



Agenda Report

TO: CITY COUNCIL

DATE: DECEMBER 18, 2006

FROM: CITY MANAGER

SUBJECT: ZONING CODE AMENDMENTS INCLUDING REVISIONS TO: HOME OCCUPATION PERMITS, RECYCLING CENTERS, TAKE OUT WINDOWS FOR RESTAURANTS, AND HISTORIC PRESERVATION PROVISIONS TO PROVIDE PROTECTION TO POTENTIAL HISTORIC RESOURCES WHILE A LANDMARK DISTRICT DESIGNATION IS UNDER CONSIDERATION.

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the Initial Study and the Negative Declaration (Attachment B) for the proposed Zoning Code Amendments;
2. Acknowledge the De Minimis Impact Finding on the State Fish and Wildlife Habitat (Attachment C) and direct the City Clerk to file the Notice of Determination and De Minimis Impact Finding;
3. Approve a finding of consistency with the General Plan as contained in this report;
4. Approve the proposed Zoning Code Amendments as contained in this report, and
5. Direct the City Attorney's office to prepare an ordinance codifying these amendments and return within 60 days for first reading.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommends approval of this set of Zoning Code amendments.

HISTORIC PRESERVATION COMMISSION RECOMMENDATION:

The Historic Preservation Commission recommends approval of the amendments to the historic preservation chapter of the code with additional findings for demolitions of historic resources.

BACKGROUND:

Under the previous Zoning Code, the staff would yearly group Zoning Code amendments into a single series of amendments. The intent of this was to reduce the number of public hearings. These series included amendments that would otherwise be too small individually. This is the second series under the new Zoning Code which was adopted in February of 2005 and includes policy changes as well as minor amendments, corrections and codification of interpretations. The focus of this report is on the policy changes. Minor amendments, corrections, and the codification of interpretations are included in Attachment A.

ANALYSIS:

1. Home Occupation Permits

Home Occupation Permits (HOPs) are permits that allow residents to work out of their homes. They are subject to a series of requirements contained within the Zoning Code (Section 17.50.110) and are reviewed and approved by the Code Enforcement Officer. More recently issues have arisen regarding impacts of HOPs on adjacent residential uses. These issues have included the use of "interns" as part of the staff, hours that visitors can come by appointment, potential impacts of noise, and use of the residence for storage. In response to these issues, several amendments are proposed in order to minimize impacts but continue to allow HOP's. The changes are:

- Continue to allow for advertising of the HOP as long as the address is not on the advertisement. This includes both paper and electronic advertisements. The intent is to minimize clients coming to a house without an appointment. Clients with appointments are permitted.
- The current code prohibits employees other than residents of the dwelling as part of an HOP. The intent of this requirement is to not generate additional automobile trips and impact street parking. The Zoning Code does not address volunteers, interns, or independent contractors. The Zoning Code will be modified to prohibit the use of independent contractors, volunteers, interns, etc.
- Current code allows an HOP to occupy not more than 500 square feet. An amendment is proposed that clarifies that this 500 square feet includes any accessory structures as well as any storage area.
- Current code allows for visitors by appointment. In order to reduce potential impacts, the proposed amendment will restrict such appointments to the hours from 7 am to 10 pm, Monday through Friday.
- The current provisions do not reference the Performance Standards of 17.40.090 (Electromagnetic Interference, Heat and Humidity, Odor, and Vibration) as well as Noise Ordinance and Hazardous Materials requirements. This amendment will simply reference these requirements for clarity.
- The current code does not allow for the sale of wholesale materials. It only allows products to be sold if they are made on site. This amendment will allow for wholesale materials to be sold only through the web and then mailed. The storage of materials can be off site or if on-site, the storage area is calculated into the maximum allowable 500 square feet.

2. Recycling Centers – Small Collection Facilities

The provisions for Recycling Centers are contained in Section 17.50.220. Under State law, the City must allow one certified recycling center or location within every convenience zone. A convenience zone is the area within one-half mile of a supermarket. Small collection facilities require the approval of a minor conditional use permit. Recent issues have arisen regarding small collection facilities. These issues include: location of uses adjacent to residential uses and the attraction of homeless. The intent of this amendment is to further limit the impact of small-scale collection facilities. The proposed changes are to:

- Require small collection facilities to be located on lots that are a minimum two acres. The intent is to prohibit this use on small sites such as service station sites that are more likely to result in impacts.
- Increase the distance requirement from residential districts from 75 feet to 150 feet to further reduce the potential impact of such uses on adjacent residential districts. The size, location, and signs shall be reviewed through the MCUP process.

3. Take-Out Windows

The Zoning Code does not have requirements for restaurants with exterior take-out windows. The Zoning Code regulates take-out windows that are part of a drive-through service, but does not regulate an exterior walk-up window. There have been issues related to the outdoor take-out windows on restaurants and take-out restaurant including patrons loitering and excessive trash. The intent is to minimize the impact of outdoor take-out windows on abutting uses by requiring a conditional use permit for take-out windows. Restaurants will continue to offer take-out service from the interior of a building without a conditional use permit. An additional amendment that is being proposed is that all take-out restaurants be required to have their name printed on all disposable containers and napkins.

4. Historic Preservation Ordinance

The existing Historic Preservation Ordinance was last amended in 2005 in conjunction with the new Zoning Code. The 2005 version of the ordinance is substantially the same as the November 2002 version, which was a complete rewrite of the original preservation ordinance from the 1970s. Staff has reviewed this chapter and focused on two issues: closing gaps between existing regulatory procedures and places where the code is "silent" (e.g., adding properties to an existing district; unifying regulatory reviews among all districts) and imposing interim protections for resources during a pending historic designation of a landmark district (e.g., denying a request for demolition before the City Council acts on a designation or before an ordinance is effective).

In addition, there are also several inconsistencies and incorrect references in the historic preservation chapter, and several items from the November 2002 ordinance were omitted during reformatting to fit the 2005 Zoning Code. Over time, the staff has also identified several issues, such as the cap on annual applications for historic property-tax contracts, which need to be updated to meet current conditions. The Historic Preservation Commission reviewed these amendments on October 16, 2006 and unanimously approved a recommendation to the City Council of approval. They directed staff to return with additional demolition findings since the current code has no findings other than a determination that the demolition will not create a significant

adverse effect. Staff presented revised demolition findings which were recommended for approval. The proposed amendments are detailed in Attachment B.

ENVIRONMENTAL REVIEW:

An Initial Study and Negative Declaration were prepared. Adoption of the amendment to Title 17 specifying how the City implements Section 65915 involves no potential significant impacts.

GENERAL PLAN CONSISTENCY:

The proposed revisions to the Zoning Code are consistent with the following objectives and policies of the City's General Plan.

The amendments to the Historic Preservation Chapter are supported by Objective 6 in the Land Use Element. This object is as follows: Objective 6 – Historic Preservation: Promote preservation of historically and architecturally significant buildings and revitalization of traditional neighborhoods and commercial areas.

The amendments to the Home Occupation and Recycling Center provisions and the amendment for walk-up windows are intended to better protect neighborhoods. Policy 10.3 Business Expansion and Growth: Support the continuation or expansion of existing businesses in harmony with their surroundings and provide new spaces for growth and changing business requirements.

FISCAL IMPACT:

The proposed amendment will not have a fiscal impact.

Respectfully Submitted,

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CITY MANAGER

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Reviewed by:


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LIST OF ATTACHMENTS

ATTACHMENT A - MINOR AMENDMENTS, CODIFICATIONS AND CORRECTIONS

ATTACHMENT B - AMENDMENTS AND CORRECTION TO HISTORIC PERSERVATION ORDINANCE

ATTACHMENT C - REVISED FIGURES FOR FENCES AND ACCESSORY STRUCTURES

ATTACHMENT D - REVISED TABLE 3-12 - AMOUNT OF NEW DEVELOPMENT PERMITTED BY SUBAREA (EAST PASADENA SPECIFIC PLAN)

ATTACHMENT E - INTERPRETATION OF APRIL 26, 2006 - REGARDING LOCATION OF GARAGES

ATTACHMENT F - INITIAL STUDY

ATTACHMENT G - DE MINIMIS IMPACT FINDING ON THE STATE FISH AND WILDLIFE HABITAT