



Agenda Report

19-324

Agenda Date: 12/10/2019

REPORT TO COUNCIL

SUBJECT

Action on an Amendment to the Zoning Code, SCCC Chapter 18.76 Architectural Review

BACKGROUND

Chapter 18.76 of the Santa Clara City Code (SCCC) establishes an architectural review procedure whereby the Santa Clara Architectural Committee (AC) acts as the review body for specified new land use development projects not otherwise subject to Planning Commission or City Council review or other proceedings established within the City Code. Projects typically considered by the AC include additions to single-family residences and new construction within commercial and industrial districts. The City Code currently states that the AC will be composed of one member appointed by the City Council and two members of the Planning Commission appointed by the Chair of the Commission. In recent years the City Council's practice has been to appoint a member of the Council to serve on the AC along with the two Planning Commissioners.

At the March 5, 2019 City Council meeting, staff received direction from the City Council to amend Chapter 18.76 of the Santa Clara City Code (SCCC) to revise the architectural review procedure, replacing the Architectural Committee with an administrative process. The City Council also provided direction to include design feedback from architectural professionals in the design review process and to maintain the City Council as the hearing authority for all appeals of architectural review public hearing actions.

Staff prepared the subject Zoning Code Amendment to implement the March 5 City Council direction to modify the City's architectural review process, including the composition of the Architectural Committee, with the goals of avoiding any potential due process issues on appeals and streamlining the review process. The Planning Commission considered the proposed Amendment at their May 22, 2019 and August 14, 2019 hearings and are recommending approval of a modified version of the Amendment (referred to in this report as "Alternative 1"). The minutes from the August 14 hearing are included as Attachment 2. Staff has incorporated some of the Planning Commission recommendations into the staff recommended Amendment and prepared an ordinance that includes the Planning Commission's full proposal as an alternative (Attachment 5).

DISCUSSION

Key issues raised in the proposed Amendment and Planning Commission alternative are: 1) Composition of the architectural review hearing body; 2) Use of a consulting architect; 3) Appeal procedures for decisions made at the architectural review hearing; and 4) Threshold criteria to determine which projects are subject to an architectural review hearing.

Architectural Review Hearing Body

Consistent with the discussion at the March 5 City Council meeting and the common practice as seen

In neighboring jurisdictions, staff presented a proposal to the Planning Commission for an administrative hearing process conducted by staff ("Alternative 2"). The Planning Commission was provided with two supporting documents, the March 5, 2019 City Council staff report (Attachment 3) and a summary of the practices of neighboring cities (Attachment 4).

In an administrative process, staff makes a determination to approve or deny a project based upon the consistency of the project with adopted ordinances and guidelines. In most cases the initial staff action could then be appealed to a higher decision-making body (e.g., the Planning Commission or the City Council). Generally, this process reduces the time and costs associated with architectural review, particularly for routine items, while allowing more controversial projects to progress to review by a higher hearing body. By relying upon use of adopted regulations and/or guidelines, an administrative process can also enable planning commissions and city councils to focus on the establishment of codified regulations and land use policies which will then be more uniformly and transparently applied across development projects. As seen in the attached summary of practices, the prevalent practice amongst cities is to conduct a staff-led administrative hearing for the architectural review of new development projects.

The Planning Commission discussed the staff proposal and after the discussion approved an alternative recommendation to the City Council (Alternative 1) in which the City would maintain an Architectural Committee as the initial decision maker for public hearing items but change the composition of the Architectural Committee to consist of three Planning Commissioners. To address the potential due process issues on appeal, the Commission recommended that all appeals of an AC decision would be heard by the City Council.

Staff continues to recommend the establishment of a staff conducted architectural review process (Alternative 2). While the Planning Commission alternative would maintain a more significant role for Planning Commissioners in the City's architectural review process, it would not achieve the benefits of efficiency and clarity that could be provided through an administrative process. It would also further lengthen City Council agendas by sending all appeals directly to the Council. City council hearings on single family home designs are not the prevailing practice for cities the size of Santa Clara.

Further, continuing to utilize an Architectural Committee composed of Planning Commissioners would require a significant commitment of time for Planning Commissioners to fulfill an evening meeting obligation in addition to the regular meetings of the Planning Commission. A staff conducted hearing allows routine and non-controversial items to be resolved without the Planning Commission's involvement, while items that are controversial can be addressed by the Planning Commission or City Council on appeal.

Alternative 2 would, however, continue to rely upon a public hearing process for architectural review of historically significant properties. Significant Properties Alteration (SPA) permits are required by the City's historic preservation ordinance prior to the modification of a property listed on the City's historic resource inventory (HRI). The Architectural Committee currently issues SPA permits, after input from the Historical and Landmarks Commission (HLC). The AC also makes decisions on modifications to properties within 200 feet of HRI properties, as well as proposed demolition of historic properties, again with HLC input. The proposed ordinance would replace the Architectural Committee with the Planning Commission for the issuance of SPA permits and for architectural review of non-historic properties near HRI properties, while continuing to obtain the HLC's recommendation. For applications to demolish historic properties, the proposed ordinance would

replace the AC with the City Council, and again would preserve the HLC's involvement.

Consulting Architect

Per Council input provided at the March 5, 2019 City Council hearing, staff's proposal includes involving a professional architect in select projects. The City would hire an architect, at an applicant's expense, to review and provide a written analysis and recommendations for improvements to project architecture. As initially envisioned, the architect would analyze all attached single-family (e.g., townhouse), multi-family and commercial projects. The Planning Commission supported this proposal at its May 22 and August 14, 2019 hearings, but recommended that this requirement instead apply to multi-family projects, new freestanding non-residential buildings over 5,000 square feet, and additions to non-residential buildings when the proposed addition is over 20,000 square feet. The Commission further recommended that the selected architect should be a practicing architect with relevant experience in designing structures of a similar land use type and of a similar scale to the proposed project.

Staff is recommending that the City Council direct staff to include the review by an architect as part of the architectural review process, using the thresholds recommended by the Planning Commission at its May 22 and August 14 meetings, regardless of whether the Council ultimately adopts Alternative 1 or Alternative 2. If Council adopts Alternative 2, and architectural review is performed at an administrative hearing per the proposed Amendment, it would not be necessary for the architect to attend the hearing, but their input would be provided in writing as part of the public record. If the City instead adopts Alternative 1, an architectural committee composed of 3 Planning Commissioners, the architect would be directed to appear at the AC hearing as well as provide comments in writing in advance of the hearing.

Appeal Procedures

The staff proposed Amendment (Alternative 2) would streamline the architectural review appeals process for all non-single-family projects by establishing the City Council as the only hearing body for most appeals of the initial architectural review determination. In the current process, which such projects are appealed to the Planning Commission, the decision of the Planning Commission is then typically appealed to the City Council by the dissatisfied party. Under the Planning Commission's proposed Amendment (Alternative 1), the Architectural Committee would conduct most initial architectural review determinations, and appeals would then go directly to the City Council, rather than first being appealed to Planning Commission. Under either alternative, eliminating the potential for double appeals will save significant time and costs while preserving the City Council as the final decision-making body.

If the Council adopts staff's recommendation (Alternative 2), it may nevertheless be desirable to maintain the Planning Commission as an appeal body for single-family residential projects. Recognizing that the Planning Commission hearing adds value to the process and in some cases may be a sufficient forum to resolve the appeal, staff included this option in Alternative 2.

As a result of creating a staff-administered process and of streamlining the appeal process with all non-single-family appeals proceeding directly to the City Council, the Planning Commission would only participate in the architectural review process as an appeal body for single-family developments. Having the Planning Commission conduct the initial hearing for single-family residences is a means to allow Commissioners to continue to participate in the architectural review process, with all projects then directly appealable to City Council.

Along with the above changes to the appeals process, Alternative 2 would revise the appeals process applicable to historic properties. Under the existing code, decisions by the Architectural Committee are appealable to the Planning Commission, and again to the City Council. For historic properties, Alternative 2 will be replacing the AC with either the Planning Commission (for SPA permits) or the City Council (for demolition), and would continue to have the Community Development Director approve small projects. The revised ordinance would make the Director's and Planning Commission's decisions related to historic properties appealable once, directly to the City Council.

Hearing Thresholds

Whether the Council ultimately decides to have a Committee or staff conduct public hearings, the proposed code changes would specifically identify which items require public hearings. In contrast, the existing code language specifies that Architectural Committee review is required for the "issuance of a permit for any sign, building, structure, or alteration of the exterior of a structure in any zone district" (Code Section 18.76.020 (b)). Over the past thirty years, Planning staff has relied on direction in the City's adopted citywide design guidelines to inform the types of architectural review permits that are required to be heard through a public hearing process, as well as the City Council direction provided at the April 22, 2014 meeting, which required all single-family home applications that include four or more bedrooms to be heard by the Architectural Committee. The proposed Amendment would formally establish thresholds for the City to determine when a development project is required to undergo a public hearing process. Staff has incorporated the recommendations of the Planning Commission on these thresholds within the proposed Amendment as well as the Planning Commission alternative.

The Planning Commission recommended that the following types of projects undergo a public hearing as part of the architectural review process:

- New or expanded single-family homes resulting in a home with (1) five or more bedrooms; or (2) five or more bathrooms; or (3) two or more bedrooms, with direct exterior access provided to at least one of the bedrooms;
- Residential subdivision maps and any associated development plans;
- New non-residential freestanding buildings greater than 5,000 square feet in size;
- Modifications or additions to existing non-residential development, where the area of the modification or addition will be greater than 10,000 square feet in size; or
- Alterations or demolitions to properties on the historic resources inventory.

Other, less complex projects would be reviewed administratively without a public hearing, consistent with current City practice.

Conclusion

The City Council is being provided with two alternatives to consider. Alternative 1 (Attachment 5) fully incorporates the recommendations of the Planning Commission. Alternative 2 (Attachment 6), as prepared by staff incorporates some of the Planning Commission recommendations, but differs from the Planning Commission alternative in that it retains the original staff proposal as follows:

- 1) The architectural review process would include a public hearing conducted by staff rather than by an appointed body comprised of three Planning Commissioners. An administrative hearing process would maintain the authority currently exercised by the Council in the Architectural

Review process, through appeals, while allowing routine land use actions to be completed administratively. This process is consistent with Council direction and would relieve Planning Commissioners from the prospect of meetings on a near-weekly basis.

- 2) Decisions made at the architectural review hearing on single-family projects would be initially appealable to the Planning Commission, with the decision of the Commission appealable to the City Council. This would allow the Planning Commission to provide input on single-family projects and potentially avoid the need for a City Council hearing.

The Planning Commission recommended additional thresholds to determine which projects require a public hearing and which would require review by a consulting architect. Those additional thresholds have been incorporated into both Alternatives.

Staff recommends amending Chapter 18.76 Architectural Review of the SCCC to replace the AC process with an administrative hearing process (Development Review Hearing), which would streamline the approval and appeal process and remove the potential for due process conflicts. This potential amendment would revise procedures for appeals to allow only a single appeal for commercial and multi-family projects to the City Council, while allowing the Planning Commission to play a role in single-family projects. The proposed amendment also provides greater clarity on how to conduct the appeal, establishing that the standard of review on appeal will be de novo, meaning that the appeal body is able to weigh in on any aspect of the project, without deference to the earlier determination. The proposed process would continue to be a duly noticed hearing and noticing would follow the City's Public Outreach Policy for Planning Applications, which was adopted by the City Council on June 27, 2017, and the requirements of City Code Section 18.112.060.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There is no fiscal impact to the City other than administrative staff time and expense.

COORDINATION

This report has been coordinated with the Finance Department and the City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

ALTERNATIVES

1. Introduce an Ordinance to amend Chapter 18.76 Architectural Review of the City of Santa Clara Zoning Code to amend the composition of the Architectural Committee to consist of three

members of the Planning Commission and whose decisions are appealable to the City Council on a *de novo* basis, per the Planning Commission's recommendation.

2. Introduce an Ordinance to amend Chapter 18.76 Architectural Review of the City of Santa Clara Zoning Code to replace the existing Architectural Committee with an administrative public hearing process for Architectural Review heard by the Director of Community Development or designee and appealable to the Planning Commission (for single-family residential projects), or the City Council (for all other projects) on a *de novo* basis.
3. Direct staff to engage a practicing architect with relevant experience in designing structures of a similar land use type and of a similar scale to the proposed project to provide a written analysis of the design and recommendations for improvement of the design for all multi-family projects, new freestanding non-residential buildings over 5,000 square feet and additions to non-residential buildings when the proposed addition is over 20,000 square feet.
4. Direct staff to engage a practicing architect with relevant experience in designing structures of a similar land use type and of a similar scale to the proposed project to provide a written analysis of the design and recommendations for improvement of the design for all multi-family projects, new freestanding non-residential buildings over 5,000 square feet and additions to non-residential buildings when the proposed addition is over 20,000 square feet and for the architect to attend the Architectural Review hearing.

RECOMMENDATION

Alternatives #2 and #3:

2. Introduce an Ordinance to amend Chapter 18.76 Architectural Review of the City of Santa Clara Zoning Code to replace the existing Architectural Committee with an administrative public hearing process for Architectural Review heard by the Director of Community Development or designee and appealable to the Planning Commission (for single-family residential projects) or the City Council (for all other projects) on a *de novo* basis; and
3. Direct staff to engage a practicing architect with relevant experience in designing structures of a similar land use type and of a similar scale to the proposed project to provide a written analysis of the design and recommendations for improvement of the design for all multi-family projects, new freestanding non-residential buildings over 5,000 square feet and additions to non-residential buildings when the proposed addition is over 20,000 square feet.

Reviewed by: Andrew Crabtree, Director of Community Development

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. August 14, 2019 Planning Commission staff report
2. August 14, 2019 Planning Commission minutes (placeholder)
3. March 5, 2019 City Council agenda report
4. Neighboring Cities Hearing Analysis
5. Proposed Architectural Review Ordinance, Planning Commission Recommendation (Alternative 1)
6. Proposed Architectural Review Ordinance, Staff Recommendation (Alternative 2)