motion or items can be pulled for separate discussion and action. The Commissioners or members of the public would be able to pull an item from the consent calendar to ask questions. If an item is of concern and is pulled from the consent calendar, the Commission would make a separate motion on whether to "call-up" the staff waiver.

The Commission asked if they have the ability to call-up and act upon a waiver at the same hearing or whether action must be deferred until a later meeting if a waiver is called-up.

The City Planner stated that this would be researched further with the City Attorney and staff could provide this information at a future meeting. There are advantages and disadvantages to taking action on a waiver at the same meeting or deferring action until a later meeting.

During review and discussion, the Commissioners, either individually or in agreement, provided the following commentary:

- Suggested Commissioners notify staff in advance if they see a staff waiver on the Consent Calendar that they intend to call up to ask questions. This would allow staff to be prepared to share information about the staff waiver in a PowerPoint or by other means that is more convenient than reviewing materials in a binder.
- Requested that staff member(s) who process staff waivers to be identified on packet materials so the Commission and City Planner can easily identify which staff member is most informed to answer questions and be present at Commission meetings if needed.
- Commented that as time goes on, the City Planner and Commission could make adjustments to the information that is provided about staff waivers in meeting packets, as needed, to ensure there is adequate oversight.
- Agreed with staff's recommendation to formalize existing policy that requires projects to be reviewed by the Design Review Subcommittee that are of significant public concern, regardless of whether they meet required findings.
- Agreed that the list of sample streamlining projects in the staff report seem reasonable and help to put into context the scope of streamlining items that staff is now considering.
- Agreed with staff's strategy to reduce the scope of the streamlining ordinance to items that have little-to-no public concern or impacts and maintain or enhance quality of life. This would allow staff to have time and focus on implementing the General Plan and completing projects, such as new Design Guidelines or adopting a Local Coastal Plan, that are likely to have a much greater impact on improving customer service than the type of code changes that are being discussed in this round of Zoning Ordinance amendments.
- Commented that streamlining will also be very helpful to applicants.
- Agreed to direct staff to begin crafting a streamlining ordinance.

Associate Planner Wright advised that the Commission will have the opportunity to review and comment on the draft streamlining ordinance before it is presented for Council review and action.

Chair Darden commended Associate Planner Wright for his efforts.

**MINUTES OF THE REGULAR STUDY SESSION
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
March 19, 2014 @ 6:00 p.m.
City Council Chambers
100 Avenida Presidio
San Clemente, CA 92672**

ROLL CALL

Commissioners Present: Wayne Eggleston, Michael Kaupp, Jim Ruehlin, and Kathleen Ward; Chair pro tem Barton Crandell, Vice Chair Donald Brown and Chair Julia Darden

Commissioners Absent: None

Staff Present: Jim Pechous, City Planner
Christopher Wright, Associate Planner
Eileen White, Recording Secretary

AGENDA

A. Zoning Permit Streamlining (Wright)

This is a request to receive comments on the effectiveness and efficiency of planning procedures and get suggestions on code and policy changes that would improve customer service. The City Council has made it a priority for decisions to be made at a lower level when it would be more practical and efficient. The next phase of the Zoning Ordinance update is an overhaul of planning procedures. The Commission's comments will be used to prepare code changes that the Planning Commission will consider at a future public hearing.

Christopher Wright, Associate Planner, narrated a PowerPoint Presentation entitled, "Zoning Ordinance Study Session, dated March 19, 2014." In the process of overhauling the Zoning Ordinance, staff is looking at opportunities to improve customer service and simplify the review process. Three main categories of code changes that are being considered include 1) streamlining, 2) reducing the number of applications and simplifying terms, and 3) changes to design review procedures. Staff recommended the Commission comment on the effectiveness and efficiency of planning procedures and offer suggestions on code and policy changes that would streamline the process while maintaining the purpose and intent of permits.

Commissioner Kaupp said he had a number of concerns at the last Study Session and complimented Mr. Wright on his changes and annotations to the list of staff's streamlining ideas. Mr. Wright's edits and annotations capture the spirit of the Commission's previous discussion and concerns. The changes address much of the concerns that Commissioner Kaupp had with the previous list.

Mr. Wright stated that there has been an unwritten policy of requiring minor projects, that meet required findings, to be reviewed by the Design Review Subcommittee when it is a City project, is located in an Architectural Overlay District, or a project involves a historic building. Rather than have a general policy for these situations, Mr. Wright asked the Commission if there criteria can be established for the City Planner to waive design review. Mr. Wright asked if design review can be unnecessary in some situations and what that may include. One streamlined process could allow the City Planner to waive design review if projects are consistent with design guidelines, maintain existing architecture, sufficiently improve the appearance of buildings, maintain or improve a building's architectural or historical integrity, and projects are not expected to be of significant public concern. The Commission could retain the ability to refer projects to the Design Review Subcommittee if they believe that projects do not meet the required findings (and other criteria that can be specified in the code) or "call-up" projects if they disagree with a lower-level decision or if they believe that a public hearing is necessary to provide greater oversight and public participation on a project that may be of public concern. Mr. Wright displayed an example of a mansard roof replacement project that would have benefitted from streamlined review.

Chair pro tem Crandell agreed that there are some situations where design review may be unnecessary to meet findings. However, the Design Review Subcommittee does more than just help applicants to meet required findings. It is also a quality control where the Subcommittee has the opportunity to urge applicants to step-up the quality of design. Anytime staff believes that the quality of a project isn't good enough, it should require design review. The Subcommittee doesn't have the power to require changes, but it encourages applicants to step-up and do projects right. Commissioner Kaupp agreed that over the years the Subcommittee has seen projects where an applicant is encouraged to improve the quality of projects with a "drum-beat" message, which is persuasive.

Commissioner Ruehlin asked what type of mechanism or process would be used by the Commission to review lower-level decisions and decide whether to call them up to a Commission hearing. He said that reviewing minutes on the consent calendar was discussed at the last meeting and that would seem to be a good model. He asked what type and level of

information would be provided to the Commission to understand and evaluate lower-level decisions.

Jim Pechous, City Planner, commented that staff could provide detailed information or more limited action minutes for projects (similar to what is currently provided for staff waivers). A range of information can be provided depending on what the Commission needs to understand how a lower-level decision was made. This may mean City Planner action minutes that describe decisions that are made so the Planning Commission has an opportunity ask questions. And, in most cases, the City Planner attends the Commission meeting and is available to answer any questions. The other options is more like consent items that are on an agenda, where a staff report is provided to the Commission. In this case, there isn't much of a streamlining benefit (because more work and time is involved to write a report, resolution, exhibits). It may save some time at meetings since most consent items are not pulled for discussion. Mr. Pechous referred to the example of the project that involved the removal of a mansard roof element on a contemporary building in the Architectural Overlay. He explained that in the case of reviewing a project like that, it isn't just a case of deciding whether the project meets the findings. It isn't always clear if a project meets findings as shown in how the Commission can have a split vote on whether to approve a project based on findings. Therefore, in his opinion, the City Planner should only decide on a project or waive design review, when it is not ambiguous whether a project meets findings. It must be "black-and-white" clear that a project meets findings and has high-quality architecture. If necessary, the City Planner could require project changes so that a project clearly meets findings and is of good enough quality that the public and higher-level decision makers is likely to support.

Commissioner Brown asked Mr. Wright to describe which three findings he would make to approve the mansard roof element project.

Mr. Wright explained that he would make the following findings: 1) the project is consistent with Architectural Overlay standards that require minor exterior remodels to bring a non-Spanish styled building into closer character with Spanish Colonial Revival architecture in a way that is proportional to the scale of a project. The mansard is out of character with Spanish Colonial Revival architecture so its removal is consistent with the Design Guidelines and Zoning Ordinance; 2) the removal of the mansard improves the architectural integrity of the contemporary building. The mansard is inconsistent with the form and style of the building, and 3) the project improves the appearance of the building using high-quality roofing materials.

Commission Kaupp stated that the waiving of design review would not be streamlining if the Commission disagreed with a waiver and sent projects

back to the Design Review Subcommittee. However, any misunderstanding between the City Planner and Commission would probably play-out pretty quickly, since projects could be called up or sent back to the DRSC.

Mr. Pechous stated that it may be possible to notify the Design Review Subcommittee of decisions to waive design review on projects. This may allow the Subcommittee to give early feedback on design review waivers, rather than to wait for the Commission to get the information in their meeting packet, which is likely to take more time. Staff can consider this further and consult with the City Attorney on the idea.

Chair pro tem Crandell also said the City Planner could individually consult with Subcommittee members to get feedback on decisions to waive design review.

Mr. Pechous agreed with Commissioner Kaupp's comment that it should not take long for the City Planner and Commission to come to a solid understanding of what should require design review. Mr. Pechous stated that anyone in the City Planner position would develop an understanding quickly. If the City Planner made a decision, and didn't know it could be unpopular, they would get informed quickly, if a decision were called up or a project were referred back to the Design Review Subcommittee.

Commissioner Eggleston commented that although streamlining may be appropriate at this time with the existing tenured staff and experienced Planning Commission, decisions such as these can be subjective and could be significant in the future. If code changes are made, it could remain in place for years, so it is important to consider that the experience and knowledge of staff can change. In addition, he suggested the Planning Commission should continue to have input regarding signage as it contributes significantly to quality of life.

Commissioner Kaupp commented that the existing Planning Division staff has a really good feel for the community's standards. He agreed with Commissioner Eggleston that the knowledge and experience level of staff and the Commission could change and it is wise to assume that it will someday. He suggested that staff check with the City Attorney to find out if staff can notify the DRSC when the City Planner is not sure whether to support a design review waiver, and then poll members individually for their input and/or concerns.

Commissioner Ruehlin commented on the difficulties associated with trying to find the right balance in giving staff more authority and ensuring all projects have adequate oversight. He suggested staff consider approaching changes in a more incremental manner, following the 80/20 rule, see how it works, and having the streamlining process evolve over time. He

encouraged including a small amount of information on each project, such as a paragraph, on the consent calendar so it can be called up if questions arise. If this works well, in six months more leeway could be considered.

In response to a comment from Commissioner Ward regarding potential that the Commission may feel that certain projects may have more public impact that staff believes, and that the mansard roof replacement may have been improved with Design Review Subcommittee (DRSC) review, City Planner Pechous advised that in this case, the applicant would have preferred to rehabilitate the old roof design rather than go through any review. The applicant said he would just keep the building the way it is, rather than go through a review process. He noted there would be checks and balances so the Commission question a City Planner's decision and take different action if necessary.

Vice Chair Brown stated that projects are reviewed based on their consistency with design guidelines so it will help to update the guidelines and other documents as part of the implementation of the new General Plan. He cautioned that streamlining could affect staff's workload in an unknown way for a while. If more staff level decisions are made, perhaps this could take time away from some other projects, which could affect how the Planning Division meets City Council performance measures in some occasions. Maybe the performance measures may need to be adjusted. He supports the idea of simplifying the process by reducing the number of applications.

Mr. Wright clarified that streamlining is likely to free-up staff time that is currently spent writing reports, resolutions, and presenting at meetings.

Chair Darden asked Mr. Wright if the process of writing a staff report can raise questions or issues that can be missed if a report is not prepared.

Mr. Wright stated that the process of writing out how a project meets findings is most valuable in identifying issues. This can be done without a staff report.

Chair pro tem Crandell asked staff to clarify the process that is used to review and decide on applications at a City Planner level.

Mr. Wright explained the first step is for staff to guide applicants at the counter. Staff informs the public when there is insufficient information to process a waiver or if a project does not seem to meet findings. If an application is complete and it looks like a waiver can be supported, staff presents a request to a supervisor and a decision is made on the project. Then, that approval is noted in the Planning Commission packet.

The Commission also had other comments, which are summarized below:

- It can be challenging to anticipate the level of public concern or impacts associated with land uses, type of technology, or other requests that are rare or have not been seen before. For that reason, in general, the streamlining of these requests is discouraged. An example of this is a proposal to allow a stable on a lot zoned Very-Low Density Residential.
- General Plan focus areas have a greater potential for public concern. This should be considered when procedures are streamlined.
- Staff identified some streamlining ideas for home occupations. While processing a recent code amendment, the Commission received several public concerns about home occupation uses. Home occupation uses need to be discussed in more detail at a latter meeting to address those concerns and figure out what should be done. For example, there are concerns with the idea of allowing tenants to submit home occupation applications without a property owner's consent.
- It would be helpful at the next meeting for staff to outline how the Commission may call-up an item with consent calendar information in meeting packets. What type of information would be provided to the Commission if the City Planner were to make more decisions?
- Staff was questioned on the idea to eliminate a requirement to obtain a use permit to allow conversions of service stations to other uses. If this were done, the City should retain an ability to review exterior building changes that may be proposed in conjunction with the change of use.
- Signage often will significantly modify the appearance of buildings and neighborhoods so there needs to be enough of a review process to ensure signage is high quality. Staff should not make decisions on signage that is likely to be of significant public concern, like large signs in the downtown. Maybe staff should make more signage decisions after signage design guidelines are adopted that clarify what signs should and shouldn't be approved.
- When sign violations exists, the City should hold building owners accountable as well as tenants.
- The staff report identifies streamlining ideas, referencing the existing zoning classifications, rather than the zones in the new General Plan. Staff should use the new land use classifications for consistency.
- A preliminary application process is often beneficial. This should be encouraged.

Chair Darden encouraged the Commissioners to provide staff with written comments.

**MINUTES OF THE REGULAR STUDY SESSION
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
March 5, 2014 @ 6:00 p.m.
City Council Chambers
100 Avenida Presidio
San Clemente, CA 92672**

ROLL CALL

Commissioners Present: Wayne Eggleston, Michael Kaupp, Jim Ruehlin, and Kathleen Ward; Chair pro tem Barton Crandell, Vice Chair Donald Brown and Chair Julia Darden

Commissioners Absent: None

Staff Present: Jim Pechous, City Planner
Christopher Wright, Associate Planner
Eileen White, Recording Secretary

AGENDA

A. Zoning Permit Streamlining (Wright)

This is a request to receive comments on the effectiveness and efficiency of planning procedures and get suggestions on code and policy changes that would improve customer service. The City Council has made it a priority for decisions to be made at a lower level when it would be more practical and efficient. The next phase of the Zoning Ordinance update is an overhaul of planning procedures. The Commission's comments will be used to prepare code changes that the Planning Commission will consider at a future public hearing.

Christopher Wright, Associate Planner, narrated a PowerPoint Presentation entitled, "Study Session on Zoning Permit Streamlining, dated March 5, 2014." He explained:

1. The different type and levels of review processes (staff level and discretionary hearings);
2. Issues that are important to consider in determining whether a review process should be streamlined (public concerns, potential impacts, level of public participation, public notification, time and cost, oversight);
3. How certain processes could be formalized that allow staff to refer projects to a higher level. This would allow some projects to be streamlined that usually are not of public concern, but provide the

flexibility to require a higher level of review for the occasional project that may have more issues or be of concern;

4. The idea of combining applications that are similar in order to simplify the Zoning Ordinance, forms, fees, and processes;
5. That criteria will be put in the code to clarify when a project is “minor” that can be approved at a lower level,
6. Examples of projects that could likely be streamlined

Mr. Wright then presented a “Draft Inventory of Procedures” (staff report Attachment 3). It identifies the types of projects/requests that require a review process and identifies staff’s preliminary streamlining ideas for discussion. Mr. Wright asked for the Commission and public to forward comments to him so they can be considered during the ordinance writing process.

During the ensuing discussion, the Commissioners, either individually or in agreement, provided the following commentary:

- Recommended for the update to formalize procedures that allow staff to “bump-up” projects to the next level of review.
- Suggested for staff to notify applicants early-on that their application can be bumped up if staff determines the application needs higher review.
- Commented that the level of public interest in a project be indicated as a reason why the project could be bumped up to a higher level of review.
- Requested clear and consistent guidelines for applicants/architects to follow from the onset of the project so that applicants are aware of what is allowed and that deviation from the code has potential to add a higher level of review.
- Commented that it is important to consider, when making code or policy changes, that quality of life is maintained in the City. The existing process and regulations have led to a great quality of life in the City and code changes should not diminish it. Instead, the goal should be to preserve, protect, and improve quality of life further, while providing quality customer service.
- Discussed the idea of including the staff waivers/ZA minutes under Consent Calendar items on the agenda to call more attention to these items.
- Commented that the City is lucky to have tenured and experienced Commissioners rather than constant turnover that is common in other Cities. The worst case scenario should be considered in the writing of code. Meaning, San Clemente should not assume that the Commission or staff will always be very experienced. If staff is to be given more authority, there should be adequate oversight to ensure decisions are known and understood, so they can be “called-up” if there are concerns.
- Commented that decisions at the staff level need to be based on guidelines, not just staff’s discretion.

In response to comments/questions from the Commissioners, Mr. Wright noted the Draft Inventory of Procedures will be posted on line to give the public the opportunity for comment; noted staff is considering the potential to have Council review staff waivers to add more eyes to each document; and noted that streamlining should give staff more time to work on projects because higher level discretionary decisions require more staff time to prepare reports, minutes, noticing, agendas, resolutions, and exhibits.

Jim Pechous, City Planner, advised that new language in code will also define triggers for him to use in reasoning and determining when a project should be bumped up in order to ensure code is fairly applied, including avoiding decisions based on "planning lore." His decisions will include findings and show what policies the review is intended to preserve. If the staff waiver process is applied to more projects, he noted that the staff waiver process allows conditions to be added. He directs staff members to cite findings on waiver applications when they are approved. Mr. Pechous emphasized that the City Planner makes the ultimate decision on each staff waiver. Lastly, Mr. Pechous confirm that staff is working on a historic preservation presentation for discussion at a future study session.

Mr. Wright encouraged the Commissioners to forward their comments and questions to him via email.

Report received and filed. This item is continued to the next Study Session for further discussion.

Below are minutes of a public workshop held on February 19, 2014, to get feedback on planning procedures and streamlining ideas:

1. *Notices of incomplete submittal.* Staff was encouraged to soften the language of incomplete application letters that must be sent to applicants within 30 days to comply with State law. Perhaps there is an opportunity to soften the tone of letters so applicants do not get the misperception that their design team “dropped the ball” on their application. For example, maybe the city does not have to include text at the top of a letter that says “notice of incomplete application submittal.” Instead, maybe text can be included within the body of a letter that says an application meets minimum submittal requirements, but additional information is needed to complete an evaluation of project compliance with requirements. Staff agreed to look into the suggestion.
2. *Examples of projects that may be good candidates for streamlining.*
 - a. *Non-visible or highly screened projects.* Workshop attendees agreed with efforts to lower the decision point for projects that clearly improve the architectural or historic integrity of buildings, maintain the character of buildings and neighborhoods, and have strong public support. Example: removal of ugly roof element downtown.
 - b. *Significant but positive exterior changes that meet design guidelines.* Workshop attendees agreed with efforts to lower the decision point for projects that clearly improve the architectural or historic integrity of buildings, maintain the character of buildings and neighborhoods, and have strong public support. This may include projects that restore historic resources and projects that make a significant improvement to a building downtown that maintains the character of the building.

When the public may be concerned about a project, then a lower hearing like a Zoning Administrator decision is reasonable. It was agreed that a longer review process is a disincentive to improve buildings and can drive people to do projects without a permit. Therefore, a longer process should be required only when it provides value, such as public notification and participation for projects that are likely to have more public concerns.

3. *Design review.* San Clemente has a good design review process that is better than many other cities. Staff should be given more authority to approve projects that meet requirements and are consistent with Design Guidelines. They are trained and capable of reviewing projects to determine if projects are consistent. If guidelines are followed, why require a public hearing that slows projects down and does not change

the outcome of the project? It is approved either way but staff can make a decision quicker.

4. *Local Coastal Plan (LCP) and interim measures to help customers.* The City's effort to adopt a LCP will allow the city to process coastal applications and avoid Coastal Commission review, which will save lots of time. A workshop attendee said the Coastal Commission told him it could take up to two years to adopt a LCP. In the interim, maybe staff can find a way to make it easier for the city and applicants to get quicker Coastal Commission direction on issues and allow staff to make some decisions. Also, maybe the Council will support a reduced or waiver of in-concept fees for simple, over-the-counter type reviews.
5. *Design Guidelines.* It will be very helpful to update the Design Guidelines. This will make it easier for staff to approve more projects.
6. *Development Management Team.* It was noted that San Clemente's process improved greatly when the decision was made to allow open attendance of Development Management Team (DMT) meetings. Applicants really benefit from having several disciplines in one room to go over issues and provide quick feedback on a project. Similar meetings are held at City of Long Beach that are very helpful. Staff was encouraged to look at their meetings to see if further improvements can be made to DMT meetings. It would also be helpful to have other ways to get feedback early.
7. *Qualification requirements for the drafting of conceptual plans.* There was discussion about the merits of requiring conceptual plans to be drawn by a licensed architect or engineer, in instances where a project requires a building permit and the building code requires construction drawings to be drafted by a licensed professional. Some projects are more complicated and require a solid understanding of design principles, technical issues and limitations, and regulations, in order to effectively work with staff, prepare materials that address comments, and allow for projects to be processed promptly. Sometimes applications are submitted by an individual that has less training and resources. In these instances, staff has had to spend extra time with some people to get materials that address comments. This slows the process down and can affect other projects because it limits staff's time to work on projects. A contractor noted that the building code allows contractors to draft plans in some situations and that this ability should be preserved. It was suggested that a trade-off may be to give the City the discretion to require a licensed professional to draft conceptual plans, when it is needed. Staff agreed to explore this idea with the City Attorney and stated that there

have been several instances where it has proven beneficial for someone to hire a licensed professional to help them through the planning process.

8. *Homeowners Associations and building permit approvals.* There were several questions and comments about the building permit process and verification of Homeowner Association approvals. Staff responded to these comments and clarified that the focus of the workshop is on streamlining planning procedures. Also, mention was made of a separate effort to improve HOA coordination, uniformity, and project processing.

Other public comments

From: James Smathers

Sent: Thursday, March 13, 2014 8:02 PM

To: Maune, Kimberly

Subject: RE: March 19 Study Session: Zoning Permit Streamlining

Hello Christopher,

I don't know what you want me to do here but I am hopeful your efforts will improve the review of projects adjacent to historical properties.

I had one house remodel on Avenida Victoria that was completely compliant with the zoning requirements and was delayed 6 months by the senior staff, (choosing to review the plans) and subsequently the project was never built out due to the owners frustration. I never was paid, as an outcome so this is serious when it has these ramifications. Pretty sure the city is not trying to achieve this kind of outcome either!! Some things are not relevant!!

Anyway I tried the link below but NO GO so please pass this on to Christopher.

Thank you,

James C Smathers

Cornerstone Form

From: Don Mueller

Sent: Wednesday, February 19, 2014 4:05 PM

To: CityManager Mail

Subject: About Pall Gudgeirsson

Pall Gudgeirsson,

I have three comments regarding tonight's workshop on city's processing;

1. Suggest you have one experienced checker available to process small projects/permits over the counter, i.e. water heaters/roof replacements, HVAC addition, etc. I believe this would handle much traffic efficiently.
2. Have the person who checked plans made available for review of corrections with applicant to avoid multiple rechecks which wastes city and applicants time.
3. Have all residential applicants reviewed by planner for HOA's approval/confirmation prior to plan checking.

Thanks for your attention to the review process,
Don Mueller, retired architect



Memorandum Planning Division

June 4, 2014

To: Planning Commission
From: Christopher Wright, Associate Planner
Subject: Zoning Permit Streamlining
Copies: Jim Pechous, City Planner; James Holloway, Community
Development Director

BACKGROUND

On March 5th and 19th, the Planning Commission had study sessions to discuss the next phase of the Zoning Ordinance update. It will be a set of policy and code changes that improve customer service by streamlining inefficient procedures while maintaining or enhancing quality of life. In addition to the study sessions, a public workshop was held on February 19, 2014 to get suggestions on how to improve the review process. The study session and public workshop minutes are provided as Attachments 1-3.

Previous Direction

The Commission outlined several principles that should be followed when staff proposes code and policy changes. It is staff's understanding that the Commission outlined the following principles:

1. *Code changes should preserve our great quality of life.* It is important that quality of life is maintained in the City when making code or policy changes. The existing process and regulations have led to a great quality of life in the City and code changes should not diminish it. Instead, the goal should be to preserve, protect, and improve quality of life further, while providing quality customer service.
2. *Decisions need to be based on guidelines for consistency.* Decisions can be subjective so they should be based on guidelines, not just discretion. The staff and Commission could have less experience and knowledge of the City in the future so guidelines should be clear for consistent decision making.
3. *Some streamlining changes should be delayed.* The Commission suggested to delay some streamlining until Design Guidelines are updated, sign guidelines are created, and other General Plan implementation measures are completed. As this work is completed, there will be greater set of quality guidelines for

decision making. Without this information, it can be more difficult to find the right balance in giving staff more authority and ensuring all projects have adequate oversight. Therefore, it should be possible for the Commission and City Council to support a larger overhaul of procedures when new guidelines and policies are adopted. Also, the Commission also directed staff to put a hold on streamlining requests that are rare or have not been seen before because it is challenging to anticipate the level of public concern or impacts.

4. *There must be adequate oversight.* There should be adequate oversight to ensure decisions are known and understood so they can be “called-up” if there are concerns. High public interest in a project should be a reason for bumping up a decision to a higher level of review.
5. *The type or location of some projects are of greater public concern and should be reviewed as such.* Some examples include projects in General Plan focus areas, signage that will significantly modify the appearance of buildings and neighborhoods, and exterior building changes that are proposed in conjunction with changes of use, like the conversion of service stations to retail uses.

The Commission also asked staff to provide more information and provide direction on the following:

1. Describe how the Commission could call-up an item with consent calendar information in meeting packets.
2. Provide an example of the information that may be provided to the Commission to review City Planner decisions.
3. Determine if there are options for the City Planner to get early feedback from the Design Review Subcommittee on decisions to waive design review, rather than to wait for the Commission to get information in their meeting packet, which is likely to take more time.
4. Provide information on home occupation rules and procedures for more discussion. The Commission stated that this is necessary to address public concerns before streamlining is considered.
5. Reference General Plan land use classifications in the ordinance for consistency.

Objective of tonight's study session

The objectives of tonight's study session are to: 1) provide requested information and answer follow-up questions, and 2) direct staff on whether the next appropriate step is to start drafting an ordinance for the Commission to consider at a future public hearing.

ANALYSIS

Possible “call-up” procedure

The Planning Commission could be given new authority to “call-up” staff waivers that are put on the consent calendar. When items are on the consent calendar, they can be approved by one majority vote without discussion. If the Commission had questions or concerns about an item, those items could be removed for separate discussion and action.

Type of information the Commission may have to “call-up” items

Currently, the Commission is given a list of staff waivers that are approved by the City Planner with the following information: 1) brief project descriptions, 2) project locations, and 3) conditions of approval. If the consent calendar were used for the Commission to review and potentially “call-up” items, staff envisions for the Commission to be provided additional information on how the project meets required findings to approve waivers. In addition, the City Planner could have a binder of the plans, photos, and other materials for waivers at the Commission’s meetings. This would allow the City Planner to answer questions and present materials upon request. At the meeting, staff will provide an example of the information that could be provided for a waiver decision. Over time, the City Planner and Commission could make adjustments as needed to ensure there is adequate oversight.

Design Review Subcommittee review of waivers

The Zoning Ordinance allows the City Planner to waive design review if projects meet required findings. The Planning Commission asked if the Design Review Subcommittee is able to review design review waivers on the consent calendar. This is an option. The City Planner agrees that this could be a great tool to discuss projects when it is not crystal clear that a project meets required findings.

Home Occupations

Staff suggested for the application process to be streamlined for some home-based businesses like home offices, which are not likely to adversely impact surrounding properties. But, the Commission and public has had some concerns with these uses and asked staff to bring back information on code enforcement issues and responses and the effectiveness of existing rules. To avoid delaying other streamlining items, staff proposes to exclude home occupation procedures from this phase of code changes. Instead, staff suggests that home occupations be discussed when other Zoning Code changes are evaluated at a later date.

Consistency with the Centennial General Plan

The Commission stated that new General Plan land use areas or districts be referenced in the ordinance for consistency, rather than current zoning districts. Within the next year, staff will initiate a series of code changes to make the Zoning Ordinance consistent with the new General Plan. At that time, staff intends to update land use classifications in the Zoning Ordinance for consistency. Permit procedures also may be adjusted to implement new General Plan goals, policies, and programs effectively. For example, additional permit findings and requirements could be specified for projects proposed in General Plan focus areas.

Scope of streamlining

As the Commission noted, the existing review process has led to a great quality of life in the City. The new General Plan includes several new policies and programs to preserve, protect, and enhance quality of life further. This includes several implementation measures that will require a significant amount of staff resources to complete, such as the adoption of a Local Coastal Plan, an update of Design Guidelines, and new signage guidelines. The completion of these implementation measures are expected to have a larger positive impact on customer service and quality of life than the code changes being considered in this update. For example, the adoption of a Local Coastal Plan could reduce the review process by one or two years for some projects because City staff could review the projects.

Therefore, this other work is a high priority but staff resources are spread thin and the tasks by their nature take time to complete. In the meantime, we can proceed streamlining items that make sense now. Also, some streamlining in addition to the obvious customer service benefits also provide incentives for property owners and business to submit quality projects from the get go that improve the City. That said, staff proposes a new strategy on this phase of Zoning Code changes. Projects can be streamlined that: 1) often have little-to-no public concerns or significant impacts and 2) maintain or improve the quality of life in the City according to the Design Guidelines and General Plan.

Staff requests the Commission to comment on this approach. Below are some examples of potential streamlining changes:

1. *Modify appeal and oversight procedures for waivers.* Make the Planning Commission the appeal body for staff waivers and provide new authority to “call-up” items from the consent calendar. This would be more efficient and effective for two reasons. First, this change eliminates the potential for a one month appeal period. The City Council is able to “call-up” staff waiver decisions when it reviews Planning Commission meeting minutes. Since the City Council meets a day before the Planning Commission hearings, it can take a month or longer until the Council review staff waivers. This delays the City’s ability to issue building permits, which creates a burden for businesses and residents.

This would not be an issue if the Planning Commission was the appeal body. The other benefit of making procedural changes is a potential for improved oversight. The Planning Commission has regular and direct access to the best source of information on staff waivers and regular meetings and communication with the City Planner who decides on them. By making the Commission the appeal body, it makes it more likely for there to be quality oversight decisions on a consistent basis. And, this would be important if the City Planner is given more authority to approve projects.

2. *Modify policy for waiving Design Review Subcommittee review.*

It would be helpful to clarify when it is appropriate to waive Design Review Subcommittee review of a project. The Zoning Code could specify City Planner: a) should require design review when the public is expected to have significant concerns, b) can put items on the consent calendar of Design Review Subcommittee meetings to get feedback on a project's ability to meet findings and avoid design review, and c) should report design review waivers to the Planning Commission.

3. *Make the required findings more flexible for staff waivers.*

Currently, the City Planner can approve staff waivers when a project "does not significantly alter the visual appearance and/or architectural integrity of the property or structure", and that the project is consistent with the Secretary of Interior Standards for Historic Resources. Unfortunately, staff must require customers to go through a public hearing process to allow minor additions or exterior changes that significantly "improve" properties or structures. In many instances, the City Planner wants to approve projects when it is clear that a project would improve the City, be consistent with Design Guidelines, would meet General Plan goals and policies, and be compatible and in character with surrounding properties. While a project may be desirable, sometimes it is questionable if the City Planner has the ability to approve the project if the Zoning Code is followed to the letter.

Below is a rough draft of findings that could be considered:

"The project does not significantly alter the visual appearance and/or architectural integrity of the property or structure, unless:

- a. The project meets the required findings for the permit that is being waived per Section 17.16.100(F). *[Note: the findings are provided as Attachment 4]*
- b. The proposed project is not a significant public concern.
- c. The project improves the architectural integrity or appearance of structures and enhances the neighborhood.
- d. The proposed project alters the appearance of the structure or property in a way that maintains or increases its consistency with the Density

Guidelines, General Plan, other applicable City requirements and policy statements, and Henry Lenny Design Guidelines for projects located within an Architectural Overlay District.

For projects that require a Cultural Heritage Permit or Minor Cultural Heritage Permit for historic preservation purposes, it also meets all of the following:

- e. The project preserves or restores the historical integrity of historic and cultural resources, consistent with the Secretary of Interior Standards for the Treatment of Historic Resources.
- f. The scale or location of the proposed projects does not have the potential to adversely impact historic resources.

Project examples

The above findings would allow the City Planner to approve other projects such as:

- New residential buildings or additions that are not visible or are almost entirely screened from historic buildings. This would include an addition to the front to a residence that is adjacent to the rear of a historic structure and the addition would not increase the height of the house.
- Minor additions and exterior modifications to private recreation buildings (e.g. clubhouse) on a site within a gated community that can not be seen from public streets.
- Restore window opening on a historic resource that was removed without approval and the window is not very visible and is not a character defining feature.
- The removal of an unattractive mansard roof element on a commercial building.
- New awning or exterior light in the downtown Architectural Overlay District that is clearly consistent with the Design Guidelines and Henry Lenny Design Guidelines. Staff would also consider examples of similar projects that were previously approved.
- Add or move a window opening on a commercial building in the Via Pico Plaza shopping center.

QUESTIONS AND NEXT STEPS

Staff requests the Commission to comment and provide direction on the following questions:

1. Does staff seem to have an accurate understanding the principles, issues, and concerns the Planning Commission has outlined for staff to address when the streamlining ordinance is drafted?
2. Does the Commission support the new strategy to make incremental but significant streamlining changes so staff can focus on General Plan implementation?
3. Should staff proceed to draft an ordinance for the Commission to consider?

Attachments:

1. March 5th Study Session minutes
2. March 19th Study Session minutes
3. Public Workshop Minutes: February 19, 2014
4. Required findings for Architectural Permits and Cultural Heritage Permits
5. Summary of decision pathways

ATTACHMENT 5

Required findings for Architectural Permits, Minor Architectural Permits, Cultural Heritage Permits, and Minor Cultural Heritage Permits

Required Findings.

1. Architectural and Minor Architectural Permits. Prior to approval of an application for an Architectural or Minor Architectural Permit, the following findings shall be made:
 - a. The architectural treatment of the project complies with the San Clemente General Plan; and
 - b. The architectural treatment of the project complies with any applicable specific plan and this title in areas including, but not limited to, height, setback color, etc.; and
 - c. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines; and
 - d. The general appearance of the proposal is in keeping with the character of the neighborhood;
 - e. The proposal is not detrimental to the orderly and harmonious development of the City.
2. Cultural Heritage and Minor Cultural Heritage Permits. In addition to the general findings for approval of an Architectural or Minor Architectural Permit, the following specific findings shall be made prior to approval of an application for a Cultural Heritage or Minor Cultural Heritage Permit:
 - a. For new structures and remodels in the Architectural Overlay District, one of the following findings shall be made:
 - i. The proposed project/use preserves and strengthens the pedestrian-orientation of the district and/or San Clemente's historic identity as a Spanish village; or
 - ii. The proposed project/use is a minor remodel and it is not practical or desirable, in this particular case, to attempt conversion to a pedestrian-orientation and/or Spanish Colonial Revival style. The proposed changes, however, improve the quality and architectural integrity of the proposed project.
 - b. For historic resources, the following finding shall be made:
 - i. The City finds that the proposed modifications, alterations, or additions are sufficiently in conformance with the Secretary of the Interior Standards for the Treatment of Historic Properties and the San Clemente Design Guidelines to substantially further the City's goals of historic preservation, or
 - ii. For resources on the City's Landmarks List, the proposed rehabilitation, restoration, preservation, or reconstruction, including modifications,

alterations, or additions, are found to be in conformance with the Secretary of the Interior Standards for the Treatment of Historic Properties and preserve to the extent feasible the character defining features.

- c. For projects reviewed because they are abutting or within 300 feet of an historic property, the following finding shall be made:

The proposed project will not have negative visual or physical impacts upon the historic structure.

- d. For projects reviewed because they are in the Architectural Overlay District, the following finding shall be made: the proposed project complies with the purpose and intent of the Architectural Overlay District, Section 17.56.020 of this title.