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 DeBoit
   Vice Chair Riley
   Commissioner Andrade
   Commissioner Culity
   Commissioner Grose
   Commissioner Loe
   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 May 23, 2018.

6. **DISCUSSION**
   None.

7. **CONSENT CALENDAR**
   None.

8. **PUBLIC HEARINGS**
   A. Zoning Ordinance Amendment 18-04
      Updating Regulations for Accessory Dwelling Units to Continue to Comply with State Legislation
      Consideration of a Resolution of the Planning Commission to recommend that the City Council consider an ordinance to amend Los Alamitos Municipal Code section 17.38.150 regarding Accessory Dwelling Units (ADUs), to be consistent with State law (City initiated).

      Recommendation:

      1. Open the Public Hearing; and,

      2. Close the Public Hearing; and,

      3. 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,

      Adopt Resolution No. 18-17, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 18-04 TO AMEND LOS ALAMITOS MUNICIPAL CODE SECTION 17.38.150 RELATING TO ACCESSORY DWELLING UNITS TO BE CONSISTENT WITH STATE LAW (CITY INITIATED)."

   B. Consideration of a zoning code amendment concerning small wireless
cellular installations (also referred to as small cell cites) within the City of Los Alamitos. (Citywide) (City initiated).
At its June 27, 2018 meeting, the Planning Commission unanimously adopted a Resolution of Intention to discuss possible amendments to the zoning code concerning the location, standards, and general regulation of small wireless cellular installations within the City. The following report provides a summary of Los Alamitos Municipal Code requirements as well as potential topics for consideration by the Planning Commission.

1. Open the Public Hearing; and,

2. Close the Public Hearing; and,

3. Discuss possible amendments to the City’s zoning code and direct the City Attorney to draft an ordinance and resolution to recommend amendments to the small wireless installations to the City Council.

10. ITEMS FROM THE DEVELOPMENT SERVICES DIRECTOR
None.

11. COMMISSIONER REPORTS

12. 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)/$2,346.00 (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 Avenue; Los Alamitos Community Center, 10811 Oak Street; and, Los Alamitos Museum, 11062 Los Alamitos Boulevard; not less than 72 hours prior to the meeting.

[Signature]
Tom Oliver
Associate Planner

7/18/18
Date
MINUTES OF PLANNING COMMISSION/SUBDIVISION COMMITTEE MEETING
OF THE CITY OF LOS ALAMITOS

REGULAR MEETING – June 27, 2018

1. CALL TO ORDER
The Planning Commission/Subdivision Committee met in Regular Session at 7:01 p.m., Wednesday, June 27, 2018, in the Council Chamber, 3191 Katella Avenue, Chair DeBolt presiding.

2. ROLL CALL
Present: Commissioners: Chair DeBolt
Andrade, Cuilty, Grose and Loe

Absent: Riley and Sofelkanik

Staff: Andy Perea, Interim Development Services Director
Kendra Carney, Assistant City Attorney
Michelle Müller, Department Secretary
Tom Oliver, Associate Planner

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

4. ORAL COMMUNICATION
Chair DeBolt opened the meeting for Oral Communication for items not on the agenda. There being no speakers, Chair DeBolt closed Oral Communications.

Speaker Debbie Cendejas expressed her concern over the provision that has been made over the new parking law. Ms. Cendejas is asking the Commission to revise the provision implemented.

There being no further speakers, Chair DeBolt closed for public hearing.

5. Approval of Minutes
A. Approve the Minutes for the Regular Meeting of May 23, 2018

Commissioner Grose stated that under Oral Communication correct to Chair DeBolt and not Chair Andrade.

Motion/Second: Grose/Andrade
Carried 4/0 (Loe abstained, Riley and Sofelkanik absent): The Planning Commission approved the minutes of the Regular meeting of May 23, 2018.

6. DISCUSSION
None.

7. **CONSENT CALENDAR**
None.

8. **PUBLIC HEARINGS**
A. Zoning Ordinance Amendment (ZOA) 18-02
Consideration of a Resolution Recommending Changes to the City Council for Off-Street Parking and Loading

Assistant City Attorney Carney summarized the staff report.

Chair DeBolt opened the public hearing.

There being no further speakers, Chair DeBolt closed the public hearing.

Staff and the Planning Commission discussed the following:
- Create a subsection, which references requirements for condominium parking. To include specificity under residential condominiums stating two enclosed spaces for each unit with the required garage door opener.
- Whether or not landscaping requirements needed further modification.
- Additions to structures greater than 25% to existing square footage shall require that current standards be met.
- Dimensions of parking spaces.

Chair DeBolt re-opened the public hearing.

Ms. Cendejas expressed her concerns over the parking standards.

Chair DeBolt closed the public hearing.

Motion/Second: Andrade/Grose
Carried 5/0 (Riley and Sofelkanik absent): Adopt Resolution No. 2018-14 entitled, "A RESOLUTION OF THE PLANNING COMMISSION/SUBDIVISION COMMITTEE OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING TO THE CITY COUNCIL TO ADOPT ZONING ORDINANCE AMENDMENT (ZOA) 18-02 TO REPEAL SECTIONS 16.19.030 AND 17.34.060(B)(6) REGARDING PARKING STANDARDS FOR CONDOMINIUM CONVERSIONS, AND REPLACE EACH WITH SECTION 17.26.085, AND FURTHER AMEND TITLE 17 OF THE LOS ALAMITOS MUNICIPAL CODE TO MODIFY OFF-STREET PARKING REQUIREMENTS FOR MULTIPLE-FAMILY RESIDENTIAL USES IN THE R-2 (LIMITED MULTIPLE-FAMILY) AND R-3 (MULTIPLE-FAMILY) RESIDENTIAL ZONING DISTRICTS AND DEFINE 'TANDEM PARKING', with an added subsection, which references requirements for condominium parking."
B. Zoning Ordinance Amendment (ZOA) 17-05
Various Off-Street Parking and Loading Amendments

Associate Planner Oliver summarized the staff report.

Chair DeBoit opened the public hearing.

Ms. Cendejas asked and received clarification from Chair DeBoit regarding what the recent modifications to the parking code include.

There being no further speakers, Chair DeBoit closed the public hearing.

There being no further discussion on this item, the Planning Commission moved to the next item for discussion.

9. STAFF REPORTS
   A. Resolution of Intention No. 18-15
      Updates to Accessory Dwelling Unit (ADU) Municipal Codes

   Associate Planner Oliver summarized the staff report.

   Chair DeBoit asked and received clarification from the Assistant City Attorney Carney stating that the modifications to this code will be bringing everything into conformance with the state law.

   Motion/Second: Cuilty/Loe
   Carried 5/0 (Riley and Sofelkanik absent): Adopt Resolution No. 18-15 entitled, "A RESOLUTION OF INTENTION OF THE PLANNING COMMISSION OF LOS ALAMITOS, CALIFORNIA, DIRECTING STAFF TO AGENDIZE THE FUTURE DISCUSSION BY THE PLANNING COMMISSION OF POSSIBLE CHANGES CONCERNING ACCESSORY DWELLING UNITS (ADU) IN THE LOS ALAMITOS MUNICIPAL CODE (CITYWIDE) (CITY INITIATED)."

   B. Resolution of Intention No. 18-16
      Small Wireless Cellular Installations
      Consideration of a Resolution of Intention by the Planning Commission to discuss small wireless cellular installations and consider zoning code changes (Citywide) (City initiated).

   Associate Planner Oliver summarized the staff report.

   Motion/Second: Loe/Grose
   Carried 5/0 (Riley and Sofelkanik absent): Adopt Resolution No. 18-16 entitled, "A RESOLUTION OF INTENTION OF THE PLANNING COMMISSION OF LOS ALAMITOS, CALIFORNIA, DIRECTING STAFF TO AGENDIZE THE FUTURE
DISCUSSION BY THE PLANNING COMMISSION OF POSSIBLE CHANGES CONCERNING SMALL WIRELESS CELLULAR INSTALLATIONS IN THE LOS ALAMITOS MUNICIPAL CODE (CITYWIDE) (CITY INITIATED).”

10. ITEMS FROM THE DEVELOPMENT SERVICES DIRECTOR
Interim Development Services Director Perea advised that the zoning map has been updated.

Associate Planner Oliver added that this zoning map does not show streets in the zones, but will at the end of zoning update.

Interim Development Services Director Perea asked the Planning Commission to look into their availability for December 19th in lieu of December 26th for the Planning Commission meeting.

11. COMMISSIONER REPORTS
Commissioner Grose noted that the landscaping at the Original Grind is needing maintenance as their weeds are overgrown. Interim Development Services Director Perea stated that Code Enforcement would be advised for their follow up.

Commissioner Cuity added that there are two huge realtor signs displayed at the Hotel site.

Commissioner Andrade added that Wahoo’s is coming along. Furthermore stated that Wahoo’s expressed positive comments about staff adding that they are pleased with staff’s work.

12. ADJOURNMENT
The Planning Commission adjourned the meeting at 7:43 p.m.

ATTEST:  Art DeBolt, Chair

__________________________
Andy Perea, Secretary
To: Chair DeBolt and Members of the Planning Commission

Via: Andy Perea, Interim Development Services Director

From: Kendra Carney, Assistant City Attorney & Tom Oliver, Associate Planner

Subject: Zoning Ordinance Amendment 18-04
Updating Regulations for Accessory Dwelling Units to Continue to Comply with State Legislation

Summary: Consideration of a Resolution of the Planning Commission to recommend that the City Council consider an ordinance to amend Los Alamitos Municipal Code section 17.38.150 regarding Accessory Dwelling Units (ADUs), to be consistent with State law (City initiated).

Recommendation:

1. Open the Public Hearing; and,

2. Close the Public Hearing; and,

3. 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,

4. Adopt Resolution No. 18-17, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 18-04 TO AMEND LOS ALAMITOS MUNICIPAL CODE SECTION 17.38.150 RELATING TO ACCESSORY DWELLING UNITS TO BE CONSISTENT WITH STATE LAW (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 18-04 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 (ADU) in single family and multifamily residential zones pursuant to the requirements of SB 1069 and AB 2299 and incorporate revisions pursuant to SB 229 and AB 494.

Background

On October 8, 2017, Governor Jerry Brown signed Assembly Bill (AB) 2299 and Senate Bill (SB) 1069, amending California Government Code section 65852.2 in order to more readily allow for Accessory Dwelling Units (ADUs) within residential zones. Section 17.38.150 of the Los Alamitos Municipal Code ("LAMC") was previously amended to incorporate these requirements.

Since the City's adoption of the ADU laws, the California Department of Housing and Community Development has prepared the attached Technical Assistance Memorandum to address further amendments to ADU laws adopted by SB 229 and AB 494 and to further encourage the development of ADUs. Although these changes have
been effective since January 1, 2018, this memo is intended to inform local agencies of these updates and to provide assistance in clarifying ADU law.

Discussion

Review the clarification memorandum from the State revealed required changes to the existing code section. The changes that Staff recommends are highlighted in the draft ordinance attached to this report. A special note, one of the changes required will allow the size of the ADU to be predicated on the size of a proposed expansion of the existing unit, if processed concurrently with the ADU.

Recommendation

Staff recommends that the Planning Commission open the public hearing, take testimony, and discuss any questions concerning these changes to the Accessory Dwelling Unit provisions in the Los Alamitos Municipal Code; and, if appropriate, approve the draft resolution of recommendation to the City Council for an ordinance amending Chapter 17.38.150.

Attachments: 1) Resolution 18-17  
2) Draft Ordinance No. TBD  
3) Department of Housing and Community Development Memorandum
RESOLUTION NO. 18-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 18-04 TO AMEND LOS ALAMITOS MUNICIPAL CODE SECTION 17.38.150 RELATING TO ACCESSORY DWELLING UNITS TO BE CONSISTENT WITH STATE LAW (CITY INITIATED).

WHEREAS, on October 8, 2017, Governor Jerry Brown signed Assembly Bill (AB) 494 and Senate Bill (SB) 229, amending Government Code section 65852.2 as it relates to second dwelling units (now described as “accessory dwelling units” or “ADUs”); and,

WHEREAS, the California Department of Housing and Community Development released a memorandum on May 29, 2018 to local agencies with suggested amendments concerning municipal codes for Accessory Dwelling Units (ADU); and,

WHEREAS, on June 27, 2018 the Planning Commission approved a Resolution of Intention directing Staff to agendize a discussion by the Planning Commission of possible amendments concerning Accessory Dwelling (ADUs) in the Los Alamitos Municipal Code; and,

WHEREAS, the Planning Commission opened a duly noticed Public Hearing concerning this Amendment on July 25, 2018; 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 18-04), attached hereto.

SECTION 2. In making this recommendation the Planning Commission makes the following findings:

A. The proposed amendments ensure and maintain consistency between the General Plan, the Zoning Code, and State law. 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, in compliance with 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 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 25th day of July, 2018.

______________________________
Chair Art DeBolt

ATTEST:

______________________________
Andy Perea, Interim Secretary

APPROVED AS TO FORM:

______________________________
Kendra Carney, Assistant City Attorney

PC RESO 18-17
Page 2 of 3
I, Andy Perea, Interim 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 25th day of July, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________________
Andy Perea, Interim Secretary
ORDINANCE NO. TBD

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT (ZOA) 18-04 TO AMEND LOS ALAMITOS MUNICIPAL CODE SECTION 17.38.150 RELATING TO ACCESSORY DWELLING UNITS TO BE CONSISTENT WITH STATE LAW (CITY INITIATED).

WHEREAS, on October 8, 201, Governor Jerry Brown signed Assembly Bill (AB) 494 and Senate Bill (SB) 229, amending Government Code section 65852.2 as it relates to second dwelling units (now described as “accessory dwelling units” or “ADUs”); and,

WHEREAS, the California Department of Housing and Community Development released a memorandum on May 29, 2018 to local agencies with suggested amendments concerning municipal codes for Accessory Dwelling Units (ADU); and,

WHEREAS, on June 27, 2018 the Planning Commission approved a Resolution of Intention directing Staff to agendize a discussion by the Planning Commission of possible amendments concerning Accessory Dwelling (ADUs) in the Los Alamitos Municipal Code; and,

WHEREAS, on July 25, 2018 the Planning Commission held a duly-noticed public hearing regarding this Ordinance; and,

WHEREAS, at the conclusion of its July 25, 2018 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 TBD; and,

WHEREAS, the City Council conducted a second reading of this Ordinance on TBD; 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 City's General Plan, the Zoning Code, and State law. 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, in compliance with 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 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.

SECTION 3. Section 17.38.150 "Accessory dwelling units" of the Los Alamitos Municipal Code is hereby amended 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 an existing or proposed 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, or proposed, 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 may be rented separately from the primary residence, but shall not be sold, or otherwise conveyed, separately 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., as the same may be amended.

D. Size and Setbacks

1. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing living area, with a maximum increase in floor area of or 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 a detached 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 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 (E)(1) 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, whichever is less. These spaces may be provided as tandem parking, including on an existing driveway or in paved setback areas, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or fire and life safety conditions 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. Removed.

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 proposed or 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 3. 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 4. This Ordinance shall take effect thirty days after approval as provided in Government Code Section 36937.

SECTION 5. 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 TBD.

Troy Edgar, Mayor
ATTEST:

________________________
Windy Quintanar, CMC, City Clerk

APPROVED AS TO FORM:

________________________
Michael S. Daudt, 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 Ordinance No. TBD was duly introduced and placed upon its first reading at a regular meeting of the City Council on the ___th day of ______, 2018 and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ___th day of ______, 2018, by the following roll-call vote, to wit:

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

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Windmera Quintanar, CMC, City Clerk
DATE: May 29, 2018

TO: Planning Directors and Interested Parties

FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development

SUBJECT: Local Agency Accessory Dwelling Units
Chapter 594, Statutes of 2017 (Senate Bill 229) and
Chapter 602, Statutes of 2017 (Assembly Bill 494)

This memorandum is to inform you of the amendments to California law, effective January 1, 2018, regarding the creation of accessory dwelling units (ADU). Chapter 594, Statutes of 2017 (Senate Bill 229) and Chapter 602, Statutes of 2017 (Assembly Bill 494) build upon recent changes to ADU law (Government Code (GC) Section 65852.2) and further address barriers to the development of ADUs.

SB 229 and AB 494, among other changes, addresses the following:

- Clarifies an ADU can be created through the conversion of a garage, carport or covered parking structure.
- Requires special districts and water corporations to charge a proportional fee scale based upon the ADUs size or its number of plumbing fixtures.
- Reduces the maximum number of parking spaces for an ADU to one space.
- Allows replacement parking spaces to be located in any configuration, as a result, of a parking structure conversion to an ADU.
- Authorizes the Department of Housing and Community Development to review and comment on ADU ordinances.
- Defines the term “tandem parking” to mean two or more automobiles.

For assistance, please see the amended statute in Attachment A. In addition, pursuant to GC Section 65852.2(h), adopted ADU ordinances shall be submitted to HCD within 60 days of adoption. For more information and updates, please contact Greg Nickless, Housing Policy Analyst, at 916-274-6244.
ATTACHMENT A

TITLE 7, DIVISION 2, CHAPTER 4, ARTICLE 2

SB 229 and AB 494 Accessory Dwelling Units (65852.2)

Section 65852.2 of the Government Code is amended to read:

65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones-areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale—may be rented separate from the primary residence and residence, but may be rented, not sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and contains an existing, includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached to or located within the living area of the proposed or existing primary dwelling or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) The increased-floor-total area of floorspace of an attached accessory dwelling unit shall not exceed 50 percent of the existing-living area, with a maximum increase in floor area of proposed or existing primary dwelling living area or 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

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

(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of 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.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction, conditions.
(III) This clause shall not apply to a unit that is described in subdivision (d).

(x) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency amends an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
(3) The accessory dwelling unit is part of the proposed or existing primary residence or an existing accessory structure.

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

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

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. The department may review and comment on this submitted ordinance.

(i) As used in this section, the following terms mean:

(1) “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.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, “neighborhood” has the same meaning as set forth in Section 65599.5.

(4) “Accessory dwelling unit” 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:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

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

(6) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
City of Los Alamitos
Planning Commission and Subdivision Committee

Agenda Report
Public Hearing
July 25, 2018
Item No: 8B

To: Chair DeBolt and Members of the Planning Commission

Via: Andy Perea, Interim Development Services Director

From: Kendra L. Carney, Assistant City Attorney

Subject: Consideration of a zoning code amendment concerning small wireless cellular installations (also referred to as small cell sites) within the City of Los Alamitos. (Citywide) (City initiated).

Summary: At its June 27, 2018 meeting, the Planning Commission unanimously adopted a Resolution of Intention to discuss possible amendments to the zoning code concerning the location, standards, and general regulation of small wireless cellular installations within the City. The following report provides a summary of Los Alamitos Municipal Code requirements as well as potential topics for consideration by the Planning Commission.

Recommendation:

1. Open the Public Hearing; and,

2. Close the Public Hearing; and,

3. Discuss possible amendments to the City's zoning code and direct the City Attorney to draft an ordinance and resolution to recommend amendments to the small wireless installations to the City Council.

Applicant: City initiated.

Project Location: Citywide

Notice: On June 11, 2018, a Notice of Public Hearing was posted at City Hall, the Community Center, and the Los Alamitos Museum. It was also published in the News Enterprise.
Background

The City of Los Alamitos ("City") adopted the wireless telecommunications facilities standards codified as Chapter 17.30 of the Los Alamitos Municipal Code ("LAMC") in 2006. Before 2016, wireless development occurred principally through macro wireless telecommunications facilities on monopoles, building rooftops, or electrical transmission towers. Most of these facilities are large and located on private property. LAMC section 17.30.020 generally refers to these as "major facilities" of which there are several in the City. These typically provide broad area coverage to wireless carriers' customers. By comparison, small cells are more often located in the public right-of-way. These are placed on existing or new poles, such as street lights, and are considerably smaller in scale than macro facilities. They generally consist of a single small omnidirectional antenna, or up to three small panel antennas concealed behind a cylindrical shroud at the top of a pole, inside of the pole, or in an underground vault.

Small cells fill small to intermediate-sized gaps in the carriers' macro coverage. They also provide for greater communications capacity in areas of existing macro coverage, as necessary, to accommodate significant increases in data consumption over wireless networks.

In 2016, the wireless telecommunications industry shifted to large-scale deployment of small cells. With the sudden increase in the volume of applications for wireless telecommunications facilities, many in the public right-of-way, it may be necessary for the City's regulations for small cells to be updated to ensure a balance between the
City's visual and aesthetic standards, and the demand and desire for more abundant access to wireless services. Among other issues, the small cell regulations should contain sufficient development standards to avoid visual clutter on the City's vertical infrastructure.

LAMC Chapter 17.30 established a comprehensive application process, standards, height limitations, and various regulations and enforcement procedures for wireless telecommunications facilities in the City. Technology has evolved significantly since 2006, and the Planning Commission has decided to consider the existing regulations and potentially propose new guidelines for small cells in the City, which may include the creation of a streamlined, uniform review process for regulation of these sites. To further assist the Planning Commission with this task, following this initial discussion, staff and the City Attorney can review the best practices of several other jurisdictions at the forefront of wireless regulation to propose an ordinance to meet the needs of the City as identified by the Planning Commission such as new standards for location, size, intensity, and aesthetics of wireless small cells.

Discussion

The City has been approached by cellular providers concerning the possibility for the installation of small cellular antenna installations on multiple electrical poles in public rights-of-way and possibly elsewhere in the City. Input from the Planning Commission will allow Staff to develop a more comprehensive update of the wireless telecommunications regulations, while possibly providing an efficient path to allow aesthetically-appropriate small cell projects to proceed.

It is important to note local agencies must craft building and zoning regulations pertaining to wireless installations that are not impermissible by federal standards. That is, the City's regulations cannot regulate based on "the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions." (47 U.S.C. § 332(c)(7)(B)(iv)). Additionally, the City's regulations cannot unreasonably discriminate between wireless service providers of functionally equivalent services, prohibit wireless service altogether, or have the effect of prohibiting wireless service or prohibit a wireless company from filling a gap in service. Also, the duration of the permit must be a minimum of ten years.

The City can impose detailed application requirements reasonably related to the review of the project, require public hearings on applications, and require review of applications by the Planning Commission, including generally discretionary decision-making. The regulations recommended to the City Council may also impose requirements to meet aesthetic concerns such as camouflage and setbacks, and may establish facility maintenance standards. The City may also regulate the time, place, and manner of access to the public right-of-way so as not to unreasonably interfere with the public's use of the area. Finally, the City may charge rent or a license fee for placement on City property or a City owned facility within the public right-of-way.
The following items may help guide a discussion by the Planning Commissioners:

- Should these small wireless cellular installations be permitted in the City?
- By what process should they be permitted or denied?
- Should the City treat these installations the same as other, larger wireless installations?
- Should small wireless installations be considered shrouded or stealth (hidden from view)?
- Should the owner/operator of a wireless cell be required to pay a lease or license fee to the City if the device is located on City property or in the public right-of-way?
- If yes, what insurance requirements should apply to a licensee or lessee?
- Should sites meeting more strict development and location standards be eligible for ministerial (by-right) approvals?
- Should more discretionary (conditional) approval processes be drafted for circumstances when aesthetic and other considerations require site-specific analysis?
- Should small cells be prohibited on certain structures or surfaces?
- Should small cells be prohibited on poles if undergrounding equipment is a feasible alternative?
- What standards should apply near parks/schools/residential areas?
- May manufacturers’ specification sheets be used in lieu of noise studies if the documentation proves the equipment used will not exceed the City’s noise threshold?
- Should the City require the antenna be placed on an existing street light pole, replacement pole, or an existing structure other than a pole or structure within the public right-of-way?
- Should small cells be allowed on a wooden pole?
- Should small cell equipment (such as radio units, power supplies, voltage converters, etc.) be located within a below-grade equipment vault, or enclosed at the base of the pole, or on the pole itself?
- How long should the review process take? The City cannot unreasonably delay a permit for wireless installation.
- Should there be planned protected areas within the City where installations are not allowed?

**Fiscal impact**

Depending on the direction of the Planning Commission a proposed Ordinance that includes a component where telecommunication companies would pay an annual license fee per site for use of City facilities would generate a certain amount of revenue that is dependent on the total approved locations.
Recommendation

Discuss the various standards and issues pertaining to small cellular installations and direct staff to return with additional information, or, if appropriate, direct the City Attorney to prepare a proposed Zoning Ordinance Amendment to amend the Los Alamitos Municipal Code concerning wireless installations.

Attachment: Los Alamitos Municipal Code 17.30
Chapter 17.30 WIRELESS TELECOMMUNICATIONS FACILITIES

17.30.010 Purpose.

The purpose of this chapter is to provide regulations for the establishment of commercial wireless facilities to protect the public health, safety, the general welfare, and/or quality of life in the city. (Ord. 688 § 1, 2006)

17.30.020 Definitions.

For purposes of this chapter, the following words, terms, phrases, and their derivations shall have the meanings given, unless otherwise stated.

“Antenna structure” means an antenna that is secured at a fixed and specified location, a structure designed specifically to support an antenna, and/or appurtenances mounted on an structure or antenna.

“Collocation” or “collocated” means the location of multiple antennas which are either owned or operated by more than one service provider at a single location and mounted to a common supporting structure, wall or structure.

“Commercial wireless facility” or “facility” means an antenna structure located within the city limits that provides radio communication service that:

1. Is offered in return for monetary compensation; and
2. Is available to the public or a substantial portion of the public; and
3. Provides subscribers with the ability to access or receive communication from the public switched telephone network.

Commercial wireless facilities include, but are not limited to, antenna structures that provide paging service, wireless data transmission, cellular telephone service, specialized mobile radio service (“SMR”), and personal communications service (“PCS”).

“Ground mounted” means a facility mounted to a pole, lattice tower or other freestanding structure i.e., specifically constructed for the purpose of supporting an antenna.

“Lattice tower” means a structure in excess height of forty (40) feet with three or four steel legs used to support antennas.

“Major facility” means a commercial wireless facility (i.e., either ground mounted or roof mounted), except that a roof-mounted facility that is screened on all four sides by solid material that does not exceed the maximum height of the applicable zoning district shall be deemed a minor facility.

“Minor facility” means a commercial wireless facility that is wall mounted, utility mounted, or roof mounted and the entire facility is screened by solid material on four sides and does not exceed the maximum height of the applicable zoning district.

“Mounted” means attached or supported.

“Radio communication” means the transmission and/or reception of impulses, writing, signs, signals, pictures and sounds of all kinds through space by means of electromagnetic waves.
"Roof mounted" means mounted on any structure (i.e., not specifically constructed for the purpose of supporting antennae), in a manner that does not satisfy either the definition of wall mounted or utility mounted; typically mounted on the roof of an existing structure.

"Utility mounted" means mounted to an existing aboveground structure specifically designed and originally installed to support electrical power lines, cable television lines, street lighting, or traffic signal equipment.

"Wall mounted" means mounted on a vertical or nearly vertical surface of a building or other existing structure (i.e., not specifically constructed for the purpose of supporting an antenna, including the exterior walls of a structure, an existing parapet, the side of a water tank, the face of a religious institution steeple, or the side of a freestanding sign) and the highest point of the antenna structure is at an elevation equal to or lower than the highest point of the surface on which it is mounted. (Ord. 688 § 1, 2006)

17.30.030 Applicability.

A. Wireless telecommunication facilities that are erected, located or modified within the city shall comply with the requirements of this chapter, subject to the categorical exemptions under subsection C of this section.

B. Facilities for which building permits and an extension have expired shall comply with the provisions of this chapter.

C. The following uses shall be exempt from the provisions of this chapter:

1. Antenna structures designed to receive broadcast satellite service, AM/FM radio signals, UHF/VHF radio signals, or multipoint distribution service ("MDS") ("wireless cable") as defined by the Federal Communications Commission; and

2. Antenna structures used for amateur station communications as licensed by the Federal Communications Commission under Title 47, Chapter I, Subchapter D, Part 97 of the Code of Federal Regulations. (Ord. 688 § 1, 2006)

17.30.040 General requirements.

A. Facilities shall be erected, located, operated, and maintained in compliance with this chapter and applicable laws and regulations of the city, the state of California, and the United States of America.

B. Facilities shall be installed and maintained in compliance with the requirements of the building code of the city. Applicants are separately required to obtain applicable building and construction permits that may be required before erecting or installing the facility. (Ord. 688 § 1, 2006)

17.30.050 Application requirements.

Fraudulent, or false information submitted to the city, by the applicant in connection with an approved application is grounds for revocation of the permit by the city. Each applicant for a permit required by this chapter shall submit the following to the city:

A. Application. A completed application for either a site development permit in compliance with Section 17.30.100 (Establishment, application, and processing of site development permits) or a conditional use permit, in compliance with Chapter 17.42.
B. Map. A map showing the location of existing facilities within the city limits that are currently used by the operator of the proposed facility, whether or not the facilities are subject to the requirements of this chapter, along with a brief narrative describing each facility.

C. Description. A written description demonstrating good faith effort in locating facilities in compliance with the screening and site selection guidelines detailed in Section 17.30.090 (Screening and site selection guidelines).

D. Fees. Applicable fees as set by resolution of the council. (Ord. 688 § 1, 2006)

17.30.060 Development requirements.

Facilities shall comply with the following requirements:

A. Signs not Allowed. Facilities shall not bear signs or advertising devices other than certification, warning, or other required seals or required signage.

B. Accessory Equipment. Accessory equipment associated with the operation of a facility shall be located within a structure, enclosure, or underground vault that complies with the development standards of the zoning district in which the accessory equipment is located. If the equipment is to be located above ground, it shall be visually compatible with the surrounding structures and include sufficient landscaping to screen the structure from view.

C. Colors and Materials. Facilities shall have colors and nonreflective materials that blend with surrounding materials and colors.

D. Screening. Screening for wall mounted and/or roof-mounted facilities shall be compatible with the existing architecture, color, texture, and or materials of the structure to which it is mounted. (Ord. 688 § 1, 2006)

17.30.070 Additional requirements for major facilities.

A. Conditional Use Permit Required. Each major facility shall first obtain approval of a conditional use permit in compliance with Chapter 17.42 and the requirements of this chapter. If the commission denies any application for a conditional use permit, it shall make a written determination supported by findings that the proposed facility fails to comply with the requirements and/or guidelines, or otherwise would cause significant negative impacts on the public safety or welfare.

B. Location.

1. Major facilities shall not be located within two hundred (200) feet of property containing a residential structure. For the purpose of this chapter, distances shall be measured in a straight line without regard to intervening structures, from the nearest point of the proposed major facility to the nearest relevant property line.

2. Major facilities may not be located within five hundred (500) feet of an existing, legally established major facility except when collocated on the same structure.

3. Lattice towers shall not be allowed at any location in the city.

4. Monopoles and other antennas of this nature shall be placed in rear or back of building.

C. Height. For the purposes of this chapter, maximum heights shall be measured from the ground to the tallest portion of the facility. Major facilities shall not exceed the maximum structure height for the applicable zoning district unless the commission finds the following:
1. The commission has reviewed alternative options provided by the applicant and staff, including but not limited to additional and/or different locations and designs, and has determined that the proposed location has a lesser impact on the aesthetics and welfare of the surrounding community as compared to other alternatives; and

2. Based on the evidence presented, the additional height above the maximum structure height for the applicable zone is reasonably necessary for collocation of facilities or for the efficient operation of the proposed facility. (Ord. 688 § 1, 2006)

17.30.080 Additional requirements for minor facilities.

A. Site Development Required. Each minor facility shall first obtain administrative approval of a site development permit in compliance with Section 17.30.100 and requirements of this chapter. If the director denies an application for a site development permit, a written determination shall be made supported by findings that the proposed facility fails to comply with the requirements and/or guidelines in this chapter or otherwise would cause significant negative impacts on the public safety or welfare.

B. Residential Zone. A minor facility shall not be located within a residential zone in the city unless the facility receives commission approval of a conditional use permit.

C. Maximum Height. Notwithstanding other provisions in the Los Alamitos Zoning Code, a minor facility shall not exceed the maximum structure height for the applicable zoning district. (Ord. 688 § 1, 2006)

17.30.090 Screening and site selection guidelines.

The following shall be considered by the city in connection with its processing and approval of a wireless telecommunications facility.

A. Context. The extent to which the proposed facility is disguised, blends into the surrounding environment, or is architecturally integrated into a concealing structure, taking into consideration alternate sites that are available.

B. Screening. The extent to which the proposed facility is screened or camouflaged by existing or proposed new topography, vegetation, or other structures.

C. Overall Size. The total size of the proposed facility, particularly in relation to surrounding and supporting structures.

D. Location. The location of the proposed facility and the extent to which it conforms to the following in order of preference (item “1” being the most preferred):
   1. Collocated with an existing facility;
   2. Attached to an existing structure, communication tower, religious institution steeple, utility pole or tower, or similar structure;
   3. Located in an industrial zoning district;
   4. Located in a commercial zoning district. (Ord. 688 § 1, 2006)

17.30.100 Establishment, application, and processing of site development permits.

A. Purpose. The purpose of a site development permit is to provide for administrative review and approval of detailed plans for a proposed use. Uses that require a site development permit are regarded as having a relatively low potential for adverse impacts on the subject site or surrounding community due to the
nature or magnitude of the use. A site development permit may be granted at the discretion of the director and is not the automatic right of any applicant.

B. Applications. Each applicant for a site development permit shall submit the following to the department:

1. A completed application on a form prescribed by the director; and
2. The name and address of the applicant with evidence that they are the owner of the parcel involved or that they have the permission of the owner to make the application; and
3. A legal description of the subject parcel or premises; and
4. Copies of site plans and design plans containing the information required by Chapter 17.50 in the number specified by the department; and
5. A written description demonstrating good faith effort in locating facilities in compliance with Section 17.30.090 (Screening and site selection guidelines); and
6. An application fee equal to the amount charged for filing a conditional use permit application; and
7. Other information as may be required by the department.

C. Processing. Site development permits shall be acted upon administratively by the director. A public hearing shall not be required.

D. Review of Application. In considering an application for a site development permit, the director shall review the proposed plans under the requirements and guidelines detailed in this chapter and in Chapter 17.42 (Conditional Use Permits). The director shall not authorize or approve a site development permit for a facility that does not comply with the mandatory requirements detailed in this chapter. Discretionary guidelines expressed may be used by the director to determine the approval, disapproval, or conditional approval of the permit. Establishment, maintenance and operation of the use or uses proposed by the application shall be in compliance with the information and specifications shown on the approved site development permit, requirements detailed in this chapter, and other laws of the city and the state of California.

E. Findings. The following findings shall be made before the approval of a site development permit:

1. The requested site development permit will not adversely affect the purpose and intent of this chapter, and the proposed use is consistent with the general plan; and
2. The proposed use, activity and/or improvement(s) are consistent with the provisions of the zoning code for the city; and
3. The proposed use will not have significant adverse effects on adjoining land uses and other allowed uses of the area in which it is proposed to be located; and
4. The approval of the permit application is in compliance with the requirements of the California Environmental Quality Act.

F. Appeal. A decision by the director may be appealed to the commission in the same manner identified in Chapter 17.68 (Appeals).

G. Authorization.

1. A site development permit provides authorization for a precise plan of development. A substantial change from the original site plan and/or design plans shall be submitted to the department under reapplication for a site development permit. Modifications to the site plan and/or design plans or the conditions of the approval for a site development permit shall not be allowed without the approval of the director.

2. The applicant shall comply with restrictions or conditions required by the director, or by the commission on appeal, in the granting of a site development permit. If these conditions are not met, the commission may hold a public hearing to determine if the site development permit should be revoked or
modified. Upon the revocation of a site development permit, the further use of the property or structure by authority of the permit shall constitute a violation of this chapter.

3. Acts of the director shall be construed as administrative acts performed for the purpose of assuring that the intent and purpose of this chapter shall apply in individual cases, and shall not be construed as amendments to the provisions of this chapter, the zoning code, or to the official zoning map.

H. Time Limits and Voiding of Permits. The provisions of Chapter 17.62 (Permit Implementation, Time Limits, and Extensions) shall also apply to site development permits approved in compliance with this chapter. (Ord. 688 § 1, 2006)

17.30.110 Facility removal.

A. Abandonment. A facility that is inoperative or unused for a period of six continuous months shall be deemed abandoned. Upon reasonable suspicion of abandonment, the city shall provide a preliminary notice of abandonment to the operator of the facility and the owner(s) of the premises upon which the facility is located. The preliminary notice of abandonment may be delivered in person, or mailed to the address(es) stated on the facility permit application, and shall be deemed given at the time delivered or placed in the mail.

B. Removal of Abandoned Facility.

1. Within thirty (30) days after preliminary notice of abandonment is given, the operator of the facility and the owner(s) of the property on which it is located shall either: (a) remove the facility and restore the premises, or (b) provide the department with written objection to the city’s preliminary notice of abandonment and submit a request for administrative hearing to reconsider the abandonment. If after this time, the facility is not properly removed, or the city does not receive an objection to its preliminary notice of abandonment and request for administrative hearing, the director may make a determination of abandonment and provide notice in the same manner as the preliminary notice of abandonment.

2. If the city receives a timely written objection to the preliminary notice of abandonment and a request for administrative hearing, the director shall schedule an administrative hearing to commence within fifteen (15) days of receiving the objection. At the time and place scheduled for the administrative hearing, the operator of the facility or the owner(s) of the property on which it is located may present documents and other evidence that the facility was in use during the relevant six month period and that it is presently operational. The director shall review the evidence, determine whether or not the facility was properly deemed abandoned, and make a determination of abandonment or a finding of continued use and provide notice in the same manner as provided for the preliminary notice of abandonment.

C. Removal by City. If the facility is not properly removed following thirty (30) days after the determination of abandonment, the facility shall be deemed a public nuisance and may be abated in compliance with Chapter 8.32 of the Los Alamitos Municipal Code. (Ord. 688 § 1, 2006)

17.30.120 Violations.

Violations of this chapter shall constitute a misdemeanor punishable by fine or imprisonment or both in compliance with Chapter 17.74 (Enforcement). Each day the violation continues is punishable as a separate offense. (Ord. 688 § 1, 2006)