



PLANNING COMMISSION AGENDA REPORT

VI.1

MEETING DATE: JUNE 11, 2007

ITEM NUMBER: _____

SUBJECT: ZONING CODE AMENDMENT CO-07-01 REGARDING DEVELOPMENT STANDARDS AND REVIEW PROCEDURES FOR CONVERSIONS OF APARTMENTS TO RESIDENTIAL COMMON INTEREST DEVELOPMENTS AND NON-RESIDENTIAL PROJECTS TO COMMON INTEREST DEVELOPMENTS

DATE: JUNE 1, 2007

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: KIMBERLY BRANDT, AICP, PRINCIPAL PLANNER

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

DESCRIPTION

The proposed ordinance amends the City's Zoning Code in respect to both residential and non-residential common interest development conversion projects.

RECOMMENDATION

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

Handwritten signature of Kimberly Brandt in black ink.

KIMBERLY BRANDT, AICP
Principal Planner

Handwritten signature of R. Michael Robinson in black ink.

R. MICHAEL ROBINSON, AICP
Assistant Development Svs. Director

BACKGROUND:

On March 20, 2007, City Council adopted a 45-day urgency ordinance that established a moratorium on the conversion of industrial projects to condominiums; on May 1, 2007, Council extended the moratorium for an additional 6 months. Also on April 3, 2007, City Council adopted a similar urgency ordinance that established a 45-day moratorium on the approval of the conversion of any apartment complexes to residential condominiums (common interest developments). Council extended the urgency ordinance for 6 months on May 15, 2007.

Both of these moratoriums reflect Council's concern regarding the inadequacy of the City's existing Zoning Code regulations for these types of projects.

Staff has prepared the draft ordinance for Commission review, based on the concerns that have been expressed regarding needed Zoning Code changes (Attachment 2). In developing the ordinance, staff researched recent common interest conversion ordinances of other cities with particular attention to life safety concerns and nonconformity issues.

ANALYSIS:

To be consistent with the existing terminology and definitions contained in the Zoning Code, this report will use the term "common interest development" instead of "condominium".

Attachment 1 summarizes the changes that staff has incorporated into the draft ordinance. These changes are also cross-referenced to the draft ordinance which is contained in Attachment 2. To ease your review, the proposed changes are shown with underlined and strike-out text.

In respect to residential conversion requests, staff is recommending that the maximum age of the apartment complex be no older than 40 years. This recommendation is based on the fact that the original construction is Type V, wood frame construction, which is highly susceptible to termite and dry rot damage. It is staff's belief that the remaining useful life of this type of structure is limited. Staff has not included a similar threshold for non-residential conversions, because these buildings are constructed of concrete and steel.

Attachment 4 is a statistical summary of the 25 residential common interest development projects that the City has taken action on since 2004. The summary highlights each project's conformity with our current standards for onsite parking, open space, and density. It can be noted that onsite parking is deficient in every project except for two of the 25 projects. Compliance with open space requirements is met in 20 of the 25 projects. In terms of density, 16 of the 25 projects exceed the current Zoning Code density standards. Of the 25 projects (totaling 216 units), 22 projects have been approved, and 3 are in the appeal or rehearing process.

Attachment 5 includes a summary of recently approved non-residential condominium conversions. A total of 10 projects have been approved with the majority of them located

in the Airport Business Park area. Conformity with today's current zoning standards has not been an issue, since the industrial parking and open space standards have been in place since the 1970's. The most likely standard that a project would not conform to is the floor area ratio standard, since this standard was not adopted until 1992.

Relationship to Urban Plans

On February 12, 2007, Planning Commission considered a parcel map to convert an existing multi-tenant industrial development to a common interest development. At that time, Commission engaged in considerable debate regarding the relationship of the proposed conversion to the purpose and intent of the Mesa West Bluffs Urban Plan. The concerns were two-fold. One concern was the project perpetuated the existing industrial use of the site rather than the residential or mixed-use opportunities encouraged by the plan. Secondly, there was concern the conversion would result in fractured ownership which would make future redevelopment of one of the largest single parcels in the Westside (four acres) more complicated and less likely to occur.

The Commission has also raised similar concerns related to the relationship of the Mesa West Residential Ownership Urban Plan to several Westside residential common interest development conversion requests. Specifically, Commission has struggled with the question of whether the objectives of the urban plan to increase home ownership opportunities override or "trump" other issues related to a project's age or noncompliance with current development standards.

The questions listed in Commissioner Eleanor Egan's e-mail message to Assistant Development Services Director Michael Robinson (Attachment 3) are representative of Commission's concerns and policy questions. Commissioner Egan provided these questions in written form in anticipation of the joint Planning Commission and City Council Study Session which was subsequently cancelled.

ALTERNATIVES:

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:

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.

CONCLUSION:

The draft ordinance amends the City's review requirements and development standards for conversion requests for both residential and non-residential projects to common interest developments. The ultimate adoption of the ordinance by City Council will

terminate the two 7½-month moratoriums that are currently in effect for these types of applications.

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

- ATTACHMENTS:
- 1 Summary of Proposed Changes
 - 2 Draft ordinance (strike-through version)
 - 3 Planning Commissioner Egan's Correspondence
 - 4 Survey of Recent Residential Conversion Projects
 - 5 Non-Residential Condominium Conversions

File Name: 061107C00701	Date: 52407	Time: 8:30 a.m.
-------------------------	-------------	-----------------

ATTACHMENT 1

Residential Common Interest Developments- Issue Summary

The Zoning Code contains a comprehensive section for reviewing residential common interest development conversion requests; staff has identified the following additional items for Planning Commission and City Council consideration.

1. *A threshold is proposed for the consideration of residential conversion requests, which is the apartment complex must be no older than 40 years old (Section 13-42(a)).*
2. *The existing "Critical Vacancy Rate of 3%" and related findings are proposed to be deleted from the Zoning Code. The justification would be based on the 2000 Census data that indicates that 60% of the City's total housing stock is rental and City's General Plan policy to increase homeownership opportunities in the community.*
3. *Proposed development standards for conversion requests include (Section 13-42(h)):*
 - a. Require the following reports to be submitted at the time of application:
 - i. Overall Property report (onsite water and sewer lines, etc)
 - ii. Pest report
 - iii. Paint report
 - iv. Mold report
 - v. Mechanical equipment report
 - vi. Electrical report
 - vii. Roof Report
 - b. Require separate meters for all utilities, including gas, electricity, water and sewer.
 - c. Identify Life Safety standards including individual unit access to electrical branch circuits, draft stops in attics, smoke detectors, ground fault interrupter protection, fire extinguishers; also identify necessary plumbing upgrades, such as pressure relief valves, backflow devices, water heating strapping and venting. When applicable, require current building code compliance for the fire wall between garages and attached units.
 - d. Require a minimum of 100-amp electrical service to each residential unit.
 - e. Require exterior wall insulation to current building code standards.
 - f. Require refurbishing and restoration of all main buildings, structures, hardscape, etc.
4. *If a property proposed for conversion to a common interest development is non-conforming in respect to parking, open space, building setback, or other zoning standards, a deviation process is proposed in conjunction with the project approval (Section 13-42(h)(4)) and the findings discussed below.*
2. *Proposed new findings for approval would focus on the conversion project's achievement of a high standard of appearance, quality, and safety. For properties that cannot comply with the code requirements and request a deviation, include a finding that the project due to its proportions and scale, design elements, and relationship to the surrounding neighborhood, is of continued value to the community and that the conversion project contributes to defining and improving the community as a whole. (Section 13-29(g)(10)). In respect to nonconforming parking, a minimum of two onsite parking spaces per unit must be provided for 2-3 bedroom units; and 1 onsite space for studios and 1 bedroom units.*

Industrial Common Interest Developments- Amendment Summary

Currently our Zoning Code does not contain any review procedures or development standards for these types of conversion requests or for the new construction of common interest development projects, other than the requirement to file and obtain approval of a subdivision map. Staff has incorporated the following changes into the draft ordinance.

1. *The scope of the zoning code amendment is expanded to include all non-residential common interest developments- conversion requests, including industrial, office, commercial, and/or mixed-use. See Section 13-28.*
2. *New review procedures and development standards for new non-residential common interest developments are also included. See Section 13-54.52.*
3. *Proposed development standards for new construction include (Section 13-54.52(b)):*
 - a. Require the creation of at least one lot that is to be held in common ownership.
 - b. Require compliance with all applicable Zoning Code standards, including parking.
 - c. Require submittal of a parking space allocation plan.
 - d. Require submittal of all organizational documents for approval by City Attorney, including the covenants, conditions, and restrictions (CC&Rs) The CC&Rs shall require:
 - i. That all unit owners, and all future successive owners, must be a member of the property owners association.
 - ii. That the property owners association be established prior to the sale of any unit.
 - iii. That the onsite parking allocation and restrictions are clearly identified.
 - iv. That onsite maintenance responsibilities for common areas are identified and the legal remedies, if the common areas are not properly maintained.
4. *Proposed development standards for conversion requests include (Section 13-54.53):*
 - a. Require an inspection of all units by a City Inspector.
 - b. Require the following reports to be submitted at the time of application:
 - i. Overall Property report , including onsite utility lines
 - ii. Pest report
 - iii. Paint report
 - iv. Mold report
 - v. Mechanical equipment report
 - vi. Electrical report
 - vii. Roof Report
 - c. Require compliance with current requirements for vibration transmission, energy insulation, sound transmission control, and fire detection systems.
 - d. Require separate meters for all utilities.
 - e. Identify Life Safety standards including individual unit access to electrical branch circuits, smoke detectors, ground fault interrupter protection, fire extinguishers; also identify necessary plumbing upgrades, such as pressure relief valves, backflow devices, water heating strapping and venting.
 - f. Require Refurbishing and Restoration of all main buildings, structures, hardscape, etc.
 - g. Require all drive and parking areas to be paved pursuant to Code.
5. *If a property proposed for conversion to a common interest development is non-conforming in respect to parking, open space, building setback, or other zoning standards, a finding for the justification for approval has been included. (Section 13-29(g)(10)).*



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**