

ITEM #1

OC DEVELOPMENT SERVICES REPORT

DATE: December 11, 2019

TO: Orange County Planning Commission

FROM: OC Development Services/Planning

SUBJECT: Zoning Code Amendment CA 16-01 – Comprehensive Zoning Code Update

PROPOSAL: Amend the text only of County of Orange Zoning Code contained in the Codified Ordinances of the County of Orange (Division 9, Article 1 and 2) to incorporate a comprehensive update of the Zoning Code. The Zoning Code Update includes amendments to: 1) the Zoning Code’s format, 2) land use regulations and site development standards, 3) permit requirements, and 4) parking regulations. The Zoning Code Update will also address new State laws regarding housing. The County of Orange Zoning Map will not be revised.

**ZONING/
GENERAL PLAN
DESIGNATION:** N/A

LOCATION: Unincorporated Areas of Orange County

APPLICANT: OC Public Works/OC Development Services

**STAFF
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RECOMMENDED ACTION(S):

OC Development Services/Planning recommends the Planning Commission:

- a. Receive staff report and open public hearing.
- b. Discuss, select, and recommend option on Short-Term Rentals.
- c. Discuss, select, and recommend option for separation (either 650 or 1,000 feet) between two alcoholism or drug abuse recovery/treatment facilities (7 persons or more), between an alcoholism or drug abuse recover/treatment facility (7 persons or more) and any sober living home, or between any two sober living homes.
- d. Approve Planning Commission Resolution No. 19-06 (Attachment 1), which:
 1. Finds IP 16-383, CEQA Initial Study/Negative Declaration for “Orange is the New Green” Zoning Code Update is adequate to satisfy the requirements of CEQA for the Comprehensive Zoning Code Update.
 2. Recommends to the Board of Supervisors adoption of the proposed County of Orange Zoning Code Update.

BACKGROUND:

After successfully obtaining a \$200,000 Sustainability Planning Grant from the Southern California Association of Governments (SCAG), OC Development Services embarked on an effort to “green” the County’s Zoning Code. The Zoning Code was evaluated to identify barriers to healthier communities, explore flexibility in site design regulations, and address cost-effectiveness. The Zoning Code was also reviewed to identify inconsistencies and outdated language and formatting. The consultant firm, Dyett and Bhatia, was selected by the County, in consultation with SCAG, to serve as a Co-Project Manager, along with OC Development Services, for the Zoning Code Update.

On April 13, 2016, your Commission authorized staff to initiate Zoning Code Amendment CA 16-01, an update to the County’s Zoning Code to incorporate sustainable practices and revise provisions to resolve inconsistencies, reduce misinterpretations, and ensure compliance with State law.

Informational flyers, brochures, and press releases were circulated to the community to provide updates on upcoming meetings and to seek input from the public on the Zoning Code Update. OC Development Services also created a website devoted to the Comprehensive Zoning Code Update, which includes multiple drafts, comment letters and meeting dates.

A robust community engagement program was conducted and the proposed Zoning Code Update was presented at various Planning Commission meetings. In total, the Planning Commission held nine (9) meetings and workshop/study sessions (see Attachment 2), and fifteen (15) community engagement workshops (see Attachment 3) were held throughout the County of Orange.

During the development of the Zoning Code Update, OC Development Services prepared and circulated three (3) drafts for public review. Below is a list of the public comment periods. After each draft, OC Development Services reviewed the comments and identified and made appropriate changes.

Draft	Public Comment Period
First Draft	April 26, 2018 to June 26, 2018
Second Draft	October 30, 2018 to November 30, 2018
Third Draft	October 19, 2019 to November 19, 2019

All public comments (Attachment 4) have been uploaded to the County’s website for public review. To date, the County has received a total of one-hundred and fifty-three (153) comment letters in response to the First, Second and Third Drafts. Staff will continue to accept public comments on the Third Draft until the Planning Commission meeting on December 11, 2019.

Pursuant to the requirements of the California Environmental Quality Act (CEQA), an Initial Study/Negative Declaration (Attachment 5) was prepared for the Zoning Code Update and released on December 3, 2018 for a 20-day public review and comment period, which ended on December 24, 2018. No comments were received.

DISCUSSION:

The revisions to the Zoning Code fall into the six (6) main categories more fully detailed below:

A. Format Changes and Fixes

The proposed Zoning Code Update will include a new format intended to make the Zoning Code more “user friendly” by clarifying or revising language to limit misinterpretation, as well as, revising and adding exhibits/figures to better depict regulations and/or standards. The following represents an outline of the new format and articles of the Zoning Code¹:

1. Article 1 – Decision-Making Bodies (Attachment 6)
2. Article 2, Subarticle 1 – Introductory Provisions (Attachment 7)
3. Article 2, Subarticle 2 – Base Districts (Attachment 8)
4. Article 2, Subarticle 3 – Overlay, Combining, and Other Districts (Attachment 9)
5. Article 2, Subarticle 4 – Site Development Regulations (Attachment 10)
6. Article 2, Subarticle 5 – Standards for Specific Uses and Activities (Attachment 11)
7. Article 2, Subarticle 6 – Administration and Permits (Attachment 12)
8. Article 2, Subarticle 7 – General Terms (Attachment 13)

¹ All Attachments of the various Articles and Subarticles hereto are in the Third Draft form. To review prior drafts, please see the Zoning Code Update website [http://www.ocpublicworks.com/ds/planning/projects/all_districts_projects/orange_is_the_new_green]. Since the release of the Third Draft, updates have been made to the sections concerning group homes, accessory dwelling units, density bonus, short-term rentals, health care facilities, and tree preservation.

B. Zoning Code Amendments Occurring During the Period the Zoning Code Update was Being Developed

Since the Comprehensive Zoning Code Update was initiated in 2016, Zoning Code Amendments have been approved and are incorporated into the Third Draft. These amendments could not, for various reasons, await consideration and approval of the Zoning Code Update. In particular, Zoning Code Amendment CA 18-01, which was adopted by the Board of Supervisors on February 26, 2019, updated the floodplain regulations to comply with the requirements of the National Flood Insurance Program thereby maintaining the County of Orange’s continued eligibility to participate in the National Flood Insurance Program. Additionally, on September 24, 2019, the Board of Supervisors adopted Zoning Code Amendment CA 19-01 regarding community care facilities and group homes to address the increase in licensed care facilities and group homes in residential neighborhoods.

C. Sustainable Best Practices

Sustainable best practices are incorporated in the comprehensive update to Zoning Code Update, and include various measures, such as the option to use pervious materials in driveways and allowing carport roof solar panels with no additional permit requirements. Additional language is proposed relating to electric vehicle charging stations, “hedges” are added as a type of wall or fence, alternative parking calculations are permitted along with new parking lot landscaping requirements. The following new sections are introduced as part of the Zoning Code Update:

- *Community Gardens* will be allowed in some residential and commercial areas subject to a discretionary permit. Proposed regulations include fencing and sign requirements, along with operational standards.
- *Farmer’s Markets* will be allowed in some residential and commercial areas subject to a discretionary permit. Proposed regulations include permit requirements, parking requirements, hours of operation, waste disposal and live performances.
- *Fruit and Vegetable Gardening* will be permissible to support the sale of raw produce on the weekends during daylight hours with specified limitations on temporary signs to be used for advertisement.
- *Mixed-Use Overlay District* regulations have been established to provide the opportunity to develop high density housing in commercial areas. These regulations are intended to facilitate the vertical and horizontal mixing of retail, office and residential uses and the development of mixed-use buildings accommodating both residential and employment activities.

D. Development Trends

The Orange County Zoning Code is updated as necessary when State law changes on land uses. As a result, the existing code does not incorporate the most-up-to-date terminology or planning concepts. The Zoning Code Update incorporates some recent trends in planning and development including updates to:

- *Parking* regulations. New parking regulations have been incorporated to address development trends, including: (1) availability to request a reduction in parking requirements; (2) an increase in on-site parking requirements for single-family residential units with greater than four bedrooms; (3) requirement that off-street parking be located within two hundred (200) feet walking distance along a pedestrian path of the dwelling unit they serve; and (4) regulations on parking garages surrounded by residential units..
- *Tree Preservation* regulations. Regulations for the removal and preservation of certain trees is proposed for the Silverado-Modjeska area. The regulations include provisions for a Tree Preservation Permit, a Tree Replacement Installation Certification, and post-installation process. Also, new incentives, such as allowing additional square footage for guesthouses and accessory dwelling units, may be requested by those installing additional Protected Trees.
- *State Density Bonus* regulations. In compliance with AB 1763, new regulations are proposed to address the housing crisis and facilitate the production of higher density affordable housing units. In particular, an eighty percent (80%) density bonus is available for projects in which 100% of the units (exclusive of the manager's units) are affordable to lower and moderate-income households with a maximum of 20% of the units affordable to moderate-income households and the remainder affordable to lower-income households. The Zoning Code Update will also increase and exceed the density bonus and number of incentives that developers can obtain through application of the State's Density Bonus Law.
- *Accessory Dwelling Unit (ADU)* regulations. In accordance with the October 2019 passage of AB 68, AB 881, AB 587, AB 671 and SB 13, the Zoning Code Update proposes required changes to the requirements on ADUs, making the process ministerial and less restrictive for homeowners.

E. Short-Term Rentals (Options)

Short-Term Rental regulations are another area of law that has developed in response to the prevalence of Short-Term Rentals in residential communities. OC Development Services discussed Short-Term Rental options at the Planning Commission meetings on June 13, 2018 and September 12, 2018. The First Draft prohibited Short-Term Rentals in single-family districts and the Second Draft permitted Short-Term Rentals subject to a use permit or site development permit. The Second Draft also explored the concept of including a principal residence requirement for Short-Term Rentals. Shortly thereafter, in November 2019, the Board of Supervisors discussed Short-Term Rentals and directed staff to return with a variety of regulatory options.

A set of five (5) options for Short-Term Rental regulations are outlined in Attachment 14 for your commission to select and recommend. In summary, the options range from prohibiting Short-Term Rentals in single-family residential districts or single-family residential areas, only applying Short-Term Rental provisions within the Coastal Zone in

the County of Orange, to allowing Short-Term Rentals subject to various types of permits and approvals.

F. Group Homes – Separation Requirement (Options)

Group home regulations were adopted by the Board of Supervisors on September 24, 2019. These regulations became effective on October 24, 2019. Letters were sent to existing facilities (that OC Development Services is aware of, though since no formal process has been in place, there are likely many facilities we have not yet captured) to notify them of the new group home regulations and Group Home Permit. Under the recently approved regulations, existing group homes shall apply for a Group Home Permit within ninety (90) days of the effective date of the group home regulations, and shall have obtain the permit within one (1) year from the effective date of the group home regulations, provided that any existing group home, which is serving more than six (6) residents shall first comply with the six (6) resident maximum that applies in residential districts subject to a Group Home Permit.

In response to recent feedback from the community, staff is presenting updates to the Group Home regulations, including options on the separation requirement (either 650 or 1,000 feet) between two alcoholism or drug abuse recovery/treatment facilities (7 persons or more), between an alcoholism or drug abuse recover/treatment facility (7 persons or more) and any sober living home, or between any two sober living homes. In addition, in response to community comments, staff is proposing to make clear that group homes of seven (7) residents or more are permitted only in multifamily residential districts subject to a Use Permit. Staff has also proposed an “anti-curbing” process for emergency eviction from or involuntary termination of residency in a group home.

Public Comments

The public comment period for the Third Draft ended on November 19, 2019, and staff received sixty (60) comment letters. A majority of the comments submitted on the Third Draft are related to short-term rentals, group homes, fruit and vegetable gardening, tree preservation and other items of concern and are generally summarized below.

- *Short-Term Rentals:* Whereas some of the community expressed support for allowing Short-Term rentals as they generate income and offer another lodging option for travelers, others expressed concern over potential noise, safety, traffic and trash created by Short-Term Rentals. To address the concerns, a maximum number of nights for lodging, minimum number of parking spaces, maximum number of vehicles, maximum overnight occupancy limits, quiet hours, and good neighbor policy have been proposed. After the end of the public comment period on the Third Draft, Short-Term Rental language was modified to allow the option to request additional vehicles be allowed on-site, which may be permitted based on existing conditions.
- *Group Homes:* A number of residents expressed support of the 1000-foot separation requirement between two (2) alcoholism or drug abuse recovery/treatment facilities (7 persons or more), between an alcoholism or

drug abuse recover/treatment facility (7 persons or more) and any sober living home, or between any two sober living homes.

- *Fruit and vegetable gardening:* Some residents expressed concerns about the compatibility within a residential area, sanitation, competition with existing businesses and increased traffic. To address these concerns, the proposed language provides regulations on the time and duration of the sale, and compost materials shall be contained to control order, prevent infestation and meet state water quality/runoff management requirements while ensuring proper ventilation to prevent any fire hazards.
- *Tree Preservation:* Rural Canyons Conservation Fund, Saddleback Canyons Conservancy, and Friends of the Harbors, Beaches and Parks (FHBP) have requested that the tree preservation be applied to the Foothill-Trabuco Specific Plan area, in addition to Silverado-Modjeska. As a response, the proposed Tree Preservation regulations can only be applied to Silverado-Modjeska at this time, since the area is conventionally zoned, and adding the Foothill-Trabuco Specific Plan area requires an amendment to the Foothill-Trabuco Specific Plan in order to maintain consistency between provisions. Additionally, the Building Industry Association of Orange County (BIA/OC) has expressed concerns about the lack of a tree inventory supporting the Tree Preservation regulations, which cannot be conducted by County staff due to the lack of access to private property. Although the BIA/OC expressed concerns about the Tree Preservation Permit and burdensome regulations, the proposed regulations are considered best practice and have been thoroughly vetted with various County agencies and external stakeholders.
- *Health Care Facilities, Commercial Entertainment and Seasonal Products:* In response to the Foothill Community Association's comments on the Third Draft, the proposed Zoning Code Update intends to allow commercial entertainment and recreation (outdoor only) uses that are currently permitted, and language related to seasonal product sales will remain the same, and not be limited to Christmas and Halloween, as other holidays may be considered seasonal. Additionally, health care facilities will be removed from the tables for agriculture and residential uses.
- *Ranch Plan Planned Community Text:* Rancho Mission Viejo requested that the Zoning Code Update be consistent with the Ranch Plan Planned Community Text by stating that the Planning Commission instead of the Board of Supervisors may initiate amendments to various policy documents. While the Board delegated certain powers to the Planning Commission, the Board still maintains full authority. Also, the Ranch Plan currently operates under a development agreement that locks the development into the existing Zoning Code so these changes do not impact Rancho Mission Viejo.
- *Mixed-Use Development and Height Restrictions:* American Family Housing encouraged Mixed-Use Development, which has been incorporated through a proposed Mixed-Use Overlay District in the Third Draft. Establishing a higher

height limit was also requested by the developer and can be addressed in the County's upcoming Housing Element update.

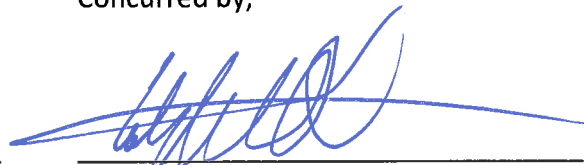
CEQA COMPLIANCE:

Find IP 16-383, CEQA Initial Study/Negative Declaration for "Orange Is the New Green" Zoning Code Update, is adequate to satisfy the requirement of CEQA for the County of Orange Comprehensive Zoning Code Update.

Submitted by:

Concurred by,

for Joanna Chang
Richard Vuong, Division Manager
OC Development Services/Planning


Colby Cataldi, Deputy Director
OC Public Works/Development Services

ATTACHMENTS:

1. Planning Commission Resolution No 19-06
2. List of Planning Commission Meetings and Workshops/Study Sessions
3. List of Community Engagement Workshops
4. Public Comments on the First, Second and Third Drafts of the Zoning Code Update
5. IP 16-383 CEQA Initial Study/Negative Declaration for "Orange is the New Green" Zoning Code Update
6. Final Draft – Article 1 – Decision-Making Bodies
7. Final Draft – Article 2, Subarticle 1 – Introductory Provisions
8. Final Draft – Article 2, Subarticle 2 – Base Districts
9. Final Draft – Article 2, Subarticle 3 – Overlay, Combining, and Other Districts
10. Final Draft – Article 2, Subarticle 4 – Site Development Regulations
11. Final Draft – Article 2, Subarticle 5 – Standards for Specific Uses and Activities
12. Final Draft – Article 2, Subarticle 6 – Administration and Permits
13. Final Draft – Article 2, Subarticle 7 – General Terms
14. Short-Term Rental Options