



## **Memorandum**

To: Carey Smith, City Manager

From: Bill Meyer, Planning & Development Director

**Subject: Request to Sponsor Zoning Code Amendments –  
Land Use Separation Requirement Modifications**

Date: October 5, 2009

Staff is requesting that the City Council sponsor a set of Zoning Ordinance amendments to address an ongoing concern about the impact of land use separation requirements, particularly on existing buildings.

### **Problem Statement**

The 2006 Zoning Ordinance created land use separation requirements between certain commercial and industrial uses and residential, church, school and park uses. A list of the uses affected by these spacing requirements is attached, but they generally fall into three main categories – 1) high impact commercial uses such as convenience stores, bars, tattoo parlors, etc., 2) vehicle sales and service uses, and 3) heavy or specialized industrial uses.

While it may be desirable for such uses to be separated in newly developing areas of the City, there are many examples in the older developed areas where these uses have coexisted for years. The Code allows for a ZBA Special Exception application to reduce a land use separation that can be requested for both existing buildings and proposed development. This public hearing process adds about 4-6 weeks onto the approval process for a use, allowing neighboring property owners to be heard and any necessary mitigation or special situations to be addressed.

This delay is seen by some property owners as unnecessary, especially in the case of existing buildings and neighborhoods where mixed uses have historically coexisted. After hearing over a dozen of these requests, we have yet to encounter a contentious situation. In many cases it appears that neighbors have been comfortable with the historic uses in their area, even though the land use pattern may be considered less than perfect.

## **Proposed Amendments**

Administrative Adjustment – The Zoning Ordinance allows for Administrative Adjustments of certain dimensions or other numerical standards (setbacks, required parking, etc.) up to a determined percentage if specific criteria are met. This is done for several other standards to avoid minor variances, and acknowledges that small deviations can be made to Code dimensions without significantly compromising the intent of the requirement. Because land use separation requirements are by their nature arbitrary numbers that reflect intent, we feel that adding an Administrative Adjustment process for deviations up to 10 or 20 percent would be justified. We would propose to add criteria to acknowledge different orientations and neighborhood relationships, and allow conditions to mitigate potential impacts brought on by the adjustment.

Allow Modification of Spacing Requirement on Existing Back-to-Back Properties – Many of the non-conforming spacing situations with existing buildings involve residential areas that back to major commercial corridors. We would propose an amendment that would allow for administrative approval of reusing existing buildings for their intended use with provision of an appropriate buffer along a rear property line with a separation land use. We are still reviewing the best vehicle for such a provision in the Code (possibly even a different type of Administrative Adjustment) but the intent would be to deal with historical uses and not the establishment of new buildings or uses. We feel that most of the high impact commercial uses should still be required to go through the public hearing process.

We request the Council's sponsorship, and any initial thoughts on the direction of this amendment.

## Uses Requiring Separation from Certain Residential or Institutional Uses

Use	Spacing Requirement
<b>High Impact Commercial Uses</b>	
Convention Center	500 feet from residential
Stable	300 feet from dwelling
Restaurant, outdoor seating	100 feet from dwelling
Restaurant, drive-thru	100 feet from residential district or use
Arena, Stadium	500 feet from residential or day care
Adult Entertainment	1000 feet from residential, institutional
Bar, Nightclub	300 feet from residential
Convenience Store w/Gas, Filling Station	250 feet from residential, institutional
Tattoo Parlor	1000 feet from residential, institutional
Body Piercing	500 feet from residential, institutional
Liquor Store	300 feet from residential
Check Cashing, Payday & Title Loan	300 feet from residential, institutional
<b>Vehicle Sales and Service Uses</b>	
Auto Paint & Body	250 feet from residential, institutional
Auto Parts & Installation	250 feet from residential, institutional
Auto, Truck, RV Rental & Sales	250 feet from residential, institutional
Auto Repair & Service	250 feet from residential, institutional
Auto Wrecker Service	250 feet from residential, institutional
Boat & Marine Sales	250 feet from residential, institutional
Car Wash & Detailing	250 feet from residential, institutional
Gasoline Filling Station	250 feet from residential, institutional
Truck Stop	250 feet from residential, institutional
<b>Heavy or Specialized Industrial Uses</b>	
Extractive Industry	1000 feet from residential, institutional
Machine Shop, Motor Repair	250 feet from residential, institutional
Heavy Equipment Sales	250 feet from residential, institutional
Laundry, Carpet Cleaning	250 feet from residential, institutional
Heavy Manufacturing	500 feet from residential, institutional
Parcel Services, Truck Terminal	250 feet from residential, institutional
Landfill	1000 feet from residential, institutional
Recycling Center	250 feet from residential, institutional
Salvage & Junkyard	250 feet from residential, institutional