



staff report

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: Art Bashmakian, AICP
Director of Planning and Building Services

SUBJECT: Consideration and possible action to read by title only, waive further reading, and reintroduce Ordinance No. 1316 - An ordinance approving Zoning Ordinance Text Amendment Case No. ZOTA 16-02 amending Chapters 17.16 (SF: Single Family Zone), 17.24 (R-1: Low Density Residential Zone), 17.28 (R-2: Medium Density Residential Zone), 17.32 (R-3: Multiple Residential Zone), 17.42 (Reasonable Accommodation for Persons with Disabilities), 17.44 (C-G: General Commercial Zone), and 17.92 (Nonconforming Buildings and Uses) of Title 17 of the Bellflower Municipal Code regulations as to nonconforming buildings, uses, and lots. [The ZOTA is to address nonconforming conditions by deleting outdated regulations, modifying existing regulations, and introducing new regulations as they apply to each zone.]

DATE: September 12, 2016

EXECUTIVE SUMMARY

The Planning Commission recommended approval of these text amendments on August 1, 2016. The City Council held a public hearing on August 22, 2016, and introduced Ordinance No. 1316, dealing with nonconforming conditions and uses. The Ordinance approves the amendments that: (1) provide reliefs on various development standards (e.g., front yard setbacks, useable open space, driveways, and trash facilities/refuse storage) for residential and commercial properties; and (2) clarify and enhance the applicability of the nonconforming provision.

RECOMMENDATION TO THE CITY COUNCIL

- 1) Read by title only, waive further reading, and reintroduce Ordinance No. 1316; or
- 2) Alternatively, discuss and take other action related to this item.

FISCAL IMPACT

None

PUBLIC NOTICE

A Notice of Public Hearing was published in the Herald American (Bellflower Edition) newspaper on August 11, 2016; and public hearing notices were posted at City Hall, Brakensiek Library, Bellflower Substation, Thompson Park, and Simms Park on August 10, 2016.

CEQA STATUS

Pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code §§ 21000, *et seq.*) and CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000, *et seq.*), an environmental assessment has been conducted for this project in compliance with the California Environmental Quality Act (CEQA) Guidelines. An Initial Study and a Negative Declaration have been prepared which were made available for public review from July 7, 2016 through July 26, 2016.

BACKGROUND

This Ordinance was first introduced at the City Council meeting of August 22, 2016. The staff report is attached for reference.

After the City Council introduced the Ordinance, Staff found one inadvertent error: Section 17.92.100(B)(3) was introduced with the phrase “Planning Commission” rather than “approving authority” (as intended). Regrettably, this intent was not reflected in the staff report or the draft minutes for the meeting. Consequently, the language could not be corrected as a clerical error; it is a substantive change that requires reintroduction of the ordinance.

Section 17.92.100(B)(3) is intended to read as follows (NOTE: The proposed revision is illustrated with *italic-strikethrough* for language that is proposed for elimination and **bold and underlined** for proposed new language).

“New construction is subject to R1 development standards. Additions to existing structures, however, may maintain an existing building side yard setback upon approval by the **approving authority** *Planning Commission.*”

Ordinance No. 1316 was thus amended and is included as Attachment A. No public hearing is required for this change.

ATTACHMENTS

A. Ordinance No. 13XX.....3
B. August 22, 2016 City Council Staff Report (without attachments)24

CITY OF BELLFLOWER

ORDINANCE NO. 1316

AN ORDINANCE APPROVING ZONING ORDINANCE TEXT AMENDMENT CASE NO. ZOTA 16-02 AMENDING CHAPTERS 17.16 (SF: SINGLE FAMILY ZONE), 17.24 (R-1: LOW DENSITY RESIDENTIAL ZONE), 17.28 (R-2: MEDIUM DENSITY RESIDENTIAL ZONE), 17.32 (R-3: MULTIPLE RESIDENTIAL ZONE), 17.42 (REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES), 17.44 (C-G: GENERAL COMMERCIAL ZONE), AND 17.92 (NONCONFORMING BUILDINGS AND USES) OF TITLE 17 OF THE BELLFLOWER MUNICIPAL CODE REGULATIONS AS TO NONCONFORMING BUILDINGS, USES AND LOTS

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 17.08.010 of the Bellflower Municipal Code (“BMC”) is amended to read as follows. The proposed revisions to the various portions of the Zoning Ordinance will be illustrated with *italic-strikethrough* for existing language that is proposed for elimination and **bold and underlined** for proposed new language.

“17.08.010 Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Code. Words used in the present tense include the future. Words used in the singular also include the plural. As used in this Title, “must” or “shall” are mandatory; “may” is permissive; and “should” expresses a preference or a nonbinding recommendation.

* * *

“Exterior wall” means a wall that has one of its surfaces on the outside of the building. “Exterior wall” means a wall in substantially similar form as the wall existed before the building was damaged. The framing of a wall alone does not constitute an “exterior wall” for purposes of this section.

* * *

“Nonconforming lot” means any subdivision of land that was lawfully established and in compliance with all applicable ordinances and laws at the time the property was subdivided or developed, but which, due to a subsequently enacted ordinance or law, no longer complies with all the applicable regulations and standards of the zone in which the property is located.

~~“Nonconforming building” shall mean a building, or portion thereof lawfully existing at the time the ordinance codified in this title or a prior ordinance adopted by the City on or subsequent to September 3, 1957, became effective, and which was designed, erected, or structurally altered for a use which does not conform to the use zone in which it is located, or which does not comply with all the height, location and area regulations of the zone in which it is located.~~

“Nonconforming structure” means any structure, building or improvement that was lawfully established and in compliance with all applicable ordinances and laws at the time it was erected, but which, due to a subsequently enacted ordinance or law, no longer complies with all the applicable regulations and standards of the zone in which it is located.

~~“Nonconforming use” shall mean a use lawfully established prior to the ordinance codified in this title or a prior ordinance adopted by the City on or subsequent to September 3, 1957, became effective which does not conform to the use regulations of the zone in which it is located.~~

“Nonconforming use” means a use or activity of land that was lawfully established and in compliance with all applicable ordinances and laws at the time it was undertaken, but which, due to a subsequently enacted ordinance or law, no longer complies with all the applicable regulations and standards of the zone in which the use is located.

* * *

“Substantial remodel” means the alteration of an existing nonconforming building to such a degree that the entire building must conform to all current, applicable zoning regulations including without limitation, land use approval, setbacks, height, and parking. Structures substantially remodeled will be considered demolished.

* * **

SECTION 2. BMC Chapter 17.16 (SF: Single Family Zone) is amended, in part, to read as follows:

“17.16.070 Front Yard.

- A. Every lot shall **must** have a front yard of not less than twenty (20) feet from the front **property** line, and no building or structure or garage door or the enlargement thereof shall **is permitted to encroach within the required front yard setback** hereafter be erected unless the required front yard is provided. **Notwithstanding the foregoing, properties developed with less than the minimum required front yard setback are deemed to be conforming pursuant to Chapter 17.92.**

* * **

“17.16.120 Driveways.

- A. A minimum ten (10) foot-wide driveway is required. Properties with one (1) single-family residence shall provide a minimum ten (10) foot-wide driveway; ~~provided that an owner of a single-family home legally constructed may apply for a modification to this standard. That modification must be reviewed and approved by both the Fire Department and the Director of Planning.~~ **No new encroachment to the exiting driveways is permitted. In addition, any proposed driveways or extension of existing driveways must meet the minimum driveway width requirement established in this code. Notwithstanding the foregoing, properties developed with less than the minimum required driveway width are deemed to be conforming pursuant to Chapter 17.92.”**

SECTION 3. BMC Chapter 17.24 (R-1: Low Density Residential Zone) is amended, in part, to read as follows:

“17.24.070 Front Yards.

- A. Every lot shall **must** have a front yard of not less than twenty (20) feet from the front **property** line, and no building or structure or garage door or the enlargement thereof **is** shall be erected unless the required front yard is provided. ~~permitted to encroach within the required front yard setback.~~ **Notwithstanding the foregoing, properties with less than the minimum required front yard setback are deemed to be conforming pursuant to Chapter 17.92.**

* * *

“17.24.120 Driveways.

- A. A minimum ten (10) foot-wide driveway is required. Properties with one (1) single-family residence shall provide a minimum ten (10) foot-wide driveway; ~~provided that an owner of a single-family home legally constructed, may apply for a modification to this standard. That modification must be reviewed and approved by both the Fire Department and the Director of Planning.~~ **No new encroachment to the exiting driveways is permitted. In addition, any proposed driveways or extension of existing driveways must meet the minimum driveway width requirement established by this code. Notwithstanding the foregoing, properties with less than the minimum required driveway width are deemed to be conforming pursuant to Chapter 17.92.”**

SECTION 4. BMC Chapter 17.28 (R-2: Medium Density Residential Zone) is amended, in part, to read as follows:

“17.28.080 Yards.

- A. Front Yard. ~~There shall be a~~**A** front yard setback **is required** as determined by the following table and formula: **No building or**

structure or the enlargement thereof is permitted to encroach within the required front yard setback. Notwithstanding the foregoing, properties with less than the minimum required front yard setback are deemed to be conforming pursuant to Chapter 17.92.

* * *

“17.28.110 Usable Open Space.

* * *

E. Notwithstanding the foregoing, properties with less than the minimum required usable open space are deemed to be conforming pursuant to Chapter 17.92.

* * *

“17.28.120 Driveways.

* * *

F. Notwithstanding the foregoing, properties with less than the minimum required driveway width are deemed to be conforming pursuant to Chapter 17.92.”

* * *

“17.28.160 Refuse Storage.

A refuse storage area, completely enclosed within a six (6) foot high decorative wall (split face concrete block, or equivalent) with solid metal gates, large enough to accommodate standard sized commercial trash bins, shall ~~shall~~ **must** be located on the property in such a manner as to be accessible to refuse collection vehicles for all properties with multiple residential units, residential planned development or planned development overlays. Wall and gate materials, textures, colors, and design shall **must** be architecturally compatible with the surrounding buildings. All trash enclosures shall ~~shall~~ **must** be securely designed to prevent access to anyone other than the authorized users and the refuse service company. **Notwithstanding the foregoing, properties developed with no refuse storage are deemed to be conforming pursuant to Chapter 17.92.”**

SECTION 5. BMC Chapter 17.32 (R-3: Multiple Residential Zone) is amended, in part, to read as follows:

“17.32.080 Yards.

- A. Front Yard. ~~There shall be a~~**A front yard setback is required as determined by the following table and formula: No building or structure or the enlargement thereof is permitted to encroach within the required front yard setback. Notwithstanding the foregoing, properties with less than the minimum required front yard setback are deemed to be conforming pursuant to Chapter 17.92.**

* * **

“17.32.110 Usable Open Space.

* * *

- E. Notwithstanding the foregoing, properties with less than the minimum required usable open space are deemed to be conforming pursuant to Chapter 17.92.”**

“17.32.120 Driveways.

* * *

- F. Notwithstanding the foregoing, properties with less than the minimum required driveway width are deemed to be conforming pursuant to Chapter 17.92.**

* * **

“17.32.160 Refuse Storage.

A refuse storage area, completely enclosed within a six (6) foot high decorative wall (split face concrete block, or equivalent) with solid metal gates, large enough to accommodate standard sized commercial trash bins, shall ~~shall~~**must** be located on the property in such a manner as to be accessible to refuse collection vehicles for all properties with multiple residential units, residential planned development or planned development overlays. Wall and gate materials, textures, colors, and design shall **must** be architecturally compatible with the surrounding buildings. All trash enclosures shall **must** be securely designed to prevent access to anyone other than the authorized users and the refuse service company. **Notwithstanding the foregoing, properties developed with no refuse storage are deemed to be conforming pursuant to Chapter 17.92.”**

SECTION 6. BMC Chapter 17.42 (Reasonable Accommodation for Persons with Disabilities) is amended, in part, to read as follows:

“17.42.055 Reasonable Accommodation Related to Existing Conditions.

- A. A modification of the following zoning regulations where the modification is necessary to allow improvements to an existing building or property in order to provide reasonable accommodations to individuals with disabilities is permitted. This modification is not available in the case of new buildings, demolitions and rebuilds, or additions where the proposed construction precludes a reasonable accommodation that would not require a modification.**
- 1. Parking. The conversion of an existing parking space to an accessible parking space or access aisle for an accessible parking is permitted, even if the conversion results in fewer parking spaces, as long as the accessible parking requirement is not triggered by a change of use or an expansion of the existing use.**
 - 2. Setbacks, Lot Area, Floor Area, Street Frontage, Useable Open Space, Building Separation. A modification of setbacks, lot area, floor area, street frontage, useable open space or building separation is permitted provided the modification is consistent with the purposes and intent of this title, and is necessary to: (a) secure an appropriate improvement on a lot; (b) prevent unreasonable hardship; (c) promote uniformity of improvement; or (d) the modification is necessary to comply with the Americans with Disabilities Act and/or California Code of Regulations, Title 24, requirements.**
- B. Approval Process for Reasonable Accommodation Related to Existing Conditions.**
- 1. Director. The Director, or designee, may permit modifications in accordance with this Section upon making the following findings:**
 - a. The requested modification is not part of the approval of a tentative map, conditional use permit, planned development, specific plan, overlay zone, or any other matter which requires approval of the Planning Commission; and**
 - b. If granted, the modification would not significantly affect persons or property owners other than those entitled to notice.**
 - c. The modification is solely for the purpose of accommodating ADA and/or California Code Regulations, Title 24 requirements to comply with accessibility requirements.”**

SECTION 7. BMC Chapter 17.44 (C-G: General Commercial Zone) is amended, in part, to read as follows:

“17.44.120 Required Yards.

In the General Commercial (C-G) Zone, every lot or parcel shall must have setbacks or yards as follows:

- A. Front Yards—Interior Lots. Interior lots shall must have a front yard setback of not less than ten (10) feet from the front property line or ultimate right-of-way, whichever is greater, and no building nor structure, nor the enlargement thereof, is shall hereafter be erected unless the required front yard setback is provided, and permitted to encroach within the required front yard setback. ¶Through lots shall must maintain the required front yard setback on both abutting streets. Notwithstanding the foregoing, properties with less than the minimum required front yard setback are deemed to be conforming pursuant to Chapter 17.92.”

“17.44.130 Trash Facilities.

* * *

- E. Notwithstanding the foregoing, properties developed with no trash facilities are deemed to be conforming pursuant to Chapter 17.92.

* * *”

SECTION 8. BMC Chapter 17.92, entitled “Nonconforming Buildings And Uses,” is amended in its entirety to read as follows:

“Chapter 17.92:

NONCONFORMING BUILDINGS AND USES

17.92.010: PURPOSE, INTENT AND EFFECTIVE DATE.

This chapter establishes regulations for legal nonconforming land uses, structures, and parcels. These are land uses, structures, and parcels within the city that were lawfully established, constructed, or subdivided before the adoption or amendment of this Code, but which would be prohibited, regulated, or restricted differently under the current terms of this Code or its amendments. This chapter is intended to encourage the city’s continuing improvement by limiting the extent to which nonconforming structures and uses may continue to be used, expanded, or replaced, while improving the health, safety, and welfare of all residents without creating an economic hardship for individual property or business owners. This chapter takes effect on the effective date of Ordinance _____.

17.92.020: ESTABLISHING NONCONFORMING STATUS.

- A. Applicability. Nonconforming uses, structures and lots within the city may continue to be used, and may be maintained, altered, expanded, reconstructed, or replaced only as allowed by this chapter.
- B. This chapter does not apply to any public property or facilities owned in whole or part by the city. Nothing in this chapter is intended to, nor can it, require the city to remove a publicly owned nonconforming structure or use.
- C. Effective date. Whenever a use, building, structure, or lot becomes nonconforming as a result of amending this code, the time period for eliminating the nonconforming use, building, structure, or lot established by this code is computed from the effective date of the amendment.
- D. Unless structures violate front yard setback requirements in a manner that is incompatible with surrounding properties, structures that do not comply with minimum setback requirements on the effective date of the ordinance amending this chapter are nevertheless deemed conforming structures for purposes of setback requirements. Proposed expansions and alterations occurring after the effective date of the ordinance amending this chapter must comply with this code unless otherwise exempted.
- E. Multi-unit dwellings existing on the effective date of this ordinance, which are not in compliance with the required minimum lot area per dwelling unit standards, will not be considered nonconforming due solely to noncompliance with the minimum lot area per dwelling unit standards. Such dwellings are considered legal, conforming buildings or structures for the purpose of sale and financing under this Title and other City regulations. However, all future expansions and alterations of such dwellings must comply with all applicable standards of this Title.

17.92.030: NONCONFORMING USES – CONTINUED USE AFTER DAMAGE OR DESTRUCTION.

- A. Unless otherwise provided by applicable law, should a nonconforming use occupying a structure be involuntarily destroyed to any extent, including total destruction, it may be rebuilt to the identical use and original floor area, providing the structure otherwise complies with the design requirements of this code and that on-site parking be replaced to the ratio existing at the time of such destruction.
- B. A multifamily dwelling that is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy may be reconstructed, restored, or rebuilt in accordance with this code and the Government Code.

17.92.040: NONCONFORMING USE – VOLUNTARY DEMOLITION OF STRUCTURE.

A nonconforming use which occupies a structure that is voluntarily demolished or demolished because of a maintenance failure or other neglect can be replaced only with a use that complies with all applicable provisions of this Code.

17.92.050: NONCONFORMING USE – LACK OF CONDITIONAL USE PERMIT; KEEPING OF ANIMALS RESTRICTED.

- A. Conditional Use Permit Required. Notwithstanding the provisions of this Code, none of the uses set forth in this title for which a conditional use permit is required which were lawfully in existence as of the effective date of the ordinance amending this chapter, will be deemed nonconforming unless:
1. The building or structures utilized by any such nonconforming use are, at any time, partially destroyed.
 2. There is any enlargement or expansion of such buildings, structures or uses, not otherwise permitted herein, then such uses will either be processed and granted as a conditional use permit thereof or be terminated.
- B. Keeping of Animals Restricted. For properties previously zoned A-1 (Agricultural Residential Zone), as of 1998, which were allowed one horse, cow, steer, sheep, or goat; or a unit of 25 hens, capons, fowl, rabbits, or chinchillas on lots of 10,000 square feet or more in increments of one unit per 5000 square feet; these animals will be allowed to remain on the property for their natural life. Upon the death of the animals they cannot be replaced.

17.92.060: NONCONFORMING USE – ALLOWED ONLY BY CONDITIONAL USE PERMIT.

A nonconforming use previously allowed by a conditional use permit, but no longer allowed by the Code within the applicable zoning district can continue in operation in compliance with all requirements of the original conditional use permit. Should the conditional use permit expire, be abandoned, or be revoked, all uses on the real property regulated by the conditional use permit must comply with this Code.

17.92.070: CONTINUATION AND MAINTENANCE.

A nonconforming nonresidential use, structure, or lot may continue to be used until such time it is required to be abated provided no alterations, expansions, or modifications of area or use are made, except as otherwise permitted by this Chapter.

17.92.080: NONCONFORMING STATUS TIED TO PROPERTY.

Restrictions and conditions affecting nonconforming uses, structures, and lots apply to that use, building, and structures, and are not affected by ownership changes.

17.92.090: ABATEMENT.

- A. Nonresidential nonconforming uses must be abated and the usage thereof terminated within 60 years from the effective date of the ordinance that amended the code provision resulting in the creation of the nonconformity.
- B. Buildings and structures with noncompliant front yard setbacks that are not found to be compatible and consistent with adjacent properties and the surrounding neighborhood must be abated within 60 years from the effective date of the ordinance or amendment.

17.92.100: NONCONFORMING USES – ALLOWABLE CHANGES.

- A. Nonresidential Uses
 - 1. Enlargement or Expansion. A nonconforming use cannot be enlarged or increased to occupy a greater floor area or portion of the site than it lawfully occupied before becoming a nonconforming use. Alterations which do not increase or enlarge a nonconforming use may be approved.
 - 2. For purposes of this section, the term “Alterations” does not include the removal of exterior walls or principal support structures such as columns, structural frames and other similar primary structural elements.
 - 3. Extended Hours. The hours of business for a nonconforming use may be expanded to operate under extended business hours with a conditional use permit.
- B. Residential Uses. Detached single-family dwelling units or duplexes may be expanded subject to the following:

1. The total cumulative expansion cannot exceed 25 percent of the permitted existing gross floor area of the dwelling, since the use became nonconforming excluding attached or detached garages and/or accessory structures subject to Development Review by the Director.
 2. The addition of garages or carports is allowed, but cannot exceed a two-car carport or two-car garage per unit.
 3. New construction is subject to R1 development standards. Additions to existing structures, however, may maintain an existing building side yard setback upon approval by the approving authority.
 4. A minor use permit is required for any additions exceeding 25 percent of the existing gross floor area of a nonconforming structure. Second story additions and additions over 50 percent is subject to conditional use permit
 5. Nonconforming fences must be removed before the city issues a building permit for any expansion of a nonconforming structure.
 6. The appearance and aesthetic quality of the existing residence and the property must be improved as approved by the approving authority.
- C. Change of Use. A nonconforming use may be changed to another nonconforming use provided the new use will be equal or less objectionable in external effects than the pre-existing nonconforming use as to:
1. Traffic safety and generation and type of vehicles;
 2. Noise, dust, fumes, vapors, gases, odors, glare, vibration, fire hazardous substances;
 3. Amount and character of outdoor storage;
 4. Late night and early morning hours of operation if the new use would be close to dwellings; and
 5. Compatibility with the character of surrounding uses

17.92.110: ABANDONING A NONCONFORMING USE.

A nonconforming use that is voluntarily discontinued or ceases operations for a continuous period of 180 days or more cannot be re-established on the site. Any further use of an existing structure or site must conform to any applicable performance or operational standards provided in this Code. Such use must also comply with all applicable development standards to the maximum extent feasible.

17.92.120: NONCONFORMING STRUCTURES .

- A. Expansions. A nonconforming structure may be allowed to expand, extend or enlarge as required by law, and subject to this Section.
- B. Reasonable Accommodation. Improvements to a nonconforming structure that are necessary to comply with an approved reasonable accommodation in compliance with Chapter 17.42 (Reasonable Accommodations) are allowed.
- C. Maintenance, Repair, and Alterations. A nonconforming structure may be regularly maintained and repaired. Alterations without expansion are permitted if they improve the appearance or stability of the structure.
- D Extensions Along a Nonconforming Side Yard Setback
 - 1. A residential building or structure which does not conform to the side yard regulations applicable to the zone in which such building or structure is located may be expanded along the same setback subject to the following limitations:
 - a. The enlargement cannot extend into the required yard farther than the existing portion encroaching into the setback.
 - b. The enlargement is subject to Building and Fire Code limitations
 - c. The enlargement is an extension of that portion of the existing building or structure that encroaches into a required side yard; provided the wall length of the extension cannot be greater than 50% of the wall length of the existing portion within the required yard. This allowance may only be utilized once on a property; future alterations or enlargements after the initial 50% allowance has been used on a property may not encroach into the required yard

- E. Residential use with nonconforming parking.
1. Demolition of nonconforming parking: Nonconforming parking demolished during remodeling or additions can only be replaced with parking that complies with this code.
 2. Addition of new dwelling unit: The addition of new dwelling unit(s) on a lot requires the provision of additional parking spaces for the new dwelling unit(s) as well as existing units if substandard in parking in accordance with the requirements for new construction.
 3. Expansion of existing single-family dwelling unit in the residential zones: A residential use consisting of one single family dwelling unit on a lot may be expanded up to 100 percent of the current square footage without providing additional parking.
 4. Expansion of residential dwelling units on lots with two or more units: Expansion is allowed without bringing parking into compliance with current code. However, additional parking is required for any additional bedroom(s) subject to current parking regulations.
 5. Expansion of residential dwelling units on lots with two or more units located in parking impacted areas: Except as otherwise provided, expansion is allowed without bringing parking into compliance with current code. Additional parking, however, is required for any additional bedroom(s) in accordance with this Code and provided the unit contains or can accommodate visitor parking in compliance with this code. Parking impacted area is defined as areas subject to permit parking and areas within 200 feet of permit parking districts measured along streets
- F. Conforming Nonresidential use with nonconforming parking. Expansion is allowed in conformance with all applicable standards without complying with existing parking regulations if such expansion does not result in an increase in the off-street parking requirements for the use or a reduction in the existing off-street parking. If such expansion results in an increase of off-street parking requirements, then the subject expansion is required to provide additional parking required for the addition in accordance with current standards.

17.92.130: SUBSTANTIAL REMODEL.

- A. A nonconforming building or structure that is substantially remodeled loses its nonconforming status. It must comply with all existing requirements of applicable law including this Code.

- B. A substantial remodel occurs upon any single one of the following actions at any time over a five-year period starting with the first permit issued for the subject building:
 - 1. More than fifty percent of the exterior walls are removed. Elements of the exterior wall include columns, studs, cripple walls, or similar vertical load-bearing elements and associated footings. However, existing exterior walls supporting a roof that is being modified to accommodate a new floor level or roofline will continue to be considered necessary and integral structural components, provided the existing wall elements remain in place and provide necessary structural support to the building upon completion of the roofline modifications. The calculation for determining whether a structure is substantially remodeled will be based on a horizontal measurement of the perimeter exterior wall removed between the structure's footings and the ceiling of the first story.

 - 2. In nonresidential buildings not principally supported by exterior bearing walls, more than fifty percent of the principal support structure including columns, structural frames and other similar primary structural elements, is removed.

- C. Notwithstanding anything to the contrary in this Section, an existing nonconforming building will not lose its nonconforming status if the existing building is nonresidential and is altered in accordance with all of the following criteria:
 - 1. The alterations only involve the replacement of the footings, cripple walls, stem walls, or similar structural components between the structure's footings and the finished floor of the first story.

 - 2. The alterations are only undertaken to the minimum extent necessary to maintain a safe structure.

 - 3. The existing exterior wall elements or principal support structure remain in place at all times and provide necessary structural support to the building upon completion of the alterations.

- D. Notwithstanding anything to the contrary in this Section, an existing nonconforming building will not lose its nonconforming status if the existing building is residential and is altered or added to in accordance with all of the following criteria:
1. The alterations or additions to the existing building include the replacement of the footings, cripple walls, stem walls, or similar structural components between the structure's footings and the finished floor of the first story.
 2. The existing first story exterior wall elements remain in place at all times and provide necessary structural support to the building upon completion of the alteration or addition.

17.92.140: NONCONFORMING STRUCTURES – RECONSTRUCTION OF MULTI-FAMILY RESIDENTIAL STRUCTURES.

Pursuant to Government Code § 65852.25, a multifamily dwelling that is involuntarily damaged or destroyed is allowed to be reconstructed, restored, or rebuilt according to standards set forth in Government Code § 65852.25, unless the Planning Commission determines that:

- A. The reconstruction, restoration, or rebuilding will be detrimental or injurious to the health, safety, or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood; and
- B. The existing nonconforming use of the building or structure would be more appropriately moved to a zone in which the use is permitted, or that there no longer exists a zone in which the existing nonconforming use is permitted.

17.92.150: NONCONFORMING STRUCTURES IN PROPER ZONE – RECONSTRUCTION OF SINGLE-FAMILY DWELLINGS AND NON-RESIDENTIAL STRUCTURES.

Except as otherwise provided by applicable law, an involuntarily damaged single-family dwelling or non-residential structure may be reconstructed in compliance with this Code as follows:

- A. **Less Than Fifty Percent Destruction.** A structure with 50 percent or more of the total length of its original exterior walls remaining in place after the damaging event,, may be reconstructed provided that:

1. The reconstructed structure occupies the same footprint or decreases the nonconformity of the structure, and is of no greater height than the original structure; and
 2. A complete application for reconstruction is submitted within 12 months of the date of damage, and reconstruction is commenced within one year of land use permit approval.
- B. More Than Fifty Percent Destruction. A structure that is damaged so that more than 50 percent of the total length of its exterior walls must be replaced, may also be reconstructed provided that:
1. The reconstructed structure occupies the same footprint or decreases the nonconformity of the structure, complies with the City's design objectives to the extent feasible and practicable as determined by the Director and is of no greater height than the original structure; and
 2. A complete application for reconstruction is submitted within 12 months of the date of damage, and reconstruction is commenced within one year of land use permit approval.
 3. The reconstructed structure must be provided at least as much parking as previously existed and as much as determined the Director to be feasible.
- C. Replacement After destruction of nonconforming single-family residential structure. A nonconforming single-family structure that is completely destroyed by fire, earthquake, or other calamity beyond the property owner's control may be replaced provided that:
- 1 The replacement structure occupies the same footprint or decreases the nonconformity of the structure, complies with the city's design objectives to the extent feasible, and is of no greater height than the original structure; and
 2. A complete application for reconstruction is submitted within 12 months of the date of damage, and reconstruction is commenced within one year of land use permit approval.
- D. Replacement after destruction of nonconforming non-residential structure. A nonconforming non-residential structure that is completely destroyed by fire, earthquake, or other calamity beyond the property owner's control can be replaced only with a structure that complies with all applicable provisions of this Code.

17.92.160: NONCONFORMING FENCES AND WALLS.

Nonconforming fences and walls cannot be enlarged or altered (except for minor repairs). Any proposed change must comply with this Code.

17.92.170: NONCONFORMING LANDSCAPING, OPEN SPACE, DRIVEWAYS AND TRASH FACILITIES

Except as otherwise provided, nonconforming properties that are nonconforming for failure to comply with landscaping, open space, driveway width, and trash facility regulations, are deemed "conforming" for purposes of this code. Such lots must comply with existing regulations in this code if any one of the following occurs:

- A. Residential: Alterations, remodels and additions that reduce useable required open space or landscaping, create additional unit(s) or additions more than one hundred percent (100%) of the current square footage of existing residence(s). However, noncompliant driveways may be maintained if approved by the Director.
- B. Nonresidential: Alterations, remodels and additions that reduce required landscaping or constitute substantial remodels or result in expansion of more than fifty percent (50%) of the gross floor area of all structures on the property.

17.92.180: HISTORIC PROPERTIES.

Based upon substantial evidence, the Planning Commission can find that a national, state, or locally designated historic use or structure is nonconforming and exempt from this Chapter.

17.92.190: NONCONFORMING LOT.

- A. Allowed Use of a Nonconforming Lot. A lot that does not comply with the applicable requirements of this Code for minimum lot area, dimensions, or access, is considered to be a legal building site for the purposes of development or the establishment of a new land use only if:
 - 1. The parcel was a previously a legal lot of record; and
 - 2. The parcel has a valid certificate of compliance or conditional certificate of compliance issued in accordance with this code and the Subdivision Map Act (Government Code §§ 66410, *et seq.*).

- B. Development and Use Standards. Any proposed development or use of a nonconforming lot must comply with all applicable requirements of this Code.
- C. Further Division Prohibited. A nonconforming lot cannot be further subdivided, and its boundaries may be changed through lot line adjustment only if the extent of the nonconformity remains unchanged or is reduced.

17.92.200: DEVELOPMENT REVIEW BY THE DIRECTOR.

Unless otherwise noted, reconstruction, remodels, alterations or expansion of a nonconforming use, structure, or building, regulated by this chapter may be authorized with a minor use permit issued pursuant to Chapter 17.96 of this code.

17.92.210: APPEALS.

All appeals must be processed as provided by this Title.

17.92.220: NONCONFORMITY ABATEMENT – NOTICE.

- A. Upon determination by the Director that a use or structure on a given parcel of land is nonconforming and the permitted abatement period lapsed, the Director must promptly send a notice to the owner of the parcel, as shown on the last equalized assessment roll, identifying the requirement for abatement. Such notice must be sent by a method certifying delivery of the notice.
- B. The notice required by this section must state the following:
 - 1. The property in question contains a nonconforming structure or use;
 - 2. The date the use or structure became nonconforming; and
 - 3. The date of required abatement established in this Code.

17.92.230: PUBLIC HEARING.

- A. Within 30 days after the City issues a notice, the owner of the subject property may request a public hearing before the Planning Commission to consider the matter.
- B. The Planning Commission must receive written and oral testimony at such hearing with regard to abatement of the nonconformity.

- C. At the close of the public hearing, the Planning Commission must find and determine whether the nonconformity should be abated or whether a time extension should be granted. The Commission must base its decision as to the length of the permitted abatement period on evidence including, without limitation, the depreciation schedule attached to the owner's latest federal income tax return.
- D. The Planning Commission must also find and determine whether the nonconformity can economically be used in its present condition or if the nonconformity can be successfully modified for a purpose permitted by the zone in which it is located.

17.92.240: FINDINGS AND DECISIONS.

- A. The decision of the Planning Commission and the findings in support of the decision must be in the form of a written order and be served to the property owner personally or by a method certifying delivery within ten calendar days after the decision is rendered.
- B. Findings must be made as to whether or not the balancing of the public interest and the request by the owner for continuance complies with the intent of this Code.
- C. The decision of the Planning Commission may be appealed to the City Council in accordance with Chapter 17.112.

17.92.250: EXTENSION OF TIME.

- A. In establishing the time periods for the termination of nonconforming uses, the City recognizes that there may be some uses which entail a substantial investment in time and money and which require a greater period of time for abatement of the investment than that set forth in the timetable. Any party may file a petition to the Planning Commission for an extension of time for the termination of a nonconforming use. The Planning Commission may direct the Director to conduct a study of the specific use and prepare a report recommending the appropriate time for termination of the use.
- B. The Planning Commission, or the City Council on appeal, at its discretion, may grant an extension of time for the abatement of a nonconformity where it finds that an unreasonable hardship would otherwise be imposed on the property owner.

17.92.260: CITY REMOVAL.

If removal of a nonconforming use is not performed within the termination period determined by the Planning Commission in accordance with this Chapter, the City can remove the nonconforming use. Any cost of removal can be charged to the property owner or recorded as a lien on the subject property, in accordance with this Code.

17.92.270: PUBLIC NUISANCES.

Nothing in this chapter is intended to affect the ability of the City to terminate any use or remove any structure that is found to be a public nuisance, whether or not any applicable amortization period has expired.”

SECTION 9. ENVIRONMENTAL DETERMINATION. In accordance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000, et seq.; “CEQA”) and CEQA regulations (Cal. Code Regs. tit. 14, §§ 15000, et seq.), an Initial Study and Negative Declaration have been prepared in accordance with the provisions of CEQA. The City Council adopted the Initial Study and Negative Declaration at its meeting on _____, 2016. The Initial Study and Negative Declaration determined that this adoption of this ordinance will not result in significant environmental impacts and that no further environmental review is required.

SECTION 10. SAVINGS CLAUSE. Repeal of any provision of the BMC or any other regulation by this Ordinance does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 11. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 12. VALIDITY OF PREVIOUS CODE SECTIONS. If this the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the BMC or other regulation by this Ordinance will be rendered void and cause such BMC provision or other regulation to remain in full force and effect for all purposes.

SECTION 13. The City Clerk must certify as to the adoption of this ordinance and cause the summary thereof to be published within fifteen calendar (15) days of the adoption and 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 § 36993, for the City of Bellflower.

ORDINANCE NO. 13XX HAD ITS FIRST READING ON _____, ITS SECOND READING ON _____, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY CO UNCIL OF THE CITY OF BELLFLOWER AT ITS REGULAR MEETING OF _____.

Dan Koops, Mayor

Attest:

Mayra Ochiqui, City Clerk

APPROVED AS TO FORM:

Karl H. Berger, City Attorney



staff report

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: Art Bashmakian, AICP
Director of Planning and Building Services

SUBJECT: Consideration and possible action to conduct a public hearing to consider a Negative Declaration (ND 16-02) and a Zoning Ordinance Text Amendment (ZOTA 16-02); adopt Resolution No. 16-XX – A Resolution adopting Negative Declaration No. ND 16-02 for Zoning Ordinance text amendment Case No. ZOTA 16-02; Applicant: City of Bellflower; and introduce Ordinance No. 13XX - An ordinance approving Zoning Ordinance Text Amendment Case No. ZOTA 16-02 amending Chapters 17.16 (SF: Single Family Zone), 17.24 (R-1: Low Density Residential Zone), 17.28 (R-2: Medium Density Residential Zone), 17.32 (R-3: Multiple Residential Zone), 17.42 (Reasonable Accommodation for Persons with Disabilities), 17.44 (C-G: General Commercial Zone), and 17.92 (Nonconforming Buildings and Uses) of Title 17 of the Bellflower Municipal Code regulations as to nonconforming buildings, uses, and lots. [The ZOTA is to address nonconforming conditions by deleting outdated regulations, modifying existing regulations, and introducing new regulations as they apply to each zone.]

DATE: August 22, 2016

EXECUTIVE SUMMARY

The City of Bellflower is working to reduce the overall number of nonconforming parcels, uses, and structures within the City relating to the City's zoning regulations. In October 2013, the City Council adopted a three-phase plan to address nonconforming conditions throughout the City. The plan involves improving the development process; allowing for property development; reconciling differences between the zoning regulations and the existing development; and reducing the overall number of nonconforming properties Citywide. Phase 1 was completed on April 14, 2014, which extended the abatement period an additional 20 years; and established and modified the thresholds for improvements and additions before abatement of nonconformities is triggered. On December 8, 2014, the City Council approved the first part of Phase 2, which provided setback relief for residential properties in the SF, R-1, and A-E Zones. On September 14, 2015, the City Council approved the second part of Phase 2, which provided residential properties in the SF and R-1 Zones relief from interior side-yard requirement, interior dimensions requirement for two-car garage, and driveway width requirement. The amendments presented this evening comprise the third part of Phase 2 and will provide reliefs on various development standards (e.g., front yard setbacks, useable open space, driveways, and trash facilities/refuse storage) for residential and commercial properties. In addition, the proposed amendments include clarifying and enhancing the applicability of the nonconforming provision. The Planning Commission recommended approval of these text amendments on August 1, 2016.

RECOMMENDATION TO THE CITY COUNCIL

- 1) Open the public hearing, and take documentary and testimonial evidence; after considering the evidence, adopt Resolution No. 16-XX and read by title only, waive further reading, and introduce Ordinance No. 13XX; or
- 2) Alternatively, discuss and take other action related to this item.

FISCAL IMPACT

None

PUBLIC NOTICE

A Notice of Public Hearing was published in the Herald American (Bellflower Edition) newspaper on August 11, 2016; and public hearing notices were posted at City Hall, Brakensiek Library, Bellflower Substation, Thompson Park, and Simms Park on August 10, 2016.

CEQA STATUS

Pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code §§ 21000, *et seq.*) and CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000, *et seq.*), an environmental assessment has been conducted for this project in compliance with the California Environmental Quality Act (CEQA) Guidelines. An Initial Study and a Negative Declaration have been prepared which were made available for public review from July 7, 2016 through July 26, 2016.

BACKGROUND

On October 28, 2013, the City Council directed staff to implement a three-phase plan to address nonconforming conditions throughout the City. Phase 1 was completed on April 14, 2014, which extended the abatement period an additional 20 years; and established and modified the thresholds for improvements and additions.

On December 8, 2014, the City Council approved the first part of Phase 2, which provided setback reliefs for residential properties in the SF, R-1, and A-E Zones. The amendments were based on the results of surveys completed for Neighborhoods 1, 2, and 3.

On September 14, 2015, the City Council approved the second part of Phase 2, which provided residential properties in the SF and R-1 Zones relief from interior side-yard requirement, interior dimensions requirement for two-car garage, and driveway width requirement. The amendments were based on the results of surveys completed for Neighborhoods 4, 5, 6, 9, and D, which were selected by the Planning Commission on November 17, 2014.

The amendments presented this evening comprise the third part of Phase 2 and will provide reliefs on various development standards (i.e., front yard setbacks, useable open space, driveways, and trash facilities/refuse storage) for residential and commercial properties. The amendments to various development standards were based on the

surveys completed for Neighborhoods 10, 12, 13, 14, and B, which were selected by the Planning Commission on August 3, 2015. In addition, the proposed amendments include clarifying and enhancing the applicability of the nonconforming provision. The Planning Commission recommended approval of these text amendments on August 1, 2016.

Previous amendments to the Bellflower Municipal Code (“BMC”) positively impacted properties with nonconforming conditions in the City. As part of the analysis for each of the neighborhoods that were surveyed, “report cards” were prepared for each of the neighborhoods. The “report cards” track the positive impacts of prior amendments (i.e., Phase 2, Parts 1 and 2). Please see Attachment F for the report card summary for neighborhoods 10, 12, 13, 14, and B. For additional background information regarding the three-phase plan to address nonconforming conditions, please refer to Attachments D (PC Staff Report) and F (Background).

Nonconforming Statistics

Our total sample size included 1,619 lots. Of these properties 874 (or 54%) were found to have one or more issues of nonconformity with the BMC. This is a high percentage of nonconformity and represents areas of the BMC where relief would be helpful to property owners. Attachments D (PC Staff Report) and H (Summary Table) further discuss and summarize the results of the surveys that were conducted for Part 3 of Phase 2.

Based on the results of the surveys, the common nonconforming conditions observed among the properties that were surveyed are: (1) front yards within the SF and R-1 zones; (2) front yards, useable open space, driveways, and refuse storage within the R-2 and R-3 zones; and (3) front yards, and trash facilities within the C-G zone. If all of the 874 properties are compatible with surrounding properties in terms of their front yard setbacks, and the driveways could be approved by the Planning Director, then adoption of the proposed amendments would result in existing developments being 100% compliant as it relates to front yards, driveways, useable open space, and refuse storage/trash facilities.

Existing Nonconforming Provisions of BMC Chapter 17.92

To supplement the three-phase plan established by the City Council, staff is suggesting language to clarify and enhance the applicability of the nonconforming regulations. Staff has prepared a table (Attachment L) that identifies the various sections of the current BMC, together with issues that arise from the administration of the BMC, followed by recommendations for amending the BMC. In the draft ordinance, staff is also suggesting some new items for the City Council’s consideration. For example, allowing additions to homes that are simply nonconforming because they are not in a residential zone.

ANALYSIS

In order to address the nonconforming conditions, staff is proposing the following:

- **Front Yards:** Staff is recommending that for existing properties developed with legally constructed structures, the existing front yard setbacks be considered conforming if the existing setback is compatible with the surrounding neighborhood and adjacent properties. This allows for expansions and additions to existing structures without abating a nonconforming front yard setback while maintaining the character of the neighborhood. Any new expansions or additions to the existing

single family homes would have to meet current development standards. This is a similar approach that was recommended by the Planning Commission and approved by the City Council for buildings encroaching into side yard setbacks.

- **Driveways:** Staff is recommending that for existing legally developed properties with less than the minimum required driveway widths, the existing driveway widths be considered conforming. In addition, to allow some flexibility, on a case-by-case basis, staff is recommending that when an improvement is proposed on the property, the homeowner will be allowed to apply for a modification to this requirement. The property owner can request review and approval by the Planning Director to allow a driveway width to be maintained even if it is less than what is currently required. This modification process is proposed because the Fire Department does not always need to gain access to the property via the driveway to fight fires. Depending on the size (especially the depth) of the lot and the configuration of the structures, the Fire Department can, in certain cases, park on the street and use the length of the fire hose (150') to eliminate fires. Although this amendment will not eliminate the nonconformity outright, it would assist those who may be nonconforming in this standard, while still maintaining public safety. This is a similar approach that was recommended by the Planning Commission and approved by the City Council as part of the Phase 2, Part 2 approach. The proposed language prohibits any new encroachment to the existing driveways and any proposed driveways or extension of existing driveways must meet the current minimum driveway width requirements.
- **Useable Open Space:** Staff is recommending that for existing legally developed properties not having the minimum required useable open space, the existing useable open space be considered conforming. In addition, staff is recommending that improvements be permitted to legally developed properties without having to address the useable open space if such improvements do not result in: reduction of existing useable open space, a substantial remodel, additional units, additional bedrooms, or an addition that is more than one hundred percent (100%) of the current square footage of existing residence(s).
- **Refuse Storage/Trash Facilities:** Staff is recommending that legally developed properties that do not have refuse storage/trash facilities be considered conforming, as it relates to refuse storage/trash facilities. In addition, staff is recommending that alteration and modification be permitted on the property if it does not result in: a substantial remodel, additional units, additional bedrooms, or an addition that is more than one hundred percent (100%) of the current square footage of the gross floor area of all structures on the property.
- **Clarifying and Simplifying the Nonconforming Provisions of BMC Chapter 17.92:**

In addition to the recommended changes listed above, and to better support City Council's directive in addressing the nonconforming issues and challenges faced by homeowners, it's imperative that we also improve the chapter on nonconformities.

The attached table (Attachment L) identifies the various BMC sections that need further clarification together with staff's suggested language. The table also identifies code sections that conflict with one another with staff's recommended

language. Finally, the table identifies some additional recommended measures that the City Council could consider and discuss which may further assist with the overall Game Plan.

The proposed zoning code provisions addressing the issues indicated above are included in the Draft Ordinance (Attachment B). Existing text found in the BMC to be removed is shown as ~~strikethrough~~ and new text to be added is shown as **underlined and bold**.

CONCLUSION

The City of Bellflower is working to reduce the number of nonconforming properties and structures in the City. The amendments proposed in this staff report and accompanying resolution is another step toward the goal of reducing the number of nonconforming properties over a six-year time frame.

Next steps will include:

- Continuing on a systematic and efficient review, analysis and recommendation process for remedies to each of the nonconforming conditions in residential, commercial and industrial zones.
- Develop long-term solutions to fully address site design, lack of land, and assisting property owner's with full compliance. These solutions could include changes to the BMC, design alternatives or some combination of these elements. It is important to understand that without a long-term solution any single-focused policy or BMC change will only continue to perpetuate impacts on these properties and increase the negative interaction between the public and City staff.

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