



# City of Culver City

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## Staff Report

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**File #:** 18-01309, **Version:** 1

**Item #:** 4.

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**PC: Consideration of Zoning Code Amendment P2017-0227-ZCA, Amending Culver City Municipal Code (CCMC) Title 17: Zoning Code; Chapter 17.610 - Nonconforming Uses, Structures, and Parcels.**

**Meeting Date:** June 13, 2018

**Contact Person/Dept:** Jose Mendivil, Associate Planner / CDD  
Michael Allen, Current Planning Manager/CDD

**Phone Number:** (310) 253-5757/(310) 253-5727

**Fiscal Impact:** Yes ☐ No ☒

**General Fund:** Yes ☐ No ☒

**Public Hearing:** ☒

**Action Item:** ☐

**Attachments:** ☒

**Public Notification:** (Email) Meetings and Agendas-Planning Commission (05/30/18); (Posted) City website (05/30/18); (Published) in Culver City News (05/24/18)

**Department Approval:** Sol Blumenfeld, Community Development Director (05/21/2018)

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### **RECOMMENDATION**

Staff recommends the Planning Commission adopt Resolution No. 2017-P024 (Attachment No. 1) recommending to the City Council approval of Zoning Code Text Amendment P2017-0227-ZCA related to nonconforming uses, structures, and parcels.

### **PROCEDURES**

1. Chair calls on staff for a brief staff report and the Planning Commission poses questions to staff as desired.
2. Chair opens the public hearing, and receives comments from the general public.
3. Chair seeks a motion to close the public hearing after all testimony has been presented.
4. Commission discusses the matter and arrives at its decision.

### **BACKGROUND**

Staff identified portions of the Zoning Code pertaining to nonconforming uses and structures that need clarification and in some cases, modification including:

1. Clarification on code language when there is a request to enlarge existing non-conforming continuing uses in residential zones where the General Plan Land Use Designation and Zoning are not consistent; and
2. Clarification on code language when there is a request to improve or enlarge legal non-conforming residential structures.

The proposed amendments were presented to the Planning Commission during its March 22, 2017 meeting and have been included in the Community Development Department, Planning Division Work Plan for the 2017-2018 Fiscal Year.

#### February 14, 2018 Planning Commission Meeting

The Planning Commission heard the proposed amendments at the February 14, 2018 Planning Commission meeting and the item was continued because the Planning Commission suggested revisions to the amendment language. The suggested revisions are discussed below.

#### **ANALYSIS/DISCUSSION:**

The Zoning Code defines legal nonconforming uses and legal nonconforming structures as follows:

- **Nonconforming Use.** A use of a structure (either conforming or nonconforming) or land that was legally established and maintained prior to the adoption of this Title and which does not conform to current code provisions governing allowable land uses for the zoning district in which the use is located.
- **Nonconforming Structure.** A structure that was legally constructed and which does not conform to current code provisions/standards prescribed for the zoning district in which the structure is located.

#### 1. ENLARGEMENT OF NON-CONFORMING RESIDENTIAL USES

##### CCMC Section 17.610.010 - Nonconforming Uses/A. Continuation of Use.

The Zoning Code specifies that any nonconforming use may be maintained and continued, provided that there is no increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use, and alterations that do not increase or enlarge a nonconforming use may be approved.

However, the Zoning Code does not specify the type or extent of alterations permitted when a property is legal nonconforming due to inconsistency between the General Plan Land Use and Zoning designations, or when existing densities on a site are not consistent with the allowable density in the applicable zone. For example, properties located between Sherbourne Drive and Sentney Avenue are zoned R2 (permitting up to two dwelling units per lot), with a General Plan Land Use designation of Low Density Single Family (permitting one dwelling unit per lot). Additionally, several properties throughout the City are developed with a density no longer allowed based on the site's current Zone (i.e., three or more units on R2 Zoned lots).

Developers and/or property owners request to add area or increase density on lots with conflicting Land Use and Zoning designations, or legal nonconforming densities. To provide clarity in permitted alterations to legal nonconforming structures and uses, the proposed amendments prohibit area or density increases of existing nonconforming residential uses. The proposed Text Amendment to CCMC Section 17.610.010.A prohibits increases or enlargements to existing nonconforming residential uses (i.e., lots improved with greater densities than allowed per their current Zone and/or General Plan Land Use designation). The Text Amendment

clarifies that “increase or enlargement” includes area additions/expansions of existing rooms, and construction of new rooms.

At the February 14, 2018 meeting, the Planning Commission suggested some minor revisions to the “increase or enlargement” language which is reflected in the amendment.

## 2. IMPROVEMENTS TO LEGAL NON-CONFORMING RESIDENTIAL STRUCTURES

### CCMC Section 17.610.020 - Nonconforming Structures

The Zoning Code provides language that allows the construction, enlargement, expansion, and extension of nonconforming structures subject to certain regulations. This section is separate from the section discussed above that addresses nonconforming uses. A use can be conforming to the Zoning Code and General Plan, that is, allowed by both the Zoning Code and the General Plan, but be located within a nonconforming structure (a structure that is nonconforming with regard to height, setbacks, encroachments, or parking).

The proposed Text Amendment modifies CCMC Section 17.610.020.A.1 to allow for alterations. Examples of alterations includes door or window replacements in an existing walls with added or reduced wall surface in order to install new windows or doors along an exterior façade.

As proposed, CCMC Section 17.610.020.A.3 provides language for improvements to nonconforming single family, two family, and three family dwellings, accessory residential structures (such as garages), and accessory dwelling units. Common residential tenant improvements in the R1, R2, and R3 Zones often involve substantial demolition and reconstruction. The current Zoning Code does not provide a threshold of when an entire residential structure should be brought into compliance when substantial demolition occurs. Originally, Section ‘a’ provided a threshold of more than 50% demolition of the building footprint based on dwelling exterior wall boundaries. However at the February 14, 2018, meeting, the Planning Commissioners expressed concern that this threshold could be over burdensome in cases where the demolition of the building footprint (based on dwelling exterior walls) could meet the threshold yet the actual area of the house to be demolished could be less than 50% of the total dwelling unit area. In this scenario the amendment would require demolition of the entire house even though the proposed work would not effect a majority of the dwelling.

In response to this concern, the threshold was revised to include both the exterior wall area and building footprint, floor area being occupied. Accounting for both these measures will ensure that proposed demolitions resulting in a significant loss of the original dwelling (more than 50%) prompts the required code compliant upgrade for the entire structure:

- CCMC Section 17.610.020.A.3.a requires that a nonconforming residential structure be rebuilt to current code required setbacks and/or height if the improvement includes more than 50% demolition of both the exterior wall surface area and building footprint, floor area being occupied.

City staff researched several jurisdictions in Los Angeles County and found that several cities define full demolition as 50% or more demolition of exterior walls or dwelling unit area (Attachment 3). Further, several cities require full reconstruction to current code standards if they meet this threshold. It may be cost prohibitive to require full reconstruction in instances where some demolition is needed to improve and maintain a property built several years ago. However, a less than 50% threshold may result in deferred maintenance and repairs due to significant construction costs associated with bringing entire buildings into compliance, leading to further deterioration (i.e., termite abatement/repairs, water damage, etc.).

The 2013-2021 Housing Element reports 68% of owner occupied dwellings and 66% of rental units were constructed prior to 1970, leading to an increasingly aging housing stock which may require significant renovation or repairs. In order to facilitate renovations that are compliant with City standards, while

acknowledging the burden of cost for construction, staff is proposing a threshold consistent with several jurisdictions in Los Angeles County, however the Planning Commission may choose a higher threshold increasing the amount of demolition a property owner may perform without bringing the remaining structure into conformance.

Further, a nonconforming residential structure that must be rebuilt or partially rebuilt due to fire, earthquake, or other calamity would be exempt from this section as provided in CCMC Section 17.610.025 - Exemptions and Exceptions. This section allows nonconforming structures damaged by such events to be rebuilt to the Zoning standards at the time they were constructed.

## **CONCLUSION**

In order to provide clarity in the Zoning Code, as well as define “total demolition” when a property must be brought into full compliance with the Zoning Code, staff recommends the proposed Text Amendments modifying and clarifying certain legal nonconforming provisions related to structures and uses.

## **ENVIRONMENTAL DETERMINATION:**

The proposed Zoning Code Amendment (P2017-0227-ZCA) is within the scope of the Culver City General Plan Update Program EIR approved on September 24, 1996 (PEIR 1), the Culver City Redevelopment Plan Amendment and Merger Program Subsequent EIR approved on November 16, 1998 (PEIR 2), and no new significant information has been found that would impact either PEIR 1 or PEIR 2. Therefore, no new environmental analysis is required, pursuant to Sections 15162 and 15168 of the California Environmental Quality Act.

## **ATTACHMENTS:**

1. Draft Resolution No. 2017-P024
2. Exhibit A: Proposed Zoning Code Text Changes in “strikethrough/underline” format
3. Survey of Cities - Demolition Threshold
4. February 14, 2018 Planning Commission Meeting Minutes

## **MOTION**

That the Planning Commission:

Adopt Resolution No. 2017-P024 recommending to the City Council approval of Zoning Code Text Amendment P2017-0227-ZCA related to nonconforming uses, structures, and parcels.

## **NOTES**