



# staff report

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**TO:** Honorable Mayor and Members of the City Council

**ATTENTION:** Jeffrey L. Stewart, City Manager

**FROM:** Art Bashmakian, Director of Planning and Building Services  
Jason Friedman, Assistant Planner

**SUBJECT:** Consideration and possible action to conduct a public hearing regarding Zoning Ordinance Text Amendment Case No. ZOTA 16-09; and read by title only, waive further reading, and introduce Ordinance No. 1321 – An Ordinance approving Zoning Ordinance Text Amendment Case No. ZOTA 16-09 amending Chapter 17.80 (Development Review) of the Municipal Code by eliminating the Development Review Board; Applicant: City of Bellflower. (Continued from September 26, 2016)

**DATE:** October 10, 2016

## **EXECUTIVE SUMMARY**

Chapter 17.80 (Development Review) was established to ensure new buildings, structures, and improvements maintain high standards of architectural design, and to encourage the most appropriate and beneficial use of land. The chapter requires certain projects to be approved by a Development Review Board (“DRB”). This amendment would eliminate the Board, but still maintain the legal ability of the City to regulate design and receive input from internal departments and other public agencies, by shifting more responsibility to the Director of Planning and Building Services. The proposed amendments are intended to streamline the development review process while maintaining the objectives of the Development Review ordinance.

## **RECOMMENDATION TO CITY COUNCIL:**

- 1) Reopen the public hearing; take documentary and testimonial evidence; and after considering the evidence, read by title only, waive further reading, and introduce Ordinance No. 1321; or
- 2) Alternatively, discuss and take other action related to this item.

## **FISCAL IMPACT**

Fees associated with Development Review Board (DRB) meetings will no longer be applicable.

## **PUBLIC NOTICE**

A Notice of Public Hearing was published in the *Herald American* newspaper on September 15, 2016; and public hearing notices were posted at City Hall, Brakensiek Library, Bellflower Substation, Thompson Park, and Simms Park on September 13, 2016.

**CEQA STATUS**

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations because it consists only of minor revisions and clarifications to existing regulations. Specifically, the purpose of the ordinance is to streamline the development review process by eliminating the Board, while retaining the legal ability of the City to regulate design and receive input from other public agencies. It does not portend any new development and does not relax existing regulatory restrictions on future development. This ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is exempt from CEQA review under 14 Cal. Code Regs. § 15061(b)(3).

**BACKGROUND**

On October 25, 1979, the Bellflower City Council adopted Ordinance No. 445, establishing the Development Review Board (DRB) to provide discretionary control over building design, land use, and site development, with goals of protecting land values, and ensuring aesthetic quality and harmony among property improvements within the City. DRB members included the Directors of Planning and Public Works, the Fire Chief, and the District Engineer of the Building Department, or their representatives. The code was later amended to also include a registered A.I.A. architect, or person determined qualified by the City Council, or a landscape architect, or person determined qualified by the City Council. The DRB was tasked with conducting meetings to evaluate development proposals prior to building plan check and permit issuance, determining whether those developments were in compliance with the relevant code provisions, and, in some cases, issuing conditions of approval to ensure compliance.

Over the years, the DRB member makeup has not always been consistent with what was intended by the original Ordinance. Recently, the DRB has consisted solely of the three designated City staff members, or their representatives, with Fire Department representatives participating in the review process only through written comments. To Staff’s knowledge, no registered A.I.A. architects or landscape architects, or persons determined qualified by the City Council, have ever been appointed to the DRB. Although the required three member quorum has always been maintained, the envisioned diversified makeup of the DRB has never been attained.

Further, although the code provides an outline of projects which are subject to evaluation by the DRB, varied administrative decisions have been made which have sporadically redefined the types of projects that qualify for DRB, creating an impression of red tape for potential development in the City. By eliminating the Board, and shifting its decision-making role to the Director of Planning and Building Services, projects will move through the review process more expeditiously, and applicants will no longer be burdened with attending development review meetings. The quality of projects will not be sacrificed, as plans will continue to be carefully reviewed and critiqued for compliance with the development review code provisions. Overall, the proposed amendments will create a more streamlined development review process, while maintaining the legal ability of the City to regulate design and receive input from other public agencies.

**ATTACHMENT**

CITY OF BELLFLOWER

ORDINANCE NO. 13XX

AN ORDINANCE AMENDING CHAPTER 17.80 (DEVELOPMENT REVIEW) AND OTHER SECTIONS OF THE BELLFLOWER MUNICIPAL CODE BY ELIMINATING THE DEVELOPMENT REVIEW BOARD AND REPLACING IT WITH DEVELOPMENT REVIEW BY THE PLANNING DIRECTOR (ZONING ORDINANCE TEXT AMENDMENT CASE NO. ZOTA 16-09); APPLICANT: CITY OF BELLFLOWER

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Section 17.80.020 of the Bellflower Municipal Code (BMC) is amended as follows:

**17.80.020 Improvements Subject to Development Review Board Approval.**

- A. ~~Each improvement, which is not otherwise declared exempt by Subsection (B) or (C) of this section shall be subject to development review as provided in this title. **Improvements Subject to Development Review.** Improvements subject to development review include, but are not limited to **without limitation**, the following:~~
1. New construction of commercial or industrial buildings including any addition of **gross** leasable area, **as determined by the Planning Director;**
  2. New construction of one ~~two~~ (1) or more residential units on a single lot;
  3. Alteration of an existing structure to create two (2) or more residential units on a single lot;
  4. **Improvements to properties with a** ~~Where an existing nonconforming building, structure or use~~ **when required by provisions in Chapter 17.92 (Nonconforming Buildings and Uses)** ~~exists on a single lot; and~~
  5. Improvements which the Planning Director deems ~~determines~~ **are** similar to those listed above.
- B. ~~**Improvements Subject to Development Review during Plan Check** Exempt from Review by the Development Review Board. The following projects **are** shall be considered minor improvements requiring administrative **Development** Review at Plan Check to ensure compliance with the intent of this chapter **but are not subject to the application requirements of Section 17.80.030,** but not requiring approval by the Development Review Board:~~
1. Additions to existing structures, partial or complete structure or building demolition;
  2. Modifications to the exterior of a structure, including, ~~but not limited to~~ **without limitation:** addition(s) or modification(s), exterior colors or materials, windows, doors, rooftop equipment, roof material or color, skylights, solar panels, or loading docks;
  3. Addition of paved area to a front yard, including cement and brick, except for pedestrian walkways not exceeding the minimum width required by **applicable law including** the Americans with Disabilities Act;
  4. Fences and walls;

5. Decks above grade at any point, gazebos, patio covers, trellises, windscreens, exterior security bars, and similar improvements;
  6. Exterior spas, hot tubs, or swimming pools, whether portable, temporary, or permanent;
  7. Any signage, including, ~~but not limited to~~ **without limitation**, new or replacement sign(s); cabinet(s); face(s); board(s); panel(s); painted building surface(s); neon; or any other electrical or graphics signage; except to repair/refurbish as specifically approved by this chapter;
  8. Any plumbing, mechanical, or electric alterations to building exterior;
  9. **Modifications to the interior of a conforming structure which do not change the use or occupancy class;** and
  10. All improvements which the Planning Director ~~deems~~ **determines are** similar to those listed above.
- C. *Improvements Exempt from Review by the Development Review Board.* **Notwithstanding anything to the contrary,** ~~the following improvements shall be exempt from~~ **do not require** development review:
- ~~1. Modifications to the interior of a conforming structure which do not change use or occupancy class;~~
  1. Repainting or restaining of buildings or structures on properties in Residential "R" or "A" districts, which are not in a PD District, provided the new color is not fluorescent, luminescent, or bright, multi-colored patterns/mural, except as specifically approved previously for minor building trim or sign accent by the process provided in Subsection (A) or (B) of this section;
  2. Repainting or restaining of buildings or structures on properties in C-G, T-C, M-I, and O-S or any PD districts, provided the new color is within a project color palette previously approved by the City with the specific development plan for the project;
  3. Exterior landscaping of a single-family detached home (one (1) house per parcel) unless required as a condition of approval of subdivision, conditional use permit, or development review;
  4. Replacement of landscape materials with the same species and original size or larger plant;
  5. Replacement of portions of the exterior of structures or improvements using materials of the same size, type, texture, and color, as specifically approved previously by the process provided in Subsection (A) or (B) of this section; and
  6. Storage sheds of less than one hundred twenty (120) square feet of roof area, lower than seven and one-half (7.5) feet above grade, in a rear yard of a single-family residence which meets setback requirements.

**SECTION 2.** BMC Section 17.80.030 is deleted in its entirety.

**SECTION 3.** BMC Section 17.80.040 is re-numbered and amended as follows:

**17.80.0430 Development Review Board Procedures.**

A. Application. **For those improvements listed in Section 17.80.020(A) or otherwise determined to be subject to development review by the Planning Director, the applicant must submit** ~~To obtain Development Review Board approval, an application, accompanied by plans, supporting information, and an application fee as established by City Council resolution must first be submitted to the Planning Department~~ **Director, or designee.** The required content of the application, supporting information, and the plans shall be as ~~is~~ determined by the Planning Director.

B. Review of Completeness. Within thirty (30) days of submittal of the application, the Planning Director, or designee, shall ~~shall~~ **must** determine if the application is complete.

C. Decision.

~~1. Development Review Board. The Development Review Board shall either approve, approve with conditions, or deny the application in accordance with the provisions of this title and any other applicable requirement of Federal, State, or local law for all development review applications pertaining to improvements on properties in any district, as prescribed in Section 17.80.020.~~

~~2. Planning Director Review. For all development review applications, other than those requiring Development Review Board action pursuant to Section 17.80.020, the Planning Director shall must either approve, approve with conditions, or deny the application in accordance with the provisions of this chapter and any other applicable requirements of Federal, State, or local law within ten (10) days from the date the application is deemed complete. The Planning Director may refer any application to the Planning Commission Development Review Board for comment or final action. **When a development review application requires other approvals by the City, such as a variance, conditional use permit, subdivision or zone change, the development review will occur concurrently with the Planning Commission's review of the other requests, to expedite the development process.**~~

D. Notice of Decision. Written notice of decision shall ~~shall~~ **must** be **provided** ~~available within ten (10) days after the decision is rendered.~~

E. ~~A~~ **D** decision is not effective until permittee acknowledges acceptance of any conditions and any appeal period has lapsed, or a waiver of right to appeal is filed, ~~pursuant to Subsection (G) of this section,~~ or if there is an appeal, until a final decision has been made on the appeal. By use of entitlements granted by a development application, the applicant acknowledges agreement with conditions of approval.

F. Duration of Approval.

~~1. Development Review Board Review~~

~~1. Approval or conditional approval of development review applications shall be is valid for 12 months one hundred eighty (180) days after the date of approval by the Director, or by the Planning Commission on appeal, unless a building permit **(plan check) application is submitted to the Building Official,**~~

~~or designee~~, has been issued for the project within that 12-month ~~one hundred eighty (180) day~~ period, in which case the approval shall be ~~is~~ valid as long as the plan check or building permits for the project are valid, ~~except as provided in Subsection (F)(1)(c) of this section.~~ Upon good cause shown, the Planning Director may grant one extension of an approval of not more than 12 months in the aggregate, from the original expiration date. Prior to expiration of the approval, one (1) or more extensions of not more than ninety (90) days, in the aggregate, from the original date of expiration may be granted by the Director or Planning Commission as applicable.

2. An Development Review Board approval, or conditional approval, may be transferred from the owner to whom it has been issued to successive owners of the property prior to expiration of the approval.

3. Partial and/or complete demolition of any structure, building, or real improvement shall must be completed, and all debris removed from the site, within sixty (60) days of permit approval or such other date as the Development Review Board or Planning Commission determinesd to be in furtherance of the criteria of this chapter.

4. Defective Application/Plans. Anything which is not shown on application/plans, or which is not specifically approved, or which is not in compliance with this chapter, is not approved. Any application and/or plans which are defective as to, but not limited to without limitation, omissions, dimensions, scale, use, colors, materials, encroachments, easements, etc., shall renderss any entitlements granted by this chapter null and void. Construction (if any) shall must cease until all requirements of this chapter are complied with.

5. Development entitlements may be withheld until Code violations are abated.

~~2.~~ ~~Planning Director Review.~~ Approval or conditional approval of development review applications shall be valid for one hundred eighty (180) days after the date of approval by the Planning Director, or by the Planning Commission on appeal, unless a building permit has been issued for the project within that one hundred eighty (180) day period, in which case the approval shall be valid as long as building permits for the project are valid. Prior to expiration of the approval, one (1) or more extensions of not more than ninety (90) days, in the aggregate, from the original date of expiration may be granted by the Planning Director or Planning Commission, as applicable.

G. Appeal of Development Review Board Planning Director's Action. The applicant may file an appeal with the Planning Commission from any denial, approval, or conditional approval of any application by the Development Review Board Planning Director pursuant to this chapter. Said appeal shall must be in writing and shall must be filed with the City Clerk not later than ten (10) days after the Development Review Board's Planning Director's action. Appeals shall must set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this chapter, and shall must be accompanied by a filing fee as established by City Council resolution.

Not less than ten (10) calendar days ~~prior to~~ before the date set for the Planning Commission hearing on the appeal, written notice shall ~~must~~ be given to the appellant or his/her representative, and to the property owner, of the date, time, and place of the hearing. The Planning Commission may affirm, reverse, or modify the decision of the ~~Development Review Board~~ Planning Director, at all times being guided by the criteria set forth in this chapter. An appeal of the Planning Commission's decision may be filed pursuant to Chapter 17.112 of this Code. The decision of the City Council is final.

**SECTION 4.** BMC Section 17.80.050 is re-numbered and amended as follows:

**17.80.0450 Findings Required.**

~~Prior to~~ Before approving an application for development review, the following findings must be made by the approving body;

- A. That the proposal is consistent with the Bellflower General Plan, ~~zoning,~~ and the Bellflower Municipal this Code.
- B. That the design of the proposal is appropriate to the City, the neighborhood, and the lot on which it is proposed.
- C. That the design of the proposal is compatible with its environment with respect to use, forms, materials, colors, setbacks, location, height, design, or similar qualities as specified in Section 17.80.010.

**SECTION 5.** BMC Section 17.80.060 is deleted in its entirety.

**SECTION 6.** BMC Section 17.80.070 is re-numbered and amended as follows:

**17.80.0570 Powers and Duties of the ~~Development Review Board~~ Planning Director.**

The ~~Development Review Board~~ Planning Director shall ~~must~~ determine whether the proposed development is in compliance with the provisions of this Code. In addition, the Planning Director ~~Board~~ shall ~~must~~ determine whether or not the purposes and objectives of this chapter have been met, and, in that regard, conditions may be imposed to assure that the purposes and objectives of this chapter will be realized. Consideration shall ~~may~~ be given to site plans, landscaping, general design, and all provisions of this Code. ~~No provisions of this chapter shall be deemed to grant to the Development Review Board the power or authority to grant any use in any zone not authorized by the Zoning Code.~~

**SECTION 7.** BMC Section 17.80.080 is re-numbered and amended as follows:

**17.80.0680 Design Guidelines Adopted by Resolution.**

- A. The Planning Commission may, by resolution, recommend City Council adoption of design guidelines for specific developments or specific types of development which are consistent with the intent and purpose of this chapter.

B. Design guidelines may include standards for property improvements which exceed those contained elsewhere in this title. Projects must minimally comply with all requirements of this title and meet design guidelines as required by this chapter. For items not specifically mentioned in such standards, the provisions of this title ~~shall~~ will otherwise apply.

**SECTION 8.** BMC Section 17.80.090 is re-numbered and amended as follows:

**17.80.0790 Special Provisions.**

A. Private Architectural Review. Where deed restrictions or private property covenants, codes, and restrictions require review by a private architectural board, committee, or homeowner's association, the review shall must be accomplished by the applicant and the findings of the ~~such Bboard or Ccommittee shall must~~ be transmitted in writing to the City ~~prior to~~ before City action. Application to the ~~Bboard~~ and transmission of its findings shall ~~be~~ is the responsibility of the applicant, not the City.

B. Architecture and Site Model. Projects with a project valuation greater than two and a half million dollars (\$2,500,000.00), adjusted annually to reflect the Consumer Price Index, shall must provide an architectural model that illustrates the site layout, design features and architecture of each structure within the project. The model shall must be constructed to the specifications established by and in the sole discretion of the Director. The model shall ~~become~~ is the property of the City.

C. Context Model. In addition to the architecture and site model specified in Subsection (B) of this section, projects with a project valuation greater than five million dollars (\$5,000,000.00), adjusted annually to reflect the Consumer Price Index, shall must also provide a massing model that illustrate the mass and bulk of the proposed structures on the site and within the immediate vicinity. The models shall must be constructed to the specifications established by and in the sole discretion of the Director. All models shall ~~become~~ are the property of the City.

**SECTION 9.** All use of the phrase "Development Review Board" within the BMC are replaced with "Planning Director." This includes, without limitation, BMC Sections 17.08.010, 17.14.020, 17.14.030, 17.16.020, 17.16.030, 17.16.170, 17.16.090, 17.16.180, 17.20.020, 17.20.190, 17.24.020, 17.24.030, 17.24.090, 17.28.110, 17.32.110, 17.40.050, 17.44.070, 17.44.330, 17.48.125, 17.60.050 and 17.72.060.

**SECTION 10.** *Environmental Review.* This ordinance is exempt from environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.) because it consists only of minor revisions and clarifications to existing regulations. Specifically, the purpose of the ordinance is to streamline the development review process by eliminating the Development Review Board, while retaining the legal ability of the City to regulate design and receive input from internal departments and other public agencies. It does not portend any new development and does not relax existing regulatory restrictions on future development. This ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is exempt from CEQA review under 14 Cal. Code Regs. § 15061(b)(3).

**SECTION 11.** *Construction.* This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 12.** *Enforceability.* Repeal of any provision of the Bellflower Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 13.** *Validity of Previous Code Sections.* If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the BMC or other ordinance by this Ordinance will be rendered void and cause such previous BMC provision or other the city ordinance to remain in full force and effect for all purposes.

**SECTION 14.** *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 15.** The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the city of Bellflower's book of original ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

**SECTION 16.** This Ordinance will take effect on the 31<sup>st</sup> day following its final passage and adoption.

**ORDINANCE NO. 13XX HAD ITS FIRST READING ON \_\_\_\_\_, ITS SECOND READING ON \_\_\_\_\_, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER AT ITS REGULAR MEETING OF \_\_\_\_\_, 2016.**

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**Dan Koops, Mayor**

**ATTEST:**

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**Mayra Ochiqui, City Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Karl H. Berger, City Attorney**