

City of Las Vegas

PLANNING COMMISSION WORKSHOP AGENDA

GREAT BASIN CONFERENCE ROOM, 333 NORTH RANCHO DRIVE, 5TH FLOOR

PHONE 702.229.6301

CITY OF LAS VEGAS INTERNET ADDRESS: www.lasvegasnevada.gov

LAS VEGAS CITY COUNCIL

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Mayor Pro-Tem Steven D. Ross, (Ward 6)
Councilwoman Lois Tarkanian, (Ward 1)
Councilman Ricki Y. Barlow (Ward 5)
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May 24, 2016

3:00 PM

ITEMS MAY BE TAKEN OUT OF THE ORDER PRESENTED AT THE DISCRETION OF THE CHAIRPERSON. TWO OR MORE AGENDA ITEMS FOR CONSIDERATION MAY BE COMBINED; AND ANY ITEM ON THE AGENDA MAY BE REMOVED OR RELATED DISCUSSION MAY BE DELAYED AT ANY TIME. BACKUP MATERIAL FOR THIS AGENDA MAY BE OBTAINED FROM CHRYSTAL JACOBS, DEPARTMENT OF PLANNING, 333 NORTH RANCHO DRIVE, 3RD FLOOR, (702)-229-6301 OR ON THE CITY'S WEBPAGE AT www.lasvegasnevada.gov.

1. [CALL TO ORDER](#)

Minutes:

CHAIR MOODY called the meeting to order at 3:12 p.m.

2. [ROLL CALL](#)

Minutes:

PRESENT: CHAIR MOODY and COMMISSIONERS SCHLOTTMAN, TROWBRIDGE, CREAR (excused until 3:19 p.m.) and CHERRY

EXCUSED: COMMISSIONERS QUINN and FLANGAS

Also Present: TOM PERRIGO, Planning Director, KAREN DUDDLESTEN, Deputy Planning Director, PETER LOWENSTEIN, Planning Section Manager, ROBERT SUMMERFIELD, Planning Section Manager, STEVE GEBEKE, Planning Supervisor, CARMAN BURNEY, Agenda Technician, NORA LARES, Agenda Technician, COURTNEY MOONEY, Urban Design Coordinator, VICKI OZUNA, Code Enforcement Supervisor, BRYAN SCOTT, Assistant City Attorney, and DEBRA A. OUTLAND, Deputy City Clerk

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3. ANNOUNCEMENT: COMPLIANCE WITH OPEN MEETING LAW

Minutes:

ANNOUNCEMENT MADE: This meeting has been properly noticed and posted at the following locations: City Hall, 495 South Main Street, 1st Floor; Clark County Government Center, 500 South Grand Central Parkway; Grant Sawyer Building, 555 East Washington Avenue; City of Las Vegas Development Services Center, 333 North Rancho Drive.

4. PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS ON THE AGENDA . IF YOU WISH TO BE HEARD, COME TO THE PODIUM AND GIVE YOUR NAME FOR THE RECORD. THE AMOUNT OF DISCUSSION, AS WELL AS THE AMOUNT OF TIME ANY SINGLE SPEAKER IS ALLOWED, MAY BE LIMITED

Minutes:

None.

5. Presentation highlighting the topics: Code of Ethical Conduct; Conflicts of Interest; Abstentions; Applications/Findings; Conditions; and applicant meetings/site visits, as they pertain to members of the Planning Commission

Minutes:

ASSISTANT CITY ATTORNEY BRYAN SCOTT reviewed the attached Memorandum regarding Codes of Ethical Conduct, Conflicts of Interest, Abstention from Voting, Applications/Findings, Conditions and Meeting with Applicants/Visiting the Subject Project. He commented that the Planning Commission members have done a good job adhering to the rules.

He explained that Nevada Revised Statute 281A requires any Commissioner that has a conflict of interest to abstain from voting and to inform the public as to the nature of the conflict. He provided several examples of conflicts where an abstention would be required. When there is a connection between the person representing the applicant and one of the Commissioners but no connection with the applicant, the Commissioner has to make the determination on whether or not to abstain. He noted that it was not necessary for a Commissioner that abstains to leave the room, but they cannot participate in the discussion of that item. Commissioners are, however, able to vote on an item that is held in abeyance or stricken even if a conflict of interest exists since the vote would not result in a positive or negative action.

With regard to the Applications/Findings section, ASSISTANT CITY ATTORNEY SCOTT listed the types of zoning requests where the Planning Commission makes recommendations to the City Council. He noted that a simple majority vote is needed for all requests except General Plan Amendments which require a super majority of five votes by the Planning Commission, but only a simple majority by the City Council.

ASSISTANT CITY ATTORNEY SCOTT stressed the importance of having the applicant verbally agree on the record to all conditions on the record for Special Use Permits. Once the applicant does this, they waive their ability to sue the City.

He asked the Commissioners to remember that regardless of the type of application being considered, the burden of proof to show that the request is warranted and appropriate for the area and subject property falls on the applicant.

When making a motion to approve or deny an application, the Commissioners need to make appropriate findings of why they came to that determination; simply stating that they like or dislike a project will not stand up to a judicial challenge. If ever challenged, the court only looks at the record that was established at the time of the public meeting so the findings should be stated for the record and then a motion made. When making a recommendation for approval, a statement by the Commissioner that the project is harmonious and compatible with the surrounding area or development or agreeing with staffs report and recommendation for approval were sufficient. When making a recommendation for denial, the Commissioner could state that they agree with the neighbors concerns that were presented.

With regard to conditions, ASSISTANT CITY ATTORNEY SCOTT commented that City staff does a really good job of including the appropriate conditions in which to make a project palatable. He asked that the Commissioners ensure that any conditions added to an application have a reasonable nexus to the application being considered and that they be enforceable; otherwise, they are useless.

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As it can be challenging to craft a new condition on the fly, TOM PERRIGO, Director of Planning, added that it would be very helpful if staff was notified in advance of any complex cases where a Commissioner felt a certain condition would make a project more acceptable. Staff can then be much more prepared and can present appropriate alternatives at the meeting. ASSISTANT CITY ATTORNEY SCOTT pointed out that there are also times when an applicant will present conditions they have agreed upon with the neighbors which may require the item to be trailed in order to allow staff and the applicant time to work out the appropriate wording of those conditions.

ASSISTANT CITY ATTORNEY SCOTT reviewed the last section of the memo, Meeting with Applicants/Visiting the Subject Property. He noted that there is no regulation that prohibits a Commissioner from meeting with an applicant or visiting the site. In fact, it may be beneficial to visit the site to become familiar with the layout. However, anything considered when making a final determination must be placed in the public record. ASSISTANT CITY ATTORNEY SCOTT addressed COMMISSIONER CREARS inquiry regarding meeting with the applicant, and he stressed the need for transparency. With some states prohibiting meeting with the applicant, COMMISSIONER TROWBRIDGE pointed out that people new to Nevada may not be aware that such a prohibition does not exist in this state. ASSISTANT CITY ATTORNEY SCOTT agreed and reiterated that anything revealed to a Commissioner in private had to be revealed in public, and that was the only information that could be used to make a final determination.

ASSISTANT CITY ATTORNEY SCOTT stated the Commissioners could contact the City Attorneys Office with any ethical questions they may have.

CHAIR MOODY commented that this information was very helpful, and he would like to see it given to new Planning Commission members as they come on board. ASSISTANT CITY ATTORNEY SCOTT would ensure that a copy of the subject memo was provided to the Planning Department. PETER LOWENSTEIN, Planning Section Manager, stated that an onboarding packet is given to new Planning Commissioners that contains Roberts Rules of Order. ASSISTANT CITY ATTORNEY SCOTT noted that although neither the Planning Commission nor City Council follows Roberts Rules of Order, there is always a standard protocol.

6. [Report regarding the Planning Commission's impact on process and timelines](#)

Minutes:

TOM PERRIGO, Planning Director, noted that there have been an unusually large number of items held in abeyance recently which has a major impact on City operations, especially with staffing at a minimum since the recession. Some abeyances are requested by the applicant, some by staff and some by the Planning Commissioners. Overall, projects are getting more complicated and more residents are getting involved. Because of this, staff thought it might be helpful if the application process was explained to the Commission.

ROBERT SUMMERFIELD, Planning Section Manager, reviewed the attached PowerPoint presentation. The last time a significant change to the code was made that resulted in a reduction in time occurred in 2014 when the pre-application deadline was eliminated. At that time, for an application to get through City Council was approximately an 85-day cycle.

MR. SUMMERFIELD deferred to PETER LOWENSTEIN, Planning Section Manager, to address COMMISSIONER SCHLOTTMANS inquiry as to how an applicant requests a pre-application conference. MR. LOWENSTEIN explained the complete process, which begins with the applicant making contact through the City's website that contains a link to the E-Plan system. There is also a link to YouTube which contains a video explaining how to upload pre-application requests and a user manual that contains the naming convention guidelines.

MR. SUMMERFIELD proceeded with the second slide which lists the various steps involved in the process. The timeframe from application closing date to Planning Commission has been reduced to less than 50 days. It is important to note the City's four-day workweek schedule because there are a number of days in which staff is not at work to take any action. He provided an example where although it appeared staff had 18 calendar days in which to prepare a staff report, in reality, they had only nine actual working days. This becomes even more important when considering that at any given time, the City's Planning Commission support staff is working on three cycles: reports for the cycle that is concluding, reports for the current Planning Commission cycle and preparation for the next Planning Commission cycle. When an item is held in abeyance, staff reports need to be updated which further increases the number of Planning Commission cycles that staff is working on. When looking at staff's efficiency and productivity, MR. SUMMERFIELD asked that everyone be mindful of the number of items being held and the resulting impact on staff's ability to process other applications.

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COMMISSIONER CREAR wondered if the Planning Commission should be more diligent when considering whether to abey an item. MR. PERRIGO commented that everyone needs to be more diligent in considering the impact of holding items in abeyance. Staff works really hard with the applicants to make sure their application is complete, and he asked that when there is a request for an abeyance, that it be for a good reason. In those cases where an issue can be worked out between the Planning Commission and City Council meetings, it would be helpful if the item was not held. At last months meeting, over 40 items were held in abeyance which requires a lot of tracking by staff. Although the timelines seem long, they are very competitive. He does not know of any other city of comparable size in the country that can match these application processing timelines. The Planning Directors he met with at the American Planning Association National Conference in April were shocked at how quick the Citys process was, as the process was taking over a year at other cities. MR. PERRIGO indicated staff wanted to bring this information to the Commissioners and asked for any direction they might have.

COMMISSIONER CHERRY agreed that the City has some of the fastest times for development processing he has ever seen, and he relays this to his friends coming to Las Vegas. With more complicated projects coming through, COMMISSIONER CHERRY asked if the threshold should be changed for these in that they not be placed on an agenda until the more lengthy components, such as development agreements and drainage studies, were completed. MR. PERRIGO commented about staff trying to strike a balance between getting all of the information they feel the Planning Commission and City Council need in order to make a decision and having the applicant go through the additional expense and time prior to knowing if their application will be approved. Normally, items such as the development agreement and drainage study would be listed as a condition prior to the applicant being able to pull a building permit. He appreciated the excellent feedback and said staff could give this some additional thought, but he felt at this point, this was more of a policy call at the administrative level rather than a need to change the code.

CHAIR MOODY thought there may need to be a change in philosophical approach with some of the applicants as well. He noted that some applicants come in with the expectation that if things go smoothly, they will adhere to the timeline but if there is any disagreement or opposition, all of a sudden the applicant will immediately pull back, and he was not sure how to change that. He thought it would be helpful to know where most abeyance requests were coming from. MR. SUMMERFIELD informed him that most were at the request of the applicant. He reiterated the possibility of examining those applications that are already set to go to City Council that have an issue that could be resolved in the time between the Planning Commission meeting and the City Council meeting. This would allow the Planning Commission to take action and still move those cases forward. CHAIR MOODY thought that was a great idea. MR. LOWENSTEIN pointed out that while on paper, it appears the turnaround time between the Planning Commission and the City Council meeting is one month, to meet the Agenda Technician and the City Clerks Office deadlines, the maximum turnaround time is actually two weeks. CARMAN BURNEY, Agenda Technician, commented that this is especially true if there are changes that will affect any required notifications.

COMMISSIONER CREAR stated that he found it challenging receiving the agenda and supporting documentation only one week prior to the meeting, as there is a lot of material to go through. MR. LOWENSTEIN explained that everything is in draft form and reports could still be in transition up until the agenda is published which is seven days prior to the meeting. KAREN DUDDLESTEN, Deputy Planning Director, explained that one of the efforts taken on during the past year was meeting with some of the boards of the development community to explain the deadlines and to stress the need for submittal of a final product. What has been happening is that when plans come in, the applicant is still in the process of designing and making changes and turning in repeated revised plans in the weeks leading up to the Planning Commission meeting. If staff tries to get everything done early, by the time of the Planning Commission meeting, significant changes have been made to the project, and the staff report is then inaccurate. It is a balancing act between getting what staff needs and providing good customer service.

CHAIR MOODY shared that staying in touch with MAYOR PRO TEM ROSS office on items pertaining to Ward 6 helps him in getting a heads up prior to receiving the agenda. COMMISSIONER SCHLOTTMAN also stated that using the link to download all the material allows him to scroll through 900 pages at a time versus clicking and reviewing each individual item on the website. MS. BURNEY indicated that an app is sent out each month to the Commissioners with that link which is viewable on any iDevice or Android device. She indicated that a tutorial could be given to COMMISSIONER CREAR if needed.

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7. [Report and discussion regarding the current Staff Report format and proposed changes](#)

Minutes:

TOM PERRIGO, Planning Director, stated that as part of the Why Planning Matters/Plain Speak effort, the Staff Report is being revised, as when communicating with customers, constituents and elected officials, Planning jargon is not always clear.

STEVE GEBEKE, Planning Supervisor, stated that since going to consolidated staff reports in 2009-2010, some changes have been made to the reports, but nothing significant. He reviewed the proposed changes to the Staff Report which should make it more clear and concise; it has been reorganized to make it flow better and the repetitious material deleted.

MR. GEBEKE noted that the Recommendations would remain at the front of the report. The Notifications currently at the end of the report would be moved so that they follow the Recommendations so one can tell immediately who was notified and how many responses were received. This provides a better picture of whether an item is controversial or not. The Conditions will then follow since applicants want to know what they will be agreeing to.

The Project Description will be next. Staff will try to simplify this to make it more concise by stating what the applicant is proposing to do or asking for in laymans terms. COMMISSIONER SCHLOTTMAN commented that the Project Description contains a lot of information, some of it similar to the Analysis and asked if this would be consolidated even more. MR. GEBEKE stated that in the past, some of the Analysis information was also provided in the Project Description section, but staff will now try to limit this to the Analysis section. He reiterated that the Project Description will basically state what the applicant is requesting. He also confirmed for COMMISSIONER SCHLOTTMAN that the bullet points contained in the Project Description will remain.

MR. PERRIGO stated these changes are also to help staff standardize how the reports are written, so that the Commissioners will know exactly where to go for information.

MR. GEBEKE proceeded, stating that the Tables section will be moved to the end of the report. Making these changes will make the report flow better which should help in making a decision.

The Analysis is a technical, in-depth analysis of the project which contains such information as what is there, what is legal, was the application submitted as the result of an enforcement action and does it comply with the City codes and Master Plans. The impact of an approval or denial and any follow-up actions required by the applicant if denied will also be included.

The Findings section contains the findings and criteria found in Title 19 for each application type. These will not change; they will be kept short, concise, easy to understand and will not repeat what is in the Analysis.

The Tables will remain as is but will move to the end of the report to make it easier to review the other sections of the report. These tables establish a record of the specific proposal and are predominantly used by staff when doing their analysis and in the permit review process.

Following his presentation, MR. GEBEKE asked the Commissioners what sections were most important to them and if there was any information missing from the report that they would like added.

CHAIR MOODY commented that when he is trying to make a record of findings related to a specific item, he refers to the analysis. Although he had no complaint, he wondered if it would be helpful to have an item or two highlighted that related to a specific finding to help the Commissioners when making a motion. MR. GEBEKE confirmed for ASSISTANT CITY ATTORNEY BRYAN SCOTT that there are a certain number of findings that have to be addressed based on the Analysis, such as whether or not the requirements of Title 19 have been met or if the proposed project was compatible with the surrounding area and uses. MR. PERRIGO indicated that with the new format, it would be easier for the Commissioners to go to a certain section to find the information they are looking for, but he asked if it would helpful if the key findings that led to staff's recommendation were somehow emphasized. After CHAIR MOODY stated he liked the idea of key findings, MR. PERRIGO indicated staff would look into this. He noted that the Commissioners would see the new format at the June Planning Commission meeting, and staff would be looking for any additional feedback after that. He thought the new

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format would also be especially valuable when downloading the meeting materials from the app. CHAIR MOODY expressed eagerness in seeing the new format.

CHAIR MOODY clarified for COMMISSIONER SCHLOTTMAN that when making a finding, it had to meet certain conditions to hold up to a challenge. ASSISTANT CITY ATTORNEY SCOTT indicated that whenever the Commissioners make a recommendation, it should be backed by a certain finding and that finding must be articulated.

Although they vary somewhat, MR. GEBEKE confirmed for COMMISSIONER SCHLOTTMAN that every report does contain key findings. He wondered if it would be helpful to include a summary of findings that staff based their denial on in the Recommendations section.

Having been a government official for many years, COMMISSIONER TROWBRIDGE expressed his deep appreciation of the hard work that the Planning staff puts into reviewing each proposal from a technical standpoint and justifying their recommendations based upon various sections of the code. He indicated it bothered him to sometimes go against staffs recommendation of a technical denial when they worked so hard to justify that recommendation. He asked that staff take note and track those circumstances where the Planning Commission voted against staffs recommendation and the City Council upheld that vote, and when the opportunity presented itself, review those sections of the code to see if amendments might be needed. MR. PERRIGO appreciated the feedback because staff does work hard, and it can be quite challenging. He informed COMMISSIONER TROWBRIDGE that staff was happy to take direction from the Commission any time they thought there was something that needed to be reviewed, but he did explain the code is reviewed frequently to see if it makes sense, as it is understood there are a lot of gray areas. It is challenging because if the code is too specific, nothing would get approved, and if it is too general, then everything would get approved, so it is a balancing act.

8. [Presentation regarding the proposed Beverly Green Historic District nomination on the citys Historic Property Register](#)

Minutes:

TOM PERRIGO, Planning Director, stated this is a very exciting item that will be coming before the Planning Commission in the coming months. As this is a little bit different in that it is regarding a Historic District nomination, COURTNEY MOONEY, Urban Design Coordinator, was asked to make the presentation.

MS. MOONEY reported that the Beverly Green Neighborhood Association submitted an application to the City of Las Vegas Historic Preservation Commission (HPC) to designate the Beverly Green Historic District (District) on the Citys Historic Property Register, referred to as the local register. The City has worked closely with the Beverly Green Neighborhood Association and the Nevada Preservation Foundation in hosting the required meetings and obtaining the required 51 percent of the property owner signatures prior to moving forward as a nomination to the HPC.

MS. MOONEY pointed out the boundaries of the District. Within this District, there are 117 single-family homes and seven multi-family properties. The neighborhood has a mix of mid-century architectural styles; all built during the 1950s and early 1960s. The neighborhood meets the criteria for historic designation, mostly because the majority of the properties are over 40 years old. It is also associated with the city's history because of the significant community leaders that lived there during the 1950s. Additionally, there were several very prolific architects that designed some of the custom homes, such as HUGH TAYLOR, who designed the Desert Inn Casino and the Morelli House which is also listed on the local register.

This item will be introduced to the HPC on May 25th; the Commission then has 30 days to review the nomination report prior to being scheduled for a Public Hearing at the June HPC meeting. MS. MOONEY stated that the notification radius is 1,000 feet around the proposed District. In the past, many property owners that lived within the 1,000 foot radius were confused and expressed concerns at the Planning Commission meeting about the District boundaries expanding into the 1,000 foot radius in the future. She clarified that the District never automatically expands into the adjacent properties; there is a really long process prior to coming before the HPC and Planning Commission that includes several public meetings, design workshops and obtaining the required number of signatures. The impacts to those property owners within the District do not apply to those within the notification radius. After the June Public Hearing at the HPC meeting, staff will hold another public meeting with the neighborhood and reinforce this point. If the HPC recommends approval, this item will appear on the August Planning Commission agenda and the September City Council agenda.

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MS. MOONEY reviewed the impacts of properties designated on the local register. Depending on the scope of work, any work requiring a building or zoning permit can be reviewed by either herself or the HPC. There are no additional fees for this review, and there is an appeal period for the HPC recommendation. A larger project would be put before the Commission. There were also questions as to whether applications for wheelchair access ramps in front of a house or applications for solar panels could be denied. She explained that the State prohibits denying these applications, but recommendations can be made where to place them. She explained that the designation remains with the land. Once designated, although property owners are not required to restore their property, they do become eligible for HPC bricks and mortar matching grants to do so.

MS. MOONEY noted that designation on the local register does have some impact on the property owners. The other two types of historic designations are state and national designations, which do not have any impact on the property owners. One of the biggest concerns of historic neighborhoods coming forward for designation is the belief that they will be encroached upon commercially; designation on the local register is seen as an additional tool to protect these neighborhoods from that. The state and national register would not provide any protection.

MS. MOONEY noted that no additional fees or property taxes are assessed on properties that are designated on any of the registers; in fact, there is a lot of data that shows that property values tend to stabilize or increase once designated. Property taxes may increase based on increased property values, but there is no automatic increase assessed. She noted that there are 182 properties listed on the local register, the bulk of which fall within the John S. Park Historic District. There are 565 properties on the state and national register.

MS. MOONEY hoped the information provided clarified some of the questions that may come up during the upcoming meetings.

9. [Presentation regarding the review of the analyses of Variances and Site Development Plan Reviews](#)

Minutes:

TOM PERRIGO, Planning Director, stated this item deals with variances, exceptions, deviations and waivers which can be very challenging for staff. The development standards in Title 19 are based on the policies, goals and objectives of a variety of master planning and elements to build the type of city that the Planning Commission, City Council and citizens have envisioned. Quite frequently, when staff recommends denial of a variance or waiver, the Planning Commission or City Council will recommend approval. When this happens, staff tries to determine if a code change is needed or if they need to be more thorough in their analysis to help facilitate decision making. He noted that over the last 10 years, an average of over 100 variances and over 200 waivers and deviations from the code have been approved every year.

PETER LOWENSTEIN, Planning Section Manager, stated that according to Title 19, neither the Planning Commission nor the City Council shall grant a variance in order to permit a use in a zoning district in which the use is not allowed, to vary minimum spacing requirements or to relieve a hardship that is solely personal, self-created or financial.

Using the attached PowerPoint presentation, MR. LOWENSTEIN reviewed the key findings related to variances, which deviate approximately 70 percent from the standard. He provided statistics relating to the number of variances from 2002 to present and those since the adoption of the Unified Development Code (UDC) as well as the most common types of variances. These key findings also revealed that staff recommendations of denial were often overturned and approved by the Planning Commission or City Council.

A pie chart breaking down all of the variances since 2002 according to type is attached. This showed that variance requests for setbacks make up the largest percentage of requests followed by parking and then walls. A separate pie chart showed the breakdown of variances since the adoption of the UDC in March 2011. Another graph detailed the types of variances by zoning district. Since the adoption of the UDC, there has been a huge spike in variance requests regarding residential setbacks followed by commercial.

MR. LOWENSTEIN described the key findings related to setbacks. The majority of the setback variances relate to either single-family homes, commercial buildings or accessory structures that include a 30 percent to 70 percent deviation from the code requirement. Since the adoption of the UDC, 61 percent of the residential variance requests, and 23 percent of the commercial variance requests were for building setbacks, with Accessory Structure Class II being the third most sought after variance related to setbacks.

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With regard to parking, MR. LOWENSTEIN reported that the predominant request was a 10 percent to 30 percent deviation from the code requirement. He further reported on statistics relating to the percentage of parking deviations as compared to the total number of all variance requests and the percentages related to commercial and multi-family developments.

The key findings relating to walls and fences revealed that the top two requested deviations from wall standards were for perimeter screen walls and open visibility requirements in the front yard. The predominant request was for a 20 percent to 40 percent deviation from the code requirement. He also reviewed the percentage of wall variances related to commercial and residential development.

MR. LOWENSTEIN reviewed the Council/Commission Action versus Staff Recommendation slide, noting that blue represented an action other than approval or denial. Of those applications where staff recommended approval, only one was denied. However, of those where staff recommended denial, only 95 denials were upheld and 861 resulted in recommendations of approval by the Planning Commission to the City Council.

MR. PERRIGO asked for feedback on the data that was presented by MR. LOWENSTEIN, and KAREN DUDDLESTEN, Deputy Planning Director, asked the Commissioners if they were seeing the same things that the data reflected. CHAIR MOODY commented that it was nice to see the data summarized and acknowledged this is what the Commission is seeing. With setbacks being the number one variance request, MS. DUDDLESTEN and MR. PERRIGO asked if the code was working or if the Commission was seeing something repeatedly that staff could review and consider changing so that there were not as many variance requests or were there truly exceptional circumstances that existed to support the variance. ASSISTANT CITY ATTORNEY BRYAN SCOTT explained that waivers have less of a standard than a variance. The Council vacillates back and forth as to whether they want to make something a waiver which gives them more discretion but allows for more inconsistencies.

COMMISSIONER CHERRY wondered if factors such as waivers granted in rural areas where the residents did not want complete streets and the setback requests in downtown due to limited land skewed the data. Although these types of variance/waiver requests were being seen more often, MR. PERRIGO did not believe they were necessarily skewing the analysis at this point. Based on his observation, COMMISSIONER TROWBRIDGE believed the data supports what is occurring. He commented that the City will be seeing a greater number of different types of variances as it pursues the annexation of County islands. He wondered if it would save staff time if those applications with no opposition and where staff recommended approval were automatically placed on the consent agenda. ASSISTANT CITY ATTORNEY SCOTT indicated that the findings would still need to be placed on the record for consent items. MR. PERRIGO explained that staff does not spend nearly as much time on the analysis and description on those applications that are more routine, but all the components that are needed for the record are still included. ASSISTANT CITY ATTORNEY SCOTT stated that variance standards are very strict and should rarely be given. MR. LOWENSTEIN further explained that staff does facilitate the One Motion One Vote (OMOV) for applications found to have no issues and where staff recommends approval but also wanted to put a variety of projects before the Commission and not just denials. However, if the Commission would like all of the applications with no issues placed on the OMOV agenda, staff can do that. COMMISSIONERS TROWBRIDGE and CHERRY prefer not spending a lot of time on applications that are slam dunks.

ASSISTANT CITY ATTORNEY SCOTT explained the key difference between a variance and a waiver for COMMISSIONER CREAR. Using setbacks as an example, MR. PERRIGO stated staff would not want to make that any less of a standard as there are issues to consider such as fire safety and neighbors not wanting anything too close to them. He noted that a lot of the variances being approved are items being brought forth through Code Enforcement that involve accessory structures that have existed for 30 years, and the Planning Commission and City Council grant the variance so the structure can remain.

COMMISSIONER SCHLOTTMAN asked staff to look at the fence requirement; he thought requiring everyone in Las Vegas to have the same type of two-foot masonry fence with a three-foot metal screen on top was horrible. ROBERT SUMMERFIELD, Planning Section Manager, clarified that the code requires the top three feet be 50 percent open, and most people chose the three-foot metal screen because it is the simplest solution. He provided various examples using other materials. MR. LOWENSTEIN further explained that the impetus behind the original standard was a line of sight into the front yard for life safety so that Metro could ensure no one was hiding. COMMISSIONER SCHLOTTMAN felt the standard was still too strict, and he thought it was confusing to the public. MR. PERRIGO stated staff would take this feedback into consideration to see if there was a way to provide more flexibility in this portion of the code.

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With regard to setbacks, COMMISSIONER SCHLOTTMAN thought there should be some flexibility afforded to developers and a mechanism in place to address developments where only a percentage of the homes did not meet the setback requirements. He wondered why all variances related to a particular project could not be considered at one time and taken as one vote. COMMISSIONER CREAR agreed. ASSISTANT CITY ATTORNEY SCOTT explained the difficulty that would present from a recordkeeping standpoint because each item relates to a separate parcel and a project within a project. MS. DUDDLESTEN explained that staff has been working with the City Clerk's Office on listing the project so that the public could see the project in its entirety with the associated items being requested under that project. However, the current system has limitations on the number of characters allowed in the title so listing all requests is not possible at this time. The City Clerks Office is working on getting a new system after which time staff will work with the City Attorneys Office on approving and voting on the project and all of the associated variances in one vote. For research purposes, ASSISTANT CITY ATTORNEY SCOTT stated that each item still needed to have a title associated with each parcel.

MR. LOWENSTEIN stated that in a Site Development Plan Review, the Planning Commission and City Council have the ability to approve a waiver or exception to certain development standards if the applicant can show convincing and substantial evidence that it will not compromise the objective of the City.

The key findings related to exceptions and waivers revealed there have been 2,414 individual exceptions/waivers between 2006 and 2015; since the adoption of the UDC, there have been 646. On average, waivers and exceptions requested deviate approximately 74 percent from the standard, and the most common exception/waiver is landscape buffers and trees. These key findings also show that staff recommendations of denial were often overturned by the Planning Commission or City Council.

MR. LOWENSTEIN reviewed a pie chart showing all waivers and exceptions between 2006 and 2015 by type. With regard to perimeter landscape buffers and trees, deviations from perimeter landscape requirements represent 54 percent of all requested waivers and exceptions. Sixty-six percent of all requests were related to commercial and industrial development. He also provided statistics related to the number of trees approved versus the number required.

The second most requested exception is parking lot landscaping; deviations from these requirements equate to 15 percent of all requested waivers and exceptions. Sixty-seven percent of all parking lot landscape requests are related to commercial and industrial development and 15 percent are related to multi-family development.

Deviations from sidewalk, streetscape and amenity zones requirements equate to nine percent of all requested waivers and exceptions, with the average deviation from the standard being 58 percent. Sixty percent of all requests were related to commercial- and industrial-zoned property, 34 percent were related to development within special area plans, five percent were related to residential-zoned property and 62 percent were within the downtown area.

A bar graph representing the exception and waiver percent deviation from standard for perimeter landscaping, buffers and trees, parking lot landscaping and sidewalks, streetscape and amenity zone was reviewed in addition to the a graph of Council/Commission action versus staff recommendations.

The next steps and policy direction include doing a better job of educating applicants with regard to variances, waivers and exceptions and looking for design alternatives so these do not need to be utilized as a mechanism. Further analysis of the approvals of variances, waivers and exceptions that do not meet standards or City objectives will be done to look at the trends and commonalities. A re-evaluation of standards for parking, setbacks, landscaping and processes for variances, waivers and exceptions will also take place.

Ultimately, staff is looking to substantiate the safeguarding of public safety, welfare and health. Although there are a lot of variance requests, this does not mean that the code is wrong. The standards are meant to provide better, sustainable environments for future generations. Staff will take an in-depth look at this data and some additional outside data such as property values. With regard to RPDs, MR. LOWENSTEIN stated there were about 44 variances for open spaces; the benefit of getting an RPD was providing open spaces, but a large number of variances were requested as a result of that open space requirement.

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Referring back to the pie chart listing all waivers and exceptions by type, MS. DUDDLESTEN and MR. PERRIGO said they would be interested in the Commissions feedback to the data. CHAIR MOODY commented that he was both surprised and disappointed in these numbers, and he thought the wrong message has been sent to applicants.

COMMISSIONER SCHLOTTMAN agreed but also made reference to reviewing applications on a case by case basis. He wished to get rid of the green fence in the Downtown Centennial Plan, as the City is trying to create a walkable community and it did not make sense; no one wants it or likes it, and it does not fit a lot of the projects. COMMISSIONER CHERRY agreed stating that it was also his understanding that the cost was tremendous.

10. [Presentation regarding the Code Enforcement process](#)

Minutes:

TOM PERRIGO, Director of Planning, stated VICKI OZUNA, Code Enforcement Supervisor, would provide information on what staff sees while doing enforcement in the field.

Referring to the attached PowerPoint presentation, MS. OZUNA reviewed the purpose and functions of the Code Enforcement Division. She provided a breakdown of the number of Code Enforcement staff, the total square miles covered by Code Enforcement and the number of citizens and households per Code Enforcement Officer. Code Enforcement is responsible for enforcing Las Vegas Municipal Code (LVMC) Title 9 Nuisance, LVMC Title 16 Building Code, as it relates to non-permitted structures, dangerous building, and the housing code, as well as the Uniform Development Code.

She explained that with complaint-initiated enforcement, staff tries to complete the first inspection within 48 hours. She listed Code Enforcements priorities as vacant properties, green pools and open accessible buildings. She reported that Code Enforcement addresses over 11,000 complaints a year; it takes an average of three inspections per case and most cases are usually closed within 27 days. She also noted that last fiscal year, there were 98 abatements.

Nineteen percent of the violations Code Enforcement deals with are building code violations, 53 percent are nuisance, 27 percent are zoning and one percent are hazards.

Of the zoning code violations, 73 percent are residential vehicle violations, 16 percent are sign violations, eight percent residential standards, one percent commercial standards and two percent are other.

MS. OZUNA described the types of Building Code violations Code Enforcement addresses. These include non-permitted structures, housing code, dangerous building and other. Non-permitted structures usually involve some sort of variance; approximately 30 to 40 cases per year on average go before the Planning Commission. Nuisance Code violations include refuse, weeds, dead vegetation, graffiti, storage and other.

While most enforcement is complaint initiated, some are officer initiated based on what they find in the field. MS. OZUNA stated that Code Enforcement took over final zoning inspections this year, and they also conduct the annual Planning inspections.

Zoning enforcement can involve landscaping conditions for commercial property, subdivisions and medians, home occupation violations, vehicle residential district violations, unlicensed short-term rentals and party houses, regulating the number of unrelated residents and animals.

With regard to unlicensed short-term rentals and party homes, COMMISSIONER CREAR asked if a special permit was required to designate a home as an Airbnb home, short-term rental or party home. MS. DUDDLESTEN stated that these were two different issues. She explained that short-term rental involved renting the entire unit. Airbnb is where someone living in a dwelling rents out one room of that dwelling, and that is currently considered a bed and breakfast. An ordinance will be coming before the Planning Commission probably in June to consolidate these so that anyone wanting to rent for less than 30 days, whether it be one room or the entire structure, would be considered a short-term rental. A short-term rental license would be needed which could only be granted if there was not another short-term rental within 660 feet. MS. OZUNA further explained that party houses are not a permitted use of a single-family home.

Before and after pictures of a case that appeared before the Planning Commission as the result of Code Enforcement initiated investigations are attached as backup. Staff never knows which direction some of these projects will go, and some

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require a lot of handholding. Code Enforcement receives many complaints about businesses being run on residential property. Several pictures are attached of some of the things Code Enforcement finds when investigating some of these complaints.

With regard to the final zoning inspection, she reiterated that Code Enforcement took over this function in January 2016. These inspections involve ensuring that all of the projects being completed are adhering to the code requirements as approved by the Planning Commission and City Council. She named several requirements that staff is looking at when conducting these inspections. Pictures of issues staff identified during one of these final inspections are attached and were described by MS. OZUNA.

Code Enforcement took over the annual Planning inspection function because once the recession hit, there was not enough Planning staff to handle the approximate 2,500 properties that needed to be inspected. The current procedure does not require a property to be inspected for three years if the property has been consecutively in compliance for three years. This allows staff to focus on those properties that are not in compliance. Code Enforcement Officers check for compliance with such things as landscaping, parking and illegal signage. Billboards are inspected every five years. Before and after pictures of a property that was not in compliance with the required landscaping and another property not in compliance with their signage are also attached. MS. OZUNA explained that the ultimate goal is to bring a property into compliance.

MS. OZUNA named some of the enforcement tools that can be used. These include the ability to assess failed inspection fees to help cover staffing costs related to repeated visits to the property and the ability to issue civil penalties and criminal citations.

Since moving under the Planning Department, MS. OZUNA stated Code Enforcement tries to provide suggested timeframes related to conditions to MR. PERRIGO and MS. DUDDLESTEN. She informed the Commissioners that staff tells an applicant that they need to be prepared to get their building permit within 30 days and suggested that the Commission give them 90 days at most and not six months.

With the area south of Charleston Boulevard and west of Las Vegas Boulevard being in transition, COMMISSIONER CHERRY expressed the frustration of some of the new property owners and developers in this area that are trying to make things better and more secure, yet they are finding Code Enforcement notices on their property. He asked if better communication with Code Enforcement and the communities where revitalization was occurring would help. MS. OZUNA replied stating communication is a great tool, and one of the ways Code Enforcement communicates is via a Correction Notice because the property owners are not always on site. A Correction Notice simply advises the property owner that there is an issue, and the violation has been verified. With regard to one of the scenarios COMMISSIONER CHERRY shared, Code Enforcement understands that everyone is simply trying to keep their property safe, but there are steps a property owner can take to obtain approval first. With regards to graffiti, MS. OZUNA has advised her officers to work with the property owners to establish a maintenance plan, and then if the property owner is not adhering to that plan, address it accordingly. A lot of Code Enforcement involves educating the property owners as to what their responsibilities are. COMMISSIONER CHERRY commented that part of the frustration may be that the property owners think they are in a lot of trouble when they see the Correction Notice and do not recognize that it is just a notice with no fee involved. COMMISSIONER SCHLOTTMAN finds it helpful to reach out to the Code Enforcement Officer that covers a particular area so there can be communication.

MR. PERRIGO appreciated the excellent feedback. He noted that the Code Enforcement Correction Notice was similar to that utilized by Business Licensing. Staff will have another conversation about this, but experience has shown that the notice has to be attention getting due to the nature of the business.

11. [Presentation on the next steps regarding the Downtown Master Plan](#)

Minutes:

Due to the meeting running longer than anticipated and the fact that several presentations of the Downtown Master Plan had previously been presented to the Commission, TOM PERRIGO, Director of Planning, stated that this item would not be heard. The implementation phase would be presented at a later date, possibly at another workshop.

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12. CITIZENS PARTICIPATION: PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS WITHIN THE JURISDICTION OF THE PLANNING COMMISSION. NO SUBJECT MAY BE ACTED UPON BY THE PLANNING COMMISSION UNLESS THAT SUBJECT IS ON THE AGENDA AND IS SCHEDULED FOR ACTION. IF YOU WISH TO BE HEARD, COME TO THE PODIUM AND GIVE YOUR NAME FOR THE RECORD. THE AMOUNT OF DISCUSSION ON ANY SINGLE SUBJECT, AS WELL AS THE AMOUNT OF TIME ANY SINGLE SPEAKER IS ALLOWED, MAY BE LIMITED

Minutes:

None.

13. ADJOURNMENT

Minutes:

The meeting adjourned at 5:27 p.m.

Respectfully submitted:

Debra A. Outland, Deputy City Clerk

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS:

City Hall, 495 South Main Street, 1st Floor
Clark County Government Center, 500 South Grand Central Parkway
Grant Sawyer Building, 555 East Washington Avenue
City of Las Vegas Development Services Center, 333 North Rancho Drive