



Legislation Details (With Text)

File #: 19-210 **Version:** 1 **Name:** RC Third Party Review
Type: Staff Report **Status:** Agenda Ready
In control: Rules Committee
On agenda: 4/11/2019 **Final action:**
Enactment date: **Enactment #:**
Title: Review of Community Development Department Applications of City Officials by Independent Third Parties
Indexes:
Code sections:
Attachments: 1. CC Staff Report Third Party Review March 18 2019, 2. Exhibit A

Date	Ver.	Action By	Action	Result
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Review of Community Development Department Applications of City Officials by Independent Third Parties

SUMMARY AND RECOMMENDATIONS

Staff recommends that the Rules Committee provide direction regarding proposed changes to the City’s Administrative Code regarding review of Community Development Department applications of City officials by independent third parties, with direction on whether or not to bring a revised resolution to the City Council for its consideration.

BACKGROUND

City elected and appointed officials, as well as employees, must occasionally submit applications to the Community Development Department (“CDD”) regarding real property within San Leandro in which they have an economic interest. Staff prepared a proposed resolution to amend the City of San Leandro Administrative Code to add administrative regulations that allow the option of independent third party plan review for CDD applications in these types of situations. The City Council considered the resolution at its March 18, 2019 meeting, and directed that the item be referred to the Rules Committee for additional review and discussion. The staff report and resolution considered by the Council on March 18 are attached to this report for reference.

Analysis

During the City Council’s consideration of the proposed resolution, the City Council raised the following questions and concerns regarding the proposed changes to the Administrative Code:

1. *Who is eligible for this alternative review?*

The proposed changes would make the option of review by an independent third party available to City elected and appointed officials, as well as City employees.

2. Should the process be optional?

The proposed resolution created the option for CDD applications to be reviewed by independent third party plan reviewers. The option would allow the applicant to decide whether he/she wanted his/her application reviewed by a third party to address actual or perceived conflicts of interest or claims of bias. Regardless of whether or not an applicant elected to use the third party review, the applicant would still be subject to all applicable conflict of interest laws and regulations.

3. What is the cost of the independent review?

Regardless of whether an application is reviewed by City staff or an independent third party, the applicant is required to pay the actual costs of such review. In some situations, third party review may actually be cheaper because the hourly rate of some third party reviewers utilized by the City is less than the hourly rate of available City staff.

4. What types of applications are eligible for the third party review?

The proposed changes to the Administrative Code would make any CDD application eligible for third party review, and it would be the applicant's decision whether or not to elect to have an application reviewed by an independent third party reviewer. An applicant may find it unnecessary to select the third party review option for applications subject to ministerial approval. An application is subject to ministerial approval if staff uses no discretion in reviewing and approving the application. For example, a building permit is a ministerial approval, since applications that meet the requirements of the Building Code are required to be approved. Ultimately, it is the decision of the applicant whether or not to use an independent third party reviewer.

Previous Actions

The City Council considered the resolution at its March 18, 2019 meeting, and directed that the item be referred to the Rules Committee for additional review and discussion.

ATTACHMENT(S)

City Council Staff Report dated March 18, 2019 (19-157)
Draft Resolution to Amend the Administrative Code (19-158 Exhibit A)

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