



CITY COUNCIL/PLANNING COMMISSION

JOINT STUDY SESSION AGENDA REPORT

MEETING DATE: SEPTEMBER 10, 2013

ITEM NUMBER:

SUBJECT: DRAFT SMALL LOT ORDINANCE: DISCUSSION OF A ZONING ORDINANCE FOR SMALL LOT, SINGLE-FAMILY DETACHED RESIDENTIAL DEVELOPMENTS (MAXIMUM 15 UNITS) IN MULTI-FAMILY RESIDENTIAL ZONES

DATE: SEPTEMBER 4, 2013

FROM: DEVELOPMENT SERVICES DEPT.

PRESENTATION BY: CLAIRE L. FLYNN, AICP, ASST. DEV. SVCS. DIRECTOR

FOR FURTHER INFORMATION CONTACT: CLAIRE FLYNN (714) 754-5278

ISSUE:

A "small lot ordinance" is intended to regulate the development of single-family detached homes by providing specific zoning requirements for this type of housing development. Small lot subdivisions may be preferred alternatives to apartment complexes and attached townhouses/condominiums for first time homebuyers and young families who are interested in acquiring property at a certain price point – but also find it important to have a usable amount of outdoor open space in the front and backyards.

Application of existing Code requirements to small lot developments has resulted in a number of requested variances or deviations from the current standards for certain development projects. The purpose of the study session is to receive input from the City Council and Planning Commission regarding proposed changes to the Zoning Code.

It should be noted that no changes to the City's parking requirements are being proposed within the small lot ordinance.

SMALL LOT ORDINANCE

Applicability to Developments of 15 or Fewer Single-family Homes

The Small Lot Ordinance (also known as the Detached Townhome Ordinance) would be an amendment to the Costa Mesa Municipal Code to allow detached "townhouses" or small lot single-family residences with less than 3,000 square feet of lot area. At this time, staff recommends that the SLO would only apply to residential developments consisting of a maximum of 15 single-family homes.

Eliminate Variances from Certain Development Standards

The ordinance would establish appropriate development standards for small lot subdivisions, and therefore, would remove the need to apply for variances from these standards:

1. Remove variance request for small lot size (3,000 square foot lot required, no minimum small lot proposed);
2. Remove variance request for average lot size (3,500 square foot average lot required, no minimum average small lot proposed);
3. Remove variance request for minimum space between main buildings (10-foot minimum distance required; 6-inches or less proposed);
4. Remove minimum open space requirement (minimum 100 square feet of open space required with minimum 10' x 10' dimension; no minimum open space requirement proposed);
5. Remove variance from lot frontage requirement: amend definition of "lots" to specify that minimum street frontage requirements would not apply to an approved small lot subdivision.
6. Remove variance request for "common lot". One common lot required for shared driveways or shared amenity spaces; SLO would eliminate the common lot requirement.
7. Remove requirement for incorporation of Homeowner's Association; Developer could apply a Maintenance Association or Maintenance Agreement to eliminate HOA incorporation, HOA reserve/dues, and Bylaws.
8. Remove requirement for additional insurance related to condominiums.
9. Remove delayed processing time to file white papers with Department of Real Estate for bylaws, CC&Rs, articles of incorporation, HOA, etc.
10. Remove Residential Design Guidelines for recommended average second floor setback (10 foot average allowed, 5-foot average proposed) and 2nd floor to 1st floor massing (80% massing allowed, no massing requirement proposed);
11. No changes in the parking requirements for small lot subdivision are proposed.
12. No changes to the entitlement process (i.e. Planning Commission review required) are proposed.
13. No changes to the perimeter setbacks required for the development lot are proposed (i.e. 20-foot front setback, 10/20 foot rear setback, 5/10 foot side setbacks).

Attached are highlighted areas of the Zoning Code that could be amended for small lot subdivisions.

Benefits of Small Lot Ordinance – Bigger Picture

The purpose and intent of a small lot ordinance is to promote ownership housing on multi-family residential lots within the density allowed by the General Plan. This type of new, detached housing could be a preferred housing option compared to a rowhouse or apartment building.

The following are several reasons why small lot developments are beneficial to build in today's economy:

- *It would promote a financially diverse population and encourage first time homebuyers.* Cities that continuously attract new residents must identify new housing options that will accommodate a financially diverse population. There is a target market of new homebuyers who do not wish to purchase a condominium or townhouse but are unable to qualify for a single-family residence on a 6,000 sq.ft. lot.
- *Small lot developments increase homeownership at reduced costs.* Small lot developments are fee-simple units that increase homeownership opportunities while working within existing land use designations. Because these units are fee-simple, homeowners acquire ownership of the housing structure, as well as the land on which it is built. When the amount of land needed for housing construction is decreased, the savings in land costs could be passed on to the homebuyer.
- *Small lot developments do not have common ownership.* With the elimination of the common lot requirement, the development would qualify for an exception to the requirement by the Department of Real Estate for establishment of an HOA. Small lot subdivisions are not common-interest developments that would be subject to the Davis-Sterling Act.
- *Small lot developments increase housing production.* This housing type allows small homebuilders, who find it difficult to compete in the housing market with major corporations, to be able to acquire property and build residential developments of 15 units or fewer. This encourages redevelopment of marginal and underutilized parcels in the City.
- *Small housing developments are not subject to monthly homeowners' association (HOA) fees.* HOAs are corporations with formal bylaws created to maintain common areas within a certain development. Members are charged monthly fees ranging from \$250 to \$750 (depending on the area) to cover the cost of property management. Small lot developments are constructed without common walls or foundations and therefore do not require HOAs.
- *A Maintenance Association is required in lieu of an Incorporated Homeowner's Association.* An unincorporated HOA, Architectural Review Board, and limitations on liability could still be stipulated within the Maintenance Association. The Maintenance Association may be required to regularly inspect shared areas and a maintenance manual may be recorded on the property.
- *Small lot developments are easier to finance than condominium projects. New housing development has almost come to a standstill.* Stringent lending practices and insurance liabilities have made condominium projects (which are usually targeted to median-income residents) nonexistent. An increase in construction defect litigation has

required condominium HOAs to acquire additional insurance that can cost more than \$20,000 a unit. Because small lot developments do not require HOAs, they may not face mandatory additional insurance costs, which makes obtaining bank financing easier.

- *Small lot developments help streamline the subdivision map process.* Although the small lot ordinance has garnered much acclaim, implementing small lot developments can still be challenging for developers. First, subdividing land for small lot development can take up to a year (or longer), making the entitlement process complicated, time consuming, and costly. Small lot developments are subject to the California Subdivision Map Act, and developers are required to provide additional information over and above the customary requirements for new subdivision or parcel map applications. The subdivision application must also include a maintenance association to maintain all common areas and proof of accessibility by the city's Fire Department. (Note: Hammerhead Requirement is being amended to apply to 300+ foot deep lots [150-foot depth original required, 300-foot depth proposed].)

CONCLUSION

The purpose of the joint study session is to initiate the discussion on a small lot ordinance. Staff would like feedback from the Council and Commission regarding these proposed changes. Any additional informational requests will be incorporated in the staff report when the draft ordinance is brought forward for public hearing.

Attachments: 1. Zoning Code Excerpt of Res. Common-Interest Developments

Distribution: CEO
Assistant CEO
City Clerk (2)
City Attorney
Dev. Svcs. Director
Staff (4)
File (2)

ARTICLE 2. RESIDENTIAL COMMON INTEREST DEVELOPMENTS

Sec. 13-39. PURPOSE

The purpose of this article is to regulate the placement of residential common interest development projects and the conversion of existing apartments to common interest developments consistent with the form of ownership and occupancy of such projects pursuant to applicable laws for the general health, safety and welfare of the public.

Sec. 13-40. PLANNING APPLICATION REQUIRED

- (a) Residential common interest development projects are permitted in appropriate residential or planned development zones, subject to the approval of the following planning application, as applicable. This requirement is in addition to other permits or certificates required by law.
 - (1) All new residential common interest development projects shall be processed according to the design review procedures contained in CHAPTER III PLANNING APPLICATIONS.
 - (2) Conversion of occupied or previously occupied apartment complexes to residential common interest development projects shall be subject to Sections 13-41 RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS AND REQUIREMENTS and 13-42 RESIDENTIAL COMMON INTEREST DEVELOPMENT CONVERSIONS and shall be processed according to the residential common interest development conversion procedures contained in CHAPTER III PLANNING APPLICATIONS.
 - (3) Reserved.
 - (4) All residential common interest development projects require the approval of tentative or final tract or parcel maps as required by law. A tentative tract map or parcel map shall not be required until either a design review or residential common interest development conversion has been approved; however, the map may be processed concurrently.
- (b) No person shall construct, sell, lease, convey, maintain or use a residential common interest development project within the City without first complying with the provisions of this article.

Sec. 13-41. RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS AND REQUIREMENTS

- (a) **Applicability.** The provisions of this section shall apply to all proposed new residential common interest development projects and the conversion of existing apartments to residential common interest developments.
- (b) **Development standards.** Table 13-41(b) identifies the development standards for residential common interest developments. See also ARTICLE 9 GENERAL SITE IMPROVEMENT STANDARDS of this chapter for additional requirements. Projects shall comply with all applicable standard plans and specifications and adopted City and State codes, as well as the following provisions:
 - (1) The location and orientation of all buildings shall be designed and arranged to preserve natural features by minimizing the disturbance to the natural environment. Natural features such as trees, groves, waterways, scenic points, historic spots or landmarks, bluffs or slopes shall be delineated on the site plan and considered when planning the location and orientation of buildings, open spaces, underground services, walks, paved areas, playgrounds, parking areas and finished grade elevations.

- (2) All structures proposed to be constructed within a project shall conform to the following requirements:
 - a. Structures having dwelling units attached side by side shall avoid the long-row effect by being composed of no more than 6 dwelling units. Alternative designs which accomplish the same purpose may be approved by the final review authority.
 - b. Structures having dwelling units attached side by side shall avoid the long-row effect with a break in the facade by having an offset in the front building line of at least 4 feet for every 2 dwelling units within such structure. Alternate designs which accomplish the same purpose may be approved by the final review authority.
 - c. Consideration shall be given to the effect of proposed development on the light, air and privacy of adjacent properties.
- (3) Outside uncovered and unenclosed storage of boats, trailers, recreational vehicles and other similar vehicles shall be prohibited unless specifically designated areas for the exclusive storage of such vehicles are set aside on the final master plan and provided for in the association's covenants, conditions, and restrictions. Where such areas are provided, they shall be enclosed and screened from view on a horizontal plane from adjacent areas by a combination of 6-foot high opaque fences and permanently maintained landscaping.
- (4) For high-rise residential projects, see the North Costa Mesa Specific Plan for additional development standards.
- (5) The developer shall install an on-site lighting system in all parking areas, vehicular access ways, and along major walkways. The lighting shall be directed onto driveways and walkways within the project and away from dwelling units and adjacent properties, and shall be of a type approved by the Development Services Department.
- (6) The development shall comply with the provisions of CHAPTER XI. SUBDIVISIONS, which may include, but are not limited to, land dedication and improvements, such as drainage improvements and payment of fees.

TABLE 13-41(b)
RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS

| STANDARDS | SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses) | OTHER UNITS |
|---|--|--|
| Individual Dwelling Unit Minimum Lot Area | All zones: 3,000 square feet with an overall average of 3,500 square feet. The required common lot shall not be included in the calculation of lot area. Note: Lot sizes may be reduced proportionately if other useable open space is provided within the overall development. | No minimum requirement. |
| Common lot required | All projects shall be designed with a minimum of one lot to be held in common ownership and maintained by a homeowners association. This lot shall be used for common driveways, parking areas, and at least 10 feet of street setback landscaped areas. | |
| Maximum Number of Stories & Building Height | 2 stories/ 27 feet, except as allowed in the Planned Development or Town Center zoning districts. Note: Lofts, as defined in section 13-6, without exterior access and having only clerestory windows will not be regarded as a story. See also Attic discussion below. | |
| Attics | Attics shall not be heated or cooled, nor contain any electrical outlets or operable windows. In zoning districts where the maximum number of stories is two stories, attics above second stories shall be an integral part of the second story roofline and not appear as a 3 rd story on any building elevation. Windows in any attic space above the second story shall be incidental and limited to a dormer style. | |
| Maximum Density (based on gross acreage) | Same as underlying zoning district or as specified in an applicable specific plan. | |
| Minimum Open Space Development Lot: | 40% of total lot area. <i>Exception:</i> For high-rise residential projects, see the North Costa Mesa Specific Plan. | |
| Individual Dwelling Unit Lot: | 40% overall, with a minimum 400 square-foot area with no dimension less than 15 feet. | Not applicable. |
| Private Open Space: | Same as individual dwelling unit lot above. | An adjoining patio required with no dimension less than 10 feet. <i>Exception:</i> Not applicable to high-rise residential projects in the North Costa Mesa Specific Plan. |
| Common Open Space | Common open space areas shall be designed and located within the development to allow maximum use by all residents. Enclosed buildings used for recreation or leisure facilities should not be used to satisfy more than 15 per cent of required open space. | |
| Distance between buildings | 10-foot minimum between main buildings 6-foot minimum between main buildings and accessory structures | |
| Driveway width | 10-foot minimum, except 16-foot minimum driveway is required if the driveway serves tenants and/or guest parking for more than one dwelling unit. | |
| Driveway length | Straight-in driveways to garages shall have a minimum length of 19-feet from the ultimate property line. | |
| Storage | Not applicable. | Each unit shall be provided with 200 cubic feet of securable storage exterior to the unit. If this storage is provided within the garage or carport it shall be located at the front of the parking area so as not to obstruct the required clear dimensions of the covered parking space (per the City of Costa Mesa Parking Design Standards) at any point less than 4 feet above the finished surface level of the parking stall. <i>Exception:</i> Not applicable to high-rise residential projects in the North Costa Mesa Specific Plan. |

**TABLE 13-41(b)
RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS**

| STANDARDS | SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses) | OTHER UNITS |
|---|---|---|
| Mechanical equipment, excluding antennas and flush-mounted solar panels on roofs . | Roof-top location is prohibited. | Screening required from public rights-of-way and adjacent properties. |
| SETBACKS FOR MAIN BUILDINGS AND ACCESSORY BUILDINGS AND STRUCTURES (Minimum distances given, unless otherwise noted. All setbacks from streets to development lots are measured from the ultimate property line shown on the Master Plan of Highways). | | |
| Front Development Lot: | 20 feet | 20 feet |
| Individual Dwelling Unit Lot: | None | Not applicable |
| Side (interior) Development Lot: | 5 feet | |
| Side (street side, if applicable) Development Lot: | 10 feet Note: Driveways providing straight-in access from a public street to a garage shall be at least 19 feet long, as measured from the property line. | |
| Rear (not abutting a publicly dedicated alley) Development Lot: | 20 feet for 2 story structures in R2-MD and R2-HD zones; 15 feet for 2 story structures in the R-3 zone. 10 feet for 1 story structures (15-foot maximum height) provided that maximum rear yard coverage is not exceeded. <i>Exception:</i> Rear yard coverage does not apply to the R-3 zone. <i>Note:</i> Accessory structures that do not exceed 15 feet in height may have a zero rear yard setback, except on corner lots. Corner lots in the R2-MD, R2-HD & R3 zones: a. Where the rear property line of a corner lot adjoins the side property line of another lot, no detached accessory structure shall be allowed on the corner lot, except within the rear quarter of the corner lot farthest from the side street. b. Where the rear property line of a corner lot abuts a public or private street, accessory structures shall maintain setbacks for main structures. | |
| Rear Yard Coverage (Maximum) in the R2-MD and R2-HD zones | Main Buildings: 25% of rear yard area.* Accessory Buildings: 50% of rear yard area.* * Rear yard area equals lot width, measured from side property line to side property line, multiplied by 20 feet. | |
| Rear Abutting a Publicly Dedicated Alley | 5 feet; however, garages may be required to set back further to ensure adequate back up distance. Rear Yard Coverage does not apply. Note: Accessory structures that do not exceed 15 feet in height may have a zero rear yard setback, except on corner lots where accessory structures shall maintain setbacks for main structures. | |
| Bluff Top Setback | No building or structure closer than 10 feet from bluff crest (see Section 13-34 BLUFF-TOP DEVELOPMENT). | |

TABLE 13-41(b)
RESIDENTIAL COMMON INTEREST DEVELOPMENT STANDARDS

| STANDARDS | SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses) | OTHER UNITS |
|---|---|-------------------------------|
| PROJECTIONS (maximum depth of projections given) | | |
| Roof or Eaves Overhang; Awning | 2 feet 6 inches into required side setback or building separation area. 5 feet into required front or rear setback. | |
| Open, unenclosed stairways. | 2 feet 6 inches into required setback or building separation area. | |
| Chimneys | 2 feet above maximum building height. | |
| Fireplaces | 2 feet into required setback or building separation area. | |
| PARKING (See Chapter VI). | | |
| 2-car garage required. | Yes | Not required. |
| Automatic roll-up garage door with remote controlled door opener required. | Yes | Yes, if garages are provided. |
| Location of Covered Parking | Required covered tenant parking shall be located within a reasonable distance of the unit it serves. Detached garages that are not located within a reasonable distance to the units they are intended to serve are prohibited. | |
| LANDSCAPING | | |
| A detailed landscape plan prepared pursuant to CHAPTER VII LANDSCAPING STANDARDS shall be approved by the Planning Division prior to issuance of any building permits. | | |
| Landscape parkways with a combined width of 10 feet, but not less than 3 feet on one side, shall be provided along the sides of interior private streets and/or common driveways. The parkway on the house side of private streets or common driveways shall be a minimum of 5 feet in width. | | |
| SIGNS (See Chapter VIII). | | |
| POOLS AND SPAS | | |
| Above-ground pools and spas shall not be located in the required front yard setback from a public street and are subject to 5-foot side and 10-foot rear yard setbacks for main structures. Additional setbacks may be applicable pursuant to building code requirements. | | |
| FENCES AND WALLS | | |
| Fences and walls placed between the property line and required setback line for main buildings shall conform the City's walls, fences, and landscaping standards. See ARTICLE 9 GENERAL SITE IMPROVEMENT STANDARDS of this chapter for further information. | | |

(c) Documents required.

- (1) A project may be approved subject to submission of all organizational documents setting forth a plan or manner of permanent care and maintenance of open spaces, recreational areas and common facilities pursuant to State law (Civil Code 1350-1359). No such documents shall be acceptable until approved by the City Attorney as to legal form and effect, and by the Planning Division as to suitability for the proposed use of the open areas.
- (2) The developer shall file a declaration of covenants to be submitted with the application for approval, which will govern the association. The provisions shall include, but not be limited to, the following:
 - a. The homeowners' association shall be established prior to the sale of any unit(s).
 - b. Membership shall be mandatory for each owner and any successive owner.
 - c. Provisions to restrict parking upon other than approved and developed parking spaces and to require that garages be kept available for tenant parking shall be written into the covenants, conditions and restrictions for each project.
 - d. If the development is constructed in increments or phases which require one or more final maps, reciprocal covenants, conditions, and restrictions and reciprocal management and maintenance agreements shall be established which will cause a merging of increments as they are completed, and embody one homeowners' association with common areas for the total development.
 - e. The declaration of covenants shall contain language or provisions substantially as follows:
 - i. "The covenants, conditions and restrictions of this declaration shall run to the City of Costa Mesa insofar as they shall apply to the maintenance of the "common areas" as herein defined."
 - ii. "In the event the association or other legally responsible person(s) fail to maintain the common area in such manner as to cause same to constitute a public nuisance, the City may, upon proper notice and hearing, institute summary abatement procedures and impose a lien for the costs of such abatement upon the common area, individual units or the whole thereof as provided by law."