Planning Commission
Agenda Item

March 18, 2013

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

THRU: **Leslie Roseberry, Planning Manager**

FROM: **Anna Pehoushek, AICP, Principal Planner**

SUBJECT

PUBLIC HEARING: An ordinance amendment to streamlining City review of development and use applications related to home occupations, recurring temporary uses, Zoning Administrator Variances, legal non-conforming garage dimensions, and wireless communication facilities.

SUMMARY

In October 2012, the City Council directed the Community Development Department to undertake amendments to Title 17 of the Orange Municipal Code (Zoning Ordinance) with the purpose of streamlining the review of certain types of development applications and uses in order to simplify and make the public's interaction with the City more streamline, as well as to make more efficient use of City staff resources. The subject Ordinance Amendment represents the first phase of Code streamlining and addresses home occupations, recurring temporary uses, Zoning Administrator Variances, legal non-conforming garage dimensions, and wireless communication facilities.

RECOMMENDED ACTION

1) Adopt Planning Commission Resolution No. PC 10-13 entitled:

> **A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDMENT TO STREAMLINE CITY REVIEW OF CERTAIN DEVELOPMENT AND USE APPLICATIONS RELATED TO HOME OCCUPATIONS, RECURRING TEMPORARY USES, ZONING ADMINISTRATOR VARIANCES, LEGAL NON-CONFORMING GARAGE DIMENSIONS, AND WIRELESS COMMUNICATION FACILITIES**

AUTHORIZATION/GUIDELINES

Orange Municipal Code (O.M.C.) Section 17.10.020 requires City Council approval of amendments to the Zoning Ordinance, 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 March 7, 2013. Because of the large geographic areas of the City involved in the proposed Municipal Code changes and rezoning, no single property was posted. Hearing notices were also posted at City Hall, Police, and Library posting locations.

ENVIRONMENTAL REVIEW

Categorical Exemption: The draft Ordinance Amendment is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15305 (Class 5, Minor Alterations in Land Use Limitations) because it involves a modification to citywide standards rather than a specific development project or focused geographic area. There is no public review required.

PROJECT BACKGROUND

In 2012 the City completed an Organizational Assessment that included an evaluation of the Community Development Department's development review process and procedures. The report concluded that opportunities exist for the City to streamline its review process to minimize applicant waiting periods for the City approvals. As a follow up to the Organizational Assessment, Community Development Department staff identified a series of Code requirements and internal procedures where changes could be made to make City operations more efficient, and offer a more user-friendly experience for the public. Based on the findings of the Organizational Assessment, the City Council directed staff to prioritize and undertake the identified Code amendments. The subject Ordinance Amendment addresses the first tier of streamlining opportunities.

PROJECT DESCRIPTION

The proposed Ordinance Amendment makes revisions to the Zoning Ordinance for purposes of streamlining City review processes related to routine requests reviewed by the Planning Division of the Community Development Department. The changes being brought forward are designed to allow a limited number of non-resident visitors to home occupations, administrative review of seasonal, recurring temporary uses, and continuation of legal non-conforming setbacks, parking and access conditions for certain residential additions, and accommodations for additional wireless communication facility height in industrial and residential zones.

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

The City is proposing an Ordinance Amendment to zoning provisions in Title 17 of the O.M.C. related to home occupations, recurring temporary uses, Zoning Administrator Variances, legal non-conforming garage dimensions, and wireless communication facilities.

Required Findings: Although there are no required findings for an Ordinance Amendment, since it is considered a legislative action, per O.M.C. Section 17.10.020, the Planning Commission shall address the following in its Resolution recommending approval of the Ordinance Amendment to the City Council:

- Reasons for the recommendation.
- The relationship of the proposed amendment to the General Plan.
- Environmental determination.

ANALYSIS/STATEMENT OF THE ISSUES

Issue 1: Home Occupations

Section 17.14.050.J of the O.M.C. establishes provisions for home occupations in the City of Orange. The Code does not allow for non-occupants of the residents to visit the property for business purposes other than bona fide delivery services (e.g., FedEx, UPS, courier service). The limitations on home occupations are designed to ensure that activities at the residence are consistent with typical household use and do not adversely impact or change the character of the existing neighborhood.

Home-based offices and business activities have become common in Orange, as well as among all cities with the evolution of technology, changing structure of the economy and employment opportunities, and lifestyle preferences. Individuals with home occupations can experience limited business-related visits to their residence beyond typical delivery services.

Resolution

In recognition of the factors cited above, staff believes that accommodating up to one client at a time is reasonable, provided that the activity continues to preserve the household and neighborhood environment. Hence, the following changes are proposed to Section 17.14.050.J.3:

> 3. Involve the use of services at the premises of ***no more than one client*** ~~non-occupants~~ of the dwelling ~~in any manner~~ ***at any given time***~~; provided, however, that~~***.*** ***Home occupation clients and*** deliveries made by bona fide delivery firms shall be permitted, as long as such ***visitors and*** deliveries are in amounts or performed in a manner recognized as part of a reasonable household use.

Issue 2: Recurring Temporary Uses

Section 17.10.035 of the O.M.C. establishes policies and procedures for the review of temporary uses in the City. Certain types of temporary uses are commonly repeated on an annual basis in the identical location such as pumpkin patches, Christmas tree lots, and strawberry stands. Under present Code requirements, applications for temporary uses must be submitted at least 30 days prior to initiation of the use and be reviewed by the Staff Review Committee (SRC), with ultimate action taken by the Community Development Director or designee with conditions of approval as needed.

Under present procedures, in instances where a certain temporary use is brought forward on an annual basis for the same type of sales, in the same location, and with the same layout and operator, staff typically carries forward conditions of approval for the activity from previous applications for the same activity. Given the routine nature of these types of applications, staff believes that an over-the-counter approval, eliminating the step of SRC review, provides a more streamline process for applicants, and also significantly reduces the staff resources devoted to a routine request.

Resolution

To provide a more streamlined process for recurring seasonal uses, staff proposes the addition of text to Section 17.10.035.D.5 as follows to allow administrative approval of such uses provided that no physical changes have occurred to the property or property ownership within the time that has passed since the approval of the original temporary use permit;

> ***Annual, seasonal, or recurring uses on the same site with the same layout may be approved administratively provided that no physical changes have occurred to the property or property ownership within the time that has elapsed since the approval of the original temporary use permit by the Community Development Director.***

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Issue 3: Zoning Administrator Variances

Section 17.10.040.D of the O.M.C. provides for certain types of variances to be reviewed by the Zoning Administrator including waivers of building setback and yard requirements and waivers of garage location and access requirements. In many instances, the variance requests involve additions to existing buildings or long-standing site development conditions.

With respect to setbacks, Zoning Administrator Variance requests are most commonly associated with additions at the back of a house where the original house was legally built closer than 5 feet to the side property line, as required by current development standards. In the case of garage location and access requirements under the present Code, additions to existing development of a certain size trigger the need to bring non-conforming garage location and access requirements up to current development standards.

Resolution

The Zoning Administrator routinely approves variance requests for extensions of building walls along non-conforming setbacks, and addition-related garage location and access issues. Therefore, the following Code revisions are proposed to provide pragmatic relief from the Zoning Administrator Variance process (public notification, public hearing) for properties with existing legal non-conforming development. These modifications tie Zoning Administrator setback variances to new development on vacant lots. The Code changes also make an allowance in the Zoning Ordinance parking standards for a 10% deviation in the interior garage dimensions for residential additions that would otherwise trigger the need to upgrade the size of a legal non-conforming garage.

Proposed revisions to Section 17.10.040.D.2 include:

> 2. Waiver of the following building site requirements for buildings constructed on a single lot or for buildings constructed on separate parcels of land provided there are less than five lots or parcels:
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> a. Building setback and yard requirements ***for new residential development on a lot that is vacant or previous development is raised to accommodate new development*****,**
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> 4. Waiver of garage location and access requirements ***for new residential development on a lot that is vacant or previous development is raised to accommodate new development*****;**

Proposed revisions to Section 17.34.020.A include:

> A. Exception for Single-Family Residence. Any single-family dwelling which does not conform to the provisions of this chapter shall be made to comply only at such time as additions or alterations which increase the original floor area by more than twenty-five (25) percent or five hundred (500) square feet, whichever is greater, are carried out. ***In the case of existing garages that are legal non-conforming due to interior dimensions that fall within a ten percent deviation of the requirements of Section 17.34.110.C, such addition or alteration shall not cause the garage dimensions to be brought into compliance with the City's standard garage dimensions.***

Staff also proposes a modification to Table 17.14.070, Residential Development Standards, whereby side yard setback note (c) is revised to accommodate extension of a legal non-conforming residential setback as follows:

(c) The following exceptions apply:

1. Corner and reverse corner lots shall have a minimum ten foot street side yard.
2. Wherever a garage opening faces onto a street, a minimum 20-foot side yard shall be provided.
3. When the main entrance to a building faces the side lot line, the entrance shall be located at least 10 feet from the property line.
4. ***Where an addition is proposed to an existing residence with a legal non-conforming side yard setback, the non-conforming setback shall be allowed to be applied to the extension of the affected building wall.***

Issue 4: Wireless Communication Facilities

Section 17.12.025 of the O.M.C. establishes development standards for wireless communication facilities. The Code currently requires approval of a conditional use permit for wireless facilities that exceed the maximum height allowed in the subject zoning district. This provision has proven to be cumbersome in the case of wireless facilities proposed on sites in the City's Industrial Zones, particularly when the site is a significant distance from a residential district.

The height limitations on wireless communication facilities in residential zones also warrant clarification. For purposes of residential development on residentially zoned property applying the height limitation of the residential zones to wireless communication facilities, functions to protect neighborhood aesthetic character. However, there are opportunities for installation of wireless communication facilities on residentially zoned property that is developed with non-residential uses (schools, parks, utility structures) where the granting of additional height beyond that allowed by the residential development standards may be appropriate. Concentrating wireless communication facilities on these types of properties serves to protect neighborhoods from visual impacts, but also provides the opportunity for residents to experience higher levels of wireless communication service.

Resolution

Staff is proposing modifications to Section 17.12.025 to allow for the granting of additional wireless communication facility height on residentially zoned property via a conditional use permit provided that the property is under public service or utility service use (e.g., park, school, Edison tower). Staff is also proposing that wireless communication facilities may exceed the height limitations of the Industrial zones, up to a maximum of 80 feet, provided that the facility is located greater than 100 feet from the boundary of a residential district and not located within a front yard area.

Proposed revisions to Section 17.12.025 are as follows:

Table 17.12.025.B
Wireless Communication Facility Review Matrix

Zone	Stealth (Building-Mounted)	Stealth (Ground-Mounted)	Nonstealth	Co-Located (Stealth)	Co-Located (Nonstealth)
Industrial Districts Per Chapter 17.20	Staff[1]	***Staff[1]*** ~~SPR~~	SPR/DRC	***Staff[1]*** ~~SPR~~	SPR

1. Minor site plan review may be required depending on the location of any support equipment.

Section17.12.025.D.2:

2. The maximum height of any wireless communication facility, other than roof-mounted facilities, shall be governed by the height requirements of the zone in which the facility is located. Exceedance of the maximum height may be granted through a conditional use permit ***subject to the following provisions or restrictions;***

(a) The conditional use permit provision noted above shall not be applicable for any wireless ground mounted communication facility located in any residential district;

(b) Notwithstanding, properties used for public service offices or uses and utility service uses located in a residentially zoned district, may exceed the maximum height through the granting of a conditional use permit;

(c) ***In any industrial district, the maximum height of any wireless communication facility can be a maximum of eighty (80) feet without the need for the conditional use permit, so long as the facility is located greater than one hundred (100) feet from the boundary of a residential district, and not within the front yard area. Wireless communication facilities taller than eighty (80) feet or located within a restricted area may exceed the height through granting of a conditional use permit.***

ADVISORY BOARD RECOMMENDATION

The proposed Ordinance Amendment was not reviewed by either the Staff Review Committee or the Design Review Committee due to the fact that the Code amendments do not involve a specific development project.

ATTACHMENTS/EXHIBITS

Attachments to Report:

1. Draft Planning Commission Resolution No. PC 10-13 (Ordinance Amendment)
2. Ordinance Amendment with tracked changes

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