



CITY COUNCIL AGENDA REPORT

MEETING DATE: MARCH 3, 2015

ITEM NUMBER: **PH-2**

SUBJECT: CODE AMENDMENT CO-15-01 – AMENDMENT TO TITLE 13, CHAPTER V, ARTICLE 2.5, RESIDENTIAL SMALL LOT SUBDIVISIONS, OF THE COSTA MESA MUNICIPAL CODE

DATE: FEBRUARY 5, 2015

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MINOO ASHABI, PRINCIPAL PLANNER

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RECOMMENDATION

Give first reading to the ordinance as recommended by Planning Commission.

BACKGROUND

On April 1, 2014, the City adopted the Small Lot Subdivision Ordinance (Ord. No. 14-04) that allowed subdivision of multiple family zoning lots into small fee simple lots without requiring a common lot or forming a homeowners association. The ordinance is applicable to a residential subdivision of two to 15 units in the R2-MD, R2-HD, and R3 zones.

The objectives of the small lot ordinance involved the following:

- Promote construction of single-family detached housing for homeownership.
- Allow development of a small lot subdivision without a common lot, therefore eliminating a requirement for an incorporated Homeowner's Association (HOA).
- Require CC&Rs to be recorded for all small lot subdivisions to allow some form of governance without an HOA.
- Allow the option to establish a Maintenance Association or unincorporated HOA.
- Establish new development standards for a small lot subdivision to eliminate multiple requests for variance relief under the residential common-interest regulations.
- Allow minimum of 30% open space for the development lot.

The Small Lot Ordinance established certain development standards and maintenance mechanisms for multi-family residential lots within the densities allowed by the General Plan. The ordinance was not intended to increase the density in any of the multiple family residential zones, modify the minimum requirement for parking spaces, or change the approval process for small subdivisions.

On January 26, 2015, the Planning Commission held a public hearing and recommended approval of the proposed amendment to Small Lot Subdivision Ordinance with a note to Council to consider adding a provision that would prohibit parking across garage doors where a standard length driveway is not provided. The staff report and minutes of the meeting can be accessed at the following link:

<http://www.costamesaca.gov/index.aspx?page=1822>

ANALYSIS

To promote consistency with certain standards for residential development in the R2-MD, R2-HD, and R3 zones, minor changes to the following standards are proposed:

- 1) Establish an interior side yard setback requirement of 5 feet (10 feet currently required);
- 2) Remove reference to a further reduction of the side/rear setback based on certain findings by the Development Services Director;
- 3) Add language providing flexibility to allow two-car and three-car garages, provided that the overall number of parking spaces are still met and that a minimum of one open parking space is provided per unit.

Proposed Amendments

Promoting Overall Consistency of Residential Development Standards

Since the adoption of the ordinance, seven small lot subdivisions have been approved. Staff is proposing to clean-up some apparent inconsistencies with certain adopted SLO standards, as compared to the residential common-interest development standards in the R2 and R3 zones. The purpose of the proposed text amendments is to ensure that zoning requirements for small lot subdivisions are not more restrictive than the current requirements for residential common-interest developments in these zoning districts.

To rectify apparent inconsistencies, staff is recommending the following revisions shown in redline:

Front Development Lot:	20 feet
Side yard and rear (interior)	10 feet for one story, two-story and three-story development <u>5 feet</u> This setback can be reduced to a minimum of five feet on a case by case basis depending on the setbacks of adjacent properties and if the building design includes off-sets, variety of roof slopes and massing, and excellence in design in terms of materials, colors and additional articulation as deemed appropriate by Development Services Director
<u>Rear yard (interior)</u>	<u>10 feet</u>

Side (street side, if applicable)	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 ultimate public or private right of way.
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.

Staff is also recommending an additional finding be added to allow flexibility for the provision of a two-car or three-car garage in a small lot subdivision.

The three key changes are described in the following sections.

1. Change interior side yard setback from 10 feet (current requirement) to 5 feet to be consistent with the side setback requirement in R2 and R3 zones.

Current Requirement

Since the intent of the ordinance was to allow more flexibility in site planning, the rear and side yard setbacks were treated the same on the interior perimeter of the site and a 10-foot setback was adopted. The ordinance allowed a reduction of this setback to 5 feet on a case by case basis, depending on the orientation and setback of structures on adjacent properties and exceptional architecture.

In comparison to the residential development standards for common-interest developments in the R2-MD, R2-HD, and R3 zones where a 5-foot setback is allowed, the 10-foot interior side setback in the SLO is more restrictive. [Attachment 4, Excerpt of Table 13-41(b)].

The majority of preliminary concept plans have featured 5-foot side yard setbacks. Since adoption of the ordinance seven projects were approved with the new subdivision standards. Of these projects, three were able to meet the minimum 10-foot side yard standard and four were granted a reduction in the setback as noted below. A sample site plan with showing adjacent structures is included as Attachment 3:

Project Address	Number of Units	Approved Side Yard Setback
389 Rochester Street	2	10 feet
1631 Tustin Ave.	10	10 feet
1944 Church Street	2	10 feet
2294 Pacific Ave.	5	5 feet
270 Palmer Ave.	2	4 feet
320 E. 18th Street	2	5 feet
2661 Orange Ave.	5	5 feet

In addition to the above projects, there are currently two projects in review that are unable to meet the side yard setback requirement due to narrow configuration of the lot. Since adoption of the ordinance, the development community has expressed concerns meeting this requirement, and therefore many proposals feature a 5-foot setback.

No changes to the currently required 10-foot rear setback are proposed by staff because this requirement is already consistent with the residential common-interest development standard for a rear setback.

2. Remove all references to an interior side or rear setback reduction as deemed appropriate by the Development Services Director.

Relative to the interior side/rear setback requirement, the Code indicates that “This setback can be reduced to a minimum of five feet on a case by case basis depending on the setbacks of adjacent properties and if the building design includes off sets, variety of roof slopes and massing, and excellence in design in terms of materials, colors, and additional articulation as deemed appropriate by the Development Services Director.”

Staff recommends that this verbiage be removed for the following reasons:

- Establishing a 5-foot side setback requirement will eliminate the need for this flexibility.
- Because the Planning Commission is the final review authority, it is problematic to allow a setback reduction at the staff level. Even though the ordinance allows flexibility on a case by case basis, the current setback requirement is causing uncertainty in the process in that the preliminary plans may be supported by staff; however, the Planning Commission is the final decision making body and the process is subject to a public review.
- Removal of this language will require that any deviations from the rear and side setback requirements must meet the required findings for a minor modification, administration adjustment or variance as stipulated by Code.

3. Add a finding allowing flexibility for Garage Parking

Staff is not recommending any changes to the overall numeric parking requirements as adopted in the Small Lot Ordinance (table below). The small lot ordinance requires the same number of parking spaces in terms of overall numbers in comparison with the common interest development; however, the regulations are more specific with regard to number of enclosed and open spaces.

However, the current regulations are very specific with regard to the number of required “garage” spaces and “open” spaces. Therefore, a variance would be required for any deviation involving open parking spaces provided in a two-car garage for two-bedroom units or a three-car garage for three-bedroom/or more units. For example, a two-bedroom residence featuring a two-car garage and one open parking space (3 total) would need a variance from the parking requirement to allow the open parking to be supplied within the two-car garage. This is an unintended consequence of the parking requirement as adopted. Staff suggests adding the following language for clarification purposes to eliminate the need for a variance request:

Parking	<ul style="list-style-type: none"> • Three bedroom or more units (including a den or home office) – two garage spaces and two open parking spaces • Two bedrooms or less units (including a den) —one garage space and two open parking- • No tandem parking is permitted for open or guest parking spaces. • For developments with 5 or more units (up to 10 units) where open/guest parking spaces are provided in driveways in front of garages for exclusive use of that unit, one additional on-site guest parking shall be provided. Two additional open guest-parking shall be provided for developments with more than 10 units. • <u>For all small lot developments subject to the provisions of this article, all open parking not located within an individual driveway shall be unassigned and nonexclusive. Required open parking may be provided in a two-car or three-car garage provided that a minimum of one open parking space is provided per unit.</u>
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Because of the concerns with use of garage spaces as storage space, City Council has been encouraging site plans that provide open parking spaces that are not exclusive and open for guest usage. Parking spaces in front of garages or tucked between units have been mostly discouraged. The current parking regulations for the small lot ordinance reflects this concern and an additional guest parking space is required for 5 or more units.

No changes were proposed to the total number of parking or the additional parking space required by the ordinance. In response to Planning Commission’s concerns with parking across garage spaces, staff believes that the CC&Rs include provisions that will prohibit parking that would block garage use or driveways. In addition, a new standard condition of approval has been included to require enforcement of parking use by the homeowners / maintenance association and submittal of an annual report to the Planning Department.

The condition is stated as follows:

“The CC&Rs shall contain provisions requiring that the Homeowner’s Association or Maintenance Association submit a signed affidavit to the City of Costa Mesa on an annual basis to certify the following:

- The two-car garages in the residential community are being used for vehicle parking by the resident(s).
- The vehicle parking areas within the garage are not obstructed by storage items, including but not limited to, toys, clothing, tools, boxes, equipment, etc.
- The resident(s) have consented to voluntary inspections of the garage to verify parking availability within the garage, as needed.

The form and content of the affidavit shall be provided by the City Attorney’s office. Failure to file the annual affidavit is considered a violation of this condition.”

GENERAL PLAN CONFORMITY

The proposed amendment to ordinance is consistent with the following goals and policies of the General Plan:

- LU -1 A.1, LU -1A.4, LU -10.4, HOU -1.9, HOU -2.4, HOU -4.4, CD -7A.1 and CD 7A.2.

PUBLIC NOTICE

Code requires publication of a display AD in the local newspaper (Daily Pilot) for Title 13 Code Amendments. At the time of publication of this report, no public comments have been received. Any correspondence will be forwarded to the Planning Commission under separate cover. In addition to the newspaper ad, homeowners associations and other neighboring cities and government agencies were notified by mail.

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) (general rule) of the CEQA Guidelines, in that it can be seen with certainty that there is no possibility that the proposed amendment to the Zoning Code will have a significant effect on the environment.

LEGAL REVIEW

The staff report and the draft ordinance has been reviewed and approved by the City Attorney.

CONCLUSION

Since adoption of the Small Lot Subdivision ordinance, certain inconsistencies have been identified. The proposed amendment will establish a minimum standard without a discretionary process consistent with the common interest development standards. The amendment to parking regulations will not revise the overall number of required parking spaces but allow flexibility in terms of garage spaces. As noted with the original ordinance, the following summarizes key aspects of the Small Lot Ordinance.

- Small lot subdivision will allow development within the allowed densities of the zoning code and general plan.
- The small lot ordinance would not reduce the required parking.
- Small lot ordinance would be applicable to all multi-family residential zoning districts and urban plan residential development and live/work projects.
- Would apply to development of 15 units or less.
- While all small lot subdivision would be subject to CC&Rs, small subdivisions of up to four parcels with no common areas could be exempt from a homeowner's or maintenance association and subject to only a maintenance agreement.

MINOO ASHABI, AIA
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GARY ARMSTRONG, AICP
Economic and Development Services
Director

Attachment: 1 – [Draft Ordinance](#)
 2 – [Ordinance 14-04](#)
 3 – [Sample Site Plan](#)
 4 – [Common Interest Development Standards](#)

cc: Chief Executive Officer
 Assistant Chief Executive Officer
 Public Services Director
 City Attorney
 Transportation Services Manager
 City Engineer
 City Clerk (9)
 Staff (7)
 File (2)