

Audit Report

***Community Development
Department ~ Planning Division***

***Zoning Administration &
Discretionary Permit Process***

April 2013

AU13-05

City Manager
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REPORT SUMMARY



The Planning Division within the Community Development Department (CDD) is committed to providing programs and services to facilitate economic growth and development, help businesses grow and succeed, revitalize communities and neighborhoods and ensure quality housing ~ building a better Riverside. The main responsibility of the Planning Division is to regulate the use of land and structures within areas of the City through zoning enforcement. Using these regulations and others, the Planning Division issues permits for uses and structures in order to maintain consistency with the City's Zoning Ordinance (Title 19) and General Plan.

Use of System Data Fields Data input to PermitsPlus (permit tracking system) should provide useful and consistent information for users and coincide with the data field titles. Case Planning activities are driven by established deadlines in order to meet public notification requirements and Planning Commission and City Council hearing dates. Case Planning staff members are responsible for recording various critical dates in the PermitsPlus system. The integrity of PermitsPlus case status is problematic. We found several instances in our testing of Zoning Administration cases where the status of a case was not correct; data fields are being used incorrectly or not monitored and updated timely. **The division does not have an adequate process/system in place to monitor the status of case applications, to ensure dates recorded are accurate and complete.**

Permit Streamlining Act¹ State law sets time limits for governmental action on some types of private development projects (see Government Code Sections 65920-65963.1). Failure to act within those time limits can mean automatic approval of a project under certain circumstances. The Permit Streamlining Act (PSA) applies to discretionary projects which are adjudicative in nature. An adjudicative decision applies existing policies and regulations to a particular situation. Use permits, subdivisions, and variances are all such actions subject to the PSA. The PSA does not apply to the adoption or amendment of a general plan or a zoning ordinance. Generally speaking, the public agency must take action on private development projects within 180 days of the date upon which the project's final Environmental Impact Report (EIR) is certified. This period is 60 days when a negative declaration is adopted or the project is exempt from CEQA. A project may be automatically approved under the PSA if the agency fails to make a decision within the time limit and the developer takes certain actions to provide public notice. Due to the problematic quality of data in PermitsPlus, we were unable to determine if the division is operating in full compliance with State time limit requirements. **The division does not have an adequate process/system in place to track processing cycle time on applications to ensure compliance with regulatory processing requirements.**

OBSERVATIONS

Advancements in Technology Adopting electronic filing of permit applications will benefit the community by reducing the risk of filing and administrative error or oversight, as well as facilitating

¹ Per the California Planning Guide, Governor's Office of Planning & Research.

electronic transmission of permit applications with more transparency, accuracy, and efficiency. In January 2013 the department/division was awarded funding to implement ProjectDox software. ProjectDox, from Avolve Software, will enable business owners, developers, contractors and residents to electronically submit and manage their plans with the City. The software allows customers (permit applicants) remote access to the system enabling online submission of changes and to receive feedback. Alerts for changes are sent electronically reducing the time and expense associated with printing, pick-up and delivery of comments and corrections. ***ProjectDox will need to interface with PermitsPlus (or an upgrade to the current application) until a new compatible web-based case tracking system is implemented. (Refer to Appendix B for an overview of the review process using ProjectDox.) The public and division would benefit from implementation of a more robust web-based case tracking system (public access could improve customer service as well as reduce time spent by case planners responding to case status questions from applicants).***

Alternatives to Variances A variance allows for the construction of or changes to a structure or land that is prohibited by a zoning ordinance. One typical use of a variance is to provide relief from design or development standards - height, setback, floor area ratio, parking, etc. Numerous requests for variances in a specific zoning district may indicate that there is a poor fit between the dimensional standards for a particular zoning district and the existing building stock. ***According to the American Planning Association (APA)², "It is not unusual for communities to grant 70 to 95 percent of all variance requests. The easiest way to avoid excessive area variance requests is to amend the district standards to match the historic fabric of the neighborhood." The APA further notes that "...rezoning may be more appropriate than a use variance" in some instances.³***

Another alternative adopted by many jurisdictions is the "variance-light" procedure. This allows minor adjustments and modifications of development standards but do not require the same strict findings as those needed for a variance. The City of Los Angeles allows a zoning administrator to approve adjustments and minor modifications in yard, area, building line and height requirements without a public hearing if the matter is not controversial.

Consideration should be given to reviewing "redundant variances" for possible updates to the zoning ordinance. The APA notes in *Zoning Practice (Issue Number 6, Practice Variances, June 2012)*, "If there are many approved variances to a specific provision, it is irresponsible not to amend the code." We noted that the CDD *Strategic Plan* includes actions to "eliminate unneeded Zoning Code Processes and Requirements and Increase Administrative or By Right Uses" and "Recalibrate Appropriate Use of Variances...through Zoning Adjustment." If carried out, this tactic will have significant positive impact to the Planning application process for variances.

Performance Measures/Metrics Proper performance indicators (metrics) reflect the direct efforts of an organization in meeting its defined objectives. They often encourage performance improvement, effectiveness and efficiency in day-to-day operations. To ensure timely and comprehensive review of planning applications, we suggest the division **consider establishing performance indicators and analyze trends and rate-of-change over time**, to include but not limited to:

² The American Planning Association (APA) is a professional organization representing the field of city and regional planning in the United States. The APA was formed in 1978 when two separate professional planning organizations, the American Institute of Planners and the American Society of Planning Officials, were merged into a single organization.

³ APA - QuickNotes No. 38.

- Percentage of all applications in which case assignment is made within 10 workdays;
- Percentage of applications/cases reviewed and their completeness determined within 30 days of submission, per the California Streamlining Act;
- Percentage of applications/cases determined complete and a decision made within 60 days (for cases that do not require an environmental impact report) per the Streamlining Act;
- Percentage of all variance applications decided within 120 days; and
- Percentage of applications requiring Commission action brought to hearing within 90 days.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Our audit objective⁴ was to:

- Analyze and assess the adequacy of documented internal policies and procedures;
- Evaluate the adequacy and completeness of planning case documentation and related system data; and
- Assess management and operations of the zoning administration and discretionary permit process from application submittal through final decision, and the related service fees to determine the integrity and compliance of these processes with City Municipal Code Title 19 and applicable State regulations.

Scope and Methodology

Our review was conducted during the period from mid-February 2013 through April 2013. We focused our efforts on gathering and analyzing information relative to the discretionary permit process from application through final decision. Our review was limited to the records and transactions from July 1, 2011 through June 30, 2012. Where appropriate, we also included information reflecting current state of business operations related to the Planning Division. We relied upon the following to conduct our review:

- Governor’s Office of Planning and Research (OPR);
- California Planning Guide from the OPR;
- American Planning Association documents/papers;
- Permit Streamlining Act;
- California Environmental Quality Act (CEQA) and SB226;
- California Planning & Development Report (regarded as the authoritative periodical on planning and development issues);
- Matrix Consulting Group reports;
- City Municipal Code Title 19;
- Documentation of key practices that relate to policies and procedures, as well as work processes;
- Data from Accela permitting system (PermitsPlus) to gather relevant information regarding the services provided, the volume of work staff has to manage, the status of cases, the time frames in which the work is completed, fees assessed; and

⁴ We did not assess whether or not the level of staffing for processing of current planning applications is commensurate with workload. We did not assess the productivity of the staff based on indicators such as number of applications processed per case planner, amount of hours required to process an application from start to finish, etc. We noted that performance metrics have not been established by the division.

- Data from the City’s financial system, IFAS.

Our review was conducted in accordance with the *Standards for the Professional Practice of Internal Auditing* of the Institute of Internal Auditors. Those standards require that the audit is planned and performed to afford a reasonable basis for judgments and conclusions regarding the department, division, program, activity or function under audit. An audit also includes assessments of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. We believe our audit provides a reasonable basis for our conclusions.

BACKGROUND

The Planning Division within the Community Development Department (CDD) is comprised of a City Planner (Zoning Administrator) and 22 staff⁵ who monitor and update the *General Plan* (amended November 2012) and ensure compliance of applicable Municipal Codes (i.e., Title 19 - Zoning). The Planning Division’s principal activities are:

- Processing land use applications (discretionary permit applications);
- Assisting the public through the application process;
- Researching and compiling supporting documentation on subject properties;
- Analyzing applications against the City’s established planning standards and regulations and creating documented staff reports;
- Routing supporting documentation for applications to city departments and other governmental agencies for comments;
- Coordinating public hearing notifications (i.e., newspaper postings, sign postings on subject properties, etc.);
- Preparing the Planning Commission agenda along with supporting documentation; and
- Providing supporting documentation for agenda items to the Planning Commissioners and City Council members.

The assignment of one planner (similar to a project manager) to handle cases from intake to the very end, a “cradle-to-grave” approach, promotes efficiency and customer service by reducing the number of personnel involved in each planning case, providing one point of contact for applicants and allowing planning staff to have complete ownership of the process. The “cradle-to-grave” approach appears to be a national trend.

Maximizing the Website the Planning Division’s municipal website is an effective public communication tool, providing a portal to Municipal Codes, regulations, schedules, and application forms. The purpose of the Planning website is to provide a “one-stop shop” where a user may gain instant access to a multitude of documents, guides to explain the Planning processes, and forms

⁵ The division personnel include 8 Associate Planners, 5 Senior Planners and a Historic Preservation Officer, as well as administrative staff. Senior Planners manage the more complex projects and oversee the cases managed by the Associate Planners.

without having to visit City Hall. The CDD Strategic Plan includes revisions to the CDD webpages. During our search for “best practices” we found some examples of other city and county websites for the

Planning function and services. One (City of Sunnyvale, CA) provided an excellent flow chart overview of the various type of Planning applications (*refer to Appendix F*) as part of their “One-Stop Permit Center” website.

Financial Impact City Council has established a cost recovery goal of 90% for Planning Division services (i.e., for reviewing development applications and hearing cases) through Planning Service (Zoning Administration Review) fees. Fees were last updated and approved by the City Council effective January 1, 2012 per Resolution #22227. Currently the division recovers approximately 43% of its costs through revenue (fees).

Actual	<u>FY2009-10</u>	<u>FY2010-11</u>	<u>FY2011-12</u>
Revenue \$	912,798	961,715	1,178,685
Operating Expenses \$	2,462,611	2,513,877	2,724,101

Discretionary Permit The discretionary review process⁶ applies to all cases/projects requiring a discretionary action, including legislative decisions and discretionary permits. Discretionary refers to projects that involve a level of judgment and discretion by the decision-maker in taking action to approve, approve with conditions or deny a project, with findings. Depending on the level of review, a decision-maker on a discretionary project is the City Planner/Zoning Administrator, Planning Commission and/or City Council.

The Zoning Administrator has primary administrative authority over certain activities that require the determination of compliance with applicable zoning provisions and the application of judgment to a given set of facts. The following lists the various administrative permits of the Zoning Code for the respective actions that do not require a public hearing:⁷

- Design Review
- Minor Conditional Use Permit
- Temporary Use Permit
- Nonconforming Provisions
- Effective Dates, Time Limits and Extensions
- Variance
- Day Care Permit
- Recycling Center Permit
- Administrative Environmental Initial Study

Public hearings allow the applicant and all interested parties to present their testimony and position on the requested use. Such permits can be approved, denied, or approved with conditions, and the decision can be appealed (10 days following date and decision).

⁶ Refer to Appendix D and E for the City’s current process flowchart; Appendix F for an example of the City of Sunnyvale process flowchart (considered a “best practice” in communicating the overall process flow and required regulatory deadlines).

⁷ RMC 19.640.040 – Discretionary Permits and Actions

The following types of discretionary permits are subject to a public hearing with the City Planning Commission:

- Conditional Use Permit
- Planned Residential Development Permit
- Condominium Conversion Permits
- Site Plan Review Permit
- Modification and Revocation of Permits/Variations and Other Approvals
- Airport Land Use Commission Appeals
- Street, Alley and Walkway Vacations
- Traffic Pattern Modification Measures

Planning staff (case planner) will record the initial application in the PermitsPlus system and assign a case number. Upon submittal the application is to be reviewed for completeness and adequacy of the materials within 30- days, pursuant to RMC Title 19 – Section 19.660.050 and Gov. Code Section 65943. The application will be made available to other applicable city departments (Public Works, Fire, etc.) in order to solicit comments about the project. These comments could lead to conditions of approval, a recommendation for preparation of an Environmental Impact Report (EIR) or denial of the application.

In some instances applications may be returned to the applicant as information is missing (incomplete). The applicant can resubmit the application to restart the approval process. Once the application is deemed complete by the case planner it will be scheduled for a public hearing.

Public hearings are held the first and third Thursday after the first Tuesday of each month. Applicants are advised to attend the meeting. Copies of the staff report and agenda are mailed to the applicant on the Friday preceding the meeting. Once an application has been determined to be complete, State law requires that a decision be made within either 6 months or 1 year depending on the type of environmental document prepared for the project.

Once an application has been determined to be complete, most discretionary permits take 3-5 months to process. Simple applications are typically processed in a shorter timeframe (i.e., Minor Use Permits are processed in 2-3 months on average), and complicated applications (complex projects) can take much longer (1+ years).

Zoning Variances

A variance is intended to address practical difficulties, unnecessary hardships or results inconsistent with the general purposes of the zoning district, which may occur through the strict application of standard zoning requirements; the variance procedure can lend some flexibility to the usual standards of the zoning ordinance. State law specifies the basic rules under which counties and general law cities may consider variance proposals. Charter cities (like Riverside) are not subject to these procedures unless they have incorporated them into their municipal ordinance. Riverside Municipal Code, Title 19, Chapter 19.720 - Variance, refers to California Government Code Section 65906, which establishes the authority of the City to grant variances to the development standards and provisions of the Zoning Code in cases where, because of special circumstances applicable to the property, the strict application of the Zoning Code deprives such property of privileges enjoyed by other property in the vicinity and under identical land use zones.

A variance does not permit a use that is not otherwise allowed in that zone (for example, a commercial use may not be approved in a residential zone by variance). Economic hardship alone is not sufficient justification for approval of a variance. Typically, variances are considered when the physical characteristics of the property make it difficult to use. For instance, in a situation where the rear half of a lot is a steep slope, a variance might be approved to allow a house to be built closer to the street.

Our review covered planning applications received during the period of July 1, 2011 through June 30, 2012. Based on data from PermitsPlus for the period in review, of the 972 planning cases recorded, 498 cases (51%) were for various Zoning Administration permits. (*Refer to Appendix C for a list of all Planning Case Types.*) Our focus for this review was on these 498 Zoning Administration cases (PL-ZA).

The PermitsPlus system provides various data fields for a case, including the final Status. In our review of the 498 variance cases for fiscal year 2011-2012, 63% or 313 were noted as FIN-APP (Final Approved). Following are the various status noted in the system for the 498 cases:

PP+ STATUS	Number	%
FIN-APP	313	63
SUBMIT	17	3
VOID	36	7
INCOMP	12	2
ZA-APP	67	13
WITHDRAW	10	2
COMPLETE	37	7
DENIED	1	1
B-APP	2	1
FIN-DEN	3	1
PL_ZA	498	100%

We reviewed the various cases with the City Planner/Zoning Administrator, specifically SUBMIT, ZA-APP and COMPLETE cases. He agreed that case planners have not been consistent in maintaining the data fields in the system and that the status of cases lacked integrity as reported in the system. (Refer to Finding #1.)

CONCLUSION

Planning control is a critical process of managing the development of land and buildings; to save what is best of the City’s heritage and improve the infrastructure. The Planning Division and Planning Commission are responsible for deciding whether a development - anything from an extension on a house to a new shopping center - should go ahead.

Customer service is a top priority in the Planning Division. The division understands that customers want accurate, consistent and well-coordinated information at each stage of the discretionary permitting approval process, and in a timely manner. Delivering a high quality, highly consistent and highly coordinated work flow in a “One-Stop” environment requires an ongoing, continual reassessment of formalized procedures, performance monitoring, and performance

indicators/measures that address a set of qualitative factors. During our review and discussions with CDD management, it was evident that the current case management system, Permits Plus, does not meet the critical needs of the case planners, management or the residential and commercial community.

During our review we met with Planning Division management to discuss concerns. A draft audit report was provided to the CDD Director, Deputy Director and the Planning Manager/Zoning Administrator. A meeting to discuss our assessment of the function and content of the draft report was conducted in April 2013. The Department's comments and concerns during this discussion were evaluated prior to finalizing the report. The CDD Director's response is included with the finding/recommendation.

We extend our appreciation to the Community Development Director, Deputy Director, Planning Manager and the personnel who assisted and cooperated with us during the audit.

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Office of the City Manager
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FINDINGS/RECOMMENDATIONS & Management Response

Finding 1: The current system, Permits Plus, is inadequate and does not serve the needs of the community or City management.

Accela's Permits Plus system was implemented by the City many years ago to track ministerial and discretionary permits, code violations and business licenses. Planning, Building & Safety, Code Enforcement, Business Tax and Fire Inspection have used the system for day-to-day activities. The system has been a source of controversy over the years due to the amount of time and resources spent during its development and in subsequent application enhancement decisions. It is not considered "user friendly" and does not have features and capabilities to remedy some of the deficiencies noted during the course of our audit (monitoring compliance to CEQA/PSA, real-time project status, performance metrics, etc.).

Recommendation:

ProjectDox has been approved by the City Council for purchase and implementation. Permits Plus cannot easily and affordably be successfully integrated with ProjectDox. The future replacement for Permit Plus should be web-based and have the functionality to integrate with a range of programs and services utilized by the City, Business Tax, Fire, GIS, etc.

Enhancing Permits Plus versus pursuing the purchase and implementation of a web-based replacement system to interface with ProjectDox is a critical decision that needs decisive action in collaboration with IT, Finance and other City departments that might benefit from a replacement system.

Management's Response

CDD Management has been long aware that Permits Plus is an increasingly ineffective software application for the City's land management business needs -- it is not web-based, does not interface with GIS or other important City systems (Go Enforce, HDL, etc.), is limited in its ability to generate meaningful reports or undertake data analyses, and is complete with costly and difficult maintenance and upkeep. In January 2013, the City Council approved "in concept" the Department's *Business Ready Riverside* strategy which included replacing Permits Plus. Over the past several months, staff has been investigating the options regarding an upgrade from Permits Plus via a competitive proposal process. The costs associated with an upgrade or replacement remains significant. Under direction from the City Manager's Office, CDD staff is researching the feasibility of a technology fee to be associated with each permit to facilitate Permits Plus replacement and improve customer service.

Appendix A

RMC 19.050.030 - Responsibilities of the Planning Commission

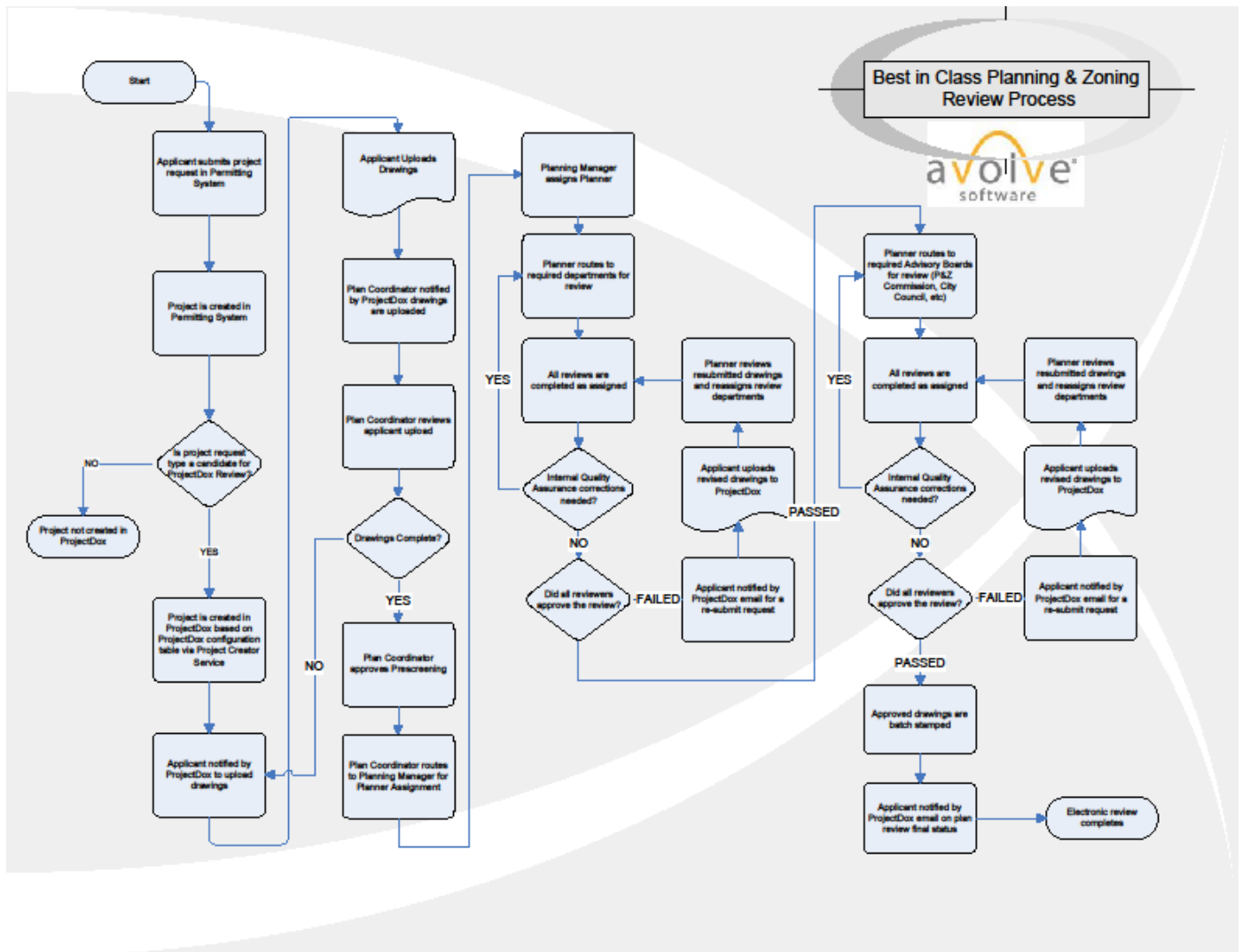
A. The Planning Commission shall have the power and duties assigned to it pursuant to [Article VIII, Section 806](#) of the City Charter and [Title 2, Chapter 2.40](#) of the Municipal Code.

B. The Planning Commission shall have the further responsibilities:

1. Hear and act on referrals by the Planning Director and Zoning Administrator.
2. Hear and act upon applications as indicated in Section 19.650.020 of this Title and Section 18.140.040 of the Subdivision Code (Approving and Appeal Authority Tables).
3. Hear and make recommendations to the City Council on applications or proposals for amendments to the Zoning Code.
4. As appropriate, initiate studies of amendments to the Zoning Code and General Plan, and make recommendations to the City Council for amendments to the Zoning Code and General Plan.
5. Review the capital improvement program of the City and the local public works projects of other local agencies within the corporate boundaries of Riverside for their consistency with the City's General Plan, pursuant to [Government Code Sections 65401 et. seq.](#)
6. Exercise such other powers and duties as are prescribed by State law, local ordinance, or as directed by the City Council.
7. Review and approve environmental documents prepared pursuant to the California Environmental Quality Act (CEQA) pursuant to the City Council adopted CEQA Resolution and any amendments thereto.
8. Hear and act on Design Review matters pursuant to Chapter 19.710 (Design Review) of this Title. (Ord. 6966 §1, 2007)

Appendix B

ProjectDox Overview



Appendix C

Planning Case Types

PL_ANX - CPC Annexation

ANX - Annexation

PL_CHB - Cultural Heritage Board

ADMIN - Admin Cert. of Appropriateness

BOARD - Board Cert. of Appropriateness

OTHER - Other Designation/Survey

PL_CPC - Planning Commission

AMD - Zoning Code Amendment

CU - Conditional Use

EIR - Environmental Impact Report

GP - General Plan Amendment

IS - Initial Study - DO NOT USE

NC - Street Name Change

PD - Planned Development

PPE - Site Plan Review

RZ - Rezoning

SP - Specific Plan

TM - Tentative Tract Map

VC - Street/Alley Vacation

VC-S - Summary Vacation

VR - VR - DO NOT USE!

PL_DR - Design Review

A-L - Administrative Landscaping

A-O - Admin Other

A-RF - Admin Reverse Frontage

A-SF - Admin Single Fam Dwlg

A-SN - Admin Sign

B-L - Brd Landscape-STOP 9/13/04

B-PPE - Board Plot Plan/Elevations

PL_PSP - Special Projects

GP - General Plan

HP - Historic Preservation

SP - Special Project

PL_TENT - Tentative Map

PM - Tentative Parcel Map

TE - Time Extension

TM - Tentative Tract Map

PL_TUP - Temporary Use Permit

CR - Circus with Tent

CW - Noncommercial carwash

FR - Fair/Festival/Exhibit/Concert

MC - Commercial Mobile Clinic

NC - Noncommercial Tent Meeting

OS - Outdoor Sales Events

OTHER - Other

PT - Christmas Tree/Pumpkin Sale

PL_ZA - Zoning Administration

CO - Certificate of Compliance

CU-MIN - Conditional Use Minor

DC - Day Care

DR-CMP - Comprehensive Design Review

DR-MIN - Minor Design Review

IS - Initial Study

L-CMP - Landscape Comprehensive

LL - Lot Line

L-MIN - Landscape Minor

NS - Nonconforming Status

PCRN - Public Convenience

PM - Parcel Map

PP-MIN - Plot Plan Review Minor

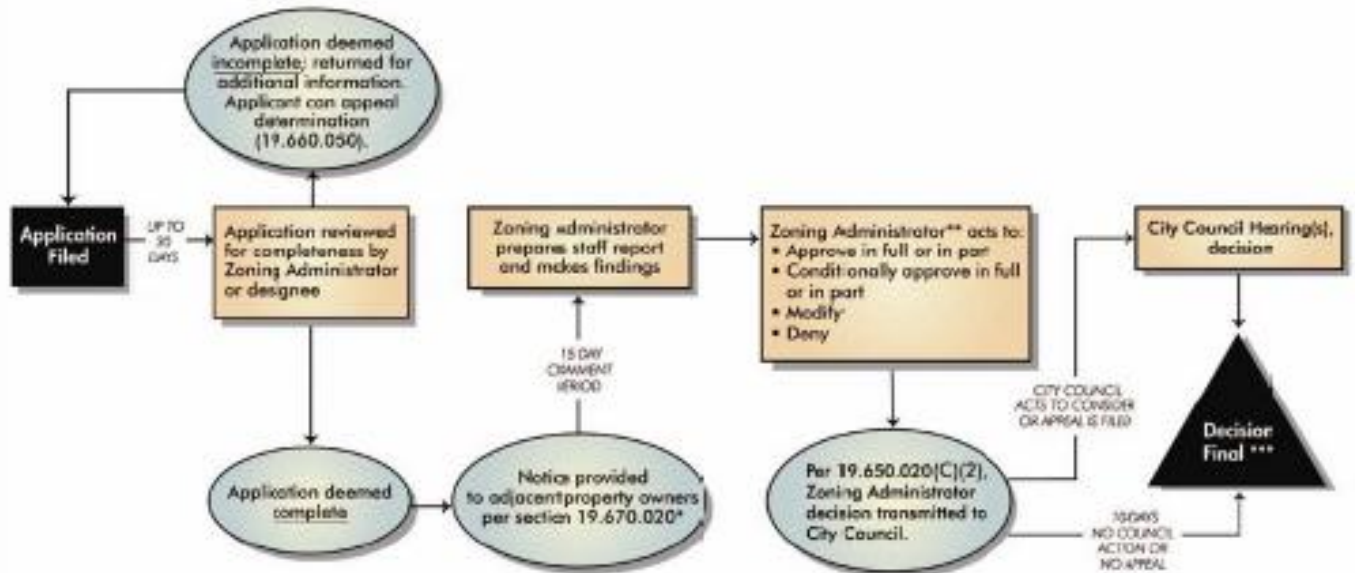
TE - Time Extension

VR-CIM - Variance C/I/M

VR-MIN - Minor Variance Review

Appendix D

Discretionary Permit Process – No Public Hearing Required



* Noticing requirements for specific uses may be different. See Article VII, Specific Land Use Provisions.

** Controversial issues may be referred to the City Planning Commission, who acts in the capacity of the Zoning Administrator.

*** Grantee shall have one year from the effective date of decision, or other such period as may be specified in the conditions of approval, to establish the right to use the Minor Condition Use Permit (exercise permit per 19.690.060).

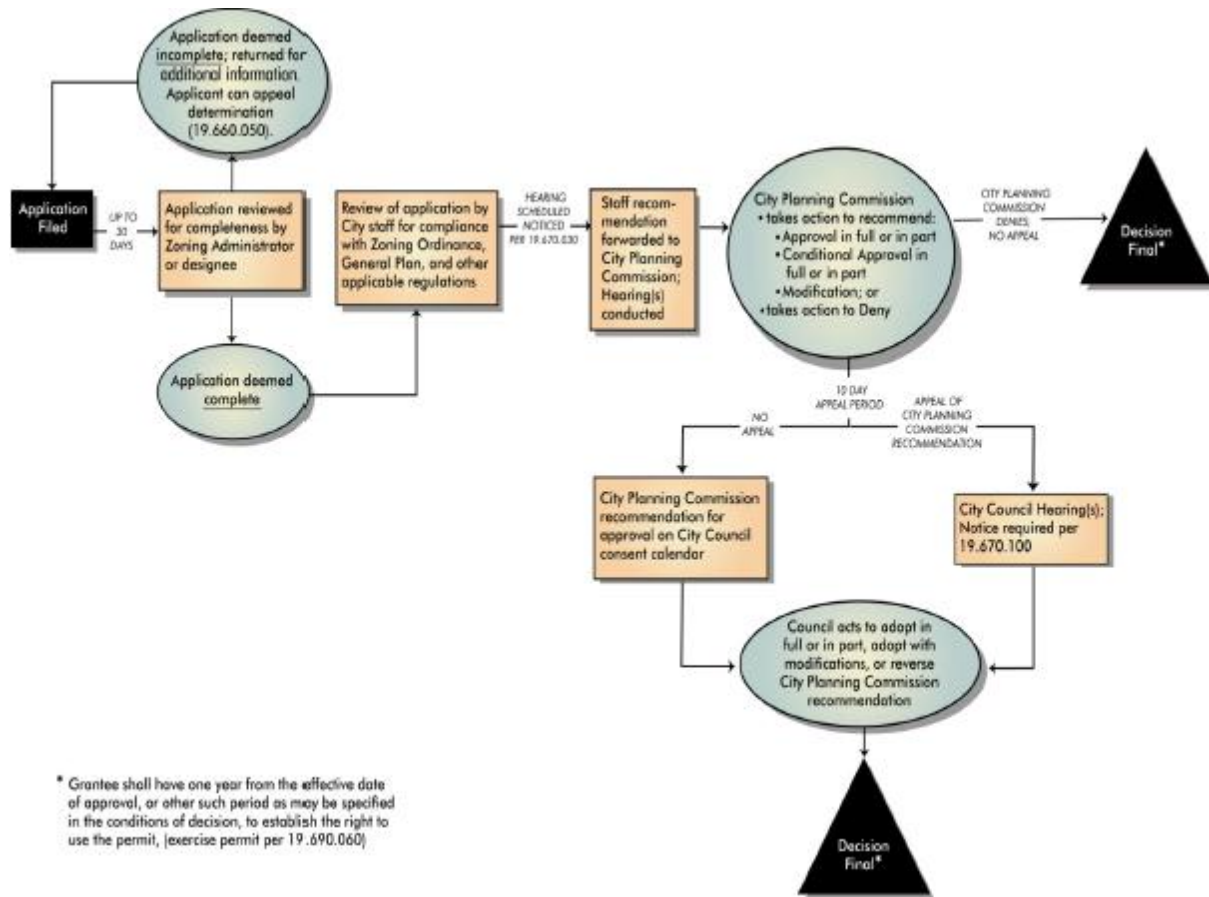
The following permits and actions do not require a Public Hearing. The application and review process is standard for:

- Design Review
- Minor Conditional Use Permit
- Temporary Use Permit
- Nonconforming Provisions
- Effective Dates, Time Limits and Extensions
- Variance
- Day Care Permit - Large Family
- Recycling Center Permit

Source: RMC Title 19

Appendix E

Discretionary Permit Process – Public Hearing Required



The following permits and actions require a Public Hearing. The application and review process is standard for:

- Conditional Use Permit
- Planned Residential Development Permit
- Condominium Conversion Permits
- Site Plan Review Permit
- Modification and Revocation of Permits/Variations and Other Approvals
- Airport Land Use Commission Appeals
- Street, Alley and Walkway Vacations
- Traffic Pattern Modification Measures

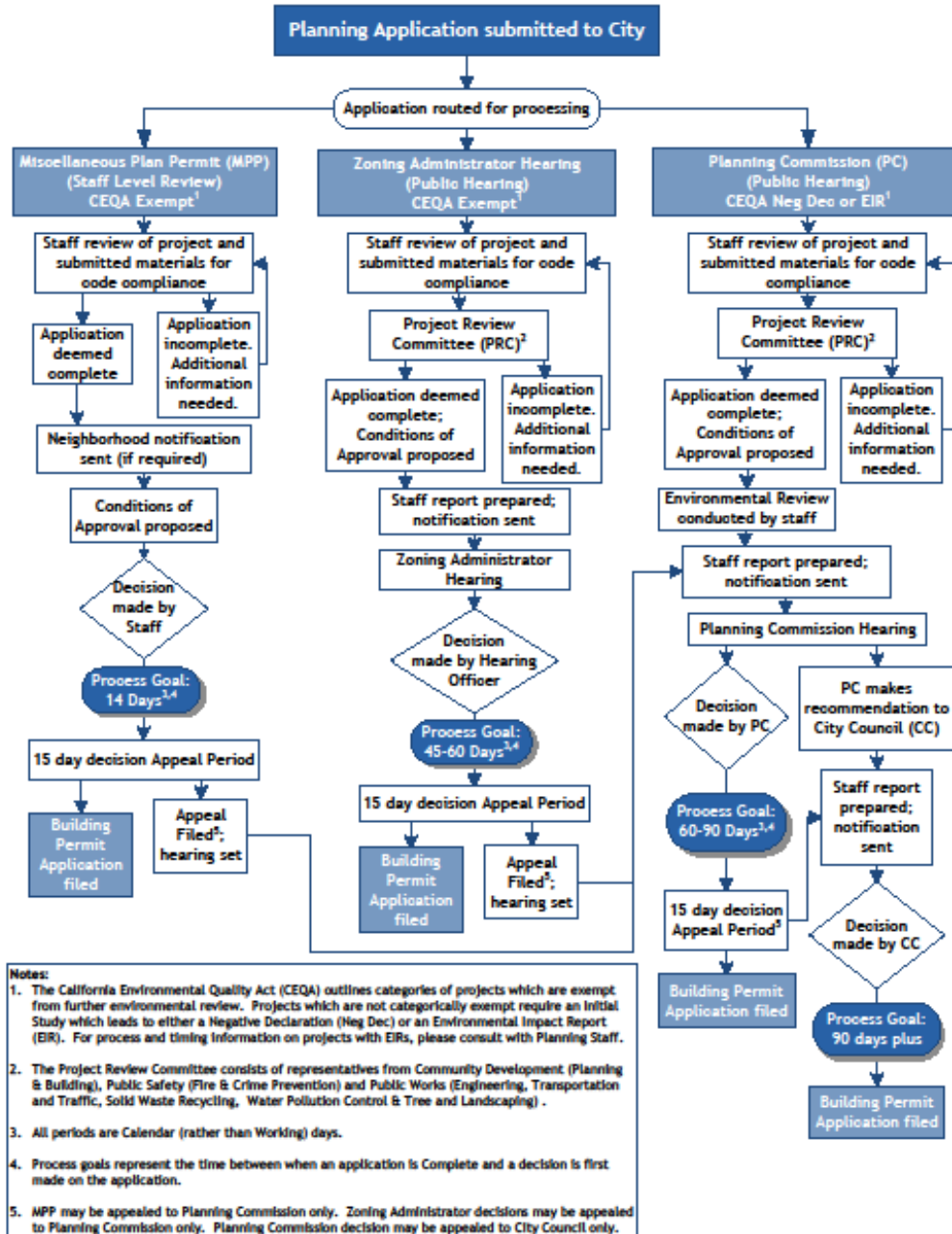
Source: RMC Title 19

Appendix F – Best Practice



PLANNING APPLICATION TYPES

The following diagram illustrates the three main types of Planning Applications that are processed by the Planning Division.



One-Stop Permit Center - City Hall - 456 W. Olive Avenue - (408) 730-7444
 Planners and Building Division staff are available 8:00 a.m. to 5:00 p.m.
www.SunnyvalePlanning.com / www.SunnyvaleBuilding.com