



# AGENDA ITEM

March 12, 2013

**TO:** Honorable Mayor and  
Members of the City Council

**THRU:** John W. Sibley  
City Manager

**FROM:** Ed Knight *[Signature]*  
Interim Community Development  
Director

Reviewed/Verified By:

City Manager *[Signature]*  
Finance Director *[Signature]*

To Be Presented By:  
Jennifer Le *[Signature]*

<input type="checkbox"/> Cons Calendar	<input type="checkbox"/> City Mgr Rpts
<input type="checkbox"/> Council Reports	<input type="checkbox"/> Legal Affairs
<input type="checkbox"/> Boards/Cmtes	<input checked="" type="checkbox"/> Public Hrgs
<input type="checkbox"/> Admin Reports	<input type="checkbox"/> Plan/Environ

## 1. SUBJECT

Ordinance 1-13(D) approving Zone Change No. 1267-12(D) rezoning certain properties in "Area D" of the Old Towne Orange focus area (generally located north of La Veta Avenue, south of Palm Avenue, west of the railroad tracks, and east of Batavia Street) to Single Family Residential (R-1) zoning.

## 2. SUMMARY

The City Council considered adoption of Zone Change 1267-12 at its February 12, 2013 meeting, and continued deliberations for "Area D" to the March 12, 2013 meeting. The City Council adopted the City's Comprehensive General Plan Update on March 9, 2010. As part of this update, the Council decided to change General Plan land use designations on certain properties in Old Towne's residential quadrants to Low Density Residential (LDR). This change was made to establish a land use policy for Old Towne's residential quadrants that ensured future development in the area would be single-family residential in nature. State law requires consistency between a property's General Plan land use designation and its zoning. The City's General Plan identifies R-1 (Single Family Residential) as the corresponding zoning district for the LDR General Plan land use designation. The properties affected by the proposed zone change currently have a LDR land use designation but are zoned something other than R-1. Therefore, Zone Change 1267-12(D) is proposed to rezone the subject properties to R-1-6 (Single Family Residential, 6,000 square foot minimum lot size) consistent with the LDR General Plan land use designation approved by the Council in 2010.

## 3. RECOMMENDATION

- (1) Find that the proposed zone change is within the scope of the previously-approved 2010 General Plan, which was evaluated in certified Program EIR No. 1815-09; and find that the Program EIR adequately describes the zoning changes for purposes of California

ITEM /3.1

03/12/13

Environmental Quality Act (CEQA) compliance and no new environmental documents are required.

- (2) Adopt Ordinance No. 1-13(D) approving Zone Change 1267-12(D) to rezone to Single Family Residential (R-1-6) certain properties in “Area D” of the Old Towne Orange focus area (generally located north of La Veta Avenue, south of Palm Avenue, west of the railroad tracks, and east of Batavia Street).

#### **4. FISCAL IMPACT**

None.

#### **5. STRATEGIC PLAN GOAL(S)**

5b. Expand and strengthen processes and practices related to protection of cultural resources.

#### **6. GENERAL PLAN IMPLEMENTATION**

##### **Land Use Element**

Goal 5.0: Maintain and enhance the vibrant, transit-accessible, pedestrian-friendly, and livable character of Old Towne’s neighborhoods and commercial core.

##### **Cultural Resources and Historic Preservation Element**

Goal 3.0: Provide incentives and expand education efforts for historic preservation.

Policy 3.2: Provide incentives to encourage and support historic preservation.

#### **7. DISCUSSION and BACKGROUND**

##### **Executive Summary**

On February 12, 2013, the City Council decided to divide Zone Change 1267-12 into four areas (Areas A, B, C and D) in order to deliberate and decide upon each area separately. The Council approved the Zone Change for Areas A and C, did not approve the Zone Change for Area B, and continued deliberations for “Area D” to the March 12<sup>th</sup>, 2013 Council meeting. This staff report discusses “Area D” and addresses issues raised by the Council at the February 12, 2013 hearing.

- As part of the 2010 Comprehensive General Plan Update, the Council performed a highly detailed review of the Old Towne focus area and approved a Low Density Residential (LDR) General Plan land use designation for much of the residential quadrants of Old Towne. R-1 is the zoning designation that is consistent with the LDR General Plan designation. Therefore, this Zone Change for “Area D” implements the policy action taken by the Council in 2010.

- In 2010 Council established the LDR designation to ensure future development in Old Towne's residential quadrants was single family residential in nature. The change to LDR was originally considered due to concerns about the loss of historic homes and context due to higher density residential development allowed for under non-LDR/non-R-1 zoning designations. There were also concerns that such future development would exacerbate traffic, parking and other neighborhood issues, detracting from Old Towne's single family residential neighborhood character. The land use change was also intended to eliminate confusion about *expected* development potential (based on the zoning) versus the *actual* development potential given site constraints, including lot size, historic buildings, site context, and adherence to the Old Towne Design Standards (OTDS).
- Existing zoning in "Area D" is primarily R-2 (Duplex) and R-3 (Multi-Family) zoning. On-the-ground land use in "Area D" south of Chapman Avenue is a mix of single family residential and duplexes, with a few larger multi-unit developments, some industrial uses along the railroad and commercial uses along Chapman Avenue. Of the 202 properties affected by the proposed Zone Change, approximately 60% contain single family residential uses and 39% contain multi-family (more than one unit). 48% contain "contributing" historic buildings.
- Approving the Zone Change has no practical effect on existing on-the-ground duplex and multi-family uses. These uses are considered legal "permitted uses" (not "legal nonconforming") under OMC Section 17.14.050.G and can remain in place in perpetuity. They can also be renovated, expanded and reconstructed (so long as no new units are added and proposed improvements comply with Code).
- For some properties, approving the Zone Change would have no practical effect on future development potential, either because the properties already contain the maximum number of units allowed under their current zoning, or because their current lot size, configuration etc. already limits their ability to accommodate additional units while complying with Code and the OTDS. For properties where the ability to build additional units is limited by existing lot size, rezoning to R-1 would remove the incentive for future lot consolidation and associated construction of higher density housing.
- For properties that contain less than the maximum number of units allowed under their existing zoning, and also have the lot size, configuration, etc. to accommodate additional units while meeting Code requirements and the OTDS, approving the Zone Change could limit their ability to build additional units. (For properties with a Single Family Residence, an accessory second unit would be allowed under the R-1 zoning, assuming it could be designed to comply with Code and the OTDS).
- Overall, rezoning to R-1 is consistent with 2010 Council policy actions. Specifically, limiting construction of additional residential units in Old Towne has area-wide historic preservation and neighborhood preservation benefits and addresses concerns regarding future increases in traffic, parking and other density-related issues. It also could result in changing the future development potential for some properties.

## **Past Council Direction**

The LDR land use designation approved for Old Towne's residential quadrants as part of the 2010 General Plan Update (and the corresponding subject R-1 re-zoning) was derived in response to controversial development projects over the past 20 years that were perceived to have detracted from the predominantly single family residential character of Old Towne. Specifically, on any given property, there are differences between the number of units allowed under the General Plan, number of units allowed under the development standards of the non-R-1 zoning designations, and the number of units ultimately deemed acceptable under the "neighborhood compatibility" provisions of the Old Towne Design Standards. This ambiguity as to the *actual* development potential of property in Old Towne has caused confusion, differing expectations, and long-standing disagreements among the City, applicants and the larger Old Towne community. Ultimately, these differing expectations have led to public controversy, a complex decision-making process, and potential for legal challenge for Old Towne projects. (Two such projects have in recent times resulted in appellate court decisions. Although the City prevailed in both cases, there was a time and cost to the litigation borne primarily by the homeowners.)

The General Plan Update provided the City with the opportunity to reconcile the on-going friction between the General Plan/zoning and the City/community objectives for Old Towne's residential quadrants. As part of the 2010 General Plan Update, the Council performed a highly detailed review of the Old Towne focus area and approved a Low Density Residential (LDR) General Plan land use designation for much of the residential quadrants of Old Towne. (Based on the detailed review, certain blocks retained higher density land use designations.) The 2010 General Plan land use map for the Old Towne "focus area" is included as Attachment 2 to this report. The subject rezoning implements this previous Council direction.

## **General Plan-Zoning Consistency and State Law**

State planning law (Government Code Section 65860) requires consistency between a property's General Plan and zoning designation. Therefore, as a follow up action to the 2010 General Plan Update, rezoning the properties that experienced a change in their General Plan land use designation is necessary in order to establish consistency.

The General Plan identifies R-1 (Single Family Residential) as the corresponding zoning for the LDR General Plan land use designation. (Refer to the General Plan Land Use Element Table LU-3, Attachment 3 to this report). Properties affected by the subject Zone Change currently have a General Plan land use designation of LDR but are zoned Duplex Residential (R-2-6), Multi-Family Residential (R-3), and Office Professional (O-P).

Zone Change 1267-12(D) proposes to re-zone 202 parcels to R-1-6, consistent with their existing LDR General Plan land use designation. Existing and proposed zoning maps for the affected parcels are provided as exhibits to the subject Ordinance (Attachment 1 to this report).



## **Existing On-The-Ground Land Use for “Area D”**

There are a total of 471 parcels in “Area D” of the Old Towne focus area (west of Glassell Street). Of these, approximately 41% are single-family residential, 47% are multi-family residential (i.e. have more than one unit) and 13% contain other non-residential uses. The majority of the properties identified as multi-family (south of Chapman Avenue) contain duplexes (two units). There are also larger apartment buildings in the area along with industrial uses along the railroad tracks and commercial uses along Chapman Avenue.

Of the 471 parcels in Area D, 202 parcels are proposed for a Zone Change to R-1 to match their existing LDR General Plan designation. Of the 202 properties affected by the subject Zone Change (in Area D), approximately 60% contain single family residential uses and 39% contain multi-family (more than one unit). 48% contain “contributing” historic buildings.

A large scale map showing “contributing structures” and existing “on the ground” land use for “Area D” is included as Attachment 4 to this report. A large scale map showing existing zoning for “Area D” is included as Attachment 5. (Properties subject to the proposed Zone Change are outlined in black).

## **Legal Non-Conforming Status**

A concern regarding the legal non-conforming status of affected properties was discussed at the February 12, 2013 Council meeting. Typically, the proposed rezone of the subject properties to R-1 zoning would render the properties that already have multiple residential units or non-residential uses “legal non-conforming”. However, as a follow-up action to the May 8, 2012 City Council approval of Zone Change 1261-11 (related to the rezoning of Old Towne properties *east of Glassell*), the Council approved Ordinance No. 7-12 (OMC Section 17.14.050.G) addressing the “legal non-conforming” status of existing duplex and multi-family dwellings. OMC Section 17.14.050.G is included as Attachment 6 to this report. It recognizes duplex and multi-family dwellings that experienced a zoning change to R-1 as a result of the 2010 General Plan Update as a legal “permitted use” (not “legal nonconforming”) provided they were legally established at the time of the change to such zoning. Further, it allows for additions, reconstructions or alterations on such properties, provided that no new dwelling units are added and the proposed improvement otherwise complies with Code requirements.

Furthermore, in conjunction with adoption of the 2010 General Plan in March 2010, the City Council adopted Ordinance No. 12-09 (OMC Section 17.38.065), making special accommodations for properties made “non-conforming” by the land use changes of the General Plan. These provisions are detailed in Attachment 7, and include allowing a “legal non-conforming” use to remain indefinitely and also to expand (provided no new units are added). Hence, non-residential properties or uses (which are not covered by OMC Section 17.14.050.G) would be covered by OMC Section 17.38.065 and can remain as they are today. Under this Code section, non-conforming uses may also be replaced with an equivalent non-conforming use or physically expanded (provided any proposed improvements comply with Code).

## Practical Effect of Approving the Zone Change

Concerns were raised at the February 12, 2013 Council meeting as to the purpose and practical benefits of the Zone Change. The purpose of the Zone Change is to bring the zoning into consistency with the LDR General Plan designation. The LDR designation was established by the City Council in 2010 to ensure future development in the Old Towne's residential quadrants would be single family residential in nature.

### Existing Uses

The proposed Zone Change has no practical effect to legally-established *existing* duplexes and multi-family uses due to the OMC provisions described above. Existing duplex and multi-family development can continue on as they are today in perpetuity. In addition, they can be renovated, added onto, or reconstructed, provided that no new units are added and provided that any proposed improvements comply with Code.

### Future Development Potential

For properties zoned R-2 or R-3 that already contain the maximum number of units allowed under the existing zoning (given current lot size and configuration), the proposed Zone Change has no practical effect on future development potential. The existing units on the property are "grandfathered" in and (given current lot size and configuration) additional units could not have been built under either the existing zoning or the proposed R-1 zoning.

It should be noted that the *actual* number of units that can be built on an Old Towne lot (given site constraints including small lot size, historic buildings, site context, and adherence to Code and the OTDS) is typically lower than the number of units one might *expect* to build based just on the allowable density range of the zoning district. As such, the majority of residential lots in Old Towne fall into the category of properties that already contain the maximum number of units allowed (given current lot size and configuration). In these cases, the practical effect of rezoning to R-1 is that it aligns community expectations for development potential with the reality of *actual* development potential. In these cases additional units or higher-density development could only be constructed if lots were consolidated or otherwise reconfigured in the future. Therefore, the other practical effect of rezoning to R-1 is that it removes the incentive for such lot consolidation and the associated potential for multi-unit residential development in the future. So long as R-2 or R-3 zoning remains in place, there is some potential for development at R-2 and R-3 zoning densities to occur given the right lot conditions.

For R-2 or R-3 zoned properties that contain less than the maximum number of units allowed under the existing zoning (given current lot size and configuration), rezoning to R-1 would mean that additional units could not be built. (Note that under the proposed R-1 zoning an "accessory second unit" could be built on a property in addition to the existing single family residence, subject to compliance with Code and the OTDS). Arguments have been made that (from an area-wide perspective) rezoning to R-1 is a benefit because it removes the incentive to demolish historic single family homes to accommodate more units (potentially allowed under non-LDR/non-R-1 zoning), thus preserving the historic buildings and single-family residential

character for which the Old Towne neighborhood is known. Arguments have also been made that re-zoning to R-1 and limiting the potential for future additional units limits future traffic, parking and other adverse conditions associated with higher density housing that have detracted from Old Towne's neighborhood character and historic district context in the past. Arguments have also been made that rezoning to R-1 may negatively affect individual property values in cases where a property owner would not be able to build additional units currently allowed under the existing zoning.

### **Public Notice**

A City Council public hearing notice for the February 12, 2013 Council meeting was published in the local newspaper on January 31, 2013. In addition, approximately 1,390 notices were mailed to owners and tenants of affected properties as well as properties located within 300 feet of affected properties. Hearing notices were also posted at City posting locations.

At the February 12, 2013 meeting, the Council continued deliberations for Area "D" to the March 12, 2013 Council meeting. Therefore, no further public notice was required.

### **Planning Commission Hearing**

On December 3, 2012, the Planning Commission conducted a public hearing for Zone Change 1267-12. The Commission adopted Resolution No. PC 49-12, recommending approval of the Zone Change to the City Council by a vote of 4 in favor, 0 opposed and 1 abstention. Public comments were received from seven members of the public at the hearing, with six opposed and one in support. In addition, written correspondence was received from five members of the public and was considered by the Commission. The Planning Commission Resolution, Minutes, Staff Report for Zone Change 1267-12 are provided as Attachments 8, 9, and 10 respectively.

### **February 12, 2013 Council Meeting and Public Comments**

At the February 12, 2013 Council meeting, seven members of the public spoke on the Zone Change item (three in favor, four opposed). The draft Council meeting minutes and staff report for the February 12<sup>th</sup> Council meeting are included as Attachments 11 and 12 respectively. Written correspondence received for properties located in "Area D" are included as Attachment 13 to this report. Attachment 14 contains a brief staff analysis of properties located in "Area D" that were discussed at the Planning Commission hearing and/ or the February 12, 2013 Council hearing for the project.

## **7. ATTACHMENTS**

1. Ordinance No. 1-13(D) including existing and proposed zoning maps for affected properties
2. 2010 General Plan Land Use Map for the Old Towne Focus Area
3. 2010 General Plan Land Use Element Table LU-3
4. Map showing existing land use and contributing structures for "Area D" (large scale)
5. Map showing Existing Zoning for "Area D" (large scale)
6. OMC Section 17.14.050.G

7. OMC Section 17.38.065
8. Planning Commission Resolution No. PC 49-12
9. December 3, 2012 Planning Commission Meeting Minutes
10. December 3, 2012 Planning Commission Staff Report (without exhibits)
11. February 12, 2013 City Council Draft Meeting Minutes
12. February 12, 2013 City Council Staff Report (without exhibits)
13. Written correspondence from the public for properties located in "Area D"
14. Summary analysis for properties located in "Area D" that were discussed at the December 3, 2012 Planning Commission hearing or at the February 12, 2013 Council hearing

**ORDINANCE NO. 1-13(D)**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE APPROVING ZONE CHANGE NO. 1267-12(D) REZONING CERTAIN PROPERTIES IN THE OLD TOWNE "FOCUS AREA" GENERALLY LOCATED NORTH OF LA VETA AVENUE, SOUTH OF PALM AVENUE, WEST OF THE RAILROAD TRACKS, AND EAST OF BATAVIA TO SINGLE FAMILY RESIDENTIAL (R-1), IN ORDER TO ESTABLISH CONSISTENCY BETWEEN THE LOW DENSITY RESIDENTIAL GENERAL PLAN LAND USE DESIGNATION AND THE ZONING CLASSIFICATION IN ACCORDANCE WITH STATE LAW.**

**ZONE CHANGE NO. 1267-12(D)  
APPLICANT: CITY OF ORANGE**

WHEREAS, on March 9, 2010 the City adopted its 2010 General Plan, including changes to land use designations in the residential quadrants of the Old Towne Focus Area to establish more uniform Low Density Residential districts as presented in the Land Use Element's Land Use Policy Map; and

WHEREAS, the land use designation change to Low Density Residential (LDR, 2-6 dwelling units/acre) was intended to more accurately represent on-the-ground conditions, and support the City's long-standing historic preservation objectives for Old Towne that include protection of the predominantly historic single-family character of the residential quadrants; and

WHEREAS, in addition to the properties that experienced a General Plan land use designation change in 2010, there are also properties in Old Towne that have a long-standing LDR General Plan land use designation; and

WHEREAS, the properties subject to Zone Change No. 1267-12(D) are zoned Duplex Residential (R-2-6), Multi-family Residential (R-3), and Office Professional (O-P), which are not consistent with the LDR General Plan land use designation; and

WHEREAS, California Government Code §65860 requires consistency between a city's General Plan and zoning; and

WHEREAS, the Planning Commission, having considered the proposed Ordinance and Zone Change at a public hearing held on December 3, 2012 including review of the staff report and having received public testimony on the item, has determined the proposed amendment is justified and recommends approval thereof; and

WHEREAS, the City Council, having considered the proposed Ordinance and Zone Change at a public hearing held on February 12, 2013 and March 12, 2013 including review of the staff report and having received public testimony on the item, has determined that the proposed amendment is justified.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES ORDAIN AS FOLLOWS:**

**SECTION I:**

The existing zoning is depicted on the map attached hereto as Exhibit "A" and incorporated herein by reference. The Orange Municipal Code is amended in order to change the zoning classification by amending the zoning on the sites depicted on the map attached hereto as Exhibit "B" and incorporated herein by reference.

**SECTION II:**

The proposed zone changes described in Section I are related to the public welfare, required by California Government Code Section 65860 and consistent with Final Program Environmental Impact Report (EIR) No. 1815-09 for the Comprehensive General Plan Update, certified on March 9, 2010, and prepared in accordance with the California Environmental Quality Act (CEQA). The proposed zone changes are within the scope of the previously approved General Plan and are adequately described in the previously certified General Plan Program EIR for purposes of CEQA. No further environmental documentation is warranted.

**SECTION III:**

A summary of this ordinance shall be published and a certified copy of the full text of this ordinance shall be posted in the Office of the City Clerk at least 5 days prior to the City Council meeting at which this ordinance is adopted. A summary of this ordinance shall also be published once within 15 days after the ordinances passage in a newspaper of general circulation, published, and circulated in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of such adopted ordinance along with the names of those City Councilmembers voting for and against the ordinance in accordance of Government Code Section 36933. This ordinance shall take effect 30 days from and after the date of its final passage.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2013.

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Teresa E. Smith, Mayor, City of Orange

**ATTEST:**

\_\_\_\_\_  
Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE     )  
CITY OF ORANGE         )

I, MARY E. MURPHY, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 201\_, and thereafter at the regular meeting of said City Council duly held on the \_\_\_\_ day of \_\_\_\_\_, 201\_, was duly passed and adopted by the following vote, to wit:







AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

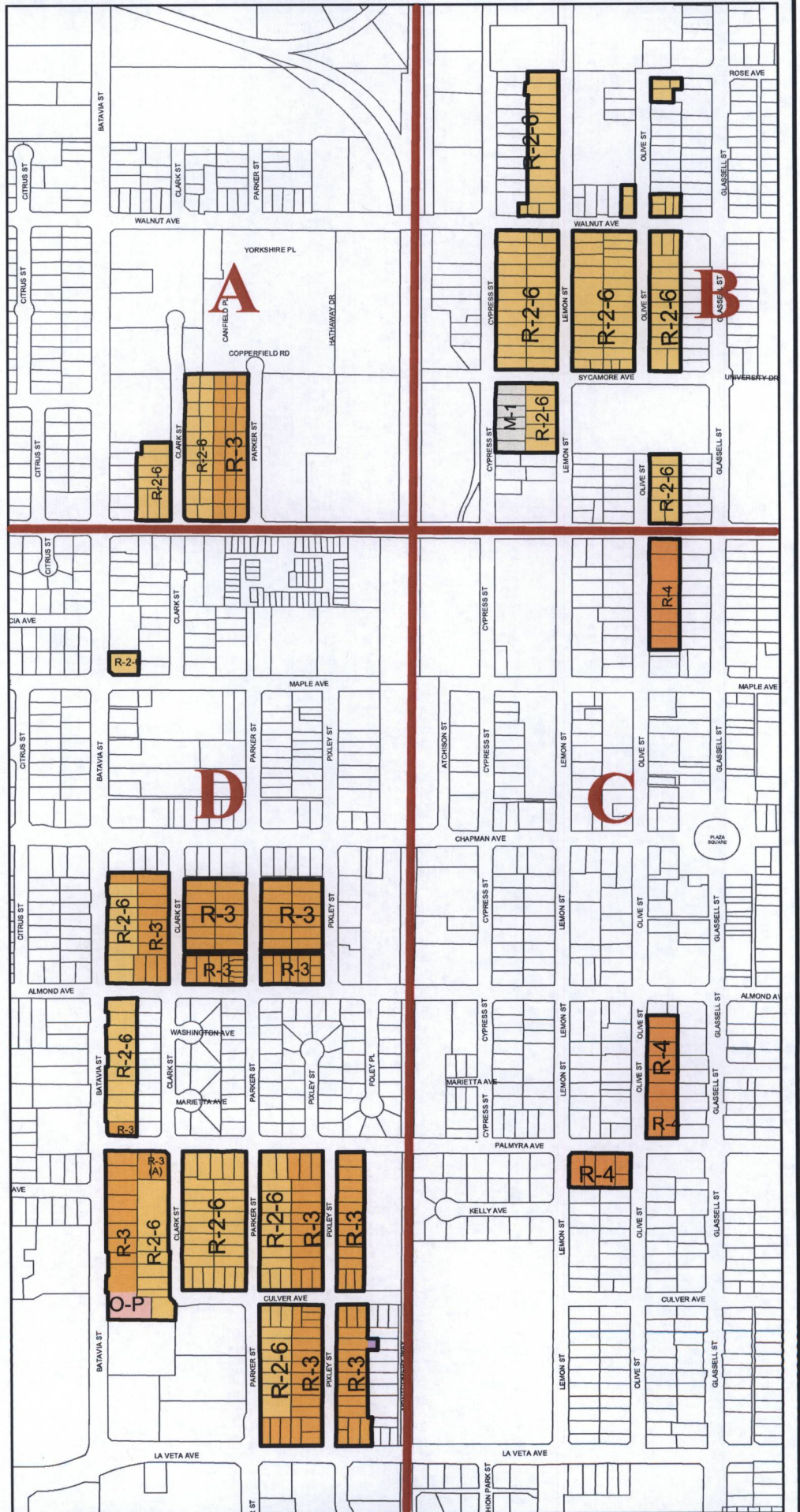
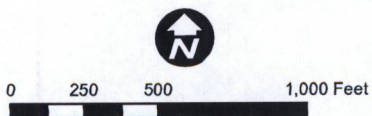
\_\_\_\_\_  
Mary E. Murphy, City Clerk, City of Orange



# Map of Existing Zoning Zone Change No. 1267-12

## Legend

	M-1
	R-2-6
	R-3
	R-3 (A)
	R-4
	O-P

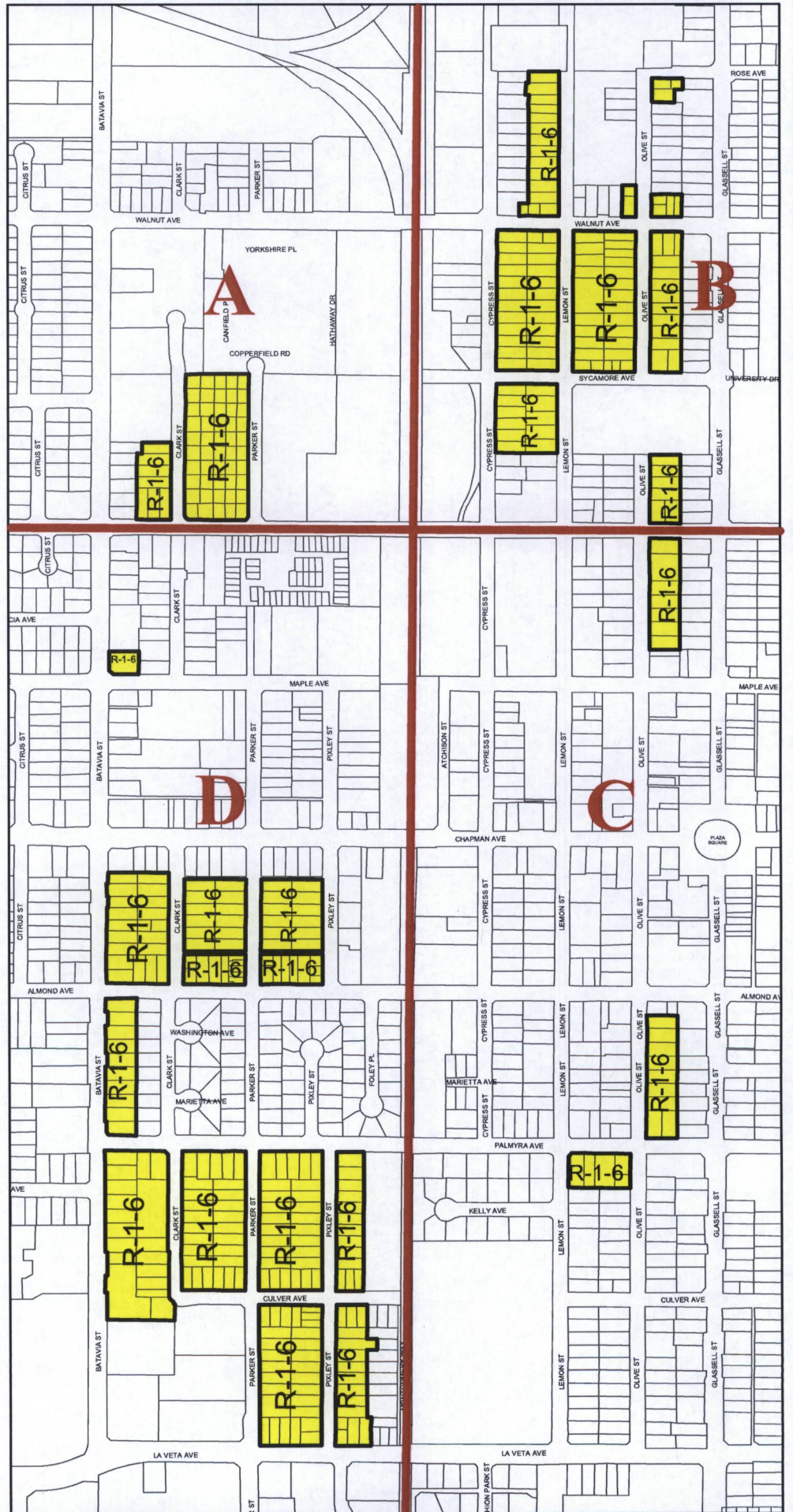
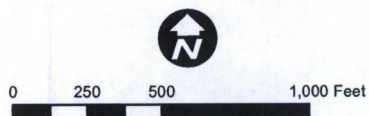




# Map of Proposed Zoning Zone Change No. 1267-12

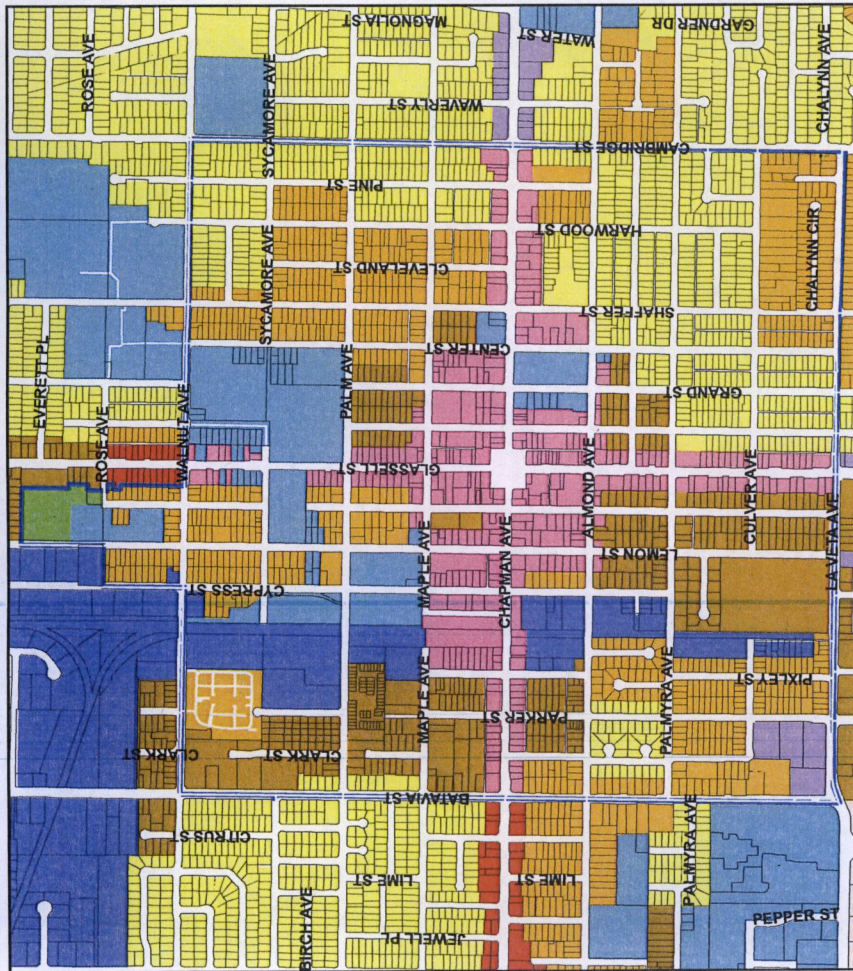
## Legend

 R-1-6

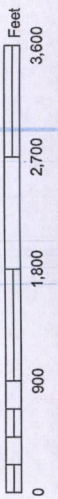




## Existing General Plan

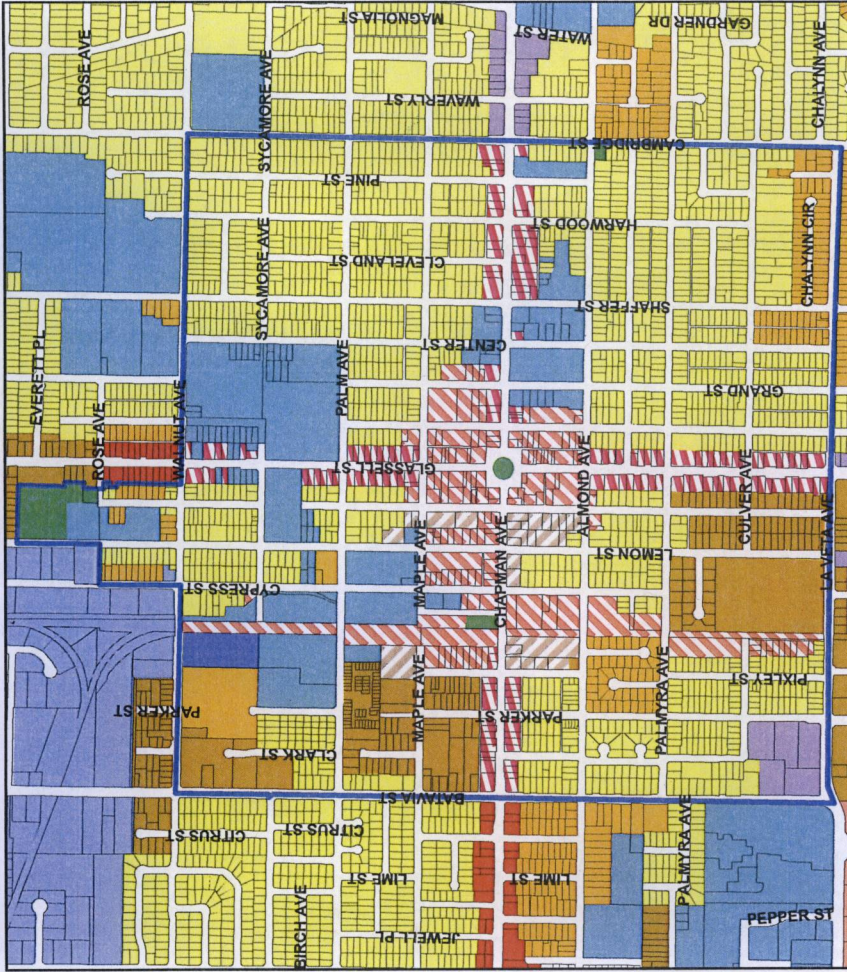


- Low Density Residential 2-6 du/ac
- Low Medium Residential 6-15 du/ac
- Medium Density Residential 6-15 du/ac
- Old Town Mixed Use
- General Commercial
- Commercial 2.5-3.0 FAR
- Industrial 0.4 FAR
- Office Professional 0.5 FAR
- Public Facilities
- Open Space Park

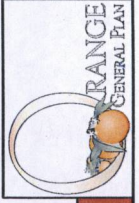


## Old Towne and Santa Fe Depot

## Recommended General Plan Update



- Low Density Residential 2-6 du/ac
- Low Medium Residential 6-15 du/ac
- Medium Density Residential 15-24 du/ac
- Old Towne Mixed Use 6-15 du/ac; Max. 0.6 FAR
- Old Towne Mixed Use 6-15 du/ac; 0.5-1.0 FAR
- Old Towne Mixed Use 6-24 du/ac; 1.0-1.5 FAR
- Urban Office Professional 1.5-3.0 FAR
- General Commercial Max. 1.0 FAR
- Neighborhood Office Professional Max. 0.5 FAR
- Light Industrial Max. 1.0 FAR (3 Story ht. limit)
- Industrial Max. 0.75 FAR
- Public Facilities Max. 0.5 FAR and Institutions Max. 2.0 FAR
- Open Space Park



ATTACHMENT NO. 2  
2010 GENERAL PLAN LAND USE MAP  
FOR THE OLD TOWNE FOCUS AREA  
ZONE CHANGE 1267-12(D)  
MARCH 12, 2013 CC MTG.



Table LU-3  
Land Use / Zoning Consistency

Zoning	RI-5	RI-6	RI-7	RI-8	RI-10	RI-12	RI-15	RI-20	RI-40	RI-R	R2-6	R2-7	R2-8	R3	R4	MH	OP	CP	C-TR	C1	C2	C3**	CR**	M1	M2	A1	RO	SH	PI	SG	PC	FP-1	FP-2	A	E	P		
Residential Designations																																						
Estate Low Density Residential									•	•	•																							•				
Low-Density Residential		•	•	•	•	•	•																									•		•	•			
Low-Medium Density Residential	•										•	•	•	•	•	•																•	•	•	•			
Medium Density Residential																																•		•	•			
Mixed Use Activity Center Designations*																																						
Old Towne Mixed Use Spoke*																	•	•		•	•														•			
Old Towne Mixed Use 15*																	•	•		•	•														•			
Old Towne Mixed Use 24*																																						
Neighborhood Mixed Use*																																						
Urban Mixed Use*																						•	•															
Commercial Designations																																						
General Commercial																	•	•	•	•	•										•	•						
Recreation Commercial																																	•					
Neighborhood Office Professional																	•	•	•																			
Urban Office Professional																	•																					
Industrial Designations																																						
Light Industrial																								•														
Industrial																								•														
Public Facilities and Open Space Designations																																						
Public Facilities and Institutions																														•			•					
Open Space																																	•	•	•			
Open Space – Park																																•			•			
Open Space – Ridgeline																																						
Resource Area																																•		•	•			
Overlay Districts																																						
Yorba North Commercial***																																•	•					
Yorba South Commercial****																																•	•					
* Zoning districts for these new land use designations will be developed in accordance with the General Plan Implementation Program. This table will be updated at the time the zoning is adopted.																																						
**The C3 and CR zones were previously associated with the 1989 General Plan's Commercial Recreation land use designation. The portion of the City with this land use designation has been re-designated Urban Mixed-use. This table will be updated upon adoption of the mixed-use zoning standards developed in accordance with the General Plan Implementation Program.																																						
*** Overlay applies only to area generally north of Chapman Avenue, east and west of Yorba Street, south of Santiago Creek, and abutting the rear property line of parcels fronting Wheeler Street.																																						
**** Overlay applies only to area south of Chapman Avenue, west of Yorba Street, north of Palmyra Avenue, and east of Santiago Creek.																																						

\* Zoning districts for these new land use designations will be developed in accordance with the General Plan Implementation Program. This table will be updated at the time the zoning is adopted.  
\*\*The C3 and CR zones were previously associated with the 1989 General Plan's Commercial Recreation land use designation. The portion of the City with this land use designation has been re-designated Urban Mixed-use. This table will be updated upon adoption of the mixed-use zoning standards developed in accordance with the General Plan Implementation Program.  
\*\*\* Overlay applies only to area generally north of Chapman Avenue, east and west of Yorba Street, south of Santiago Creek, and abutting the rear property line of parcels fronting Wheeler Street.  
\*\*\*\* Overlay applies only to area south of Chapman Avenue, west of Yorba Street, north of Palmyra Avenue, and east of Santiago Creek.

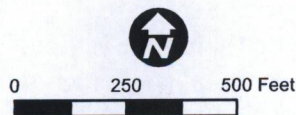


# Map of Existing Zoning Zone Change No. 1267-12 (D)

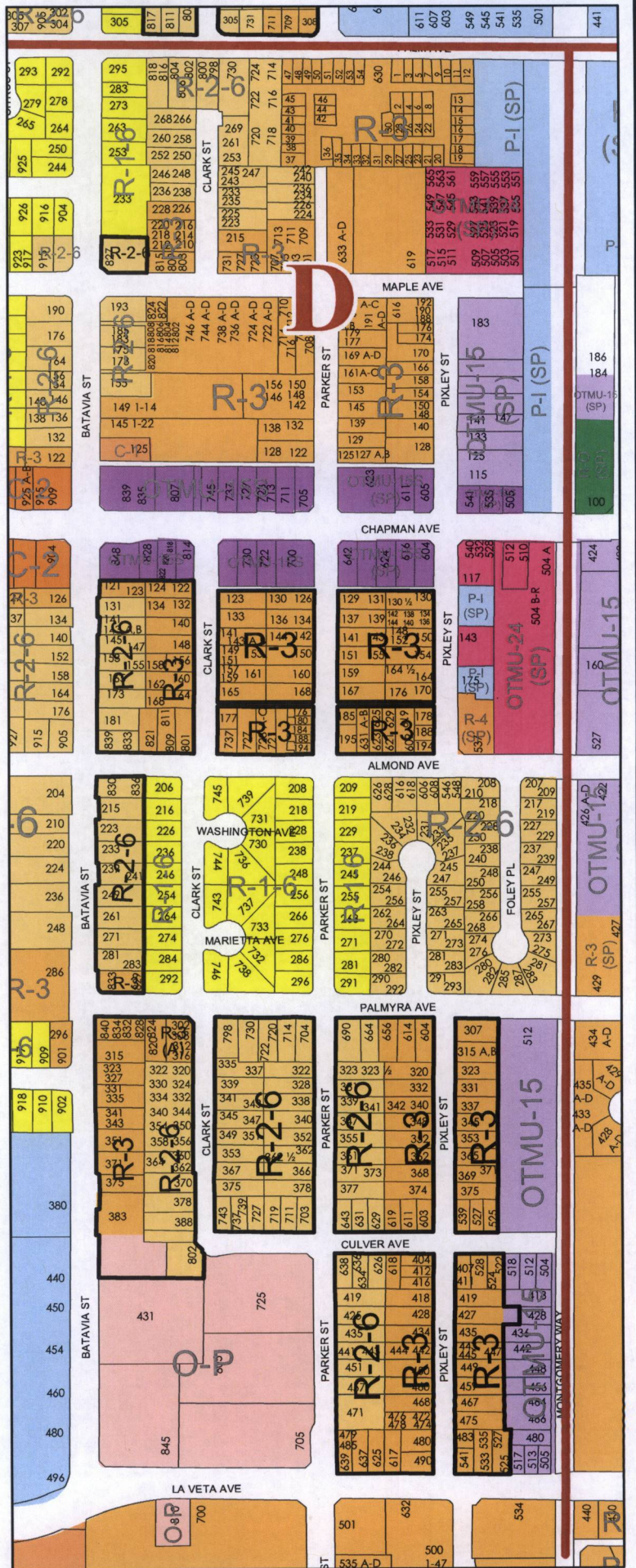
## Legend

- O-P
- P-I
- P-I (SP)
- R-1-6
- R-2-6
- R-3
- R-3 (A)
- R-O (SP)
- OTMU-15S
- OTMU-15S (SP)
- OTMU-15
- OTMU-15 (SP)
- OTMU-24 (SP)
- UNZONED

ATTACHMENT NO. 4  
MAP SHOWING EXISTING LAND USE  
AND CONTRIBUTING STRUCTURES  
FOR "AREA D"  
ZONE CHANGE 1267-12(D)  
MARCH 12, 2013 CC MTG.



March 4th 2013







# Map of Existing Land Use Zone Change No. 1267-12 (D)

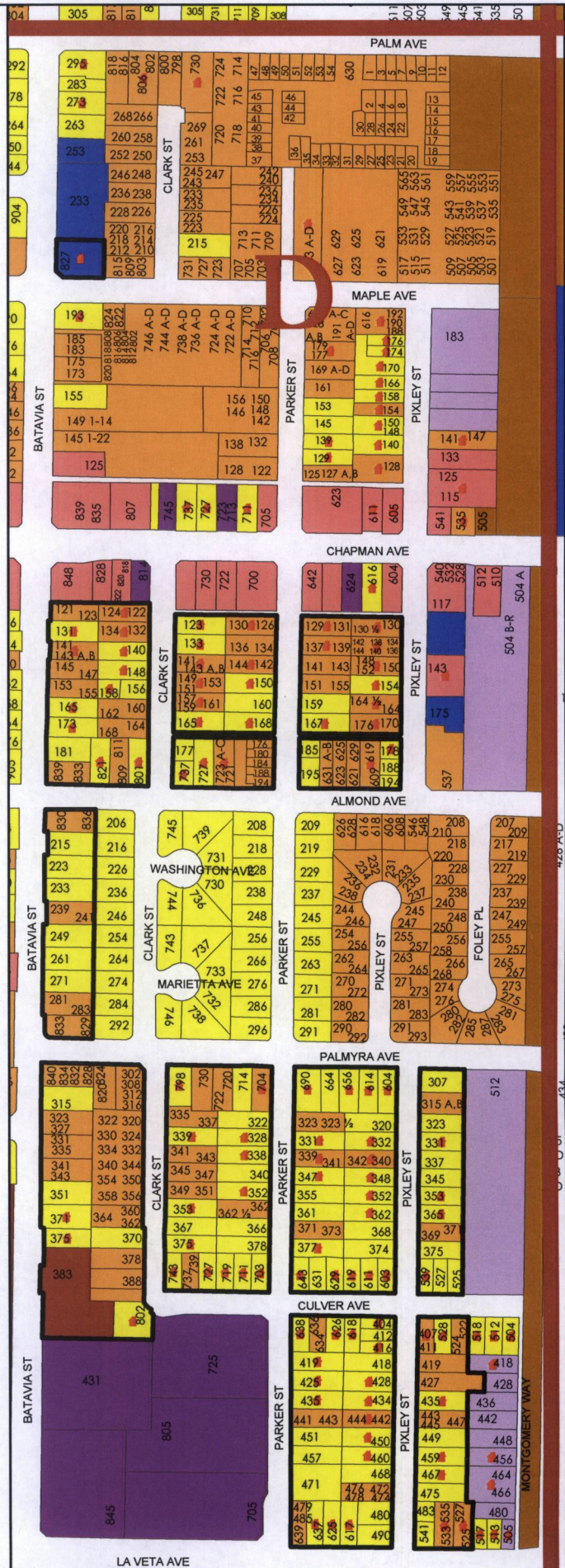
## Legend

- SFR
- MFR
- COM
- OFC-PROF
- IND
- SOC-RELG
- UTIL
- RAIL
- Historic Contributor(s) On-Site

ATTACHMENT NO. 5  
MAP SHOWING EXISTING ZONING  
FOR "AREA D"  
ZONE CHANGE 1267-12(D)  
MARCH 12, 2013 CC MTG.



0 137.5 275 550 825 Feet



## **Orange Municipal Code Section 17.14.050 - Special Use Regulations**

- G. Duplex and Multiple-Family Dwellings—2010 General Plan. Notwithstanding this Code's definition of legal nonconforming use, duplex and multiple-family dwellings located within the 2010 General Plan Land Use Focus Areas that experienced a change in zoning to Single-Family Residential (R-1) are recognized as permitted uses provided that they were legally established at the time of the change to such zoning. Additions, reconstruction or alterations to the affected properties may occur provided that no new dwelling units are added and the development is otherwise undertaken in accordance with all applicable Code standards. Duplexes shall apply the development standards of the R2-6 Zoning District. Multi-family properties (three or more units) shall apply the development standards of the R-3 Zoning District. Maps depicting the affected properties shall be a public record and remain on file with the Community Development Department.

**Orange Municipal Code Section 17.38.065 - Regulations for Properties Made Nonconforming by the 2010 General Plan Update and Accompanying Zoning Changes.**

The following provisions apply exclusively to property which is made nonconforming by General Plan Amendment No. 2009-001 and zoning changes accompanying General Plan Amendment No. 2009-001 (hereafter, collectively referred to as General Plan Zoning), which properties are included on the map of "Properties Made Non-Conforming by the 2010 General Plan Update and Accompanying Zone Changes" (hereafter, map), which Map shall be a public record, be provided to all property owners whose property is on the map and be on file with the Community Development Director.

**A. Nonconforming Use of a Conforming or Nonconforming Development.**

1. A legally established use on property that is depicted on the map which because of general plan zoning is no longer permitted in a particular zone shall be considered a nonconforming use.
2. A nonconforming use shall be allowed to remain indefinitely, and can be replaced by a similar nonconforming use provided the Community Development Director finds that the proposed use is equal to or more appropriate than the existing nonconforming use. With respect to property previously zoned Commercial Recreation the Director's findings shall be based upon reference to the use provisions contained in the M-1 (Light Manufacturing) and M-2 (Industrial) Districts. Manufacturing uses on property previously zoned Commercial Recreation that contain retail or office space consisting of more than twenty-five (25) percent of the gross floor area shall be determined as an equal to or more appropriate use, provided the use complies with the City's parking ordinance.
3. A nonconforming use shall be allowed to expand within a conforming or nonconforming parcel. When the expansion of a nonconforming use requires an alteration of buildings or site improvements, the building addition, additional structures or site improvements shall comply with the requirements contained herein, and all applicable requirements of the Orange Municipal Code.

**B. Nonconforming Development Containing a Conforming or Nonconforming Use.**

1. A legally constructed development which because of general plan zoning is no longer in compliance with the zoning development standards shall be considered a nonconforming development.
2. A nonconforming development shall be allowed to remain indefinitely.
3. A nonconforming development shall be allowed to be routinely repaired to maintain public health, safety and general welfare.
4. A nonconforming development shall be allowed to expand provided that the expansion complies with the requirements contained herein, and all applicable requirements of the Orange Municipal Code.
5. Existing nonconforming industrial development within the Katella Avenue Corridor project area that was established prior to Zone Change 1177-95 shall be governed by the M-1 and M-2 provisions.

C. Repair of Damaged or Destroyed Nonconforming Developments.

1. A nonconforming development that is damaged or destroyed shall be permitted to be repaired or reconstructed to the condition which existed prior to such damage or destruction, provided the structure or building existed as a legally established development.
2. Repair or reconstruction of a legally established nonconforming development shall not be limited to any specific time constraint that is not applied to repair or reconstruction of conforming development, provided that public health and safety issues are addressed.

D. Moving a Nonconforming Structure or Building. A nonconforming structure or building shall be allowed to be moved provided doing so will cause the structure or building to become conforming.

E. Residential property made nonconforming by the general plan zoning. Any residential property that is made nonconforming by the general plan zoning may, notwithstanding OMC Section 17.38.030B, be permitted to continue unless such nonconforming use is discontinued, voluntarily or involuntarily, for more than 24 months.



**RESOLUTION NO. PC 49-12**

**A RESOLUTION OF THE PLANNING COMMISSION  
RECOMMENDING THE CITY COUNCIL APPROVE  
ZONE CHANGE NO. 1267-12 AND ADOPT THE DRAFT  
ORDINANCE REZONING CERTAIN PROPERTIES IN  
OLD TOWNE ORANGE WEST OF GLASSELL STREET  
TO SINGLE FAMILY RESIDENTIAL (R-1), IN ORDER TO  
ESTABLISH CONSISTENCY BETWEEN THE LOW  
DENSITY RESIDENTIAL GENERAL PLAN LAND USE  
DESIGNATION AND THE ZONING CLASSIFICATION IN  
ACCORDANCE WITH STATE LAW**

**APPLICANT: CITY OF ORANGE**

Moved by Commissioner Gladson and seconded by Commissioner Grangoff that the following resolution be adopted:

WHEREAS, on March 9, 2010 the City adopted its 2010 General Plan, including changes to land use designations in the residential quadrants of the Old Towne Focus Area to establish more uniform Low Density Residential districts as presented in the Land Use Element's Land Use Policy Map; and

WHEREAS, the land use designation change to Low Density Residential (LDR, 2-6 dwelling units/acre) was intended to more accurately represent on-the-ground conditions, and support the City's long-standing historic preservation objectives for Old Towne that include protection of the predominantly historic single-family character of the residential quadrants; and

WHEREAS, in addition to the properties that experienced a General Plan land use designation change in 2010, there are also many properties in Old Towne that have a long-standing LDR General Plan land use designation; and

WHEREAS, the properties subject to Zone Change No. 1267-12 are zoned Duplex Residential (R-2-6), Multi-family Residential (R-3), Multi-family Residential Maximum (R-4), Office Professional (O-P) and Light Manufacturing (M-1), which are not consistent with the LDR General Plan land use designations; and

WHEREAS, California Government Code §65860 requires consistency between a city's General Plan and zoning; and

WHEREAS, the Planning Commission, having considered the proposed Ordinance and Zone Change at a public hearing held on December 3, 2012 including review of the staff report and having received public testimony on the item, has determined the proposed amendment is justified and recommends approval thereof.

**ATTACHMENT NO. 8  
PLANNING COMMISSION  
RESOLUTION NO. 49-12  
ZONE CHANGE 1267-12(D)  
MARCH 12, 2013 CC MTG.**

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends the City Council approve the subject Ordinance and Zone Change, as depicted on maps provided as Exhibit A (Existing Zoning) and Existing B (Proposed Zoning) of the Draft Ordinance, attached hereto, based on the following findings:

#### SECTION 1- FINDINGS

1. The Zone Change implements the General Plan Land Use and Cultural Resources and Historic Preservation Elements by establishing single family residential zoning in an area of the City's historic district where the City devotes great efforts to preserving the predominantly historic single family residential character of the area (dating from the 1880's to 1940) which is a key basis for establishment of both the local and National Register Old Towne Orange historic districts.
2. The Zone Change applies zoning to individual properties that achieves consistency with the City's General Plan land use designations for those properties. Achieving such consistency is required by State law and implements the General Plan Land Use Element.

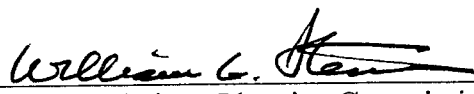
#### SECTION 2-ENVIRONMENTAL REVIEW

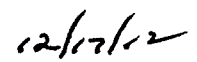
Final Program Environmental Impact Report (EIR) No. 1815-09 for the Comprehensive General Plan Update was certified on March 9, 2010 and prepared in accordance with the California Environmental Quality Act (CEQA). The proposed activity is within the scope of the previously approved General Plan and is adequately described in the previously certified General Plan Program EIR for purposes of CEQA compliance.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the City's Zoning Map be amended to reflect the proposed R-1 zoning as depicted on a map provided as Exhibit B of the Draft Ordinance.

I hereby certify that the Planning Commission of the City of Orange adopted the foregoing resolution on December 3, 2012 by the following vote:

AYES: Commissioners Grangoff, Gladson, Steiner, & Cathcart  
NOES: None  
ABSTAIN: Commissioner Buttress  
ABSENT: None

  
\_\_\_\_\_  
William G. Steiner, Planning Commission Chair

  
\_\_\_\_\_  
Date

**New Hearings:**

**APPROVED**

**(2) ZONE CHANGE 1267-12**

The City of Orange General Plan update was adopted in March 2010. The General Plan made changes to the City's Land Use Plan re-designating portions of the residential quadrants of Old Towne to LDR (low-Density Residential, 2 to 6 dwelling units per acre). The City's General Plan identifies R-1 (Single Family Residential) as the corresponding zoning district for the LDR General Plan land use designation. State law requires consistency between a property's General Plan land use designation and its zoning. In order to establish the required General Plan zoning consistency, Zone Change 1267-12 is proposed to rezone Old Towne properties with an LDR General Plan land use designation to R-1-6 (Single Family Residential, 6,000 square foot minimum lot size).

**LOCATION:** Certain Old Towne Properties West of Glassell Street

**NOTE:** Final Program Environmental Impact Report (EIR) No. 1815-09 for the Comprehensive General Plan Update was certified on March 9, 2010 and was prepared in accordance with the California Environmental Quality Act (CEQA). The proposed zone change falls within the scope of the previously approved General Plan and is adequately described in the previously certified General Plan Program EIR for purposes of CEQA.

**RECOMMENDED ACTION:**

Adopt Planning Commission Resolution 49-12 recommending the City Council approve and adopt the draft ordinance rezoning certain properties in Old Towne Orange west of Glassell Street to Single Family Residential (R-1) in order to establish consistency between the Low Density Residential (LDR) General Plan Land Use Designation and the Zoning classification in accordance with State law.

Jennifer Le, provided a project overview consistent with the Staff Report.

Chair Steiner opened the item for any questions for Staff and asked if any additional communication had been received? There was none.

Chair Steiner opened the hearing to Public Comment and stated the Commission had received communication from the following individuals:

Dan Slater  
Leason Pomeroy  
Casa Teresa  
Michael Sivak  
Ross Chichester

Chair Steiner invited the public speakers to address the Commission.

Ralph Cortez, address on file, stated he was opposed to the down zoning. The Mayor had told him that she would respond to him and he received a letter that stated his property was not included in the zoning, but he got another letter that said it was. He was present to oppose it.

Chair Steiner verified the applicant lived at 168 S. Parker?

Mr. Cortez stated that was correct. He was opposed to the zoning. Amendment One of the Constitution and the Supreme Court of the United States already made a decision that there had to be a court hearing to change any zoning and that was where he would leave it. He misplaced the Mayor's letter that stated that his property was not affected.

Chair Steiner asked Staff if Mr. Cortez's property was included in the zone change.

Ms. Le stated she had reviewed the maps and 168 S. Parker was an address that would be included in the zone change. It was currently zoned R-3 and it was proposed to be R-1-6.

Michael Sivak stated he was an out of state real estate investor and he traveled from Salt Lake City just for the Planning Commission Meeting. He owned several properties in Orange and one of those was a duplex that the City wanted to re-zone R-1. The zone R-1 was a redefined number; there could be a main house with a second house in the backyard. He owned properties in 3 states and 8 cities and he had never seen an R-1 such as proposed; he understood it as one house per lot. The City was starting out with wrong information if they wanted to zone everything R-1, which meant 1. Jennifer Le had stated that the zone change would clarify everything for the contractors that wanted to come in and develop Orange, he had not thought so, he was all for clarification but they were furthering muddling up an already muddled situation. One means one, two means two, simple. If the City wanted to go property by property and apply zoning to existing usage, that would be great. Reducing density seemed to be their agenda and Orange was a densely developed City; the houses had houses in their backyards and there were apartment buildings that were strangely not addressed. He assumed the City had given permits for everything that was built in the City, they had what they had and it could not be changed. Two to six dwellings per acre was laughable, he lived in a neighborhood of two to six dwellings per acre and those were 3<sup>rd</sup> and ½ acre lots; it would never happen in Orange. As of 2010 the City of Orange had 45,111 dwellings and only 43,367 were occupied. That was 1 in 20 dwellings empty and that was their density reduction. Keep the high taxes, repressive ruling class government, spray paint, gangs and trash and lower their density even more. Growing Cities and States were thankful for the good people the City of Orange was sending them. In closing he thought the proposal was an agenda for something else. People's property rights were not being respected and he was against the zone change. The City was artificially depreciating his and other people's properties. How could he sell a duplex that was zoned R-1; would the City make up the price difference to him?

Stacy Proctor, address on file, stated she represented Casa Teresa and she was opposed to the re-zoning of 223 N. Olive Street as well as 215 N. Olive Street. They were contiguous properties to Casa Teresa. They occupied 223 N. Olive Street as a residence for mothers and re-zoning that site would remove their ability to do that. The mission of Casa Teresa was to provide temporary homes for pregnant women 18 years and older. There were 3 phases to the program. 223 N. Olive was the 3<sup>rd</sup> phase of their program and by changing that it would make that property inconsistent with the other properties. Casa Teresa was opposed to the zone change as it would make expansion difficult and create inconsistencies in their program. The information was outlined in the letter that had been sent to the Planning Commissioners.

Cindy Wetzel, address on file, stated she was representing her 90 year old grandfather and his daughter who owned the property at 430 N. Cypress. Her grandfather purchased the property in 1923 and it would be a shame to change that zoning as he would leave the property to his children. She opposed the R-1 zoning. There were 3 properties on that lot and a zone change would not allow them to add on or possibly placing another unit on that lot; at one time the property had 4 units. Even though it would be grandfathered in the site would still be affected in regards to adding onto the property.

Connie McKay, address on file, stated she had lived at her residence for 45 years and in the City of Orange for 62 years and she knew the area quite well. She called the Planning Commission as she had received a letter and she was in support of the re-zoning. Her quadrant was inundated with cars and people. Nobody got along on her street because they were always fighting for parking. Trash on Tuesdays' was a nightmare and she had seen the neighborhood deteriorate. She had the Hope house behind her and she was constantly hearing noises. She lived in Orange all her life and she knew Cypress Street and that street was a lot better and the City had cleaned up that area and she was in support of the re-zoning because things had gotten so much better on Cypress Street and she would want the same to happen on Olive. She was upset that the re-zoning would not apply to her street and had been told it would remain an R-4.

Sandy McKenna, address on file, stated she was opposed to the re-zoning. Her family lived in the City of Orange for over 100 years and she had been on Cypress Street in a historic, traditionally Mexican American neighborhood. Her mother passed away last year and if she would have lived she would have been 99 years old in December. She was an old time, life long resident of the City of Orange. She had experienced very unique things such as segregation which was in a school house that was now on the Chapman University property. Ironically she learned about the history when she was a student attending Chapman University; she further went to USC and graduated with a Masters in Social Work. The point was that her family had the property since 1923 and it was due to hard work, sweat of the brow work, that her family was able to purchase the property and maintain it through picking oranges and also by working at the Villa Park Orchard packing house. It was her mother's dream that they wanted to keep alive; the property was a family dream and the American dream. Her family experienced upward mobility within the first generation. Both her parents were migrant farm workers were able to have upward mobility due to her father going into the military. He was eligible

to apply for a civil service job and her family began to move upward. It was very heartfelt for her family to continue the dream, to rebuild and the homes were in need of repair. But if they were not able to rebuild what would happen was that they would be condemned and she implored the Commission to reconsider the zone change.

Salvitorri Pezzula, address on file, stated he spoke for his mother. His sister and mother lived at 405 N. Lemon Street and the property had been in the trust for many, many years. He was opposed to the re-zoning. His sister would like to put a duplex on the site, she was disabled and if re-zoned that could not happen. With parking and everything else they took into consideration, their intent was to tear the existing house down and put up a historic house in its place that met the criteria and not be a sore thumb in the middle of nowhere. Everything seemed to be taken over by Chapman University, and he had not had a problem with that as long as they were cleaning up the neighborhood and making everything nice and they had done quite a bit in making properties very nice. The house right next door to his was owned by Chapman University and it added value to the home. He was opposed to the zone change and he wanted at least an R-2 and there was enough room on their corner lot to build a duplex.

Chair Steiner asked Staff about Ms. McKay's inquiry about the S. Olive property and if it was or was not being re-zoned?

Ms. Le stated she had taken a look at the zoning map and the area Ms. McKay spoke to was outside of the area to be re-zoned. It was a decision that came out of the General Plan hearings and the direction of the City Council.

Chair Steiner asked Staff to respond to the speakers comments?

Ms. Le stated she would go through the list of speakers and address their concerns. For 168 S. Parker, the property would be re-zoned from R-3 to R-1. In that particular area, the block was R-3 and proposed to be re-zoned to R-1. Staff's recommendation would be for the re-zone and the Planning Commission had the option to make a recommendation to City Council for something different. For the comments from Mr. Sivak; she had the opportunity to speak with him at length about his property. The current zoning for his property was R-2-6 and the lot was approximately 6,000 square feet and proposed to be re-zoned to R-1-6, similar to other properties in the area. The existing R-2-6 was intended for duplexes and the proposed R-1-6 zoning allowed for a single family dwelling as well as a second unit. In terms with what was on the property currently, there were two units. Properties that had two units, if the property was re-zoned, could continue on in its current state.

Chair Steiner asked if the property would be considered legal non-conforming.

Ms. Le stated no, it would be permitted. For permitted uses, alterations or reconstructions or additions would be allowed.

For Cindy Wetzel on Cypress Street, that property was zoned R-2-6 and she understood

that there were 3-4 units on that lot and the proposal was for R-1-6. The re-zoning would be consistent with what was proposed for the surrounding area. She would refer to the permitted uses clause in the zoning code, in that existing units could remain on that site and could be added on to, rehabilitated or reconstructed in the future. For the property at 356 S. Olive, and the speaker Connie McKay, as was discussed that property was outside of the re-zone area and the entire area was zoned R-4 with no proposed changes. She would suggest that if Ms. McKay could gather the neighbors and come to a consensus and they could submit an application to the City for re-zoning. It was something that could be considered. Sandy McKenna at the property on N. Cypress, it was similar to other properties discussed. It was a property that was currently R-2-6 and re-zoning proposed for R-1. With that new zoning, it would allow for one single family home and an accessory second unit. Lastly for Casa Teresa, they had also submitted a letter addressing two sites. The first was at 223 N. Olive. As was stated, that property was used by Casa Teresa and was operationally related to the adjacent property that was zoned Old Towne Mixed Use 15. From Staff's perspective, if the Commission wanted to consider asking the City Council to zone that property Old Towne Mixed Use 15, that would be consistent with the zoning of the adjacent Casa Teresa properties. The property was already operating as one functioning use with the adjacent properties, so it made sense. Also, it appeared that Casa Teresa had an agreement with the property owner to purchase the site at some point in the future, and all of those things would point to a recommendation for Old Towne Mixed Use 15. On the site at 235 N. Olive and it was referred to as 215, but was 235; it was proposed to be re-zoned to R-1 and was not owned by Casa Teresa. Although they might be considering a future use for that site, because it was not operated or owned by Casa Teresa, Staff recommended the property be re-zoned to R-1 with the option of the Commission requesting something different as a recommendation to the City Council.

A speaker in the audience asked about 405 N. Lemon?

Ms. Le stated that property was zoned R-2-6 and it looked to have a single family residence on that site. As with other R-2-6 properties, if re-zoned, the property owner could have a single family home plus an accessory unit in the back of up to 640 square feet. 2 units technically would be allowed, with a size limit on the second unit.

Commissioner Gladson stated on the inquiry from Casa Teresa, was their a Conditional Use Permit for that use?

Ms. Le stated they had researched the property and she asked Principal Planner, Anna Pehoushek, to address the Commission on that property.

Ms. Pehoushek stated the Woepse property had not contained a CUP, but it was being occupied as apartments and an apartment building and in fact, Casa Teresa as it had been there for such a long time had not had a CUP. The property was one of those uses that had been in the community, an institution of the community, and over the years it had continued to operate in its present form.

Chair Steiner closed the hearing to Public Comment and brought the item back to the Commission for further discussion or action.

Chair Steiner stated the discussion was for 385 parcels and of those 248, 64% currently contained single family residential uses and were consistent with the R-1 zoning. There were another 137 parcels and 126 of those had multi-family residential uses, some between 450 and 640 square feet and those units being considered accessory second units and that had been the situation in the City of Orange for a long time. Those units were consistent with the proposed R-1-6 zoning. The remaining multi-family parcels contained duplexes or other multi-use units and would not be consistent with the proposed R-1 re-zoning. There were another 11 properties that were referred to in the Staff Report. Discussion of the development on those properties would be continued, if they would be grandfathered in or be legal non-conforming; the City Council had settled that and he asked Assistant City Attorney, Gary Sheatz, for clarification?

Mr. Sheatz stated there was an ordinance adopted, and cited in the Staff Report, Ordinance 17.14.05 Sub G.

Chair Steiner stated he was struggling with how this was so adverse to what was being proposed as it had been expressed to the Commission.

Commissioner Gladson stated he hit the nail on the head, the bottom line was that the majority of the land use in the quadrant they were speaking to was primarily single family residential units and Chair Steiner had counted out the units. There were many second units, or granny flats that were part of the equation and certainly appropriate uses in an R-1 neighborhood. Having the zoning go to R-1 would be totally appropriate and the council with their wisdom to allow for the legal non-conforming units with the structures in the quadrant would allow protection of those properties and property owners to allow those properties to remain indefinitely. That provided a level of comfort for her that those sites were protected. If those sites required rehabilitation it would be allowed. The big issue was that the City had not wanted more units to occur in the district and to not allow for a major apartment complex or things of that nature, due to the legacy and association with Cypress Street. They were things that were important to the City and it was heard during the General Plan Update of 2010. Because the Planning Commission was charged with ensuring the zoning matched up with the General Plan, the General Plan that was adopted in 2010 stated that the Land Use for the area that was being considered tonight was recommended as the most appropriate use to be single family low density residential on smaller lots, 6,000 square feet on average; they had no choice but to match up the zoning with the General Plan. State Law mandated that and there were protections in place to allow the non-conforming uses to continue in perpetuity. The other issue with Casa Teresa, Staff had presented some good options for that property site and those recommendations could be included in any action the Commission took and to ask the City Council to consider a more appropriate zoning for that use. The item needed to go from the Planning Commission, the Land Use experts, to the City Council and they would want their input and she supported the draft ordinance as crafted by Staff. The provisions provided would allow for property protection.



Commissioner Grangoff stated for a property that was currently multi-family that would be under the R-1-6 zone would remain multi-family with the current owner, but if the property was sold the zoning to the property would change, and he asked if that was correct?

Ms. Le stated the permitted status of the property, even if sold, would remain. The status would stay with the land.

Commissioner Gladson made a motion to adopt PC Resolution No. 49-12, recommending approval to the City Council of Zone Change No. 1267-12; to rezone Old Towne properties with an LDR General Plan land use designation to R-1-6 (Single Family Residential, 6,000 square foot minimum lot size), subject to the conditions contained in the Staff Report.

Chair Steiner asked Mr. Sheatz on the other 11 properties that would be affected, one was a Southern California Edison sub station and would that disqualify Commissioner Buttress, a representative of that company, to vote on the proposed re-zoning before them?

Mr. Sheatz stated Commissioner Buttress should abstain from the vote.

SECOND: Commissioner Grangoff  
AYES: Commissioners Cathcart, Gladson, Grangoff and Steiner  
NOES: None  
ABSTAIN: Commissioner Buttress

**MOTION CARRIED**

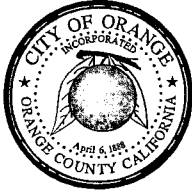
### **(3) ADJOURNMENT**

Commissioner Buttress made a motion for adjournment to the next regular scheduled meeting of the Planning Commission on Monday, December 17, 2012.

SECOND: Commissioner Gladson  
AYES: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner  
NOES: None  
ABSTAIN: None  
ABSENT: None

**MOTION CARRIED**

Meeting Adjourned @ 7:45 p.m.



# *Planning Commission*

## Agenda Item

December 3, 2012

**TO:** Chair Steiner and  
Members of the Planning Commission

**THRU:** Leslie Roseberry *LR*  
Planning Manager

**FROM:** Jennifer Le, Senior Planner *JL*

### SUBJECT

**PUBLIC HEARING:** Zone Change No. 1267-12 to re-zone certain properties in Old Towne Orange (west of Glassell Street) to Single Family Residential (R-1-6) in order to establish consistency between the Low Density Residential (LDR) General Plan land use designation and the zoning, in accordance with State law.

### SUMMARY

The City of Orange General Plan update was adopted in March 2010. The General Plan made changes to the City's Land Use Plan re-designating portions of the residential quadrants of Old Towne to LDR (Low Density Residential, 2 to 6 dwelling units per acre). The City's General Plan identifies R-1 (Single Family Residential) as the corresponding zoning district for the LDR General Plan land use designation. State law requires consistency between a property's General Plan land use designation and its zoning. In order to establish the required General Plan-zoning consistency, Zone Change 1267-12 is proposed to rezone Old Towne properties with an LDR General Plan land use designation to R-1-6 (Single Family Residential, 6,000 square foot minimum lot size).

### RECOMMENDED ACTION

1) Adopt Planning Commission Resolution No. PC 49-12 entitled:

**A RESOLUTION OF THE PLANNING COMMISSION  
RECOMMENDING THE CITY COUNCIL APPROVE ZONE  
CHANGE NO. 1267-12 AND ADOPT THE DRAFT ORDINANCE  
REZONING CERTAIN PROPERTIES IN OLD TOWNE ORANGE  
WEST OF GLASSELL STREET TO SINGLE FAMILY  
RESIDENTIAL (R-1), IN ORDER TO ESTABLISH CONSISTENCY  
BETWEEN THE LOW DENSITY RESIDENTIAL (LDR)**

ATTACHMENT NO. 10  
DECEMBER 3, 2012 PLANNING  
COMMISSION STAFF REPORT  
(WITHOUT EXHIBITS)  
ZONE CHANGE 1267-12(D)  
12-12-2012 CC MTC

## **GENERAL PLAN LAND USE DESIGNATION AND THE ZONING CLASSIFICATION IN ACCORDANCE WITH STATE LAW**

### **AUTHORIZATION/GUIDELINES**

Orange Municipal Code (OMC) Section 17.10.020 requires City Council approval of amendments to the Zoning Map, and also establishes procedures by which the Planning Commission reviews such amendments and makes recommendations to the City Council.

### **PUBLIC NOTICE**

Public notice of the proposed Ordinance Amendment was published in the Orange City News newspaper on November 22, 2012. A total of 1,400 notices were mailed to the owners and tenants of affected properties, as well as the owners and tenants of properties within 300 feet of the affected properties. Notices were also posted at City Hall and Library posting locations.

### **ENVIRONMENTAL REVIEW**

Final Program Environmental Impact Report (EIR) No. 1815-09 for the Comprehensive General Plan Update was certified on March 9, 2010 and was prepared in accordance with the California Environmental Quality Act (CEQA). The proposed zone change falls within the scope of the previously approved General Plan and is adequately described in the previously certified General Plan Program EIR for purposes of CEQA. No further environmental review is required.

### **PROJECT BACKGROUND**

The City's 2010 General Plan update was adopted on March 9, 2010. The 2010 General Plan Land Use Plan re-designated certain properties in the residential quadrants of Old Towne to LDR (Low Density Residential, 2 to 6 dwelling units per acre). This change was made to establish a land use policy for Old Towne's residential quadrants that encourages future residential development in Old Towne to be single-family in nature, consistent with its predominant land use pattern. It also encourages preservation of Old Towne's predominantly historic single-family homes. The 2010 General Plan land use map for the Old Towne "focus area" is included as Attachment 2 to this report.

In accordance with State planning law (Government Code §65860), the City must establish consistency between the General Plan and zoning. The General Plan identifies R-1 (Single Family Residential) as the corresponding zoning for the LDR General Plan land use designation. (Refer to the General Plan Land Use Element Table LU-3, Attachment 3). Therefore and in order to establish General Plan-zoning consistency, the subject Zone Change would rezone Old Towne properties to R-1-6 that were re-designated to LDR by the 2010 General Plan update. In addition, the subject Zone Change would rezone Old Towne properties to R-1-6 that have had a long-standing LDR General Plan designation, but are zoned something other than R-1. The subject Zone Change would establish consistency between General Plan and zoning as required by State law.

It should be noted that establishing consistency between zoning and the 2010 General Plan will require the City to undertake a series of rezoning efforts. The first phase of the rezoning effort focused on the residential quadrants of the Old Towne General Plan “focus area” *east of Glassell Street* and was approved by the City Council on May 8, 2012. The subject Zone Change represents the second phase of the rezoning effort for Old Towne’s residential quadrants and focuses on properties located *west of Glassell Street*. Other recent zone changes establishing consistency with the General Plan focused on the mixed use zones, the Katella corridor and Uptown Orange.

#### PROJECT DESCRIPTION

Zone Change 1267-12 proposes to rezone properties located in the Old Towne General Plan “focus area” (west of Glassell Street) that have a LDR General Plan land use designation. The Zone Change would rezone the subject properties to R-1-6 (Single Family Residential, 6,000 square foot minimum lot size), in order to be consistent with the LDR General Plan land use designation. There are 385 properties affected by this zone change. Existing and proposed zoning for the affected properties are depicted in the maps provided as Exhibits A and B respectively to the Draft Ordinance (Attachment 1).

#### APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

**The request involves a Zone Change.** Zone Change No. 1267-12 will establish consistency between the General Plan land use designations and zoning classifications for the subject properties.

*Required Findings:* There are no required findings for a Zone Change because it is considered a legislative action. However, OMC Section 17.10.020 requires that when the Planning Commission makes a recommendation to the City Council, the Planning Commission include in its decision: 1) the reasons for the recommendation; 2) the relationship of the proposed amendment to the General Plan and applicable Specific Plans; and 3) the environmental determination. These three items are addressed in the Planning Commission Resolution. By adopting the Resolution, the Planning Commission will have complied with this Code provision.

#### ANALYSIS/STATEMENT OF THE ISSUES

##### Issue 1: General Plan-Zoning Consistency

The 2010 General Plan provides a generally uniform LDR land use designation for most of the northwest and southwest residential quadrants of Old Towne (outside of the Santa Fe Depot Specific Plan area). The subject Zone Change properties have a General Plan land use designation of LDR and are currently zoned Duplex Residential (R-2-6), Multi-Family Residential (R-3), Multi-Family Residential Maximum (R-4), Office Professional (O-P) and Light Manufacturing (M-1).

As presented in Table LU-3 of the General Plan Land Use Element, R-1 zoning is the zoning that corresponds with the LDR designation (Attachment 3). The range of R-1 zoning includes R-1-6, R-1-7, R-1-8, R-1-10, and R-1-15, with the numeric suffix indicating the minimum lot size in 1,000 square feet.

#### Resolution:

The proposed Zone Change establishes R-1-6 zoning on all affected properties, representing Single Family Residential zoning with a minimum lot size of 6,000 square feet. This zoning has been identified as the appropriate zoning given the fact the majority of affected properties have actual lot sizes that are 6,000 square feet in size or greater. In addition, a large proportion of the affected properties are currently zoned R-2-6 (Duplex Residential with a minimum lot size of 6,000 square feet), which has the same minimum lot size requirements as the proposed R-1-6 zone. Further, R-1-6 zoning is the zoning applied to the other residential quadrants in Old Towne. Therefore, R-1-6 zoning is the most appropriate zoning for this area.

#### Issue 2: Legal Non-Conforming Uses

##### *Summary of Existing Land Use on Affected Properties*

The R-1-6 zone is intended for Single Family Residential development and allows for one single family home and an accessory second unit on a lot.

Of the 385 parcels that will experience a zone change to R-1-6, 248 (64%) currently contain single family residential land uses, consistent with the proposed R-1-6 zoning. Of the remaining 137 parcels, 126 contain multi-family residential uses (meaning properties with more than one residential unit). Some portion of those multi-family properties contain two units, with a second unit that is between 450 and 640 square feet in size. These units would be considered “accessory second units” and are consistent with the proposed R-1-6 zoning. The remaining multi-family properties contain “duplexes” or other multiple unit developments and would not be consistent with the intent of the proposed R-1-6 zone.

In addition, there are 11 affected properties that do not contain single-family or multi-family residential uses. Of these 11 properties, four are vacant, two contain commercial uses, one contains a Southern California Edison substation, two are parking lots associated with adjacent schools, and two contain the “Ronald McDonald House” (a quasi-residential/social institution).

Overall, existing land use on the majority of affected properties is single family residential, consistent with the proposed R-1-6 zoning. However, there is also a large portion of affected properties that contain multi-family residential development or other non-residential uses.

##### *Legal Non-Conforming Uses*

Typically, the proposed rezone of the subject properties to R-1 zoning would render the properties that already have multiple residential units or non-residential development “legal non-conforming”. Legally established “legal non-conforming” uses would be “grandfathered” under the new zoning and could continue on as they are today, subject to the “Nonconforming Uses” provisions of the OMC (Chapter 17.38).

However, as a follow-up action to City Council approval of the rezone to R-1-6 for properties in Old Towne *east of Glassell Street* (approved on May 8, 2012), the Council approved Ordinance No. 7-12 (OMC Section 17.14.050.G) addressing the “legal non-conforming” status of duplex and multi-family dwellings. OMC Section 17.14.050.G is included as Attachment 4 and states:

*“...duplex and multi-family dwellings located within the 2010 General Plan Land Use Focus Areas that experienced a change in zoning to Single Family Residential (R-1) are recognized as permitted uses provided they were legally established at the time of the change to such zoning. Additions, reconstructions or alterations to the affected properties may occur provided that no new dwelling units are added and the development is otherwise undertaken in accordance with applicable Code standards. ...”*

Therefore, properties affected by the subject zone change that have multiple residential units would be considered permitted (not “legal nonconforming”).

Furthermore, in conjunction with adoption of the 2010 General Plan in March 2010, the City Council adopted Ordinance No. 12-09 (OMC Section 17.38.065), making special accommodations for properties made non-conforming by the land use changes of the General Plan. These provisions are detailed in Attachment 5, and include allowing a legal non-conforming use to remain indefinitely and also to expand. Hence, multi-unit residential and non-residential properties or uses can remain as is after the proposed change in zoning occurs.

#### **ADVISORY BOARD RECOMMENDATION**

The proposed Zone Change was not reviewed by either the Staff Review Committee or the Design Review Committee due to the fact that neither involve a specific development project, and both are implementing a land use change that was discussed extensively by staff at an inter-departmental level, and also by the Planning Commission and City Council during General Plan development and adoption.

#### **ATTACHMENTS/EXHIBITS**

1. Planning Commission Resolution No. PC 49-12
  - a. Draft Ordinance
  - b. Maps depicting existing and proposed zoning
2. General Plan Focus Area Map for Old Towne
3. General Plan Land Use Element, Table LU-3
4. OMC Section 17.14.050.G
5. OMC Section 17.38.065

**7:00 P.M. SESSION** **DRAFT****12. PUBLIC COMMENTS - None****13. PUBLIC HEARINGS****13.1 OLD TOWNE ORANGE - ZONE CHANGE 1267-12(A-D). (Z1500.0 ZCG-1267-12)**

Time set for a public hearing to consider Ordinance No. 01-13(A-D) approving Zone Change 1267-12(A-D) to rezone certain properties in the Old Towne Orange "Focus Area" (generally located west of Glassell Street) to R-1 (Single-Family Residential). The subject Zone Change addresses properties generally located in the northwest and southwest quadrants of Old Towne.

Discussion - Senior Planner Jennifer Le provided a staff report.

Mayor Smith announced that discussion of this item would be segmented as Councilmembers Alvarez and Whitaker were conflicted with various areas under consideration and would be recusing themselves at the appropriate times. She also stated that the east/west boundary is the railroad tracks, and the north/south boundary is Palm Street.

THE MAYOR OPENED THE PUBLIC HEARING.

Speakers –

Paul Guzman, Orange Barrio Historical Society, spoke in opposition;  
Ryan Dierking, spoke in opposition;  
Mary Matuzak, Old Towne Preservation Association, spoke in favor;  
Michael Sivak, spoke in opposition;  
Sandy McKenna, spoke in opposition;  
Dan Slater, spoke in favor;  
Jeff Frankel, Old Towne Preservation Association, spoke in favor.

THE MAYOR CLOSED THE PUBLIC HEARING.

Mayor Smith clarified with staff that building a loft or second-story, and the granting of an accessory second unit, are allowed on property zoned R-1, if legal requirements and development standards are met.

Ms. Le responded to a question from Councilmember Alvarez stating that if the Council did not change the zoning, and it was not consistent with the General Plan, state law requires the adoption of a general plan amendment.

**1) ORDINANCE NO. 01-13(A) (FIRST READING)**

An Ordinance of the City Council of the City of Orange Approving Zone Change No. 1267-12(A) Rezoning Certain Properties in the Old Towne "Focus Area" Generally Located North of Palm Avenue, East of Batavia and West of Railroad Tracks to Single Family Residential (R-1), in order to Establish Consistency Between the Low Density Residential General Plan Land Use Designation and the Zoning Classification in Accordance with State Law.

**13. PUBLIC HEARINGS (Continued)**

Discussion - Council discussed the purpose of the proposed rezone, the current zoning, and the ramifications of both.

Councilman Bilodeau questioned the rezoning on the very small lots in this area - some being only 2000 to 3000 square feet.

MOTION - Whitaker

SECOND - Smith

AYES - Alvarez, Whitaker, Smith, Murphy

NOES - Bilodeau

Moved that Ordinance No. 01-13(A) be read by title only and same was set for second reading by the preceding vote.

**2) ORDINANCE NO. 01-13(B) (FIRST READING)**

An Ordinance of the City Council of the City of Orange Approving Zone Change No. 1267-12(B) Rezoning Certain Properties in the Old Towne "Focus Area" Generally Located North Of Palm Avenue, East Of The Railroad Tracks and West Of Glassell Street to Single Family Residential (R-1), in order to Establish Consistency Between the Low Density Residential General Plan Land Use Designation and the Zoning Classification in Accordance with State Law.

NOTE: Councilmember Whitaker recused himself due to a possible conflict with his employment and left the dais.

Discussion - Councilmember Alvarez stated he could not support the rezone because it would take value away from the property owners.

Mayor Smith stated she was guided by what is currently on the property and gave further reasons why she supported the R-1 zoning.

Mayor pro tem Murphy confirmed with staff the zoning applied to a project at 468 N. Olive, currently in process, and whether there were any time constraints on it.

Councilmember Bilodeau confirmed that the project on North Olive is held up by the fact that they are requesting removal from the historic district designation.

MOTION - Smith

SECOND - Murphy

AYES - Smith, Murphy

NOES - Bilodeau, Alvarez

ABSENT (RECUSED) - Whitaker

Moved that Ordinance No. 01-13(B) be read by title only and same was set for second reading by the preceding vote.

**(MOTION FAILED)**



**13. PUBLIC HEARINGS (Continued)****3) ORDINANCE NO. 01-13(C) (FIRST READING)**

An Ordinance of the City Council of the City of Orange Approving Zone Change No. 1267-12(C) Rezoning Certain Properties in the Old Towne "Focus Area" Generally Located South Of Palm Avenue, East Of The Railroad Tracks and West of Glassell Street to Single Family Residential (R-1), in order to Establish Consistency Between the Low Density Residential General Plan Land Use Designation and the Zoning Classification in Accordance with State Law.

NOTE: Councilmember Alvarez recused himself due to a possible conflict with property and businesses he owns and left the dais.

Discussion - Senior Planner Jennifer Le responded to Council questions and stated that this quadrant included a mix of single- and multi-family residential. She also stated that churches are permitted in the R-1 zone, as well as schools with a CUP.

MOTION - Bilodeau

SECOND - Murphy

AYES - Whitaker, Smith, Murphy, Bilodeau

ABSTAIN (RECUSED) - Alvarez

Moved that Ordinance No. 01-13(C) be read by title only and same was set for second reading by the preceding vote.

**4) ORDINANCE NO. 01-13(D) (FIRST READING)**

An Ordinance of the City Council of the City of Orange Approving Zone Change No. 1267-12(D) Rezoning Certain Properties in the Old Towne "Focus Area" Generally Located South Of Palm Avenue, West Of The Railroad Tracks, and East Of Batavia to Single Family Residential (R-1), in order to Establish Consistency Between the Low Density Residential General Plan Land Use Designation and the Zoning Classification in Accordance with State Law.

NOTE: Councilmember Whitaker recused himself due to a possible conflict with his employment and left the dais.

Discussion - Councilmember Alvarez stated there are many pre-existing apartments and condominiums and that he is in conflict with changing zoning on something pre-existing, adding that a legal non-conforming issue is being created by this action.

Ms. Le stated that everything currently on the ground would have a "permitted use" status, rather than a "legal non-conforming use", due to the previous Council adopting an ordinance to address this situation.

**13. PUBLIC HEARINGS (Continued)**

Council discussed the purpose of the formal action to rezone this area as an R-1 zone according to the previous Council's designating it such in the General Plan adopted in 2010.

Mayor Smith stated a need for further review and suggested continuing this ordinance to the March 12<sup>th</sup> meeting. She also requested larger maps, a narrative on the current number of single-family and multi-family residences, a listing of the historic contributing versus non-contributing structures, the zoning of all areas on the map, and a powerpoint presentation.

MOTION - Smith

SECOND - Alvarez

AYES - Alvarez, Smith, Murphy, Bilodeau

ABSENT (RECUSED) - Whitaker

Moved that Ordinance No. 01-13(D) be continued to March 12<sup>th</sup>, at 7:00 p.m.

**14. PLANNING AND ENVIRONMENT – None****15. ADJOURNMENT – The City Council adjourned at 9:05 p.m.**

The next Regular City Council Meeting will be held on Tuesday, February 26, 2013, at 4:30 p.m. in the Council Chambers.

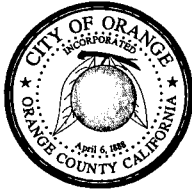
**Declaration of Chief Clerk, Robert Zornado, declaring posting of City Council agenda of a regular meeting of February 12, 2013 at Orange Civic Center kiosk, Police facility at 1107 North Batavia, and the Main Public Library at 407 E. Chapman; all of said locations being in the City of Orange and freely accessible to members of the public at least 72 hours before commencement of said regular meeting; and available at the Civic Center City Clerk's Office.**

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MARY E. MURPHY  
CITY CLERK

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TERESA E. SMITH  
MAYOR




# AGENDA ITEM

February 12, 2013

**TO:** Honorable Mayor and  
Members of the City Council

**THRU:** John W. Sibley  
City Manager

**FROM:** Ed Knight   
Interim Community Development  
Director

Reviewed/Verified By:

City Manager \_\_\_\_\_  
Finance Director \_\_\_\_\_

To Be Presented By:  
Jennifer Le

Cons Calendar	City Mgr Rpts
Council Reports	Legal Affairs
Boards/Cmtes	<input checked="" type="checkbox"/> Public Hrgs
Admin Reports	Plan/Environ

## 1. SUBJECT

Ordinance No. 1-13 approving Zone Change 1267-12 to rezone certain properties in the Old Towne Orange "Focus Area" (generally located west of Glassell Street) to R-1 (Single Family Residential).

## 2. SUMMARY

The City's General Plan was adopted on March 9, 2010. The update changed General Plan land use designations on certain properties in Old Towne's residential quadrants to Low Density Residential (LDR). The City's General Plan identifies R-1 (Single Family Residential) as the corresponding zoning district for the LDR General Plan land use designation. The properties affected by the proposed zone change currently have a LDR land use designation but are zoned something other than R-1. State law requires consistency between a property's General Plan land use designation and its zoning. Therefore, Zone Change 1267-12 is proposed to rezone the subject properties to R-1-6 (Single Family Residential, 6,000 square foot minimum lot size) consistent with the LDR General Plan land use designation.

The subject Zone Change addresses properties generally located in the northwest and southwest quadrants of Old Towne and represents the last phase of a multi-phase rezoning effort for the Old Towne area. Previous Council actions include approval of Zone Change 1261-11 on February 14, 2012, which rezoned certain properties in the *southeast quadrant* of Old Towne to R-1-6. Zone Change 1261-11 as it pertained to the *northeast quadrant* of Old Towne was approved by Council on May 8, 2012. Zone Change 1263-12 was also approved on May 8, 2012 and rezoned properties to R-1-6 on South Harwood and South Pine Street in Old Towne.

ITEM \_\_\_\_\_

### **3. RECOMMENDATION**

- (1) Find that the proposed zone change is within the scope of the previously-approved 2010 General Plan, which was evaluated in certified Program EIR No. 1815-09; and find that the Program EIR adequately describes the zoning changes for purposes of California Environmental Quality Act (CEQA) compliance and no new environmental documents are required.
- (2) Adopt Ordinance No. 1-13 approving Zone Change 1267-12 to rezone certain properties in the Old Towne Orange area (generally located west of Glassell Street) to R-1-6.

### **4. FISCAL IMPACT**

None.

### **5. STRATEGIC PLAN GOAL(S)**

- 5b. Expand and strengthen processes and practices related to protection of cultural resources.

### **6. GENERAL PLAN IMPLEMENTATION**

#### **Land Use Element**

Goal 5.0: Maintain and enhance the vibrant, transit-accessible, pedestrian-friendly, and livable character of Old Towne's neighborhoods and commercial core.

#### **Cultural Resources and Historic Preservation Element**

Goal 3.0: Provide incentives and expand education efforts for historic preservation.

Policy 3.2: Provide incentives to encourage and support historic preservation.

### **7. DISCUSSION and BACKGROUND**

#### **Proposed Zone Change**

The City Council adopted the 2010 General Plan on March 9, 2010. The update changed General Plan land use designations on certain properties in Old Towne's residential quadrants to Low Density Residential (LDR). This change was made to establish a land use policy for Old Towne's residential quadrants that encourages future residential development in Old Towne to be single-family in nature, consistent with the predominant land use pattern. It also encourages preservation of Old Towne's predominantly historic single-family homes. The 2010 General Plan land use map for the Old Towne "focus area" is included as Attachment 1 to this report.

State planning law (Government Code Section 65860) requires consistency between a property's General Plan and zoning. Therefore, as a follow up action to the 2010 General Plan adoption, rezoning certain Old Towne properties is necessary in order to establish consistency.

The General Plan identifies R-1 (Single Family Residential) as the corresponding zoning for the LDR General Plan land use designation. (Refer to the General Plan Land Use Element Table LU-3, Attachment 2 to this report). Properties affected by the subject Zone Change currently have a General Plan land use designation of LDR but are zoned Duplex Residential (R-2-6), Multi-Family Residential (R-3), Multi-Family Residential Maximum (R-4), Office Professional (O-P) and Light Manufacturing (M-1).

As such, Zone Change 1267-12 proposes to re-zone 385 parcels located in the Old Towne General Plan "focus area" (west of Glassell Street) to R-1-6, consistent with the LDR General Plan land use designation. Existing and proposed zoning maps are included as exhibits to Ordinance No. 1-13 (Attachment 3 to this report). The subject Zone Change addresses properties generally located in the northwest and southwest quadrants of Old Towne and represents the last phase of a multi-phase rezoning effort for the Old Towne area.

### **Existing Land Use and Legal Non-Conforming Status**

As is discussed in the Planning Commission staff report (Attachment 9 to this report), 64% of properties affected by the subject Zone Change have an existing "on the ground" land use of single-family residential. The remaining affected properties contain multi-family residential (i.e. more than one unit) or other non-residential uses. A map is included as Attachment 4 to this report, which shows "contributing structures" and existing "on the ground" land use for properties affected by the subject Zone Change.

Typically, the proposed rezone of the subject properties to R-1 zoning would render the properties that already have multiple residential units or non-residential uses "legal non-conforming". However, as a follow-up action to the May 8, 2012 City Council approval of Zone Change 1261-11, the Council approved Ordinance No. 7-12 (OMC Section 17.14.050.G) addressing the "legal non-conforming" status of duplex and multi-family dwellings. OMC Section 17.14.050.G is included as Attachment 5 to this report. It recognizes duplex and multi-family dwellings that experienced a zoning change to R-1 as a result of the 2010 General Plan Update as a "permitted use" (not "legal nonconforming") provided they were legally established at the time of the change to such zoning). Further, it allows for additions, reconstructions or alterations on such properties, provided that no new dwelling units are added and the proposed improvement otherwise complies with Code requirements.

Furthermore, in conjunction with adoption of the 2010 General Plan in March 2010, the City Council adopted Ordinance No. 12-09 (OMC Section 17.38.065), making special accommodations for properties made "non-conforming" by the land use changes of the General Plan. These provisions are detailed in Attachment 6, and include allowing a "legal non-conforming" use to remain indefinitely and also to expand (provided no new units are added).

Hence, non-residential properties or uses (which are not covered by OMC Section 17.14.050.G) would be covered by OMC Section 17.38.065 and can remain as they are today. Under this Code section, non-conforming uses may also be replaced with an equivalent non-conforming use or physically expanded (provided any proposed improvements comply with Code).

### **Public Notice**

A City Council public hearing notice was published in the local newspaper. In addition, approximately 1390 notices were mailed to owners and tenants of affected properties as well as properties located within 300 feet of affected properties. Hearing notices were also posted at City posting locations.

### **Planning Commission Hearing**

On December 3, 2012, the Planning Commission conducted a public hearing for Zone Change 1267-12. The Commission adopted Resolution No. PC 49-12, recommending approval of the Zone Change to the City Council by a vote of 4 in favor, 0 opposed and 1 abstention. Public comments were received from seven members of the public at the hearing, with six opposed and one in support. In addition, written correspondence was received from five members of the public. The Planning Commission Resolution, Minutes, Staff Report and written correspondence received for Zone Change 1267-12 are provided as Attachments 7, 8, 9, and 10 respectively. In addition, a brief staff analysis of properties discussed at the Planning Commission hearing is included as Attachment 11 to this report.

<b>7. ATTACHMENTS</b>
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1. 2010 General Plan Land Use Map for the Old Towne Focus Area
2. 2010 General Plan Land Use Element Table LU-3
3. Ordinance No. 1-13 including the Existing and Proposed Zoning Maps
4. Exhibit showing existing land use and contributing structures
5. OMC Section 17.14.050.G
6. OMC Section 17.38.065
7. Planning Commission Resolution No. PC 49-12
8. December 3, 2012 Planning Commission Minutes
9. December 3, 2012 Planning Commission Staff Report (without exhibits)
10. Written correspondence from the public
11. Summary analysis for properties discussed at the Planning Commission hearing

February 12, 2013

Dear Mayor and City Council,

My name is Ryan Dierking and I am a resident here in old town orange. I live at 365 S. Pixley Street with my family of 4, we bought the home in 1999. Our home falls into the area being affected by the proposed zoning change NO. 1267-12 which goes in front of the city council tonight for a vote. I cannot urge you enough to vote NO on this zoning change. I urge you to instead amend the general plan to Low - Medium Density Residential and leave our zoning alone.

Our property values have taken a HUGE hit the past 5 years and now the city wants to purposely lower them even more. We are finally starting to see some daylight the last few months as property values start to come up. In working with a realtor today the current average price (over last 12 months) for a 2 unit property on similar size lots is \$534,700 while the average of a single unit home with similar size lots (over last 12 months) is \$398,000. That is a potential property value down grade of \$136,700. Down grading us on what we can build would GREATLY reduce our potential property value.

This request for zoning change started at the request of a group that has few members in the affected area and is not active in this quadrant of old town orange. We are old town orange but we are different. We are different because of our zoning and the history of the structures that surround us. We live in this area because it's different. We have commercial as our next door neighbor and Industry right behind us with an apartment complex a couple of doors down the street. This part of old town is unique and we love it. Our current zoning of R-2-6 through R-4 gives us the opportunity to expand our homes or not expand our homes, this is our choice and that is why we bought our home with R-3 zoning.

Before the planning commission meeting Jennifer Le with the City sent out information to everyone on November 15, 2012 describing the affects of the zoning change. This letter was meant to inform the residents of the effects of this change but unfortunately it was misleading and led people to believe that they would still be able to build a second unit on their property. The letter stated that *'If rezoned to R-1, the types of development allowed on your property will include: Accessory second housing unit (for example, a small rental unit), with a minimum of 450 square feet and a maximum of 640 square feet.'* After reading this I started to think that this is fine and just a formality with the change, but then I started to investigate the city regulations that apply to each zoning classification. The zoning regulations of R1-6 will make it impossible to build a second unit as stated by Jennifer Le due to the new zoning requirements on setbacks. I have gone ahead and prepared an exhibit of my lot (see attached) showing

ITEM: 13.1 DATE OF MEETING:           

ATTACHMENT NO. 13  
WRITTEN CORRESPONDENCE FROM  
THE PUBLIC FOR PROPERTIES  
LOCATED IN "AREA D"  
ZONE CHANGE 1267-12(D)  
MARCH 12, 2013 CC MTG.

my current R-3 zoning and the proposed R1-6 zoning. As you can see on a typical lot my size a 'second unit' would not be allowed under the new regulations. Not everyone's lot is my exact size but it does make up more than half of the properties being affected. I spoke with Jennifer regarding my concerns and she understood that it could be confusing and mentioned that follow up may be preformed to clarify it but nothing was received by the residences in the affected area.

At the planning commission meeting, despite the opposition of everyone at the planning commission meeting regarding this change, the planning commission applied the rubber stamp simply because the 'other side' of old town was already approved.

I am not saying NO to this because we are going to rush out and build a second unit and rent it out. Our street is mostly duplexes and rentals, we have second unit homes on each side of us and that is fine. This zoning change prevents property owners from having the opportunity to blend in with their neighbors. We love old town and we want to preserve it's history. I support the old town design review process required to expand or upgrade our special homes. The city needs to rely on this established process to keep old town historic and not strip the rights or property values from it's residents.

The city staff purposely split this zoning change into quadrants instead of tackling everyone at the same time. This is fine because it gives us a stronger voice to stand up for our property values and say NO. Don't just rubber stamp this because the other half of old town is already done. Listen to US, the affected property owners and VOTE NO on zoning change and YES to General Plan Amendment change to Low-Medium Residential. Keep our zoning the same!!!

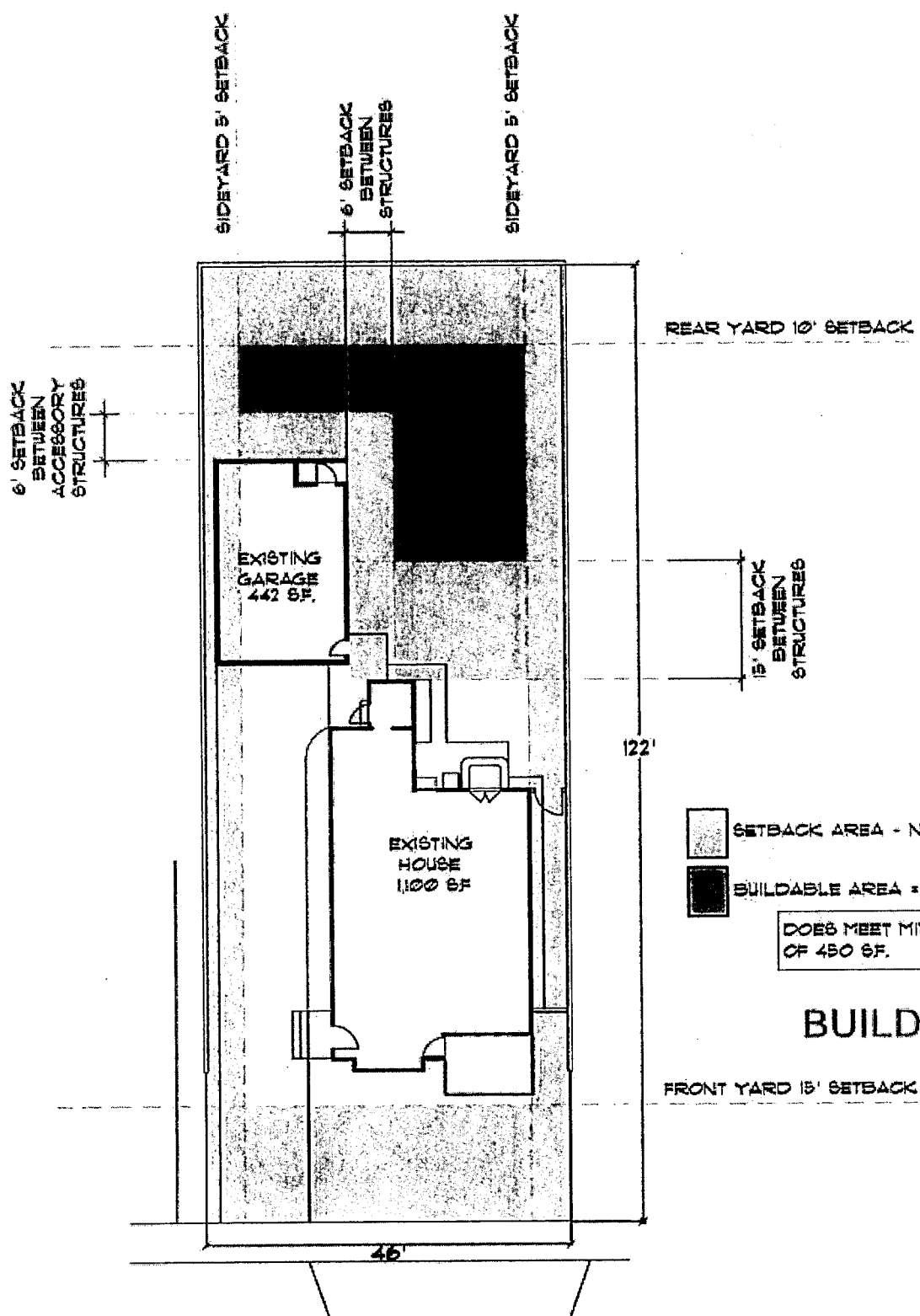
Please vote **NO to Re-zoning** and **YES to General Plan Amendment to go back to Low-Medium Residential** for our area.

Thank you,  
Ryan Dierking

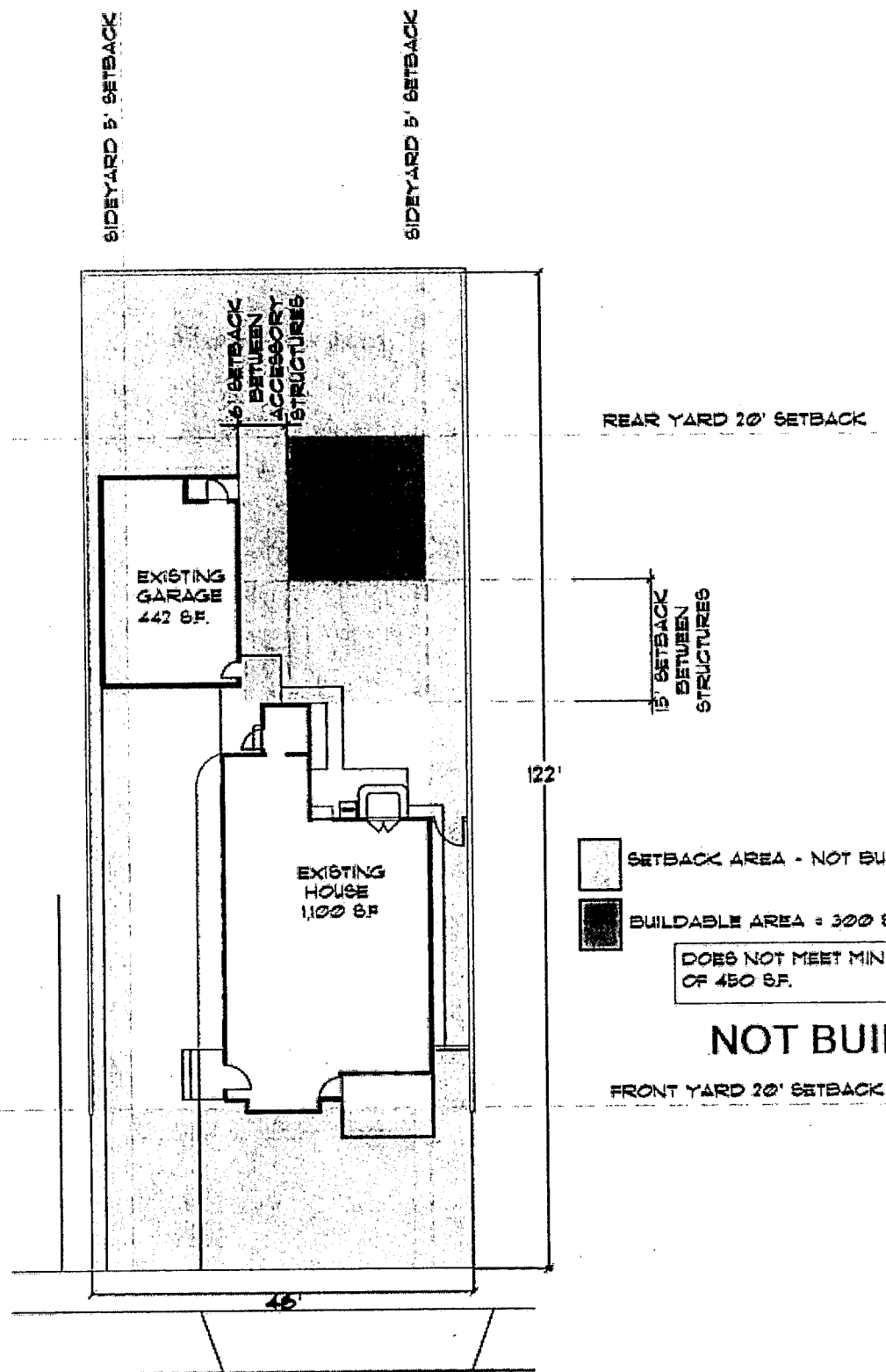
A handwritten signature in black ink, appearing to be 'RD' with a stylized flourish at the end.

365 South Pixley Street  
Orange, CA 92868





365 SOUTH PIXLEY STREET  
CURRENT R-3 ZONING

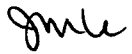



365 SOUTH PIXLEY STREET  
PROPOSED R-1-6 ZONING

City of Orange  
Community Development Department

# Memo

To: Mayor and Members of the City Council

From: Jennifer Le, Senior Planner 

Thru: Ed Knight, Interim Community Development Director 

Date: March 4, 2013

Re: Zone Change 1267-12(D)- Information regarding properties discussed at previous hearings that are located in "Area D"

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This memo contains site-specific information for properties located in "Area D" that were discussed at the December 3, 2012 Planning Commission and/or February 12, 2013 Council hearing. The information focuses on assessing future development potential under the General Plan and the existing and proposed zoning.

**365 S. Pixley, Ryan Dierking, Opposed** (spoke at City Council hearing and submitted written correspondence)

This property has a General Plan land use designation of Low Density Residential (LDR) with an allowable density of 2 to 6 du/acre (du/acre). The LDR designation was approved as part of the 2010 General Plan Update. The property is zoned Multi-family Residential (R-3). The property contains a single family residence. The residence is a 1928 bungalow and is listed as a "contributing structure" to the historic district. Lot size is 5,664 square feet (0.13 acre). The property is located on an R-3 zoned block with primarily single family residences and a few duplex properties.

## General Plan Development Potential

Under the existing LDR General Plan designation which allows for 2 to 6 du/acre, one dwelling unit is allowed on the property (0.13 acre x 6 du/acre = 0.78 unit).

Prior to the 2010 General Plan Update, the land use designation was Low Medium Density Residential (LMDR), 6 to 15 du/acre. Under the prior LMDR General Plan designation, two units would be allowed on the property (0.13 acre x 15 du/acre = 1.95 units).

## City of Orange Community Development Department

### Zoning Development Potential

Under the existing R-3 zoning, the number of units allowed refers back to the density allowed under the General Plan (two units are allowed under the prior LMDR General Plan designation). The viability of building a second unit under the R-3 zoning would be dictated by compliance with the development standards of the zone (setbacks, open space, lot coverage, parking etc.) and the Old Towne Design Standards (OTDS).

Under the proposed Single Family Residential (R-1-6) zoning/ existing LDR General Plan designation, the existing residence is a permitted use. An accessory second unit (450 to 640 square feet) would also be allowed, subject to the R-1-6 zone development standards and the OTDS.

A partial listing of applicable development standards in both the R-3 and R-1 zones is provided in Table 1 below. (A complete listing is provided in Orange Municipal Code (OMC) Section 17.14.). As is shown below, the R-3 and R-1 development standards (as applied to this specific case) are similar in most instances. The R-1-6 zone development standards are less restrictive for issues such as FAR, parking, and distance between buildings, and more restrictive for minimum usable open space. Overall, staff's analysis shows that given the property's small lot size and onsite historic structure, it is highly unlikely that a second unit (larger than 640 square feet) could be built in such a way as to comply with the development standards of the R-3 zone and the OTDS. (Providing required parking and access to required parking while meeting the other development standards would be particularly challenging.) As such, it is likely that a second unit under the R-3 zoning would need to be reduced in size to less than 640 square feet in order to fit on the property and would then be treated as an "accessory second unit" (the same as under the proposed R-1 zoning). It should be noted that given the site constraints, even an accessory second unit would be challenging. However, staff believes it would be possible (and certainly more viable than constructing a larger second unit under the R-3 zoning), particularly if options such as relocating the existing garage or pursuing an *attached* accessory second unit were further explored.

As another option, the property owner could propose demolition or relocation of the historic structure to accommodate additional units. This option would involve extensive environmental review under the California Environmental Quality Act (CEQA) and its approval would ultimately be at the discretion of the Council, considering the City's historic preservation objectives along with the benefits of the project.

Staff Conclusion: One unit plus an accessory second unit would be allowed under the existing LDR General Plan designation/ proposed R-1-6 zoning scenario. Up to two units would be allowed under the prior LMDR General Plan designation/ existing R-3 zoning scenario. However, given the lot size limitations and historic structure, even under the R-3 zoning, it is highly unlikely that a second unit would be viable. If it were viable, it

City of Orange  
Community Development Department

would likely be of a reduced size such that it would essentially fall under the “accessory second unit” definition and would be treated the same as under the proposed R-1 zoning.

**Table 1**

<b>Development Standard</b>	<b>R-3 Zone</b>	<b>R-1-6 Zone</b>
Setbacks	Front: 20 feet (for OT residential quadrants) Side: 5 feet Rear: 10 feet	Front: 20 feet Side: 5 feet Rear- 20 feet Rear- 10 feet (if building is one story)
Building Height	Same as R-1-6 Additional height can be approved with a Conditional Use Permit.	32' or two stories (whichever is less); and as specified in the OTDS
Lot Coverage/FAR	45% to 55% Lot Coverage	0.60 Floor Area Ratio (FAR)
Parking	2 parking spaces per unit (of which one is enclosed).	2 enclosed garage spaces and one unenclosed space for an accessory second unit.
Minimum Usable Open Space	250 sqft/unit	900 square feet
Private Open Space	70 sqft/unit	N/A
Common Open Space	100 sqft	N/A
Required Distance between buildings	8-15 feet (depending on configuration)	6 feet (primary to accessory)

**168 S. Parker Street, Ralph Cortez, Opposed** (spoke at Planning Commission hearing)

This property has a General Plan designation of Low Density Residential (LDR) with an allowable density of 2 to 6 du/acre (du/acre). The LDR designation was approved as part of the 2010 General Plan Update. The property is zoned Multi-family Residential (R-3). The property currently contains a single family residence. The residence was constructed in 1904 and is listed as a “contributing structure” to the historic district. Lot size is 6,732 square feet (0.156 acre). The property is located on an R-3 zoned block with a mix of single family residences, properties with two and three units, and one attached multi-unit subdivision.

**General Plan Development Potential**

Under the existing LDR General Plan designation which allows for 2 to 6 du/acre, one dwelling unit is allowed on the property (0.156 acre x 6 du/acre = 0.93 unit).

## City of Orange Community Development Department

Prior to the 2010 General Plan Update, the land use designation was Low Medium Density Residential (LMDR), 6 to 15 du/acre. Under the prior LMDR General Plan designation two units would be allowed on the property (0.156 acre x 15 du/acre = 2.34 units).

### Zoning Development Potential

Under the existing R-3 zoning, the number of units allowed refers back to the density allowed under the General Plan (two units are allowed under the prior LMDR General Plan designation). The viability of building a second unit under the R-3 zoning would be dictated by compliance with the development standards of the zone (setbacks, open space, lot coverage, parking etc.) and the OTDS.

Under the proposed Single Family Residential (R-1-6) zoning/ existing LDR General Plan designation, the existing residence is a permitted use. An accessory second unit (450 to 640 square feet) would also be allowed, assuming it could be located and designed in a way to be consistent with the R-1-6 zone development standards and the OTDS.

A partial listing of applicable development standards is provided in Table 1 above. (A complete listing is provided in Orange Municipal Code (OMC) Section 17.14.) Overall, staff's analysis shows that given the property's small lot size and onsite historic structure, it is unlikely that a second unit (larger than 640 square feet) could be built in such a way as to comply with the development standards of the R-3 zone and the OTDS. (Providing required parking for a second unit while meeting the other development standards would be particularly challenging.) As such, it is likely that a second unit under the R-3 zoning would be reduced in size to less than 640 square feet and would then be treated as an "accessory second unit" (the same as under the proposed R-1 zoning). Staff believes an accessory second unit would be possible (and certainly more viable than constructing a larger second unit under the R-3 zoning).

As another option, the property owner could propose demolition or relocation of the historic structure to accommodate two units on the site. This option would involve extensive environmental review under the California Environmental Quality Act (CEQA) and its approval would ultimately be at the discretion of the Council, considering the City's historic preservation objectives along with the benefits of the project.

Staff Conclusion: One unit plus an accessory second unit would be allowed under the existing LDR General Plan designation/ proposed R-1-6 zoning scenario. Up to two units would be allowed under the prior LMDR General Plan designation/ existing R-3 zoning scenario. Given the lot size limitations and historic structure, even under the R-3 zoning, the size of a viable second unit would likely be less than 640 square feet and would therefore be treated as an accessory second unit (the same as under the proposed R-1 zoning).

## AFFIDAVIT OF PUBLICATION

STATE OF CALIFORNIA, )  
 ) ss.  
County of Orange )

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the **Orange City News**, a newspaper that has been adjudged to be a newspaper of general circulation by the Superior Court of the County of Orange, State of California, on August 17, 1970, Case No. A-66522 in and for the City of Orange, County of Orange, State of California; that the notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

**March 21, 2013**

"I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct":

Executed at Santa Ana, Orange County,  
California, on

Date **March 21, 2013**

Don Wb

Signature

**Orange City News**  
625 N. Grand Ave.  
Santa Ana, CA 92701  
(714) 796-2209

## PROOF OF PUBLICATION

### Proof of

**ORDINANCE NO. 01-13(D)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE APPROVING ZONE CHANGE NO. 1267-12(D) REZONING CERTAIN PROPERTIES IN THE OLD WINE "FOCUS AREA", GENERALLY LOCATED NORTH OF VERA AVENUE, SOUTH OF PALM AVENUE, WEST OF THE RAILROAD TRACED, AND EAST OF BATAVA TO SINGLE FAMILY RESIDENTIAL (R-1), IN ORDER TO ESTABLISH A COMPATIBILITY BETWEEN THE LOW DENSITY RESIDENTIAL GENERAL LAND USE DESIGNATION AND THE ZONING CLASSIFICATION IN ACCORDANCE WITH STATE LAW.

**SYNOPSIS:** Old Towne Orange Zone Change No. 1267-12 (D).

The second reading of this Ordinance is scheduled for the March 26, 2013 City Council Meeting. The full text of the Ordinance has been posted in the City Clerk's Office as of March 13, 2013.

Phone: (714) 744-5500 ROBERT ZORNADO  
CHIEF CLERK OF THE CITY OF ORANGE  
Published: Orange City News March 21, 2013 9592833

STATE OF CALIFORNIA, )

) ss.

)

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the **Orange City News**, a newspaper that has been adjudged to be a newspaper of general circulation by the Superior Court of the County of Orange, State of California, on August 17, 1970, Case No. A-66522 in and for the City of Orange, County of Orange, State of California; that the notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

**April 4, 2013**

"I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct":

Executed at Santa Ana, Orange County,  
California, on

Date **April 4, 2013**

*Ed W*

Signature

**Orange City News**  
625 N. Grand Ave.  
Santa Ana, CA 92701  
(714) 796-2209

## PROOF OF PUBLICATION

**ORDINANCE NO. 01-13(D)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE APPROVING ZONING CHANGE NO. 1267-12(D) REZONING CERTAIN PROPERTY LOCATED IN THE "FOCUS AREA" GENERALLY LOCATED IN THE OLD TOWNE VILLAGE AVENUE, SOUTH OF PALM AVENUE, NORTH OF LA RAILROAD TRACKS, AND EAST OF BATAVIA STREET, SINGLE FAMILY RESIDENTIAL (R-1), IN ORDER TO ESTABLISH CONSISTENCY BETWEEN THE LOW DENSITY RESIDENTIAL GENERAL PLAN LAND USE DESIGNATION AND THE ZONING CLASSIFICATION IN ACCORDANCE WITH STATE LAW.

SYNOPSIS: Old Towne Orange Zone Change No. 1267-12  
(D).

This Ordinance was adopted at the March 26, 2013 City Council Meeting. The full text of the Ordinance has been posted in the City Clerk's Office as of March 27, 2013.  
Phone: (714) 744-5500  
ROBERT ZORNADO  
CHIEF CLERK OF THE CITY OF ORANGE  
Published: The Orange City News April 4, 2013 9601029



**11. RECESS TO CLOSED SESSION**

The City Council recessed at 5:25 p.m. to a Closed Session for the following purposes:

a. Conference with Labor Negotiator pursuant to Government Code Section 54957.6:

City Negotiators: Jeffrey Freedman, Special Counsel, Rick Otto, Assistant City Manager, Steven Pham, Human Resources/Employee Relations Director, and Mike Harary, Assistant Human Resources Director.

Employee Organizations: City of Orange Police Association, City of Orange Police Management Association, and Executive Directors and Top Management Employees.

b. To consider and take possible action upon such other matters as are orally announced by the City Attorney, City Manager, or City Council prior to such recess unless the motion to recess indicates any of the matters will not be considered in Closed Session.

**ADJOURNMENT** – The City Council adjourned at 5:25 p.m. to a Study Session on March 12, 2013 at 5:30 p.m. in the Weimer Room to review the proposed 2013-14 Budget.

**7:00 P.M. SESSION****12. PUBLIC COMMENTS - None****13. PUBLIC HEARINGS****13.1 OLD TOWNE ORANGE - ZONE CHANGE 1267-12(D). (Continued from February 12, 2013) (Z1500.0 ZCG-1267-12(D))**

Continued public hearing to consider Ordinance No. 01-13(D) approving Zone Change No. 1267-12(D) rezoning certain properties in “Area D” of the Old Towne Orange focus area (generally located north of La Veta Avenue, south of Palm Avenue, west of the railroad tracks, and east of Batavia Street) to Single Family Residential (R-1) zoning.

Discussion – Senior Planner Jennifer Le provided a staff report.

Principal Planner Anna Pehoushek clarified for Council that when the General Plan Update occurred in 2010, there was a very extensive outreach to inform property owners of future rezoning plans to align the General Plan land use designation and its zoning. In addition, she explained the unlikelihood of second and third units being developed on the properties due to small lot sizes and current building codes.

MAYOR SMITH RE-OPENED THE PUBLIC HEARING.

Speakers -

Jeff Frankel, Old Towne Preservation Association, spoke on effects of the action and its support for establishment of the R-1 zoning that supports the historic district;

Angie Russ, requested confirmation that this does not apply to properties east of Glassell.

**13. PUBLIC HEARINGS (Continued)**

MAYOR SMITH CLOSED THE PUBLIC HEARING.

Mayor Smith stated her support for this action for the following reasons:

- There is no issue regarding legal non-conforming status for financing purposes;
- Many of the lots are small, and many of the structures contribute to the historic district designation;
- The action ensures the uniqueness of the Old Towne district.

She further stated that the lot sizes would never support the building of three units and that matching zoning to what actually stands on the property is a very good piece of the City's preservation policy, closing with the statement that usually a family can have two units and contributing structures can stay.

Ms. Le addressed Councilmember Bilodeau's concern for the property at 468 S. Pixley, stating that the development standards that apply to accessory second units in R-1 zoning are less restrictive in most instances; and therefore, have a better chance of accommodating an additional unit than a second unit on an R-3 zoned property.

Ms. Le addressed concerns by Mayor pro tem Murphy on 156-158 Clark, stating that she would clarify the existing land use and correct the City's maps as needed.

Councilmember Alvarez spoke of the code limitations that would apply to the small lots in question. He stated the rezoning was important to support the preservation of the historic district, and that the Mills Act allows for non-contributing homes to be brought back to contributing status. He stated that he liked the sensitivity in carving out areas for appropriate zoning.

**ORDINANCE NO. 01-13(D) (FIRST READING)**

An Ordinance of the City Council of the City of Orange Approving Zone Change No. 1267-12(D) Rezoning Certain Properties in the Old Towne "Focus Area" Generally Located north of La Veta Avenue, South of Palm Avenue, West of the Railroad Tracks, and East of Batavia to Single Family Residential (R-1), in order to Establish Consistency Between the Low Density Residential General Plan Land Use Designation and the Zoning Classification in Accordance with State Law.

MOTION - Alvarez

SECOND - Smith

AYES - Alvarez, Smith, Murphy

NOES - Bilodeau

ABSENT - Whitaker

Moved that Ordinance No. 01-13(D) be read by title only, and same was approved for second reading by the preceding vote.