

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, CALIFORNIA  
ELIMINATING THE BOARD OF ZONING APPEALS AND TRANSFERING AUTHORITY AND  
DUTIES OF THE FORMER BOARD OF ZONING APPEALS TO THE PLANNING  
COMMISSION**

**WHEREAS**, Ordinance No. 5582 was adopted on November 27, 2007, to create an interim procedure to transfer Board of Zoning Appeals authority and duties to the Planning Commission; and,

**WHEREAS**, on November 20, 2007 Council directed that the authority and duties of the Board of Zoning Appeals would be transferred to the Planning Commission for a one year trial period before consideration of making the transfer of authority and duties permanent ; and

**WHEREAS**, the Planning Commission temporarily assumed duties of the Board of Zoning Appeal in December 2007 and on October 15, 2008 stated their support for a permanent transfer of Board of Zoning Appeals authority and duties to the Planning Commission; and,

**WHEREAS**, the Planning Commission Rules adopted by the Planning Commission on March 5, 2008 provide for procedures for assumption of Board of Zoning Appeals authorities and duties including consideration of appeals of Zoning Administrator decisions; and,

**WHEREAS**, on December 9, 2008 Council directed staff to return with an ordinance to permanently transfer Board of Zoning Appeals authorities and duties to the Planning Commission; and,

**WHEREAS**, the Planning Commission is a body that may, under state law, consider a wide variety of planning entitlements, including appeals on zoning entitlements, as provided by local ordinance; and,

**WHEREAS**, this action is exempt from the California Environmental Quality Act (CEQA) because it does not have the potential to create a physical environmental effect.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE AS FOLLOWS:**

**SECTION 1.** The recitals above are true and correct.

**SECTION 2.** The adoption of this ordinance supersedes Ordinance No. 5582 adopted on November 27, 2007.

**SECTION 3.** Chapter 2.48 (Board of Zoning Appeal) of the Glendale Municipal Code, 1995 is hereby repealed.

**SECTION 4.** The Board of Zoning Appeals rules adopted by the Board of Zoning Appeal on January 17, 2007 are hereby repealed.

**SECTION 5.** Section 2.68.120 of the Glendale Municipal Code, 1995 is hereby amended to read as follows:

**2.68.120 Powers and duties generally**

A. The Planning Commission shall have the power and it shall be its duty to review and recommend to the City Council the following:

1. General Plan. Comprehensive long-range general plans, community plans, or specific plans for the physical development of the city, and of any land outside its boundaries, which in the Commission's judgment bears relation to its planning. The General Plan shall comprise all of the mandatory elements required by state law of charter cities and any, all or any combination of other elements, community plans, or specific plans as deemed necessary;

2. Implementation Plans. Plans based on the General Plan, and drafts of such regulations, programs and legislation as may in its judgment be required for the systematic execution of the General Plan;

3. Reports, Recommendations and Determinations.

a. Review the supplementing or changing of zoning regulations and districts established by ordinance,

b. Perform the duties of the Planning Commission required by state law, but only as it applies to charter cities.

B. The Planning Commission shall have responsibility for hearings and determinations on all applications for parcel maps and tentative tract maps related to new condominiums as defined in Title 16 of this code and in the State Subdivision Map Act.

C. The Planning Commission shall act as the advisory agency for the city in connection with administration of subdivisions as defined in Title 16 of this code and in the State Subdivision Map Act. (Ord. 5046 § 1, 1994: Ord. 4984 § 2, 1992: prior code § 3-106)

D. The Planning Commission shall have responsibility for hearings and determinations on appeals from the Zoning Administrator and from the Director of Planning in accordance with Title 30 of this code.

E. The Planning Commission shall perform such other duties as may be imposed upon it by the council by ordinance or resolution.

F. The Planning Commission shall perform all duties previously delegated by Council to the Board of Zoning Appeals.

**SECTION 6.** Chapter 30.42.070 of the Glendale Municipal Code, 1995 is hereby amended to read as follows:

### **30.42.070 – Decision of the Review Authority**

- A. The review authority shall hold a public hearing on the proposed conditional use permit and consider all evidence presented for and against the proposal. The review authority shall make findings of fact and determinations in writing and shall place in the mail a copy thereof, addressed to the applicant and those persons speaking at the hearing who submitted their correct mailing addresses. A decision of the Zoning Administrator shall become final fifteen (15) days following the date of the decision unless an appeal to the Planning Commission is filed as herein provided. Where the Council has, acting as the initial review authority, approved or denied a conditional use permit for a project in a redevelopment project area or in the DSP Zone outside of a redevelopment project area, any interested person may make a written request for a Council rehearing in accordance with Section 2.88.060 of the Glendale Municipal Code.

**SECTION 7.** Section 30.43.070 of the Glendale Municipal Code, 1995 is hereby amended to read as follows:

### **30.43.070 – Decision of the Review Authority**

- A. The review authority shall hold a public hearing on the proposed variance and consider all evidence presented for and against the proposal. The review authority shall make findings of fact and determinations in writing and shall place in the mail a copy thereof, addressed to the applicant and those persons speaking at the hearing who submitted their correct mailing address. Where the Council has, acting as the initial review authority, approved or denied a variance for a project in a redevelopment project area or in the DSP Zone outside of a redevelopment project area, any interested person may make a written request for a Council rehearing in accordance with Section 2.88.060 of the Glendale Municipal Code.
- B. For variances decided by the Zoning Administrator, the decision shall become final fifteen (15) days following the date of the decision unless an appeal to the Planning Commission is filed as provided in Chapter 30.62.

**SECTION 8.** Section 30.62.010 of the Glendale Municipal Code, 1995 is hereby amended to read as follows:

### **30.62.010 – Purpose and Authority**

The decision of the Zoning Administrator on variances, conditional use permits, home occupation permits, applications for conditions of use, administrative exceptions, zoning use certificates, and other applications except tentative tract applications for condominium conversions is appealable to the Planning Commission as hereinafter prescribed. The decision of the Planning Commission may be further appealed to the City Council pursuant to provisions of Chapter 2.88 of this Code relating to the uniform appeal procedure.

For appeals of a decision related to design review, see Section 30.47.100.

**SECTION 9.** Section 30.62.030 of the Glendale Municipal Code, 1995 is hereby amended to read as follows:

### **30.62.030 – Appeal Filing and Submittal of Information and Fees**

- A. Applications for appeal shall be made on notice of appeal forms prescribed by the Director of Planning and contain all information thereof. The notice of appeal shall be filed with the Permit Services Center within fifteen (15) days following the decision which is being appealed together with the then-current filing fee as established by resolution of the City Council.
- B. All technical materials, including but not limited to: geologic/seismic reports, traffic studies, noise studies, biological studies and any other scientific studies; any visual simulations; and any comparative analytical or statistical report submitted by any interested party to be considered by the City Council or Planning Commission, shall be submitted to the Director of Planning no later than seven (7) days prior to the scheduled date for consideration by the board or council. Materials submitted after the seven (7) days prior to the scheduled date for consideration shall only be considered upon the sole discretion of the board or council upon a showing of good cause. Materials which may be submitted at the time of the hearing include: petitions, group or individual letters, photographs, renderings, and presentational aids.

If the applicant proposes amendments to the project which substantially changes the project by the intensification of any project impact and/or the imposition of different project impacts, the Director of Planning shall vacate the scheduled hearing and the matter shall not be eligible for further consideration without the filing of a new application.

- C. For appeals of a zoning use certificate, timely filing of such notice of appeal shall be a jurisdictional requirement. Every such notice of appeal shall contain a statement of the facts upon which it is based and the relief requested in sufficient detail to enable the Planning Commission to understand the nature of the controversy and the parties concerned. The failure of the applicant or zoning use certificate holder to respond to the notice of hearing is a waiver of the right to the hearing.
- D. For filing fees, see Chapter 30.40.

**SECTION 10.** Section 30.62.040 of the Glendale Municipal Code, 1995 is hereby amended to read as follows:

### **30.62.040 – Public Hearing and Notice**

Upon receipt of a notice of appeal application, the Zoning Administrator shall cause the matter to be set for hearing before the Planning Commission and shall cause notice of the time, place and purpose of the hearing to be given by regular mail to the appellant, the applicant if other than the appellant, to all owners of real property as shown on the latest equalized assessment roll within a three hundred (300) foot radius of the exterior boundary of the real property that is the subject of the hearing except that if such property is owned by the same person or entity, the owners of contiguous real property to that owned by the applicant shall also be notified, to all persons who appeared at the hearing before the Zoning Administrator and addressed the Zoning Administrator in connection with the application, and to any other person in interest who has requested in writing to be so notified or who has submitted written comments with a correct and legible return address, and no other notice thereof need be given. Notices shall be placed in the mail at least seventeen (17) days before the date of the hearing. One copy of the notice of appeal application shall be sent to the applicant, if the applicant is not the appellant. For appeals

from the decision on a home occupation permit, however, at least ten (10) days notice by mail shall be given to the applicant or permittee and to all persons shown on the last equalized assessment roll as owning real property located within a radius of three hundred (300) feet of the exterior boundaries of the property proposed for home occupation. If the property contiguous to that proposed for home occupation is owned by the same person or entity, the owners of contiguous property to that owned by the applicant shall also be notified.

**SECTION 11.** Section 30.62.050 of the Glendale Municipal Code, 1995 is hereby amended to read as follows:

**30.62.050 – Decision of Planning Commission**

The Planning Commission shall hold a public hearing on the appeal and consider the evidence. Upon the hearing of the appeal, the Planning Commission may refer the matter to the Zoning Administrator or affirm, reverse or modify the determination of the Zoning Administrator by a minimum of three (3) affirmative votes subject to the same limitations as are placed upon the Zoning Administrator by this Code. The decision of the Planning Commission upon the appeal shall be in writing.

**SECTION 12.** Section 30.62.060 of the Glendale Municipal Code is hereby amended to read as follows:

**30.62.060 – Appeals to the Council**

A decision of the Planning Commission or of the Director of Planning shall become final fifteen (15) days following the date of the decision unless an appeal to the City Council is filed pursuant to the provisions of chapter 2.88 of this Code relating to the uniform appeal procedure.

**SECTION 13.** Section 30.62.070 of the Glendale Municipal Code, 1995 is hereby amended to read as follows:

**30.62.070 – Rehearings**

If the Planning Commission determines that new and material evidence not previously presented to the Zoning Administrator is available and such evidence could not reasonably be produced at the prior hearing before the Zoning Administrator, the Planning Commission may order that the Zoning Administrator rehear the matter. Any substantial change proposed by the applicant in the project form that which was represented to the Zoning Administrator shall not be eligible for further consideration without the filing of a new application. Written notice of the rehearing shall be mailed to the appellant, to the applicant if other than the appellant, and to such other persons as may have appeared and addressed the Zoning Administrator or Planning Commission at the respective hearings in connection with such matter at least ten (10) days before the date of the rehearing, and no other notice need be given.

**SECTION 14.** This Ordinance is adopted under the authority of the Charter of the City of Glendale and State Law, including but not limited to Government Code Section 65101. If any section, subsection, clause or phrase is declared invalid or otherwise void by a court of competent jurisdiction, it shall not affect any remaining provision thereof. In this regard, the City Council finds and declares that it would have adopted this measure notwithstanding any partial validity thereof.

Passed by the Council of the City of Glendale on the 20th day of January, 2009.

\_\_\_\_\_  
Mayor

Attest

\_\_\_\_\_  
City Clerk

STATE OF CALIFORNIA )

SS.

COUNTY OF LOS ANGELES)

I, Ardashes Kassakhian, City Clerk of the City of Glendale, certify that the foregoing Ordinance No. 5637 was passed by the Council of the City of Glendale, California, by a vote of four-fifths (4/5ths) of the members thereof, at a regular meeting held on the 20th day of January, 2009, by the following vote:

Ayes: Najarian, Weaver, Yousefian, Drayman

Noes: Quintero

Absent: None

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City Clerk

APPROVED AS TO FORM

Michael J. Garcia  
CHIEF ASSISTANT CITY ATTORNEY

DATED 1/15/09



CITY OF GLENDALE CALIFORNIA  
REPORT TO CITY COUNCIL

January 13, 2009

**AGENDA ITEM**

Report Concerning Transfer of Board of Zoning Appeal (BZA) Duties to the Planning Commission (PC)  
1. Ordinance to eliminate the Board of Zoning Appeal (BZA) and permanently transfer authority and duties of the BZA to the Planning Commission

**COUNCIL ACTION**

Public Hearing [ ] Ordinance [ ] Consent Calendar [ ] Action Item [ X ] Report Only [ ]  
Approved for January 13, 2009 calendar

**ADMINISTRATIVE ACTION**

	Signature
<b>Submitted</b>	
Hassan Haghani, Director of Planning .....	
Scott Howard, City Attorney .....	
<b>Prepared</b>	
Timothy Foy, Assistant Director of Planning .....	
Michael Garcia, Deputy City Attorney .....	
Laura Stotler, Principal Planner .....	
<b>Approved</b>	
James Starbird, City Manager .....	

## **RECOMMENDATION**

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The Planning Department recommends that City Council adopt the ordinance to eliminate the Board of Zoning Appeals (BZA) and transfer duties and responsibilities for appeals from Zoning Administrator and from Director of Planning decisions to the Planning Commission.

## **SUMMARY**

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On December 9, 2008, the City Council directed staff to prepare an ordinance to permanently transfer duties of the Board of Zoning Appeals (BZA) to the Planning Commission. This follows action on November 27, 2007 whereby Council temporarily transferred duties of the BZA to the Planning Commission for a one-year trial period. The responsibilities of the 5-member BZA were to consider appeals from the Zoning Administrator. The Planning Commission has broad authority to consider land use decisions and make recommendation on land use policy; however, prior to the shift in BZA responsibilities, the Planning Commission did not hear appeal proceedings. On October 15, 2008, the Planning Commission reported that hearing Zoning Administrator decision appeals has not affected their workload and recommended that Council consider permanently shifting BZA duties.

## **FISCAL IMPACT**

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None.

## **BACKGROUND**

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### **Board of Zoning Appeals:**

The BZA is an unfilled, five member board established under Section 2.48.010 of the Glendale Municipal Code (GMC) which reviews appeals of Zoning Administrator (ZA) and Zoning Hearing Officer decisions. It takes three members to form a quorum for the BZA and agreement of at least three members to reverse, affirm or modify a decision of the ZA. The BZA generally has authority to review appeals of decisions of the ZA and Zoning Hearing Officers. These include, but are not limited to, appeals of decisions on Variances, Conditional Use Permits, Administrative Exceptions and Lot Line Adjustments. Duties of the BZA are limited to hearing appeals and they do not hear original cases. Exhibit One provides further facts regarding BZA membership.

GMC Section 30.62.010 provides that the decision of the Zoning Administrator (or Zoning Hearing Officer) on variances, conditional use permits, home occupation permits, applications for conditions of use, administrative exceptions, zoning use certificates, and other applications except tentative tract applications for condominium conversions is appealable to the BZA. While a variety of appeals fall under the purview of the BZA, the most common decisions appealed are for conditional use permits (CUPS) and variances.

On November 27, 2007, the duties of the BZA were transferred to the Planning Commission on an interim basis for one year trial period.

### **Planning Commission:**

State Planning Law (Govt Code Section 65101) authorizes the legislative body to create one or more Planning Commissions each of which shall report directly to the legislative body. Glendale's Planning Commission is a five member board whose powers and duties are specifically identified in GMC Section 2.68.120. Exhibit Two identifies the Planning Commission membership. Generally, they have responsibility for making recommendations to Council concerning general plans, specific plans, development agreements, zoning map or development code changes and raw land subdivisions. The

Planning Commission also has authority for approving new condominiums, parcel maps, private developments within the SR zone, requests for ridgeline and blueline stream reviews, and for making general plan consistency recommendations for street vacations. Since December 2007, the Commission has had interim authority for ZA decision appeals.

The Planning Commission established a policy for limiting ZA appeals to one item per meeting when other cases are on the agenda. The Planning Commission regular meetings are held twice a month at 5:00 pm in the evening on the first and third Wednesdays of the month. These meetings average 2-4 agenda items and the average meeting is 2 to 3 hours.

Since January 2008, the Planning Commission has held eighteen meetings and held public hearings on appeals of six Zoning Administrator decisions. On October 15, 2008, the Planning Commission reported that hearing Zoning Administrator decision appeals has not affected their workload and would recommend that Council consider permanently shifting BZA duties to the Planning Commission.

On December 9, 2008, Council unanimously voted to permanently transfer BZA functions to the Planning Commission.

### **Exhibits**

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Exhibit One: BZA Membership

Exhibit Two: Planning Commission Membership