DATE: May 18, 2009

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/ Planning Division

SUBJECT: **CONSIDERATION OF ZONE AMENDMENT (ZA-2-09) AMENDING ARTICLE 46 OF THE ZONING ORDINANCE – APPEALS AND CALLS FOR REVIEW – APPLICANT: CITY OF OCEANSIDE**

RECOMMENDATION

Staff recommends that the Planning Commission by motion adopt Planning Commission Resolution No 2009-P30 recommending approval of Zoning Amendment (ZA-2-09) with findings of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

A "Call for Review" is a process that allows the City Council to formally review quasi-judicial Planning Commission decisions. On March 4, 2009, City Council directed staff to modify the "Call for Review" proceedings by amending Article 46 Appeals and Calls for Review, of the Oceanside Zoning Ordinance to require filing of a call for review request by at least two City Council members in lieu of one Council member in order to initiate such a review. This section of the zoning ordinance was previously modified on January 4, 2006, at which time the proceedings for initiating "Calls for Review" were changed from requiring a majority City Council vote to a request by only one Councilmember.

ANALYSIS

DISCUSSION

The Planning Commission has final decision making authority on certain Quasi-Judicial land use actions such as variances, conditional use permits and development plans, thus unless a decision is appealed by an interested party or called for review by the City Council, the Commission's decision is final. "Appeals" and "Calls for Review"

procedures are intended to provide an additional means of ensuring a project's consistency with applicable zoning ordinance regulations; however, use of the call for review process can be costly and unproductive when the issue or project in question can only garner support from one City Councilmember.

The proposed modifications to the "Call for Review" provisions would prevent unnecessary costs, project processing delays or otherwise perceived or actual abuse of the process by requiring at least two Council members to file a call for review in lieu of just one in order to initiate a call for review. The call for review process requirements, as proposed to be amended will: a) retain the call for review process to ensure project consistency with applicable zoning ordinance regulations; and b) utilize City resources required to support call for review requests in a fiscally responsible manner.

ENVIRONMENTAL DETERMINATION

The proposed zone text amendment and local coastal plan amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b) (3). The activity under consideration is covered by the general rule that CEQA applies only to projects which have the potential of causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SUMMARY

The proposed zoning ordinance modifications to the "call for review" proceedings ensure project consistency with applicable regulations and promote open government in a fiscally responsible manner. Staff recommends that the Planning Commission by motion adopt Planning Commission Resolution No 2009-P30 recommending approval of Zoning Amendment (ZA-2-09) with findings of approval attached herein.

PREPARED BY:

Amy Volzke
Principal Planner

SUBMITTED BY:

Jerry Hittleman
City Planner

AV/fil

Attachments:
1. Planning Commission Resolution No. 2009-P30
2. Exhibit "A" - Zoning Ordinance Legislative Draft
3. Public comments

PLANNING COMMISSION
RESOLUTION NO. 2009-P30

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA RECOMMENDING APPROVAL OF A ZONE TEXT AMENDMENT AMENDING ARTICLE 46 OF THE ZONING ORDINANCE

APPLICATION NO:	ZA-2-09
APPLICANT:	City of Oceanside
LOCATION:	Citywide

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, on March 4, 2009, the City Council initiated by motion an amendment to Article 46 of the Oceanside zoning ordinance pertaining to procedures for calls for review as shown in the attached Exhibit "A"; and

WHEREAS, the Planning Commission, after giving the required notice, did on the 18th day of May, 2009, conduct a duly advertised public hearing as prescribed by law to consider said application; and

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto, a Notice of Exemption has been prepared for the zone text amendment project; and

WHEREAS, studies and investigations made by this Commission and in its behalf reveal the following facts:

For the Zone Amendment:

1. The Zone Text Amendment as proposed, conform to the General Plan of the City.
2. The granting of the Zone Text Amendment is consistent with the purposes of the Zoning Ordinance.

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NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend approval of Zone Amendment (ZA-2-09) as represented in the attached Exhibit "A".

PASSED AND ADOPTED Resolution No. 2009-P30 on May 18, 2009 by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____

Claudia Troisi, Chairperson
Oceanside Planning Commission

ATTEST:

_____

Jerry Hittleman, Secretary

I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2009-P30.

Dated: May 18, 2009

EXHIBIT "A"

4605 Procedures for Appeals and Calls for Review

A. Appeal Hearing Date. An appeal filed by an applicant or interested party shall be scheduled for a hearing before the appellate body within 30 days of the Clerk's receipt of an appeal unless otherwise specified by State Law.

A call for review filed by ~~a~~ **at least two** member**s** of the City Council shall be scheduled for a hearing before the appellate body within 30 days of the Clerk's receipt of a call for review unless otherwise specified by State Law.

B. Notice and Public Hearing. An appeal or review hearing shall be a public hearing if the decision being appealed or reviewed required a public hearing. Notice of public hearings shall be given in the manner required for the decision being appealed.

C. Plans and Materials. At an appeal or review hearing, the appellate body shall consider only the same application, plans, and related project materials that were the subject of the original decision and only the issue(s) raised by the appeal or the call for review. Compliance with this provision shall be verified prior to or during the hearing by the Planning Director.

D. Hearing. At the hearing, the appellate body shall review the record of the decision and hear testimony of the appellant, the applicant, and any other interested party.

E. Decision and Notice. After the hearing, the appellate body shall affirm, modify, or reverse the original decision. When a decision is modified or reversed, the appellate body shall state the specific reasons for modification or reversal. Decisions on appeals or review shall be rendered by adoption of a resolution. The Planning Director shall mail notice of a Planning Commission decision and the City Clerk shall mail notice of a City Council decision. Such notice shall be mailed within seven (7) working days after the date of the decision to the applicant, the appellant, and any other party requesting such notice.

Amy Volzke

From: George Buell
Sent: Monday, March 30, 2009 3:53 PM
To: Amy Volzke
Subject: FW: Call for Review - Review Options Process

For the file.

From: d-mcginty [mailto:d-mcginty@cox.net]
Sent: Thursday, March 05, 2009 11:58 AM
To: George Buell
Subject: Call for Review - Review Options Process

Hello Mr. Buell:
Watching this Council Meeting is at best exasperating regarding the Call for Revue process.
Since I happen to know right now that there are three sitting Council members that will not give me the time of day, it occurs to me that the Planning Commissioners better well be very qualified with background experience in as much as they need to know what questions to ask developers who come before them. Issues such as neighboring property to their proposed project may have had subsidence issues they are not aware of.
Those of us who are very aware of these issues expect that Staff will be in attendance at the Planning commission meetings to answer questions, and that the problems that occurred with the Robertson's/Mitsubishi Concrete Plant, approved by the Commission ,was flawed with scant areas in the needed reports area. The Planning Commission is going to carry much more weight than they have been accustomed to with the change in the call for Revue process.
Due to the negative arena of the Political issues of this Council, I would hope that the Call for Revue could be left the way it is today. One has to be a lunch buddy of this Council to get two Council members to agree to a Call for Revue. This further limits the Publics right to participate. When this Council Majority is done, they will also control the Planning Commission and control all decisions being made. That is their Pro-Developer agenda.
But of course the Public can always appeal to the Law Schools who are sometimes interested in a case like they were with the Robertson's Concrete issue. The Council majority we now have does not seem to respect the fact that these issues can be taken outside the City for evaluation, including to the Grand Jury.
Thank you,
Donna McGinty
2405 Mesa Drive
Oceanside, CA 92054