



Planning Division

PLANNING COMMISSION STAFF REPORT

TO: Planning Commission

FROM: James F. Rupp, Jr., Assistant City Attorney

DATE: February 21, 2008

SUBJECT: Planning and Zoning Permit No. 08-580-01 (Zone Text Amendment). Filed by the City of Oxnard.

Recommendation: That the Planning Commission adopt a resolution recommending that the City Council adopt an amendment to the City Code adding Section 16-515 setting forth a procedure to appeal a decision regarding a non-conforming use or non-conforming structure.

Analysis: Virtually all cities have structures and uses that were lawful when created but because of a change in zoning are inconsistent with the current zoning. These are generally referred to as “non-conforming structures” or “non-conforming uses”.

The City Code allows such non-conforming uses and structures to remain until there is a cessation of the non-conforming use or structure. However, since such uses are incompatible with the permitted uses under the current zoning, such uses are discouraged. Such uses may not be enlarged, expanded, extended or used as grounds for adding other prohibited uses or structures absent specific circumstances such as fire or natural catastrophe. The proposed ordinance would clarify the City’s existing appeal procedure.

Attachments:

- A. Draft Ordinance
- B. Resolution

Prepared by: <u>JR</u> JR
Approved by: <u>SM</u> SM

RESOLUTION NO. 2008-[PZ 08-580-01]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN AMENDMENT TO THE ZONING CODE OF THE CITY OF OXNARD

WHEREAS, the Planning Commission of the City of Oxnard has considered an application from the City of Oxnard to amend the City's zoning code by adding section 16-515 to the City Code that would clarify the procedure for appealing a decision regarding a non-conforming use or a non-conforming structure; and

WHEREAS, the Planning Commission has held public hearings and received and reviewed written and oral comments related to proposed Planning and Zoning Permit No. 08-580-01; and

WHEREAS, the Planning Commission finds after due study and deliberation that the public interest and general welfare require the adoption of the proposed amendment to the zoning code; and

WHEREAS, the proposed amendment to the zoning code merely sets forth a clear administrative procedure that allows a person to appeal a decision to the Planning Commission and as such has no potential for resulting in either a direct or indirect physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby recommends to the City Council adoption of the ordinance attached hereto as Exhibit A.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 21st day of February, 2008, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

Michael Sanchez, Chairperson

ATTEST: _____
Susan L. Martin, Secretary

ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. __

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING
SECTION 16-515 TO THE CITY CODE

The City Council of the City of Oxnard does ordain as follows:

Part 1. Section 16-515 is hereby added to the City Code to read as follows:

**SEC. 16-515. APPEAL OF DECISION REGARDING A NON-CONFORMING
USE OR A NON-CONFORMING BUILDING.**

(A) When an application is received for any permit pursuant to this chapter or any building permit, the planning manager shall make a determination whether the proposed use of the land or structure pursuant to the application is consistent with the requirements of this chapter. If the planning manager's determination is that the proposed use of the land or the structure is inconsistent with this chapter because a non-conforming use or non-conforming structure may not be enlarged, increased, or extended or because of abandonment or cessation of the non-conforming use or non-conforming structure, the planning manager shall inform the applicant in writing of such determination and the facts that support such determination.

(B) If the applicant desires to appeal the planning manager's determination, the applicant must file a written appeal and the appeal fee with the director within fifteen days of the mailing date or ten days of personal delivery of such written determination, whichever occurs first. Such written appeal shall set forth the specific grounds for appeal, including a summary of the facts that are in dispute. The appeal hearing shall be scheduled within a reasonable period of time after receipt of the appeal, unless the applicant agrees to a different date.

(C) At the hearing, the director shall hear evidence on the disputed facts and exercise the director's independent judgment in rendering a decision. The director may continue the hearing for good cause. Within forty-five days of the close of the hearing, the director shall issue a written decision that sets forth the reasons for such decision. Such decision shall be mailed or personally delivered to the applicant.

(D) If the applicant desires to appeal the decision of the director, the applicant must file a written appeal and the appeal fee with the secretary to the commission within fifteen days of the mailing date of the director's decision or within ten days of receipt of the director's decision, whichever occurs first. Such written appeal must set forth the specific grounds for appeal, including a summary of the facts that are in dispute. The

appeal hearing shall be scheduled within a reasonable period of time after receipt of the appeal, unless the applicant agrees to a different date.

(E) At the appeal hearing, the commission shall review evidence on the disputed facts and exercise its independent judgment in rendering its decision. The commission may continue the hearing for good cause. The commission shall adopt a resolution setting forth its decision. The decision of the commission shall represent the final administrative process available within the city.

Part 2. Within 15 days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. _____ was first read on _____, 20__ and finally adopted on _____, 20__ to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Gary L. Gillig, City Attorney