

**ITEM 6.3: Zoning Ordinance Update – 311 Vernon Street (Citywide) – File #PL21-0318**

**REQUEST**

The request is to amend portions of Title 19 of the Roseville Municipal Code (Zoning Ordinance) to enhance the readability and clarity of the regulations and definitions, and make additional code changes to address new State laws. The changes include: adding required findings for disapproval of qualifying Housing Projects based on the California Government Code (Chapter 19.78); updating the Commercial Zone Districts to allow Small Community Care facilities (Chapter 19.10) and multi-family in the Neighborhood and Community Commercial zoning districts (Chapter 19.12); updating the Residential development standards to require an Administrative Permit for additions greater than 700 square feet on single-family or two-family dwelling units (Chapter 19.10); clarifying how the Professional Office parking requirement is calculated and, modifying the requirements for loading areas (Chapter 19.26); updating the Fast Food Restaurant outdoor parking requirement to be consistent with the indoor parking requirement (Chapter 19.52); updating the Veterinary Hospital definition (Chapter 19.08); clarifying that patio covers constructed concurrently with the main residence are considered part of the primary structure for setback purposes (19.22); updating the Design Review process for Compact Residential Development to allow existing residential properties to expand their building without having to procure a Design Review for Residential Subdivision (DRRS) permit (Chapter 19.10); updating the Project Expiration section to allow the Planning Manager to grant extensions that are longer than one (1) year (Chapter 19.76); adding the Tower Theater to the list of significant buildings in the City (Chapter 19.61); and revise any typos throughout Zoning Ordinance. In addition, staff proposes to update various code sections based on new State Legislation related to Emergency Shelters parking requirements (AB 139), Transitional and Supporting Housing (AB 2162), Low-Barrier Navigation Centers (AB 101), Small Congregate Living Health Facility (State of California Health and Safety Code Section 1267.16), Antennas and Communications Facilities (AB 57), and Small and Large Family Day Care Homes (SB 234). Lastly, staff proposes to update the Large Community Care Facilities and Caretaker/Employee Housing to comply with the Housing Element Program 28 and 31.

Applicant – City of Roseville

**SUMMARY RECOMMENDATION**

The Planning Division recommends the Planning Commission take the following actions:

1. Recommend the City Council adopt the two (2) findings of fact and approve the Ordinance Amendments to Title 19 of the Roseville Municipal Code.

**SUMMARY OF OUTSTANDING ISSUES**

There are no outstanding issues associated with this request.

**BACKGROUND**

The Zoning Ordinance provides the implementing regulations for the General Plan, with the purpose of establishing regulations governing the use, placement, spacing and size of land and buildings. The current version of the Zoning Ordinance (Title 19 of the Roseville Municipal Code) is viewable online at <http://qcode.us/codes/roseville/>. The City's Planning Division is responsible for overseeing implementation of the Zoning Ordinance. Staff maintains a list of needed corrections to the Zoning Ordinance based on common questions or issues and observed inconsistencies. The purpose of the

proposed amendments to the Zoning Ordinance is to update the document based on the items identified by staff and update/remove sections of the Zoning Ordinance based on State regulations. This is a staff-initiated project intended to improve business practices and comply with the State regulations.

The purpose of the proposed amendments to the Zoning Ordinance is to enhance the readability and clarity of the regulations, definitions, and make a few additional code changes to address new laws affecting the Zoning Ordinance. The complete proposed redlines are attached (Exhibit A) along with a table (Attachment 1) summarizing each proposed amendment, by location in the Zoning Ordinance (Chapter and Section number). The staff report groups the proposed amendments based on their purpose: resolving discrepancies or adding clarity, achieving consistency with current law, and adding or changing regulations to address recent conflicts or new information.

## **DISCREPANCIES/CLARITY AMENDMENTS**

- Loading Area – There has been a recent misinterpretation that assumed the zoning ordinance require loading areas with certain projects and that these loading areas be reviewed and approved via a design review permit. To ensure clarity regarding loading areas, the amended language will make it clear that if a loading area is proposed for a project, that loading area will be reviewed and approved pursuant to design review.
- Multi-Family Housing Permitted in Specific Commercial Zones – During the Housing Element review process, staff was approached by a group interested in allowing multi-family housing in conjunction with non-profit non-residential uses (i.e., Community Assembly uses, specifically churches). This group was looking to provide housing and supportive services to members of the community. In some instances and with appropriate housing development, housing on sites used by non-profit organizations can provide a benefit to the larger community. The proposed amendment would replace the requirement for a conditional use permit with the requirement for an administrative permit for multi-family housing in the Neighborhood Commercial and Community Commercial zoning districts so long as the housing development is constructed on or adjacent to a site occupied by a non-profit organization, and the non-profit organization will offer services to the future residents.
- Commercial Zone District Permitted Uses – Under the Residential Zones permitted use table, both Large and Small Family Daycare and Large and Small Community Care uses are listed as permitted. However, in the Commercial Zones table, Large and Small Community Care uses are not permitted. Staff believes this an omission and proposes to update the Commercial Zone permitted use table to allow Large and Small Community Care uses to be consistent with the Residential Use table.
- Update Fast Food Restaurant Off-Street Parking Requirement – Staff proposes to update the fast food establishment outdoor seating off-street parking requirement to be consistent with the indoor parking requirement.
- Veterinary Hospital – To clarify that the veterinary hospital definition includes having an outdoor area for animals that are being cared for at the facility long-term.
- Fix typo – Under the Residential Use Types table, the phrase Community Services has an extra s, staff proposes to remove the extra letter
- Clarify that additions to single-family or two-family primary structures greater than 700 square feet in area would require approval of an Administrative Permit.
- Design Review for Compact Residential Development – New language is proposed to exempt existing residential properties with a Medium Density Residential land use designation from a Design Review for Residential Subdivision (DRRS) when there is an existing residential dwelling unit and the project would add a second dwelling unit. This would expedite the review process for those properties with an existing residential dwelling unit on-site. Particularly, for sites within the Infill area of the City.
- Unenclosed Structures – Clarify and update that patio covers over seven (7) feet in height constructed with the main residence would be considered a part of the primary structure for purposes of setbacks. Many home builders offer patio covers as an option when they are

constructing new homes. This update would assist staff in regulating these type of structures. No change is proposed for a patio cover constructed after the initial construction of a home.

- Clarifying that the parking requirement for office users is calculated based on net leasable square footage at time of building permit application. Currently the section specifies that the square foot is determined at the initial building permit submittal. However, the original building square footage often changes when new users redesign the floor layout of the building. For example, a project may add or remove restrooms, office closets, storage areas, etc., which results in a change to the original office building square footage. .
- Project Application Extension & Expiration – The code currently permits the Planning Manager to grant a project entitlement extension for one (1) year. Given the economic uncertainty of commercial development, project financing and construction material and labor shortages, staff proposes to allow for more flexibility when determining the appropriate time for an entitlement extension.
- Significant Building – The Tower Theater is proposed to be added to the list of significant buildings in the City because of the building’s historical significance to the Downtown. Adding the Tower Theatre to the list of significant buildings would require the approval of a Design Review Permit and compliance with the requirements of Chapter 19.61 if a future property owner proposed to demolish the building.

## MODIFICATIONS TO REFLECT CURRENT LAW

- **Residential Density Bonus.** Staff proposes to include a new eligibility incentive to the list of housing incentives to allow projects which offer at least 20 percent of the project’s total units for lower income students. The proposed amendment is a result of the series of recently enacted density bonus legislation. Additionally, staff worked with the California Department of Community Development to confirm that the City’s Density Bonus Ordinance is in compliance with recently enacted legislation.
- **Affordable Housing Development & Emergency Shelters Required Findings.** Staff proposes to updated the title name of Section 19.78.070 to include the word “affordable” to clarify that any disapproval findings in this section apply only to “affordable” housing development projects and emergency shelters. This is a result of the new Section 19.78.080 being added per Government code Section 65589.5(j).
- **Findings To Deny a Housing Development.** Chapter 19.78.080 (*new*) – Per Government Code Section 65589.5(j), this section is proposed to provide a list of required findings for disapproval of housing development projects meeting applicable objective General Plan, zoning, and subdivision standards and criteria, and design review standards.
- **Emergency shelters parking requirement.** Consistent with Assembly Bill 139 (AB 139), the City can only impose development and management standards that apply to residential or commercial development within the same zone as an emergency shelter. As such, the City proposes to remove the parking requirement for temporary residents consistent with AB 139.
- **Transitional and Supportive Housing.** Consistent with Assembly Bill 2162, transitional and supporting housing uses would be permitted by right where multifamily and mixed uses are permitted.
- **Low-Barrier Navigation Centers (LBNC).** Consistent with Assembly Bill 101, the City is required to allow LBNCs as a use by-right in areas zoned for mixed-use and nonresidential zones permitting multi-family uses. LBNC provides temporary room and board with limited barriers to entry while case managers work to connect homeless individuals and families to income, public benefits, health services, permanent housing, or other shelter. Updates to the Zoning Ordinance include adding a LBNC definition, updating the residential and commercial zoning districts

permitted uses table to allow LBNC as an allowed use by right in the Multi-Family Housing (R3), Residential Mixed Use (RMU), and Commercial Mixed Use (CMU) zoning districts. Further, in Chapter 19.47 Article IV (Special Area and Specific Requirements) has been created to define and include development standards for LBNC.

- **Small long term care facility.** According to the State of California Health and Safety Code Section 1267.16, a congregate living health facility which serve six (6) or fewer persons shall be considered a residential use and permitted in residential zones. Per the City's Zoning Ordinance, a congregate living health facility falls under the definition of Long Term Care Facility. The City has no jurisdiction in applying development standards for these types of uses, so long as these restrictions are identical to those applied to single-family residences. Therefore, in accordance with State Law, the City proposes to create a new definition (i.e., Long Term Care Facility, Small) to distinguish between a Large Long Term Care Facility where six (6) or fewer persons are allowed and a Small Long Term Care Facility where six (6) or more persons who are terminally ill or catastrophically and severely disabled would be permitted in a residential zone with an administrative permit.
- **Antennas and Communications Facilities.** The Federal Communications Commission (FCC) throughout the years has issued opinions which establish clarification on certain regulations related to telecommunication facilities. As a result of recently issued opinions and Assembly Bill 57 (AB 57), staff proposes to update several sections of Chapter 19.34 to specify what constitutes a substantial change to the size of a telecommunications tower and an increase to the equipment shelters/cabinets. The FCC defines "substantial change" as an increase in height of no more than 10 percent of the height of one additional antenna array, but no more than 20-feet; and existing equipment shelters/cabinets may be modified by no more than 30-feet beyond existing site boundaries or no more than 10% larger in height. In response to AB 57, staff proposes to add language to Chapter 19.34 that would clarify what constitutes a "substantial change" to an existing telecommunications facility on private property and update the time frame requirement to comply with the FCC shot clock rulings.
- **Small and Large Family Day Care Homes.** In September 2019, the Governor approved Senate Bill 234 (SB 234) which modified how local governments could regulate Large Family Daycare Homes. Since its adoption and effective date, staff has complied with the new legislation and no longer requires new Large Family Day Care Homes to apply for an Administrative Permit. In addition the City does not impose business license, fees or taxes on the operation of either a Large or Small Family Daycare Home. The proposed changes include updates to both the Large and Small Family Daycare Home Sections of the ordinance so that both are now regulated in a similar manner. Both Large and Small Family Daycare Homes would be considered a residential use of property and be permitted in single family dwelling units, duplexes, apartments, condominiums, townhomes, or any other multi-family building. The City will no longer require an Administrative Permit for Large Family Day Care Homes, impose a business license, fee or tax on the operation of either a Large or Small Family Daycare Home, or require that additional off-street parking be required.

The above changes reflect updates required in order to ensure the Zoning Ordinance accurately reflects current state laws, and will not have substantial effects on current business practices.

## **MODIFICATIONS TO COMPLY WITH THE HOUSING ELEMENT PROGRAM**

- **Large Community Care Facilities.** Consistent with Housing Element Program 28, the City proposes to change the approval process for Large Community Care Facilities from a Use Permit to an Administrative Permit in all residential zones (i.e., R1, RS, & R2). Further, staff established

objective standards to ensure reliability and transparency during the review process of these facilities.

- **Caretaker/Employee Housing.** Consistent with Housing Element Program 31, employee housing (for six or fewer people) would be permitted as a use by right in all residential zoning districts. Currently, caretakers and employee housing uses are permitted in commercially zoned properties through the issuance of a conditional use permit. At this time, staff does not propose to change the existing use permit requirement for commercially zoned properties.

## **EVALUATION**

Section 19.86.050 of the City of Roseville Zoning Ordinance requires two findings be made in order to approve a zoning ordinance amendment. The two findings are listed below in *italicized, bold* text and are followed by an evaluation of the project in relation to the findings.

- 1. The project is consistent with the public interest, health, safety, or welfare of the City.***
- 2. The project is consistent with the General Plan and any applicable specific plan of the City of Roseville.***

The proposed changes to the Zoning Ordinance will bring the City's regulations into consistency with enacted state law, compliance with the Housing Element Program, and will enhance the readability and clarity of the regulations and definitions of the Zoning Ordinance. Modifying the Zoning Ordinance for consistency with recent state law changes will establish a clear set of regulations for both the public and City staff. Modifying the Large Community Care Facilities and Caretaker/Employee Housing sections of the Zoning Ordinance will bring these sections into compliance with several Housing Element Programs. The amendments that encompass the bulk of the Zoning Ordinance updates will help staff clarify any discrepancies in the Zoning Ordinance. For these reasons, staff finds that the project is consistent with the public interest, health, safety, or welfare of the City and that the project is consistent with the General Plan and applicable specific plans.

## **PUBLIC OUTREACH**

A notice of the proposed project was posted on the Roseville Collation of Neighborhood Associations (RCONA) website on April 29, 2022. To date, no comments have been received.

This Zoning Ordinance Amendment is not site specific, therefore, public hearing notices were not mailed to individual property owners. Consistent with noticing requirements for a citywide project, a public notice was published in the Roseville Press Tribune.

## **CONCLUSION**

In conclusion, the proposed changes will improve business operations by improving the clarity and intent of the existing regulations. Where new or modified regulations are proposed, they are supported by current industry standards and/or are the outcome of recent projects. As mentioned, no concerns have been raised as a result of the public outreach. Planning staff has coordinated with the City Attorney's Office and applicable City Departments and any comments have been incorporated into the proposed amendments. As such, staff is requesting the Planning Commission consider the proposed Zoning Ordinance Update and recommend adoption by the City Council.

## **ENVIRONMENTAL DETERMINATION**

The Zoning Ordinance updates are policy and procedure-making activities, and the California Environmental Quality Act (CEQA) only applies to projects which have the potential to cause 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 (CEQA Guidelines §15061(b)(3)). The proposed amendments do not change existing Zoning District definitions or the Zoning Map, and have no effect on the intensity of use afforded by existing Zoning designations. Most of the proposed changes clarify existing regulations or update sections consistent with existing law; they do not change the manner in which the Zoning Ordinance is implemented or the way development is regulated, and therefore have no potential to result in physical changes in the environment.

### **RECOMMENDATION**

The Planning Division recommends the Planning Commission take the following actions:

1. Recommend that the City Council adopt the two (2) findings of fact and approve the Ordinance Amendments to Title 19 of the Roseville Municipal Code.

### **Attachment**

1. Table listing proposed Zoning Ordinance updates

### **Exhibit**

- A. Ordinance identifying proposed Zoning Ordinance updates (redline/strikeout)

**Note to Applicant and/or Developer:** Please contact Planning Division staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Manager at, or prior to, the public hearing.