

**CITY OF ALBANY
PLANNING AND ZONING AGENDA
STAFF REPORT**

Agenda date: 12/9/08

Prepared by: AC

Reviewed by: ■

ITEM/ 6d

SUBJECT: **Resolution of Intention of the Planning and Zoning Commission to Initiate Amendments to the Planning and Zoning Code to Correct and Clarify Development Regulations**

STAFF RECOMMENDATION

Provide direction to staff on second round of revisions to the Planning and Zoning Code. Continue the discussion to a date uncertain to allow staff time to prepare additional amendments based on previous discussions.

BACKGROUND/PROJECT DESCRIPTION

As part of the zoning ordinance revision in 2004, the Community Development Department provided a "Zoning Ordinance Comments & Suggestions" notebook for members of the public, the Commission and staff to insert comments and suggestions regarding potential revisions to the revised ordinance. Topics for further discussion have also been identified during Planning and Zoning Commission meetings. The Commission reviewed the initial zoning amendment changes, which included options and discussions for potential revisions, on May 27, 2008, October 14 and 28, 2008. The following are revisions based on public hearing discussions. Items are in the same order in which they were discussed:

MC20.080.020 - Definition of "Front Yard"

The definition of a front yard on a corner lot does not allow for any flexibility. In the case of the application at 1260 Brighton, this resulted in the applicant having to request a variance for the fence height, even though the area in question functions as a side yard for the existing building. The proposed revision:

"The front yard of a corner lot will be determined by the Community Development Director."

MC 20.24.010 (C) - Fences, Landscaping, Screening

In discussing MC20.080.020 the Commission requested changes to fence height regulations. The proposed revision:

"Corner lots shall not have a fence, in the required setbacks, that exceeds 3' in height on any street side."

MC 20.12.040 – Large Family Day Care Homes

Currently the Planning and Zoning Code requires that a Major Conditional Use Permit (CUP) is required for a large family day care. The Commission believes that a major CUP should continue to be required and not changed to a minor CUP approval, which would allow approval by the Administrative Hearing Officer instead of the Planning and Zoning Commission.

A member of the public recommended that noticing requirements be a 300' radius, which is required by both The California Office of Planning and Research and the current Planning and Zoning Code.

MC 20.100.010.E.4.a- Common Permit Procedures/Public Noticing

In relation to public noticing staff would like to recommend review of posting requirements for Residential Design Review. The Planning and Zoning Code requires that a notice be posted in a conspicuous location at the project site, 10 calendar days prior to the public hearing.

Historically noticing procedures have been inconsistent with this requirement. Cities often have such a requirement and it varies as to who is responsible for the posting, i.e. staff or the applicant. Residential design review projects have notices posted in three public places and a public notice is sent to all residents within a 100' radius of the site. Staff recommends that the Commission consider removing the requirement since posting is not required for any other discretionary review items and because there is no way to monitor the posting for 10 days prior to the hearing. They are often times removed from the site or damaged.

Attachment:

1. Relevant portions from staff report dated 9/23/080

City of Albany
Planning and Zoning Commission
Staff Report

Meeting Date: September 23, 2008

Prepared by: _____

Agenda Item: xx

Reviewed by: _____

Subject: Resolution of Intention of the Planning and Zoning Commission to Initiate Amendments to the Planning and Zoning Code to Correct and Clarify Development Regulations

Recommendation

Review the staff report and provide initial comments and recommendations to assist staff in drafting potential zoning ordinance revisions based on comments received during Planning and Zoning Commission meetings and in the "Zoning Ordinance Comments & Suggestions" notebook.

Background

As part of the zoning ordinance revision in 2004, the Community Development Department provided a "Zoning Ordinance Comments & Suggestions" notebook for members of the public, the Commission and staff to insert comments and suggestions regarding potential revisions to the revised ordinance. Topics for further discussion have also been identified during Planning and Zoning Commission meetings.

Following is a discussion of each of the topic areas. The discussion review follows the order of the zoning ordinance. Any recommended changes to the text of the zoning ordinance have been shown in red, underlined text.

§ 20.08.020 DEFINITIONS (A-Z)

Background/Comments

In an application filed in 2007, the applicant at 1260 Brighton requested a variance to allow construction of a 6-foot tall wrought iron fence. The property is on a corner lot, and the fence was proposed to be constructed in what was considered the front yard, even though the existing building fronted on what is considered the side yard. The Commission asked that the question of front yards on corner lots be brought forward as part of any future Zoning Ordinance Amendments.

Zoning Ordinance Language

§20.08.020 Yard, front means a yard of uniform depth extending across the full width of the lot inward from the front lot line. The front yard of a corner lot is the yard adjacent to the shorter street front.

Discussion

Currently, the definition of a front yard on a corner lot does not allow for any flexibility. In the case of the application at 1260 Brighton, this resulted in the applicant having to request a variance for the fence height, even though the area in question functions as a side yard for the existing building.

Following are two options for how the definition for a front yard of a corner lot could be altered to allow for pre-existing conditions.

Option 1. The front yard of a corner lot is the yard adjacent to the shorter street front. However, if a corner lot has an existing main structure with the primary entrance oriented towards the longer street front, the longer street front shall be considered the front yard.

Option 2. The front yard of a corner lot will be determined by the Community Development Director. (Example from City of Maple Grove.)

§ 20.12.040 TABLE 1 & § 20.20.020.B - FAMILY DAY CARE HOMES

Background/Comment

From: Staff

In §20.12.040-Table 1 "Permitted Land Uses by District", Large Family Day Care Home, Residential is listed as requiring a Use Permit in the R-1 zoning district. However, §20.20.20.B has more specific regulations for Family Day Care Homes that are not in agreement with and supersede Table 1. The specific regulation states:

*§20.20.020.B.2 Large (Family Day Care Homes). State-licensed facilities that exceed the permitted occupancy of Small Family Day Care Homes may accommodate up to fourteen (14) children of less than eighteen (18) years of age, subject to approval of a **Minor Use Permit**.*

Large Family Day Care should be subject to a Minor Use Permit, not a Major Use Permit. This discrepancy can be corrected with the addition of the "-M" to signify that the use requires a minor use permit. Also, note 19 would reference the section regarding Community Care Facilities.

Zoning Ordinance Language

| Land Use | R-1 | R-2 | R-3 | R-4 | RHD | SC | SPC | CMX | PF | WF |
|-------------------------------|------|------|------|------|------|----|-----|-----|----|----|
| b) Large Family ¹⁹ | UP-M | UP-M | UP-M | UP-M | UP-M | - | - | - | - | - |