

ORDINANCE NO.2006-064

Adopted by the Sacramento City Council

October 24, 2006

AMENDING VARIOUS SECTIONS OF CHAPTER 17.200 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO HEARINGS AND APPEALS (M06-017)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.200.010 of the Sacramento City Code (the Zoning Code) is amended to read as follows:

17.200.010 Hearings.

The provisions of this chapter apply to and govern the procedural requirements for hearings conducted under this title. In the event of a conflict between the provisions of this chapter and another provision of this title concerning the noticing and conduct of a hearing, the other provision of this title shall govern over the inconsistent provision of this chapter.

A. Initiation by Property Owner.

An applicant for a hearing on any matter affecting specific property may be one or more holders of an interest in such property, or his or her agent. An applicant may initiate the procedure for a hearing by submitting his or her application on a form provided by the city in accordance with Chapter 17.196.

B. Initiation by City Council, Planning Commission, Design Commission, and Preservation Commission.

1. Where authorized by other provisions of this code, the city council may initiate the procedure for a hearing by delivering to the planning director a duly adopted motion directing that a hearing be held, defining the proposed action, and describing the property involved in the proceedings. The planning director shall schedule the requested hearing upon receipt of the motion.

2. Where authorized by other provisions of this code, the planning commission, design commission, or preservation commission may initiate the procedure for a hearing by delivering to the appropriate commission secretary a duly adopted motion directing that a hearing be held, defining the proposed action, and describing the property involved in the proceedings. The commission secretary shall schedule the requested hearing upon receipt of the motion.

3. Where authorized by other provisions of this code, the planning director, design director, or preservation director may initiate the procedure for a hearing by delivering to the appropriate hearing body secretary a written request directing that a hearing be held, defining the proposed action, and describing the property involved in the proceedings. The hearing body secretary shall schedule the requested hearing upon receipt of the motion.

C. Notice.

1. Notice - Content.

Notice of a hearing shall include the date, time, and place of the hearing, the name of the hearing body or officer conducting the hearing, a general description of the matter to be considered, a general description, in text or by diagram, of the location of the property involved in the proceedings, and a statement of what environmental determination, if any, has been made on the application to be considered at the hearing.

2. Notice – How Given.

a. Notice by Publication.

When a provision of this title requires notice of a public hearing to be given pursuant to this subsection (C)(2)(a), notice shall be given by publication in the official newspaper of the city at least ten days prior to the hearing.

b. Notice by Posting.

When a provision of this title requires notice of a public hearing to be given pursuant to this subsection (C)(2)(b), notice shall be given by posting the subject real property at least ten days prior to the hearing.

c. Notice by Mail or Personal Delivery.

i. When a provision of this title requires notice of a public hearing to be given pursuant to this subsection (C)(2)(c), notice shall be given by mail or personal delivery, at least ten days prior to the hearing, to all of the following persons and agencies:

(A) The owner of the subject real property or the owner's duly authorized agent;

(B) The project applicant;

(C) The owners of real property located within 300 feet of the subject real property, utilizing the owner names and addresses shown on the latest county

equalized assessment roll. In lieu of the equalized assessment roll, other records of the county assessor or tax collector that contain more recent information may be used;

(D) Those persons who have requested in writing notice of the hearing;

(E) Those persons who appeared and identified themselves for the record at any prior public hearing conducted by the hearing body before which the matter is pending or by a subordinate hearing body;

(F) Each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project whose ability to provide those facilities and services to the project may be significantly affected.

ii. If the number of owners to whom notice would be mailed or delivered pursuant to this subsection (C)(2)(c) would be greater than 1,000, then in lieu of mailed or delivered notice, notice may be given by placing a display advertisement of at least one-eighth page in the official newspaper of the city or another newspaper of general circulation within the city reasonably calculated to provide effective notice to the public at least ten days prior to the hearing.

d. Notice of Appeal Hearings.

When a provision of this title requires notice of an appeal hearing to be given pursuant to this subsection (C)(2)(d), notice shall be given as follows:

i. By posting the notice on a publicly accessible bulletin board at least ten days prior to the date set for the hearing, and

ii. By mail or personal delivery at least ten days prior to the date set for the hearing to the following persons:

(A) The appellant;

(B) The owner of the property affected where such owner is not the appellant;

(C) The owners of real property located within 300 feet of the subject real property, utilizing the owner names and addresses shown on the latest county equalized assessment roll. In lieu of the equalized assessment roll, other records of the county assessor or tax collector that contain more recent information may be used.

(D) Those persons who appeared and identified themselves for the record before the hearing body before which the original hearing was held;

(E) Those persons who request in writing to be notified of any further proceedings on the matter or who otherwise have requested notice in writing of the hearing; and

e. In addition to the notice required by this subsection (C), additional notice may be given in any other manner as the planning director, zoning administrator, design director, or preservation director, as the case may be, deems necessary or desirable.

3. Notice - Continuances.

If a hearing is continued at the discretion of the hearing body upon its own motion or upon the request of staff, the applicant, or a third party pursuant to section 17.200.020(B), and the continuance is to a date certain that is announced at the hearing, no additional notice of the continued hearing shall be required.

4. Notice – Effect of Failure to Receive.

Failure of any person to receive a hearing notice as required by the provisions of this title shall not affect the validity of the hearing nor prevent the hearing body from proceeding with the hearing.

D. Planning Staff Report.

When a staff report exists, the report shall be made public prior to or at the beginning of the hearing and shall be a matter of public record. When any hearing is held on an application for a change of zone for parcels of at least ten (10) acres, a staff report with recommendations and the basis for such recommendations must be made.

E. Record.

A copy of the record of any hearing held pursuant to the provisions of this chapter shall be made available to any person at cost.

SECTION 2. Section 17.200.020 of the Sacramento City Code (the Zoning Code) is amended to read as follows:

17.200.020 Decision.

A. Decision.

The hearing body may grant or approve, in whole or in part and with or without modification or conditions, or may deny the proposed action; provided, however, that no decision by the hearing body shall permit the applicant to do an act which was not

described in the "general explanation of the matters to be considered" included in the notice of the hearing or the notice of appeal.

B. Decision or Recommendation—Time Limit.

The hearing body shall render a decision or recommendation within sixty (60) days from the date for which the application was first noticed for public hearing, whether such hearing was commenced, held, or continued. Except as may be otherwise provided by law, the hearing may be continued at the discretion of the hearing body upon its own motion or upon the request of staff, the applicant, or a third party. The time limit for rendering a decision or recommendation may be extended by mutual consent of the hearing body and the applicant.

C. Decision or Recommendation—Notice to applicant—Posting of synopsis.

Within two business days following a decision on a matter for which a hearing was held pursuant to the provisions of this chapter, the secretary to the hearing body shall notify the applicant of the decision in writing and shall post the synopsis on a publicly accessible bulletin board. Notice to the applicant in writing under this section may be satisfied by transmitting the record of decision by mail, facsimile, or electronically.

D. Decision—Effective Date.

1. The timely filing of an appeal to the design commission, preservation commission, planning commission, or city council, or the call-up of a design commission, preservation commission, or planning commission decision by the city council pursuant to Section 17.200.040 of this chapter, stays proceedings until the determination of the matter on appeal or call-up. A decision of the hearing body shall become final upon expiration of the time within which an appeal from or call-up of that decision may be taken if no appeal is filed or call-up is requested.

2. A decision of the city council shall be effective when made unless otherwise provided by the city council at the time the decision is rendered. Nothing in this paragraph shall be construed to shorten the time within which a decision by ordinance adopted by the city council becomes effective as provided in Sections 26 and 30 of the Sacramento City Charter. No appeal shall be accepted unless it is timely filed.

SECTION 3. Section 17.200.030 of the Sacramento City Code (the Zoning Code) is amended to read as follows:

17.200.030 Appeals.

The provisions of this chapter apply to and govern the procedural requirements for the hearing and decision on any appeal under this title. In the event of a conflict

between the provisions of this chapter and another provision of this title concerning an appeal, the other provision of this title shall govern over the inconsistent provision of this chapter.

A. Appeal of Zoning Administrator Action.

Any person dissatisfied with any action of the zoning administrator may appeal to the planning commission at any time within ten (10) days after a decision has been made by the zoning administrator. If the tenth day falls on a non-business day, the last day to appeal is the next business day. The appeal is taken by filing a notice of appeal with the zoning administrator. Upon filing of a notice of appeal, the zoning administrator shall within ten (10) calendar days transmit to the secretary of the planning commission all papers and documents on file with the zoning administrator relating to the appeal.

B. Appeal of Planning Director Action.

Any person dissatisfied with any action of the planning director may appeal to the planning commission at any time within ten (10) days after a decision has been made by the planning director. If the tenth day falls on a non-business day, the last day to appeal is the next business day. The appeal is taken by filing a notice of appeal with the planning director. Upon filing of a notice of appeal, the director shall within ten (10) calendar days transmit to the planning commission all papers and documents on file with the director relating to the appeal.

C. Appeal of Design Director Action.

Any person dissatisfied with any decision of the design director that is subject to appeal under the provisions of Chapter 17.132 may appeal to the design commission at any time within ten (10) days after a decision has been made by the design director. If the tenth day falls on a non-business day, the last day to appeal is the next business day. The appeal shall be filed on the form provided by the design director. The appeal documents and the project file shall be transmitted to the design commission within a period of ten (10) days.

D. Appeal of Preservation Director Action.

Any person dissatisfied with any decision of the preservation director that is subject to appeal under the provisions of Chapter 17.134 may appeal to the preservation commission at any time within ten (10) days after a decision has been made by the preservation director. If the tenth day falls on a non-business day, the last day to appeal is the next business day. The appeal shall be filed on the form provided by the preservation director. The appeal documents and the project file shall be transmitted to the preservation commission within a period of ten (10) days.

E. Appeal of the Design Commission Action.

Any person dissatisfied with any action of the design commission that is subject to appeal under the provisions of Chapter 17.132 may appeal to the city council at any time within ten (10) calendar days after a decision has been made by the design commission. If the tenth day falls on a non-business day, the last day to appeal is the next business day. The appeal shall be filed on the form provided by the design director. The appeal documents and the project file shall be transmitted to the city council within a period of ten (10) days.

F. Appeal of the Preservation Commission Action.

Any person dissatisfied with any action of the preservation commission that is subject to appeal under the provisions of Chapter 17.134 may appeal to the city council at any time within ten (10) calendar days after a decision has been made by the preservation commission. If the tenth day falls on a non-business day, the last day to appeal is the next business day. The appeal shall be filed on the form provided by the preservation director. The appeal documents and the project file shall be transmitted to the city council within a period of ten (10) days.

G. Appeal of the Planning Commission Action.

Any person dissatisfied with any action of the planning commission may appeal to the city council at any time within ten (10) days after a decision has been made by the planning commission; provided that, except as otherwise expressly allowed herein, no appeal of a planning commission decision on an appeal of a zoning administrator's decision or planning director's decision shall be allowed. If the tenth day falls on a non-business day, the last day to appeal is the next business day. The appeal shall be filed on the form provided by the planning director. Thereupon the appeal documents and the planning file shall be transmitted to the city council within a period of ten (10) days.

H. Withdrawal of Appeal.

An appeal to the design commission, preservation commission, planning commission or the city council may be withdrawn by the appellant upon written request. The withdrawal shall be noted on the agenda of the next regularly scheduled meeting of the design commission, preservation commission, planning commission or city council and shall be considered to have occurred on that date. Parties other than the appellant shall have ten calendar days from the date of the meeting at which the appeal is considered withdrawn to file a new or different appeal. The matter may be called up during the ten (10) day period from the date of the meeting pursuant to the provisions of Section 17.200.040 of this chapter. If the tenth day falls on a non-business day, the last day to appeal is the next business day.

I. Permits May Not Be Issued.

No construction permits, license or other permit for a project or use requiring approval by the design director, preservation director, zoning administrator, planning

director, or planning commission may be issued until the ten (10) day period following such approval has expired. No construction permits, license or other permit shall be issued while a hearing on appeal to the design commission, preservation commission, planning commission or city council is pending.

J. Fees.

The filing of a notice of appeal of a decision of the zoning administrator, planning director, design director, preservation director, design commission, preservation commission, or planning commission shall be accompanied by the fees specified in the city fee and charge report for such appeal.

K. Notice.

Notice of any appeal hearing shall be given by the clerk or secretary of the hearing body in the manner provided in subsection 17.200.010(C)(2)(d).

L. Appeals—De Novo Review.

The proceedings before the design commission, preservation commission, planning commission or city council on appeal of any decision under this title shall be de novo, meaning that the hearing on appeal shall be conducted in the same manner that the original hearing body heard the matter in the first instance.

SECTION 4. Section 17.200.040 of the Sacramento City Code (the Zoning Code) is amended to read as follows:

17.200.040 City council call-up review.

A. Notice to City Council.

1. Planning Director.

The planning director shall make a report of the following decisions to the city council as soon as reasonably practicable after the decision is made: (i) entitlements under this title first heard by the planning commission which are approved or conditionally approved by the planning commission; (ii) entitlements under this title first heard and decided by the zoning administrator and thereafter approved, conditionally approved or denied by the planning commission upon appeal; and (iii) entitlements under this title first heard and decided by the planning director and thereafter approved, conditionally approved or denied by the planning commission upon appeal.

2. Design Director.

The design director shall make a report of the following decisions to the city council as soon as reasonably practicable after the decision is made: (i) entitlements under this title first heard by the design commission which are approved or conditionally approved by the design commission; (ii) entitlements under this title first heard and decided by the design director and thereafter approved, conditionally approved or denied by the design commission upon appeal.

3. Preservation Director.

The preservation director shall make a report of the following decisions to the city council as soon as reasonably practicable after the decision is made: (i) entitlements under this title or any other provision of this code first heard by the preservation commission which are approved or conditionally approved by the preservation commission; (ii) entitlements under this title or any other provision of this code first heard and decided by the preservation director and thereafter approved, conditionally approved or denied by the preservation commission upon appeal.

B. Procedures for Call-Up Review.

Any decision enumerated in subsection A of this section may be called up for city council review by the mayor or councilmember in whose district the project is located. To initiate a call-up of a decision, the mayor or councilmember in whose district the project is located shall file a written request with the planning director, design director, or preservation director, as the case may be, within ten (10) days of the date of the decision of the planning commission, design commission, or preservation commission. If the tenth day falls on a non-business day, the last day to call-up is the next business day. Upon the filing of a request by the mayor or the city councilmember in whose district the project is located, the council shall notice and set the matter for the hearing before it. Notice of the hearing shall be given in the manner provided in subsection (C)(2)(d) of Section 17.200.010. The hearing before the city council shall be de novo, meaning that the city council shall hear the matter in the same manner that the design commission, preservation commission, or the planning commission heard the matter in the first instance.

C. Withdrawal of Request for Review.

The councilmember or mayor requesting call-up review of a particular decision may withdraw that request, provided that the withdrawal shall be noted on the next regularly scheduled meeting of the city council and shall be considered to have occurred on that date. The mayor or district councilmember not making the request shall have ten (10) days from the date of the meeting at which the application is considered withdrawn to file a request for call-up review. To the extent the decision is one which could have been appealed to the council by someone other than the applicant, such persons shall have ten (10) days from the date of withdrawal of the request for call-up review to file an appeal. If the tenth day falls on a non-business day, the last day to appeal is the next business day.

SECTION 5. This ordinance shall take effect on January 1, 2007.

Adopted by the City of Sacramento City Council on October 24, 2006 by the following vote:

Ayes: Councilmembers, Cohn, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters and Vice Mayor Fong.

Noes: None.

Abstain: None.

Absent: Mayor Fargo.

Attest:


Shirley Concolino, City Clerk


Robert King Fong, Vice Mayor

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