

City of Los Alamitos Planning Commission

Agenda Report Public Hearing

December 14, 2009
Item No. 6B

To: Chair Sofelkanik and Members of the Planning Commission
From: Steven A. Mendoza, Director of Community Development
Subject: Zoning Ordinance Amendment Z0A09-06

Summary: Consider amending the City's Los Alamitos Municipal Code (LAMC) Regulations related to where pool equipment may be located in Single-family (R-1) Zoning District (City initiated).

Recommendation:

1. Conduct a public hearing; and,
2. Take no action and leave Code as is; or
3. Adopt Resolution No. 09-17, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING THE LOS ALAMITOS MUNICIPAL CODE SECTION 17.16.150(A)(2), PERMITTING MECHANICAL POOL EQUIPMENT TO BE LOCATED LESS THAN THE REQUIRED 20 FEET FROM ANY DWELLING UNIT WITH THE APPROVAL OF A CONDITIONAL USE PERMIT.

Applicant: City Initiated

Location: Single-Family (R-1) Residential Zoning District Citywide

Background

The City's Zoning Ordinance requires that all mechanical pool equipment be placed twenty feet from a neighboring property. There has been a recent Code Enforcement case that has compelled staff to examine this regulation as it may be restrictive.

Recently, a pool remodel was mistakenly approved which allowed the pool equipment to be placed closer than the twenty-foot requirement from a neighboring dwelling unit. The neighboring property owner had brought the error to the attention of City staff after the

equipment had been installed. In discussing the issue with the property owner, some thought provoking issues were introduced such as:

- Some mechanical pool equipment is designed quieter today than it was previously
- Homeowners use block walls as a fencing material more than previously which can act as a noise buffer
- Other Cities are not as restrictive

Staff sees the benefit of reviewing older zoning standards to determine if they reflect current trends, such as the development of more efficient and quieter pool heaters and pool filters, and the use of block as a mitigation measure. These new trends may warrant some flexibility in the current distance requirements.

Below is LAMC Section 17.16.150 of the City's current Zoning Ordinance that demonstrates where a pool and pool equipment may be placed on a property:

“17.16.150 Swimming pools.

A. Location.

1. Swimming pools in the R-1 (single-family residential), R-2 (limited multiple-family residential) and R-3 (multiple-family residential) zoning districts shall be constructed on the rear one-half of the parcel or fifty (50) feet from the front property line, whichever is the less, or unless a different location is approved by the commission by conditional use permit. Swimming pools shall not be located closer than five feet from any rear, or side parcel line. On the street side of any corner parcel, where the rear parcel line abuts a side parcel line, the pool shall not be located closer than ten (10) feet from the side parcel line. The commission may reduce these requirements by fifty (50) percent on approval of a conditional use permit.

2. Filter and heating systems for pools shall not be located closer than twenty (20) feet to any dwelling other than the owner's.

B. Parcel Coverage. Pools shall not occupy more than forty (40) percent of the required rear setback. Coverage by a swimming pool shall not be considered in measuring maximum parcel coverage. Pools shall be completely enclosed by a fence at least five feet in height, and gates shall be self-closing and self-latching..”

Also, the LAMC defines various terms and phrases and provides for setback distances (Attachment 1).

In order to determine the industry standard, staff has surveyed how other cities are regulating the placement of pool equipment in residential zones. There are various setbacks adjusted for the needs of each City. Los Alamitos appears to be the most restrictive.

Seal Beach - Mechanical pool equipment: (i) Setback 1 foot from property line and 10 feet from neighboring residence, or 8 feet from neighboring residence with sound attenuation approved by City staff and (ii) Heater vent not to extend more than 6 inches above the nearest wall or fence.

Cypress - 10' from the door or window of the adjacent unit. Pool is 4' from PL

La Palma – Mechanical equipment (e.g., HVAC units) may be located in the rear yard, side yard, or on the roof. Such equipment may only be located in an interior side yard if it is not feasible to locate it in the rear yard. All equipment in the side yard shall be located at the furthest possible location away from windows on the adjacent property but in no case shall the equipment be less than ten feet from any window on the adjacent property. Pool equipment is only permitted in the rear yard area.

Rossmoor – The Orange County Zoning Ordinance is silent to the issue

Cerritos –Pool equipment shall be located a minimum of fifteen (15) feet from a neighboring residence and a minimum of three (3) feet from a property line.

Fountain Valley – Swimming pool and/or spa equipment be set back a minimum of fifteen (15) feet from all neighboring residences.

Huntington Beach - Pool equipment shall be placed a minimum of five (5) feet from a property line

Chino Hills - No closer than five (5) feet to a property line. If adjacent to other residence(s), must be at least ten (10) feet from a rear property line and five (5) feet from a side property line.

Staff has researched several types of modern pool heaters and pumps from several manufacturers. In all cases, the manufacturer's literature states that the decibel output for pool heaters and pumps is 55 dB(A) at ten (10) feet. The LAMC Sections 17.24.050 and 17.24.070 regulate both exterior and interior noise limits in residential zones:

Residential noise standards		
Exterior	Noise Level	Noise Level
	7 a.m. – 10 p.m.	55 dB(A)
Interior	10 p.m. – 7 a.m.	50 dB(A)
	7 a.m. – 10 p.m.	55 dB(A)
	10 p.m. – 7 a.m.	45 dB(A)

As the table illustrates, should the distance allowed to a neighboring residence be reduced to a minimum of ten (10) feet, a daytime operation of the equipment should be in compliance with both exterior and interior noise standards. However, a nighttime operation may exceed these limitations. Although there are many sources of information stating that modern equipment is quieter, many homeowners are now using their equipment at night. With the cost of peak hour electricity, many homeowners are running the heaters, filters and pumps during the evening hours while other are

sleeping. Running the equipment at night lowers electrical costs which saves the household money.

Additionally, although both pumps and filters are now quieter than older technology, pool heaters now have fans in them to reduce the carbon dioxide and improve efficiency and they are somewhat louder than previous versions.

Earlier this year, the Planning Commission made a similar recommendation to the City Council regarding Air Conditioners. A Zoning Code Amendment was approved which relaxed the setback standards to allow air conditioning compressors to be three (3) feet from the property line instead of the previous five (5) feet. The extra requirement was added to make sure the condenser remained twelve (12) feet from any neighboring property's windows.

Chapter 17.42 of the LAMC provides regulations for a conditional use permit when additional review of the configuration, design, location, and potential impacts of the proposed use is required in order to determine the compatibility of a use to the site and surrounding uses to ensure the protection of the public convenience, health, interest, safety, and welfare. It is appropriate to require additional review when seeking to accommodate flexibility in the siting of pool equipment in a residential neighborhood. In order to balance the need for flexibility in the placement of pool equipment in residential zones with the need to ensure that pool equipment does not have an adverse impact to neighboring properties, it is proposed that the current 20 feet requirement remain in place, but that an applicant may apply for a conditional use permit for placement of pool equipment less than 20 feet from another dwelling unit. The conditional use permit process will allow staff and the Planning Commission to review the placement of pool equipment on a case-by-case basis for issues related to noise, air emissions, view and other impacts to neighboring properties.

Recommendation

It is the opinion of staff that Section 17.16.150(A)(2) continue to require that pool equipment be placed at least 20 feet from another dwelling unit, but be modified to add that the placement of pool equipment may be permitted less than 20 feet from a dwelling unit with the approval of a conditional use permit.

Attachments: 1) Excerpt from Zoning Code Sections 17.8.030 and 17.76.020
2) Resolution No. 09-17
2) Draft Council Ordinance

17.76.020 Definitions of specialized terms and phrases.

“Structure” means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground including swimming pools and patio covers, but not including paved areas and not including electrical transformers and power poles. See “Buildings.”

“Setback” means the distance by which a structure, parking area, or other development feature shall be separated from a parcel line, other structure or development feature, or street centerline. Setbacks from private streets are measured from the edge of the easement. Figure 7-03 (Setbacks) shows the location of front, side, street side, rear, and interior setbacks. See also “Yards.”

“Yard” means an area between a parcel line and a setback, unobstructed and unoccupied from the ground upward, except as otherwise provided in this code. See also “Setbacks.”

1. Yard, Front. “Front yard” means an area extending across the full width of the parcel between the front parcel line and the required setback.

2. Yard, Rear. “Rear yard” means an area extending the full width of the parcel between a rear parcel line and the required setback.

3. Yard, Side. “Side yard” means an area extending from the front yard to the rear yard between the nearest side parcel line and the required setback.

TABLE 2-03

Residential Zoning Districts General Development Standards

du = dwelling unit			
* = A parcel that is approved for single-family residential use by subdivision or parcel split, and has a minimum area of less than 9,000 sq. ft.			
Development Feature	Requirement by Zoning District		
	R-1	R-2	M-H
Minimum setbacks (ft.)	Minimum setbacks required. Also see Sections 17.16.090 (Paving of front setback requirements), 17.16.100 (Projections into required setbacks), 17.16.140 (Sight safety triangle), 17.16.150 (Swimming pools), 17.26.060 (Residential parking	*	

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	R-1	R-2		R-3	M-H
			*		
	<i>and storage standards), and 17.38.120 (Outdoor storage)</i>				
Front yard	20	20 ^(x)	20 ⁽⁹⁾	17.22 LAMC	5 acres
Front yard (Turn-around end of a Cul-de-sac)	10				
Side yard (each)	5	5 ^(xx)	5 ^(xx)	17.22 LAMC	
Street side yard (corner parcel)	10				

17.38.030 Accessory structures

This section provides standards for accessory uses and structures that are customarily related to a residence, (e.g., garages, greenhouses, storage sheds, studios, above ground swimming pools/spas, and workshops). Standards for in-ground swimming pools are provided in Section 17.16.150 (Swimming pools).

5. Location Requirements.

a. Yard Areas. (Section 17.06.030(E)(4)). Detached accessory structures in residential zoning districts may be located in the required side or rear yard areas, provided that the structure(s) are a minimum of five feet from any common property line to the eave line and provided that all run-off water from the roof is disposed of on the parcel.

**UNOFFICIAL MINUTES OF THE PLANNING COMMISSION
OF THE CITY OF LOS ALAMITOS
REGULAR MEETING**

MONDAY, DECEMBER 14, 2009

- B.** Zoning Ordinance Amendment (Z0A09-06) – This item was continued from the November 9, 2009 meeting. The Commission will consider amending the City's Los Alamitos Municipal Code Regulations related to where pool equipment may be located in rear yards in the Single-family (R-1) Zoning District. (Applicant: City Initiated)

Chair Sofelkanik recused himself due to his involvement with a construction project at his home wherein he could benefit financially, so he declined to participate in the discussion and took a seat in the audience.

Commissioner Daniel took over as Chair of Meeting.

Mr. Mendoza summarized the staff report.

Commissioner Sutherlin stated and asked we're not asking that it be less than 20ft., that each item will be decided individually.

Mr. Mendoza responded that instead of the Planning Commission lowering the 20ft. to a specific number, they started analyzing it and found the situation to be different at each property, with the type of equipment they would be using, with the manufacturing specs, planning commission and the public The Conditional Use Permit, would allow the public to apply to their given situation and the Planning Commission to amend the code to allow pool equipment to be less than 20ft. with the approval of a Conditional Use Permit

Commissioner Sutherlin asked that's the way it is now right.

Mr. Mendoza answered negatively and explained its 20ft with no exception.

Commissioner Riley asked rather pool equipment defined as a structure.

Mr. Mendoza stated that he would allow the attorney to answer. Also stated that previous Directors have treated it as a structure and some didn't treat it as a structure. He explained that he does not treat it like a structure.

Commissioner Riley asked under that interpretation there wouldn't be a setback requirement for the equipment from the property line.

Mr. Mendoza answered that it would not be for the property line, the only rule and regulation that staff would apply, is the 20ft. rule and the option to apply for a Conditional Use Permit if that's the way the Planning Commission goes tonight.

Commissioner Andrade asked if there already a property line set back.

Mr. Mendoza explained that if you look at the section that deals with swimming pools equipment, states that mechanical equipment shall not be 20ft from a dwelling.

Commissioner Andrade asked do we have any other sections in our code that addresses this Conditional Use Permit, like air conditioning units or any other thing that meets this kind of guidelines.

Mr. Mendoza answered affirmatively. He stated that there maybe things like roof top air conditioning equipment, maybe something to address that rooftop would be available or optional with a CUP, and there are always changes in state law that warrants the local city to review regulations.

Commissioner Andrade asked how much would it cost for an application to go through this Conditional Use Permit.

Mr. Mendoza stated that there are two conditional permits, a minor and a major. He explained that a minor would be \$1,000 and a major would be \$1,900 to go through the process.

Acting Chair Daniel opened the Public Hearing.

Dave Chamberlaine, Resident Business Owner, gave a brief explanation of his support in the new regulations and findings of Mr. Mendoza's new process of the Conditional Use Permit.

Chair Daniel asked Dave Chamberlaine to sign in.

Commissioner Sutherlin asked are you aware of any properties transferring ownership and not being in code.

Mr. Chamberlaine responded that this is the first time in his 30 years that this issue has come up, he moves the equipment to where he thought was a less intrusive place.

Commissioner Sutherlin asked so you got involved in a particular case.

Mr. Chamberlaine responded yes.

Commissioner Sutherlin asked was there any compensation given to the new owner to get it back in code.

Mr. Chamberlaine explained that yes and they build structures around it and other changes to be in compliance.

Commissioner Sutherlin asked so you were involved in moving the structure.

Mr. Chamberlaine stated that he did move it from right up against the fence to about 12ft. away from the property line but closer than 20ft. from the house.

Commissioner Sutherlin asked did any city officials comment on that.

Mr. Chamberlaine noted that he got the permit to do it and they said it has to be at least 5ft. from the wall, and if the city made a mistake and there's another code that the attorneys can figure it out.

Ken Tipton, 10560 Los Alamitos Blvd., gave a brief explanation of the 20ft. rule and support of CUP requirement.

Mr. Tipton provided some insight to pool equipment stating there is a fan in all new pool heaters, most motors run now are multiple speeds with 12 different speeds which is a quiet pump, and it's not the motor it's the heater that's louder than the pump.

Mr. Tipton stated that the emissions with the fan breaks it up but we are still tied in to state law that we cannot put any heater stack within 4ft. of any window that would be open.

Acting Chair Daniel closed the Public Hearing.

Commissioner Sutherlin referred to the three options again.

Mr. Mendoza answered that the recommendation from City Staff, are two options, (1) to leave the code as it is, (2) the realization that there may be certain circumstances that warrant a review of a property if the property wanted to have their pool equipment less than 20ft. from the neighbors dwelling.

Commissioner Sutherlin asked why not put both options together instead of one or the other.

Mr. Mendoza responded that they are together in his proposal.

Assistant City Attorney Yvette Abich Garcia reiterated that they would be leaving the current 20ft. in place but carving an exception that allows homeowners to apply for a CUP if they want to locate the pool equipment less than 20ft. But the 20ft standard remains

Commissioner Sutherlin asked what the penalty is if they don't receive a CUP.

Mr. Mendoza answered that the homeowner would have an illegal structure and it would go through code enforcement, with the first fine is \$50, second fine is \$100, the third fine is \$200, and carries over to infractions and then to court after that.

Commissioner Andrade asked attachment two is the resolution and attachment three is an ordinance.

Mr. Mendoza responds that the City Council would take action on. Also stated, when amending a code it has to be done through an ordinance, in other words you can't adopt an ordinance, you can adopt a resolution asking council to adopt the ordinance, but you have to see the ordinance.

Commissioner Andrade stated that every other city neighboring us, does not meet that 20ft line. I believe there is an issue because of that with the 20ft. suggests that maybe

reducing the footage, but leaving the CUP because 15ft. seems more reasonable and possibly will create fewer CUPS.

Commissioner Daniel asked if doing it on a site by site basis will it create issues for the city and the Planning Commission.

Mr. Mendoza answered they would have to demonstrate through application and be turned into a staff report which will be analyzed, will then be presented to you and have a public hearing where all neighbors will give their testimony. Once you hear the testimonies of the professional that are brought in or the neighbors that come in, you'll be able to render a decision.

Commissioner Riley asked how many pool permits are pulled a year on average.

Mr. Mendoza stated that in the last two years six a year have been pulled on average.

Discussion between Riley and Andrade continued regarding the 20ft. versus 15ft.

Motion/Second: Sutherlin/Andrade

Carried to: Adopting Resolution No. 09-17, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING THE LOS ALAMITOS MUNICIPAL CODE CHAPTER 17.16.150(a)(2), PERMITTING MECHANICAL POOL EQUIPMENT TO BE LOCATED LESS THAN THE REQUIRED 20 FEET FROM ANY DWELLING UNIT WITH THE APPROVAL OF A CONDITIONAL USE PERMIT FOR PLACEMENT OF POOL EQUIPMENT LESS THAN 20 FEET FROM ANOTHER DWELLING UNIT," Adding a fourth (4th) WHERE AS, the property owner and the property owners realtors requested a text amendment due to a pending code enforcement action against the property regarding the pool equipment and the Community Development Director concurred with the request and brought it to the planning Commission.

AYES: Andrade, Loe, Riley, Sutherlin, Daniel
NOES: None
ABSENT: None
ABSTAIN: None

Chair Sofelkanik returned to the Dias.