

CITY OF LOS ALAMITOS
Via videoconference
Participation via Phone: (301) 715-8592
Meeting ID: 885 4708 9678

PLANNING COMMISSION AGENDA
SPECIAL MEETING

Wednesday, May 25, 2022 – 6:00 PM

SAFETY ALERT – NOTICE REGARDING COVID-19

If you wish to attend the Planning Commission meeting in person, the Council Chamber located at 3191 Katella Ave., Los Alamitos, California 90720, will have seating for this meeting and the public shall have the right to observe and offer public comment at this location. The City of Los Alamitos continues to follow the Centers for Disease Control and Prevention (CDC) guidelines and these provisions are subject change with short notice.

While you may attend this meeting in person, given the health risks associated with COVID-19, please be advised that you may submit comments on any agenda item or on any item not on the agenda by email to planningcommission@cityoflosalamitos.org with the subject line “PUBLIC COMMENT”. Comments **received by 4:00 p.m.** will be compiled, provided to the Planning Commission, and made available to the public before the start of the meeting. Staff will not read email comments at the meeting but the official record will include all email comments received until the close of the meeting.

Please consider carefully before attending this meeting in person and do not attend this meeting in person if you have had direct contact with someone who has tested positive for Coronavirus (COVID-19), or you are experiencing symptoms such as coughing, sneezing, fever, difficulty breathing or other flu-like symptoms.

NOTICE TO THE PUBLIC

This Agenda contains a brief general description of each item to be considered. Except as provided by law, action or discussion shall not be taken on any item not appearing on the agenda. Supporting documents, including staff reports, are available for on the City’s website at www.cityoflosalamitos.org once the agenda has been publicly posted.

Any written materials relating to an item on this agenda submitted after distribution of the agenda packet are available for public inspection on the City’s website at www.cityoflosalamitos.org.

It is the intention of the City of Los Alamitos to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee, or a participant at this meeting, you will need special assistance beyond what is normally provided, please contact the Development Services Department at (562) 431-3538, extension 303, 48 hours prior to the meeting so that reasonable arrangements may be made.

1. CALL TO ORDER

2. ROLL CALL

Chair DeBolt
Vice Chair Loe
Commissioner Andrade
Commissioner Cuiilty
Commissioner Grose
Commissioner Sofelkanik
Commissioner Zellmer

3. PLEDGE OF ALLEGIANCE

4. ORAL COMMUNICATIONS

At this time, any individual in the audience may address the Planning Commission and speak on any item within the subject matter jurisdiction of the Commission. Please state if you wish to speak on an item on the Agenda. **Remarks are to be limited to not more than five minutes.**

5. CONSENT CALENDAR

All Consent Calendar items may be acted upon by one motion unless a Planning Commissioner requests separate action on a specific item.

A. Approve the Minutes for the Regular Meeting of March 23, 2022, Special Meeting of April 20, 2022, and Regular Meeting of April 27, 2022

(Development Services)

B. Findings Required by AB 361 for the Continued Use of Teleconferencing for Meetings

For the Planning Commission to continue to have the option to meet via teleconference during the pandemic, AB 361 requires the Planning Commission to make specific findings at least every thirty (30) days.

Recommendation:

Make the following findings by a majority vote of the Planning Commission:

1. A state of emergency has been proclaimed by California's Governor due to the COVID-19 pandemic, and continues to be in effect;
2. The Planning Commission has reconsidered the circumstances of the state of emergency; and
3. State and local officials continue to recommend measures to promote social distancing to slow the spread of COVID-19.

ROLL CALL

Chair DeBolt
Vice Chair Loe
Commissioner Andrade
Commissioner Culty
Commissioner Grose
Commissioner Sofelkanik
Commissioner Zellmer

6. ITEMS FROM THE DEVELOPMENT SERVICES DIRECTOR

7. COMMISSIONER REPORTS

8. ADJOURNMENT

APPEAL PROCEDURES

Any final determination by the Planning Commission may be appealed to the City Council, and must be done so in writing at the Development Services Department, within ten (10) business days after the Planning Commission decision. The appeal must include a statement specifically identifying the portion(s) of the decision with which the appellant disagrees and the basis in each case for the disagreement, accompanied by an appeal fee of \$1,048.00 (resident)/ \$2,349.00 (non-resident) in accordance with Los Alamitos Municipal Code Section 17.60 and Fee Resolution No. 2021-06.

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted at the Los Alamitos City Hall, 3191 Katella Ave. and online at www.cityoflosalamitos.org not less than 24 hours prior to the meeting.



Maria Veronica Enciso
Department Secretary
Dated this day of 05/23/2022

**MINUTES OF PLANNING COMMISSION/SUBDIVISION COMMITTEE MEETING
OF THE CITY OF LOS ALAMITOS**

REGULAR MEETING – March 23, 2022

1. CALL TO ORDER

The Planning Commission/Subdivision Committee met in Regular Session at 7:00 p.m., Wednesday, March 23, 2022, in the Council Chamber, 3191 Katella Avenue, Los Alamitos, CA, Chair DeBolt presiding.

2. ROLL CALL

Present: Commissioners: Chair DeBolt
Vice Chair Loe
Andrade (7:02pm), Cuiilty, Grose, Sofelkanik,
and Zellmer

Staff: Ron Noda, Development Services Director
Irving Montenegro Jr., Development Services
Manager
Michael Daudt, City Attorney
Tom Oliver, Associate Planner
Maria Veronica Enciso, Department Secretary

3. PLEDGE OF ALLEGIANCE

Chair DeBolt led the Pledge of Allegiance.

4. ORAL COMMUNICATIONS

Chair DeBolt opened oral communications.

Chair DeBolt closed oral communications.

5. APPROVAL OF MINUTES

None.

6. CONSENT CALENDAR

None.

7. PUBLIC HEARING

**A. Conditional Use Permit (CUP) 22-01
Health/Fitness Facilities – Large in the Town Center Mixed Use Zone**

Development Services Director Noda introduced the staff report.

Associate Planner Oliver summarized the staff report.

Vice Chair Loe and Associate Planner Oliver discussed the parking spaces in the lot.

Commissioner Cuiilty asked if landlord is planning to make improvements on the outside of the building, Associate Planner Oliver shared there currently is not.

Commissioner Zellmer asked about the dry cleaner business that was the previous tenant and if there was any remediation needed. Associate Planner Oliver shared that he was not sure and that they are not required to do an environmental check as part of the CUP process.

Chair DeBolt opened the public hearing.

Applicant Gerald Wetzel shared his experience of his gym in Long Beach and Bellflower.

Vice Chair Loe and applicant Wetzel discussed the classes he teaches.

Chair DeBolt closed the public hearing

Commissioner Grose asked about the address being two separate ones and if it'll be one address, Associate Planner Oliver confirmed that it will be one address for the two units. Commissioner Grose then shared the concern about the CUP travelling and it being a problem in the future, Associate Planner Oliver shared that it will fall under both units.

Chair DeBolt asked about the CUP and in the future should another business enter, would the new business need to be a health fitness. City Attorney Daudt shared that it is not in the conditions and it can be added.

Commissioner Andrade discussed other businesses that can go into the space should this business leave.

City Attorney Daudt further clarified the conditions for this item.

Motion/Second: Grose/Cuiilty

Carried 7/0: Adopt Resolution No. 2022-02, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT (CUP) 22-01 TO ALLOW A HEALTH/FITNESS FACILITY – LARGE AT A 3,000 SQUARE FOOT UNIT IN THE TOWN CENTER MIXED USE (TCMU) ZONE AT 10958 LOS ALAMITOS BLVD., APN 242-171-02 (APPLICANT: GERALD WETZEL)."

B. Zoning Ordinance Amendment (ZOA 22-01) Permitting the Keeping of Female Chickens (Hens) in Residential Zones

Development Services Director Noda summarized the staff report.

Commissioner Sofelkanik commented on the item discussed at a previous Planning Commission meeting (February 23, 2022). He specified wanting to discuss the issue of density and nuisance in regard to the item and shared that he does not agree with the decision to have live fowls allowed in the City.

Commissioner Andrade commented on how at the previous Planning Commission meeting, the commission discussed the items of concern that Commissioner Sofelkanik expressed.

Vice Chair Loe shared what was discussed at the previous meeting.

Chair DeBolt opened the public hearing.

Resident, Marlene Wagner, shared that they currently have chickens and how they care for them.

Commissioner Zellmer asked Marlene Wagner if she knew what the complaint was and then asked if anyone else knew the actual complaint of the chickens.

Resident, Marlene Wagner shared that she did not know and that they only received the notice.

Development Services Director Noda commented that the Code Enforcement Division received a complaint, and he assumes it may be the keeping of live fowl.

Commissioner Loe made a statement saying no gophers.

Chair DeBolt discussed that this item would be a citywide ordinance and will vote no on this because the city is not a rural area. He then commented that should this pass, 20 feet is adequate, and that the setback be at least 5 to 10 feet.

Commissioner Cuiilty asked staff if the item does get approved, could Code Enforcement still cite if needed. City Attorney Daudt confirmed that the resident would need be required to adhere to the City's provisions.

Commissioner Andrade shared an analogy in comparison of a resident owning a dog and how there's a ton of benefits [to having live fowl] and he does not see any negative with the way it is written in the code.

Commissioner Zellmer asked Chair DeBolt about his thought process of this not being a good fit. Chair DeBolt shared that he looked at it in a broad base.

Commissioner Zellmer shared that the scope would be small due to space of house lots.

Commissioner Grose shared that residents would have problems no matter what occurs and she does not think that worrying about chickens would be a driving force for having other issues. She does think that chickens are a part of looking into the future of being more organic and better with trash.

Commissioner Loe commented that coyotes are not the animals to be worried about but hawks.

Development Services Director Noda added for the Planning Commission to add to the motion that the Commissioners were suggesting.

Motion/Second: Grose/Andrade

Carried 5/2: Adopt Resolution No. 2022-03, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT ORDINANCE 2022-01 AMENDING SECTIONS 17.08.020, 6.20.010, AND 8.32.020.24 OF THE LOS ALAMITOS MUNICIPAL CODE AND ADDING NEW SECTION 6.20.180 TO THE LOS ALAMITOS MUNICIPAL CODE CONCERNING THE KEEPING OF FEMALE CHICKENS (HENS) IN RESIDENTIAL ZONES (ZOA 22-01) (CITY INITIATED)."

8. DISCUSSION

A. Public Discussion of the Housing Element (GPA 21-01)

Associate Planner Oliver quickly reminded commissioners that today's meeting is an open house for the housing element. He then added that the commission will be able to vote on this later.

Development Services Director Noda quickly updated Commissioner Zellmer of where the City currently is in the process in regards to the Housing Element.

Chair DeBolt opened the public hearing.

The following public comments are in regard to the Lampson site at 4665 Lampson Avenue:

- A PowerPoint was done by the owner (George Voigt) of the Lampson site at 4665 Lampson Avenue of plans for the location.
- PowerPoint presentation continued by Les Johnson, consultant for the Lampson site, discussed the development being proposed at the Lampson site.
- Todd Coddle, from CNC Development, works in conjunction with the Lampson project requested to reduce the density.

- Tony Close, resident and business owner in the City, shared in agreeance to a lower density.
- Scott Fiat shared the appreciation of the owners and contractors of reducing the density of the area. He mentioned he couldn't find the link for an overlay [of the City] online. Agreed with the owners of a lower density.
- Tom Lent, CEO of Southland Credit Union, lives in College Park East, and is in favor of the lower density plans.
- Randy Hill, resident of Los Alamitos (Highlands), thanked the Planning Commission of what they do and shared that he believes the Planning Commission have the City's best interest. He shared his concern of getting along with the neighboring city of Seal Beach. He believed it would be a win-win of all involved to have a lower density.

Chair DeBolt requested to have a motion to agendize the review of the density standards and recommended proposal for the R4 Zones and how it relates to the housing element and state mandate requirements to fully discuss the item.

City Attorney Daudt shared that the item tonight is for the general public to comment on the item and that there will be other opportunities to discuss this item.

Motion/Second: DeBolt/Loe

Carried 7/0: Agendize, possibly at the next meeting, a review and discussion on the proposed density range minimums in the R4 Zones.

Commissioner Sofelkanik added to have a representative from Terranova at the upcoming Planning meeting for this discussion.

Commissioner Zellmer asked and received clarification from Development Services Director Noda the location of the Town Center.

9. STAFF REPORT

A. Findings Required by AB 361 for the Continued Use of Teleconferencing for Meetings

City Attorney Daudt summarized the staff report.

Motion/Second: DeBolt/Cuilty

Carried 7/0: Make the following findings by a majority vote of the Planning Commission:

1. A state of emergency has been proclaimed by California's Governor due to the COVID-19 pandemic, and continues to be in effect;

2. The Planning Commission has reconsidered the circumstances of the state of emergency; and
3. State and local officials continue to recommend measures to promote social distancing to slow the spread of COVID-19.

10. ITEMS FROM THE DEVELOPMENT SERVICES DIRECTOR

Associate Planner Oliver shared that the Chevron project is not a service station, but just a shop [minimart].

Development Services Director Noda called upon Development Services Manager Montenegro to discuss the Parklet Series.

Development Services Manager Montenegro shared the Parklet Series event.

11. COMMISSIONER REPORTS

Commissioner Grose mentioned a comment made by Mr. Hill about neighborhood names. Development Services Director Noda shared that it is in the General Plan. She shared the City's Spring Carnival event that is to take place on April 17th at Little Cottonwood Park.

12. ADJOURNMENT

The Planning Commission adjourned the meeting at 8:18 p.m.

ATTEST:

Art DeBolt, Chair

Ron Noda, Secretary

**MINUTES OF PLANNING COMMISSION/SUBDIVISION COMMITTEE MEETING
OF THE CITY OF LOS ALAMITOS**

SPECIAL MEETING – April 20, 2022

1. CALL TO ORDER

The Planning Commission/Subdivision Committee met in Special Session at 6:00 p.m., Wednesday, April 20, 2022 in a video conference, Chair DeBolt presiding. As a result of the State of Emergency in California due to the threat of COVID-19 and pursuant to Governor Newsom Executive Order N-25-20 issued on March 12, 2020, all members of the Planning Commission attended telephonically.

2. ROLL CALL

Present: Commissioners: Chair DeBolt
Vice Chair Loe
Andrade, CUILTY, Sofelkanik, and Zellmer

Absent: Grose

Staff: Irving Montenegro Jr., Development Services
Manager
Michael Daudt, City Attorney
Maria Veronica Enciso, Department Secretary

3. PLEDGE OF ALLEGIANCE

Chair DeBolt led the Pledge of Allegiance.

4. ORAL COMMUNICATIONS

Chair DeBotl asked if there were any public comments.

Department Secretary Enciso shared that there were no public comments received by the 4:00 p.m. cutoff time.

5. APPROVAL OF MINUTES

None.

6. CONSENT CALENDAR

None.

7. PUBLIC HEARING

None.

8. DISCUSSION

None.

9. STAFF REPORT
A. Findings Required by AB 361 for the Continued Use of Teleconferencing for Meetings

City Attorney Daudt summarized the staff report.

Commissioner Sofelkanik asked about the 30-day deadline and received clarification from City Attorney Daudt.

Chair DeBolt shared about having either Zoom meetings and in person depending on what is on the agenda.

Motion/Second: Cuiilty/DeBolt

Carried 6/0 (Grose absent): Make the following findings by a majority vote of the Planning Commission:

1. A state of emergency has been proclaimed by California's Governor due to the COVID-19 pandemic, and continues to be in effect;
2. The Planning Commission has reconsidered the circumstances of the state of emergency; and
3. State and local officials continue to recommend measures to promote social distancing to slow the spread of COVID-19.

ROLL CALL

Chair DeBolt	Aye
Vice Chair Loe	Aye
Commissioner Andrade	Aye
Commissioner Cuiilty	Aye
Commissioner Grose	(absent)
Commissioner Sofelkanik	Aye
Commissioner Zellmer	Aye

10. ITEMS FROM THE DEVELOPMENT SERVICES DIRECTOR

None.

11. COMMISSIONER REPORTS

None.

12. ADJOURNMENT

The Planning Commission adjourned the meeting at 6:04 p.m.

ATTEST:

Art DeBolt, Chair

Irving Montenegro Jr., Development Services Manager

**MINUTES OF PLANNING COMMISSION/SUBDIVISION COMMITTEE MEETING
OF THE CITY OF LOS ALAMITOS**

REGULAR MEETING – April 27, 2022

1. CALL TO ORDER

The Planning Commission/Subdivision Committee met in Regular Session at 7:02 p.m., Wednesday, April 27, 2022, in the Council Chamber, 3191 Katella Avenue, Los Alamitos, CA, Chair DeBolt presiding.

2. ROLL CALL

Present: Commissioners: Chair DeBolt
Vice Chair Loe
Grose and Zellmer

Absent: Andrade (excused), Cuiilty (excused), and Sofelkanik (excused)

Staff: Ron Noda, Development Services Director
Irving Montenegro Jr., Development Services Manager
Michael Daudt, City Attorney
Tom Oliver, Associate Planner
Maria Veronica Enciso, Department Secretary
Nicole Criste, Terra Nova Consultant

3. PLEDGE OF ALLEGIANCE

Chair DeBolt led the Pledge of Allegiance.

4. ORAL COMMUNICATIONS

Chair DeBolt opened the meeting for Oral Communications for items not on the agenda.

There being no speakers, Chair DeBolt closed the Oral Communications.

5. APPROVAL OF MINUTES

A. Approve the Minutes for the Regular Meeting of February 23, 2022

Motion/Second: Grose/Loe

Carried 4/0 (Andrade, Cuiilty, and Sofelkanik absent): The Planning Commission approved the minutes of the Regular Meeting of February 23, 2022.

6. CONSENT CALENDAR

None.

7. DISCUSSION

A. Discussion Concerning Densities in City Zones

Development Services Director Noda introduced the discussion.

Chair DeBolt asked and received clarification that he did not need to open the discussion to the public.

8. PUBLIC HEARING

A. Consideration of a resolution of recommendation to the City Council for adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA) and approval of a Draft Comprehensive Update of the City's Housing Element for the Reporting Period of 2021-2029 (GPA 21-01).

Director Services Director Noda summarized the staff report.

Associate Planner Oliver shared additional information from the staff report.

Chair DeBolt opened the public hearing.

Les Johnson shared that they look forward to their project (at the Lampson site) to go forward to the Planning Commission.

Chair DeBolt closed the public hearing.

Motion/Second: Grose/Zellmer

4/0 (Andrade, Cuiilty, and Sofelkanik absent): Adopt Resolution No. 2022-04, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A NEGATIVE DECLARATION, AND APPROVE GENERAL PLAN AMENDMENT 21-01, UPDATING THE LOS ALAMITOS HOUSING ELEMENT (2021-2029)."

**B. Conditional Use Permit (CUP) 18-09M
Commercial Recreation Establishment Expansion
4298 Katella Avenue**

Associate Planner Oliver summarized the staff report.

Chair DeBolt asked if the City received any complaints like noise at the location, Associate Planner Oliver confirmed there were not any.

Chair DeBolt opened the public hearing.

Andrew Brown, owner of the business, shared information about the business and how proud they are to represent Los Alamitos.

Motion/Second: Loe/Grose

Carried 4/0 (Andrade, Cuiilty, and Sofelkanik absent): Adoption of Resolution No. 2022-05, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT MODIFICATION (CUP) 18-09M TO ALLOW THE EXPANSION OF A COMMERCIAL RECREATION ESTABLISHMENT, INDOORS, FROM A 1,500 SQUARE FEET UNIT AT 4298 KATELLA AVENUE, AND ADDING A 900 SQUARE FEET UNIT AT 4294 KATELLA AVENUE IN THE COMMERCIAL PROFESSIONAL OFFICE (C-O) ZONING DISTRICT, APN 222-121-54 (APPLICANT: ANDREW BROWN, CINEMA ESCAPE ROOM)."

**C. Conditional Use Permit (CUP) 22-02
Massage Establishment in the Town Center Mixed Use (TCMU) Zone
11110 Los Alamitos Boulevard #106**

Associate Planner Oliver summarized the staff report.

Chair DeBolt asked if there were to be untoward activity and how it would affect the CUP. City Attorney Daudt clarified that there if they violate code 5.32 then the City can revoke the permit and prevent operation.

Chair DeBolt opened the public hearing.

Commissioner Grose asked about the owners about their previous location, where they are currently working, and the type of massage they give.

Mindy, representative of the owners, shared that it was in Hollywood and they currently do not have a location they are working out of and that one of the therapists, Yanbo, currently works at a location in the City. She also shared that they do the massages that was taught from CAMTC of body and foot, just the regular massage.

Commissioner Zellmer asked how many massage parlors there are in the City. Associate Planner Oliver shared that there may be seven or eight.

Commissioner Zellmer then asked if it affects the Housing Element and Associate Planner Oliver confirmed that it does not.

Chair DeBolt closed the public hearing

Motion/Second: Grose/Zellmer

4/0 (Andrade, Cuiilty, and Sofelkanik absent): Adopt Resolution No. 2022-06, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT (CUP 22-02) TO ALLOW A 1,305 SQUARE FOOT MASSAGE ESTABLISHMENT IN THE TOWN CENTER MIXED USE (TCMU) ZONE AT 11110 LOS ALAMITOS BLVD., #106, LOS ALAMITOS, APN 222-092-10 (APPLICANTS: YANBU ZHU AND YANJUN ZHU)."

9. STAFF REPORT

A. Findings Required by AB 361 for the Continued Use of Teleconferencing for Meetings

City Attorney Daudt quickly summarized the staff report.

Motion/Second: Grose/DeBolt

4/0 (Andrade, Culty, and Sofelkanik absent): Make the following findings by a majority vote of the Planning Commission:

1. A state of emergency has been proclaimed by California's Governor due to the COVID-19 pandemic, and continues to be in effect;
2. The Planning Commission has reconsidered the circumstances of the state of emergency; and
3. State and local officials continue to recommend measures to promote social distancing to slow the spread of COVID-19.

10. ITEMS FROM THE DEVELOPMENT SERVICES DIRECTOR

Associate Planner Oliver updated on the following items:

- Chevron project is moving along
- Medical building project has pulled building permits
- The Youth Center have their building permits issued
- Katella Deli project is not quite complete and will probably be completed in October
- The City Council approved the TCMU Zone and the next process is outreach to developers
- The City trying to market Pine Street as the City's main street

Development Services Manager Montenegro Jr. informed the Commission of the Parklet Series and promote Pine Street to be main hub of the City.

Development Services Director Noda shared the following:

- Recreation and Community Services Department summer brochure is out and encouraged the Commissioners to see the different events coming up
- Provided an updated on the upcoming CDBG street project on Bloomfield Avenue and Howard Avenue. He also added that there will be other street projects coming up and should be completed in August.

Chair DeBolt asked if Golden State Water Company restarted their project in the alleyway in Apartment Row area, Development Services Director Noda confirmed that they are and quickly summarized the project to the Planning Commission.

Commissioner Zellmer shared of a ticket he received about one of his apartment buildings not having a back water for irrigation.

11. COMMISSIONER REPORTS

Commissioner Grose asked if the alleyway (behind Precious Life) is a part of the street project, Development Services Manager Noda confirmed it will be.

Commissioner Zellmer asked about getting speed humps put in during the street project. Development Services Director Noda shared that there is a Speed Hump Policy in place for those interested in having them installed.

Commissioner Grose asked and received an update from Associate Planner Oliver about the progress of the dance studio (OnStage) on Bloomfield Street.

Commissioner Grose gave a shoutout to the City because of the Los Alamitos Luxury Apartment project.

Commissioner Grose mentioned a facade of a physician building looking incredible on Catalina Street and Bloomfield Street.

12. ADJOURNMENT

The Planning Commission adjourned the meeting at 7:50 p.m.

ATTEST:

Art DeBolt, Chair

Ron Noda, Secretary

City of Los Alamitos

PLANNING COMMISSION AGENDA REPORT

MEETING DATE: May 25, 2022

ITEM NUMBER: 5B

To: Chair DeBolt & Members of the Planning Commission

Presented By: Michael Daudt, City Attorney

Subject: Findings Required by AB 361 for the Continued Use of Teleconferencing for Meetings

SUMMARY

For the Planning Commission to continue to have the option to meet via teleconference during the pandemic, AB 361 requires the Planning Commission to make specific findings at least every thirty (30) days.

RECOMMENDATION

Make the following findings by a majority vote of the Planning Commission:

1. A state of emergency has been proclaimed by California's Governor due to the COVID-19 pandemic, and continues to be in effect;
2. The Planning Commission has reconsidered the circumstances of the state of emergency; and
3. State and local officials continue to recommend measures to promote social distancing to slow the spread of COVID-19.

BACKGROUND

Assembly Bill 361 (AB 361) was signed into law by the Governor on September 16, 2021. A portion of AB 361 enacted amendments to California Government Code section 54953 regarding teleconference meetings. Those amendments authorize local agencies, like the City, to continue to conduct meetings by teleconferencing during a Governor-proclaimed state of emergency provided that certain findings are made by the legislative body, and provided that certain procedural requirements are met regarding public access to the meetings.

A new requirement in AB 361 requires specific findings be reaffirmed at least every thirty (30) days in order for the Planning Commission to continue to have the option for one (1) or more of its members to use teleconferencing.

A "teleconference" occurs for purposes of AB 361 whenever one or more members of the Planning Commission connect to a Planning Commission meeting via electronic means. Thus, even if four members of the Planning Commission meet in person, if the fifth joins the meeting via Zoom, the meeting will be a teleconference meeting that must be conducted in accordance with the requirements of AB 361.

For purposes of AB 361 “...’state of emergency’ means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act...” Cal. Gov’t Code Sec. 54953(e)(4). Section 8265 of CESA in turn refers to a state of emergency proclaimed by the Governor
Cal Gov’t Code Sec. 54953(e)(3)

DISCUSSION

Required Findings

The teleconference provisions in AB 361 may only be utilized as long as a Governor-proclaimed state of emergency remains active, or while state or local officials have recommended measures to promote social distancing. When either of those is the case (both are true at this time), then in order to continue to teleconference using the new provisions of AB 361, the Planning Commission must make the following findings by majority vote every 30 days:

(A) The Planning Commission has reconsidered the circumstances of the state of emergency; and

(B) Either of the following circumstances exist:

- i. The state of emergency continues to directly impact the ability of the members to meet safely in person; or
- ii. State or local officials continue to impose or recommend measures to promote social distancing.

To comply with that requirement, the recommended action would have the Planning Commission find each of the following:

- a. A state of emergency has been proclaimed by California’s Governor due to the COVID-19 pandemic, and continues to be in effect;
- b. The Planning Commission has reconsidered the circumstances of the state of emergency; and
- c. State and local officials continue to recommend measures to promote social distancing to slow the spread of COVID-19.

The “Every 30 Days Thereafter” Requirement

As noted above, AB 361 findings must be made “no later than 30 days after teleconferencing for the first time pursuant to , and every 30 days thereafter...”

In order to preserve the option for the Planning Commission or individual members of the Planning Commission to participate in meetings during the pandemic via teleconference in the future, the Planning Commission will have to adopt the required findings at least every 30 days.

Potential Consequence of Not Making the Findings Every 30 Days

AB 361 does not expressly state what happens if a legislative body fails to make the required findings “every 30 days.” However, it expressly requires the timely re-approval of the findings

“in order to continue to teleconference” in the manner that AB 361 authorizes.

As a result, if the Planning Commission does not adopt the required findings every 30 days, then the Planning Commission could be precluded from continuing to teleconference thereafter, perhaps even if the Planning Commission was later willing to adopt the findings at a later date. For this reason, the City Attorney recommends that the Planning Commission adopt the required findings at this time and at least every 30 days thereafter, unless the Planning Commission decides as a permanent matter that it will no longer permit teleconferencing at all (e.g., regardless of whether the state of emergency worsens).

Procedural Requirements for The Conduct of Teleconference Meetings

AB 361 contains several new requirements for the conduct of teleconference meetings with which the City has prepared to comply. Specifically, each meeting must:

1. Allow members of the public to attend and comment at the meeting via call-in option or internet-based service option;
2. Protect the statutory and constitutional rights of the parties and the public appearing before the legislative body;
3. In the event of disruption which prevents broadcasting the meeting or which prevents members of the public from offering public comments via the call-in or internet-based option, the Planning Commission must take no further action until the disrupted public access is restored;
4. The City may not require public comments to be submitted in advance, and must offer the opportunity for the public to offer comments “in real time” during the meeting; and
5. The public must be allowed “a reasonable amount of time per agenda item to allow members of the public to provide public comment, including time for members of the public to register , or otherwise be recognized for the purpose of providing public comment.

FISCAL IMPACT

None.

Attachment: None