



CITY COUNCIL AGENDA REPORT

MEETING DATE: FEBRUARY 6, 2007

ITEM NUMBER: _____

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA ADOPTING CO-06-08 WHICH AMENDS TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE REQUIRED FINDINGS FOR VARIANCES AND ADMINISTRATIVE ADJUSTMENTS.

DATE: JANUARY 24, 2007

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: KIMBERLY BRANDT, AICP, PRINCIPAL PLANNER

FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT (714) 754-5604

RECOMMENDATION:

Give first reading to the attached ordinance, which adds a fourth finding that applies to deviations from Zoning Code standards, specifically variances and administrative adjustments

BACKGROUND:

The State Government Code requires cities to make certain findings when granting certain types of deviations from Zoning Code development standards. In Costa Mesa, these deviations are specified as administrative adjustments and variances. State required findings are as follows and are contained in Section 13-29(g)(1) of the Zoning Code.

- "(1) Administrative adjustment and variance findings:
- a. Because of special circumstances applicable to the property, the strict application of development standards deprives such property of privileges enjoyed by others in the vicinity under identical zoning classifications.
 - b. The deviation granted shall be subject to such conditions as will assure that the deviation authorized shall not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.
 - c. The granting of the deviation will not allow a use, density, or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property."

ANALYSIS:

Staff has noted in reviewing administrative adjustments and variances that a finding for land use/development compatibility with surrounding properties is not required. Staff and Planning Commission do consider land use compatibility in the evaluation of variances and administrative adjustments and believe that a finding that memorializes that analysis should be included in the Code. Therefore, Commission is recommending a fourth

finding in addition to the three listed above. Please note that this finding is already required for all conditional use permits and minor modifications.

- d. Granting the variance or administrative adjustment will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

On January 8, 2007, Commission recommended that Council give the ordinance first reading on a 4-0 vote. For additional information, please see the Commission staff report and minutes in Attachment 2.

ALTERNATIVES CONSIDERED:

Council may choose to do any of the following:

1. Give first reading be given to the ordinance as recommended by Commission;
2. Modify the recommended change to the ordinance; or
3. Retain the City's existing findings for variances and administrative adjustments.

FISCAL REVIEW:

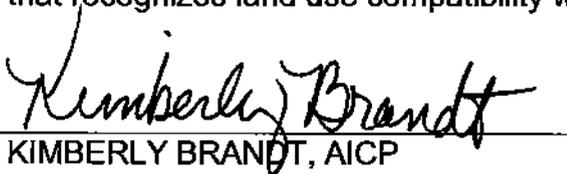
This ordinance does not require any fiscal review

LEGAL REVIEW:

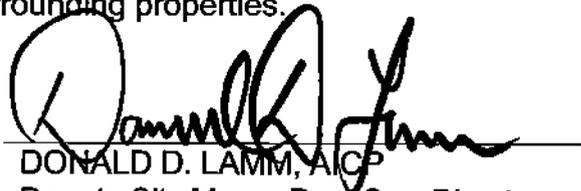
The City Attorney's Office has reviewed the draft ordinance and approved it as to form.

CONCLUSION:

The draft ordinance adds a fourth finding for variances and administrative adjustments that recognizes land use compatibility with surrounding properties.



KIMBERLY BRANDT, AICP
Principal Planner



DONALD D. LAMM, AICP
Deputy City Mgr. – Dev. Svs. Director

DISTRIBUTION: City Manager
Asst. City Manager
City Attorney
Public Services Director
City Clerk (2)
Staff (4)
File (2)

ATTACHMENTS: 1 Draft Ordinance
2 Planning Commission Report and minutes

ATTACHMENT 1
DRAFT ORDINANCE

ORDINANCE NO. 07-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-06-08, WHICH AMENDS TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE REQUIRED FINDINGS FOR VARIANCES AND ADMINISTRATIVE ADJUSTMENTS.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 13 of the Costa Mesa Municipal Code is hereby amended to read as follows:

a. Amend Section 13-29(g)(1) to include the following subparagraph:

"d. Granting the variance or administrative adjustment will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood."

Section 2. Environmental Determination. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 3. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

Section 4. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 5: This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this ____ day of _____, 2007

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk of the
City of Costa Mesa
STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

City Attorney

I, Julie Folcik, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 07-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2007, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2007, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2007.

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa

ATTACHMENT 2

**PLANNING COMMISSION MEETING
MINUTES AND STAFF REPORT**

3. **An Ordinance of the City Council of the City of Costa Mesa, California Adopting CO-06-08, which amends Title 13 of the Costa Mesa Municipal Code regarding the required findings for variances and administrative adjustments. Environmental determination: exempt. Recommend to City Council that the ordinance be given first reading.**

Ms. Brandt gave a presentation, and there were no questions of staff. In response to the Chair's question about allowing public comment on an ordinance, Deputy City Attorney Tom Duarte said to open the public hearing. The Chair opened the public hearing for public comment and no one wished to speak, so he closed the public hearing.

MOTION: Recommend to City Council that the ordinance be given first reading.

Moved by Vice Chair Donn Hall, seconded by Chair Bill Perkins.

The motion carried by the following roll call vote:

Ayes: Chair Bill Perkins, Vice Chair Donn Hall, Commissioner Eleanor Egan,
and Commissioner James Fisler

Noes: None.

Absent: None.



PLANNING COMMISSION AGENDA REPORT

VI. 3

MEETING DATE: JANUARY 8, 2007

ITEM NUMBER:

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA ADOPTING CO-06-08 WHICH AMENDS TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE REQUIRED FINDINGS FOR VARIANCES AND ADMINISTRATIVE ADJUSTMENTS.

DATE: DECEMBER 20, 2006

FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT, AICP, PRINCIPAL PLANNER
(714) 754-5604

DESCRIPTION

An ordinance amending the Zoning Code to add a fourth finding that applies to deviations from Zoning Code standards, specifically, variances and administrative adjustments.

RECOMMENDATION

Recommend to City Council that the ordinance be given first reading.


KIMBERLY BRANDT, AICP
Principal Planner


R. MICHAEL ROBINSON, AICP
Assistant Development Svs. Director

BACKGROUND:

The State Government Code requires cities to make certain findings when granting a variance from Zoning Code development standards. In Costa Mesa, an administrative adjustment is similar to a variance, except that it is limited to specific types of deviations that fall within a specified range as identified in the Zoning Code. The Zoning Administrator reviews and takes action on administrative adjustments, and the Planning Commission is the review authority for variances. The State required findings are as follows and are contained in Section 13-29(g)(1) of the Zoning Code.

- "(1) Administrative adjustment and variance findings:
- a. Because of special circumstances applicable to the property, the strict application of development standards deprives such property of privileges enjoyed by others in the vicinity under identical zoning classifications.
 - b. The deviation granted shall be subject to such conditions as will assure that the deviation authorized shall not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.
 - c. The granting of the deviation will not allow a use, density, or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property."

ANALYSIS:

Staff has noted in reviewing administrative adjustments and variances that a finding for land use/development compatibility with surrounding properties is not required. Staff and Planning Commission do consider land use compatibility in the evaluation of variances and administrative adjustments and believe that a finding that memorializes that analysis should be required by Code. We are therefore recommending a fourth finding in addition to the three listed above. Please note that this finding is already required for all conditional use permits and minor modifications.

- d. Granting the variance or administrative adjustment will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

ALTERNATIVES CONSIDERED:

Commission may choose to do any of the following:

1. Recommend to Council that first reading be given to the ordinance as recommended by the staff;
2. Modify any of the recommended changes to the ordinance; or
3. Recommend to Council that the City's existing zoning provisions be retained.

ENVIRONMENTAL DETERMINATION:

This code amendment has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

CONCLUSION:

Staff is proposing the addition of a fourth finding for variances and administrative adjustments that recognizes the land use compatibility with surrounding properties.

Attachments: 1. Proposed Ordinance - (draft version)

Distribution: Deputy City Manager - Dev. Svs. Director
 Deputy City Attorney
 Public Services Director
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

File: 010607C0608	Date: 121106	Time: 3:00 p.m.
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