

CITY OF PACIFICA

AGENDA MEMO

DATE: April 20, 2015
TO: Planning Commission
FROM: Kathryn Farbstein, Assistant Planner
SUBJECT: Agenda Item No. 3: Planning Permits and Process Information

DISCUSSION

The Planning Commission requested information on Planning permits and process. Staff has prepared the attached presentation and will provide an oral report at the meeting.

COMMISSION ACTION REQUESTED

Informational item and no action required.

Attachments:

- a. Presentation slides

Planning Permits and Process

Prepared by: Kathryn Farbstein,
Assistant Planner

Information on the Planning Process

- Types of permits, application process, California Environmental Quality Act (CEQA), and public noticing requirements
- Two Types of Permits – Ministerial and Discretionary

Ministerial Permit

- Project is ministerial if it:
 - "involv[es] little or no personal judgment by the public official as to the wisdom or manner of carrying out the project."
- Ministerial actions include:
 - issuance of building permits
 - issuance of business licenses
 - approval of final subdivision maps

Discretionary Permit

- A discretionary permit is a permit that the reviewing agency has the authority to deny or conditionally approve (based on appropriate findings).
- California Coastal Commission has additional permit jurisdiction in some areas of the City, primarily west of Highway 1.
- Examples of discretionary permits are: Use Permits, Coastal Development Permits (CDP), Site Development Permits, Subdivisions, Variances, Specific Plans, Zone Changes, Development Plans and General Plan Amendments.

Discretionary Permits *continued*

- Discretionary permits have conditions of approval imposed by the Zoning Administrator, Planning Commission, City Council, City staff or other agencies.
- The Zoning Administrator may hear routine or noncontroversial items using the same public hearing process as the Planning Commission.
- Discretionary projects require CEQA review (discussed later).

Adjudicative Actions by the Planning Commission (Discretionary Permits)

- Adjudicative actions are the legal process by which an arbiter reviews evidence and argumentation set forth by opposing parties to come to a decision which determines rights and obligations between the parties involved.
- As specified in the Municipal Code, the Planning Commission acts as an arbiter to approve, conditionally approve or deny Use Permits, Site Development Permits, Subdivisions, Variances and Specific Plans.

Legislative Authority (Discretionary Permits)

- As the elected officials for the City, the City Council has the legislative authority for the City of Pacifica to enact, amend and repeal public policy.
- Amendments to the General Plan, rezonings and approval of Development Plans are legislative actions as determined by the Municipal Code that must be approved, conditionally approved or denied by the City Council.
- The Planning Commission is the recommending body on legislative actions related to the General Plan and Zoning Ordinance.

Initial Process for Discretionary Permits

- Once staff determines a discretionary Planning permit is necessary, a Development Permit Application is provided to the applicant along with the other relevant forms and information.
- Staff determines the required deposit based upon the estimated time to process the application.
- Cost is recovered on a hourly basis.

Initial Process for Discretionary Permits *continued*

- Upon application submittal, project is assigned to a Planner to process.
- CDP projects require public noticing once the application is filed; therefore, Planner prepares notice of Application for applicant to post on site and deliver to the library.

Processing Development Permit Applications (Discretionary Permits)

- First task is for assigned Planner to check the application for completeness.
- Next the Planner routes the submitted information to other City departments, and outside agencies seeking comments and conditions of approval.
- A Project Review Committee meeting is scheduled with other departments to discuss issues that may impact the project.

Processing Development Permit Applications (Discretionary Permits)

continued

- Planner has 30 days to determine application complete.
- If project is not complete, the Planner will send out letter with all the missing items specified for completeness and notifying the applicant of any issues.
- Once the project is complete, the Planner will schedule the project for Planning Commission decision if the project is exempt from CEQA or start the next phase for environmental review.

Public Noticing of Projects

- Projects that are exempt from CEQA are scheduled for a public hearing and review by the Planning Commission or Zoning Administrator after the project is determined complete.
- Public noticing of the project and hearing date is the same for all Planning permits except that CDP's require additional noticing as mandated by the Coastal Commission.
- All public hearing notices are prepared by the Planner.

CEQA Exemptions

- CEQA Guidelines have a list of categorical exemptions based on the type of development project proposed.
- If the project is consistent with one of the listed examples for categorical exemptions, the project can be considered exempt.
- However, there is also a list of specified exceptions to those exemptions.

CEQA Exemptions *continued*

- If one of the exceptions applies, the project is no longer considered categorically exempt.
- If a project is both categorically exempt and none of the exceptions apply; then the project can be considered exempt from CEQA.

Public Noticing of Projects

- A legal ad must be placed in the local paper, the Pacifica Tribune, at least 10 days before the public hearing to review the project.
- Notice is mailed out to all the property owners within a 300 foot radius of the project site.
- For CDP's, Planners must post the site in three places, deliver a notice to the library and mail a notice to the tenants within 100 feet of the project site 10 days before the hearing.

CEQA Process – Environmental Review for Discretionary Permits

- If the Planner determines that the project is exempt from CEQA, the exemption will be identified with an explanation provided in the staff report.
- If the project is approved, the Planning Commission will make the final decision to support the CEQA exemption applied by staff.

CEQA Process – Environmental Review for Discretionary Permits *continued*

- If the project is not exempt, within 30 days of determining the application complete, staff will conduct an Initial Study which is a preliminary analysis to further determine whether a Negative Declaration (ND), Mitigated Negative Declaration (MND) or Environmental Impact Report (EIR) is appropriate for the project.
- Often a Planner will prepare a Request for Proposal to send out to at least three consultants and use the responses to select an environmental consultant to complete the ND, MND or EIR.

Negative Declaration (ND)

- ND is a written statement briefly describing why a proposed project will not have a significant effect on the environment and therefore does not require preparation of an EIR.
- A ND is the appropriate level of environmental review if there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

Mitigated Negative Declaration (MND)

continued

- A MND is defined as a negative declaration prepared for a project when the initial study has identified potentially significant effects on the project, but 1) revisions made to the project before public review would avoid or mitigate the effects so that no significant effect on the environment would occur, and 2) there is no substantial evidence in light of the whole record before the Planning Commission that the project, as revised, may have a significant effect on the environment.

Environmental Impact Report (EIR)

- An EIR is a detailed report analyzing certain environmental issues that may be negatively impacted by the project such as increased traffic and congestion, aesthetic/visual changes, biological resources compromised and many other issues.

Environmental Impact Report (EIR) *continued*

- The EIR lists ways (mitigation measures) in which the significant effects of such a project can be minimized and to indicate alternatives to the project.
- Projects with EIRs that have identified unavoidable significant impacts can still be approved upon making certain findings.

Public Noticing for NDs and MNDs

- A Notice of Intent to Adopt a ND/MND is sent out to start a 20 day comment period as required for local projects and these notices are posted with the County.
- Projects that may have regional impacts have a 30 day comment period and must be sent to the State Clearinghouse.

Public Noticing for NDs and MNDs

continued

- The longer comment period is required for most projects in the City.
- Planning Commission or City Council would consider all the comments from the public and responses from staff prior to making a decision on the project.

Public Noticing for the EIR

- A Notice of Preparation is sent out to all concerned agencies and residents when the project requires an EIR.
- The Notice establishes a 45 day comment period based on the description and other preliminary information regarding the project.

Public Noticing for the EIR *continued*

- During this comment period, a Scoping meeting for the EIR is also conducted to allow members of the public to share information about potential environmental impacts.
- The Draft EIR is prepared by the consultant satisfying all the CEQA requirements and incorporating the concerns raised in the scoping meeting.
- A public hearing before the Planning Commission is conducted during the comment period for the Draft EIR.

Public Noticing for the EIR *continued*

- After the Draft EIR is prepared, a Notice of Completion is sent out to neighbors, interested parties, people that attended the scoping session and other agencies.
- The Final EIR contains all the comments on the Draft EIR and a written response to each comment.
- The Draft and Final EIR's are presented to the Planning Commission and/or City Council before the project is reviewed.

Decision Makers

- The Planning Commission will deny, approve, approve with conditions or make recommendations to the City Council on projects by adopting resolutions.
- All decisions made by the Planning Commission have a 10 day appeal period to allow any interested party to file an appeal to have the final project decision made by the City Council.

Decision Makers *continued*

- City Council makes the final decision to approve, approve with conditions or deny a project for General Plan Amendments, Development Plans and Rezoning, which are legislative actions.
- ND/MNDs and EIRs are certified by the Planning Commission and/or the City Council under separate resolutions and are reviewed at the same time as the project.

Decision Makers *continued*

- Once a decision on a CDP is final, the Coastal Commission is notified by the Planner, if the project is within the appeal zone.
- Coastal Commission has two weeks to appeal decisions on CDP's within the appeal zone approved by the City of Pacifica.

Follow Up After Planning Permit Decisions and Environmental Documents Certified

- Staff sends out the approval letters with the resolutions that have attached conditions of approval and any remaining fees are refunded to the applicant.
- After project approval, Notices of Exemption are filed for all discretionary projects that are exempt from CEQA and Notice of Determinations are filed for all projects not exempt from CEQA.

Future Presentations

- Next presentation will cover administrative permits, Zoning Administrator actions and noticing procedures.