



## Planning Commission Staff Report

April 27, 2016  
Item 6.b.

- SUBJECT:** Policy for Legislative Changes (P16-0828)
- APPLICANT:** City of Pleasanton
- PROPERTY OWNER:** City-wide
- PURPOSE:** Proposal of a policy that establishes a new project review procedure to consider the merits of legislative change applications for residential or mixed-use projects that have a residential component
- GENERAL PLAN:** Various
- ZONING:** Various
- LOCATION:** City-wide
- EXHIBITS:** A. [Draft Resolution Identifying Policy Regarding Legislative Changes for Residential or Mixed-use Projects That Have a Residential Component](#)

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### BACKGROUND

Staff currently reviews requests for General Plan Amendments, Specific Plan Amendments, Planned Unit Developments (PUDs) and other property rezoning (i.e., legislative changes<sup>1</sup>) in conjunction with individual development proposals as they are received. The current process for reviewing and processing these legislative changes is not ideal for applicants, staff or for other members of the community. The City and community have invested a great deal of time and energy developing policies and regulations to guide development in the community. A piecemeal approach to changing these policies and regulations undermines the long-range planning vision for the community, and creates uncertainty for applicants who request legislative changes to undertake their development projects, and residents who live around these development sites. This report outlines staff's recommended approach to more deliberately and comprehensively manage requests to change the City's adopted policies and regulations (legislative changes) for residential and mixed-use development (with a residential component) that fall outside the normal General Plan Housing Element update process.

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<sup>1</sup> Legislative changes are general policy decisions, such as changes to the General Plan and Zoning Ordinance, that are typically adopted via ordinance. Under State law, any legislative act is subject to initiative and referendum.

The existing process allows for a case-by-case evaluation of relevant planning, development, and policy issues. However, this approach does not allow staff, the Planning Commission and the City Council to consider the applications in the context of other requests, the City's growth management objectives, and other policy considerations. In addition, the current process does not provide applicants requesting legislative actions with early feedback on their projects, resulting in uncertainty. The proposed policy establishes criteria and procedures for General Plan Amendments, Specific Plan Amendments, and rezoning applications, including changes to zoning district boundaries, downzoning and upzoning, and PUD Major Modifications.

Staff recommends reevaluating this policy after a period of two years, with the provision that upon a favorable review at that time, the City Council could direct staff to amend the Pleasanton Municipal Code to codify the details and intent of this policy.

## **PROJECT DESCRIPTION AND DISCUSSION**

The proposed recommendation by staff would entail a joint meeting of the Planning Commission and City Council once per year to review all privately-sponsored requests for legislative changes for residential or mixed-use development that have a residential component (legislative changes initiated by the City are exempted). Staff is proposing to name this policy, "Residential Policy Check."

### Policy Direction, Public Involvement & Clarity

Currently, staff reviews all development applications (legislative and administrative) as they are submitted. The frequency, complexity, and scope of such requests are dependent on a variety of parameters, including economic conditions, market demand, availability of land, and City policies and regulations. When the development proposal requires a legislative change, like a General Plan Amendment, Specific Plan Amendment, rezoning, new PUD, or PUD Major Modification, staff reviews the legislative change together with the development proposal, prior to review by the Planning Commission and City Council. Thus applications for legislative changes are routinely processed by staff without the benefit of policy direction by the Planning Commission and City Council early-on in the process.

The current process occasionally results in applications for legislative actions advancing to the Planning Commission and City Council without the benefit of a broad policy discussion in a public forum. This can result in wasted effort on the part of staff and/or applicants, since the application may be undesirable and unlikely to be approved. One of the primary benefits of the proposed policy would be to provide applicants with early feedback on their request for legislative action prior to investment of substantial resources, potentially helping them shape and improve their project if it is given authorization to move forward.

Since the General Plan (including the Housing Element), and zoning map already thoughtfully plan for residential development, this process would also allow City Council, on an annual basis, to comprehensively review proposed changes in order to evaluate the merits of a proposed residential or mixed-use development that was not originally anticipated and planned for in the manner being proposed. Staff proposes that only residential and mixed-use projects containing a residential component (and not commercial, institutional, or industrial projects) be subject to this process in recognition of the many suitable locations in the City where housing

projects are currently permitted without necessitating legislative changes, and the community's heightened interest in residential development.

How would it work?

The proposed policy establishes an evaluation process, and is not an approval or a "project" for California Environmental Quality Act (CEQA) purposes.

To make the request, staff envisions the applicant providing basic information regarding their proposal, including (at a minimum):

- A written narrative outlining their request (including any community amenities proposed) and its relationship to existing policies and regulations;
- A simple drawing identifying the proposed site and surrounding properties; and
- A "deposit" in an amount equivalent to the legislative change(s) proposed (i.e., a request for a General Plan Amendment would require a deposit of \$14,870, a Specific Plan Amendment would require a deposit of \$2,000). The "deposit" would be taken in as a fee and is required so that project proponents submit carefully considered and serious requests only, but would be refunded to the applicant if the request were not authorized to proceed by Planning Commission and City Council.

Applicant-provided information about each project would be distilled by staff and presented to the Planning Commission and City Council in the form of a staff report.

Legislative changes are not governed by the Permit Streamlining Act, so the City has significant leeway in how it chooses to move forward with consideration of legislative requests. The criteria the City Council and Planning Commission could use to evaluate whether or not a General Plan Amendment, Specific Plan Amendment, rezoning, new PUD, or PUD Major Modification request is appropriate include:

1. Whether the request would be generally consistent with the broader goals and policies of the General Plan and other applicable policies, including those pertaining to growth and quality of life;
2. Whether or not the request should be combined with other requests or should be deferred;
3. Whether or not a similar request has been considered for the same or similar properties within the past three (3) years;
4. The impact the subject request has on staff's ability to complete other projects, including those on the Council's work plan;
5. Whether there are sufficient amenities and/or community benefits proposed to justify the request; and
6. The potential fiscal impact of the proposed amendment relative to the existing policy and/or regulatory framework in place.

The criteria provide opportunity for the City Council and Planning Commission to evaluate the request's conformance to the General Plan, whether the request can and should be combined with other requests or deferred, the merits of the request compared to other similar requests the City has received in the recent past, and the potential fiscal impact of the subject request.

For example, the City Council and Planning Commission may want to evaluate the fiscal impact of a proposal to rezone a commercial property to residential uses as it relates to loss of sales revenue versus the change in property tax revenue versus the increased demand of City services such a proposal would entail. In addition to weighing the merits of the proposed amendment, the City Council and Planning Commission would have the ability to evaluate the value of the proposed request with other priorities that require staff resources.

Based on past experience, staff does not anticipate that a large number of development applications would be subject to this new process. In 2012, the Housing Element was comprehensively updated and resulted in the rezoning of nine sites to comply with the City's Regional Housing Needs Assessment (RHNA) requirement for the 2007-2014 planning period. Excluding rezoning of these nine sites, three applications in 2012, two applications in 2013, two applications in 2014, and eight applications submitted in 2015 involved residential or mixed-use projects necessitating legislative changes that would have been subject to the proposed policy.

Formal application requests that have already been submitted for legislative changes that would be subject to this policy are exempt if the application has been deemed complete by the date the City Council adopts this policy. For example, a request for a General Plan Amendment submitted February 1, 2016 and deemed complete February 29, 2016 would not be subject to this policy since City Council adoption would occur after the application's deemed complete date of February 29. However, a request for a General Plan Amendment submitted February 1, 2016, but not yet deemed complete at the time of City Council adoption of this policy would be subject to this policy (exceptions may be provided on a limited basis by the City Manager).

Staff recommends that this policy review by Planning Commission and City Council take place in April of each year (with the first joint meeting occurring in April of 2017). This provides an opportunity to incorporate any modifications to the budget as a result of the directive provided by Planning Commission and City Council in time for either the bi-annual budget adoption or mid-term budget review that occurs in June of each year.

## **PUBLIC COMMENT**

Notice of this public hearing was published in *The Valley Times*. Staff has not received any comments as of the publication of this report, and will forward to the Commission any public comments received after publication of this report.

## **ENVIRONMENTAL ASSESSMENT**

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, as it has been determined that the proposed policy will not cause a significant negative effect on the environment, and will in fact provide defined criteria for amendments to the General Plan and preserve its overall objectives.

## **CONCLUSION**

The Pleasanton Municipal Code does not currently outline procedures or findings for General Plan or Specific Plan Amendments, or provide a framework for evaluating the merits of rezoning proposals when proposed in conjunction with residential or mixed-use development.

The proposed policy establishes both a procedure and findings for such amendment requests, and also establishes an annual joint meeting between Planning Commission and City Council to provide policy direction for these amendment requests that are initiated by property owners or their authorized representatives to ensure that development applications are consistent with longer-term City priorities. If the policy results in a favorable process, the Planning Commission and City Council can direct staff to implement the policy as a code amendment.

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission take the following actions:

1. Find that the proposed policy statutorily exempt from CEQA;
2. Adopt a resolution recommending approval of the subject policy (Exhibit A), and forward the proposal to the City Council for consideration.

#### **Primary Author:**

Shweta Bonn, Senior Planner, (925) 931-5611 or [sbonn@cityofpleasantonca.gov](mailto:sbonn@cityofpleasantonca.gov)

#### **Reviewed/Approved By:**

Adam Weinstein, Planning Manager  
Gerry Beaudin, Community Development Director