



PLANNING COMMISSION AGENDA REPORT

II. 2.

MEETING DATE: JANUARY 23, 2006

ITEM NUMBER:

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE REQUIRED MINIMUM NUMBER OF UNITS IN A COMMON INTEREST DEVELOPMENT.

DATE: JANUARY 11, 2006

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

DESCRIPTION

An ordinance amending the City of Costa Mesa Zoning Code to delete the requirement for a minimum of three residential units in order to create a common interest development.

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

On October 24, 2005, Planning Commission considered a variance for 1053 W. Wilson (PA-05-27) to allow a two-unit common interest development. The Zoning Code currently requires a minimum of 3 units if a common interest development is proposed. On a 3-2 vote (Garlich and Perkins no), Commission approved the variance and forwarded a recommendation to City Council to review this code requirement. In July 2005, Commission granted a similar variance for 147 23rd Street (PA-05-07).

On November 1, 2005, Council directed staff to prepare an ordinance to reduce the minimum unit requirement for a common interest development and have it reviewed by the Commission.

ANALYSIS

As stated above, the Zoning Code currently requires a minimum of three units in order to establish a common interest development. This requirement was originally adopted in 1997, and it addressed the concern of the long-term functionality of a common interest development. Since a common interest development requires formation of a homeowners association, there is the potential for "tie" votes related to property maintenance issues if only two property owners are involved. Typically, homeowners associations hold in common: landscaped areas, driveways, and other amenities. Prior to 1997, the City did allow two-unit common interest developments.

Staff surveyed our surrounding cities (Santa Ana, Newport Beach, Fountain Valley, and Huntington Beach), none of which requires a minimum number of units to form a common interest development.

During the public hearing on PA-05-27, testimony was given that other jurisdictions that permit two-unit common interest development require an arbitration condition in the project's CC&Rs. If Council ultimately approves this code amendment, staff proposes to include a standard condition of approval that requires the project's CC&Rs include an arbitration requirement in the event of a tie on any homeowners business.

The attached ordinance simply deletes the common interest development requirement for a minimum number of units. The proposed deletion is indicated with a strike-through mark. With this requirement deleted, the City may approve two-unit common interest developments without processing a variance.

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

The attached ordinance simply deletes the common interest development requirement for a minimum number of three units. With this requirement deleted, the City may approve two-unit common interest developments without processing a variance.

Attachments: 1. Proposed Ordinance - (strike-through version)

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

File: 012306Title13CID	Date: 011006	Time: 8:30 a.m.
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ATTACHMENT 1
PROPOSED ORDINANCE

ORDINANCE NO. 06-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE REQUIRED MINIMUM NUMBER OF UNITS IN A COMMON INTEREST DEVELOPMENT.

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 Table 13-41(b) to delete the following row:

TABLE 13-41(b) COMMON INTEREST DEVELOPMENT STANDARDS		
STANDARDS	SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)	OTHER UNITS
Minimum Number of Units	3	3

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.

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 _____, 2006

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, Deputy 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. 06-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2006, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2006, 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 _____, 2006.

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