

## WORKING DRAFT v. 1-17-24 – for CEDC discussion

### Proposed changes to AO 2023-136, Commercial Independent Plan Review

Prepared by Assembly Member Brawley, with intent to join with current co-sponsors Cross and Sulte

*NOTE:* This is a conceptual working draft of proposed changes, for discussion at the Community and Economic Development Committee meeting on Thursday, January 18, 2024.

#### OVERALL INTENT OF PROPOSED REVISIONS

1. **Make this change a time-limited program that sunsets on a certain date.** Allow it to operate for a full building season, but requires a review of its utilization in 2024 and a reauthorization of the Assembly to continue for a longer period of time.
2. **Keep the independent review truly third party.** Ensure there are no conflicts of interest or problematic incentives to create situations of “self review,” where a company, individual or immediate family member is in a position of reviewing a project for which they have close associations.
3. **Include intent language that retains the function of Dev. Services.** State that expansion of third party review is not intended to replace Municipal functions or result in a reduction of staff positions doing this work, but to allow for more capacity during peak periods, and/or during situations like the current problem of low staffing.

#### PROPOSED CHANGES AND ADDITIONS

Page and line numbers refer to the original version of AO 2023-136.

1. **Page 1 In 15, add new Whereas clause [before existing #3]: timeliness and potential risk to 2024 building season for housing construction**

*Note for drafting, confirm accurate department or division name*

“WHEREAS, current vacancies and reduced staff capacity within the Development Services department pose serious concerns about the Municipality’s ability to complete timely review of commercial development projects for the 2024 peak building season, which includes multi-family housing construction; and”

2. **Add another Whereas immediately following: intent is not to replace MOA employees**

*Note for drafting, this language may be more appropriate as a section at the end?*

“WHEREAS, the intent of expanding utilization of third party review for more types of development projects is not to discontinue a current function of the Municipality, eliminate current positions including vacancies, or absolve the Municipality of its responsibility for residents’ health, safety and welfare, but to allow for additional avenues to complete development approvals in a timely manner during periods of peak demand, and with the current situation of reduced municipal staff capacity; and”

3. **Section 1, pg 2, starting In 22: better define “third party”**

*Intent: tighten language in current code to more clearly define “independent” and avoid conflicts of interest between a project’s team and the reviewer.*

“d. [4.] No application will be accepted where an independent reviewing professional [HAS] also serves[D] as the designer or builder of the project, **has any ownership or financial interest in**

the project, or has an immediately family member or household member with ownership or financial interest in the project.”

**[definition to include] “immediate family member” means a spouse, sibling, child, or parent;**

**4. New section at the end: required report**

*Intent: require a timely summary report of how this program fared by the end of the summer season (September 2024), to inform whether and how to extend this program.*

“Section X. The Department shall submit a report to the Assembly by October 8, 2024 including the number of independent plan reviews completed, the number of plan reviews completed by staff, any findings or deficiencies identified of plans reviewed or audited by the building official under this program, and any other findings and information regarding this program that the Department deems relevant for consideration of further extension of this program.”

**5. New section at the end: sunset date**

*Intent: include a specific sunset date, and to allow projects currently under review that were started prior to the sunset date to finish review, rather than requiring those projects to start the review process over.*

“Section Y. This ordinance shall sunset on November 15, 2024 unless reauthorized by the Assembly. Projects currently under review as of November 14, 2024 by third parties as authorized under this ordinance may be completed without regard to the sunset date.”