

Agenda Report

TO: CITY COUNCIL

DATE: DECEMBER 15, 2003

FROM: CITY MANAGER

SUBJECT: REVISIONS TO THE ZONING CODE REGARDING PARKING FOR TAKE OUT RESTAURANTS, RENTAL OF BEDROOMS, APPEALS AND CALLS FOR REVIEW AND OTHER MINOR AMENDMENTS

CITY MANAGER'S RECOMMENDATION:

It is recommended that the City Council, following a public hearing:

1. Adopt a finding that the proposed amendments to the Zoning Code are consistent with the General Plan as outlined in this report;
2. Acknowledge that the Environmental Administrator has determined that the proposed amendment regarding tobacco sales is exempt from the California Environmental Quality Act (CEQA) pursuant to the general exemption (CEQA Guidelines 15061 (b) (3));
3. Approve the proposed amendment regarding tobacco sales without the provision that allows existing tobacco sellers to be granted a conditional use permit, and
4. Approve the remaining amendments to the Zoning Code as contained in this report, which will be added to the newly revised code scheduled for later adoption.

PLANNING COMMISSION'S RECOMMENDATION:

The Planning Commission reviewed these amendments on September 10th, 2003. They recommended unanimous approval of staff's recommendation on all amendments except for the amendment regarding the appeal of CEQA decisions. The Commission voted to recommend that the appeal of CEQA decisions be only the CEQA decision and not provide the applicant the right to appeal the discretionary entitlement that is part of the decision. They recommended that if a CEQA decision is appealed, that the Council at its own discretion may call for review of the entire decision. The Planning Commission also recommended that pre-existing tobacco retailers be automatically granted a use permit if they comply with the proposed standards.

TRANSPORTATION ADVISORY COMMISSION RECOMMENDATION:

The Transportation Advisory Commission (TAC) reviewed the proposed amendments on October 9th, 2003. They voted unanimously to support staff's recommendation regarding changing the parking requirement for take-out restaurants, establishing parking location and loading requirements for mixed-use and urban residential projects and revisions to the loading requirements for commercial projects.

EXECUTIVE SUMMARY:

The City is updating its General Plan, completing the Central District Specific Plan, and revising its Zoning Code. During the past year, the Planning Commission and the Council have reviewed three sets of zoning code amendments. With completion of these amendments, a draft of the entire Zoning Code will be made available. A separate public hearing will be held before the Planning Commission and City Council on the draft Zoning Code. The amendment for Tobacco Sales is being separated from the other amendments in this report so that it can be codified immediately.

This fourth set of amendments includes amendments that have arisen since the last report, and modifications to previously approved amendments. The report is divided into two sections, major amendments and minor amendments. Minor amendments are contained in Attachment A.

BACKGROUND:

MAJOR AMENDMENTS:

1. Parking for take-out restaurants

This amendment is to the parking requirements for take-out restaurants and was requested by the Transportation Department because of an audit of take-out businesses within the South Lake Parking District.

The intent of this amendment is to modify the parking requirement such that larger take-out restaurants would be subject to the same parking requirements as sit down restaurants while small take-out restaurants (under 1,500 square feet) would continue to meet a lesser requirement. Additionally, the intent of this amendment is to eliminate parking based on the number of seats, since it has been found that this can change over time. The new code will base parking on gross square footage.

In order to distinguish between large take-out restaurants and small ones, a cut off point needs to be established. A survey of selected take-out restaurants in the downtown was taken. This is included as Attachment B. This table shows that large take-out restaurants are typically greater than 2,000 square feet while smaller ones have a range from about 800 square feet to about 1,500 square feet.

The recommendation is that take-out restaurants up to 1,500 square feet continue to be parked at 4 spaces per 1,000 square feet (current code). At 2,000 square feet and above, the parking requirement becomes the same as a restaurant at 10 spaces per 1,000 square feet. For take-out restaurants between 1,501 to 1,999 square feet, the parking requirement will gradually increase to the higher requirement so that by 2,000 square feet the requirement is 10 spaces per 1,000 square feet. This increase is an additional 3 parking spaces for each 100 square feet above 1,500 square feet, not to exceed 20 spaces if less than 2,000 square feet. This avoids a large jump in the parking requirement and serves as a transition to the higher parking requirement.

2. Rental of Bedrooms

Another issue is the rental of bedrooms in a single-family unit. Some single-family homeowners rent separate bedrooms to different tenants. At issue is whether or not this is something that the City should allow since it can create parking problems and change the character of a single-family area. The rental of bedrooms is a means of providing affordable rooms to residents. However, if a substantial number of bedrooms are rented, then the character of a single-family neighborhood can be altered. Recently the State Attorney General's office gave an opinion that a city could regulate the number of bedrooms that are rented. However, because of the continual need for affordable housing, the recommendation is to allow for a maximum of two bedrooms to be rented in a single-family zoning district. If a house has more than two bedrooms that are

rented, it would be classified as a boarding house, which is not permitted in a single-family district.

3. *Appeals and Calls for Review*

- Appeals of CEQA decisions

Under the zoning code, decisions of the Board of Zoning Appeals are not appealable to the City Council. The Council can call such decisions for review if it so chooses. Recent changes in State law require that the elected officials (City Council) be the final appeal decisionmaker on decisions regarding CEQA (California Environmental Quality Act). This means that certification of EIRs, approval of negative declarations and mitigated negative declarations must be appealable to the City Council. The City has two options. It can allow only for the environmental decision to be appealable (without the CUP or variance) or it can allow for the entire decision (including the CUP or variance) to be appealed. Projects that are categorically exempt under CEQA would not be appealable to the City Council. The staff recommendation is to allow the entire decision to be appealed to the Council, as it is difficult to separate the decision on the environmental determination from the project itself. The Commission voted to recommend that the appeal of CEQA decisions be only the CEQA decision and not provide the applicant the right to appeal the discretionary entitlement that is part of the decision. They recommended that if a CEQA decision is appealed, that the Council at its own discretion may call for review of the entire decision.

- Call for review of decisions of the Subdivision Committee

The City has a staff committee that reviews applications for subdivisions and lot line adjustments. The decisions of the Subdivision Committee are appealable to the City Council; however, there is no call for review authority on the part of the Council. A call for review is when a hearing body votes to appeal the decision of a lower body. The City Council has call for review authority over such decisions of the Zoning Hearing Officer, Board of Zoning Appeals and the Design Commission. The recommendation is to add a provision to Title 16 that would allow for the decisions of the Subdivision Committee to be called for review by the City Council. Such decisions would be heard by the City Council.

ENVIRONMENTAL DETERMINATION:

The Environmental Administrator has determined that the proposed amendment regarding tobacco sales is exempt from the California Environmental Quality Act (CEQA) pursuant to the general exemption (CEQA Guidelines 15061 (b) (3)). For the remainder of the code amendments, an Environmental Impact Report is being prepared as part of a larger project. The City Council will review the entire revised Zoning Code and Environmental Impact Report later.

CONSISTENCY WITH THE GENERAL PLAN:

The proposed amendments are consistent with the General Plan's land use objectives and policies as follows. The amendments included in this report address issues related to protecting the scale and character of neighborhoods, promoting a healthy family community, and protecting neighborhoods from traffic (and parking) impacts.

Objective 5 – CHARACTER AND SCALE OF PASADENA: Preservation of Pasadena's character and scale, including its traditional urban design form and historic character, shall be given highest priority in the consideration of future development.

Objective 7 – RESIDENTIAL NEIGHBORHOODS: Preserve the character and scale of Pasadena's established residential neighborhoods.

Policy 5.7 – Enhanced Environment: Development should be shaped to improve the environment for the public; it should support the distinctiveness of the locality and region as well as the special characteristics of the existing fabric of the site's immediate surroundings.

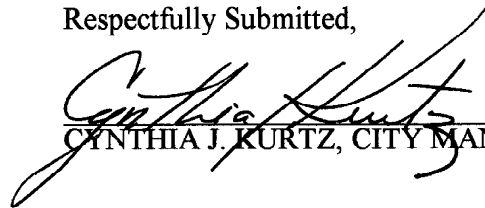
Policy 16.1 – Promote a public health philosophy in response to alcohol, tobacco, and other drug issues.

Policy 19.2 – Traffic Congestion: Reduce traffic congestion and protect residential neighborhoods from traffic impacts.

FISCAL IMPACT:

There will be no fiscal impacts associated with the proposed code amendments since these amendments will be reviewed as part of the plan check or entitlement process. Fees are collected to cover the costs associated with plan check and entitlement process.

Respectfully Submitted,


CYNTHIA J. KURTZ, CITY MANAGER

Prepared by:


DENVER E. MILLER
PRINCIPAL PLANNER

Approved by:


RICHARD I. BRUCKNER
DIRECTOR PLANNING AND DEVELOPMENT