



CITY COUNCIL AGENDA REPORT

MEETING DATE: AUGUST 3, 2010

ITEM NUMBER: _____

SUBJECT: PLANNING COMMISSION RECOMMENDATIONS FOR ZONING CODE AMENDMENTS

DATE: JULY 22, 2010

FROM: DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY: REBECCA ROBBINS, ASSISTANT PLANNER
KIMBERLY BRANDT, DIRECTOR**

FOR FURTHER INFORMATION CONTACT: REBECCA ROBBINS, (714)754-5609

RECOMMENDATION:

Direct staff to proceed with one or more of the following Planning Commission recommendations for amendments to the Zoning Code:

1. Minor Conditional Use Permits for Accessory Uses in Residential Zones
2. Block Wall Requirement in Residential Zones
3. Street Banners in the Public Right-of-Way
4. Granny Units/Accessory Apartments

BACKGROUND/ ANALYSIS:

On July 12, 2010, Commission directed staff to seek Council authorization for the initiation of Zoning Code amendments which will require more than four hours of staff time. Council authorization is required pursuant to Council Policy 300-6.

The staff report prepared for the July 12, 2010 Planning Commission meeting, containing attachments on items 1-3 above, is available on-line at <http://www.ci.costa-mesa.ca.us/council/planning/2010-07-12/071210StaffHoursAuthorization.pdf>. Granny units and accessory apartments were added to the work activity list during the July 12th meeting; therefore, information related to item 4 is provided in this report.

ITEM 1. ZONING CODE AMENDMENT TO FURTHER REGULATE MINOR CONDITIONAL USE PERMITS FOR ACCESSORY USES

This work activity involves consideration of a Zoning Code amendment to further regulate detached accessory uses in residential areas. The Commission's concern involves the illegal use of these detached structures with bathroom facilities as a second dwelling unit.

The City's Land Use Matrix requires a minor conditional use permit (MCUP) for an incidental residential use that includes a toilet, bathtub, shower, or any combination thereof, such as pool cabanas and recreation rooms. This applies to an accessory use contained in a separate structure, or contained within the main residence with no interior connection between the primary living area and incidental use.

A potential Zoning Code amendment may impose further restrictions:

- Prohibit these types of uses in certain residential zones.
- Prohibit the approval of bathrooms in detached residential structures.

It should be noted that bathrooms are provided for convenience in detached structures. Through the MCUP process, bathrooms may be approved in conjunction with uses such as a pool house, workshop, office connected to a detached garage, or recreational room above a detached garage. A Zoning Code amendment to prohibit bathrooms would place new limitations on these uses in residential areas.

ITEM 2. ZONING CODE AMENDMENT TO REQUIRE BLOCK WALLS IN MULTI-FAMILY RESIDENTIAL ZONES AND PROHIBIT GATES THAT BLOCK DRIVEWAY ACCESS IN R-1 ZONES.

This work activity involves consideration of a Zoning Code amendment to the regulations for solid, perimeter block walls for multi-family residential properties. Code currently does not specify the type of material for perimeter walls. In other words, block walls, wood or vinyl fences (or a combination thereof) are allowed.

In residential zones, including planned development, except R-1, all interior property lines of the master development lot are required to have 6-foot high solid opaque walls or fences that conform to the City's Walls, Fences, and Landscaping Standards.

The Commission proposes a Zoning Code amendment that would eliminate wood fences, PVC (vinyl) fences, combination wood/block walls, and other types of opaque fences which are currently acceptable fencing options in multi-family residential zones, and only allow block walls. Additionally, Commission wishes to prohibit gates to be constructed across driveways serving single family residential homes. These gates block vehicle access to the driveway and garage for parking, and if it is a solid gate, storage may occur in the driveway area.

ITEM 3. ZONING CODE AND COUNCIL POLICY AMENDMENT FOR STREET BANNERS IN THE PUBLIC RIGHT-OF-WAY

This work activity involves street banners in the public right-of-way. These street banners would be wide banners which stretch across the street width, from one side to the other. This work request would involve a potential amendment to the Zoning Code and an amendment to a Council Policy on street banners (attached).

Council Policy 500-6, Special Event Street Banners, was originally adopted in 1994. This policy currently restricts banners to light standards located on arterial streets with commercial or industrial frontage. Other locations may be acceptable if deemed appropriate by City Council.

In addition, this policy requires that all banners comply with the License Agreement between Southern California Edison and the City of Costa Mesa. This License Agreement limits the size of the banners to be standard-sized, single-hung or double-hung banners on SCE light poles. The Agreement does not address the wider street banners connected to two different poles over the street and would also require an appropriate amendment.

ITEM 4. ZONING CODE AMENDMENT TO FURTHER REGULATE GRANNY UNITS

A "granny unit" is a second dwelling unit on a residential property with two required open parking spaces and an age restriction of 62-years of age or older for the occupant. This work activity involves consideration of a Zoning Code amendment to prohibit new construction of granny units. The Commission's concern involves the illegal use of granny units being rented to persons who do not meet the minimum 62 years of age requirement, and therefore serving as a dwelling unit for a tenant of any age.

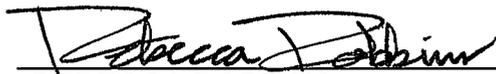
There was minimal discussion on this work request at the July 12th Planning Commission Meeting. Staff did not raise the following concerns with this request at that time. Staff believes it is problematic to process a Zoning Code amendment to prohibit new construction of granny units because:

1. Inconsistent with intent of State Law. Government Code Sections 65852.150 and 65852.2 provide regulations related to "second units" as a type of housing for the elderly that pre-empts City Codes. Any City regulation of granny units would have to be found consistent with State Law.
2. Inconsistent with Housing Element Program No. 6 of the General Plan. The Year 2008-2014 Housing Element objectives include the promotion of second units – specifically accessory apartments and granny units in the City. Any modification to the City's existing regulations of these uses may conflict with this objective.

Staff notes that only 3 granny units have been approved in the past five years. Any Code amendment will require appropriate consideration of State Law and the City's General Plan.

CONCLUSION:

Pursuant to the Planning Commission's direction, staff is seeking Council authorization to proceed with any or all of the specified work requests. Council authorization is required because each work activity requires more than 4 hours of staff time.


REBECCA ROBBINS
Assistant Planner


KIMBERLY BRANDT, AICP
Development Services Director

DISTRIBUTION: City Manager
City Attorney
Assistant Development Svs. Director
Public Services Director
Transportation Svs. Mgr.
City Clerk (2)
Staff (4)
File (2)

Attachments: 1. Council Policy 500-6
2. Granny Units/Accessory Apartment

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
SPECIAL EVENT STREET BANNERS	500-6	8/1/94 REV. 3/1/06	1 of 3

BACKGROUND

In communities where street banners have not been properly controlled, they have contributed to visual clutter, improper installation, and confusion. In many instances, such banners fail to achieve their original objective of communicating legible, comprehensible, and pertinent public information in an aesthetically pleasing way. The City Council has previously received requests for these types of banners without the benefit of formally approved guidelines and standards.

PURPOSE

The purpose of this policy is to:

1. Provide the City Council and staff with guidelines which can be used to evaluate various requests to install street banners.
2. Establish policies, procedures and standards for the installation, monitoring, and removal of street banners.
3. Provide clear direction to those Costa Mesa based non-profit organizations and businesses wishing to use street banners to promote a special event or holiday.

POLICY

The following criteria shall apply to all organizations requesting City Council approval to install street banners. The requesting organization or business shall be based in or serve Costa Mesa. In the case of a charitable organization, they must possess proof of "non-profit status" from the State of California and local government agencies.

1. **Installation Requests**

Each request to install street banners shall be submitted at least thirty (30) days in advance of the proposed installation date and shall include at minimum:

- A. Date, time, location and nature of special event or dates of holiday to be promoted.
- B. Benefit of the banner to the general public.
- C. Map detailing specific number and locations of banners to be installed.
- D. Specific installation and removal dates.
- E. Delineation of banner content, size, material and colors. Holiday banners may contain messages relating to nationally recognized or official holidays. Although sponsorship may be listed on both special event and holiday banners, in no case shall the identification of the sponsor exceed six inches in height or occupy more than a tenth of the face of the banner.

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
SPECIAL EVENT STREET BANNERS	500-6	8/1/94 REV. 3/1/06	2 of 3

Displaying any advertising other than the sponsor's name is not permitted. Advertising specific products is not permitted.

F. Specific number of banners to be installed.

G. Application Fee - Refer to the City of Costa Mesa's current User Fees and Charges manual, adopted by the City Council.

2. **Banner Composition**

All banners shall comply with the License Agreement between Southern California Edison and the City of Costa Mesa.

3. **Number of Banners**

The number of banners shall not exceed sixty.

4. **Installation Period**

Banners shall be installed for no more than sixty days. Specific dates and times for installation and removal are subject to change, by the City in order to minimize impacts to the public i.e. motorists, businesses, and/or public construction projects.

5. **Banner Locations**

In order to minimize impacts to residential properties, banners shall be restricted to light standards located on arterial streets with commercial or industrial frontage. Other locations may be acceptable if deemed appropriate by the City Council.

6. **Indemnification**

The organization shall provide acceptable proof of insurance and indemnification to the City as deemed appropriate by the City Manager or his designee.

7. **Installation and Removal**

Upon approval by the City, the requesting organization shall provide the City with a finalized copy of the contract for installation and approval.

8. **Approval Process**

The City Manager or his designee shall have final approval of all banner requests meeting the above guidelines.

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

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SPECIAL EVENT STREET BANNERS	500-6	8/1/94 REV. 3/1/06	3 of 3

Banner requests which do not meet the above guidelines shall require Council review at which time the Council shall determine whether to approve the request.

Any approval granted shall be subject to the provisions in the License Agreement between the City and Southern California Edison. The applicant must agree to comply with and be bound by this agreement and perform the City's obligations under the Agreement with respect to the applicant's banners.



Granny Units/Accessory Apartments

Partial Summary Sheet (Updated June 2006)

1. GRANNY UNITS (California Government Code Section 65852.1)

INTENT: To provide housing for the elderly

REQUIREMENTS:

- A. Approval by Development Review. Additional discretionary review of unit design may be required if a minor design review, administrative adjustment, or variance is deemed necessary. Please consult with the Planning Division.
- B. Property shall be zoned for, and occupied by, a single-family residence.
- C. There shall be no more than two (2) tenants per granny flat. Each tenant shall be a minimum of 62 years of age. These limitations apply whether the unit is rented/leased or not. Recordation (by the County Recorder) of a legally binding **Land Use Restriction** (setting forth the minimum age of occupants) shall be required prior to issuance of a building permit.
- D. A granny flat may be either detached or attached and is subject to the following size requirements:
 - a. If detached, the maximum unit size shall be 1,200 sq. ft.
 - b. If attached, the maximum unit size shall not exceed 30 percent of the existing living area.
- E. Two parking spaces shall be provided in addition to those required for the existing residence. Parking may be uncovered, but shall be subject to the development standards (size, access, etc...) applicable to the zone.

2. ACCESSORY APARTMENTS (California Government Code Section 65852.2)

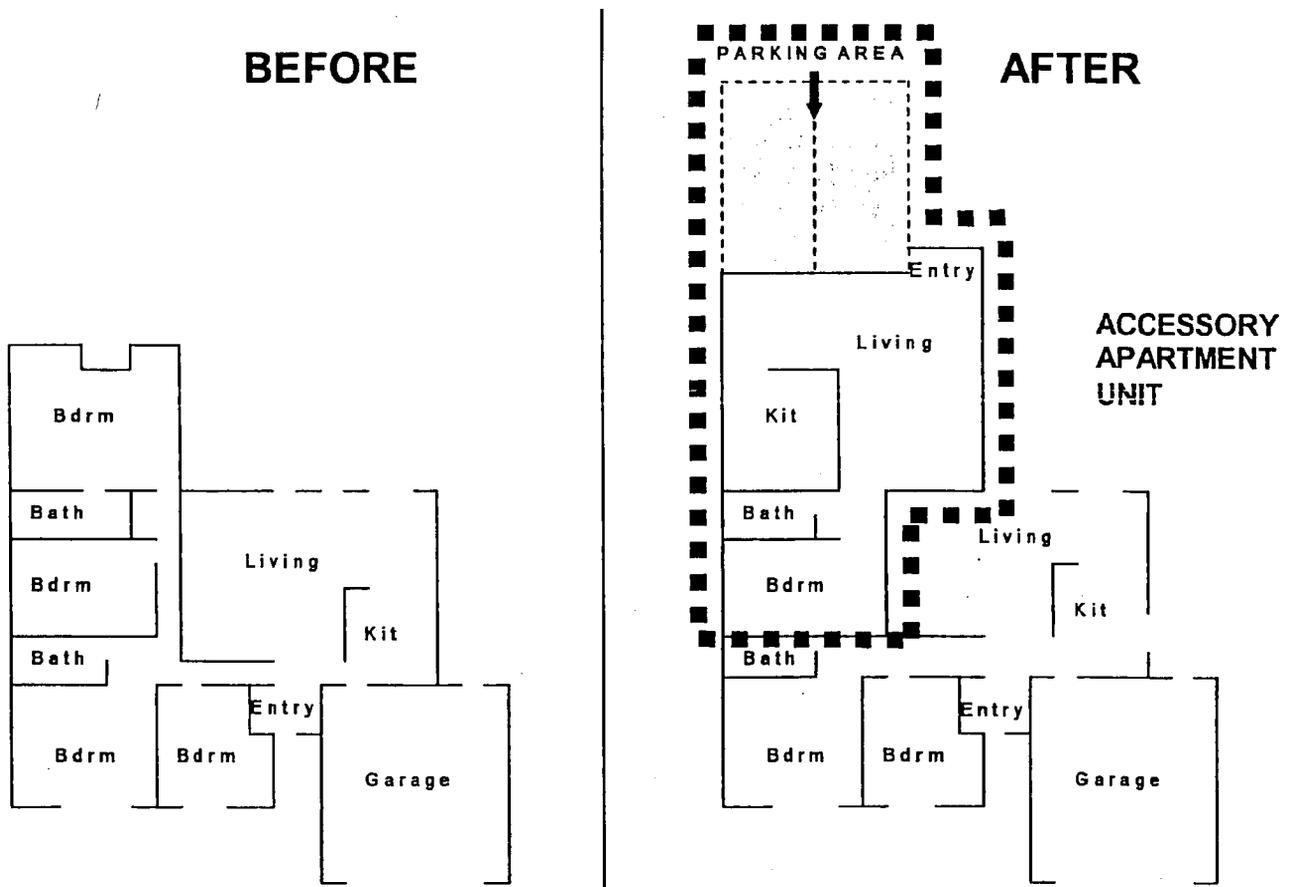
INTENT: To generate additional rental units by allowing the conversion of a portion of an existing residence (either with or without a small addition), thereby reducing the area the homeowner maintains (see example on reverse of sheet). Accessory apartments may also be constructed as additional separate units, subject to compliance with the following requirements.

REQUIREMENTS:

- F. Approval by Planning Staff. Discretionary review of unit design may be required if a minor design review, administrative adjustment, or variance is deemed necessary. Please consult with the Planning Division.
- G. A lot shall be of sufficient size to accommodate 2 units without exceeding the General Plan density (i.e. 10,890 sq. ft. for an R-1, Low Density Residential lot).

- H. No minimum age requirement.
- I. The unit may only be rented (i.e. not sold separately from the primary unit).
- J. The lot shall be zoned for, and occupied by, an existing single-family residence.
- K. If detached, the unit shall not exceed a maximum of 1,200 sq. ft.
- L. If attached, the maximum addition to the residence for use as an accessory apartment shall not exceed 30 percent of the living area (garage excluded).
- M. Any construction shall conform to zoning and building requirements generally applicable to residential construction in the zone in which the property is located.
- N. Two parking spaces shall be provided (See 1.E above).
- O. One unit on the property shall be owner occupied. Recordation (by the County Recorder) of a legally binding **Land Use Restriction** (setting forth the ownership requirement) shall be required prior to issuance of a building permit.

EXAMPLE OF ATTACHED ACCESSORY APARTMENT



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