

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Vincent P. Bertoni, ^BDirector of Planning

DATE: May 23, 2011

SUBJECT: Zoning Code Amendment – Major Project Processing

On April 13, 2011, the Zoning Code Amendment regarding major project processing was presented to the Economic Development and Technology Committee (Ed Tech Committee). The Committee forwarded the report to City Council without recommendation, but raised the questions answered below:

Question #1: Why is staff proposing this Zoning Code Amendment?

On September 14, 2009, following the call-up of a Minor Conditional User Permit for a large project, Council referred to the Ed Tech Committee a discussion of possible changes to the Zoning Code regarding the approval process for large projects.

In April of 2010, staff met with the Ed Tech Committee and discussed possible options for changing the review process. The Committee directed staff to prepare a draft recommendation that would raise the review of major projects from the Hearing Officer to the Planning Commission. The Committee asked staff to determine the most appropriate threshold for this change and to return to the Committee with their analysis and recommendations.

On June 2, 2010, staff presented to the Ed Tech Committee a set of informal recommendations consistent with the Committee's recommendations that mirror those in the attached agenda report. The Committee agreed with the recommendations and asked staff to prepare a formal report for the Planning Commission and to return to the Committee with a more detailed history of projects at various sizes.

On January 12, 2011, the Planning Commission recommended that the City Council approve the Major Project Processing Zoning Code amendment as prepared by staff.

On April 13, 2011, staff returned to the Committee with a formal recommendation, matching that presented in June, and an updated data set regarding projects completed over the past several years.

Question #2: What was the case that prompted the discussion?

The project that prompted the discussion of code changes was the call for review of Minor Conditional Use Permit #5078, which was the Council Rock Project, an 113,000 square feet office building proposed for the southeast corner of Fair Oaks and California. This project was reviewed by the Hearing Officer who certified the EIR and approved the project. Concern was raised that such a large project was not subject to a Conditional Use Permit but only to a Minor Conditional Use Permit because it was located in the transit-oriented development zone.

In deferring discussion to the Ed Tech Committee, the City Council raised the following questions (as noted in the attached minutes):

- a) Given the importance of large projects of citywide significance, should projects of a certain size be reviewed by the Planning Commission rather than the Hearing Officer?
- b) Should the Hearing Officer be the hearing body that certifies an EIR or should the Planning Commission?

Question #3: Why did staff determine that by eliminating the Hearing Officer from the entitlement process and having the Planning Commission review major projects be considered a broader and more comprehensive public forum? Wouldn't this significantly politicize the process?

This concept was part of the original direction from the City Council, as noted in item (b) above. The Council's thought was that the Hearing Officer is only one person hearing the case, while the Planning Commission consists of nine people, which is a larger, broader, and more comprehensive hearing body. In addition, the Planning Commission is the primary advisory body for planning issues to the Council, and the Hearing Officer is not.

Question #4: Why is staff recommending that the process for Adjustment Permits be changed?

The intent of including the Adjustment Permit was to achieve consistency in the process. If the direction from the City Council, and the purpose of the code amendment, is for significant projects to be heard by the Planning Commission, Adjustment Permits are also associated with significant projects. The Council could choose to retain Adjustment Permits at the Council level, and still elevate other major projects to the Planning Commission.

Question #5: Are any projects currently in the process that will be impacted by this amendment?

Staff has been able to identify two projects:

1. Marriott Residence Inn - 233 No. Fair Oaks Ave. 94,091 square foot hotel - CUP #5601.
2. Crown City Medical Center - 550 E. Colorado Blvd. 96,051 square foot medical office building - CUP #5407.

Attachments A and B have been updated and revised to answer questions about the status of the various projects.

Attachments:

Revised Attachment A
Revised Attachment B
Council Minutes – September 14, 2009

Revised Attachment A
Projects between 25,000 square feet to 75,000 square feet (2006-2010)

Project Name	Address	Land Use	Project Size	Entitlements	Hearing Body(ies)	Year Approved/ Status
1) Pasadena Humane Society	309-361 South Raymond Avenue	Animal Shelter	31,358 sq. ft.	CUP- project over 25,000 sq. ft.; CUP - Animal Shelter MCUP-TOD Variances	Hearing Officer	2008/ Unbuilt
2) Pasadena Ice Center (enlargement of tent structure)	300 East Green Street	Commercial Recreation Indoor	32,000 sq. ft.	CUP - Commercial Recreation Indoor	Hearing Officer	2010/in Plan Check
3) City Yards Department Water & Power	311 West Mountain Street	Governmental Office	36,000 sq. ft.	CUP-Maintenance & service facility expansion	Hearing Officer	2006/Built
4) Noise Within (Sierra Madre and Foothill)	3330 East Foothill Boulevard	Mixed Use, Commercial Entertainment (Theater), Residential	45,000 sq. ft. Theater only	CUP – Mixed Use EUP – Theater Use Variance – Loading Development Agreement	Planning Commission; Council	2007/Under Construction
5) Mixed Use Project - Fair Oaks Avenue	64-90 North Fair Oaks Avenue	Mixed Use, Office, Retail Sales	53,111 sq. ft.	CUP – project over 25,000 sq. ft. MCUP – TOD, Variances – loading, roof railing	Hearing Officer	2008/Unbuilt
6) Fair Oaks & Mills Place Project (Fair Oaks and Green)	27-71 South Fair Oaks Avenue	Office, Retail Sales, Restaurant	56,029 sq. ft.	CUP – project over 25,000 sq. ft. MCUP – TOD, Valet, Tandem, Variance - height, loading, setbacks	Hearing Officer	2008/Unbuilt
7) Colorado Commercial Project	2191 East Colorado Boulevard	Retail Sales, Work Live	58,710 sq. ft.	CUP – project over 25,000 sq. ft. MCUP- Tandem Variance – Parking loading,	Hearing Officer	2006/Unbuilt

Revised Attachment B
Major Projects greater than 75,000 square feet (2000-2010)

Project Name	Address	Land Use	Project Size	Entitlements	Hearing Body(ies)	Year Approved/ Status
1) Whole Foods Market	465 South Arroyo Parkway	Retail Sales	76,482 sq. ft.	CUP - project over 25,000 sq. ft.; CUP-alcohol MCUP-TOD	Hearing Officer	2005/ Constructed
2) Toyota of Pasadena	3600 East Foothill Blvd.	Vehicle Sales/ Dealership	76,580 sq. ft.	CUP-Vehicle Sales CUP - project over 25,000 sq. ft.	Hearing Officer	2005/ Constructed
3) Von's Supermarket (Colorado and Sierra Madre)	2355 East Colorado Blvd.	Retail Sales	75,486 sq. ft.	CUP - project over 25,000 sq. ft., CUP- alcohol; CUP-hours; Variance-loading hours & setback	Hearing Officer	2009/Under Construction
4) Mills Creek Development	686 East Union Street	Mixed Use, Work Live Office, Retail Sales, Restaurant	79,894 sq. ft. Work-live, office, retail, Restaurant, 39,532 sq. ft. Residential	CUP - project over 25,000 sq. ft. MCUP-TOD, Variances, Private Tree Removal	Hearing Officer	2008/Unbuilt
5) Council Rock Partners Project (California and Fair Oaks)	16 East California Blvd.	Office, Administrative Professional	113,200 sq. ft.	MCUP - TOD; Shared Parking; Design review	Hearing Officer, Planning Commission-Call for review failed, City Council-Call for review failed	2009/Unbuilt
6) IDS Project (Colorado and El Molino)	680 East Colorado Blvd.	Office, Retail Sales	159,000 sq. ft.	Adjustment Permit; 10% FAR; MCUP for TOD;	Planning Commission, City Council	2009/ Returning for revisions
7) W Hotel Project (Walnut and Fair Oaks)	25 West Walnut Street	Hotel, Residential, Retail Sales, Restaurant	217,973 sq. ft. Hotel, Retail, & Restaurant 117,876 sq. ft. Residential	CUP - Hotel use CUP - project over 25,000 sq. ft. MCUP - Tandem MCUP - Valet Variance - Setback FAR Bonus	Hearing Officer (original approval) Planning Commission (revised)	2007/Unbuilt - new project proposed on portion of site
8) Colorado at Lake Mixed-Use and Hotel Development (Constance Hotel)	880-940 East Colorado Blvd.	Hotel, Office, Residential, Retail Sales	229,349 sq. ft.	CUP - hotel use; CUP - project over 25,000 sq. ft. MCUP - TOD, tandem & valet Variance - Loading	Hearing Officer, BZA, City Council	2010/Unbuilt
9) Crown City Center (Walnut and Lake)	888 East Walnut Street	Office, Bank, Retail Sales, Restaurant	230,000 sq. ft.	CUP- project over 25,000 sq. ft. CUP- height and design bonus MCUP - Shared Parking	Hearing Officer	2001/ Constructed

RESTATED AND AMENDED
PENDING MOTION

Following additional discussion, it was moved by Councilmember Holden, seconded by Councilmember McAustin, to approve the alternative staff recommendation to direct staff to return to City Council by February 28, 2010, with a proposal to renovate the existing ice skating facility at the Convention Center, as well as a management agreement with PCOC to operate the facility; with City staff to work with the Convention Center staff and PCOC Board to evaluate the feasibility and desirability of rehabilitating the facility and to evaluate options for managing the facility:

AYES: Councilmembers Holden, Madison, McAustin, Robinson, Tornek, Mayor Bogaard

NOES: Councilmember Haderlein

ABSENT: Vice Mayor Gordo

MOTION

It was moved by Councilmember Holden, seconded by Councilmember Robinson, to reject all bids received on April 1, 2009, in response to the Request for Bids for construction of the Pasadena Ice Skating facility. (Motion carried, with Councilmembers Haderlein, Madison objecting)
(Absent: Vice Mayor Gordo)

Councilmember Madison asked staff to provide Council with a critical analysis of why the process for the proposed ice rink facility project took so long to arrive at this point, along with information on the approval process for determining the site for the proposed ice rink facility.

Councilmember Haderlein
recused himself at 9:00 p.m.,
due to a conflict of interest.

CONSIDERATION OF A CALL FOR REVIEW OF A HEARING OFFICER DECISION TO THE BOARD OF ZONING APPEALS REGARDING MINOR CONDITIONAL USE PERMIT NO. 5078, TO CONSTRUCT A NON-RESIDENTIAL BUILDING OVER 15,000 SQUARE FEET AND TO ALLOW 75 PERCENT OF THE PARKING SPACES TO BE CONFIGURED AS TANDEM SPACES, FOR THE PROPERTY LOCATED AT 16 EAST CALIFORNIA BOULEVARD
(Councilmember Tornek)

Councilmember Tornek stated his concerns about issues involving this project as they relate to the project meeting the goals/objectives of the South Fair Oaks Specific Plan, the adequacy of the Environmental Impact Report (EIR), and the findings in the Statement of Overriding Considerations.

The following persons spoke in opposition to the call for review:

Paul Little, Chamber of Commerce President and Chief Executive Officer

R. Scott Martin, Pasadena resident

Marcos Velayos, Park and Velayos, LLP, applicant's representative

William Cutler, Council Rock Partners, applicant

Following discussion, it was moved by Councilmember Tornek, to call this matter for review to the Board of Zoning Appeals. (Motion failed, due to lack of a second) The decision of the hearing officer stands.

Councilmember Tornek suggested that a project this size should be reviewed by the Planning Commission or City Council, that the adequacy of the City's EIR procedures/process should be reviewed, and that a review should be conducted for the South Fair Oaks Avenue Specific Plan and traffic issues in this corridor.

Councilmember McAustin suggested that the Economic Development and Technology Committee (EDTech) or City Council should re-evaluate who is responsible for certifying the final EIRs for major projects; that the traffic study information contained in EIRs should be presented in a more understandable way; that staff reports should discuss whether or not a project is meeting the goals of a specific plan area, when applicable; that the schedule for specific plan reviews should be updated to determine if the plan goals are being met or might need to be revised; and that staff inform Council of any traffic study being conducted for the corner of East California Boulevard and South Fair Oaks Avenue, to determine if a traffic study should be conducted for this area.

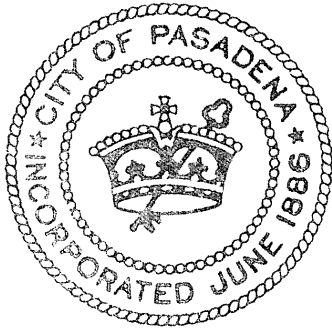
In response to the above suggestions, the City Manager indicated that staff was exploring ways to make traffic studies more understandable to the public as part of the Mobility Element review, that EDTech could discuss possible changes in the ordinances/procedures that determine the authority for project review as this relates to the size and scope of a project, and that staff could include analytical information in future staff reports regarding how a project is or is not meeting the intent or spirit of a specific plan area.

Councilmember Holden asked that the Transportation Advisory Commission (TAC) review the letter from the West Pasadena Neighborhood Association to the City Council, dated September 14, 2009, as it relates to the South Fair Oaks Specific Plan, and as a part of TAC's review of the Mobility Element.

RECOMMENDATIONS FROM OFFICERS AND DEPARTMENTS

Councilmember Haderlein returned at 9:54 p.m.

CONSIDERATION OF A CALL FOR REVIEW OF DESIGN COMMISSION DECISION TO THE CITY COUNCIL REGARDING MINOR CHANGES TO AN APPROVED PROJECT (SUBSTITUTE MATERIAL/FINISH ON CORNICE) FOR THE MIXED-USE PROJECT AT 125 NORTH RAYMOND AVENUE (RAYMOND RENAISSANCE) (Councilmember Holden)



Agenda Report

April 25, 2011

TO: Honorable Mayor and City Council

THROUGH: Economic Development and Technology Committee (April 13, 2011)

FROM: Planning Department

SUBJECT: ZONING CODE AMENDMENT – CHANGE HEARING BODY FROM HEARING OFFICER TO PLANNING COMMISSION FOR MAJOR PROJECTS OVER 75,000 SQUARE FEET

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt an Environmental Determination that the project is exempt from California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA because the project is an administrative and procedural change pertaining to the hearing body of an entitlement process and will not result in any potential significant effect on the environment;
2. Approve the findings as contained in this report;
3. Approve the Major Project Processing Zoning Code Amendment; and
4. Direct the City Attorney to prepare an ordinance within 90 days consistent with the provisions set forth within.

PLANNING COMMISSION RECOMMENDATION:

On January 12, 2011, the Planning Commission recommended that the City Council approve the Major Project Processing Zoning Code amendment as prepared by staff.

EXECUTIVE SUMMARY:

The purpose of this Zoning Code amendment is to require that Conditional Use Permits for projects exceeding 75,000 square feet and Adjustment Permits be heard and decided by the Planning Commission with the appeal body being the City Council. This code amendment will change the hearing body from the Hearing Officer, which is one

person, to the Planning Commission, a nine-person commission. This provides the Planning Commission the opportunity to review major projects at a larger public forum.

BACKGROUND:

On June 2, 2010, the Economic Development and Technology Committee of the City Council directed staff to investigate amending the Zoning Code to change the review authority regarding the processing of major projects proposed in the City. This was the result of an earlier discussion of the City Council regarding the Council Rock Partners Project located at the southeast corner of Fair Oaks Avenue and California Boulevard. The issue was whether large projects of citywide significance should be reviewed by the Planning Commission instead of the Hearing Officer in order to provide a broader and more comprehensive review.

Current Process

The Zoning Code currently requires most commercial/industrial projects exceeding 25,000 square feet to be subject to a Conditional Use Permit (CUP) and be reviewed by the Hearing Officer provided that the proposed use is allowed within the designated zoning district. The CUP requirement for major projects was established in 1993.

A CUP is not required for residential projects. Under State law, the City is prohibited from requiring a CUP for certain types of residential projects in which there are affordable housing units. However, the City can require a CUP for mixed-use projects.

Currently, a CUP is required when the nonresidential portion of a mixed-use project exceeds 25,000 square feet. This Zoning Code Amendment proposed by staff does not affect land uses or new projects that are located in the Public, Semi-public (PS) and Open Space (OS) Zoning Districts or are classified as public, semi-public uses such as schools, colleges and religious assembly uses because these uses are governed by the Master Plan process. Master Plans are reviewed by the Planning Commission with a recommendation to the City Council.

Under the current process, a Hearing Officer's decision is appealable to the Board of Zoning Appeals (BZA). The Planning Commission and City Council have the authority to call a Hearing Officer's decision for review to the Board of Zoning Appeals. The Board of Zoning Appeal's decision can also be called for review by the City Council for its decision. Also, the Planning Commission currently reviews Adjustment Permits, but its review is advisory to the City Council. Additionally, there is no CUP requirement for major projects in the South Fair Oaks Specific Plan area for the following uses: offices - administrative business professional, offices - medical, laboratories, and industry, restricted.

Threshold

Staff recommends that the threshold for major projects be based on gross floor area since it builds on existing Zoning Code thresholds. Staff considered other types of thresholds such as whether a project needs an Environmental Impact Report (EIR). However, not every large project requires an EIR; some have proceeded with a

Mitigated Negative Declaration. Also, sometimes a small project requires an EIR and such projects would not necessarily need to be reviewed by the Planning Commission.

As shown in Attachment A, staff analyzed previously approved nonresidential projects ranging from greater than 25,000 square feet and less than 75,000 square feet that were processed in the last five years. Based on the data collected, it was concluded that these projects are likely to not be identified as having citywide significance because of their size.

Setting the threshold for Planning Commission review at 100,000 square feet was also considered. Attachment B shows the projects ranging from 75,000 square feet up to 230,000 square feet that the City approved over the past ten years. Staff concluded that the 100,000 square feet threshold was too high and would not capture projects with citywide significance.

The majority nonresidential projects with citywide significance all had gross floor areas greater than 75,000 square feet. Therefore, it is staff's recommendation that major nonresidential projects that exceed 75,000 square feet be reviewed by the Planning Commission. This would include mixed-use projects that have a commercial component over 75,000 square feet. (Staff is not recommending including residential projects because the State limits the City's ability to impose a hearing process on housing projects.)

The Zoning Code will continue to require a Conditional Use Permit for nonresidential projects that exceed 25,000 square feet. Those projects 75,000 square feet or less will continue to be reviewed by the Hearing Officer, with the call for review authority still available to the Planning Commission and the City Council.

South Fair Oaks Specific Plan

The South Fair Oaks Specific Plan exempts the following uses from the 25,000 square foot Conditional Use Permit requirement: office - administrative business professional, office - medical, laboratories, and industry, restricted from a CUP requirement that exists in other Zoning Districts. The intent of this exemption was to provide an incentive for those uses which the City wants to encourage in this district.

However, one of the projects that prompted this Zoning Code amendment was the Council Rock project (at California and Fair Oaks). This project was located within the South Fair Oaks Specific Plan boundary, and was 113,000 square feet in size. Under the current regulations, this project was reviewed by the Hearing Officer, not the Planning Commission.

Staff's recommendation is to require that these uses be required to obtain CUP approval when they exceed 75,000 square feet with the Planning Commission serving as the initial hearing body for these projects. For the uses office - administrative business professional, office - medical, laboratories, and industry, restricted within the South Fair Oaks Specific Plan that are 75,000 square feet or less, there will continue to

be an incentive as no CUP will be required for projects within this size range. Despite the fact that a CUP is not required for these projects, it can still be called for review by the Planning Commission and City Council if there are other project related entitlements.

Adjustment Permit

Currently, when there is an application for an Adjustment Permit, the Planning Commission reviews and makes a recommendation to the City Council. In order to have consistency within the entitlement process, the recommendation is to have the Planning Commission be the decision-making body for all Adjustment Permit applications. The City Council will serve as an appeal body for the applications.

Findings

The Zoning Code requires that in order to approve a Zoning Code amendment, two findings must be made. These findings are as follows:

1. Conformance with the General Plan

One of the General Plan's Guiding Principles is the following: "Community participation will be a permanent part of achieving a greater city." This Zoning Code amendment promotes this principal by requiring larger projects to be reviewed by the Planning Commission which will be a larger forum for the review of these projects. The public will have a greater opportunity to participate in this hearing process.

OBJECTIVE 10 – DIVERSE ECONOMY: Pasadena shall promote a diverse economy base that serves local residents by providing jobs, by providing city revenues, by enhancing our dynamic social and cultural life, and by meeting the needs of international competition.

2. Detrimental impacts

The proposed Zoning Code Amendment will not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The purpose of this code amendment is to provide the Planning Commission the opportunity to review major projects and to provide a larger public forum for the discussion of these projects.

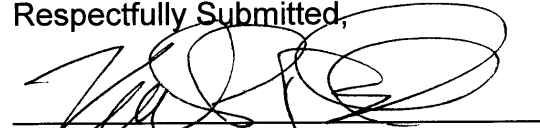
ENVIRONMENTAL ANALYSIS:

Under Article 5, Section 15061(b)(3) of the California Environmental Quality Act (CEQA), a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed Major Project Processing Zoning Code Amendment is an administrative and procedural change pertaining to the hearing body of an entitlement process and will not have any potential for causing significant effect on the environment.

FISCAL IMPACT:

The Zoning Code amendment will not likely have a major fiscal impact to the City. This amendment only changes who will review major projects. Fees are collected for the processing of most major projects. These fees are intended to cover the cost of processing.

Respectfully Submitted,



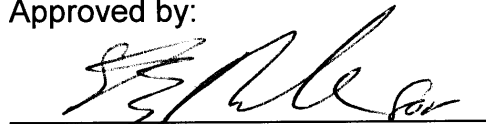
Vincent P. Bertoni, AICP
Director of Planning

Prepared by:



Kent Lin
Associate Planner

Approved by:



Michael J. Beck
City Manager

Attachments:

- Attachment A - Major Projects 25,000 square feet to 75,000 square feet
- Attachment B - Major Projects greater than 75,000 square feet