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Staff Report

ITEM 4

To: Lemoore Planning Commission

From: Michael Hernandez, Assistant Planner; Steve Brandt, City Planner

Date: September 19, 2014

Subject: Public Hearing to Review and Consider Resolution No. 2014-06 Recommending Approval of **ZONING TEXT AMENDMENT NO. 2014-02** – A request by City Council to amend the current zoning text that would allow the City Council to modify performance standards for home occupation permits when there are special circumstances applicable to the site of the home occupation.

Recommended Action

Staff recommends that the Planning Commission conduct a public hearing to take testimony regarding **ZONING TEXT AMENDMENT NO. 2014-02**. Following the public hearing, staff recommends that the Planning Commission adopt Resolution No. 2014-06 recommending that the City Council approve the text amendment.

Proposal

At the August 19, 2014 City Council Meeting, Council reviewed and denied an Appeal for a Home Occupation Permit that does not meet the performance standards listed in the Zoning Ordinance. Council requested that staff bring back ordinance changes that would allow Council the ability to approve modifications to the performance standards of a Home Occupation Permit when special circumstances exist. As proposed, Council could modify the performance standards if a denial was appealed to them by an applicant.

The proposal also includes two minor technical changes to clean up language in the Home Occupation section of the Zoning Ordinance.

History

Claudia Peinado and Antonio Carilto submitted an application March 10, 2014, to obtain a Home Occupation Permit which included parking commercial vehicles on their property. The vehicles are currently used for their tree trimming business. Their site is zoned Low Density Residential.

After review of the application city staff denied the Home Occupation Permit, because the applicants are in violation of the current Zoning Ordinance by parking a vehicle larger than three-quarter ton on their property, thus in violation of City Zoning Ordinance. The applicants appealed the decision to City Council, arguing that their site is much larger than a traditional single-family lot, and that there is an existing garage large enough to park the vehicles inside. Council wanted to approve the Home Occupation Permit, but there were no provisions in the Zoning Ordinance to consider special circumstances such as the ones presented.

Proposed Text Changes

The following are sections from the Zoning Ordinance being proposed for modification, followed by staff's reasoning for recommending the modification. All of the sections are from 9-4D-5 and 9-2B-9 of the Zoning Ordinance. Text to be removed is shown in ~~strikeout~~, while text to be added is shown as underlined.

Subsequent Actions

The Planning Commission's recommendation will be sent to City Council where they will hold a public hearing, then make the decision to modify 9-4D-5 and 9-2B-9 of the Zoning Ordinance. If approved after the public hearing, the Zoning Text Amendment will be brought back to the City Council for a second reading of the ordinance modifications. The changes, if approved, will be effective 30 days after the final approval.

Attachments

- City of Lemoore Zoning Ordinance, Section 9-4D-5: Home Occupations and Section 9-2B-9: Home Occupation Permit
- Draft Resolution No. 2014-06 for Recommendation of Approval

Staff Report Attachment of Sections 9-4D-5 and 9-2B-9.

The follow text is taken from the current Zoning Ordinance. Underlined text is proposed to be added. ~~Strikeout~~-text is proposed to be deleted.

9-4D-5: HOME OCCUPATIONS:

- A. Purpose and Applicability: The regulations contained in this section shall apply to home occupations to ensure the compatibility of the home occupations with the principal residential uses in order to protect the integrity and character of neighborhoods.
- B. Approval Process: Prior to the establishment of a home occupation, the proprietor of a home occupation shall first obtain a home occupation permit and a business license from the city. The procedures for submittal, review, and approval of the home occupation permit shall be as described in chapter 2, article B, "Planning Permits and Entitlements", of this title. No business license shall be issued until a home occupation permit is first issued. Business licenses shall be reviewed and issued consistent with the provisions of title 3, "Business, License and Permit Regulations", of the municipal code.
- C. Categories of Home Occupations: As described in chapter 2, article B, "Planning Permits and Entitlements", of this title, there are two (2) types of home occupations permits - major and minor. Major permits are discretionary in nature and are reserved for those activities that may generate vehicular and pedestrian traffic and that may adversely impact residential neighborhoods. Minor permits are ministerial and are for those activities that have little or no impact on the neighborhood. Examples of each kind of activity are described below. The planning director shall have the authority to determine if a proposed activity is a major or minor activity, or is an activity prohibited as a home occupation.
1. Minor Home Occupation: Minor home occupations are home occupations that do not generate higher levels of traffic than that customarily found in a residential neighborhood, do not have customers visiting the home, and which do not have a noticeable appearance. Examples include, but are not limited to, the following types of occupations:
 - a. Art and craft work such as ceramics, flower arranging, jewelry making, painting, sculpting, and photography;
 - b. Electronic and other by mail commerce involving the storage and shipping of goods and products from the home; and
 - c. Office uses such as an office for a tax preparer, contractor, architect, attorney, consultant, counselor, engineer, insurance agent, planner, tutor, data and/or word processing, and real estate agent where no customers come to the home.
 - d. Cottage food operations that are established per California Government Code Section 51035.
 2. Major Home Occupation: Major home occupations are more intensive operations that may have a noticeable impact on surrounding residential land uses as a result of increased traffic (vehicular and pedestrian), that may have up to five (5) customers come to the home per day, and that send or receive goods beyond those customary for a residential neighborhood. Examples include, but are not limited to, the following types of occupations:
 - a. Furniture stripping and refurbishing;

- b. Mobile clinics; and
 - c. Office uses such as an office for a contractor, architect, attorney, consultant, counselor, engineer, insurance agent, planner, tutor, data and/or word processing, and real estate agent where fewer than five (5) customers come to the home per day.
- D. Activities Prohibited As Home Occupations: The following activities are specifically prohibited as home occupations:
- 1. Ambulance service;
 - 2. Ammunition reloading, including custom reloading;
 - 3. Boarding house, bed and breakfast, hotel, timeshare condominium;
 - 4. Carpentry, cabinetmakers;
 - 5. Ceramics (kiln of 6 cubic feet or more);
 - 6. Firearms repair or sales;
 - 7. Health salons, gyms, dance studios, aerobic exercise studios;
 - 8. Massage therapy;
 - 9. Medical, dental, chiropractic, or veterinary clinics (including boarding);
 - 10. Mortician, hearse service;
 - 11. Palm reading and fortune telling;
 - 12. Private clubs;
 - 13. Repair or reconditioning of boats or recreation vehicles;
 - 14. Restaurants or taverns;
 - 15. Retail sales from site (except direct distribution of artist's originals, food prepared at a cottage food operation, and electronic and mail order commerce);
 - 16. Storage, repair, or reconditioning of major household appliances;
 - 17. Storage, repair, or reconditioning of motorized vehicles or large equipment on site other than personal use;
 - 18. Tattoo service;
 - 19. Tow truck service; and
 - 20. Welding service.
- E. Performance Standards: The following standards shall apply to all minor home occupation permit applications. The standards may be modified by the approving authority for major home occupations.

1. Number of Home Occupations: There is no limit on the number of home occupations at a residence provided that the performance standards identified in this section are met.
2. Employees: Offsite employees or partners are not permitted. Only occupants of the home may work on site.
3. Habitable Floor Area: The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. Not more than one hundred fifty (150) square feet or fifteen percent (15%) of the floor area of the dwelling, whichever is less, shall be used in the home occupation.
4. Offsite Effects: There shall be no mechanical equipment or operation used which creates or makes dust, odor, vibration, or other effects detectable at the property line. No process shall be used which is hazardous to public health, safety, morals, or welfare.
5. Sales:
 - a. Onsite Sales: There shall be no products sold on the premises except artist's originals or products individually made to order on the premises.
 - b. Offsite Sales: Offsite sales, including electronic and mail order commerce, shall be permitted.
6. Display: There shall be no display of products produced by occupants of the dwelling which are visible in any manner from the outside of the dwelling unit.
7. Traffic: The use shall not generate pedestrian or vehicular traffic beyond that which is normal in a residential district nor in any case require the parking of more than two (2) additional vehicles at any one time.
8. Vehicles: One truck or van, not more than three-quarters (3/4) ton capacity, may be kept on or adjacent to the premises associated with the home occupation. No campers or semitrailers incidental to the home occupation shall be kept on the premises.
9. Storage: There shall be no storage of material or supplies out of doors.
10. Exterior Appearance: There shall be no remodeling or construction of facilities especially for the home occupation which changes the external appearance of the neighborhood from a residential to a more commercial look when viewed from the front of the building.
11. Signs: Signs shall be allowed for the home occupation in accordance with chapter 5, article F, "Signage", of this title.
12. Visitors and Customers: For minor home occupation permits, no visitors or customers shall be allowed. For major home occupation permits, Visitors and customers shall not exceed those normally and reasonably occurring for a residence, including not more than ~~eight (8)~~ five (5) a day, during the hours of eight in the morning (8:00 A.M.) to seven in the evening (7:00 P.M.).
13. Deliveries: Deliveries shall not exceed those normally and reasonably occurring for a residence. Deliveries of materials for the home occupation shall not involve the use of commercial vehicles except for FedEx, UPS, or USPS type home pickups and deliveries.

14. Hazardous Materials: Storage of hazardous materials is limited to below those thresholds as established by the fire department to not require any special permits or licenses.
 15. Notwithstanding the foregoing standards, a cottage food operation may have one (1) employee who does not live at the site, and may sell goods at the site.
- F. Failure to comply with these standards may result in revocation of the home occupation permit and/or business license. (Ord. 2013-05, 02/06/2014)

9-2B-9: HOME OCCUPATION PERMIT:

- A. Purpose: The purpose of the home occupation permit is to provide a process for the review and permitting of home occupations prior to their establishment.
- B. Applicability: All home occupations as described in chapter 4, "Use Regulations", of this title shall obtain a home occupation permit prior to the issuance of a business license and the establishment of the home occupation. There are two (2) types of home occupation permits as follows:
1. Minor Home Occupation Permit: A minor home occupation permit is a ministerial approval that is conducted to ensure home occupations are conducted consistent with the development standards of section 9-4D-5, "Home Occupations", of this title.
 2. Major Home Occupation Permit: A major home occupation permit is intended for the review and discretionary approval of those home occupations that may generate more vehicular and pedestrian traffic than a typical residential use and thereby have the potential to adversely impact the surrounding residential neighborhood.
- C. Approval Authority: The designated approving authority for minor home occupation permits shall be the planning director. The designated approving authority for major home occupation permits shall be the Planning Commission.
- D. Public Notification: The public notification of an application for a home occupation permit shall be made as follows:
1. Minor Home Occupation Permit: Minor home occupation permits are ministerial in nature. No public notification shall be required.
 2. Major Home Occupation Permit: Public hearing and notice are required for a major home occupation permit pursuant to section 9-2A-6, "Public Notice, Hearings, and Decisions", of this chapter.
- E. Approval Findings: A home occupation permit shall be granted only when the designated approving authority determines that the proposed home occupation complies with all of the following findings:
1. The proposed home occupation is consistent with the general plan, any applicable specific plan, and all applicable provisions of this title (e.g., section 9-4D-5 of this title); and

2. The establishment, maintenance, or operation of the home occupation applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use or to the general welfare of the city.

F. Post approval Implementation: Requirements for implementation of an approved home occupation permit shall be provided as follows:

1. Minor Home Occupation Permit: A minor home occupation permit is ministerial in nature. As such, the planning director may not impose conditions on the issuance of the permit. However, the applicant may be provided with a list of items necessary for compliance and conformance with this title and the general plan.
2. Major Home Occupation Permit: The designated approving authority may impose conditions and/or require guarantees in order to ensure compliance with this title and to prevent adverse or detrimental impact to the surrounding neighborhood. (Ord. 2013-05, 02/06/2014)

G. Appeals: The decision of the minor or major Home Occupation Permit may be appealed to the City Council. A Public hearing and notice is required for an appeal pursuant to section 9-2A-6, "Public Notice, Hearings, and Decisions", of this chapter. If the permit was denied for not meeting the performance standards in Section 9-4D-5E, the City Council may approve the permit with alternative performance standards if the following findings are made:

1. There are special circumstances applicable to the property (e.g., location, shape, size surroundings, topography, or other conditions), so that the strict application of the required performance standards for the Home Occupation Permit is not necessary to preserve the residential nature of the neighborhood;
2. Alternative performance standards that protect and preserve the residential nature of the neighborhood have been included as conditions of approval;
3. Granting the Home Occupation will not adversely affect the interest of the public or the interest of residents and property owners in the vicinity of the premise in question; and
4. The Home Occupation Permit is consistent with the general plan, any applicable specific plan or development agreement, and the intent of this title.

RESOLUTION NO. 2014-06

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LEMOORE
RECOMMENDING APPROVAL OF ZONING ORDINANCE TEXT AMENDMENT NO. 2014-02
TO MODIFY HOME OCCUPATION STANDARDS IN THE CITY OF LEMOORE**

At a Regular Meeting of the Planning Commission of the City of Lemoore duly called and held on September 22, 2014, at 7:00 p.m. on said day, it was moved by Commission Member _____, seconded by Commission Member _____, and carried that the following Resolution be adopted:

WHEREAS, the City Council initiated changes to the City of Lemoore's Zoning Ordinance text pertaining to Home Occupations; and

WHEREAS, the Planning Commission reviewed the proposed changes at a public hearing on September 22, 2014; and

WHEREAS, the project is categorically exempt from CEQA requirements per the minor alterations to land use limitations exemption in Section 15305 of the CEQA Guidelines.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Lemoore hereby makes the following findings regarding the proposed zoning ordinance text amendment:

1. The zoning ordinance text amendment is consistent with the general plan goals, policies, and implementation programs. The modifications will continue to protect the integrity and character of neighborhoods.
2. The zoning ordinance text amendment will allow more flexibility to approve Home Occupations when there are special circumstances applicable to a project site.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Lemoore recommends approval of Zoning Ordinance Text Amendment No. 2014-02 as described in Attachment A.

Passed and adopted at a Regular Meeting of the Planning Commission of the City of Lemoore held on September 22, 2014, by the following votes:

AYES:
NOES:
ABSTAINING:
ABSENT:

APPROVED:

Dr. Jeffrey Garcia, Chairperson

ATTEST:

Kristie Baley, Commission Secretary

Attachment A

Section 9-4D-5E-12 is hereby amended to read:

12. Visitors and Customers: For minor home occupation permits, no visitors or customers shall be allowed. For major home occupation permits, Visitors and customers shall not exceed those normally and reasonably occurring for a residence, including not more than ~~eight (8)~~ five (5) a day, during the hours of eight in the morning (8:00 A.M.) to seven in the evening (7:00 P.M.).

Section 9-2B-9C is hereby amended to read:

- C. Approval Authority: The designated approving authority for minor home occupation permits shall be the planning director. The designated approving authority for major home occupation permits shall be the Planning Commission.

Section 9-2B-9G is hereby added:

- G. Appeals: The decision of the minor or major Home Occupation Permit may be appealed to the City Council. A Public hearing and notice is required for an appeal pursuant to section 9-2A-6, "Public Notice, Hearings, and Decisions", of this chapter. If the permit was denied for not meeting the performance standards in Section 9-4D-5E, the City Council may approve the permit with alternative performance standards if the following findings are made:
 1. There are special circumstances applicable to the property (e.g., location, shape, size surroundings, topography, or other conditions), so that the strict application of the required performance standards for this Home Occupation permit is not necessary to preserve the residential nature of the neighborhood;
 2. Alternative performance standards that protect and preserve the residential nature of the neighborhood have been included as conditions of approval;
 3. Granting the Home Occupation will not adversely affect the interest of the public or the interest of residents and property owners in the vicinity of the premise in question; and
 4. The Home Occupation Permit is consistent with the general plan, any applicable specific plan or development agreement, and the intent of this title.