NOTICE TO THE PUBLIC

This Agenda contains a brief general description of each item to be considered. Except as provided by law, action or discussion shall not be taken on any item not appearing on the agenda. Supporting documents, including staff reports, are available for review at City Hall in the Development Services Department or on the City’s website at www.cityoflosalamitos.org once the agenda has been publicly posted.

Any written materials relating to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Development Services Department, 3191 Katella Ave., Los Alamitos CA 90720, during normal business hours. In addition, such writings or documents will be made available for public review at the respective public meeting.

It is the intention of the City of Los Alamitos to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee, or a participant at this meeting, you will need special assistance beyond what is normally provided, please contact the Development Services Department at (562) 431-3538, extension 303, 48 hours prior to the meeting so that reasonable arrangements may be made. Assisted listening devices may be obtained from the Planning Secretary at the meeting for individuals with hearing impairments.

Persons wishing to address the Planning Commission on any item on the Planning Commission Agenda shall sign in on the Oral Communications Sign In sheet which is located on the podium once the item is called by the Chairperson. At this point, you may address the Planning Commission for up to FIVE MINUTES on that particular item.

1. CALL TO ORDER

2. ROLL CALL
   Chair Andrade
   Vice Chair DeBolt
   Commissioner Cuilty
   Commissioner Grose
   Commissioner Loe
   Commissioner Riley
   Commissioner Sofelkanik

3. PLEDGE OF ALLEGIANCE
4. ORAL COMMUNICATIONS
At this time any individual in the audience may address the Planning Commission and speak on any item within the subject matter jurisdiction of the Commission. If you wish to speak on an item listed on the agenda, please sign in on the Oral Communications Sign-In sheet located on the podium. Remarks are to be limited to not more than five minutes.

5. APPROVAL OF MINUTES
A. Approve the Minutes for the Regular Meeting of August 23, 2017.

6. CONSENT CALENDAR
None.

7. STAFF REPORTS
A. Introduction of new City Attorney Michael S. Daudt and Assistant City Attorney Kendra L. Carney of Woodruff Spradlin and Smart.
No Staff Report.

B. Nomination of Two Planning Commissioners to sit on a Council Committee for the Zoning Update
City Council is seeking two volunteers to sit as a member of the Zoning Code Update Committee for the next year. It will involve up to five committee meetings charged with amending the City’s zoning code (No Staff report).

8. PUBLIC HEARINGS
A. Conditional Use Permit (CUP) 17-03
Continued Consideration of Outdoor Storage in the Planned Light Industrial (P-M) Zone – Cottonwood Christian Center
This is a continuance of the proposed Conditional Use Permit for an outdoor storage area, consisting of shipping containers on a 1.6 acres of vacant railway property located across Lexington Drive from Cottonwood Christian Center’s Cypress campus (APN’s 241-241-32 & 33) in the Planned Light Industrial (P-M) Zoning District (Applicant: Mike Wilson, of Cottonwood Christian Center).

Recommendation:
1. Open the Public Hearing; and, if appropriate,

2. Determine that the proposed use is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b) (3) – the project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
Adopt Resolution No. 17-04 "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT (CUP 17-03) FOR AN OUTDOOR STORAGE AREA, COVERED WITH EIGHT SHIPPING CONTAINERS, PLUS LOADING AREA, WITHIN A 1.6 ACRE VACANT RAILWAY PARCEL, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA. THE PROJECT LOCATION IS ACROSS LEXINGTON DRIVE FROM COTTONWOOD CHRISTIAN CENTER'S CYPRESS CAMPUS (APN'S 241-241-32 & 33) IN THE PLANNED LIGHT INDUSTRIAL (P-M) ZONING DISTRICT, (APPLICANT: MIKE WILSON, COTTONWOOD CHRISTIAN CENTER)."

B. Continued Consideration of a Five-Unit, Residential Condominium Development Application for Tentative Tract Map, Conditional Use Permit, and Site Plan Review at 3751/3755 Farquhar Avenue (APN 222-062-28) Applicant: Alison Stapakis and Olympia Stapakis
Continued consideration of a five-unit, residential condominium project at 3751/3755 Farquhar Avenue (APN 222-062-28) on an 8,760 square foot parcel in the Multiple Family (R-3) Zoning District. In order to be approved as presented, the project as designed requires a Site Plan Review, Conditional Use Permit, Variance and a Tentative Tract Map for condominium subdivision purposes (Applicant: Alison Stapakis and Olympia Stapakis).

Recommendation:
1. Open the continued Public Hearing, and the Public Hearing for the Variance; and, if appropriate,
2. Discuss the project and give direction to Staff and Applicant.

C. Zoning Ordinance Amendment 17-01
Repealing and Replacing Regulations for Accessory Dwelling Units in the Residential Zones in the City to Comply with New State Legislation
Consideration of a Zoning Ordinance Amendment (ZOA 17-01) to repeal and replace regulations for accessory dwelling units as residential units in the residential zones of the City of Los Alamitos to comply with new state legislation requirements of SB 1069 and AB 2299 (City initiated).

Recommendation:
1. Open the Public Hearing; and,
2. Recommend that the City Council determine that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) under the rule that CEQA does not apply to activities regarding adoption of an ordinance concerning second units in residential zones to
implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code; and,

Adoption of Resolution No. 17-07, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 17-01 TO REPEAL AND REPLACE SECTION 17.38.150 OF THE LOS ALAMITOS MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONES IN THE CITY TO COMPLY WITH NEW STATE LEGISLATION (CITY INITIATED).”

D. Zoning Ordinance Amendment No. 17-03
Recreational Marijuana – Commercial Sales, Commercial Cultivation and Mobile Sales
The Los Alamitos City Council adopted Resolution No. 2017-16 during their August 21, 2017 meeting initiating a Zoning Ordinance Amendment concerning recreational marijuana to comply with new State legislation.

Recommendation:

1. Open the Public Hearing; and,


E. Consideration of a Fifty-Unit Condominium Development Application for Tentative Tract Map, Conditional Use Permit, and Site Plan Review at 3311 Sausalito Street (APN 242-222-13) (Applicant: Steven Armanino representing The Olson Company)
Consideration of a development of fifty-units of townhome-style residential condominiums at 3311 Sausalito Street (APN 242-222-13) on a 2.44-acre parcel in the Multiple Family (R-3) Zoning District. The project requires a Site Plan Review, Conditional Use Permit, and a Tentative Tract Map for condominium subdivision purposes (Applicant: Steven Armanino, representing The Olson Company). A Mitigated Negative Declaration has been prepared for the Project.

Recommendation:

1. Open the Public Hearing; and,
2. Discuss the project and provide direction to Staff and Applicant and the Initial Study/Mitigated Negative Declaration and the entitlement requests.

F. Consideration of a General Plan Amendment and Zoning Ordinance Amendment to change the designation of a vacant lot behind an existing home for the purpose of combining the two lots.
3621 Fenley Drive, Los Alamitos CA 90720
Consideration of a Zoning Ordinance Amendment (ZOA 17-02) and General Plan Amendment (GPA 17-01) to change both the General Plan designation and the zoning district for a parcel from Open Area (O-A) to Single Family Residential (R-1). This parcel is to the rear of 3621 Fenley Drive, APN 242-301-52. (Applicant: Cari T. Blum)

Recommendation:
1. Open the Public Hearing; and, if appropriate,
2. Determine that this project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15305 – minor alterations in land use limitations and 15061(b)(3) – activity is not subject to CEQA where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment; and,
3. Adoption of Resolution No. 17-06, entitled, “A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE A RESOLUTION FOR GENERAL PLAN AMENDMENT (GPA) 17-01 AND AN ORDINANCE FOR ZONING ORDINANCE AMENDMENT (ZOA) 17-02 TO CHANGE BOTH THE GENERAL PLAN DESIGNATION AND THE ZONING DISTRICT FOR A 10,488 SQUARE FOOT PARCEL FROM OPEN AREA (O-A) TO SINGLE FAMILY RESIDENTIAL (R-1) FOR A PARCEL TO THE REAR OF 3621 FENLEY DRIVE, APN 242-301-52 (APPLICANT: CARL T. BLUM).”

G. Conditional Use Permit (CUP) 17-04
Outdoor storage in the Planned Light Industrial (P-M) Zone
Alliance Space Systems
Consideration of a Conditional Use Permit for outdoor storage around the southern parking area of Alliance Space Systems, consisting of two media blast booths that project out of the back of the building, chain link fencing for security at the rear of the building, the creation of a level asphalt parking space for a container-type equipment unit, and the expansion of an outside equipment yard to allow for the installation of two thermal testing chambers. The property is located at 4392 & 4398 Corporate Center Drive (APN 241-251-44) in the Planned
Light Industrial (P-M) Zoning District within the Los Alamitos Corporate Center (Applicant: Walter White, of Bremco Construction).

Recommendation:

1. Open the Public Hearing; and, if appropriate,


9. ITEMS FROM THE DEVELOPMENT SERVICES DIRECTOR

10. COMMISSIONER REPORTS

11. ADJOURNMENT

### APPEAL PROCEDURES

Any final determination by the Planning Commission may be appealed to the City Council, and must be done so in writing at the Development Services Department, within twenty (20) days after the Planning Commission decision. The appeal must include a statement specifically identifying the portion(s) of the decision with which the appellant disagrees and the basis in each case for the disagreement, accompanied by an appeal fee of $1,000.00 (resident)/$2,349.00 (non-resident) in accordance with Los Alamitos Municipal Code Section 17.68 and Fee Resolution No. 2017-13.

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted at the following locations: Los Alamitos City Hall, 3191 Katella Ave.; Los Alamitos Community Center, 10911 Oak Street; and, Los Alamitos Museum, 41062 Los Alamitos Blvd.; not less than 72 hours prior to the meeting.

[Signature]

[Signature]

Date: 9/26/17
City of Los Alamitos
Planning Commission

Agenda Report  September 27, 2017
Public Hearing  Item No: 8A

To:   Chair Andrade and Members of the Planning Commission
Via:  Steven A. Mendoza, Development Services Director
From: Tom Oliver, Associate Planner

Subject: Conditional Use Permit (CUP) 17-03
Continued Consideration of Outdoor Storage in the Planned Light Industrial (P-M) Zone – Cottonwood Christian Center

Summary: This is a continuance of the proposed Conditional Use Permit for an outdoor storage area, consisting of shipping containers on a 1.6 acres of vacant railway property located across Lexington Drive from Cottonwood Christian Center’s Cypress campus (APN’s 241-241-32 & 33) in the Planned Light Industrial (P-M) Zoning District (Applicant: Mike Wilson, of Cottonwood Christian Center).

Recommendation:

1. Open the Public Hearing; and, if appropriate,

2. Determine that the proposed use is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b) (3) – the project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Applicant: Mike Wilson – Cottonwood Christian Center

Location: Vacant railway site, across Lexington from Cottonwood Christian Center's Cypress campus (APN's 241-241-32 & 33)

Environmental: A Categorical Exemption, pursuant to Section 15061(b) (3) – the project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Noticing: Notices announcing the Public Hearing for July 26, 2017, were posted and mailed to all property owners within 500 feet of the proposed location on July 12, 2017. A Public Hearing notice regarding this meeting was also published in the News Enterprise on July 12, 2017. During the July 26, 2017 meeting, the proposed project was continued to the August 23, 2017 meeting. During the August 23, 2017 meeting the hearing was continued to the September 27, 2017 meeting.


Background

An application was filed by Mike Wilson on behalf of the Cottonwood Christian Center seeking approval of a Conditional Use Permit for an outdoor storage area in the Planned Light Industrial (P-M) zone, behind Arrowhead Products. The footprint of the 12 shipping containers would cover 4,920 square feet of the parcel. The Planning Commission first discussed this proposed project on July 26, 2017, where
Commissioners suggested changes to the proposed plans, and recommended that the Applicant return to the August 23, 2017 meeting.

Discussion

The Applicant was not able to submit revised plans by the staff report deadline for the August meeting. As a result, the item was continued to tonight’s Planning Commission meeting. On September 13, 2017, the Applicant submitted new plans that incorporate the following changes that are shown in the attached plans:

- The number of proposed storage containers has been reduced to eight (8).
- The storage containers have been moved so that they are a minimum of 10 feet away from the south property line.
- Landscape buffers consisting of Carolina Laurel Cherry Hedge planted 3.5 feet on center have been added to screen views from the public right-of-way along Lexington Drive and from adjacent properties to the north, south, and west.
- Section ‘A’ detail has been added to show proposed hedge height in relation to height of storage containers.
- Section ‘B’ has been added to reflect line of sight from pedestrians and vehicles traveling on both directions along the project frontage of Lexington Drive.
- Added a color photo view from Lexington Drive showing the proposed landscape buffer to illustrate what will be seen from the public right-of-way.

Staff is of the opinion that these changes more than address the concerns that the Commissioners raised during the July 26, 2017 meeting.

Recommendation

Staff recommends approval of CUP 17-03 and adoption of Resolution 17-08 with conditions, unless additional or contrary information is received during the meeting and based upon the evidence submitted to the Commission, including the evidence presented in this Staff report, and any oral and written evidence presented at the Public Hearing.

Attachments:
1) Resolution No. 17-04 with Exhibit A
2) Minutes from July 26, 2017 Planning Commission meeting

WHEREAS, the application is for a Conditional Use Permit to allow an outdoor storage area for eight shipping containers to be located on two empty parcels at Assessor Parcel Numbers (APN) 241-241-32 & 33 in the Planned Light Industrial (P-M) Zoning District; and,

WHEREAS, the application constitutes a request under Section 17.42.040 (Conditional Use Permits - Application Filing) of the Los Alamitos Municipal Code (LAMC); and,

WHEREAS, the Planning Commission considered said application at a duly noticed Public Hearing on July 26, 2017, which was continued to the August 23, 2017 meeting, at which it was continued to the September 27, 2017 meeting; and,

WHEREAS, at the September 27, 2017 Public Hearing, the Applicant, Applicant's representatives, and members of the public were provided the opportunity to present written and oral testimony.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. Conditional Use Permit 17-03 is hereby approved to allow an outdoor storage area for eight shipping containers on two empty parcels at Assessor Parcel Numbers (APN) 241-241-32 & 33 in the Planned Light Industrial (P-M) Zoning District. This approval is based upon the following Conditional Use Permit findings and subject to the conditions set forth in Section 3:

1. This use will not endanger the public health, safety or general welfare if located where proposed and developed, and that the use will not allow conditions which tend to generate nuisance conditions including, but not limited to, noise, glare, odor, or vibrations. This approval is for the storage
of sealed containers on a vacant industrial property. The storage is well screened from public view and no nuisance conditions are foreseen.

2. This use meets the required conditions and specifications set forth in the zoning district where it proposes to locate. This project meets development standards of Los Alamitos Municipal Code section 17.38.120 Outdoor storage.

3. The location and character of the use, according to the plan as submitted for approval, will be in harmony with the area in which it is to be located and in general conformity with the Los Alamitos general plan. This is a Planned Light Industrial (P-M) parcel, and this type of use is appropriate for this zone.

4. The decision to approve the application for a conditional use permit is based on substantial evidence in view of the record as a whole before the commission, or council on appeal.

5. A Categorical Exemption, pursuant to Section 15061(b) (3) – the project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 3. The following conditions shall apply to this project:

Planning Department

1. Approval of this application is to allow an outdoor storage area for eight shipping containers on empty parcels at Assessor Parcel Numbers (APN) 241-241-32 & 33 in the Planned Light Industrial (P-M) Zoning District, with such additions, revisions, changes or modifications as required by the Planning Commission pursuant to approval of CUP 17-03 noted thereon, and on file in the Development Services Department (Exhibit A). Subsequent submittals for this project shall be consistent with such plans and in compliance with the applicable land use regulations of the Los Alamitos Municipal Code. If any changes are proposed regarding the location or alteration of this use, a request for an amendment of this approval must be submitted to the Development Services Director. If the Development Services Director determines that the proposed change or changes are consistent with the provisions and spirit of intent of this approval action, and that such action would have been the same with the proposed change or changes as for the proposal approved herein, the amendment may be approved by the Development Services Director without requiring a public meeting.
2. Any signs shall comply with the provisions under Chapter 17.28 of the Los Alamitos Municipal Code or the Planned Sign Program that pertains to the subject property and shall be subject to the approval of the Development Services Director.

3. Failure to satisfy and/or comply with the conditions herein may result in revocation by the Planning Commission and/or City Council of this approval.

4. The Applicant and the Applicant’s successors, in interest, shall be fully responsible for knowing and complying with all conditions of approval.

5. California Government Section 66020(d)(1) requires that the project Applicant be notified of all fees, dedications, reservations and other exactions imposed on the development for purposes of defraying all or a portion of the cost of public facilities related to development. Fees for regulatory approvals, including Planning processing fees, building permit fees and park development fees, are not included under this noticing requirement.

Pursuant to Government Code Section 66020(d)(1), the Applicant is hereby notified that fees, dedications, reservations and other exactions imposed upon the development, which are subject to notification, are as follows:

Fees: N/A
Dedications: N/A
Reservations: N/A
Other Exactions: N/A

6. The Applicant has 90 days from the date of adoption of this Resolution to protest the impositions described above. The Applicant is also notified of the 180-day period from the date of this notice during which time any suit to protest impositions must be filed, and that timely filing of a protest within the 90-day period is a prerequisite.

7. The Applicant shall defend, indemnify, and hold harmless the City of Los Alamitos, its agents, officers, or employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul an approval of the City, its legislative body, advisory agencies or administrative officers of the subject application. The City will promptly notify the Applicant of any such claim, action or proceeding against the City and the Applicant will either undertake defense of the matter and pay the City’s associated legal costs, or will advance funds to pay for defense of the matter by the City. Notwithstanding the foregoing, the City retains the right to settle or
abandon the matter without the Applicant's consent, but should it do so, the City shall waive the indemnification herein, except the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

8. The Property Owner/Applicant shall file an Acknowledgment of Conditions of Approval with the Development Services Department. The Property Owner/Applicant shall be required to record the Acknowledgment of these conditions of approval with the Office of the Orange County Recorder and proof of such recordation shall be submitted to the Development Services Department prior to issuance of any permits.

9. Applicant shall comply with applicable City, County, and/or State regulations.

10. An existing fencing and screening slats that are on this property shall be repaired or replaced where they are missing, broken, or in disrepair and shall be properly maintained.

11. The containers shall be placed at least ten (10) feet from any property lines.

12. A sign with a contact phone number for the responsible party for the property shall be installed on the gate into the parcels.

**Engineering**

13. The Applicant shall place gravel under drive areas and parking areas to the satisfaction of the City Engineer.

**Building Department**

14. If the Applicant adds any plumbing, electrical, mechanical, or building items other than the storage containers, please obtain permits and comply with all 2016 codes.

**Orange County Fire Authority**

15. The OCFA has reviewed the proposed project and there may be issues associated with this proposal that would require further submittals to the OCFA should the city approve the CUP. The proposed storage containers are located within 150 feet of Lexington, therefore, a paved, all weather access road is not required. Please provide the conditions listed below on the resolution issued to the applicant. If you need additional information or clarification, please contact me by phone at (714) 573-6133, by fax at (714) 368-8843, or by email: lynnepivaroff@ocfa.org.
CONDITIONS OF APPROVAL

Plan Submittal: The applicant or responsible party shall submit the plan(s) listed below to the Orange County Fire Authority for review. Approval shall be obtained on each plan prior to the event specified.

Prior to issuance of any permits or approvals:

- Gates (service code PR180) - If a gate is proposed to secure the proposed storage containers, a gate review shall be submitted to the OCFA for review and approval.

SECTION 4. The Secretary of the Planning Commission shall forward a copy of this Resolution to the Applicant and any person requesting the same, and Staff shall file a Notice of Exemption with the County Clerk.

PASSED, APPROVED, AND ADOPTED this 27th day of September, 2017.

__________________________
Chair Andrade

ATTEST:

__________________________
Steven A. Mendoza, Secretary

APPROVED AS TO FORM:

__________________________
Cary Reisman, City Attorney
STATE OF CALIFORNIA  
COUNTY OF ORANGE  
CITY OF LOS ALAMITOS  

I, Steven Mendoza, Planning Commission Secretary of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission held on the 27th day of September, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________________________
Steven A. Mendoza, Secretary
MINOR CONDITIONAL USE PERMIT SITE PLAN
PROPOSED OUTDOOR STORAGE
APN 241-241-32 & 33, LEXINGTON DRIVE
CITY OF LOS ALAMITOS
SEPTEMBER, 2017

LEGAL DESCRIPTION

LEGEND

PRELIMINARY EARTHWORK QUANTITIES

PREFERRED INSURANCE POLICY

APPLICATIONS

NOTES

SECTION 1 - 1

SECTION A - A

SECTION B - B

SECTION C - C

SECTION D - D

SECTION E - E

INDEX MAP

TOTAL PARCEL SIZE:

APPROXIMATE 1.72 AC

APPROXIMATE 0.56 AC

MINOR CONDITIONAL USE PERMIT SITE PLAN

PREPARED FOR/APPLICANT:

COTTONWOOD CHRISTIAN CENTER, INC. A CALIFORNIA NON-PROFIT CORPORATION

BENCHMARK

BASE OF BEARING

INDEX MAP

VICINITY MAP

EXHIBIT A
MINUTES OF PLANNING COMMISSION/SUBDIVISION COMMITTEE MEETING
OF THE CITY OF LOS ALAMITOS

REGULAR MEETING – August 23, 2017

1. CALL TO ORDER
The Planning Commission/Subdivision Committee met in Regular Session at 7:00 p.m., Wednesday, August 23, 2017, in the Council Chamber, 3191 Katella Avenue, Chair Andrade presiding.

2. ROLL CALL
Present: Commissioners:
   Chair Andrade
   Vice Chair DeBolt
   Cuilty, Grose (Late: 7:04 PM), Loe, Riley and Sofelkanik

   Absent: None

   Staff:
   Tom Oliver, Associate Planner
   Lisa Kranitz, Assistant City Attorney
   Dawn Sallade, Temporary Department Secretary

3. PLEDGE OF ALLEGIANCE
The Pledge of Allegiance was led by Chair Andrade.

4. ORAL COMMUNICATION
Chair Andrade opened the meeting for Oral Communication for items not on the agenda.

Parke Miller, Lincoln Properties, indicated they had sent a letter to all of the Commissioners prior to tonight’s meeting and just wanted to extend the offer that if any of the Commissioners would like to talk with him prior to his appearance at the September 27, 2017 Planning Commission meeting, he would be more than happy to either meet or speak with them.

There being no further speakers, Chair Andrade closed Oral Communications.

5. APPROVAL OF MINUTES
A. Approve the Minutes for the Regular Meeting of Wednesday, July 26, 2017.
   Motion/Second: DeBolt/Sofelkanik
   Unanimously Carried 7/0. The Planning Commission approved the minutes of the August 23, 2017 Regular meeting as written.

6. CONSENT CALENDAR
None.
7. PUBLIC HEARINGS

A. Conditional Use Permit (CUP) 17-03
Continued Consideration of Outdoor Storage in the Planned Light Industrial (P-M) Zone
This is a continuance of the proposed Conditional Use Permit for a 4,920 square foot outdoor storage area, covered with twelve shipping containers on a 1.6 acre (73,200 square foot) lot. This is located on a vacant railway site, across Lexington Drive from Cottonwood Christian Center’s Cypress campus (APN's 241-241-32 & 33) in the Planned Light Industrial (P-M) Zoning District (Applicant: Mike Wilson, of Cottonwood Christian Center). Staff recommends continuance of the item to the September 27, 2017 Planning Commission meeting.

Motion/Second: DeBolt/Sofelkanik
Unanimously Carried 7/0. The Planning Commission continued this item to the September 27, 2017 Planning Commission meeting.

B. Continued Consideration of a Five-Unit, Residential Condominium Development Application for Tentative Tract Map, Conditional Use Permit, and Site Plan Review at 3751/3755 Farquhar Avenue (APN 222-062-28) Applicant: Alison Stapakis and Olympia Stapakis
Continued consideration of a five-unit, residential condominium project at 3751/3755 Farquhar Avenue (APN 222-062-28) on an 8,760 square foot parcel in the Multiple Family (R-3) Zoning District. The project requires a Site Plan Review, Conditional Use Permit and a Tentative Tract Map for condominium subdivision purposes (Applicant: Alison Stapakis and Olympia Stapakis). It is Staff's recommendation that this item be continued the previously opened Public hearing to the September 27, 2017 Planning Commission meeting.

Motion/Second: DeBolt/Cuilty
Unanimously Carried 7/0. The Planning Commission continued this item to the September 27, 2017 Planning Commission meeting.

8. ITEMS FROM THE DEVELOPMENT SERVICES DIRECTOR
None.

9. COMMISSIONER REPORTS
Commissioner Riley thanked Staff for providing new sections of the Municipal Code to each of the Commissioners.
10. **ADJOURNMENT**
The Planning Commission adjourned at 7:08 PM.

ATTEST:

__________________________
Chair, Larry Andrade

__________________________
Steven A. Mendoza, Secretary
To: Chair Andrade and Members of the Planning Commission/Subdivision Committee

Via: Steven A. Mendoza, Development Services Director

From: Tom Oliver, Associate Planner

Subject: Continued Consideration of a Five-Unit, Residential Condominium Development Application for Tentative Tract Map, Conditional Use Permit, Site Plan Review and Variance at 3751/3755 Farquhar Avenue (APN 222-062-28) Applicant: Alison Stapakis and Olympia Stapakis

Summary: Continued consideration of a five-unit, residential condominium project at 3751/3755 Farquhar Avenue (APN 222-062-28) on an 8,760 square foot parcel in the Multiple Family (R-3) Zoning District. In order to be approved as presented, the project as designed requires a Site Plan Review, Conditional Use Permit, Variance and a Tentative Tract Map for condominium subdivision purposes (Applicant: Alison Stapakis and Olympia Stapakis)

Recommendation:

1. Open the continued Public Hearing, and the Public Hearing for the Variance; and, if appropriate,

2. Discuss the project and give direction to Staff and Applicant.

Applicant: Alison Stapakis and Olympia Stapakis

Project Location: 3751/3755 Farquhar Avenue (APN 222-062-28)

Notice: On April 12, 2017, Staff posted Notice of Public Hearing at City Hall, the Community Center, and the Los Alamitos Museum. The Notice was also published in the News Enterprise and public notices were mailed out to all property owners and tenants within 500 feet of the property on that date. The April public hearing has been continued each
month until tonight’s meeting. Additionally, a second public hearing was also noticed on September 13, 2017, pertinent to this time, for the subsequent Variance application that was filed.

Environmental: If the project were approved, CEQA would be satisfied as a determination has been made that the proposed use is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. There are no unusual circumstances which would trigger an exception to the exemption, and no cumulative impacts because this is a previously-developed lot that is intended to have this amount of density and greater.

Background

The Applicant’s representative, Nick Zamvakellis, has submitted an application for a project to be located at 3751/3755 Farquhar Avenue. The project would involve demolishing two existing homes and the construction of five (5) residential condominium units. This meeting is a continued public hearing from previous meetings. Here is a recap:

- April 26, 2017 meeting – continued so that the Applicants could respond to the code note in Los Alamitos Municipal Code (LAMC) 17.08.030, limiting the project to two (2) stories within 100 feet of a Single Family Residential-zoned property. The R-1 property that is within 100 feet is the Orange County Flood Control District parcel, known as the Rossmoor Storm Channel.
- May 24, 2017 meeting – continued after the Applicant’s representative could not convince the Commission to allow three stories for that part of the project that is within 100 feet of the Single Family Residential Zone.
- June 28, 2017 meeting – cancelled due to a potential lack of quorum.
- July 26, 2017 meeting – continued so that the Applicants could complete a Variance application.
- On June 28, 2017 a Variance application filed and was considered complete on August 14, 2017.
- August 23, 2017 meeting – continued because Variance application was not complete and hearing had not been noticed.

Discussion

Subdivision

During the April meeting, Vice Chair DeBolt raised the issue that the development could not be approved as proposed based on the development standards of Los Alamitos...
Municipal Code (LAMC). Specifically, note (b) of footnote (11) of LAMC section 17.08.030 provides that structures located within 100 ft. of R-1 zoned property, shall not exceed two stories and 30 feet in height. The proposed development is within 100 feet of R-1 zoned property, albeit the flood control channel, and although it is within the height limit, it is three stories.

At the end of the May meeting, it was suggested by a Commissioner to Mr. Zamvakellis that they may want to apply for a Variance concerning the number of stories in that section of the project that is within 100 feet of the residential zone.

In the July meeting, Vice Chair DeBolt, articulated to the Commission that a Variance cannot be approved with a Tract Map, as noted in LAMC Sections 16.10.090 and 16.12.030 of the subdivisions code. Vice Chair DeBolt also informed Staff that Government Code section 66474.2 of the Subdivision Map Act prevents a Variance from being granted. The referenced sections are attached.

The City Attorney's office has examined these various provisions and is of the opinion that these codes presented do not prevent a map from being approved if a Variance is given. Both sections of the LAMC refer to the lot or parcel having to be developed to site development standards. The present case involves a map for condominium purposes and divides the airspace into five units. The actual division of airspace does not need to be shown on the map. A project could be built that meets the Code requirements. Government Code section 66474.2 also does not prevent a map from being approved. This section essentially prohibits the City from changing the rules on the applicant once an application is complete. Therefore, if the findings can be made for a subdivision, then a five-unit airspace division could be approved.

The findings that are required for a subdivision are as follow:

1. **The proposed map is consistent with the City’s General Plan.**

   Analysis: The proposed map allows for the development of five condominium units at a density of 25 dwelling units an acre which is within the General Plan multi-family residential land use designation of 20 – 30 units per acre. The proposed design and improvements of the five-unit residential condominium subdivision are consistent with the applicable General Plan goals, policies, and implementation measures as set forth below.

<table>
<thead>
<tr>
<th>Applicable General Plan Implementing Goals and Policies</th>
<th>Consistency of Proposed Project</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Use Element</strong></td>
<td></td>
</tr>
<tr>
<td>Goal 4: Neighborhoods and buildings that are well maintained and demonstrate a sense of pride and identity.</td>
<td>These will be new, well designed buildings in the neighborhood which will encourage neighbors to take a look at their own homes.</td>
</tr>
<tr>
<td>Policy 4.1 Pride and Identity. Enhance the sense of identity and increase the feeling of pride among Los Alamitos residents, business owners, employees, and visitors through excellent physical design and continual property</td>
<td>These will be new, well designed buildings in the neighborhood which will encourage neighbors to take a</td>
</tr>
</tbody>
</table>

Continued Five Residential Condominium Project
September 27, 2017
Page 3 of 10
And while no specific policy actions of the Housing Element are fulfilled through this project, it does strive for offering products of housing that cost less than an average single family home in the City as provided for by the following goal of the Housing Element:

Housing Strategy Area 4: Adequate Housing Supply

The City strives to ensure an adequate supply of housing is available to meet future and existing housing needs of all economic segments of the community.

2. The design and improvement of the proposed subdivision is consistent with the City’s General Plan:
Analysis: The design and improvement of the five-unit condominium project are suitable for residential development of the R-3 designation and the project density meets the requirements of the General Plan.

3. The site is physically suitable for the proposed type of development:

Analysis: The site is physically suitable for a residential condominium subdivision because the site is generally flat and will require minimal grading on site. The project can meet all development standards except width, which is permitted as a legal nonconforming lot.

4. The requirements of CEQA have been satisfied:

Analysis: Staff considers the California Environmental Quality Act (CEQA) satisfied as a determination can be made that the proposed use is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. There are no unusual circumstances which would trigger an exception to the exemption, and no cumulative impacts because this is a previously-developed lot that is intended to have this amount of density and greater.

5. The site is physically suitable for the proposed density of development:

Analysis: The site is capable of supporting the development of five residential condominium units. The proposed project is at 25 dwelling units per acre, under the City’s R-3 zoning district that allows a maximum of 30 dwelling units per acre under a multi-family development project. Each proposed unit and the entire project meets the development standards for the R-3 zone including parcel area, parcel depth, maximum density, minimum dwelling area, maximum height, setbacks, site coverage, and minimum distances between buildings. The parcel width is short under the code requirement, but is permitted as a legal non-conforming lot.

6. The design of the subdivision and proposed improvements are not likely to cause substantial environmental damage or substantial and avoidable injury to fish or wildlife in their habitat:

Analysis: The proposed subdivision will not cause any environmental damage as this is an infill project on property that already has been designated as an area for residential units and there are no fish or wildlife habitat on site. The site has already been graded.

7. The design of the subdivision and the proposed improvements are not likely to cause serious public health problems:

Analysis: The proposed subdivision design and improvements will not adversely affect the public health of the citizens of the City of Los Alamitos as the project is the type of use which is planned for in this area; the residential condominium project will be
compatible with the single-family and multi-family residential uses in the area. Also, the widening of the alley will improve safety for trash collection by today's larger trucks.

8. **The design of the subdivision and improvements will not conflict with public access easement through the property:**

   Analysis: The design of the subdivision and the proposed improvements will not conflict with any existing telephone, street, and public utility easements. There are no public access easements through the property.

9. **The design and improvements of the proposed subdivision are suitable for the uses proposed and the subdivision can be developed in compliance with the applicable zoning regulations:**

   Analysis: The project will be able to comply with all zoning regulations as specified above, except as to the width of the parcel which is permitted as a legal non-conforming lot.

Additional Findings:

A. **The subdivision committee shall determine whether the discharge of waste from the proposed subdivision into an existing community sewer system, where such a system exists, would result in or add to a violation of existing requirements prescribed by either the Santa Ana Regional Water Quality Control Boards. In the event it is determined that the proposed waste discharge would result in or add to such a violation, the subdivision committee shall disapprove the tentative map unless there are extenuating or overriding considerations, in which case these shall be stated.**

   Analysis: The project will not result in a violation of requirements prescribed by the Regional Water Quality Control Board as the Applicant is required to prepare a Water Quality Management Plan (WQMP) for the project.

B. **In the event a subdivision fronting upon the coastline or shoreline or upon a public waterway, river or stream or upon a lake or reservoir owned in part or entirely by a public agency does not provide public access to such public resources through the subdivision itself in accordance with requirements of Sections 16.10.240 and 16.10.250, the subdivision committee shall find that reasonable public access to the resource in question is otherwise available within a reasonable distance from the subdivision. If this finding cannot be made, the map shall be disapproved.**

   Analysis: N/A

C. **If the subdivision committee approves or conditionally approves a tentative map which deviates from any standard of design as allowed by Section 16.12 (the code refers to Section 16.10.280 which no longer exists), the committee shall make a finding**
or findings that each such deviation has been individually considered and found to be justified based upon specific special circumstances which apply.

Analysis: No Deviations.

Variance

The Variance that is being applied for is a Variance from the requirement that a project cannot exceed two stories in height within 100 feet from an R-1 zone. A letter from the applicant’s representative is attached to this staff report. In order to approve a variance, the Planning Commission would be required to make the following findings:

1. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, or topography), so that the strict application of this zoning code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.

   Analysis: This property does not appear to have any special circumstances whereby the applicant would be denied a privilege enjoyed by other property owners. There are numerous other R-3 properties across from the R-1 zoned flood control channel that would be subject to these same limitations. Additionally, there are numerous other R-3 properties that are within 100 feet of an R-1 zone where the R-1 properties are developed with residential uses that are also subject to these same limitations.

2. Granting the Variance would not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

   Analysis: Granting a Variance based on the flood control channel would grant a special privilege as the R-3 properties that are across from R-1 zoned properties would not be entitled to escape these development limitations.

3. Granting the Variance would not authorize a use or activity that is not otherwise expressly authorized by the zoning district regulations governing the subject property.

   Analysis: Granting a Variance would not authorize a use or activity that is not allowed in the R-3 zone.

Site Plan Review

Here are the Site Plan Review findings required:

1. The design and layout of the proposed development are consistent with the development and design standards/guidelines of the applicable zoning district:
Analysis: The design and layout of the five residential condominiums on one lot at 3751 Farquhar Avenue, as conditioned, is consistent with the development and design standards/guidelines of the Multiple Family (R-3) Residential Zoning District as well as with the requirements for residential condominiums set forth in Section 17.34.060. As shown above, the development meets, or will be conditioned to meet, all requirements except for the width of the property, which is permitted as a nonconforming lot.

However, this project, if a Variance is not approved, does not have the required number of floors within 100 feet of the R-1 Zone.

2. The design and layout of the proposed development are consistent with the use and enjoyment of neighboring existing or future developments, and would not create traffic or pedestrian hazards:

Analysis: The design and layout of the five residential condominiums at 3751 Farquhar Avenue would not interfere with the use and enjoyment of neighboring residential developments, as the immediately surrounding uses are multi-family residential with a city park and vacant base land 2 blocks east, and a flood control ditch to the South. The approved location is appropriate for a five unit residential condominium development. The location of the private driveway ingress/egress access to the alley would not create traffic or pedestrian hazards and would create a safer environment along Farquhar Avenue by having less curb cuts. The property is zoned for this type of development.

3. The design of the proposed development would maintain and enhance the attractive, harmonious, and orderly development contemplated by this chapter:

Analysis: The design of the five residential condominiums would maintain and enhance the attractive, harmonious, and orderly development of the property. The design is in harmony with surrounding development and improves upon the City's architecture with an updated residential building design, extensive landscaping, and maintenance requirements under a condominium ownership.

4. The design of the proposed development would provide a desirable environment for its occupants and visiting public as well as its neighbors through good aesthetic use of materials, texture, and color, and would remain aesthetically appealing and retain an appropriate level of maintenance:

Analysis: The design of the five residential condominiums would provide a desirable environment for its occupants, visiting public, and its neighbors through good aesthetic use of materials, texture, landscaping, and color as described above. Such changes will enhance the existing property and maintain an appropriate level of maintenance, through the implementation of a homeowners' association and the use of covenants, conditions, and restrictions.
5. The proposed development would not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity:

Analysis: The five residential condominiums provide for public health, safety, and welfare of the residential and business communities by increasing the density on the site rather than causing sprawl elsewhere. Additionally, this project replaces structures which are approximately 60 years old and are not maintained well. The building will meet all building code requirements.

6. The proposed development would not substantially depreciate property values in the vicinity:

Analysis: The five residential condominium units would not depreciate property values in the vicinity, as the area is zoned for this type of use and it will improve the aesthetics which would appreciate values.

**Conditional Use Permit**

These are the findings required for a Conditional Use Permit:

1. The use will not endanger the public health, safety or general welfare if located where proposed and developed, and that the use will not allow conditions which tend to generate nuisance conditions including but not limited to noise, glare, odor, or vibration:

   Analysis: The project, as proposed and conditioned, will not endanger the public health, or general welfare. The property is zoned for this type of five unit condominium development project and the project will comply with all applicable building and development codes. The condominium project will not foster circumstances that tend to generate nuisance conditions such as noise, glare, odor, or vibrations because it is a residential development that is consistent with the surrounding multiple-family residential uses.

2. The use meets the required conditions and specifications set forth in the zoning district where it proposes to locate:

   Analysis: The proposed five-unit residential condominium project meets all of the required conditions and specifications set forth in the zoning district where it is proposed to locate as this residential development project complies with all of the development standards for the Multiple Family Residential (R-3) Zoning and additional requirements set forth in Section 17.34.060 relating to residential condominiums, except with regard to the width of the property which is permitted as a legal non-conforming lot.

   However, this project, if a Variance is not approved, does not have the required number of floors within 100 feet of the R-1 Zone.
3. The location and character of the use, if developed according to the plan as submitted for approval, will be in harmony with the area in which it is to be located and in general conformity with the Los Alamitos General Plan:

   Analysis: The location and character of the use, if developed in accordance with the approved site plan, will be in harmony with the area in which it is to be located because the residential condominiums are compatible with the similar surrounding uses, and these types of projects are in fact intended to be built, in conformity with the City's General Plan, in this area, as shown in the table above, in the subdivision section above.

4. The decision is based on substantial evidence in view of the record as a whole before the Commission:

   Analysis: A decision to approve Conditional Use Permit 16-18 would be based on the Planning Commission's review of the plans and specifications submitted for the proposed project and on testimony given at a public hearing before the Planning Commission.

Recommendation

Please note that there are newer plans that were submitted by the Applicant as part of the Variance Application and attached to this report. The changes made to these plans are described on page 2 of the attached letter from the Applicant's Representative.

Staff recommends that the Commission proceed with the Public Hearing and receive any comments that the public and/or the Applicant's representative may have, and then provide direction to Staff and Applicant on each of the entitlements.

Attachments: 1) Codes noted by Vice Chair DeBolt
              2) Letter from Applicant's Representative
              3) Original April 2017 Staff Report and Resolutions
              4) New plans submitted with Variance Application
LAMC § 16.10.090 Zoning conformance.

A. The subdivision committee shall not approve or conditionally approve a tentative map which does not conform with applicable zoning except as provided in subsection B of this section.

B. A tentative map may be approved when it conforms with zoning which has been recommended for adoption by the planning commission on the condition that the zoning must become effective prior to recordation of the final tract or final parcel map.

C. A tentative map shall not be approved if it is apparent that any proposed parcel cannot be developed to its intended use without the modification of site development standards.

LAMC § 16.12.030 Compliance with zoning.

Subdivisions shall be designed in such a manner that all proposed lots comply with applicable zoning regulations in a manner that will permit the establishment of the proposed uses without further deviations or variances as stated in Section 16.10.090.

Government Code § 66474.2

(a) Except as otherwise provided in subdivision (b) or (c), in determining whether to approve or disapprove an application for a tentative map, the local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete pursuant to Section 65943 of the Government Code.

(b) Subdivision (a) shall not apply to a local agency which, before it has determined an application for a tentative map to be complete pursuant to Section 65943, has done both of the following:

(1) Initiated proceedings by way of ordinance, resolution, or motion.

(2) Published notice in the manner prescribed in subdivision (a) of Section 65090 containing a description sufficient to notify the public of the nature of the proposed change in the applicable general or specific plans, or zoning or subdivision ordinances.

A local agency which has complied with this subdivision may apply any ordinances, policies, or standards enacted or instituted as a result of those proceedings which are in effect on the date the local agency approves or disapproves the tentative map.

(c) If the subdivision applicant requests changes in applicable ordinances, policies or standards in connection with the same development project, any ordinances, policies or standards adopted pursuant to the applicant's request shall apply.
A bit of history

At the April planning commission meeting we presented our projects at 4061/4071 Farquhar and a separate project at 3751 Farquhar.

At that meeting, there were a few points about the design of 4061/4071 brought up by a couple of planning commissioners. After some discussion and clarification, a vote was taken and these projects were approved 3-2.

Our other project at 3751 Farquhar was addressed next in that same meeting. Although the issues discussed were similar in nature, there was an additional potential issue that was enough cause to suggest that we continue to the next meeting. (height within 100 feet of R-1 property)

At the May 24 meeting (which was the next planning commission meeting), 3751 Farquhar project was presented again. Several additional issues were brought up by commissioner DeBoldt. These questions were NOT RAISED at the original meeting of April 24. During this meeting I requested that we be given all the potential issues so that we could be prepared with answers and/or changes to solve any remaining code questions. The project was continued to the next planning commission meeting, which has now been scheduled for July 26.

Note that through all this, we have continued to work closely with planning staff (as we always have) to meet or exceed all pertinent planning and municipal code. It has never, nor will it ever be, our intent to trick planning staff or the planning commission into approving a project that has issues or doesn't comply with the INTENT of the planning code.

As many of us know, the planning code has many inconsistencies. To site individual code fragments for the purpose of 'weaponizing' the code is surely not in the best interest of either the city government, the residents, and certainly not people like myself and Mr Kesky who love this city, continue to bring additional tax revenue, raise property values and create more ownership units with quality properties that beautify and fit the aesthetic of the surrounding areas. The planning code is meant to be a tool to be used to help design and develop properties that meet the needs and desires of the city and its inhabitants, not as a weapon to be used against responsible development.

At tonight's planning commission meeting we stand prepared with some modifications to our project that we feel answer any remaining concerns that were raised at the last 2 meetings. We have prepared plan sheets to help illustrate and clarify our approach to addressing the issues raised previously.

4061/4071 Farquhar were approved at the planning commission meeting of 4/26 and at the City Councils review meeting on June 19. We will be implementing similar changes (as applicable) to the three related projects.
Summary of changes in plans (dated 6/27/17) submitted for planning commission meeting 7/26/17:

- Removed curved backup space between Unit 1 and Unit 3. Resulted in 28 foot straight backup space (result is a different floor plan for unit 3 including a rooftop deck) (note that according to code 17.26.060(3)(f), only a 24 foot straight back up space is what is required. The 28 foot radius is referred to in the front setback requirements in section 17.26.060 (3)(f) and seems to apply for a driveway [e.g. circular])

- Clarified dimensions around private open spaces (see sheet 1 in plans)

- Clarified and verified dimensions in and around trash enclosure (see sheet 1 in plans)

- Changed downstairs "study" in Unit 2 to be a large laundry/mud room (see sheet 3)

- Revised Unit 1 to include enough room to create a 2nd covered parking space (sheet 2)

Discussion and support of variance submittal for planning commission meeting 7/26/17:

Findings for a variance: (Notes in support of variance at 3751/3755 Farquhar)

"The strict application of the regulations contained in the Zoning Ordinance would create unnecessary hardships which are inconsistent with the intent and purpose of the Zoning Ordinance."

The code section regarding building height (section 17.08.030) is intended to preclude large, looming multi-story building directly adjacent to R1 properties. This code protects the R1 property from a large development directly adjacent. As the R1 property in this case is buffered by a fence, then a 40 foot drainage ditch, a block wall, sidewalk, 60' right of way and finally by the 20' front setback of the subject, we can hardly consider the proposed project to be impacting or looming over the R1 property to the south.

As such, the distance from the R1 property is 120'. Applying the 'protection' of the code to the drainage ditch, surely can't be what the code intends. Furthermore, the property directly to the west at 3749(?) is enjoying a 15 foot setback and is well over 30 feet in height (we estimate it to be almost 35 feet high from top of curb) and three stories. Notably above even the R3 code allowance of 30 feet and three stories in height, with insufficient set back.

The code speaks to 30 foot limit and three stories in the code and 30 foot and 2 stories when adjacent to R1 property. Clearly the 30 foot height limit is the governing requirement since from the standpoint of massing/loominess, 30 feet is 30 feet, irrespective of how many stories are within that 30 feet. While it is permissible (allowed within the code) to build a 30 foot high two story home right next door (10 feet away) from an R1 property, surely this is far more looming and massive than what is proposed here being about 120' away. (see picture of a 30 foot elevation with 2 stories and same elevation at 30 foot and 3 stories, illustrating that the massing/looming is exactly the same).

Propose that the code should be revised to read in both sections the same height limit and not refer to number of stories, since story/height is really more of a building code requirement (ceiling heights, structure, roof structure/pitch, egress, fire code, etc). These other [building] codes would be self governing since one cannot build, say, a four story structure in 30' height.
"Special circumstances or conditions applicable to the property exist that do not apply to other property in the same vicinity or zone."

The drainage ditch providing an additional 40 foot buffer between the R1 and R3 zones.

"The Variance is necessary for the preservation and enjoyment of a substantial property right which is enjoyed by other property in the same vicinity and under identical zone classification."

Here again we site the neighboring property to the west of the subject project, which is about 35 feet high, three story and only 15' set back from the right of way. Arguably much more looming than the proposed project. In looking at the street scene, however (attach pictures) even this structure is not adversely affecting the R1 property to the south. This is clearly due to the significant separation between the R1 property plus drainage ditch, plus street from the subject.

"The approval of the Variance will not be detrimental to public safety, health and welfare and be injurious to other property in the same vicinity and zone."

Again, since the building is the same weather 30 feet and 2 story vs 30 feet and 3 story, approving the variance (in lieu of changing the code to remove the inconsistency) is not detrimental or injurious to other property in the same area. The code that is intended to 'protect' the neighboring property is in fact not protecting anything but the drainage ditch. By allowing 3 stories vs 2 stories in the same envelope of 30 feet, public safety, health and welfare is not affected.

"The approval of the Variance will not set precedence or adversely affect the Zoning Ordinance or the General Plan of the City of Los Alamitos."

While the code maintains as written, the internal inconsistencies regarding the aforementioned story/height, this project requires a variance. Since the R1 property is buffered by the drainage ditch, it is actually more than 100 feet from the subject property. In general, other R1 properties that are adjacent to R3 properties, not buffered by the drainage ditch (which creates a unique situation for the subject) would not be subject to a precedent set here.

Further Discussion of Code inconsistencies (refer to below for code excerpts):

Table 2-03 Section 17.08.030 allows maximum height of 3 stories or 35 feet (30 feet until an additional 5 feet from setback, then allowing up to 35 feet), but if within 100 feet of R-1 property, allows two stories and 30 feet in height. Our building will be consistent with the height limit of 30', with the variance needed for 3 stories in that same 30 feet. The variance is only required to allow 3 stories in the same space/height as 2 stories. One could easily design a building 30 feet high (same as what is proposed) that is two story, with the first floor having 15 foot ceiling heights and the second floor having similar height. From the standpoint of any adjacent property, the building would have exactly the same massing and appear the same from the outside. The intent of the code is still met in both cases.

<table>
<thead>
<tr>
<th>Maximum height limit – Main Structures (ft)</th>
<th>As required by Section 17.16.070 (Height measurement and height limit exceptions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>30</td>
<td>35</td>
</tr>
<tr>
<td>3 stories or 35 ft. (11)</td>
<td></td>
</tr>
</tbody>
</table>

(11) Portions of structures:
   a. In excess of 30 feet shall be setback an additional five feet.
   b. Located within 100 ft of R-1 zoned property, shall not exceed two stories and 30 feet in height.
17.16.070 Height measurement and height limit exceptions.

Structures shall meet the following standards relating to height, except for fences and walls which shall comply with Section 17.16.060 (Fences, hedges, and walls).

A. Maximum Height. The height of structures shall not exceed the standard established by the applicable zoning district. Maximum height shall be measured as the vertical distance from the top of the nearest curb to an imaginary plane located the allowed distance above, and parallel to, the top of the nearest curb.

17.26.060 Residential parking and storage standards.

A. Carports and Garages. Garages and/or carports shall be provided for required parking spaces in residential zoning districts as follows:

3. R-3 Multiple-Family Zoning Districts. In R-3 multiple-family zoning districts, one of the required parking spaces for each dwelling unit shall be located in an enclosed garage. Carports are encouraged for additional spaces for dwelling units. Required parking spaces for association or common recreation rooms may be unenclosed.
City of Los Alamitos  
Planning Commission and Subdivision Committee

Agenda Report  
Public Hearing  
April 26, 2017  
Item No: 7B

To: Chair Andrade and Members of the Planning Commission/Subdivision Committee

From: Steven A. Mendoza, Development Services Director

Subject: Consideration of a Five-Unit, Residential Condominium Development Application for Tentative Tract Map, Conditional Use Permit, and Site Plan Review at 3751/3755 Farquhar Avenue (APN 222-062-28)  
Applicant: Alison Stapakis and Olympia Stapakis

Summary: Consideration of a five-unit, residential condominium project at 3751/3755 Farquhar Avenue (APN 222-062-28) on an 8,760 square foot parcel in the Multiple Family (R-3) Zoning District. The project requires a Site Plan Review, Conditional Use Permit and a Tentative Tract Map for condominium subdivision purposes (Applicant: Alison Stapakis and Olympia Stapakis).

Recommendation:

1. Open the Public Hearing; and, if appropriate,

2. Determine that the proposed use is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 In-Fill Development Projects; and,

3. Adopt Resolution No. PC 17-06, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING SITE PLAN REVIEW (SPR 16-09) TO ALLOW CONSTRUCTION OF FIVE RESIDENTIAL CONDOMINIUM UNITS ON ONE LOT AT 3751/3755 FARQUHAR AVENUE, IN THE MULTIPLE FAMILY RESIDENTIAL (R-3) ZONING DISTRICT, APN 222-062-28, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (APPLICANT: ALISON STAPAKIS AND OLYMPIA STAPAKIS)"; and,

4. Adopt Resolution No. PC 17-07, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT (CUP 16-18) TO ALLOW CONSTRUCTION OF FIVE RESIDENTIAL CONDOMINIUM UNITS ON ONE LOT AT 3751/3755 FARQUHAR AVENUE, IN THE MULTIPLE FAMILY RESIDENTIAL (R-3) ZONING DISTRICT, APN 222-062-28, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (APPLICANT: ALISON STAPAKIS AND OLYMPIA STAPAKIS)"; and,
FARQUHAR AVENUE, IN THE MULTIPLE FAMILY RESIDENTIAL (R-3) ZONING DISTRICT, APN 222-062-28, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (APPLICANT: ALISON STAPAKIS AND OLYMPIA STAPAKIS); and,

5. Adopt Resolution No. PC 17-08, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, SITTING AS THE SUBDIVISION COMMITTEE, APPROVING TENTATIVE TRACT MAP 16-04 (TTM 18100) TO SUBDIVIDE PROPERTY TO ALLOW FOR DEVELOPMENT OF FIVE RESIDENTIAL CONDOMINIUM UNITS ON ONE LOT AT 3751/3755 FARQUHAR AVENUE, APN 222-062-28, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (APPLICANT: ALISON STAPAKIS AND OLYMPIA STAPAKIS)."

Applicant: Alison Stapakis and Olympia Stapakis

Project Location: 3751 Farquhar Avenue (APN 222-062-28)

Notice: On April 12, 2017, Notice of Public Hearing was posted at City Hall, the Community Center, and the Los Alamitos Museum and at the Site. It was also published in the News Enterprise and public notices were mailed out to all property owners and tenants within 500 feet of the property on this date.

Environmental: CEQA has been satisfied as a determination has been made that the proposed use is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. There are no unusual circumstances which would trigger an exception to the exemption, and no cumulative impacts because this is a previously-developed lot that is intended to have this amount of density and greater.

Background

The Applicant has submitted an application for a project to be located at 4071 Farquhar Avenue. The project will involve demolishing the two existing homes and the construction of five residential condominium units. This project will look similar to two other projects near this project on Farquhar Avenue that are to be presented at tonight’s meeting. The owners of this project are developing at the same time as the others, with similar plans, for a cost savings.

The five (5) units will be located in three (3) buildings as illustrated below. The units range in size from 1,324 to 1,778 Square feet. Four (4) units will be three-bedroom and
2 ½ baths with either a study or studio and one (1) unit will be two-bedroom and 2 ½ baths. All structures will be three stories in height and each unit will have a parking attached. Outdoor space will be provided for each unit consisting of a ground-floor private yard area.

Here is how the Applicant describes the project:

"Currently on the property is an existing 2 unit SFR (built around 1960). The proposal includes demolishing the residence and constructing 5 new townhome units. The homes will be of Grade-A construction quality, with style fitting in with the newer developments of similar type in the area. They will be 3-story on grade, with private, landscaped yards and private decks, providing residents with un-paralleled comfort and livability. Four of the homes will be 3-bedroom and 2-1/2 baths, one will be 2-bedroom and 2-1/2 baths; each will have private laundry facilities, and plenty of storage. Kitchens and baths will have solid surface counters, high-end appliances and tile or wood flooring. Each home will have central heat and air-conditioning and include the latest energy saving construction technologies. Also included will be anti-mold and termite treatments on all wood framing. Every effort will be made to make long lasting, comfortable, low maintenance homes available at a high value price in one of the finest cities in North Orange County."

**Project Location**

The existing property is shown below. The property consists of an 8,760 square foot parcel in the Apartment Row neighborhood of the City. Currently on the site are two 850 square foot single family residences built around 1960. These are not historic homes.
<table>
<thead>
<tr>
<th>Location</th>
<th>Zoning District</th>
<th>Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Site</td>
<td>Existing</td>
<td>Multiple Family (R-3)</td>
</tr>
<tr>
<td></td>
<td>Proposed</td>
<td>Multiple Family (R-3)</td>
</tr>
<tr>
<td>North of Site</td>
<td></td>
<td>Multiple Family (R-3)</td>
</tr>
<tr>
<td>East of Site</td>
<td></td>
<td>Multiple Family (R-3)</td>
</tr>
<tr>
<td>West of Site</td>
<td></td>
<td>Multiple Family (R-3)</td>
</tr>
<tr>
<td>South of Site</td>
<td>Single Family (R-1)</td>
<td>OC Flood Control Channel</td>
</tr>
</tbody>
</table>
Here are photos of the existing property:

Front View:
Application and Review Process

On December 1, 2016, the Applicant submitted a Discretionary Application that requested the following entitlements which are required for the project:

- Site Plan Review (SPR 16-09)
- Tentative Tract Map (TTM 16-04 [TTM 18100])
- Conditional Use Permit (CUP 16-18)

Site Plan Review (SPR 16-09)

Chapter 17.50.020 Applicability, in the Zoning Code, states:

"A commercial or industrial site development, tentative parcel map, residential development plan, conditional use permit, or the addition of..."
square footage to an existing multiple-family residential, commercial, or industrial structure shall be subject to the site plan review process."

This project is presented as a residential development plan which requires this Site Plan Review (SPR). A larger site plan is attached to this report as an exhibit.

**Analysis**

- **Development Standards**

The proposed project would be located in the R-3 (Multiple Family) Residential Zoning District. The R-3 zoning district identifies areas designed to provide multiple-family housing. Types of development allowed in the district are multiple dwelling structures of four or more units, as well as less intensive residential developments that are allowed in the R-1 and R-2 zoning districts, which includes single-family dwelling units. The maximum density allowed is up to thirty (30) dwelling units per acre. The R-3 zoning district is consistent with the "Multiple-Family Residential" land use designation of the General Plan which requires a density of 20 - 30 dwelling units per acre. Table 2 identifies the development features that are required under Section 17.08.030 Table 2-03 (Residential Zoning Districts General Development Standards).

The General Plan's Housing Element identifies this property in Table B-3 (Underutilized Land - Apartment Row Neighborhood) as an underutilized parcel as it is currently developed with a single family home. The General Plan specifies that the density in this area should be between 20 and 30 dwelling units to the acre. Being a fully developed City, this parcel is suitable for an infill project in an established neighborhood that presents no known environmental or infrastructure constraints. The additional units provided by this project will help the City meet its allocation of required new housing per the Southern California Association of Governments (SCAG) "fair share" goals.

The property owner will dedicate 2½ feet of the Northern part of the parcel to the alley, which is required by the City in this neighborhood for enabling safer access by trash collection services due to the large trucks used in the industry.

**R-3 Residential Development Standards**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed Project</th>
<th>Requirement Met</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcel Area</td>
<td>7,200 sq. ft.</td>
<td>8,760 sq. ft.</td>
<td>Yes</td>
</tr>
<tr>
<td>Parcel Width (Interior Parcel)</td>
<td>60 ft.</td>
<td>48 ½ ft.</td>
<td>No - Legal Nonconforming Parcel</td>
</tr>
<tr>
<td>Parcel Depth</td>
<td>100 ft.</td>
<td>180 ft.</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Density</td>
<td>30 du/ac, plus 20 to 30 du/ac for the General Plan</td>
<td>25 du/ac</td>
<td>Yes</td>
</tr>
<tr>
<td>Dwelling Unit Density</td>
<td>1,750 sq. ft. per</td>
<td>1,752 sq. ft. per unit</td>
<td>Yes</td>
</tr>
<tr>
<td>(Gross Land Area per Dwelling Unit)</td>
<td>Required</td>
<td>Proposed Project</td>
<td>Requirement Met</td>
</tr>
<tr>
<td>------------------------------------</td>
<td>----------</td>
<td>------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Minimum dwelling area (gross floor area)</td>
<td>unit</td>
<td>Unit 1: 1,324 sq. ft. Unit 2: 1,598 sq. ft. Units 3 &amp; 4: 1,778 sq. ft. Unit 5: 1,657 sq ft.</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Height Limit – Main Structures</td>
<td>3 Stories or 35 ft.</td>
<td>3 Stories (33' 6&quot;)</td>
<td>Yes</td>
</tr>
<tr>
<td>Setbacks:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>Yes</td>
</tr>
<tr>
<td>Side</td>
<td>5 ft.</td>
<td>5 ft.</td>
<td>Yes</td>
</tr>
<tr>
<td>Rear</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Site Coverage</td>
<td>50%</td>
<td>35%</td>
<td>Yes</td>
</tr>
<tr>
<td>Outdoor Living Space</td>
<td>200 sq. ft. per dwelling (1,000 sq. ft. total) Private space. No dimension less than 10 ft.</td>
<td>The property has over 200 square feet of landscaping per unit (1,615 sq. ft. total) and a private yard size with no dimension less than 10 ft.</td>
<td>Yes</td>
</tr>
<tr>
<td>Distance between structures (ft.) on one parcel</td>
<td>10 ft.</td>
<td>28 ft. between structure A and B. 28 ft. between structure B and C.</td>
<td>Yes</td>
</tr>
<tr>
<td>Storage Space</td>
<td>200 cubic feet per unit</td>
<td>222 cubic feet in unit 1. 202 cubic feet in unit 2. 280 cubic feet in units 3 &amp; 4. 234 cubic feet in unit 5.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

In addition to the requirements set forth above, there are specific requirements that are set forth elsewhere in the Los Alamitos Municipal Code.

- **Section 17.34.060 – Residential Condominiums (only relevant sections listed)**
  - Building Codes - The project will be required to comply with all current building codes as a condition of approval.
  - Utility Meters – Each unit will be required to be separately metered as a condition of approval.
  - Undergrounding of utilities – On-site utilities will be required to be undergrounded as a condition of approval.
  - Laundry Facilities – Each unit has its own laundry facilities.
  - Covenants, Conditions, and Restrictions (CC&Rs) – CC&Rs shall be required
prior to final map approval and conditions will require that required provisions be included.

- **Parking**

This project will have 12 spaces total; two spaces per each two-car garage (four total two-car garages), one 1-car garage and three open spaces.

Parking requirements in the Residential Zoning District (R-3) require two spaces for the first two bedrooms of each dwelling unit. For rooms that can readily be utilized as bedrooms (i.e., bedrooms, dens, and offices) an additional ½ space is required for each room in excess of the first two bedrooms. One of the required parking spaces for each dwelling unit shall be located in an enclosed garage. The following table identifies the required parking spaces for the proposed project.

### R-3 Parking Requirements

<table>
<thead>
<tr>
<th>Required Space Requirements</th>
<th>Proposed Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two spaces for the first two bedrooms of each dwelling unit; plus one-half space for each bedroom or other room that can readily be used as in excess of the first two bedrooms</td>
<td>4 - 3 bed units @ 2 ½ spaces each = 10 spaces</td>
</tr>
<tr>
<td>1 - 2 bed unit @ 2 spaces = 2 spaces</td>
<td>Total = 12 spaces</td>
</tr>
<tr>
<td>Provided Spaces</td>
<td>12 spaces</td>
</tr>
<tr>
<td>Garage Spaces</td>
<td>5+ in garages 9 in garages</td>
</tr>
</tbody>
</table>

- **Circulation**

Vehicular access will be provided along the alley, through one private driveway, with ingress and egress from the alley. The width of the driveway in the narrowest place is 12 feet wide. All of the garages have enough room to accommodate the 28-foot turning radius required in the zoning code. 3 units will have an attached two-car garage and 1 unit will have a one-car garage all of which face the private driveway. Two additional guest parking spaces are off of the alley and the other additional space is near unit 1.

- **Architecture**

The proposed architectural style displays a modern architecture with multiple planes that step in and out, stucco fascia at varied heights on the parapet, and a large vertical
inset covered with wood grain tiles. All proposed buildings will include additional enhanced architectural elements on all sides of the building in addition to the front architectural elements.

The drawing below shows the proposed view of the project from Farquhar Avenue, on the south side of the project:

![Drawing of the project from the south side](image)

This is the project from the north side toward the alley:

![Drawing of the project from the north side](image)

- **Landscaping**

  LAMC Section 17.20.030 (Landscape Area Requirements) speaks to landscaping requirements that multi-family uses shall provide. The Applicant must maintain a...
minimum 15 percent of the site in landscaped areas. According to the site plan the front setback area, common area, and the yard areas of each home will include landscape areas that total approximately 18.4 percent of the total site area, therefore meeting this requirement. The Applicant proposes to install trees in the project but has not yet presented a landscape plan. Staff recommends that the Applicant install five trees at a minimum and has required that as Condition #11. This project will be required to comply with Chapter 13.05 “Water Efficient Landscaping,” and Chapter 13.04 “Water Conservation”, of the Los Alamitos Municipal Code. This has been noted by Staff in the conditions as #10.

- **Fencing and Walls**

There is currently a variety of fencing types on the property lines. The applicant plans to add a short, three-foot tall wood fencing around the private outdoor spaces in the front setback for the two units of the first building and seven foot tall fencing either between or around the other units’ private spaces. The Applicant will install a 7 foot block wall if they decide to replace the existing walls on the property lines.

- **Lighting**

The building will include exterior light fixtures located on all four sides of the structures. These lights have been conditioned by Staff to direct light only on the subject property (condition #15).

**Required Findings**

In order to approve a Site Plan Review, the following findings must be made in accordance with Section 17.50.040 of the LAMC:

1. **The design and layout of the proposed development are consistent with the development and design standards/guidelines of the applicable zoning district:** The design and layout of the five residential condominiums on one lot at 3751 Farquhar Avenue, as conditioned, is consistent with the development and design standards/guidelines of the Multiple Family (R-3) Residential Zoning District as well as with the requirements for residential condominiums set forth in Section 17.34.060. As shown above, the development meets, or will be conditioned to meet, all requirements except for the width of the property, which is excused from the requirement as a legal nonconforming lot.

2. **The design and layout of the proposed development are consistent with the use and enjoyment of neighboring existing or future developments, and would not create traffic or pedestrian hazards:** The design and layout of the five residential condominiums at 3751 Farquhar Avenue would not interfere with the use and enjoyment of neighboring residential developments, as the immediately surrounding uses are multi-family.
residential with a city park and vacant base land 2 blocks east. The approved location is appropriate for a five unit residential condominium development. The location of the private driveway ingress/egress access to the alley would not create traffic or pedestrian hazards and would create a safer environment along Farquhar Avenue by having less curb cuts. The property is zoned for this type of development.

3. **The design of the proposed development would maintain and enhance the attractive, harmonious, and orderly development contemplated by this chapter:** The design of the five residential condominiums would maintain and enhance the attractive, harmonious, and orderly development of the property. The design is in harmony with surrounding development and improves upon the City’s architecture with an updated residential building design, extensive landscaping, and maintenance requirements under a condominium ownership.

4. **The design of the proposed development would provide a desirable environment for its occupants and visiting public as well as its neighbors through good aesthetic use of materials, texture, and color, and would remain aesthetically appealing and retain an appropriate level of maintenance:** The design of the five residential condominiums would provide a desirable environment for its occupants, visiting public, and its neighbors through good aesthetic use of materials, texture, landscaping, and color as described above. Such changes will enhance the existing property and maintain an appropriate level of maintenance, through the implementation of a homeowners’ association and the use of covenants, conditions, and restrictions.

5. **The proposed development would not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity:** The five residential condominiums provide for public health, safety, and welfare of the residential and business communities by increasing the density on the site rather than causing sprawl elsewhere. Additionally, this project replaces structures which are approximately 60 years old. The building will meet all building code requirements.

6. **The proposed development would not substantially depreciate property values in the vicinity:** The five residential condominium units would not depreciate property values in the vicinity, as the area is zoned for this type of use and it will improve the aesthetics.

7. CEQA has been satisfied as a determination has been made that the proposed use is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. There are no unusual circumstances which would trigger an exception to the exemption, and no
cumulative impacts because this is a previously-developed lot that is intended to have this amount of density and greater.

**Staff Conclusion**

Staff has reviewed the proposed project and application materials and finds that the proposed project design and layout meet the minimum standards of the R-3 zoning district, including Section 17.08.030 (Property Development Standards), Section 17.16.040 (Architectural Design), and Chapter 17.20 (Landscaping) and that all of the findings can be made as set forth in attached Resolution PC 17-06.

**Conditional Use Permit (CUP16-18)**

The Applicant requests a Conditional Use Permit to permit a condominium project in the R-3 (Multiple Family) Residential Zoning District as required by Sections 17.08.020 and 17.34.020A of the LAMC.

**Analysis**

Condominiums require a conditional use permit under the City’s Municipal Code. (LAMC §§ 17.08.020; 17.34.020.)

**Required Findings**

Staff reviewed the proposed project and researched the surrounding area and has made the following Conditional Use Permit findings as set forth in LAMC Section 17.42.050:

1. **The use will not endanger the public health, safety or general welfare if located where proposed and developed, and that the use will not allow conditions which tend to generate nuisance conditions including but not limited to noise, glare, odor, or vibration:** The project, as proposed and conditioned, will not endanger the public health, or general welfare. The property is zoned for this type of five unit condominium development project and the project will comply with all applicable building and development codes. The condominium project will not foster circumstances that tend to generate nuisance conditions such as noise, glare, odor, or vibrations because it is a residential development that is consistent with the surrounding multiple-family residential uses.

2. **The use meets the required conditions and specifications set forth in the zoning district where it proposes to locate:** The proposed five-unit residential condominium project meets all of the required conditions and specifications set forth in the zoning district where it is proposed to locate.
as this residential development project complies with all of the development standards for the Multiple Family Residential (R-3) Zoning and additional requirements set forth in Section 17.34.060 relating to residential condominiums, with the exception of the width of the property which is excused as a legal non-conforming use.

3. The location and character of the use, if developed according to the plan as submitted for approval, will be in harmony with the area in which it is to be located and in general conformity with the Los Alamitos General Plan. The location and character of the use, if developed in accordance with the plan as submitted for approval, will be in harmony with the area in which it is to be located because the residential condominiums are compatible with the similar surrounding uses, and these types of projects are in fact intended to be built, in conformity with the City’s General Plan, in this area, as more fully discussed below.

<table>
<thead>
<tr>
<th>Applicable General Plan Implementing Goals and Policies</th>
<th>Consistency of Proposed Project</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Use Element</strong></td>
<td></td>
</tr>
<tr>
<td>Goal 4: Neighborhoods and buildings that are well maintained and demonstrate a sense of pride and identity.</td>
<td>These will be new, well designed buildings in the neighborhood which will encourage neighbors to take a look at their own homes.</td>
</tr>
<tr>
<td>Policy 4.1 Pride and identity. Enhance the sense of identity and increase the feeling of pride among Los Alamitos residents, business owners, employees, and visitors through excellent physical design and continual property maintenance and improvements.</td>
<td>These will be new, well designed buildings in the neighborhood which will encourage neighbors to take a look at their own homes.</td>
</tr>
<tr>
<td>Policy 4.4 Scale and Character. Ensure that all new development in residential neighborhoods is compatible with the scale and character of the surrounding neighborhood.</td>
<td>This project will be in the multi-family residential neighborhood and is just the sort of project which will add to the character of the neighborhood.</td>
</tr>
<tr>
<td>Action 4.5 Development standards. Review development standards in residential zoning districts to provide specific guidance on maximum development intensity, minimum open space, and minimum setback standards to ensure that all new development in residential neighborhoods is compatible with the surrounding scale and character.</td>
<td>This project has been compared to the development standards of the multi-family General Plan designation and has been found to be compliant.</td>
</tr>
<tr>
<td><strong>Open Space, Recreation, and Conservation Element</strong></td>
<td></td>
</tr>
<tr>
<td>Goal 1: A diverse range of parks, facilities, and programs that meet the recreational needs and interests of the community.</td>
<td>This project will be required to pay park fees which will provide funds for future recreational fees to be met.</td>
</tr>
<tr>
<td>Goal 4: Air, water, and energy resources that are protected from pollution and overuse.</td>
<td>This is a residential infill project that will take the place of sprawl that would be built on the fringes of this metropolitan area.</td>
</tr>
<tr>
<td>Action 4.2 Construction activities. Encourage the use of best management practices during construction activities to reduce emissions of criteria pollutants as outlined by the SCAQMD.</td>
<td>BMP’s are required for the construction of this project in the conditions of approval.</td>
</tr>
<tr>
<td><strong>Mobility and Circulation Element</strong></td>
<td></td>
</tr>
<tr>
<td>Policy 1.6 Access management. Minimize access points and curb cuts along arterials and within 200 feet of an intersection to improve traffic flow and safety. Eliminate and/or consolidate driveways when new development occurs or when traffic operation or safety warrants.</td>
<td>This will not add driveways to the passing streets, but will access the site from an existing alleyway.</td>
</tr>
<tr>
<td><strong>Public Facilities and Safety Element</strong></td>
<td></td>
</tr>
<tr>
<td>Action 4.5 Construction activity. Require that construction vehicles and</td>
<td>These are BMP requirements that</td>
</tr>
</tbody>
</table>

Five Residential Condominium Project
April 26, 2017
Page 14 of 21
equipment (fixed or mobile) be equipped with properly operating and maintained mufflers. Place stock piling and/or vehicle-staging areas as far as practical from residential homes. Replace backup audible warning devices with backup strobe lights or other warning devices during evening construction activity to the extent permitted by the California Division of Occupational Safety and Health.

Growth Management Element

| Policy 1.1 New development. New development shall pay its share of the costs of public facilities and services needed to serve the new residents. |
| Park fees will be required to be paid. |

And while no specific policy actions of the Housing Element are fulfilled through this project, it does strive for offering products of housing that cost less than an average single family home in the City in compliance with a goal of the Housing Element:

Housing Strategy Area 4: Adequate Housing Supply

The City strives to ensure an adequate supply of housing is available to meet future and existing housing needs of all economic segments of the community. This property was also identified as an underutilized lot in this element.

4. The decision is based on substantial evidence in view of the record as a whole before the Commission: The decision to approve Conditional Use Permit 16-18 is based on the Planning Commission’s review of the plans and specifications submitted for the proposed project and on testimony given at the public hearing on April 26, 2017, before the Planning Commission.

Staff Conclusion

Staff believes the proposed Conditional Use Permit meets the requirements established within Section 17.42.050 (Findings and Decision) as more fully set forth in Resolution PC 17-07, attached hereto.

Tentative Tract Map (TTM 16-04 and Tentative Tract Map No.18100)

According to Government Code Section 66426 (a portion of the Subdivision Map Act) and the City’s subdivision ordinance, a tentative tract map is required when a project proposes five or more condominiums.

Analysis

The proposed tentative tract map (Tentative Tract Map Number 18100) establishes one lot for the purpose of developing a condominium project for five condominiums on one lot. The tentative tract map has the same dimensions and parameters of the existing lot and identifies the private driveway access and utility easements. No additional lots will be created or removed. Once approved by the Planning Commission, sitting as the
Subdivision Committee, the Tentative Tract Map expires 24 months from the date of approval unless the applicant requests a time extension prior to the expiration. The Subdivision Map Act, along with Title 16 of the LAMC, regulates subdivisions.

The LAMC requires residential subdivisions of five units to pay parkland dedication (Quimby) fees. The current rate for multiple-family residential units is $13,412.00, as set by resolution of the City Council. The project will be conditioned on paying a fee of $40,236.00 for the three new net units.

**Required Findings**

The findings that are required to approve Tentative Tract Map 16-04 are set forth in the Subdivision Map Act as well as Sections 16.10.100 and 16.10.110 of the LAMC. They are as follows:

1. *The proposed map is consistent with the City’s General Plan.* The proposed map allows for the development of 5 condominium units at a density of 25 dwelling units per acre which is within the General Plan multi-family residential land use designation of 20 - 30 units per acre. The proposed design and improvements of the five-unit condominium subdivision are consistent with the applicable General Plan goals, policies, and implementation measures as set forth below.

<table>
<thead>
<tr>
<th>Applicable General Plan Implementing Goals and Policies</th>
<th>Consistency of Proposed Project</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Use Element</strong></td>
<td></td>
</tr>
<tr>
<td>Goal 4: Neighborhoods and buildings that are well maintained and demonstrate a sense of pride and identity.</td>
<td>These will be new, well designed buildings in the neighborhood which will encourage neighbors to take a look at their own homes.</td>
</tr>
<tr>
<td>Policy 4.1 Pride and Identity. Enhance the sense of Identity and increase the feeling of pride among Los Alamitos residents, business owners, employees, and visitors through excellent physical design and continual property maintenance and improvements.</td>
<td>These will be new, well designed buildings in the neighborhood which will encourage neighbors to take a look at their own homes.</td>
</tr>
<tr>
<td>Policy 4.4 Scale and Character. Ensure that all new development in residential neighborhoods is compatible with the scale and character of the surrounding neighborhood.</td>
<td>This project will be in the multi-family residential neighborhood and is just the sort of project which will add to the character of the neighborhood.</td>
</tr>
<tr>
<td>Action 4.5 Development standards. Review development standards in residential zoning districts to provide specific guidance on maximum development intensity, minimum open space, and minimum setback standards to ensure that all new development in residential neighborhoods is compatible with the surrounding scale and character.</td>
<td>This project has been compared to the development standards of the multi-family General Plan designation and has been found to be compliant.</td>
</tr>
<tr>
<td><strong>Open Space, Recreation, and Conservation Element</strong></td>
<td></td>
</tr>
<tr>
<td>Goal 1: A diverse range of parks, facilities, and programs that meet the recreational needs and interests of the community.</td>
<td>This project will be required to pay park fees which will provide funds for future recreational fees to be met.</td>
</tr>
<tr>
<td>Goal 4: Air, water, and energy resources that are protected from pollution and overuse.</td>
<td>This is a residential infill project that will take the place of sprawl that would be built on the fringes of this metropolitan area.</td>
</tr>
</tbody>
</table>
| Action 4.2 Construction activities. Encourage the use of best management BMP's are required for the
practices during construction activities to reduce emissions of criteria pollutants as outlined by the SCAQMD.

<table>
<thead>
<tr>
<th>Mobility and Circulation Element</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Policy 1.6 Access management.</strong> Minimize access points and curb cuts along arterials and within 200 feet of an intersection to improve traffic flow and safety. Eliminate and/or consolidate driveways when new development occurs or when traffic operation or safety warrants.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public Facilities and Safety Element</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Action 4.5 Construction activity.</strong> Require that construction vehicles and equipment (fixed or mobile) be equipped with properly operating and maintained mufflers. Place stock piling and/or vehicle-staging areas as far as practical from residential homes. Replace backup audible warning devices with backup strobe lights or other warning devices during evening construction activity to the extent permitted by the California Division of Occupational Safety and Health.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Growth Management Element</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Policy 1.1 New development.</strong> New development shall pay its share of the costs of public facilities and services needed to serve the new residents.</td>
</tr>
</tbody>
</table>

And while no specific policy actions of the Housing Element are fulfilled through this project, it does strive for offering products of housing that cost less than an average single family home in the City in compliance with a goal of the Housing Element:

**Housing Strategy Area 4: Adequate Housing Supply**

The City strives to ensure an adequate supply of housing is available to meet future and existing housing needs of all economic segments of the community.

This property was also identified as an underutilized lot in this element.

2. **The design and improvement of the proposed subdivision is consistent with the City's General Plan:** The design and improvement of the five-unit condominium project are suitable for residential development of the R-3 designation and the density meets the requirements of the General Plan.

3. **The site is physically suitable for the proposed type of development:** The site is physically suitable for a residential condominium subdivision because the site is generally flat and will require minimal grading on site. The project can meet all development standards except width, which is excused as a legal nonconforming lot.

4. **The requirements of CEQA have been satisfied:** CEQA has been satisfied as a determination has been made that the proposed use is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. There are no unusual circumstances which would trigger an exception to the exemption, and no cumulative impacts because this is a

Five Residential Condominium Project
April 26, 2017
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previously-developed lot that is intended to have this amount of density and greater.

5. **The site is physically suitable for the proposed density of development:** The site is capable of supporting the development of five residential condominium units. The proposed project is at 25 dwelling units per acre, well under the City's R-3 zoning district that allows a maximum of 30 dwelling units per acre under a multi-family development project. Each proposed unit and the entire project meets the development standards for the R-3 zone including parcel area, parcel depth, maximum density, minimum dwelling area, maximum height, setbacks, site coverage, and minimum distances between buildings. The parcel width is minimally under the code requirement, but is allowed because it is a legal non-conforming lot.

6. **The design of the subdivision and proposed improvements are not likely to cause substantial environmental damage or substantial and avoidable injury to fish or wildlife in their habitat:** The proposed subdivision will not cause any environmental damage as this is an infill project on property that already has been developed with residential units and there are no fish or wildlife habitat on site. The site has already been graded.

7. **The design of the subdivision and the proposed improvements are not likely to cause serious public health problems:** The proposed subdivision design and improvements will not adversely affect the public health of the citizens of the City of Los Alamitos as the project is the type of use which is planned for in this area; the residential condominium project will be compatible with the multi-family residential uses in the area. Also, the widening of the alley will improve safety for trash collection by today's larger trucks.

8. **The design of the subdivision and improvements will not conflict with public access easement through the property:** The design of the subdivision and the proposed improvements will not conflict with any existing telephone, street, and public utility easements. There are no public access easements through the property.

9. **The design and improvements of the proposed subdivision are suitable for the uses proposed and the subdivision can be developed in compliance with the applicable zoning regulations:** The project will be able to comply with all zoning regulations as specified above.

10. **The discharge of waste into an existing community sewer system will not result in or add to a violation of existing requirements prescribed by either the Regional Water Quality Control Board:** The project will not result in a violation of requirements prescribed by the Regional Water Quality Control Board.
Board as the Applicant is required to prepare a Water Quality Management Plan (WQMP) for the project.

11. The design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision as the project must conform to green building standards.

**Covenant Conditions & Restrictions**

Prior to the sale of the first condominium, the Conditions will require the Applicant to prepare a document called Covenants, Conditions, and Restrictions (CC&Rs) and submit them to the City for review and approval. This will provide the operating regulations for the proposed condominium project and ensure that the project's landscaping, irrigation, residential building exteriors, interior and exterior fences and walls, common areas and amenities, front yard areas, and back yard areas are maintained appropriately. The CC&Rs identify that the homeowners’ association will have the duty to maintain the property in a clean, safe, attractive, and healthy condition at all times, free of weeds, visible deterioration, graffiti, debris and/or other conditions that violate the Los Alamitos Municipal Code. Staff has included some conditions to ensure that the Association will act as primary enforcer of parking regulations in the community. Additionally, all of the requirements set forth in LAMC 17.34.060 will be required to be included in the CCRs.

**Staff Conclusion**

Staff believes the proposed Tentative Tract Map 16-04 meets the requirements and regulations established within Chapter 16.12 (Standards of Design) and the Subdivision Map Act established in Government Code Sections 66410 et seq. and that all required findings can be made, as more fully set forth in Resolution No. PC 17-08, attached hereto.

**General Plan Compatibility & Staff Recommendation**

Staff believes that the proposed project is compatible with the surrounding land uses as it is immediately adjacent to similar high-density residential apartments and condominiums. The project would implement the City's General Plan, and specifically the ones shown in the table below:

<table>
<thead>
<tr>
<th>Applicable General Plan Implementing Goals and Policies</th>
<th>Consistency of Proposed Project</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Use Element</strong></td>
<td></td>
</tr>
<tr>
<td>Goal 4: Neighborhoods and buildings that are well maintained and demonstrate a sense of pride and identity.</td>
<td>These will be new, well designed buildings in the neighborhood which will encourage neighbors to take a look at their own homes.</td>
</tr>
<tr>
<td>Policy 4.1 Pride and identity. Enhance the sense of identity and increase the feeling of pride among Los Alamitos residents, business owners, employees,</td>
<td>These will be new, well designed buildings in the neighborhood which</td>
</tr>
</tbody>
</table>

Five Residential Condominium Project
April 26, 2017
Page 19 of 21
and visitors through excellent physical design and continual property maintenance and improvements. will encourage neighbors to take a look at their own homes.

Policy 4.4 Scale and Character. Ensure that all new development in residential neighborhoods is compatible with the scale and character of the surrounding neighborhood. This project will be in the multi-family residential neighborhood and is just the sort of project which will add to the character of the neighborhood.

Action 4.5 Development standards. Review development standards in residential zoning districts to provide specific guidance on maximum development intensity, minimum open space, and minimum setback standards to ensure that all new development in residential neighborhoods is compatible with the surrounding scale and character. This project has been compared to the development standards of the multi-family General Plan designation and has been found to be compliant.

**Open Space, Recreation, and Conservation Element**

<table>
<thead>
<tr>
<th>Action 4.2 Construction activities. Encourage the use of best management practices during construction activities to reduce emissions of criteria pollutants as outlined by the SCAQMD.</th>
<th>BMP's are required for the construction of this project in the conditions of approval.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal 1: A diverse range of parks, facilities, and programs that meet the recreational needs and interests of the community.</td>
<td>This project will be required to pay park fees which will provide funds for future recreational fees to be met.</td>
</tr>
<tr>
<td>Goal 4: Air, water, and energy resources that are protected from pollution and overuse.</td>
<td>This is a residential infill project that will take the place of sprawl that would be built on the fringes of this metropolitan area.</td>
</tr>
</tbody>
</table>

**Mobility and Circulation Element**

Policy 1.6 Access management. Minimize access points and curb cuts along arterials and within 200 feet of an intersection to improve traffic flow and safety. Eliminate and/or consolidate driveways when new development occurs or when traffic operation or safety warrants. This will not add driveways to the passing streets, but will access the site from an existing alleyway.

**Public Facilities and Safety Element**

Action 4.5 Construction activity. Require that construction vehicles and equipment (fixed or mobile) be equipped with properly operating and maintained mufflers. Place stock piling and/or vehicle-staging areas as far as practical from residential homes. Replace backup audible warning devices with backup strobe lights or other warning devices during evening construction activity to the extent permitted by the California Division of Occupational Safety and Health. These are BMP requirements that are a part of the conditions of approval for the project.

**Growth Management Element**

Policy 1.1 New development. New development shall pay its share of the costs of public facilities and services needed to serve the new residents. Park fees will be required to be paid.

And while no specific policy actions of the Housing Element are fulfilled through this project, it does strive for offering products of housing that cost less than an average single family home in the City in compliance with a goal of the Housing Element:

**Housing Strategy Area 4: Adequate Housing Supply**

The City strives to ensure an adequate supply of housing is available to meet future and existing housing needs of all economic segments of the community.

This property was also identified as an underutilized lot in this element.
Staff supports approval of CUP (Conditional Use Permit) 16-18, SPR (Site Plan Review) 16-09, and TTM (Tentative Tract Map) 16-04 (18100) due to what appears to be exceptional layout, design, and architecture of the project.

Attachments:  
1) Site Plan dated January 2, 2017  
2) Site Plan Review Resolution No. PC 17-06  
3) Conditional Use Permit Resolution No. PC 17-07  
4) Tentative Tract Map Resolution No. PC 17-08  
5) Exhibit A Conditions of Approval for all of the Resolutions  
6) TTM 18100 – Exhibit B to Tentative Tract Map Resolution
City of Los Alamitos
Planning Commission

Agenda Report
Public Hearing
September 27, 2017
Item No: 8C

To: Chair Andrade and Members of the Planning Commission

Via: Steven A. Mendoza, Development Services Director

From: Tom Oliver, Associate Planner

Subject: Zoning Ordinance Amendment 17-01
Repealing and Replacing Regulations for Accessory Dwelling Units in the Residential Zones in the City to Comply with New State Legislation

Summary: Consideration of a Zoning Ordinance Amendment (ZOA 17-01) to repeal and replace regulations for accessory dwelling units as residential units in the residential zones of the City of Los Alamitos to comply with new state legislation requirements of SB 1069 and AB 2299 (City initiated).

Recommendation:

1. Open the Public Hearing; and,

2. Recommend that the City Council determine that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) under the rule that CEQA does not apply to activities regarding adoption of an ordinance concerning second units in residential zones to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code; and,

3. Adoption of Resolution No. 17-07, entitled, “A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 17-01 TO REPEAL AND REPLACE THE LOS ALAMITOS MUNICIPAL CODE SECTION 17.38.150 RELATING TO ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONES OF THE CITY AS WELL AS MAKE CHANGES TO TABLE 3-01 IN SECTION 17.26.040 AND TABLE 2.02 OF SECTION 17.08.020 TO COMPLY WITH NEW STATE LEGISLATION (CITY INITIATED).”
Applicant: City Initiated, per State Regulation

Location: All residential zoning districts

Approval Criteria: Section 17.70 of the Los Alamitos Municipal Code (LAMC) requires that any proposed amendment be recommended by a resolution to the City Council.


Environmental: The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) under the rule that CEQA does not apply to activities regarding adoption of an ordinance concerning second units in residential zones to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

Summary Recommendation

It is recommended that the Planning Commission approve a resolution recommending that the City Council approve Zoning Ordinance Amendment 17-01 for amendments to Title 17 "Zoning" Chapter 17.38.150 of the City of the Los Alamitos Municipal Code to continue to allow for ministerial approval of accessory dwelling units in single family and multifamily residential zones pursuant to the requirements of SB 1069 and AB 2299.

Background

The City of Los Alamitos Municipal Code currently includes regulations that allow second dwelling units in specified residential zones, subject to specific requirements, in compliance with the California Government Code. On September 27, 2016, Governor Jerry Brown signed Assembly Bill (AB) 2299 and Senate Bill (SB) 1069, amending the Government Code 65852.2 as it relates to second dwelling units.

The new legislation was written with the intent to increase the housing supply in California by facilitating the creation of new second dwelling units, which are now referred to as accessory dwelling units or ADUs. The legislation now further limits the ability of local jurisdictions to regulate these units and became effective on January 1, 2017. Local jurisdictions are required to ministerially approve accessory dwelling units that meet minimal state criteria; if the jurisdiction does not have an ordinance in place.
that is compliant with all new standards set forth in AB 2299 and SB 1069. All cities in the state will need to modify their existing zoning ordinances to meet the new standards that have been adopted by the legislation or be subject to the state standards.

Discussion

The City of Los Alamitos adopted a secondary dwelling unit ordinance in 2006 which included provisions for the ministerial approval of secondary dwelling units in all residential zones codified in Section 17.38.150. With the recently adopted legislation, amendments to the City's existing ordinance are required.

The amendments have been proposed keeping the legislative directive in mind against creating an ordinance that is so arbitrary, excessive, or burdensome as to unreasonably restrict the ability of homeowners to create accessory dwelling units. The proposed amendments include but are not limited to:

- Changing terminology in the municipal code from "Secondary Dwelling Unit" to "Accessory Dwelling Unit (ADU)."
- Accessory dwelling units are permitted in all residential zones where only a single family dwelling unit exists on the parcel so long as the lot meets the minimum parcel size.
- The Municipal Code currently requires all secondary dwelling units to meet the development standards applicable to the residential zone in which they are located. In certain places the City's standards have been supplemented by State law. For example, no side or rear setback is required for a garage conversion and ADUs above a garage need only have 5 foot setbacks. In most places, the code will continue to require that the accessory dwelling unit meets all applicable development standards including setbacks and height limitations.
- Increasing the maximum size of the detached units from 640 square feet to 1,200 square feet.
- The floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum floor area of 1,200 square feet.
- Providing for a minimum square footage of 200 square feet per unit.
- Accessory dwelling units may not count against the maximum density of sites.
- A garage can be converted to an accessory dwelling unit. No setbacks can be required for an existing garage that is converted to an accessory dwelling unit unless required for sufficient fire safety.
- The provisions continue to require that the Applicant for the accessory dwelling unit shall be the owner and occupant of the existing dwelling, and shall certify, and record a covenant with the Orange County Clerk Recorder, declaring that the property owner will continue to occupy
one of the units on the parcel, so long as the accessory dwelling unit exists on the property as a habitable structure.

Ministerial Approval

As under existing law, applications for accessory dwelling units will need to be approved or disapproved ministerially (no discretionary review) within 120 days of receipt. Currently, if plans were submitted for these units, the City's Planning Division would review and make decisions on applications for accessory dwelling units, and will continue to do so under the new legislation and ordinance.

ADU Parking Requirements

The Municipal Code currently requires a minimum of one parking space for an accessory dwelling unit or one parking space per bedroom for units with more than one bedroom. The Municipal Code will continue to require additional parking be provided on the property adding the accessory dwelling unit. However, the new legislation restricts the City's ability to require that these parking spaces be located in a garage. The parking spaces may be located in any configuration on the same property as the accessory dwelling unit, including, but not limited to, covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts. In situations where a garage, carport, or covered parking structure is proposed to be demolished or converted in conjunction with the construction of a new accessory dwelling unit, the replacement parking spaces may be located in any configuration on the same property, in the same manner.

Additionally, the new legislation states that a local jurisdiction cannot require additional parking for accessory dwelling units when the property meets any of the criteria below:

- Located within one-half mile of public transit;
- Located within an architecturally and historically significant district;
- Part of the existing primary residences or an existing access structure including basement and garage conversions;
- Located within one block of a car share vehicle; or,
- Located within an area where the city requires on-street parking permits but does not offer the permits to the ADU occupant.

Recommendation

Pursuant to the California Environmental Quality Act ("CEQA"), Staff has determined that the proposed amendments to accessory dwelling unit regulations are exempt from the requirements of CEQA and the City's CEQA Guidelines pursuant to CEQA
Guidelines Section 15282(h) which exempts the adoption of an ordinance regarding second units in a single-family or multi-family residential zone.

It is recommended that the Planning Commission adopt a resolution entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 17-01 TO REPEAL AND REPLACE SECTION 17.38.150 OF THE LOS ALAMITOS MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONES IN THE CITY TO COMPLY WITH NEW STATE LEGISLATION (CITY INITIATED)

Attachments: 1) Resolution 17-07  
2) Draft Ordinance No. TBD
RESOLUTION NO. 17-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 17-01 TO REPEAL AND REPLACE THE LOS ALAMITOS MUNICIPAL CODE SECTION 17.38.150 RELATING TO ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONES OF THE CITY AS WELL AS MAKE CHANGES TO TABLE 3-01 IN SECTION 17.26.040 AND TABLE 2.02 OF SECTION 17.08.020 TO COMPLY WITH NEW STATE LEGISLATION (CITY INITIATED).

WHEREAS, on September 27, 2016, Governor Jerry Brown signed Assembly Bill (AB) 2299 and Senate Bill (SB) 1069, amending the Government Code as it relates to second dwelling units (now described as "accessory dwelling units" or "ADUs"); and,

WHEREAS, the new legislation was written with the intent to increase the housing supply in California by facilitating the creation of new accessory dwelling units; and,

WHEREAS, the legislation now further limits the ability of local jurisdictions to regulate accessory dwelling units and became effective on January 1, 2017; and,

WHEREAS, all cities in the state can modify their existing zoning ordinances to meet the new standards that have been adopted by the legislation; and,

WHEREAS, on September 27, 2017, the Planning Commission Approved a Resolution of Intention to amend the Municipal Code in light of this new legislation; and,

WHEREAS, the Planning Commission opened a duly noticed Public Hearing concerning this Amendment on September 27, 2017; and,

WHEREAS, the Planning Commission considered all applicable Staff reports and all public testimony and evidence presented at the Public Hearing.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby recommends that the City Council adopt Ordinance No. TBD (ZOA 17-01), attached hereto.

SECTION 2. In making this recommendation the Planning Commission makes the following findings:
A. The proposed changes ensure and maintain consistency between the General Plan and the Zoning Code. The City of Los Alamitos is not required to adopt an ordinance, but Accessory Dwelling Units built within a jurisdiction that lacks a local ordinance must comply with state standards. Adopting this ordinance will ensure that it be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

B. The proposed amendment will not adversely affect the public convenience, health, interest, safety, or welfare of the City. It is the intent of the California State Legislature for local agencies to adopt an accessory dwelling unit ordinance which shall delineate the provisions for the creation of accessory dwelling units relating to matters including unit size, parking, fees, and other requirements; the specifications set forth are not to be arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance. The Legislature found and declared the following:

a. Accessory dwelling units are a valuable form of housing in California.

b. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

c. Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

d. Allowing accessory dwelling units in single-family or multi-family residential zones provide additional rental housing stock in California.

e. California faces a severe housing crisis.

f. The state is falling far short of meeting current and future housing demand with serious consequences for the state’s economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

g. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

h. Accessory dwelling units are, therefore, an essential component of California’s housing supply.

C. The proposed amendments are internally consistent with other applicable provisions of this Zoning Code and do not provide any conflicts with any other provision of the Los Alamitos Municipal Code.
D. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) under the general rule that CEQA does not apply to activities regarding adoption of an ordinance concerning second units in residential zones to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

PASSED, APPROVED, AND ADOPTED this 27th day of September, 2017.

____________________
Chair Andrade

ATTEST:

____________________
Steven A. Mendoza, Secretary

APPROVED AS TO FORM:

____________________
Cary Reisman
City Attorney

STATE OF CALIFORNIA  )
COUNTY OF ORANGE    ) ss
CITY OF LOS ALAMITOS )
I, Steven Mendoza, Planning Commission Secretary of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission held on the 27th day of September, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_________________________________

Steven A. Mendoza, Secretary
ATTACHMENT 2

ORDINANCE NO. TBD

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT (ZOA) 17-01 TO REPEAL AND REPLACE THE LOS ALAMITOS MUNICIPAL CODE SECTION 17.38.150 RELATING TO ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONES OF THE CITY AS WELL AS MAKE CHANGES TO TABLE 3-01 IN SECTION 17.26.040 AND TABLE 2.02 OF SECTION 17.08.020 TO COMPLY WITH NEW STATE LEGISLATION (CITY INITIATED)

WHEREAS, on September 27, 2016, Governor Jerry Brown signed Assembly Bill (AB) 2299 and Senate Bill (SB) 1069, amending Government Code section 65852.2 as it relates to second dwelling units (now described as “accessory dwelling units” or “ADUs”); and,

WHEREAS, the new legislation was written with the intent to increase the housing supply in California by facilitating the creation of new accessory dwelling units; and,

WHEREAS, the legislation now further limits the ability of local jurisdictions to regulate accessory dwelling units; and,

WHEREAS, the new legislation became effective on January 1, 2017; and,

WHEREAS, all cities in the state may modify their existing zoning ordinances to meet the new standards that have been adopted by the legislation or will be subject to the standards set forth in the legislation; and,

WHEREAS, on September 27, 2017, the Planning Commission Approved a Resolution of Intention to amend the Municipal Code in light of this new legislation; and,

WHEREAS, on September 27, 2017 the Planning Commission held a duly-noticed public hearing on this Ordinance; and,

WHEREAS, at the conclusion of its September 27, 2017 public hearing, the Planning Commission adopted a resolution recommending that the City Council adopt this Ordinance; and,

WHEREAS, the City Council held a duly noticed Public Hearing concerning this Ordinance on October 16, 2017; and,

WHEREAS, the City Council considered all applicable Staff reports and all public testimony and evidence presented at the public hearing, whether written or oral;
NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Los Alamitos, California finds that the above recitals are true and correct and incorporates them by reference herein.

SECTION 2. This approval is based upon the following findings:

A. The proposed changes ensure and maintain consistency between the General Plan and the Zoning Code. The City of Los Alamitos is not required to adopt an ordinance, but Accessory Dwelling Units built within a jurisdiction that lacks a local ordinance must comply with state standards. Adopting this ordinance will ensure that the City is able to impose local control where allowed. This ordinance therefore satisfies Policy 4.4 of the Land Use section of the General Plan ensuring that new development in residential neighborhoods is compatible with the scale and character of the area. Additionally, this ordinance, which implements State law, implements another mechanism to provide housing in Los Alamitos as provided for in the Housing Element.

B. The proposed amendment will not adversely affect the public convenience, health, interest, safety, or welfare of the City. It is the intent of the California State Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance. This ordinance allows local regulation to the extent allowed by State law.

C. The Legislature found and declared the following regarding accessory dwelling units:

1. Accessory dwelling units are a valuable form of housing in California.

2. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

3. Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

4. Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

5. California faces a severe housing crisis.
6. The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

7. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

8. Accessory dwelling units are, therefore, an essential component of California's housing supply.

D. The proposed amendments are internally consistent with other applicable provisions of this Zoning Code and do not provide any conflicts with any other provision of the Los Alamitos Municipal Code.

E. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) under the general rule that CEQA does not apply to activities regarding adoption of an ordinance concerning second units in residential zones to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

SECTION 3. Table 3-01 in Section 17.26.040 is hereby amended to read as follows:

<table>
<thead>
<tr>
<th>Description of Use</th>
<th>Required Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second Residential Accessory Dwelling Unit</td>
<td>One space for a studio or one bedroom, plus one additional space for each additional bedroom—See 17.38.150 F</td>
</tr>
</tbody>
</table>

SECTION 4. Section 17.38.150 Second residential units of the Los Alamitos Municipal Code is hereby deleted and a new Section 17.38.150 “Accessory dwelling units,” is hereby added to read as follows:

Section 17.38.150 Accessory dwelling units (ADU).

A. Purpose. This Section provides for the development of accessory dwelling units on lots developed or proposed to be developed with single-family dwellings. Such accessory dwellings contribute needed housing to the City's housing stock. Thus, accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities. It is not the intent of this section to override lawful use restrictions as may be set forth in conditions, covenants and restrictions or similar instruments of established communities with homeowner associations.
B. Applicability. The provisions of this Chapter apply to all lots that are occupied with a single family dwelling unit and zoned for residential use. Accessory dwelling units shall not be considered to exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are deemed a residential use that is consistent with the existing general plan and zoning designation for the parcel.

C. General Requirements:

1. Accessory dwelling units shall be allowed in any residential zone.

2. The lot must meet the minimum parcel area for the zone as set forth in Section 17.08.030 of this Code.

3. Regardless of the residential zone, an accessory dwelling unit shall only be allowed on a lot that contains an existing, single-family dwelling.

4. Only one accessory dwelling unit may be allowed per lot.

5. The accessory dwelling unit may be attached to the existing dwelling, detached from the existing dwelling, and located on the same lot as the existing dwelling, or located within the existing living area of the existing dwelling.

6. If the accessory structure is located within the existing living area it shall have an independent exterior access.

7. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

8. An accessory dwelling unit, whether attached or detached, shall be consistent in architectural style with the existing single-family dwelling and standards for residential uses in the adjacent residential community and shall be designed to that the property maintains a single-family appearance from the public right-of-way.

9. Accessory dwelling units shall comply with all appropriate building code requirements. However, accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.

10. Accessory dwelling units shall not be sold separate from the primary residence.

11. The Applicant for the accessory dwelling unit shall be the owner and occupant of the existing dwelling, and shall certify, and record a covenant with the Orange County Recorder, declaring that the property owner will continue to occupy one of the units on the parcel, so long as the accessory dwelling unit exists on the property as a habitable structure. In the event of a hardship, such as the death or disability of
the property owner which prevents one of the units from being occupied by the property owner, the property owner or estate representative may apply for a temporary waiver of the owner occupation requirement for a specific time period to allow occupancy of both dwelling units by a non-property owner pending disposition of the property through probate or non-probate transfer to a new owner, or the cessation of the property owner’s disability which prevents him or her from occupying one of the units on the property. Any such waiver shall specify the period of time for which it is granted, provided that no such waiver may be granted for a period of longer than three (3) years.

12. No accessory dwelling unit, or the primary dwelling unit on the same lot on which an accessory dwelling unit is located, shall be rented out for less than thirty (30) consecutive calendar days. A covenant shall be recorded to this effect in a form approved by the City Attorney.

13. All applicable public service and recreation impact fees shall be paid prior to occupancy in accordance with Government Code section 66000 et seq. and section 66012 et seq.

D. Size and Setbacks

1. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

2. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet.

3. The minimum size of an accessory dwelling unit shall be 200 square feet.

4. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

5. There shall be a minimum distance of 10 feet between the accessory dwelling unit and the primary residence or any other structure on the property.

6. Except as set forth herein, the height of the accessory dwelling units, the setbacks for accessory dwelling units, and the maximum site coverage shall be as set forth in Section 17.08.030 of this Code.

E. Utilities
1. An accessory dwelling unit that is contained within the existing space of a single family residence or accessory structure shall not be considered a new residential use for purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service, or impact fees such as park or traffic. No new or separate utility connection between the accessory dwelling unit and the utility shall be required.

2. All other accessory dwelling units other than those mentioned in subsection one above, may require a new or separate utility connection between the accessory dwelling unit and the utility. Any connection fee or capacity charge shall be proportionate to the burden placed on the water and sewer systems due to unit size or number of plumbing fixtures.

3. All utility installations on the lot shall be underground.

4. No accessory dwelling unit shall be allowed if the Building Official determines that there is not adequate water or sewer service to the property.

F. Parking. Notwithstanding any other provision of this Code, the following parking requirements shall apply to accessory dwelling units:

1. Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking, including on an existing driveway or in paved setback areas, provided that the amount of paving does not exceed the total amount of paving and hardscaped areas that are otherwise allowed by this Code. Parking spaces may also be provided through a mechanical lift.

2. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking may be located in any configuration on the same lot as the accessory dwelling unit. These spaces may be provided as tandem parking, including on an existing driveway or in paved setback areas, provided that the amount of paving does not exceed the total amount of paving and hardscaped areas that are otherwise allowed by this Code. Parking spaces may also be provided through a mechanical lift.

3. Tandem parking and parking in setback areas shall not be allowed if the Development Services Director makes specific findings that such parking is not feasible based upon specific site or regional topographical, or fire and life safety conditions.

4. The parking requirement for an attached or detached accessory dwelling unit shall be in addition to the parking requirement for the existing residence on the property.

5. Parking is not required in the following instances:
a. The accessory dwelling unit is located within one-half mile walking distance of public transit, including transit stations and bus stations.

b. The accessory dwelling unit is located within an architecturally and historically significant historic district.

c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

e. When there is a car share vehicle located within one block of the accessory dwelling unit.

G. Permits.

1. A permit for an accessory dwelling unit shall be approved by the Director of Development Services or his designee for any accessory dwelling unit that meets the requirements of this Chapter.

2. An application for an accessory dwelling unit shall be acted upon within 120 days after receipt of a complete application.

SECTION 5. Section 17.76.020 Definitions of Specialized Terms and Phrases of the Los Alamitos Municipal Code is hereby amended by adding the following definitions as shown below:

"Dwelling unit, accessory" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(1) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
(2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Dwelling unit, attached accessory" means an accessory dwelling unit that is constructed as an addition to the primary residence.
“Dwelling unit, detached accessory” means an accessory dwelling unit that is constructed as a separate structure on the property not attached to the primary residence.

“Living area” means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

“Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of an accessory dwelling unit.

SECTION 6. Section 17.08.020, Table 2.02 Allowed Uses and Permit Requirements for Residential Zoning Districts of the Los Alamitos Municipal Code is hereby amended to read as follows:

Existing Row:

<table>
<thead>
<tr>
<th>Land Use</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>Specific Use Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory dwelling units</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>17.38.150</td>
</tr>
<tr>
<td>Second residential units</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SECTION 7. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a Certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

SECTION 8. This Ordinance shall take effect thirty days after approval as provided in Government Code Section 36937.

SECTION 9. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) under the general rule that CEQA does not apply to activities regarding adoption of an ordinance concerning second units in residential zones to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code. Staff is directed to file a Notice of Exemption.

SECTION 10. Transmission to HCD. The City Clerk shall send a copy of this Ordinance to the Department of Housing and Community Development as required by State law.
PASSED, APPROVED AND ADOPTED THIS __th DAY OF ________, 2017.

______________________________
Shelly Hasselbrink, Mayor

ATTEST:

______________________________
Windmera Quintanar, City Clerk, CMC

APPROVED AS TO FORM:

______________________________
Cary S. Reisman, City Attorney

STATE OF CALIFORNIA  )
COUNTY OF ORANGE     ) ss.
CITY OF LOS ALAMITOS  )

I, Windmera Quintanar, City Clerk of the City of Los Alamitos, do hereby certify that the foregoing Ordinance No. 2017-TBD was duly introduced and placed upon its first reading at a regular meeting of the City Council on the __th day of ________, 2017 and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 19th day of November, 2017, by the following vote, to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

______________________________
Windmera Quintanar, City Clerk, CMC
Summary: The Los Alamitos City Council adopted Resolution No. 2017-16 during their August 21, 2017 meeting initiating a Zoning Ordinance Amendment concerning recreational marijuana to comply with new State legislation.

Recommendations:
1. Open the Public Hearing; and,

2. ADOPT "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 17-03 DELETING CHAPTER 17.39 OF THE LOS ALAMITOS MUNICIPAL CODE IN ITS ENTIRETY AND ADDING A NEW CHAPTER 17.39 RELATING TO MEDICAL AND ADULT USE CANNABIS AND ADOPTING A PROHIBITION OF ALL COMMERCIAL CANNABIS ACTIVITIES IN THE CITY AND IMPOSING REGULATIONS FOR PERSONAL CULTIVATION OF CANNABIS AND ADDITIONALLY AMENDING TABLES 2-02, 2-04 AND 2-06 TO REFLECT THE SAME (CITYWIDE) (CITY INITIATED)."

Background
Marijuana is quickly becoming one of the most complex issues in California, with legislation trying to keep up with the changing regulatory landscape being enacted and frequently modified. It is challenging to retain the proper understanding of the industry amid recent legislative changes. This is causing cities to analyze and make amendments to their Municipal Codes more frequently than ever. Council Member Josh Wilson requested a discussion on Commercial Marijuana as it relates to Recreational
Marijuana, including both retail sales and cultivation. During their August 21, 2017 Meeting the Council discussed the topic and adopted a resolution concerning Recreational Marijuana to comply with new State legislation. During the discussion a motion was passed that asked the City Attorney's office to draft. The motion was unanimously carried by the City Council to adopt the resolution.

The City Attorney's office has provided a Draft Ordinance which provides new definitions and prohibits deliveries of medical cannabis/marijuana, Commercial cannabis activities, Commercial marijuana activities Commercial or Personal Cultivation, even by Qualified Patients and Caregivers within all zones of the City.

Personal cultivation in residential zones remains permitted in accordance with State law. The remainder of this report provides background on the new laws.

Discussion

The intent of this report is to discuss commercial activities for Recreational Marijuana, as all commercial activities relating to medical marijuana have already been banned within the City. Due to the complexity of the issue, it would be appropriate for the Commissioners to understand the difference between commercial and non-commercial related activities. This report explains both.

In January 2018, California will begin issuing State licenses for recreational commercial (for-profit) businesses in accordance with Proposition 64 which was passed at the November 2016 election. There will be approximately 19 different types of State licenses, including 13 different types of cultivation licenses. Although Proposition 64 does not specifically require the City to ban commercial activities in order to prohibit them, it is strongly recommended by the League and municipal attorneys that if the City desires to prohibit commercial activities, express prohibitions should be adopted.

Under Proposition 64, personal marijuana cultivation is allowed. Specifically, California residents are allowed to cultivate up to six living marijuana plants within a single private residence, indoors or outdoors. Proposition 64 gives cities the authority to completely ban outdoor growing and to reasonably regulate indoor growing.

Los Alamitos Existing Regulations

A. Ban on Federally Prohibited Activities.

It is important to note that the use, possession and cultivation of marijuana are still considered federally prohibited activities. Since 2006 Section 17.01.050 of the Los Alamitos Municipal Code has provided:

Section 17.01.050 (i) Uses that Contravene State or Federal Law. Notwithstanding any provision in this code to the contrary, any use of land, operation, or business that cannot be, or is not, conducted or carried out without
being in violation of state or federal law shall be prohibited in all planning areas, districts, or zones within the City.

B. 2015 Amendments to Los Alamitos Municipal Code (only refers to Medical Marijuana)

To address non-recreational marijuana (medical marijuana) in January of 2016 the City Council adopted Ordinance No. 2015-11. This Zoning Ordinance Amendment (ZOA 15-07) established a prohibition of commercial cannabis activities, including the sales, cultivation, distribution, delivery, storage and manufacturing of cannabis, medical marijuana, and marijuana in response to three State of California bills signed into law on October 9, 2015 (AB 266, AB 243, and SB 643) which are known collectively as the Medical Cannabis Regulation and Safety Act ("MCRSA" The MCRSA can be accessed at http://www.bmcr.ca.gov/laws_regs/index.shtml). The Ordinance prohibits cultivation for personal use by Qualified Patients and Caregivers.

Because the Ordinance only related to Medical Marijuana activities, as of today, the City has no explicit prohibition on commercial recreational activities such as commercial sales, commercial cultivation and mobile sales. Additionally, the prohibition on cultivation for personal use by Qualified Patients and Caregivers should be amended to provide that they may cultivate consistent with what is allowed under Proposition 64.

State Law
The MCRSA became effective January 1, 2016. On November 8, 2016 California voters approved Proposition 64, the California Marijuana Legislative Initiative, referred to as the Adult Use of Marijuana Act - AUMA). The AUMA became effective on November 9, 2016, regulating the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by individuals twenty-one (21) years of age and older. The AUMA legalized the nonmedical use of marijuana and the personal cultivation of up to six (6) marijuana plants per private resident, within an enclosed building. Consumption in public would be prohibited, except for public places licensed for such use. Additionally, it creates State regulatory and licensing systems for the commercial cultivation, testing and distribution of nonmedical marijuana, and the manufacturing of nonmedical marijuana products. Pursuant to AUMA, it is not permitted for any person to smoke or ingest marijuana or marijuana products:

- In any public place; and
- Where smoking tobacco is prohibited; and
- Within on thousand (1,000) feet of a school, day care center, or youth center while children are present; and
- While driving or riding in a vehicle, boat, vessel, aircraft or other vehicle used for transportation.

Senate Bill 94
On June 27, 2017, Governor Brown signed SB-94, a budget trailer bill that makes significant changes to California's commercial cannabis regulatory scheme. The new law combines the medical and adult-use cannabis systems into one licensing structure
Policy Decisions
In considering regulations, it is important to understand what AUMA allows local governments to regulate or prohibit. The State does allow Cities to regulate commercial marijuana businesses within their jurisdiction through an ordinance that contains language regarding land uses and business regulations. Local governments can reasonably regulate, but cannot ban private indoor cultivation; however, a City may regulate or prohibit commercial indoor cultivation and all personal outdoor cultivation operations.

- **Personal Marijuana Cultivation in Residential Districts** - Is the City interested in imposing a permit requirement and/or regulations relating to personal indoor growth in residential districts, and if so, with what restrictions?

- **Outdoor Marijuana Cultivation in Residential Districts** - Is the City interested in allowing a person to plant, cultivate, harvest, dry or process marijuana plants outdoors in residential districts of the City, and if so, with what restrictions?

- **Personal Marijuana Cultivation in Other Locations** - Is the City interested in allowing a person to plant, cultivate, harvest, dry or process marijuana plants inside any enclosed structure within zoning districts of the City other than residential zones, with or without limitations on the number of plants that could be grown? There are companies that have already approached cities in Southern California to set up an operation where they lease individual growing rooms. This would be considered a commercial marijuana activity.

- **Other Commercial Marijuana Activities** - Is the City interested in allowing the operation of any business of commercial marijuana activity in the City within specific zones, citywide, or not at all? Prop 64 prohibits State licensing authorities from issuing a license to a commercial recreational marijuana business if operation of the business violates a local ordinance of the jurisdiction in which the business will operate. This means that a city wishing to adopt business or land use regulations prohibiting or regulating commercial nonmedical marijuana businesses should adopt an express ordinance prior to the date the State begins issuing licenses. If a city does not pass an ordinance banning or regulating recreational marijuana businesses before January 1, 2018, State-licensed businesses will be able to operate within the City’s jurisdiction without local permitting or permission from local officials. If the City adopts an ordinance after January 2018, which either regulates or bans certain marijuana related activities, then any marijuana business that already legally exists may be able to argue that it has acquired a vested right to continue operating in its current capacity. (Of course there are no legally existing marijuana businesses in Los Alamitos so this provision is not relevant here.)
- Mobile Marijuana Activity - Is the City interested in allowing marijuana delivery services to operate or to deliver marijuana by vehicle within any zoning district of the City? Under MCRSA, local governments are entitled to ban the delivery of medical marijuana to residents within their jurisdiction. Prop 64 maintains cities’ ability to ban deliveries as a reasonable regulation on the operations of recreational marijuana businesses. Section 26200 of Prop 64 is written broadly to protect local control over all commercial aspects of the cannabis industry and it specifically states that “nothing in this division shall be intended to supersede or limit the ability of a local jurisdiction to adopt and enforce local ordinances to regulate businesses under this division or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. It should be noted, however, that cities may not prohibit medical marijuana services or other marijuana businesses, licensed by the State, to travel through their city.

Area cities were surveyed. The following table demonstrates that all areas are acting to make the uses prohibited. The County Board of Supervisors (BOS) has yet to act upon this topic.

<table>
<thead>
<tr>
<th>Activities of Neighboring Cities</th>
<th>Commercial Sales in a Storefront</th>
<th>Commercial Cultivation</th>
<th>Mobile Sales</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anaheim</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Buena Park</td>
<td>Undecided, but not inclined to support</td>
<td>Undecided, but not inclined to support</td>
<td>Undecided, but not inclined to support</td>
</tr>
<tr>
<td>Cypress</td>
<td>Proposed to be Prohibited</td>
<td>Proposed to be Prohibited</td>
<td>Proposed to be Prohibited</td>
</tr>
<tr>
<td>La Palma</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Seal Beach</td>
<td>Did not respond</td>
<td>Did not respond</td>
<td>Did not respond</td>
</tr>
<tr>
<td>Westminster</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Garden Grove</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>County Unincorporated Area (Rossmoor)</td>
<td>TBD. County staff will brief BOS on impacts</td>
<td>TBD. County staff will brief BOS on impacts</td>
<td>TBD. County staff will brief BOS on impacts</td>
</tr>
<tr>
<td>Long Beach</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>

The timeline for this Zoning Code Amendment will be as follows:

<table>
<thead>
<tr>
<th>Code Adoption Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
</tr>
<tr>
<td>August 21, 2017</td>
</tr>
<tr>
<td>August 26, 2017</td>
</tr>
<tr>
<td>September 13, 2017</td>
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<tr>
<td>September 27, 2017</td>
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<tr>
<td>October 4, 2017</td>
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<tr>
<td>October 16, 2017</td>
</tr>
<tr>
<td>October 17, 2017</td>
</tr>
<tr>
<td>November 20, 2017</td>
</tr>
<tr>
<td>December 21, 2017</td>
</tr>
</tbody>
</table>
Through the adoption of Resolution No 2017-16 the City Council initiated the process to ban recreational marijuana (non-medical) uses City Wide and directed the City Attorney to draft the attached ordinance for review and consideration by the Planning Commission before coming back to the City Council at their October 16, 2017 City Council Meeting.

The City Attorney has drafted the attached ordinance to address the above mentioned issues as instructed by the City Council. The Draft Ordinance provides new definitions and prohibits deliveries of medical cannabis/marijuana, Commercial cannabis activities, Commercial marijuana activities Commercial or Personal Cultivation, even by Qualified Patients and Caregivers within all zones of the City.

Personal cultivation in residential zones remains permitted in accordance with State law.

**Fiscal Impact**

None.

**Attachments:**
1. Planning Commission Resolution No. 17-05
2. Draft Ordinance
3. Adopted Council Resolution of Intention No. 2017-16
RESOLUTION NO. 17-05


WHEREAS, in 2015, effective January 1, 2016, the California Legislature adopted legislation (AB 243, AB 266, and SB 643) collectively identified as the Medical Marijuana Regulation and Safety Act (MMRSA) to comprehensively regulate medical marijuana.

WHEREAS, on January 19, 2016, the City Council adopted Ordinance No. 2015-11, adding Chapter 17.39 of the Los Alamitos Municipal Code, prohibiting all commercial activities in the City relating to medical cannabis, including personal cultivation.

WHEREAS, on the November 8, 2016 ballot the voters passed Proposition 64 which is known as the Control, Regulate, and Adult Use of Marijuana Act ("AUMA") which authorizes recreational marijuana use by persons over 21 years of age and allows personal cultivation within an enclosed private residence, subject to reasonable regulations of the City.

WHEREAS, AUMA also creates a State licensing scheme for commercial marijuana activities. Licensing is expected to begin in January 2018.

WHEREAS, AUMA allows local jurisdictions to ban all commercial marijuana activities within the City and ban the outside cultivation of marijuana for personal use.

WHEREAS, the purpose of this Ordinance is to prohibit commercial non-medical marijuana activities in all zones within the City, as well as to impose reasonable regulations on personal cultivation in private residences and accessory structures. Additionally, changes are being made in the statutory references to the definitions for medical marijuana in order to match changes in state law.

WHEREAS, on September 27, 2017, the Planning Commission of the City of Los Alamitos held a duly noticed public hearing on this Ordinance at which time it took into consideration all evidence presented, both written and oral.
WHEREAS, after consideration of all applicable Staff Reports and all public testimony and evidence presented at the Public Hearings, the Planning Commission does hereby make the following findings for a Zoning Ordinance Amendment as required by Los Alamitos Municipal Code Section 17.70.050:

1. The proposed amendments ensure and maintain consistency with the General Plan and the Zoning Code. The proposed code amendment to prohibit cultivation and all commercial medical marijuana land uses in all zones throughout the City is consistent with General Plan Land Use Policy as it continues the prohibition of federally prohibited land uses as has been the policy of the City.

2. The proposed amendments will not adversely affect the public convenience, health, interest, safety, or welfare of the City as land uses and cultivation of commercial medical marijuana will be prohibited by this ordinance since there are questions as to the health and safety of Marijuana (Cannabis) which have not been adequately addressed to the satisfaction of the City.

3. The proposed amendments are internally consistent with other applicable provisions of this Zoning Code and do not provide any conflicts with any other provision of the Los Alamitos Municipal Code.

4. The proposed amendments have been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City’s environmental review procedures in that the proposed amendments are exempt from California Environmental Quality Act review per Section 15061(b) (3) of the California State Government Code because the Code Amendments will have no significant effect on the environment and pursuant to Section 15305 as a minor alteration in land use limitations.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Los Alamitos, California, finds that the above recitals are true and correct, which findings are incorporated by reference herein.

SECTION 2. Based upon such findings and determinations, the Planning Commission hereby recommends to the City Council of the City of Los Alamitos to approve Zoning Ordinance Amendment 17-03, which ordinance is attached hereto and incorporated by reference herein.

PASSED, APPROVED, AND ADOPTED this 27th day of September, 2017.
I, Steven Mendoza, Planning Commission Secretary of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission held on the 27th day of September, 2017, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Steven A. Mendoza, Secretary
ORDINANCE NO._________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA DELETING CHAPTER 17.39 OF THE LOS ALAMITOS MUNICIPAL CODE IN ITS ENTIRETY AND ADDING A NEW CHAPTER 17.39 RELATING TO MEDICAL AND ADULT USE CANNABIS AND ADOPTING A PROHIBITION OF ALL COMMERCIAL CANNABIS ACTIVITIES IN THE CITY AND IMPOSING REGULATIONS FOR PERSONAL CULTIVATION OF CANNABIS AND ADDITIONALLY AMENDING TABLES 2-02, 2-04 AND 2-06 TO REFLECT THE SAME

THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. RECITALS AND FINDINGS


B. In 2015, effective January 1, 2016, the California Legislature adopted legislation (AB 243, AB 266, and SB 643) collectively identified as the Medical Marijuana Regulation and Safety Act (MMRSA) to comprehensively regulate medical marijuana.

C. On January 19, 2016, the City Council adopted Ordinance No. 2015-11, adding Chapter 17.39 of the Los Alamitos Municipal Code, prohibiting all commercial activities in the City relating to medical cannabis, including personal cultivation.

D. On the November 8, 2016 ballot the voters passed Proposition 64 which is known as the Control, Regulate, and Adult Use of Marijuana Act (“AUMA”) which authorizes recreational cannabis use by persons over 21 years of age and allows personal cultivation within a fully enclosed and secure structure at a residence, subject to reasonable regulations of the City.

E. AUMA also creates a State licensing scheme for commercial cannabis activities. Licensing is expected to begin in January 2018.

F. AUMA allows local jurisdictions to ban all commercial cannabis activities within the City and ban the outside cultivation of cannabis for personal use.
G. On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the previous provisions of law relating to medical cannabis, included certain provisions of the previous law in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

H. The MAUCRSA retains the provisions of law relating to medical cannabis and provisions of the AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a cannabis business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority begin issuing licenses to cannabis businesses beginning January 1, 2018.

I. On September 27, 2017, the Planning Commission of the City of Los Alamitos held a duly noticed public hearing on this Ordinance at which time it took into consideration all evidence presented, both written and oral. After the close of the public hearing the Planning Commission recommended that the City Council adopt this Ordinance.

J. On ____, 2017, the City Council of the City of Los Alamitos held a duly noticed public hearing on this Ordinance at which time it took into consideration all evidence presented, both written and oral.

SECTION 2. Chapter 17.39 of the Los Alamitos Municipal Code is hereby repealed in its entirety and a new Chapter 17.39 is hereby added to read as follows:
CHAPTER 17.39
CANNABIS PROHIBITION AND REGULATIONS

17.39.010 Purpose.
A. The purpose of this Chapter is to expressly prohibit the establishment of commercial cannabis uses in the City relating to medical cannabis and adult use cannabis and to impose reasonable regulations on personal cultivation in private residences and accessory structures.

B. The City Council finds that the prohibition on commercial cannabis activity is necessary for the preservation of and protection of the public health, safety, and welfare of the City. The prohibition of such uses is within the authority conferred upon the City Council by State law and is an exercise of its police powers to enact and enforce regulations for the public health, safety and welfare.

17.39.020 Definitions. For purposes of this Chapter, the following definitions shall apply:

A. "Authorized grower" shall mean a person 21 years and older who is authorized by, and in compliance with, state law and the provisions of this Chapter relating to the cultivation of cannabis for personal use.

B. "Cannabis" means all parts of the plant Cannabis sativa linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis, and any product containing cannabis. "Cannabis" includes cannabis that is used for medical, non-medical, or other purposes. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code Section 11018.5.

C. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of cannabis and cannabis products for non-medical, medical or any other purpose, and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code or any other provision of State law that regulates the licensing of cannabis businesses.
D. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

E. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. Delivery also includes the use by a retailer of any technology platform owned and controlled by the retailer.

F. "Fully enclosed and secure structure" means a space within a building that complies with the California Building Code ("CBC") as adopted by the City of Los Alamitos, or if exempt from the permit requirements of the CBC, a structure that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of the mil or inches, or similar products do not satisfy this requirement. If skylights are used, security bars shall be added to the skylights. The structure must provide complete visual screening.

G. "Indoors" means within a fully enclosed and secure structure.

H. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, as codified in Division 10 of the California Business and Professions Code (Section 26000 et seq.) as the same may be amended from time to time.

I. "Outdoors" means any location that is not within a fully enclosed and secure structure.

J. "Person" means any person, firm, corporation, partnership, joint venture, limited liability company, collective, cooperative, non-profit, trust, estate, association, club, receiver, syndicate, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer or salesperson.

K. "Private residence" means a house, apartment unit, condominium, mobile home, or other similar dwelling that is lawfully used as a residence.

17.39.030 Prohibition.

A. Commercial cannabis activities, whether or not for profit, are expressly prohibited in all zones in the City of Los Alamitos, including all specific plan areas and overlay zones. No person shall establish, operate, conduct, allow or engage in a commercial cannabis activity anywhere within the City. This prohibition includes any type of business enterprise where cannabis is
complimentarily provided as part of any other non-cannabis related business activity.

B. A property owner shall not rent, lease, or otherwise permit any person or business that engages in commercial cannabis activity to occupy real property in the City. A property owner shall not allow any person or business to establish, operate, maintain, conduct, or engage in commercial cannabis activity on any real property owner or controlled by that property owner that is located in the City.

C. To the extent not already covered by subsection A above, all deliveries of cannabis are expressly prohibited within the City of Los Alamitos. No person shall conduct any deliveries that either originate or terminate within the City, but the City shall not prohibit the use of City streets where the delivery does not originate or end within the jurisdictional limits of the City.

D. This section is meant to prohibit all activities for which a State license is required pursuant to the MAUCRSA. Accordingly, the City shall not issue any permit, license or other entitlement for any activity for which a State license is required under the AUMA, including any local license to a non-profit entity pursuant to California Business and Professions Code section 26070.5.

E. Except as provided in Section 17.39.040, all cultivation of cannabis is expressly prohibited in all zones in the City of Los Alamitos.

17.39.040 Personal Cultivation - Regulations.

A. An authorized grower shall be allowed to cultivate cannabis for personal use only within a private residence or a fully enclosed and secure structure which is accessory to a private residence subject to the following regulations in addition to any regulations of State law:

1. The cannabis cultivation area shall be contained within one single room that shall not exceed 150 square feet.

2. The room must be securely locked and accessible only to individuals residing in the residence who are 21 years of age or older.

3. The cannabis plants shall not come within twelve (12) inches of the ceiling or any cultivation lighting.

4. Cannabis cultivation lighting shall not exceed one thousand two hundred (1,200) watts in total for the total cultivation area within the residence.
5. The use of gas products such as but not limited to CO2, butane, methane, or any other flammable or non-flammable gas for cannabis cultivation or processing is prohibited.

6. There shall be no exterior visibility or evidence of cannabis cultivation outside the private residence or accessory structure from the public right-of-way or any adjoining property, including but not limited to:
   a. Visual observation of any cannabis plants;
   b. Any form of signage indicating that cannabis plants were being grown inside the residence or accessory structure;
   c. Visual observation of any equipment used in the growing and cultivation operation;
   d. Unusual odors, smells, fragrances, or other olfactory stimulus;
   e. Any light emanating from cultivation lighting.

7. The authorized grower shall reside full-time in the residence where the cannabis cultivation occurs.

8. The authorized grower shall not participate in cannabis cultivation in any other location within the City.

9. The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for cannabis cultivation.

10. The cannabis cultivation area shall be in compliance with the provisions of the applicable building and construction codes as set forth in Title 15 of the Los Alamitos Municipal Code. The building official may impose additional conditions to meet such Codes if necessary, including but not limited to installation of fire suppression sprinklers and ventilation and filtration systems that prevent plant odors from exiting the interior of the structure.

11. The cannabis cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

12. Cultivation shall be limited to six (6) cannabis plants, mature or immature, per private residence or a fully enclosed and secure structure. The limit
of six (6) plants per private residence shall apply regardless of how many individuals reside at the private residence.

13. The cannabis plants and any cannabis in excess of 28.5 grams produced by plants must be kept in a locked space on the grounds of the private residence or accessory structure which space is not visible from the public right-of-way by normal unaided vision.

14. If the person cultivating the plants is not the owner of the residence, such person must obtain permission from the property owner to cultivate plants on the premises in accordance with the provisions of State law and this Chapter. Such permission must be in writing and made available to City staff upon request.

B. No outdoor cultivation of cannabis plants shall be allowed in the City of Los Alamitos, even for personal use. (This section shall be of no further force or effect and shall be deemed repealed upon a determination by the California Attorney General that nonmedical use of cannabis is lawful in the State of California under federal law.)

17.39.050 Violation.

It is hereby declared to be unlawful, a public nuisance and a violation of this Chapter for any person owning, leasing, occupying, or having charge or possession of any property within the City to cause or allow such property to be used in a manner which violates this Chapter.

17.39.060 Violation – Misdemeanor.

Any violation of this Chapter shall be punishable as a misdemeanor.

17.39.070 Public nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this chapter 17.39 shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

17.39.080 Civil penalties.

In addition to any other enforcement permitted by this chapter 17.39, the City attorney may bring a civil action for injunctive relief or the City may pursue administrative fines and penalties pursuant to Chapter 1.24 of this code against any person or entity that violates this chapter. In any civil action brought pursuant to this chapter, In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party.

SECTION 3. Table 2-02 is hereby amended by adding the following:
<table>
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<tr>
<th>LAND USE</th>
<th>PERMIT REQUIRED BY ZONING DISTRICT</th>
<th>Specific Use Regulations</th>
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</thead>
<tbody>
<tr>
<td>CANNABIS USES</td>
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<tr>
<td>Cannabis Deliveries</td>
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<td>Commercial cannabis activities</td>
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<tr>
<td>Personal cultivation</td>
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<td>Commercial Cultivation, even by Qualified Patients and Caregivers</td>
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</table>

--- means the use is not allowed
P means the use is permitted

SECTION 4. Table 2-04 is hereby amended by adding the following:

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<tr>
<td>Cannabis Deliveries</td>
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<td>Commercial cannabis activities</td>
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<tr>
<td>Commercial or Personal Cultivation, even by Qualified Patients and Caregivers</td>
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</tbody>
</table>

--- means the use is not allowed

SECTION 5. Table 2-06 is hereby amended by adding the following:

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<tr>
<td>Cannabis Deliveries</td>
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<tr>
<td>Commercial cannabis activities</td>
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</tbody>
</table>
SECTION 6. Additional Municipal Code Findings

The City Council does hereby make the following findings for a Zoning Ordinance Amendment as required by Los Alamitos Municipal Code Section 17.70.050:

1. The proposed amendments ensure and maintain consistency with the General Plan and the Zoning Code. The proposed code amendment to prohibit cultivation and all recreational cannabis land uses in all zones throughout the City is consistent with General Plan Land Use Policy as it continues the prohibition of federally prohibited land uses as has been the policy of the City.

2. The proposed amendments will not adversely affect the public convenience, health, interest, safety, or welfare of the City as land uses and cultivation of recreational cannabis will be prohibited by this ordinance since there are questions as to the health and safety of Cannabis which have not been adequately addressed to the satisfaction of the City.

3. The proposed amendments are internally consistent with other applicable provisions of this Zoning Code and do not provide any conflicts with any other provision of the Los Alamitos Municipal Code.

SECTION 7. CEQA. Adoption of this Ordinance is exempt from CEQA under the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment. (CEQA Guidelines § 15061(b)(3).) Additionally, the Ordinance is exempt as a minor alteration in land use limitations. (CEQA Guidelines § 15305.) In the present case the growing of six plants in a residence has been authorized by voter initiative. The City's imposition of reasonable regulations on this as well as a ban of all other commercial cannabis activities will not have any significant effects on the environment. Staff is directed to file a Notice of Exemption.

SECTION 8. Effective Date. This Ordinance shall take effect on the 31st day after passage.

SECTION 9. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection,
subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 10. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of adoption and shall post a certified copy of this Ordinance, including the vote for and against same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this _____day of __________, 2017:

Shelly Hasselbrink, Mayor

ATTEST:

Windy Quintanar
City Clerk

APPROVED AS TO FORM:

City Attorney
RESOLUTION NO. 2017-16

A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, FOR MUNICIPAL CODE CHANGES CONCERNING RECREATIONAL MARIJUANA TO COMPLY WITH NEW STATE LEGISLATION (CITY INITIATED)

WHEREAS, the City Council is interested in evaluating the Commercial Sale, Commercial Cultivation and Mobile Sales of Recreational Marijuana; and,

WHEREAS, Los Alamitos Municipal Code Section 17.70.020 requires that the City Council begin this process through adopting a Resolution of Intention; and,

WHEREAS, the City Council considered this item on August 21, 2017.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Los Alamitos, California finds that the above recitals are true and correct.

SECTION 2. The City Council resolves to initiate conversation of possible Zoning Ordinance Amendments concerning the commercial aspects of recreational Marijuana and directs Staff to return to the Planning Commission with recommendations of possible Municipal Code changes to expedite the discussion of this subject.

SECTION 3. The City Clerk shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 21st day of August, 2017.

____________________________
Shelley Hasselbrink, Mayor

ATTEST:

____________________________
Windmera Quintanar, CMC, City Clerk

APPROVED AS TO FORM:

____________________________
Cary S. Reisman, City Attorney
STATE OF CALIFORNIA )
COUNTY OF ORANGE ) ss
CITY OF LOS ALAMITOS )

I, Windmera Quintanar, CMC, City Clerk of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a Special meeting of the City Council held on the 21st day of August, 2017 by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Windmera Quintanar , CMC, City Clerk