CONTINUED PUBLIC HEARING

SUBJECT: ZONING ORDINANCE AMENDMENT 1-2005

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On January 18, 2005, The City Council directed staff to prepare a General Zoning Ordinance Amendment to require the construction of a masonry block wall between residential and non-residential uses. Further, the Code would specify the fencing requirement to be a masonry block wall. The amended zoning ordinance would provide Staff with clear direction in responding to proposed new developments when such development would place a non-residential use adjacent to a residential use regardless of whether either use exists at the time of approval and ultimate development.

The Porterville City Council, at its regularly scheduled meeting of May 3, 2005, conducted a public hearing to consider the proposed ordinance amendment. Due to concerns expressed by the Building Industry Association (BIA) late in the process, the City Council continued the public hearing until May 17, 2005, and directed City Staff to meet with the BIA to discuss issues of concern to the BIA.

Subsequently, Staff met with the BIA on Monday, May 9, 2005. On May 17, 2005 the Council continued the matter to June 7, 2005 to allow additional time for staff to meet with representatives of the BIA to discuss the proposal. Based on Staff’s discussions with the BIA, there does not appear to be any disagreement on whether it is appropriate to have a block wall separating residential and non-residential uses. The concern is more specifically that it is the non-residential development that creates the greatest impact on the immediate environment; therefore, the non-residential use should have the obligation to construct the separation wall. In response to this concern, the BIA representatives offered a few suggestions to address the issue.

Representatives suggested that when the non-residential property is developed, the masonry block wall should be constructed by the developer of the non-residential development regardless of whether the residential units and perimeter fences already exist. It should be noted that the common trend in residential development in Porterville is to construct wooden fences separating residential units (side and rear) and when adjacent to other sites. Walls within residential developments are typically constructed when there is an area abutting public streets.
Staff expressed the concern that if the residential development is constructed prior to the non-residential, then there would be a parallel wooden fence adjacent to a new block wall. In response to this, the BIA suggested that a *fencing easement* be recorded on the new subdivision maps, therefore, allowing the non-residential developer to have access to the residential properties at the time of the non-residential development to remove the existing residential wooden fences and replace with a masonry block wall.

Staff evaluated this proposal and is concerned that a fencing easement is very uncommon and anticipates that the process would place the burden of enforcement of such easements solely upon the City at the time of non-residential development because of the City requiring it as a condition of the development. Coordination of this effort is complicated by two primary factors; 1) the owners of the residential properties abutting the proposed non-residential development would be individual property owners, not the original residential developer, and 2) these property owners may have invested in landscaping or other personal amenities to their yard and may be reluctant to coordinate with the developer.

Another option would be to have the residential developer provide for the construction of the masonry block wall at time of residential development with the anticipation of recovering ½ of the cost of that wall once a non-residential development abuts their property. Although the Engineering Department provides for a similar type of reimbursement program for first developer of curb, gutter, sidewalk or utility lines, these projects are in the public right of way and not on private property.

The burden to provide and monitor a reimbursement program for the masonry block wall constructed on private property would fall on the City’s Planning Department.

In order to avoid the potential of individual challenges to the fencing construction at the time of build out and burdening the City Staff with additional conditions of development and reimbursement programs, Staff maintains its recommendation to the City Council to require the construction of the masonry block wall with whichever development occurs first.

**RECOMMENDATION:** That the City Council:

1. Adopt the draft resolution approving the Negative Declaration of Environmental Impact prepared for Zoning Ordinance Amendment 01-2005.
2. Approve the proposed Zoning Ordinance Amendment and give first reading to the draft ordinance.
3. Waive further reading of the draft ordinance approved Zoning Ordinance Amendment 1-2005 and order to print.

**ATTACHMENT:**

1. Exhibit A, Outlining proposed changes
2. Draft Ordinance
Exhibit A

SECTION 1: Article 33 is hereby amended as follows:

Section 3302: Definitions and Construction

A. The following definition shall be used to clarify terms and words used within the context of this Ordinance:

(67) Non-Residential Uses

Any building utilized for purposes other than a place of permanent residential habitation such as a family unit and those uses identified in Sections 600, 700, 800, 900, 1000, and 1100 (P-O, C-1, C-2, C-3, H-C, and M-1). For the purposes of this Code, non-residential includes institutional uses such as but not limited to, convalescent homes, rest homes, nursing homes, sanitariums, independent living and assisted living care facilities. While residential in nature, the aforementioned uses require auxiliary services and provide special needs to its residents/inhabitants.

Numbers (67) through (95) are hereby renumbered (68) through (96).

SECTION 1: Article 22 is hereby amended as follows:

SECTION 2206: Design and Improvements; Parking Lots Generally.

A. Access: Each parking lot or area shall be provided with suitable drives or aisles, and safe exit and entrances to and from a public street or thoroughfare. Access to parking spaces from aisles or drives shall be such as not to interfere with the use of other required parking spaces on the lot and no parking area, except for residential uses normally permitted in R-1 and R-2 zoned districts, shall be located so as to require or encourage the back of automobiles or other vehicles across any front or side lot line adjacent to a dedicated street to effect egress from the places of parking.

B. Surfacing: The parking area, aisles and access drives shall be surfaced with an asphalt concrete surfacing of 2" minimum thickness on a 4" untreated, compacted rock base. The subgrade shall be compacted to a minimum relative compaction of 90%. The minimum slope of asphalt paved surface in the direction of drainage shall be 12 inches per 100 feet and the minimum slope of concrete gutters shall be three (3) inches per 100 feet. The 4" untreated compacted rock base may be modified on basis of an “R: value test of the existing soil. The test to be made with a traffic index of 5.0. On major developments service roads shall be designed to carry the traffic loads anticipated.
C. **Fences:** Where any parking lot or area in an R-3, R-4, P-0, and all Commercial and Manufacturing Zoning abuts property in an R-A, R-E, R-1, R-1-8 or R-2 Zone, it shall be separated from such property by a screen fence or wall not less than six (6) feet high, provided that such be forty-two (42) inches high from the property line to a depth equal to the required front yard on the abutting R-A, R-E, R-1, R-1-8 or R-2 Zone. Where a non-residential use abuts residential use property, it shall be separated from such property by a masonry block wall not less than six (6) feet high, provided that the masonry block wall be forty-two (42) inches high from the property line to a depth equal to the required front yard setback on the abutting residential use.

SECTION 2: Article 26 is hereby amended as follows:

SECTION 2617: Fence Requirements, Commercial and Industrial Zoning:

Highway Frontages. Fence Requirements for Separation of Residential Uses from Non-residential Uses.

A. Rear yard abutting and “R” zone, and where there is no alley a masonry wall six (6) feet in height shall be erected and maintained on the rear lot line. A masonry block wall six (6) feet in height shall be constructed and maintained on the side and/or rear lot line where a non-residential use abuts a residential use or zone where there is no alley.

B. Side yard abutting any “R” zone and where there is no alley a masonry wall six (6) feet in height shall be erected and maintained on the side lot line. In locations where a residential use is being developed adjacent to an existing non-residential development, the residential development shall construct a wall with the residential development. The property line between residential and non-residential use shall be developed with a six (6) foot high masonry block wall. Subject masonry block wall shall step down to 36" in height from the side property line intersecting the front property line to a depth equal to the required front or side yard set back of the abutting residential use in order to provide for a safe line of sight for vehicular traffic. The design of such improvements shall be approved by the City Engineer.

C. Where residentially zoned parcels a residential use abuts State Highway rights-of-way or State Highway frontage road rights-of-way, a masonry block fencing wall at least eight (8) feet in height from finished grade shall be installed along that frontage, unless an acoustical analysis indicates that a greater height is warranted subject to the approval of any conditional use permit, parcel or subdivision map or any applicable development identified in Section 2619 A-3 of this chapter. The design of such improvements shall be approved by the City Engineer.

D. Wall height separating residential uses from non-residential uses and public rights-of-way may be increased in height to accommodate adequate sound
E. If using an alley to access a non-residential use or property, line of sight visibility must be incorporated through the proper design of a masonry block wall and approved by the City Engineer. If such wall abuts the side or front yard of an adjacent residential use or property, the masonry block wall will need to be stepped down to 36" from the property line to a depth equal to the required front yard setback abutting the residential use in order to provide for safe line of site for traffic. If such wall abuts the rear property line of a residential lot, then there will be no requirement to reduce the height of the masonry block wall. If alley access is not required to access the commercial property, a masonry block wall shall be constructed between the residential and non-residential properties.

Note:
Existing Language to remain appears in normal print.
Proposed language to be added appears in underline print.
Existing language proposed to be removed is shown crossed out.
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING THE ZONING ORDINANCE
PERTAINING TO BLOCK WALL REQUIREMENTS
SEPARATING RESIDENTIAL AND NON-RESIDENTIAL USES

WHEREAS, on January 18, 2005, the City Council of the City of Porterville requested Staff to prepare a General Zoning Ordinance Amendment requiring the construction of a masonry block wall between residential and non-residential uses and that the masonry wall; and

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of May 3, 2005, conducted a public hearing to consider General Zoning Ordinance Amendment 1-2005, but continued the hearing to May 17, 2005, in order to provide staff the time to meet with the Building Industry Association (BIA) and address their concerns regarding the proposed amendment; and

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of May 17, 2005, conducted a public hearing on Zoning Ordinance Amendment 1-2005, but continued the public hearing to June 7, 2005, to allow Staff time to adequately prepare a report to the Council on the suggestions of the BIA and possible solutions.

NOW THEREFORE BE IT ORDAINED, that the City Council of the City of Porterville does hereby amend Article 33 - Section 3302 and Article 22 – Section 2206, Article 26 - Section 2606 C, and Article 26, Section 2617 A, B, D, and E as follows:

SECTION 1: Article 33 is hereby amended as follows:

SECTION 3302: Definitions and Construction

A. The following definition shall be used to clarify terms and words used within the context of this Ordinance:

(67) Non-Residential Uses
Any building utilized for purposes other than a place of permanent residential habitation such as a family unit and those uses identified in Sections 600, 700, \[\ldots\]
For the purpose of this Code, non-residential includes institutional uses such as, but not limited to, convalescent homes, rest homes, nursing homes, sanitariums, independent living and assisted living care facilities. While residential in nature, the aforementioned uses require auxiliary services and provide special needs to its residents/inhabitants.

Numbers (67) through (95) are hereby renumbered (68) through (96).

SECTION 2: Article 22 is hereby amended as follows:

SECTION 2206: Design and Improvements; Parking Lots Generally.

A. Access: Each parking lot or area shall be provided with suitable drives or aisles, and safe exit and entrances to and from a public street or thoroughfare. Access to parking spaces from aisles or drives shall be such as not to interfere with the use of other required parking spaces on the lot and no parking area, except for residential uses normally permitted in R-1 and R-2 zoned districts, shall be located so as to require or encourage the back of automobiles or other vehicles across any front or side lot line adjacent to a dedicated street to effect egress from the places of parking.

B. Surfacing: The parking area, aisles and access drives shall be surfaced with an asphalt concrete surfacing of 2" minimum thickness on a 4" untreated, compacted rock base. The subgrade shall be compacted to a minimum relative compaction of 90%. The minimum slope of asphalt-paved surface in the direction of drainage shall be 12 inches per 100 feet and the minimum slope of concrete gutters shall be three (3) inches per 100 feet. The 4" untreated compacted rock base may be modified on basis of an “R: value test of the existing soil. The test to be made with a traffic index of 5.0. On major developments, service roads shall be designed to carry the traffic loads anticipated.

SECTION 3: Article 26 is hereby amended as follows:

SECTION 2617: Fence Requirements for Separation of Residential Uses from Non-residential Uses.

A. A masonry block wall six (6) feet in height shall be constructed and maintained on the side and/or rear lot line where a non-residential use abuts a residential use or zone where there is no alley.

B. In locations where a residential use is being developed adjacent to an existing non-residential development, the residential development shall construct a wall with the residential development. The property line between residential and non-residential use shall be developed with a six (6) foot high masonry block wall. Subject masonry block wall shall step down to 36" in height from the side property line intersecting the front property line to a depth equal to the required front or side yard set back of the abutting residential use in order to provide for
safe line of sight for vehicular traffic. The design of such improvements shall be approved by the City Engineer.

C. Where a residential use abuts State Highway rights-of-way or State Highway frontage road rights-of-way, a masonry block wall at least eight feet (8’) in height from finished grade shall be installed along that frontage, unless an acoustical analysis indicates that a greater height is warranted subject to the approval of any conditional use permit, parcel or subdivision map or any applicable development identified in Section 2619 A-3 of this chapter. The design of such improvements shall be approved by the City Engineer.

D. Wall height separating residential uses from non-residential uses and public right-of-ways may be increased in height to accommodate adequate sound attenuation as required through the findings of an acoustical analysis by a licensed acoustical engineer. The design of such improvements shall be approved by the City Engineer.

E. If using an alley to access a non-residential use or property, line of sight visibility must be incorporated through the proper design of a masonry block wall and approved by the City Engineer. If such wall abuts the side or front yard of an adjacent residential use or property, the masonry block wall will need to be stepped down to 36” from the property line to a depth equal to the required front yard setback abutting the residential use in order to provide for safe line of site for traffic. If such wall abuts the rear property line of a residential lot, then there will be no requirement to reduce the height of the masonry block wall. If alley access is not required to access the commercial property, a masonry block wall shall be constructed between the residential and non-residential properties.

SECTION 4: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

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Kelly E. West, Mayor

ATTEST:

John Longley, City Clerk

By __________________________
Georgia Hawley, Chief Deputy City Clerk