



# City of Sunnyvale Memorandum

STUDY SESSION MATERIALS  
PC MAY 14, 2012

**To:** Planning Commission  
**From:** Diana O'Dell and Rosemarie Zulueta through Trudi Ryan  
**Date:** May 14, 2012  
**Re:** Retooling the Zoning Code: Proposed Permits and Procedures

At our last study session, we described the complexity of our current procedures. Currently different permits have similar or unclear purposes, and the decision level and noticing is often dependent on individual project characteristics and CEQA review. The introduction of the Class 32 CEQA exemption for infill projects and streamlined procedures for Green Buildings have made using CEQA as a review threshold problematic and inconsistent.

For this study session on "Retooling the Zoning Code," staff will be discussing our preliminary thoughts to address this complexity for permit types and procedures.

### Permit Purpose

We are proposing a limited number of distinct permit types that have unique purposes and review procedures. Purpose is based on three things – compatibility with surrounding uses, purpose of the zoning district and size of the project. In staff's proposed scheme, the permit type will tell you the purpose of the permit, the decider, and the noticing.

Permit Type —————> Unique Purpose —————> Specific Decider —————> Defined Noticing

For example, the generic "Use Permit" will no longer exist. There will be "Administrative Use Permit" and "Commission Use Permit." (If you have any suggestions for permit names, please bring them to the study session). If it's a "Commission Use Permit" then you know that the City has identified this use as having more substantive visual, traffic, parking or noise impacts relative to the character of the zoning district. The decider will always be Planning Commission (PC) and noticing will always be 300 feet. A similar distinction will be made for Design Reviews. There will be an "Administrative Design Review" and "Commission Design Review" based on the size of the project (e.g., greater than 10,000 square feet or 2 new residential units). See Attachment A (New Permit Types and Procedures).

### Zoning Administrator Hearings

Staff also took a look at our public hearing process. What is the point of a public hearing? The answers include transparency, education, written record and most importantly, public testimony. We analyzed the types of projects that were going to public hearing and what type of testimony (if any) we were receiving.

Overall, staff found that the Zoning Administrator hearing was not particularly effective at producing testimony from the general public. Out of 102 items, only 16 items (17%) generated public testimony. The cause could be the minor nature of the projects, or the fact that it's during the day and difficult

for working people to attend. Either way, the Zoning Administrator hearing has not proven effective in soliciting testimony from the public and it is a very expensive and time-consuming way to inform the public about a pending decision. See Attachment B (Zoning Administrator Facts) which we will discuss in greater detail during the study session.

We are suggesting that we eliminate the Zoning Administrator hearing. High profile items which tend to solicit public testimony such as live entertainment, single family home modifications, child care, and alcohol will go to PC. Noncontroversial projects can be placed on a consent calendar with a brief staff report to keep the length of PC hearings manageable. The great majority of items will be reduced to staff-level decision with notice, similar to our current practice for second-story additions and tall accessory structures.

#### Planned Development Permits

The last major change we are suggesting is rethinking the Special Development Permit. Currently, Special Development Permits are used in areas that either have a Planned Development (PD) combining district, or special plan areas such as the Downtown Specific Plan. Special Development Permits are used almost exclusively for new construction when a deviation from zoning standards is being requested. However, to use a Special Development Permit, you must have the PD zoning on the property. This procedure has resulted in smaller projects requiring a rezoning which is decided by Council, while larger projects in pre-zoned areas not needing Council review.

We suggest eliminating the requirement that sites be zoned PD to use a Special Development Permit. Instead, we will create a Planned Development Permit, which can only be used in conjunction with new construction over a certain size. Deviations from certain specified standards may be requested, and the findings for the permit will be more difficult than that of a standard Design Review or Use Permit.

#### Next Study Session

For the next study session, staff plans to discuss more of the details about these permit procedures and give you a draft of the new Article 1, which contains information on administration of the zoning code, applicability, and nonconforming uses and structures.

#### Attachments

- A. New Permit Types and Procedures
- B. Zoning Administrator Facts

# NEW PERMIT TYPES AND PROCEDURES

| PERMIT NAME                              | PURPOSE  | NOTICING | DECISION MAKER | PROCESS TIME | EXAMPLES  |
|--|--|----------|----------------|--------------|---|
| Zoning Clearance                         | Tracking (for enforcement)   | None     | Staff          | Same day     | Large Family Day Care, Solar Energy Incentives, Temporary signs, Director Interpretations/Determinations  |
| Administrative Use Permit                | Evaluate uses that are likely to be compatible but require review of the operations to ensure that there are no conflicts with adjoining uses or other uses on site.   | None     | Staff          | 2 weeks      | Outdoor dining/display. Autobrokers, Education-recreation and enrichment, Restaurants with beer and wine, temporary uses, mobile vendors                |
| Administrative Use Permit With Notice    | Uses that have the potential for minor noise or visual impacts in commercial or residential zoning districts.  | 100 feet | Staff          | 1 month      | Child care centers in C-1, Heavy industrial uses in M-3, Animal-related uses in nonresidential zones  |
| Commission Use Permit                    | Evaluate uses that may not be compatible with the uses permitted by right or meet the purpose of the zoning district. They may have more substantive visual, traffic, circulation, parking or noise impacts relative to the character of the zoning district.  | 300 feet | PC             | 2-3 months   | Live entertainment, Places of assembly, Residential developments over 50 units, High FAR Industrial Projects  |
| Planned Development Permit               | Evaluate condo conversions or new construction over a certain size (2 units and 10,000 square feet) that is a permitted use but may request certain specific deviations dependent on specific findings (more difficult findings than a Design Review but not quite as hard as Variance).   | 300 feet | PC             | 2-3 months   | Projects with requests for deviations from development standards (except for density)   |
| Administrative Design Review             | Review proposed design of permitted uses that have the potential for minor visual impacts  | None     | Staff          | 2 weeks      | Fences, sheds, second stories, accessory units, signs, minor telecommunications, industrial buildings, (Tall Things Big Things!)                        |
| Administrative Design Review With Notice | Structures that have the potential for minor visual impacts in commercial or residential zoning districts. To respond to the desire for neighbors to be informed and provide input on these types of projects, but maintain streamlined process for property owners; noticing, posting and a 2-week comment period is provided prior to any Director decision. | 100 feet | Staff          | 1 month      | Minor modifications to existing developments in a PD, second story additions, fences and sheds over a certain threshold.                                |
| Commission Design Review                 | Review proposed design of permitted uses which have the potential for major visual impacts. Projects are also reviewed for visual, traffic, circulation, parking or noise impacts that are in keeping with the district character.   | 300 feet | PC/HPC         | 2-3 months   | New monopoles in non-industrial areas, Residential Developments up to 50 units, Major Moffett Park Design Reviews, Alterations to Heritage Resources    |
| Variance                                 | Allow relief from the strict application of quantitative standards in the Code to address practical difficulties, unnecessary hardships or results based on exceptional or extraordinary conditions on the property.   | 300 feet | PC             | 2-3 months   | Major deviations from zoning district development standards   |
| Waiver/ Exception/ Adjustment            | Allow relief from <u>specified</u> zoning requirements in cases where the strict application of the requirement may result in an undue burden on the property. Uses are likely to be compatible and have minimal visual, noise, traffic or other impacts on existing uses.   | None     | Staff          | 2 weeks      | Shared Parking, Minor deviations from development standards, Undergrounding utilities   |
| Waiver/ Exception/ Adjustment            | Allow relief from zoning requirements on concentration of uses or potential substantial visual impacts on surrounding properties where the strict application of the requirement may result in an undue burden on the property.  | 300 feet | PC             | 2-3 months   | Concentration requirements such as beer and wine, Large family day care, Large residential care facilities, Wind turbine height, Telecomm in front yard |

# ZONING ADMINISTRATOR FACTS

## SPECIALIZED ADMINISTRATIVE OR PUBLIC NOTICING TASKS for a 2-STORY ADDITION TO A SINGLE FAMILY HOUSE

| Task                     | Staff-Level DR with Noticing | Zoning Administrator (SDP) | Planning Commission |
|--------------------------|------------------------------|----------------------------|---------------------|
| File Assignment /Pre-PRC | 0.2                          | 1.0                        | 1.0                 |
| Noticing/Ads/Agenda      | 1.0                          | 2.5                        | 2.7                 |
| Staff Report Prep        | 0                            | 11.5/7.0                   | 12.5                |
| Hearing                  | 0                            | 1.5                        | 4.0                 |
| Post Decision Cleanup    | 1.0 / 2.0                    | 3.0                        | 5.6                 |
|                          | <b>2.2 / 3.2</b>             | <b>19.5 / 16.0</b>         | <b>25.8</b>         |

Source: 2009 Fee Study (rounded to nearest 10th of an hour).

Grey numbers are adjusted for recent improvements or process changes.

## ZONING ADMINISTRATOR HEARINGS FROM 2009-2011

|                                 |  | Total Number of Items   | Items with Public Testimony | Number of Persons Commented |                                  |
|---------------------------------|--|-------------------------|-----------------------------|-----------------------------|----------------------------------|
| Single-Family Home              | Variance   | 13                      | 1                           | 1                           | Parking                          |
|                                 | Special Development Permit   | 6                       | 3                           | 1                           | New SFH Washington               |
|                                 | Fence / Shed   | 10                      | 2                           | 1                           | New SFHs Bayview                 |
| Alcohol or Live Entertainment   | Beer and Wine at Gas Station   | 1                       | 1                           | 4                           | 9 ft                             |
|                                 | Entertainment /Nightclub with Liquor   | 5                       | 3                           | 7                           | 7 ft                             |
|                                 | General Liquor in Restaurant   | 3                       | -                           | 3                           | Wolfe & Homestead                |
| Child Care                      | Child Care   | 6                       | 2                           | 6                           | Downtown                         |
|                                 |  |                         |                             | 3                           | Convert SFH                      |
| Commercial Uses                 | New Retail Construction  | 3                       | 1                           | 1                           | 590 Old SF                       |
|                                 | New Restaurant   | 2                       | 1                           | 3                           | ECR Art Gallery/Café             |
|                                 | Banquet Hall   | 2                       | -                           | -                           | -                                |
| Places of Assembly              | Church addition  | 2                       | -                           | -                           | -                                |
|                                 | POA in M-S/POA   | 7                       | 1                           | 1                           | Children's Rec Facility          |
|                                 | POA in Commercial Zone   | 2                       | -                           | -                           | -                                |
|                                 | Institution of Higher Learning M-S   | 2                       | -                           | -                           | -                                |
| Map                             | Parcel Map   | 6                       | 1                           | 1                           | Condo Conversion                 |
| Telecomm                        | Wireless Telecommunications  | 12                      | -                           | -                           | -                                |
| Office                          | Medical Office   | 1                       | -                           | -                           | -                                |
| Auto-Related                    | Auto-Related Uses  | 5                       | -                           | -                           | -                                |
| Miscellaneous Nonresidential    | Laundromat, Dog Day Care, Recycling, Fitness, Nonresidential Variance/Deviation, Addition to Apartments, Mechanical Equip. | 14                      | 2                           | 1                           | Fence in Vision Triangle         |
|                                 |  |                         |                             | 1                           | Beer & Wine (pre-Code amendment) |
| <b>Total Items</b>              |  | <b>102</b>              | <b>16</b>                   |                             |                                  |
| <b>Items Received Testimony</b> |  | <b>16% of 102 items</b> |                             |                             |                                  |