

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** June 15, 2009

**FROM:** CITY MANAGER

**SUBJECT:** ZONING CODE AMENDMENTS – SERIES IV - AMENDMENTS INCLUDE LIMITATIONS FOR CONTINUANCES OF PUBLIC HEARINGS, CHANGE TO THE REQUIREMENTS FOR PERSONAL PROPERTY SALES; CHANGE TO THE REFERENCE TO "NORTHWEST ENTERPRISE ZONE" TO "EZBDA" OR "ENTERPRISE ZONE BUSINESS DEVELOPMENT AREA"; ALLOW PARK AND RECREATION FACILITIES IN THE PS DISTRICT WITH A CONDITIONAL USE PERMIT, A SERIES OF MINOR AMENDMENTS, CORRECTIONS, AND CODIFICATION OF INTERPRETATIONS, PRACTICES AND DEFINITIONS.

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## **RECOMMENDATION**

It is recommended that, after the public hearing, the City Council:

1. Adopt the Initial Study (Attachment B) and the Negative Declaration for the proposed Zoning Code Amendments and direct the City Clerk to file a Notice of Determination;
2. Approve a finding of consistency with the General Plan;
3. Approve the proposed Zoning Code Amendments as contained in this report; and
4. Conduct the first reading of the proposed ordinance as provided by the City Attorney.

## **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission at the May 13, 2009 Public Hearing recommended approval of this Series of Zoning Code Amendments.

## **BACKGROUND**

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

## **ANALYSIS**

### **1. Establish Limitations for Continuances of Public Hearings without Re-Noticing.**

This proposed amendment is to identify when re-noticing of public hearings is required for projects. The genesis of this recommendation came from the City Council because a project was continued for approximately one year without re-noticing. This occurred because the Zoning Code allows a hearing to be continued by the review authority (Hearing Officer, the Director, Commission, or Council) to a specific hearing date without a new public notice. There are no limitations on the number of times or the time period that a hearing can be continued. What is being proposed is an amendment which will allow projects to be continued a maximum of two times by the review authority within a 90-day period without re-noticing for the public hearing, only when the project is scheduled for a new specific hearing date. After the second continuance or 90 days (whichever comes first), the project will be required to be re-noticed (including the on site noticing board) so that the public is aware of the project's status. Each time a project is re-noticed, it may be continued two more times by the review authority within a 90-day period without re-noticing.

If the City's review authority initiates and grants a continuance, then costs associated with re-noticing will be absorbed by the City. However, if a continuance is requested by the applicant, then the applicant shall be responsible for all costs associated with re-noticing.

### **2. Personal Property Sales in Residential Zones.**

The purpose of this amendment is to establish minimum requirements for the placement of items for personal property sales (garage sales). Staff recommends that display of merchandise on fences, walls, and on the public right of way (sidewalk) be prohibited. The intent of the regulation is to ensure that the items being sold are located on private property and that the display of merchandise does not impact the appearance and character of the neighborhood or create traffic or parking problems.

**3. Amend the Density Bonus Provisions to reflect minor clarification to State Density Bonus Law.**

The State of California has recently approved clarifications to the State Density Bonus law that the City adopted in 2006. The City will need to make the following minor changes to the Zoning Code's Density Bonus Provisions to reflect the changes in State law. The changes include a change in the waiver of development standards and the density bonus for the donation of land for affordable housing.

Under the density bonus requirements, an applicant may request a waiver of the development standards when compliance with regulations would preclude construction of a residential project. A waiver to a development standard is a noticed public hearing. One of the findings for approval of a waiver is that the waiver is necessary to make the housing units economically feasible. The State clarified the density bonus law such that this finding is not required. The approval findings would now be based on whether the waiver of the development standard would physically preclude construction of the project (similar to a variance finding) and that the waiver would not have a specific adverse impact on public health, public safety, the physical environment, adverse impact on a property listed on the California Register of Historical Resources.

Currently, the Density Bonus provisions allow for a density bonus for affordable units when there is the donation of land as part of an application for a tract or parcel map. The Zoning Code currently has specific requirements for this process including such requirements that the land meet current Zoning standards and be developable for 40 or more units. The State added a requirement that the a bonus shall not be granted unless a source of funding for the very low income units has been identified not later than the date of approval of the final parcel or tract map, or the residential development application.

**4. Change the Reference to “Northwest Enterprise Zone” to “EZBDA” or “Enterprise Zone Business Development Area.”**

The term “Northwest Enterprise Zone” is used in Section 17.40.010(2) of the Public Art Requirements to reference a specific area of the city. However, the area is no longer referred to as the “Northwest Enterprise Zone”; the new name of the area is the EZBDA (Enterprise Zone Business Development Area). This proposed Zoning Code amendment will only change the name of the “Northwest Enterprise Zone” to EZBDA (Enterprise Zone Business Development Area). There are no proposed changes to the applicability of the Public Arts Requirement.

**5. Change the title of the Neighborhood Service Administrator to “Code Compliance Manager” in Chapter 17.78 of the Zoning Code.**

Chapter 17.78 of the Zoning Code pertains to enforcement issues. Specifically, it establishes provisions which are intended to ensure compliance with the requirements

of the Zoning Code, and any conditions of land use permit or subdivision approval, to promote the City's planning efforts, and for the protection of the public health, safety, and welfare of the City. Currently this chapter of the Zoning Code references the "Neighborhood Service Administrator" as the principal enforcer of the Zoning Code. The Zoning Code was written at a time when the staff person who handled enforcement was in a different department. It has now changed, and the new title is "Code Compliance Manager." The Code Compliance Manager is responsible for directing City staff to address Zoning Code enforcement issues. This amendment will establish the proper title for the City official responsible for enforcement issues.

## **6. PS Zoning District - Uses allowed with Conditional Use Permits.**

The PS District is a district for institutional uses and the uses typically occurring in this district includes schools, churches, colleges and universities and hospitals. Under the previous Zoning Code, park and recreation uses were conditionally permitted in all districts. When the Zoning Code was adopted in 2005, the land use charts mistakenly forgot to conditionally allow park and recreation facilities in the PS District. This amendment will correct this oversight and allow park and recreation facilities in the PS District subject to Conditional Use Permit approval.

## **ENVIRONMENTAL REVIEW**

An Initial Study and Negative Declaration were prepared. Adoption of the amendments to Title 17 involves no potential significant impacts. The Department of Fish and Game has approved a determination that the proposed code amendments have no potential effect on fish, wildlife and habitat.

## **GENERAL PLAN CONSISTENCY**

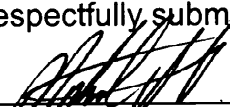
The proposed revisions to the Zoning Code are consistent with the following objectives and policies of the City's General Plan.

The Zoning Code Amendment for the Density Bonus provisions supports one of the General Plan's Guiding Principles that, Pasadena "Encourage the production of housing appropriate to all economic segments of the population, including lower-, moderate- and upper-income housing, to maintain a balanced community", and policy 3.2, "Use available federal, state and local resources to support the production of affordable housing". This amendment will promote preservation of existing affordable housing stock and increase the available affordable housing stock.

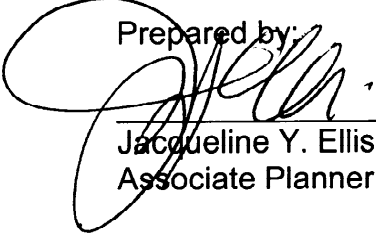
**FISCAL IMPACT**

The proposed amendments will not likely have a significant fiscal impact.

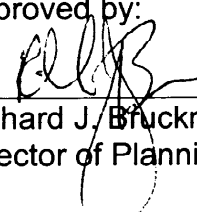
Respectfully submitted,

  
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## **LIST OF ATTACHMENTS**

**ATTACHMENT A - MINOR AMENDMENTS, CORRECTIONS, AND THE  
CODIFICATION OF INTERPRETATIONS**

**ATTACHMENT B - INITIAL STUDY**