

# City of Costa Mesa

## Inter Office Memorandum

**TO:** PLANNING COMMISSION

**FROM:** KIMBERLY BRANDT, AICP, ASST. DEV. SVS. DIRECTOR;  
KHANH NGUYEN, CBO, BUILDING OFFICIAL;  
JIM GOLFOS, CODE ENFORCEMENT CHIEF

**DATE:** MAY 29, 2008

**SUBJECT:** CODE ENFORCEMENT PROCEDURES FOR ADDRESSING  
BUILDINGS CONSTRUCTED WITHOUT PERMITS  
PLANNING COMMISSION MEETING OF JUNE 9, 2008

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### **RECOMMENDATION**

Review current Code Enforcement procedures for addressing buildings constructed without permits and forward any recommendations for modification to City Council.

### **BACKGROUND**

The Planning Commission and Council recently reviewed a development proposal at 378 Costa Mesa Street which generated considerable discussion regarding the proposed legalization of 1,300 square-foot building located in the back yard of a single-family home.

It was not until the property owner submitted plans for the remodel and expansion of the main home that staff questioned the legality of the rear building. Through research, staff determined that the building was constructed in the early 1960s without building permits and that discretionary zoning approvals would be necessary to permit the building at its current size and location.

On April 15, 2008, Council directed staff to issue a report to Commission describing the City's procedures for bringing into compliance buildings that were constructed without zoning and building permits.

## **ANALYSIS**

Code Enforcement staff, working with building inspectors and planners, enforces the City's municipal codes on private property. The City has a total of 10 field officers, each of whom has an assigned district for patrolling.

Officers proactively survey private properties as visible from the public right-of-way for possible code violations, but officers cannot enter private property without the permission of the property owner and/or tenant. Tenants are often reluctant to grant access to a City official due to fear of retribution from the property owner. If permission is not granted from either party, and there is sufficient evidence of a code violation, a court ordered inspection warrant may be issued that allows City access to the property.

The following are the most common ways that Code Enforcement is made aware of illegal building construction:

- Complaint from an adjoining neighbor;
- Complaint from an evicted tenant or a tenant not receiving a deposit refund after moving out;
- Building/Planning inspection of the property for a permitted improvement;
- Planning staff review of site plan in conjunction with a new development proposal; and
- Real estate sales person completing due diligence for a property.

*Procedures:* Once staff is made aware of the building, the following actions occur:

1. Case is assigned to an officer who sends a written "notice of violation" letter to the property owner with a typical timeframe of seven days to contact the Planning Division.
2. Property owner meets with Planning Division to determine the necessary steps to legalize the structure.
3. Planning reviews plans to determine if all applicable zoning codes are met:
4. **If the building does comply with zoning standards**, the property owner is referred to the Building Division for a building permit; in these cases the permit fee is double the normal fee. In addition to paying a higher permit fee, the Building Division may require additional architectural and structural plans for the building's "as-built" condition to be submitted for plan check to ensure that the building complies with current Building Codes. At permit issuance all other applicable fees are collected, including school and traffic impact fees.

5. **If the building does not comply with zoning standards**, the property owner must apply for the approval for the appropriate deviation (e.g., variance, administrative adjustment). The discretionary approval requires public notice, and in some cases a public hearing before the Commission. The decisions are appealable to Council or may be called up for review by a Council Member.
6. If zoning approval is obtained, the property must obtain a building permit as outlined in number 4 above.
7. If zoning approval is not obtained, the City specifies a reasonable timeframe for the property owner to demolish the building.

*Recent 5-Year Statistics:* In the attached table is a summary of the 13 code enforcement cases from 2004 to 2008 which involved buildings that were constructed without permits. This summary does not include minor construction such as patio covers, nor does this summary include illegal use of a legally constructed building, such as converting a garage into a separate living unit.

As can be noted in the table, three cases are still under investigation and one case (378 Costa Mesa Street) is still pending. Of the remaining nine cases, four cases resulted in the demolition of a structure(s), because the appropriate zoning approval was not obtained.

## **CONCLUSION**

The number of Code Enforcement cases that involve buildings that are constructed without zoning approval and building permits is relatively small for our community of 114,000 residents. Staff has consistently required the demolition of buildings for which zoning approval could not be obtained.

Attachment: Code Enforcement Case Summary Table

DISTRIBUTION: Deputy City Attorney  
Deputy City Manager – Dev. Svs. Dir.  
Building Official  
Code Enforcement Chief  
Chief Plans Examiner  
City Clerk (2)  
Staff (4)  
File (2)

**SUMMARY OF CASES INVOLVING THE CONSTRUCTION OF STRUCTURES WITHOUT ZONING APPROVAL AND BUILDING PERMITS 2004-2008**

Case #	Address	Method of discovery	Unpermitted structure/use	Date Opened	Remediation action taken
C04-0489	703 CENTER ST	Complaint	Accessory structure with a full bathroom for laundry and pool recreation room (472 SF).	02/06/2004	Zoning approval (MCUP) of accessory structure with a bathroom-- not a second unit; building permits issued and finalized.
C05-1740	263 SANTO TOMAS	Complaint	Detached 2-car garage with residential unit above (498 SF)	06/07/2005	Zoning approval by staff; Building permits issued
C05-1986	2099 CONTINENTAL AV	Field observation	Residential and garage additions	06/29/2005	Zoning approval by staff; Building permits issued
C06-0543	1586 MINORCA DR	Complaint	Residential room addition (172 SF)	03/14/2006	Demolition of addition
C07-0335	1642 MINORCA DR	Complaint	Patio enclosed and converted into a separate residential unit.	02/21/2007	Demolition of addition
CD-07-0757	1711 POMONA AV	Field observation	2 industrial structures (1,008 SF and 1,353SF)	06/08/2007	(1,353 SF); building permit issued (converted into a carport). 2nd structure will be demolished (1,008 SF); permit issued.
CD-08-0290	947 W 18TH ST	Complaint	Detached industrial garage structure (1,870 SF) and bathroom (144 SF) attached to main building	06/08/2007	Planning Commission granted zoning approval on May 27, 2008 ; building permits will be required for both structures.
PA-07-48	378 COSTA MESA ST	Shown on applicant's plans for addition to main house	Detached 2-car garage with a second residential unit attached (1300 SF).	11/27/2007	Council action pending review of CE procedures for illegal construction.
C08-0333	3080 MADISON AV	Complaint	Enclosure of patio into living area.	02/11/2008	Zoning approval by staff; Building permits issued
C08-0742	3000 SAMOA PLACE	Complaint	Residential room addition	04/03/2008	Under investigation
CD-08-0484	577/579 VICTORIA ST	Shown on applicant's plans for a condo conversion	Storage structure on apartment complex property covering required parking spaces.	04/21/2008	Planning Commission review of condo conversion and overall site plan; demolition of storage structure required.
C08-0919	2261 SANTA ANA AV	Complaint	600 SF detached structure in rear of property	04/22/2008	Under investigation
C08-1247	2035 PLACENTIA AV	Field observation during CUP compliance review.	Storage shed attached to rear of building	05/28/2008	Under investigation

DEMOLITION REQUIRED