



Planning Commission Report

Planning Commission Meeting: January 7, 2014

Agenda Item: 8-A

To: Planning Commission
From: Tony Kim, Acting Special Projects Manager
Subject: Zoning Ordinance Update Redline Public Review Draft

Recommended Action

Staff recommends that the Planning Commission review and comment on provisions in the presented portions of the Zoning Ordinance Update Redline Public Review Draft (Redline). Recommended revisions, additions, and/or deletions will be incorporated into the final draft Zoning Ordinance Update for the Planning Commission to formally recommend to the City Council for adoption.

Background

After a thorough review process that included public outreach and meetings with the community, frequent users of the current code, and various City boards and commissions, the initial public review draft of the Zoning Ordinance Update was released in November 2013. Planning Commission hearings on the Zoning Ordinance Update commenced in December 2013 and continued through October 2014 with 20 Planning Commission hearings on the draft Zoning Ordinance Update and related documents, during which time the Planning Commission preliminarily reviewed all provisions of this update. Based on the Planning Commission's discussions, public comments, and continued staff analysis, redline edits have been made to the initial public review draft of the Zoning Ordinance Update and on October 22, 2014, the Redline was released.

Schedule of Review

The following table highlights the prior and upcoming Planning Commission Redline meetings scheduled and the divisions anticipated to be covered at these meetings.

MEETING DATE	DIVISIONS TO BE COVERED
December 3, 2014	Division I (Introductory Provisions), Division V (General Terms)
December 10, 2014	Division I (Introductory Provisions), Division V (General Terms), Division IV (Administration and Permits)
December 17, 2014	Division IV (Administration and Permits)
January 7, 2015	Division II (Base and Overlay Districts)
January 14, 2015	Division II (Base and Overlay Districts)

January 21, 2015	Division III (General Regulations)
January 28, 2015	Division III (General Regulations) Resolutions of Intention (including Districting Map and LUCE Land Use Designation Map)
February 2015 (date TBD)	Map and LUCE Amendments Formal Recommendations

The Redline review schedule involves organizing the discussion by the divisions within the redline draft and by the major topics that the Commission and public focused on during the initial public review draft. However, at any of the scheduled meetings the Planning Commission can discuss any other Division of the Redline, particularly as they relate to the specific Division being discussed.

The Commission’s review of the Redline, Official Districting Map, and LUCE and LUCE Land Use Map amendments is anticipated to be completed by early February 2015. By maintaining this review schedule the City Council will have adequate time to review and discuss the draft Zoning Ordinance Update prior to the expiration of the current Interim Zoning Ordinance in July 2015. As prescribed by local law, the Interim Zoning Ordinance cannot be extended beyond 50 months and 15 days from the initial adoption.

This review period will be the opportunity for the Commission to provide their formal recommendations on the Redline. If there are areas of the Redline with which a majority of the Commission does not reach consensus, staff will forward the various comments to Council. Opportunities for public comment will continue to be available throughout the Planning Commission’s review of the Redline as well as throughout the City Council’s review of the draft Zoning Ordinance Update.

Final City Council review and adoption of the Zoning Ordinance Update, Official Districting Map, and LUCE and LUCE Land Use Map amendments is anticipated to be completed in June 2015.

Redline Public Review Draft Zoning Ordinance Update

Three documents were released to the Planning Commission and public in October 2014: the Redline Public Review Draft Zoning Ordinance Update, a Public Correspondence Chart, and a Zoning Ordinance Cross Reference Chart.

The Redline Public Review Draft Zoning Ordinance Update details the modifications and additions to the initial public review draft of the Zoning Ordinance Update released in November 2013 with all modifications and additions shown through red underlined text and strikethrough text. The Public Correspondence Chart is a compilation of over 1,200 comments received from members of the public subsequent to the release of the initial public review draft of the Zoning Ordinance Update including staff’s response to every comment. The Zoning Ordinance Cross Reference Chart is a guide to help identify where the standards in the existing Zoning Ordinance are located in the Redline.

Proposed Redline Modifications

All changes to the Redline will be compiled in a separate exhibit (Attachment A) that will be revised on an ongoing basis and will become part of the Planning Commission's formal recommendation to City Council.

Discussion

The following Division II topics garnered significant attention from Commission discussions and public input during the review of the initial public review draft. The discussion and analysis in this report addresses the topics within this division that the Commission and public focused on and had questions regarding. These topics required subsequent analysis and/or revisions and have been identified for additional discussion during the Commission's Redline review.

Family Day Care and Day Care Centers

During the Planning Commission's review of the initial public review draft, discussion of Family Day Care and Day Care Center uses included whether these uses were appropriate in residential districts, particularly in single-unit residential districts. These issues need to be reviewed in the context of governing law.

The State Legislature enacted the California Child Day Care Act, Health & Safety Code Section 1597.30 et. seq., in 1984 to encourage the expansion of child care services, to regulate child care services in the State, and to limit local control. Section 1597.40 of the Act provides in relevant part:

1597.40 (a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every

restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

This excerpt of the law is illustrative of the extent to which local discretion on regulating family day care homes for children is restricted. As further provided in the Act, a city is prohibited from regulating small family day care homes – those providing care for up to six children (up to eight in specified circumstances), including children under the age of 10 years who reside at the home. A small family care home is considered a residential use of property and is permitted in all zones which allow residences – including zones with single-family dwellings, apartments, and condominiums. A large family day care home is one that provides for care for up to twelve children (up to fourteen in specified circumstances), including children under the age of 10 years who reside at home. It must be treated as a residential use. Local regulation of large family day care homes is limited to four areas: noise, parking, traffic, and spacing/concentration. A city must set forth specific standards in each of these areas and the use must be granted if the applicant meets these standards.

Given these State regulations, the large family day care use is now shown as a Permitted use in all single-unit and multi-unit residential zoning districts in the Redline Draft as opposed to requiring a Minor Use Permit. This is consistent with other municipalities in the State based on research conducted by the City's Human Services Division. The demand for family day care has been countered with a short supply given that only 20 large family day care homes are found throughout the City's residential districts, of which 14 are located within existing Single-Family R1 districts. Allowing Large Family Day Care as a Permitted use coupled with additional Large Family Day Care standards found in Section 9.31.140 of the Redline Draft will ensure that this use in residential districts does not adversely impact the adjacent neighborhoods.

On the other hand, a day care center is any child care facility other than a family day care home, including infant centers, preschools, and school age day care facilities. State law does not pre-empt local zoning regulations in regard to day care centers. As such, the City may use traditional zoning powers to regulate the location and operation of such centers. All of these facilities are licensed by the Community Care Licensing Division of the Department of Social Services of the State of California.

As proposed in the Redline Draft, Day Care Centers are allowed subject to the review and approval of a Conditional Use Permit in residential districts. Day Care Centers are similar to School uses which are also currently conditionally permitted uses in the residential districts and are proposed to remain conditionally permitted in the Redline. This is also consistent with other municipalities in the State based on research conducted by the City's Human Services Division. This discretionary review of any potential Day Care Center along with additional standards for such uses found in Section 9.31.120 of the Redline Draft seeks to ensure the safety of children attending these facilities and preserve the character of the surrounding neighborhoods.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommended changes in Sections 9.07.020, 9.08.020, 9.09.020, and 9.14.020.
2. Modify the staff recommended changes.

Transitional and Supportive Housing

Transitional housing is a type of supportive housing used to facilitate the movement of homeless individuals and families to permanent housing. Supportive housing is permanent housing linked to a range of support services designated to enable residents to maintain stable housing and lead fuller lives. Notwithstanding the quasi-commercial nature of the uses, Government Code Section 65583(a)(5) requires that transitional and supportive housing be permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. Thus, transitional housing and supportive housing must be permitted in all zones allowing residential uses and are only subject to restrictions imposed on similar dwellings in the same zone in which the transitional housing and supportive housing is located. The Redline Draft reflects this requirement.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommended changes in Sections 9.07.020, 9.08.020, and 9.14.020.
2. Modify the staff recommended changes.

Licensed Group Home Facilities

California has adopted a complex set of statutes regulating group homes providing certain kinds of care and supervision including homes for minors, for persons with disabilities, for people in recovery from alcohol or drug addiction, and for the terminally ill. Licensed group homes serving six or fewer residents must be treated like single-family homes or single dwelling units for zoning purpose. A licensed group home serving six or fewer residents must be a permitted use in all residential zones in which a single-family home is permitted, with the same parking requirements, setbacks, design standards, etc. Such facilities serving more than six residents may be subject to a use permit, but pursuant to State and federal law, a request for reasonable accommodations should be authorized enabling an applicant to seek to avoid use permit requirements or to obtain modifications to traditional zoning requirements. The Redline Draft reflects these requirements.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommendations in Sections 9.07.020, 9.08.020, 9.09.020, and 9.14.020.
2. Modify the staff recommendations.

Multi-Unit Residential Standards

During the Planning Commission review of the initial public review draft, an area of discussion that the Commission and public discussion focused was the Multi-Unit Residential standards, particularly in the Pico neighborhood. This discussion echoed previous concerns regarding the need to promote the preservation of existing multi-family residential housing units and to maintain the scale and pattern of existing multi-family residential development in certain areas of the Pico Neighborhood and Mid-City Neighborhood in proximity to the Expo Light Rail line. In response to these concerns, the City Council adopted interim zoning standards in July 2014 to modify certain multi-family residential development standards in the Pico and Mid-City Neighborhoods. The following existing interim development standards have been added to the Redline Draft as permanent standards in order to address Council direction to incorporate standards to address neighborhood scale and density in the Redline:

- Maximum Unit Density: In R2, the lesser of one unit per 2,000 SF of parcel area or 4 units total. In R3, the lesser of one unit per 1,500 SF of parcel area or 5 units total. In R4, the lesser of one unit per 1,250 SF of parcel area or 6 units total. This standard limits the density of new residential projects more than the existing Zoning Ordinance and ensures density that does not exceed the neighborhood scale of existing multi-unit residential districts.
- Determining Residential Density: Parcel area for residential density calculations utilizing one-half the area of an abutting rear alley shall not apply to the R2, R3, and R4 Districts. By not counting any portion of the alley, the overall site area is reduced and can limit the density on certain parcels depending on existing site conditions.

Other standards to address neighborhood scale and density include a proposed Development Review threshold of 10,000 square feet in the residential districts by the Planning Commission at the December 17, 2014 meeting which is reduced from existing residential Development Review thresholds that range between 15,000 to 25,000 square feet. In addition, limits to residential parcel consolidations also seek to address neighborhood scale. This discussion of limiting residential parcel consolidations will be presented during review of Division III.

In the Multi-Unit Residential Districts chapter of the Redline Draft, development standards for specified areas of the City that were not included in the initial public review draft have also been added. These standards apply to the following Multi-Unit Residential district areas:

- Parcels located north of the Pier and west of Ocean Avenue (currently the R2B parcels). These standards are located in Section 9.08.030(A)(1).
- Parcels bounded by Nielson Way to the east, Ocean Park Boulevard to the south, Barnard Way to the west, and up to and including the parcels on the north side of Wadsworth Avenue to the north (currently the R2R parcels). These standards are located in Section 9.08.030(A)(2).

- Parcels bounded by Appian Way to the east, Vicente Terrace to the south, Ocean Front Walk to the west, and Seaside Terrace to the north (currently the R3R parcels). These standards are located in Section 9.08.030(A)(3).

The existing R2B, R2R, and R3R districts were incorporated into the Multi-Unit Residential District chapter in an effort to improve the organization and structure of the Zoning Ordinance and simplify administration of the standards. One method of simplifying the Ordinance was to reduce the overall number of zoning districts. While the R2B, R2R, and R3R zoning districts were incorporated into the R2 and R3 sections of the Redline, the existing development standards and geographic boundaries of the R2B, R2R, and R3R districts have been retained and remain the same.

In addition, existing special project design and development standards and courtyards standards from the current Zoning Ordinance were also transferred into the Redline Draft as Sections 9.08.030(E) and 9.08.030(F) respectively.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommended changes in Section 9.08.030.
2. Modify the staff recommended changes.

'A' Off-Street Parking Overlay District

Clarifications have been made to Chapter 9.16 of the Redline based on previous Commission discussion of this chapter including the removal of language related to municipal parking structures that was outdated. The Commission previously reviewed and discussed 'A' Off-Street Parking Overlay parcels on June 18, 2014, and provided preliminary recommendations as to whether to keep or remove the 'A' overlay designations for each 'A' overlay parcel. Further discussion and consideration of these particular parcels will occur when the Commission discusses the amended Districting Map, currently scheduled for February 2015.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommended changes in Chapter 9.16.
2. Modify the staff recommended changes.

Residential Mobile Home Park and Beach Overlay Districts

In the Redline Draft, chapters pertaining to Residential Mobile Home Park District (Chapter 9.17) and Beach Overlay District (Chapter 9.20) have been added as they were not included in the initial public review draft. Clarifications to the existing standards within the Residential Mobile Home Park District chapter are proposed in the Redline Draft, while no changes have been made to the Beach Overlay District chapter.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommended additions of Chapters 9.17 and 9.20.
2. Modify the staff recommended changes.

Number of Stories for Tier 2 Projects in MUB

Public comment has raised an issue related to the limit on number of stories for Tier 2 projects located in the MUB district. The Redline currently limits the height for Tier 2 projects to three stories/50 feet in height for projects with 100% residential above the ground floor, and three stories/45 feet in height for all other Tier 2 projects. The additional five feet in height is intended to incentivize housing projects. However, this incentive for additional height would be more effective with a corresponding increase in the number of allowable stories. Consistent with existing incentives for commercial projects providing housing, staff recommends that there be no limit to the number of stories within the 50-foot height limit for Tier 2 projects providing at least one floor of residential above the ground floor in the MUB district.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommended changes in Sections 9.11.030.
2. Modify the staff recommended changes.

Upper-Story Stepback

In the existing Zoning Ordinance, buildings above two stories or thirty feet in height are required to be stepped back as follows:

- Any portion of a structure between thirty-one to forty-five feet: Nine-foot average setback.
- Any portion of a structure between forty-six feet to fifty-six feet: Eighteen-foot average setback.
- Any portion of a structure between fifty-seven to eighty-four feet: Twenty-seven-foot average setback.

Public input and Commission discussion has indicated that these upper-story stepback requirements are overly prescriptive, limit design and architectural opportunities for buildings, and result in tiered “wedding cake” style buildings. The Redline Draft addresses this issue by now requiring a five-foot average stepback for the entire building above the maximum first story street wall height, a height which as proposed in the Redline ranges between 12-15 feet in height depending on which district it is located. Requiring a uniform average stepback allows for design flexibility while maintaining an upper-level stepback area to address building massing. Rear yard stepback and daylight plane requirements will ensure that commercial buildings provide adequate separation adjacent to residential districts. The proposed change to the upper-story stepback requirement would require an amendment to the LUCE which currently requires upper-story stepbacks that are “similar to established stepback

standards of the zoning ordinance in effect as of May 27, 2010". This proposed LUCE amendment was included in a Resolution of Intention approved by the Commission on November 5, 2014.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommended changes in Sections 9.11.030.
2. Modify the staff recommended changes.

Commercial Tenant Spaces Along Boulevards

A focus of the Commission's discussion and public input regarding the commercial and mixed-use corridor districts has been the appropriate sizes of new construction and the thresholds between when projects can be administratively or discretionarily reviewed and approved, particularly along the boulevards. At its December 17, 2014 meeting, the Commission preliminarily recommended Development Review thresholds of 7,500 square feet in the Neighborhood Commercial and Oceanfront districts, 15,000 square feet in the remaining nonresidential districts, and 30,000 square feet for development projects containing no more than 15% commercial floor area in nonresidential districts (not including the Neighborhood Commercial and Oceanfront districts) as long as they do not exceed Tier 1 maximum limits. While these thresholds limit the overall size of buildings that may be reviewed and approved administratively, they do not regulate the type or size of the uses within these buildings. This has generated discussion on whether the size of commercial tenant spaces along the boulevards should be regulated in order to minimize impacts related to traffic and parking and ensure appropriately scaled neighborhood serving uses. One way to address this issue could be to require a Conditional Use Permit for commercial uses exceeding a certain size threshold which would allow for discretionary review of such uses.

As proposed, any permitted use in the NC district exceeding 7,500 square feet and/or 75 linear feet of ground floor street frontage would require approval of a Conditional Use Permit. This is consistent with the existing requirement along Main Street and expands it to all of the NC district. General markets exceeding 15,000 square feet in the MUBL, MUB, GC, and NC districts would require approval of a Conditional Use Permit. The Commission could consider requiring a CUP for a commercial tenant space exceeding a certain size threshold in the MUBL, MUB, and GC districts, and if so, what the appropriate size threshold should be.

Recommended Planning Commission Action:

1. Determine whether a size and/or dimensional threshold for a commercial tenant space should trigger the requirement of a Conditional Use Permit in Section 9.11.020.
2. If a CUP should be required, determine the appropriate size and/or dimensional threshold for a commercial tenant space.

Medical and Dental Offices

The Redline Draft now proposes that all new medical and dental offices within the commercial and mixed-use corridor districts require Conditional Use Permits. This change reflects input received regarding traffic and parking impacts created by the frequency of visits generated by medical and dental office uses.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommended changes in Section 9.11.020.
2. Modify the staff recommended changes.

Housing in the Industrial Conservation and Office Campus Districts

In the Industrial Conservation and Office Campus Districts in the Redline Draft, residential housing is proposed to be permitted only if it is limited to 100% affordable housing projects. Suggestions were made that market rate housing should also be permitted in these districts. Requiring the provision of affordable housing only may also run afoul of Costa Hawkins, Civil Code Section 1954.50 et. seq. On November 5, 2014, the Planning Commission adopted a Resolution of Intention that included a potential LUCE amendment to allow market rate housing through a discretionary review process in these districts. However, upon further analysis, allowing market rate housing in these employment districts may trigger the need for additional environmental analysis. Staff recommends that housing in the Industrial Conservation and Office Campus Districts not be allowed in the Redline Draft and that the issue be revisited at a later time after further analysis and review.

Recommended Planning Commission Action:

1. Preliminarily approve the staff recommended changes to Section 9.13.020 to not permit residential housing in the IC and OC districts.
2. Modify the staff recommended changes.

Attachments

- A. Proposed Redline Modifications Submitted at the December 17, 2014 Planning Commission Meeting
- B. Public Redline Comments (via email and electronic comment submissions)

ATTACHMENT A

Proposed Redline Modifications Submitted at the
December 17, 2014 Planning Commission Meeting

ATTACHMENT B

Public Redline Comments (via email and electronic comment submissions)

Emails

Electronic Comment Submissions