



City of Alameda

Staff Report

File Number:2017-3971

City Council

Agenda Date: 3/7/2017

File Type: Council Referral

Agenda Number: 9-A

Consider Revising the City Council Call for Review Process to Appeal Board and Commission Decisions by Requiring that Two, Rather Than Just One, City Council Members Initiate a Call for Review and State a Reason for the Appeal. (Councilmember Ezzy Ashcraft)

COUNCIL REFERRAL FORM

Name of Councilmember requesting referral: Marilyn Ezzy Ashcraft

Date of submission to City Clerk (must be submitted before 6:00 p.m. on the Monday two weeks before the Council meeting requested): February 20, 2017

Council Meeting date: March 7, 2017

Brief description of the subject to be printed on the agenda, sufficient to inform the City Council and public of the nature of the referral:

Consider Revising City Council Call For Review Process To Appeal Board And Commission Decisions By Requiring That Two, Rather Than Just One City Council Members Initiate A Call For Review And State A Reason For The Appeal

Currently, a single Council Member can appeal the decision of a City Board or Commission without stating any reason for doing so. Any member of the public can also appeal Board or Commission decisions, but must first pay a deposit and fee. This financial requirement does not apply to Council Members.

Requiring that two Council Members initiate a Call For Review and state the reason for their appeal would improve the current system where an individual Council Member might feel pressure to accommodate the wishes of constituents, regardless of the merits of an appeal, and without consideration of the financial and time burden an appeal places on applicants and staff.

City Council has heard from members of the public who have expressed concern with the current Call For Review process. In May 2016, Kari Thompson, Past President of the Alameda Chamber of

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Commerce wrote to the City Council expressing the Chamber Board of Directors' concern with the frequent use of the Call For Review process by individual City Council members, noting that a unilateral request to appeal a Planning Board decision generates additional time and expense for both applicant and City staff and that, ultimately, this practice can discourage businesses from locating in Alameda and deter existing businesses and residents from improving their properties.

A recent example involved a remodeling project at 1208 St. Charles Street. In response to neighbors' concerns about possible impacts of construction to three large oak trees on the project site, the Planning Board reviewed (appealed) a staff Design Review approval and asked the applicant to provide additional detail regarding the foundation plans and demonstrate protection of the trees consistent with the arborist's recommendations. Following their review of the information applicant presented, the Planning Board unanimously approved the project (6-0) on January 23, 2017.

On January 31, 2017, the Mayor appealed the Planning Board decision by submitting this Call For Review:

"To whom it may concern,
I hereby call the 1208 St. Charles project for review.
Please let me know if I need to provide additional information. Thank you.
Sincerely,
Trish Spencer
Mayor, City of Alameda
Sent from my Verizon Wireless 4G LTE smartphone"

The requirement that two Council Members initiate a Call For Review and include the reason for their appeal will help ensure there is a legitimate basis for the appeal, and reduce the opportunity for a Call For Review to be used to simply obstruct a project or as a political favor. The deposit and fee requirement for the general public to file an appeal provides this sort of safeguard, but is not required of a Council Member who brings a Call For Review.

In fact, the Alameda Municipal Code (AMC) requires that the basis for an appeal be included, although this requirement is applied inconsistently. AMC Section 30-25.4 d. - Calls for Review, provides,

"A call for review shall be filed with the Planning Department by the Planning Board, the City Council, or a member of either body by stating the reasons or justification for the review. (emphasis added)
No fee shall be required for a call for review."

If the suggested changes are adopted, an individual could still appeal a Board or Commission decision by paying the required deposit and fees. And a majority vote of the City Council would still

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be required to approve an appeal.