Planning Commission
Agenda Item

December 3, 2012

TO: **Chair Steiner and**
Members of the Planning Commission

THRU: **Leslie Roseberry**
Planning Manager

FROM: **Jennifer Le, Senior Planner**

SUBJECT

PUBLIC HEARING: Zone Change No. 1267-12 to re-zone certain properties in Old Towne Orange (west of Glassell Street) to Single Family Residential (R-1-6) in order to establish consistency between the Low Density Residential (LDR) General Plan land use designation and the zoning, in accordance with State law.

SUMMARY

The City of Orange General Plan update was adopted in March 2010. The General Plan made changes to the City's Land Use Plan re-designating portions of the residential quadrants of Old Towne to LDR (Low Density Residential, 2 to 6 dwelling units per acre). The City's General Plan identifies R-1 (Single Family Residential) as the corresponding zoning district for the LDR General Plan land use designation. State law requires consistency between a property's General Plan land use designation and its zoning. In order to establish the required General Plan-zoning consistency, Zone Change 1267-12 is proposed to rezone Old Towne properties with an LDR General Plan land use designation to R-1-6 (Single Family Residential, 6,000 square foot minimum lot size).

RECOMMENDED ACTION

1) Adopt Planning Commission Resolution No. PC 49-12 entitled:

> **A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL APPROVE ZONE CHANGE NO. 1267-12 AND ADOPT THE DRAFT ORDINANCE REZONING CERTAIN PROPERTIES IN OLD TOWNE ORANGE WEST OF GLASSELL STREET TO SINGLE FAMILY RESIDENTIAL (R-1), IN ORDER TO ESTABLISH CONSISTENCY BETWEEN THE LOW DENSITY RESIDENTIAL (LDR)**

GENERAL PLAN LAND USE DESIGNATION AND THE ZONING CLASSIFICATION IN ACCORDANCE WITH STATE LAW

AUTHORIZATION/GUIDELINES

Orange Municipal Code (OMC) Section 17.10.020 requires City Council approval of amendments to the Zoning Map, and also establishes procedures by which the Planning Commission reviews such amendments and makes recommendations to the City Council.

PUBLIC NOTICE

Public notice of the proposed Ordinance Amendment was published in the Orange City News newspaper on November 22, 2012. A total of 1,400 notices were mailed to the owners and tenants of affected properties, as well as the owners and tenants of properties within 300 feet of the affected properties. Notices were also posted at City Hall and Library posting locations.

ENVIRONMENTAL REVIEW

Final Program Environmental Impact Report (EIR) No. 1815-09 for the Comprehensive General Plan Update was certified on March 9, 2010 and was prepared in accordance with the California Environmental Quality Act (CEQA). The proposed zone change falls within the scope of the previously approved General Plan and is adequately described in the previously certified General Plan Program EIR for purposes of CEQA. No further environmental review is required.

PROJECT BACKGROUND

The City's 2010 General Plan update was adopted on March 9, 2010. The 2010 General Plan Land Use Plan re-designated certain properties in the residential quadrants of Old Towne to LDR (Low Density Residential, 2 to 6 dwelling units per acre). This change was made to establish a land use policy for Old Towne's residential quadrants that encourages future residential development in Old Towne to be single-family in nature, consistent with its predominant land use pattern. It also encourages preservation of Old Towne's predominantly historic single-family homes. The 2010 General Plan land use map for the Old Towne "focus area" is included as Attachment 2 to this report.

In accordance with State planning law (Government Code §65860), the City must establish consistency between the General Plan and zoning. The General Plan identifies R-1 (Single Family Residential) as the corresponding zoning for the LDR General Plan land use designation. (Refer to the General Plan Land Use Element Table LU-3, Attachment 3). Therefore and in order to establish General Plan-zoning consistency, the subject Zone Change would rezone Old Towne properties to R-1-6 that were re-designated to LDR by the 2010 General Plan update. In addition, the subject Zone Change would rezone Old Towne properties to R-1-6 that have had a long-standing LDR General Plan designation, but are zoned something other than R-1. The subject Zone Change would establish consistency between General Plan and zoning as required by State law.

It should be noted that establishing consistency between zoning and the 2010 General Plan will require the City to undertake a series of rezoning efforts. The first phase of the rezoning effort focused on the residential quadrants of the Old Towne General Plan "focus area" *east of Glassell Street* and was approved by the City Council on May 8, 2012. The subject Zone Change represents the second phase of the rezoning effort for Old Towne's residential quadrants and focuses on properties located *west of Glassell Street*. Other recent zone changes establishing consistency with the General Plan focused on the mixed use zones, the Katella corridor and Uptown Orange.

PROJECT DESCRIPTION

Zone Change 1267-12 proposes to rezone properties located in the Old Towne General Plan "focus area" (west of Glassell Street) that have a LDR General Plan land use designation. The Zone Change would rezone the subject properties to R-1-6 (Single Family Residential, 6,000 square foot minimum lot size), in order to be consistent with the LDR General Plan land use designation. There are 385 properties affected by this zone change. Existing and proposed zoning for the affected properties are depicted in the maps provided as Exhibits A and B respectively to the Draft Ordinance (Attachment 1).

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

The request involves a Zone Change. Zone Change No. 1267-12 will establish consistency between the General Plan land use designations and zoning classifications for the subject properties.

> *Required Findings:* There are no required findings for a Zone Change because it is considered a legislative action. However, OMC Section 17.10.020 requires that when the Planning Commission makes a recommendation to the City Council, the Planning Commission include in its decision: 1) the reasons for the recommendation; 2) the relationship of the proposed amendment to the General Plan and applicable Specific Plans; and 3) the environmental determination. These three items are addressed in the Planning Commission Resolution. By adopting the Resolution, the Planning Commission will have complied with this Code provision.

ANALYSIS/STATEMENT OF THE ISSUES

<u>Issue 1: General Plan-Zoning Consistency</u>

The 2010 General Plan provides a generally uniform LDR land use designation for most of the northwest and southwest residential quadrants of Old Towne (outside of the Santa Fe Depot Specific Plan area). The subject Zone Change properties have a General Plan land use designation of LDR and are currently zoned Duplex Residential (R-2-6), Multi-Family Residential (R-3), Multi-Family Residential Maximum (R-4), Office Professional (O-P) and Light Manufacturing (M-1).

As presented in Table LU-3 of the General Plan Land Use Element, R-1 zoning is the zoning that corresponds with the LDR designation (Attachment 3). The range of R-1 zoning includes R-1-6, R-1-7, R-1-8, R-1-10, and R-1-15, with the numeric suffix indicating the minimum lot size in 1,000 square feet.

Resolution:

The proposed Zone Change establishes R-1-6 zoning on all affected properties, representing Single Family Residential zoning with a minimum lot size of 6,000 square feet. This zoning has been identified as the appropriate zoning given the fact the majority of affected properties have actual lot sizes that are 6,000 square feet in size or greater. In addition, a large proportion of the affected properties are currently zoned R-2-6 (Duplex Residential with a minimum lot size of 6,000 square feet), which has the same minimum lot size requirements as the proposed R-1-6 zone. Further, R-1-6 zoning is the zoning applied to the other residential quadrants in Old Towne. Therefore, R-1-6 zoning is the most appropriate zoning for this area.

Issue 2: Legal Non-Conforming Uses

Summary of Existing Land Use on Affected Properties
The R-1-6 zone is intended for Single Family Residential development and allows for one single family home and an accessory second unit on a lot.

Of the 385 parcels that will experience a zone change to R-1-6, 248 (64%) currently contain single family residential land uses, consistent with the proposed R-1-6 zoning. Of the remaining 137 parcels, 126 contain multi-family residential uses (meaning properties with more than one residential unit). Some portion of those multi-family properties contain two units, with a second unit that is between 450 and 640 square feet in size. These units would be considered "accessory second units" and are consistent with the proposed R-1-6 zoning. The remaining multi-family properties contain "duplexes" or other multiple unit developments and would not be consistent with the intent of the proposed R-1-6 zone.

In addition, there are 11 affected properties that do not contain single-family or multi-family residential uses. Of these 11 properties, four are vacant, two contain commercial uses, one contains a Southern California Edison substation, two are parking lots associated with adjacent schools, and two contain the "Ronald McDonald House" (a quasi-residential/social institution).

Overall, existing land use on the majority of affected properties is single family residential, consistent with the proposed R-1-6 zoning. However, there is also a large portion of affected properties that contain multi-family residential development or other non-residential uses.

Legal Non-Conforming Uses
Typically, the proposed rezone of the subject properties to R-1 zoning would render the properties that already have multiple residential units or non-residential development "legal non-conforming". Legally established "legal non-conforming" uses would be "grandfathered" under the new zoning and could continue on as they are today, subject to the "Nonconforming Uses" provisions of the OMC (Chapter 17.38).

However, as a follow-up action to City Council approval of the rezone to R-1-6 for properties in Old Towne *east of Glassell Street* (approved on May 8, 2012), the Council approved Ordinance No. 7-12 (OMC Section 17.14.050.G) addressing the "legal non-conforming" status of duplex and multi-family dwellings. OMC Section 17.14.050.G is included as Attachment 4 and states:

> "*…duplex and multi-family dwellings located within the 2010 General Plan Land Use Focus Areas that experienced a change in zoning to Single Family Residential (R-1) are recognized as permitted uses provided they were legally established at the time of the change to such zoning. Additions, reconstructions or alterations to the affected properties may occur provided that no new dwelling units are added and the development is otherwise undertaken in accordance with applicable Code standards. …*"

Therefore, properties affected by the subject zone change that have multiple residential units would be considered permitted (not "legal nonconforming").

Furthermore, in conjunction with adoption of the 2010 General Plan in March 2010, the City Council adopted Ordinance No. 12-09 (OMC Section 17.38.065), making special accommodations for properties made non-conforming by the land use changes of the General Plan. These provisions are detailed in Attachment 5, and include allowing a legal non-conforming use to remain indefinitely and also to expand. Hence, multi-unit residential and non-residential properties or uses can remain as is after the proposed change in zoning occurs.

ADVISORY BOARD RECOMMENDATION

The proposed Zone Change was not reviewed by either the Staff Review Committee or the Design Review Committee due to the fact that neither involve a specific development project, and both are implementing a land use change that was discussed extensively by staff at an inter-departmental level, and also by the Planning Commission and City Council during General Plan development and adoption.

ATTACHMENTS/EXHIBITS

1. Planning Commission Resolution No. PC 49-12
   a. Draft Ordinance
   b. Maps depicting existing and proposed zoning
2. General Plan Focus Area Map for Old Towne
3. General Plan Land Use Element, Table LU-3
4. OMC Section 17.14.050.G
5. OMC Section 17.38.065