



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: March 22, 2023

PLANNER: Christopher Wright, Associate Planner II

SUBJECT: **Zoning Amendment 22-366 – Zoning Permit Streamlining**, a continued public hearing for a request to forward a recommendation to the City Council on the adoption of zoning amendments to clarify, streamline, and consolidate permit procedures.

BACKGROUND

On March 8, 2023, the Planning Commission held a continued public hearing on City-initiated amendments to clarify zoning sections, consolidate six public hearing applications, and reduce the decision level for several noncontroversial project types, based on potential public concerns and impacts. The Planning Commission continued the item to the March 22, 2023 meeting to complete a review of the materials provided on March 8, 2023. These materials are available on the City website [at this link](#)¹. The prior hearing materials will be used for the March 22, 2023 with the exception of the streamlining summary. The table was updated to correct page numbers and revise wording to clarify proposed changes. This is **Attachment 1** to this report.

Environmental Review

The City conducted an environmental review of the proposed amendments for compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. The amendments do not constitute a “project” as defined by the State CEQA Guidelines Sections 15378(b)(2) and 15378(b)(5). In the alternative, staff recommends that the amendments be found exempt from the CEQA under State CEQA Guidelines section 15061(b)(3), as it can be seen with certainty that the Ordinance would not have a significant effect on the environment.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

The Planning Commission may take the following actions:

1. Approve Resolution PC 23-003, recommending City Council adoption of the proposed zoning amendments as proposed.
2. Provide staff with alternative direction for the amendments according to the required findings. If the Planning Commission requests staff to research issues or recommend significant revisions, a continuance or tabling of this agenda item may be necessary to make revisions and reassess the project under CEQA. For example, the Planning Commission may recommend revisions, such as:

¹ Website path to report: <https://www.san-clemente.org/home/showpublisheddocument/73300/638133611023370000>

Item 8-A

- a. Changing the level of review for proposed streamlining items such as requiring Zoning Administrator approval of Development Permit to allow a project versus administrative approval of an Administrative Development Permit.
- b. Changing the proposed criteria that shall be met for approval of an Administrative Development Permit of a project that currently requires Zoning Administrator approval of a discretionary permit.
- c. Striking items that are proposed for streamlining if the Planning Commission does not support their inclusion in the proposed ordinance. Staff has drafted the proposed amendments based on City Council direction so staff would describe these types of changes to the City Council when considering the amendments.

CALIFORNIA COASTAL COMMISSION REVIEW

The City does not have a certified Local Coastal Program Implementation Plan. Without a certified LCP, the proposed zoning amendments are not subject to approval by the California Coastal Commission (CCC).

RECOMMENDATION

Staff recommends the Planning Commission:

1. Continue to review and provide comments on the proposed draft ordinance and other materials provided for the March 8, 2023 hearing ([accessible at this link](#)); and
2. Continue the public hearing to a date certain, allowing staff time to revise the proposed zoning amendments based on the Planning Commission's recommended edits.

Attachment:

1. Summary of Permit Streamlining Changes

SUMMARY OF PROPOSED ZONING PERMIT STREAMLINING ITEMS (dated March 22, 2023)

These proposed changes are proposed based on the level of public concern and potential issues for these requests. If a specific application were of concern, the proposed changes allow an application to be forwarded to a higher level of review and referred to the Design Review Subcommittee.

PROPOSED STREAMLINING ITEMS

Item	Page # for Redline	Section (proposed)	Project/ Process Type	Subject Area	Description	Existing Process	Proposed Changes
1	D-9	17.12.060	General procedures	Decision process	This new section shows and describes the types of review processes, milestones, appeal bodies, and exceptions	<ol style="list-style-type: none"> 1. The City Planner may refer items to the Zoning Administrator. 2. The Zoning Administrator may refer items to the Planning Commission. 3. The Zoning Code does not specify the City Council is able to waive a Planning Commission recommendation on items 	<p>Give review authorities more discretion to refer items to higher levels and allow the City Council to waive Planning Commission recommendations so immediate action can be taken at times.</p> <ol style="list-style-type: none"> 1. The City Planner may refer items to the Zoning Administrator or Planning Commission. 2. The Zoning Administrator may refer items to the Planning Commission or City Council. 3. The Planning Commission may refer items to the City Council. 4. The City Council may waive Planning Commission recommendations by majority vote
2	D-13	17.12.065	General procedures	Withdraw of inactive applications	The City has a process to withdraw inactive applications	A certified letter is sent to applicants with a 90-day notice to submit pending materials. If materials aren't received, the application may be withdrawn after 90 more days, or 180 days total if the applicant doesn't meet deadlines, the City Planner may withdraw the application or forward it to the review body at a hearing with a recommendation for denial without prejudice. This timeline has proven to be overly lengthy and ineffective	If applications are inactive for 30 or more days, the City could withdraw applications by sending correspondence to give a 30-day notice to resubmit materials. And, the proposed changes clarify the applicant is responsible for keeping current information on file. This speeds up the process to equal the 30 day timeframe the City must provide comments, gives the City options for letters or email correspondence, and clarifies that the applicant is responsible for providing current information. Sometimes, the applicant moves or changes email addresses without notifying their project case manager

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sds3	D-88	17.72.050(A)	General procedures	Additions to single-family residences with less than 1,400 square feet of floor area as of March 21, 1996	Additions 50 percent or greater to expand residences up to 2,100 square feet	ZA Zoning Administrator approval of a Minor Architectural Permit or Minor Cultural Heritage Permit, with a Design Review Subcommittee recommendation	ZA This would require Zoning Administrator approval of a Development Permit or Cultural Heritage Permit (for historic resources) without a Design Review Subcommittee review unless referred by the City Planner or Zoning Administrator. For approval, projects must meet design guidelines, meet zoning standards, and be in character with the neighborhood. Therefore, it is not apparent why DRSC review is needed by default, which adds time to the City’s review process. The project must meet the standards and guidelines. Routinely, projects are reviewed for architectural styling when the focus is on massing and scale to maintain a nonconforming aspect of a structure with a larger addition to a single-family residence. The City Planner or Zoning Administrator would retain the ability to refer projects to the Design Review Committee for a recommendation
4	D-67	17.24.040 (C)(2)	General development standards	Accessory Buildings	Allow detached accessory buildings in the rear half of a lot to have a height over 15 feet up to what is allowed in the zone, if the building complies with required setbacks	PC Planning Commission approval of a Conditional Use Permit for buildings to be over 15 feet, up to the height limit of the zone. If the accessory building were attached, the zone’s height limit applies so no review process is required. This incentivizes projects that enlarge the main building or construct an enclosed breezeway as a workaround to attach buildings in order to avoid the more restrictive 15-foot height limit for detached buildings	Building permit (no zoning permit) A Conditional Use Permit would no longer be required if a detached building meets required setbacks. This would regulate detached accessory buildings similar to the main building. The height limit of the zone would be applied (e.g. 25 feet for single-family RL zones) if the building fully meets required setbacks that apply to the main building. Currently, there is a disincentive to detach an accessory building due to the more restrictive 15-foot height limit, inconsistent with design guidelines that encourage building offsets and setbacks to reduce building mass. The zoning amendment would eliminate the “breezeway” loophole by regulating all accessory buildings similarly. Under the proposed ordinance, if a detached building didn’t meet required setbacks, the height limit would remain 15 feet.

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5	D-46	17.16.100	Nonresidential accessory buildings new	Nonresidential sites	New nonresidential accessory buildings screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 2,000 square feet and less than 50 percent of the primary building's floor area	PC Planning Commission approval of a Site Plan Permit, and Architectural Permit or Cultural Heritage Permit if proposed in the Architectural Overlay	ZA This would require Zoning Administrator approval of a Development Permit. The Zoning Code allows nonresidential building additions less than 2,000 square feet with Zoning Administrator approval. The proposed changes allow a new building of a similar size to be reviewed by the Zoning Administrator if screened from public right-of-way. Otherwise, Planning Commission approval is required as it is currently. Staff recommends this change to allow an addition to have a similar level of review to a new building of a comparable size. The City Planner or Zoning Administrator may require Design Review Committee review
6	D-46	17.16.100	Residential buildings new	Sites: 1. Not historic , 2. Architectural Overlay, 3. Single-family and duplexes abutting historic structures	Two-story single-family dwellings and duplexes that are across a street and abutting the City's designated historic resources and landmarks list, if the building has less than: a) a five-foot front setback between the first and second floors; or b) a 30-foot front setback for building height above the tallest roofline of historic buildings	PC Planning Commission approval of an Architectural Permit or Cultural Heritage Permit if proposed in the Architectural Overlay or abutting a historic resource (including across a street)	ZA This would require Zoning Administrator approval of a Development Permit. The streamlining would be limited to projects with significant separation from historic resources to ensure they do not have a massing and scaling impact on them. Projects must be across the street from a historic resource. Zoning Administrator approval will be required if there is less than a five-foot front setback between the first and second floors, or a 30-foot setback for building height above the tallest roofline of the historic buildings. Public right-of-way for streets ranges from 40 to 60 feet in width with required front setbacks beyond that for 70-90 feet of separation between a project and a historic resource. With these limitations, these changes are not expected to be of significant public concern or impacts.

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7	D-46	17.16.100	Residential buildings new	Sites: 1. Not historic , 2. Architectural Overlay, 3. Up to four units within 120 feet or two parcels of residential historic structures (unless not visible from historic).	New development of up to four dwelling units on properties located within 120 feet or two parcels, whichever is smaller, from residentially zoned buildings on the City’s designated historic resources and landmarks list	PC Planning Commission approval of a Cultural Heritage Permit	ZA Zoning Administrator approval of a Development Permit. The proposed changes would reduce the level of review from Planning Commission to Zoning Administrator approval based on the level of public concern and potential issues for these requests. If a specific application were of concern, the proposed changes allow an application to be forwarded to a higher level of review. The City Planner or Zoning Administrator may require Design Review Committee review
8	D-46	17.16.100	Residential accessory buildings new	Sites: 1. Not historic 2. Architectural Overlay, 3. Single-family and duplexes across street from historic structures, 4. Three or four units within 300 feet of residential historic structures (unless not visible from historic).	New residential accessory buildings visible from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area	PC Planning Commission approval of a Cultural Heritage Permit to allow a new accessory building of any size	ZA Zoning Administrator approval of a Development Permit. The proposed changes would reduce the level of review from Planning Commission to Zoning Administrator approval. The streamlining would be limited to projects with significant separation from historic resources to ensure they do not have a massing and scaling impact on them. Currently, the Zoning Code allows Zoning Administrator approval of additions under 500 square feet but requires Planning Commission approval of new buildings of any size. Staff recommends reducing the level of review for a new accessory building under 500 square feet so it is reviewed like an addition of a similar size and potential impact. The changes also specify the building must be under 50 percent of the primary building’s floor area so it is accessory.

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9	D-55	17.16.110	Nonresidential accessory buildings new	Historic nonresidential sites	New nonresidential accessory buildings screened from adjoining public right-of-way, where the proposed building has floor area less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area.	PC Planning Commission approval of a Cultural Heritage Permit to allow a new accessory building of any size	ZA Zoning Administrator approval of a Development Permit. The proposed changes would reduce the level of review from Planning Commission to Zoning Administrator approval. The streamlining would be limited to projects with significant separation from historic resources to ensure they do not have a massing and scaling impact on them. Currently, the Zoning Code allows Zoning Administrator additions under 2,000 square feet but requires Planning Commission approval of new buildings of any size. For new accessory buildings, staff recommends reducing the level of review for a new accessory building under 500 square feet, smaller than the 2,000 square-foot additions allowed with Zoning Administrator approval. The changes also specify the building must be screened from adjoining public right-of-way and be under 50 percent of the primary building’s floor area so it is accessory.
10	D-56	17.16.110	Residential accessory buildings new	Historic residential sites	New residential accessory buildings visible from adjoining public right-of-way with less than or equal to 500 square feet and less than 50 percent of the primary building’s floor area	PC Planning Commission approval of a Cultural Heritage Permit to allow a new accessory building of any size	ZA Zoning Administrator approval of a Development Permit. The proposed changes would reduce the level of review from Planning Commission to Zoning Administrator approval. The streamlining would be limited to projects with significant separation from historic resources to ensure they do not have a massing and scaling impact on them. Currently, the Zoning Code allows the Zoning Administrator to act on additions under 500 square feet but requires Planning Commission approval of new buildings of any size. Staff recommends reducing the level of review for a new accessory building under 500 square feet so they are reviewed like an addition of a similar size and potential impact. The changes also specify the building must be under 50 percent of the primary building’s floor area so it is accessory.

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11	D-32	17.16.095	Minor buildings, additions, accessory structures, and exterior changes	Applies to sites: 1. Without historic resources 2. Architectural Overlay, 3. Single-family and duplexes abutting historic structures, 4. Three or four units adjacent residential historic structures	Types of structures and exterior changes (numbering is consistent with the list in proposed section 17.16.095): 1. New Residential Buildings, Location Limited 2. Additions to Residential Buildings, Minor 3. Additions to Private Recreational Facilities 4. Accessory Structures: Other Minor 5. Awnings 6. Chimneys and Metal Flues 7. Color Changes: Exterior 8. Decks and Porches: Minor Alterations 9. Doors: Minor Alterations 10. Driveways/Paving/Minor Site Work 11. Fences 13. Landscape Alterations, Including Tree Removals 14. Landscape Improvements 15. Lighting: Exterior 16. Mechanical Equipment: General 17. Mechanical Equipment: Rooftop 18. Porches 19. Roofs (and "Reroofs") 20. Sheds or spas 21. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas 22. Skylights 23. Trellises, pergolas, or arbors 24. Walls 25. Windows: Minor Alterations	City Planner approval of a staff waiver for accessory structures, exterior modifications to the site and structures, and "other minor projects that do not substantially alter the visual appearance or architectural integrity of the property or structure." The list of eligible projects are broad for interpretation	Replaces staff waivers of Minor Architectural Permits and Minor Cultural Heritage Permits with a new permit type, Administrative Development Permits. Administrative Development Permits are an administrative approval process of minor projects requiring design review in the Architectural Overlay that are adjacent to, or involve, historic structures and nonresidential properties; these modifications would add general standards, project-specific standards, and change the types of projects and circumstances which would be eligible for staff-level approval, subject to appeal, with all permits disclosed publicly for transparency. Currently, there is a broader category of projects eligible for administrative approval. The proposed Ordinance replaces this with lists of types of projects that may be approved by staff if those projects meet general and project-specific standards (e.g., projects that won't affect character-defining features of historic structures, such as a privacy fence constructed of certain materials). The City Planner would have discretion to require a public hearing depending on the level of public concern anticipated for a project and the City Planner may require Design Review Committee review. These changes are proposed based on the level of public concern and potential issues for these requests. The following types of structures and exterior changes would be streamlined within project-specific criteria. For these criteria and details, refer to Attachment 3. 1. The development of a single-family dwelling or duplex across a street abutting the City's designated historic resources and landmarks list, in which the building has at minimum: i) a five-foot front setback between the first and second floors; and ii) a 30-foot front setback for building height above the tallest roofline of historic buildings; 2. The development of up to four dwellings on a site separated further than 120 feet and two parcels, whichever is greater, up to 300 feet from buildings on the City's historic resources and landmarks list; 3. Additions up to 500 square feet, and less than 50 percent, that are not in the Architectural Overlay, on the City's designated historic resources and landmarks list; and is addition is to single family dwellings meeting criteria in 1 above, a building on a site with up to four dwellings meeting criteria in item 2 above; or to a building that is abutting the City's historic resources and landmarks list in the same block and side of the street, but not visible from public right-of-way adjoining the historic resource
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12	D-32	17.16.095	Minor accessory structures, historic preservation improvements, and exterior changes	Applies to sites on the City’s designated historic resources and landmarks list	Types of structures and exterior changes (numbering is consistent with the list in proposed section 17.16.095): 4. Accessory Structures: Other Minor (six feet high maximum, screened from public right-of-way, maintain landscaping, and are detached) 5. Awnings 6. Chimneys and Metal Flues (limited to improving historic integrity) 7. Color Changes: Exterior 8. Decks and Porches: Minor Alterations (Screened from public right-of-way, detached, and over existing hardscape) 9. Doors: Minor Alterations (rehabilitate and repair unless this cannot be done) 10. Driveways/Paving/Minor Site Work (providing access to entrances, exits, patios, courtyards, and utility pathways) 11. Fences (not in yards adjacent to street frontages) 12. Historic Resources, Minor. 13. Landscape Alterations, Including Tree Removals (except landscaping on historic survey, no historic trees) 14. Landscape Improvements 15. Lighting: Exterior 16. Mechanical Equipment: General 17. Mechanical Equipment: Rooftop (fully screened from public view) 20. Roofs (and “Reroofs”) 21. Sheds and spas (over existing hardscape surfaces) 22. Sidewalk Seating and Enclosures for Commercial Outdoor Dining Areas 23. Skylights (over non-original building areas) 24. Trellises, pergolas, or arbors(over existing hardscape surfaces) 25. Walls 26. Windows: Minor Alterations	City Planner approval of a staff waiver for historic preservation improvements, minor landscaping/hardscape, and “other minor projects that do not substantially alter the visual appearance or architectural integrity of the property or structure.” The list of eligible projects are broad for interpretation	<p>Replaces staff waivers of Minor Architectural Permits and Minor Cultural Heritage Permits with a new permit type, Administrative Development Permits. Administrative Development Permits are an administrative approval process of minor projects requiring design review in the Architectural Overlay that are adjacent to, or involve, historic structures and nonresidential properties; these modifications would add general standards, project-specific standards, and change the types of projects and circumstances which would be eligible for staff-level approval, subject to appeal, with all permits disclosed publicly for transparency. Currently, there is a broader category of projects eligible for administrative approval.</p> <p>The proposed Ordinance replaces this with lists of types of projects that may be approved by staff if those projects meet general and project-specific standards (e.g., projects that won’t affect character-defining features of historic structures, such as a privacy fence constructed of certain materials). The City Planner would have discretion to require a public hearing depending on the level of public concern anticipated for a project. These changes are proposed based on the level of public concern and potential issues for these requests. If a specific application were of concern, the proposed changes allow an application to be forwarded to a higher level of review. The City Planner may require Cultural Heritage Subcommittee review.</p> <p>The listed type of structures and exterior changes on the left would be streamlined within project-specific criteria. For these criteria and details, refer to Attachment 3. The more substantive streamlining is allowing limited exterior changes and accessory structures based on criteria (e.g. screened from public view, detached, limited type and nature of work), and general guidelines to ensure historic resources are preserved, consistent with General Plan policies</p>

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13	D-73	17.36.020	Commercial zone uses	Uses for alcohol service, amusement centers, bowling alleys, pool halls, and theaters	Requests to establish uses for alcohol service, amusement centers, bowling alleys, pool halls, and theaters	<ol style="list-style-type: none"> Zoning Administrator approval of a Minor Conditional Use Permit for beer and wine with food service indoors. Planning Commission approval of a Conditional Use Permit to allow amusement centers, bowling alleys, pool halls, and theaters 	<ol style="list-style-type: none"> Allows beer and wine on-site indoors with food service without a public hearing. Allows amusement centers, bowling alleys, pool halls, and theaters with Zoning Administrator approval of a Minor Conditional Use Permit.
14	D-77	17.40.040	Mixed zone uses	Alcohol service and residential accessory buildings	<ol style="list-style-type: none"> Alcohol service indoors with food service at restaurants, event and entertainment venues, lodging facilities; and Residential accessory buildings over 15 feet in height in Mixed Use 3.1, 3.3, and 5 zones 	<ol style="list-style-type: none"> Zoning Administrator approval of a Minor Conditional Use Permit for beer and wine with food service indoors. Planning Commission approval of a Conditional Use Permit to allow detached residential accessory buildings over 15 feet in height in the Mixed Use 5 zone only 	<ol style="list-style-type: none"> Allows beer and wine on-site indoors with food service without a public hearing. Reduces the level of review for "Residential Accessory Buildings Over 15 feet in Height" to Zoning Administrator approval of a Minor Conditional Use Permit (MCUP) within the Mixed Use (MU) 3.1, MU 3.3 and MU 5 zones to align with other proposed changes. In addition to a MCUP, a Development Permit or Cultural Heritage Permit will be required with Planning Commission or Zoning Administrator approval depending on the size and visibility of the building from the public right-of-way. (this item is struck through because it overlaps with item 4 above. Staff will propose minor revisions at the hearing)
15	D-85	17.64.110	Off-Site Parking	Nonresidential use parking within 300 feet	Provide required nonresidential use parking within 300 feet of a use with a recorded agreement	PC Planning Commission of a Conditional Use Permit	ZA Zoning Administrator approval of a Minor Conditional Use Permit.
16	D-86	17.64.110	Shared Parking	Nonresidential and mixed-use zones	Share private parking facilities between multiple uses in nonresidential and mixed-zones when peak operating hours are offset	PC Planning Commission of a Conditional Use Permit	ZA Zoning Administrator approval of a Minor Conditional Use Permit.
17	D-64	17.16.250	Discretionary Sign Permits	Signage	Requests to allow various signage exceeding a sign area or number of signs to require public hearing approval	Planning Commission approval	Zoning Administrator approval, unless the signage is proposed concurrently with another application that requires Planning Commission approval. Then, the signage would be reviewed by the Planning Commission along with the development project