PLANNING COMMISSION AGENDA REPORT

VI.5

MEETING DATE: OCTOBER 12, 2009 ITEM NUMBER:

SUBJECT: ZONING CODE AMENDMENT CO-09-09 TO AMEND TITLE 13, CHAPTER III, PLANNING APPLICATIONS, OF THE COSTA MESA MUNICIPAL CODE TO EXCLUDE DENSITY FROM DISCRETIONARY REVIEW OF AFFORDABLE HOUSING PROJECTS

DATE: SEPTEMBER 24, 2009

FOR FURTHER INFORMATION CONTACT: CLAIRE L. FLYNN, PLANNING ADMINISTRATOR
(714) 754-5278

DESCRIPTION

Zoning Code Amendment CO-09-09 is proposed to add new review criteria and findings for Design Review and Master Plan review of affordable housing projects.

The amendment would remove discretion related to reducing density for multi-family affordable housing projects with a minimum of 16 units at no less than 20 dwelling units per acre. Subject to compliance with applicable laws and the General Plan, density for these affordable housing projects would be permitted by right and not subject to discretionary review.

RECOMMENDATION

Recommend that City Council introduce and give first reading to Ordinance.

Claire L. Flynn

CLAIRE L. FLYNN, AICP
Planning Administrator

BACKGROUND

State Law

State Law requires that the City permit multi-family affordable residential uses by right, sufficient to accommodate the need for very-low and low-income households.

By right, pursuant to Government Code Section 65583.2(i) means local government review must not require a conditional use permit, planned unit development, or other discretionary review or approval for affordable housing projects.

Table A depicts the income limits for very-low and low-income household in Orange County.

Table A
2009 Income Limits in Orange County, CA
California Department of Housing and Community Development

Category	Number of Persons in Household			
	1	2	3	4
Very Low Income	$32,550	$37,200	$41,850	$46,500
Low Income	$52,100	$59,500	$66,950	$74,400
Median Income	$60,250	$68,900	$77,500	$86,100
Moderate Income	$72,300	$82,650	$92,950	$103,300

Housing Program No. 22 of General Plan

On August 19, 2008, City Council adopted the 2008-2014 Housing Element of the General Plan. The State Housing and Community Development Department required Costa Mesa to include a housing program to address the State Law requirement relating to discretionary review of affordable housing projects.

Housing Program No. 22 was developed to comply with this requirement. This program would remove governmental constraints and discretionary review related to the density of certain affordable housing projects. The intent of State Law is to ensure that the proposed density of specified affordable housing projects for very-low and low-income households is unchanged during the site plan review process.

The General Plan indicated that a Zoning Code amendment to implement this program would be processed by December 2009.

ANALYSIS

Code Amendment CO-09-09

The proposed Zoning Code Amendment implements Housing Program No. 22 and achieves the intent of State Law to remove governmental constraints to the production of certain affordable housing projects.

The current Zoning Code provisions for site plan review allow the Planning Commission to have discretion over the proposed density of a project. Theoretically, the Planning Commission could reduce the project density through the Design Review/Master Plan review process. However, the Code amendment would remove the Planning Commission's ability to modify the residential density of affordable housing projects in order to implement the State's housing objectives for very-low/low-income households.

The Code amendment adds new review criteria and findings for Design Review and Master Plan applications to eliminate any discretion with regard to maximum allowable density.

- *New review criteria: Code amendment limits judgment to site plan design and residential development standards.*

  The following proposed text is added to the Title 13, Section 13-29, Planning Application Review Process:

  > "For affordable multi-family housing developments which include a minimum of 16 affordable dwelling units at no less than 20 dwelling units per acre, the maximum density standards of the General Plan shall be applied, and the maximum density shall be permitted by right and not subject to discretionary review during the Design Review or Master Plan application process." (*see Ordinance, Attachment 1*)

  Planning Commission review would strictly be related to design elements such as vehicle/pedestrian circulation, locations of ingress/egress points, bulk/massing of structures, lot coverage, building height, and building design. In addition to land use compatibility issues, Planning Commission will continue to have discretionary review over the appearance and functionality of the residential development for quality assurance. The program continues to reinforce the central intent of Design Review/Master Plan review to produce well-designed residential communities.

- *New findings: Code amendment ensures specified affordable housing projects are permitted by right in high-density residential zones*.

  It is necessary to add new findings in Title 13, Section 13-29(g), Findings, for Design Review and Master Plan review relating to these specified affordable housing projects, as follows:

  > "As applicable to affordable multi-family housing developments, the project complies with the maximum density standards allowed pursuant to the General Plan and provides affordable housing to low- or very-low income households, as defined by the California Department of Housing and Community Development. The project includes long-term affordability convenants in compliance with State law."
  > (*see Ordinance, Attachment 1*).

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 City Attorney's office approved this Ordinance as to form.

ALTERNATIVES

Other than the action described below, there are no other options that would comply with State Law.

- *Recommend City Council introduce and give first reading of Ordinance*. This action implements Housing Program No. 22 of the Costa Mesa General Plan by the December 2009 deadline. The State Housing and Community Development Department has certified that this program complies with State Law.

CONCLUSION

The intent of State Law is to ensure that the density of specified affordable housing projects for very-low and low-income households is not subject to change during the review process. The Code amendment adds new review criteria and findings for Design Review and Master Plan applications to eliminate any discretion with regard to maximum allowable density.

Attachment: 1. Ordinance

Distribution: Deputy City Attorney
Public Services Director
Administrative Services Director
Recreation Manager
City Engineer
Staff (4)
File (2)

File: CO-09-09	Date: 9-30-09	Time: 9AM

ORDINANCE NO. 09-

AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-09-09 TO AMEND TITLE 13, CHAPTER III, PLANNING APPLICATIONS, OF THE COSTA MESA MUNICIPAL CODE, TO EXCLUDE THE DENSITY OF AFFORDABLE HOUSING PROJECTS FROM BEING SUBJECT TO DISCRETIONARY REVIEW DURING THE DESIGN REVIEW AND MASTER PLAN PROCESS.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: TITLE 13. Title 13, Chapter III, Planning Applications, of the Costa Mesa Municipal Code is hereby amended as follows:

a. Amend Section 13-29 (e), Review Criteria, as follows:

"(e) Review criteria. Review criteria for all planning applications shall consist of the following:

(1) Compatible and harmonious relationship between the proposed building and site development, and use(s), and the building and site developments, and uses that exist or have been approved for the general neighborhood.

(2) Safety and compatibility of the design of buildings, parking area, landscaping, luminaries and other site features which may include functional aspects of the site development such as automobile and pedestrian circulation.

(3) Compliance with any performance standards as prescribed elsewhere in this Zoning Code.

(4) Consistency with the General Plan and any applicable specific plan.

(5) The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.

(6) When more than one planning application is proposed for a single development, the cumulative effect of all the planning applications shall be considered.

(7) For residential developments, consistency with any applicable design guidelines adopted by City Council resolution.

(8) For affordable multi-family housing developments which include a minimum of 16 affordable dwelling units at no less than 20 dwelling units per acre, the maximum density standards of the General Plan shall be applied, and the maximum density shall be permitted by right and not subject to discretionary review during the Design Review or Master Plan application process."

b. Amend Section 13-29 (g)(5), Master plan findings, as follows:

"(5) Master plan findings:

a. The master plan meets the broader goals of the General Plan, any applicable specific plan, and the Zoning Code by exhibiting excellence in design, site planning, integration of uses and structures and protection of the integrity of neighboring development.

b. Master Plan findings for mixed-use development projects in the mixed-use overlay district are identified in CHAPTER V, ARTICLE 11, MIXED-USE OVERLAY DISTRICT.

c. As applicable to affordable multi-family housing developments, the project complies with the maximum density standards allowed pursuant to the General Plan and provides affordable housing to low- or very-low income households, as defined by the California Department of Housing and Community Development. The project includes long-term affordability convenants in compliance with State law. "

c. Amend Section 13-29 (g)(14), Design review and minor design review findings, as follows:

"(14) Design review and minor design review findings:

a. The project complies with the City of Costa Mesa Zoning Code and meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features.

b. The visual prominence associated with the construction of a two-story house or addition in a predominately single-story neighborhood has been reduced through appropriate transitions between the first and second floors and the provision of second floor offsets to avoid unrelieved two-story walls.

c. As applicable to affordable multi-family housing developments, the project complies with the maximum density standards allowed pursuant to the General Plan and provides affordable housing to low- or very-low income households, as defined by the California Department of Housing and Community Development. The project includes long-term affordability convenants in compliance with State law. "

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 pursuant to Section 15061 (b) (3) (general rule) of the CEQA Guidelines, in that the City Council hereby finds that it can be seen with certainty that there is no possibility that the passage of this ordinance amending the Zoning Code will have a significant effect on the environment.

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 or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 4: APPLICABILITY. The provisions of this ordinance shall be applicable to new and existing off-sale license establishments as applicable.

SECTION 5: SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 6: PUBLICATION. 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 _____ 2009.

_____
ALLAN R. MANSOOR
Mayor of the City of Costa Mesa

ATTEST:

_____
City Clerk of the City of Costa Mesa

APPROVED AS TO FORM:

_____
City Attorney

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, JULIE FOLCIK, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above foregoing Ordinance No. 09-___ as introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2009, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the ____ day of _____, 2009, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this ___ day of _____, 2009.

_____
City Clerk
City Council of the City of Costa Mesa