

LEGISLATIVE DIGEST

[Planning Code - Modifying Conditional Use Authorizations and Nonconforming Uses]

Ordinance amending the Planning Code to allow modification and revocation of certain Conditions of Approval for Non-Residential Uses administratively where the applicable zoning no longer requires a Conditional Use authorization, subject to Planning Commission delegation, clarify when enlargement or intensification of a Nonconforming Use does not require a new Conditional Use authorization, and delegate limited authority to the Planning Director to administratively approve requests to modify certain Conditions of Approval imposed through a Conditional Use authorization; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making public necessity, convenience, and welfare findings under Planning Code, Section 302

Existing Law

Under the Planning Code, significant changes to Conditions of Approval imposed through a Conditional Use authorization may only be modified by the Planning Commission through the process used for new Conditional Use authorizations. Nonconforming uses may not be modified without a Conditional Use authorization, except in limited circumstances. Under the Planning Commission's current practice, for projects approved through a Conditional Use authorization, the Zoning Administrator is authorized to administratively approve changes to the approved plans, unless the changes are significant, in which case the significant changes require a Planning Commission approval of a new Conditional Use authorization. Similarly, the Zoning Administrator is authorized to extend the time for performance where the implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

Amendments to Current Law

This ordinance would specify that a Non-Residential Use, which at the time it was authorized required a Conditional Use authorization from the Planning Commission, may seek to have those Conditions of Approval removed administratively, if the applicable zoning no longer requires a Conditional Use authorization and the Non-Residential Use is Principally Permitted. The Planning Commission would be required to delegate authority to make these changes administratively.

This ordinance would also specify that certain changes in a Conditionally approved use or a non-conforming use are not considered an intensification or enlargement of that use, such that the change would require a new Conditional Use authorization. These permitted changes are: allowing a Non-Residential Use to an existing Non-Residential Use, consistent with the applicable zoning; adding the lesser of 500 square feet of Gross Floor Area or 25% of the existing Gross Floor Area to an existing Conditional Use or non-conforming use; or the addition or exchange of an ABC license type.

The ordinance would also permit the Planning Director to administratively modify Conditions of Approval imposed through a Conditional Use authorization related to: extensions of the performance period; and changes in the project up to 20% in the number of residential units or square feet of construction, subject to conditions.

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