PLANNING COMMISSION SUPPLEMENTAL REPORT

VII. 1a.

MEETING DATE: JULY 11, 2011 ITEM NUMBER

SUBJECT: ZONING CODE AMENDMENT CO-10-06 TO AMEND TITLE 13, ARTICLE 2 DEFINITIONS, AND CHAPTERS III, IV, V, VI, AND XII OF THE COSTA MESA MUNICIPAL CODE RELATING TO RESIDENTIAL SECOND UNITS (A.K.A GRANNY UNITS, AND ACCESSORY APARTMENTS)

DATE: JULY 7, 2011

FOR FURTHER INFORMATION CONTACT: CLAIRE FLYNN, ACT. ASST. DEV. SVCS. DIRECTOR
(714) 754-5278

Bathrooms within Accessory Structures

The purpose of this memo is to recommend an additional change to the Zoning Code to address second units. A revised Ordinance is attached with this change shown in yellow highlighting.

Subject to approval of a Minor Conditional Use Permit, Code allows a combination of a toilet, bathtub, or shower to be constructed as an accessory use in a single family residential zone. This applies to an accessory use contained in a detached structure or contained within the main structure with no interior connection. (Title 13, Table 13-30).

Planning Commission expressed concerns with permitting bathrooms in accessory structures because these structures may have the potential of being illegally converted to a second unit. Staff recommends that such proposals be considered by the Planning Commission as a Conditional Use Permit in the R1 zone and PDR-LD zone. This would elevate these applications to a Planning Commission public hearing in these select zones, while a MCUP is still required in multi-family zones. However, it should be noted that accessory uses with a powder room (toilet and sink only) are permitted by right and no changes are proposed to this regulation.

Staff recommends that this additional amendment be included in Zoning Code Amendment CO-10-07 as shown below.

Costa Mesa Zoning Code

TABLE 13-30
CITY OF COSTA MESA LAND USE MATRIX

LAND USES	R1	R2MD	R2HD	R3	AP	CL	C1	C2	C1S[1]	TC[1]	MG	MP	PDRLD[1]	PDRMD[1]	PDRHD[1]	PDRNCM[1]	PDC[1]	PDI[1]	I&R[1]	I&RS[1]	P
	ZONES																				
11.Single room occupancy residential hotel (subject to City Council Policy 500-5)	•	•	•	•	•	•	C[2]	C[2]	•	•	•	•	•	•	•	•	•	•	•	•	•
ACCESSORY USES																					
12. ~~Accessory apartments (subject to the requirements of Section 13-35 ACCESSORY APARTMENTS)~~ Reserved for future use.	P[2]	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
13. Animals, keeping of	SEE TITLE 3, ANIMALS AND FOWL																				
14. Antennas: Amateur radio, Satellite dish, Communication	SEE CHAPTER IX, ARTICLE 2, ANTENNAS																				
15. Reserved for future use																					
15.1 Incidental residential use that includes a toilet in combination with a bathtub or shower. ~~, bathtub, shower, or any combination thereof.~~ This applies to an accessory use contained in a detached structure, or contained within the main structure with no interior connection between the main and incidental use.	~~M~~C	MC	MC	MC	•	•	•	•	•	•	•	•	MC	MC	MC	MC	MC[3]	MC[3]	•	•	•

Distribution: Assistant City Attorney
Dev. Svs. Director
Public Services Director
Transportation Manager
City Engineer
Staff (4)
File (2)

Attachment: 1. Draft Ordinance

ORDINANCE NO. 11-_____

AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-10-06, AMENDING TITLE 13, ARTICLE 2 DEFINITIONS, AND CHAPTERS III, IV, V, VI, AND XII OF THE COSTA MESA MUNICIPAL CODE RELATING TO RESIDENTIAL SECOND UNITS, GRANNY UNITS, AND ACCESSORY APARTMENTS.

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

WHEREAS, the State Second Unit Law in California Government Code Section 65852.2 intends to promote the creation of second units in residential zones and to require ministerial consideration of second-unit applications to streamline the development review process for second units;

WHEREAS, California Government Code Section 65583.1 (a portion of State Housing Element Law) allows identification of the realistic capacity for second units in addressing a locality's share of the regional housing need;

WHEREAS, the City of Costa Mesa General Plan indicates that the City will continue to promote second units as an alternative affordable housing option for seniors and lower-income individuals as part of the Year 2008 to 2014 Housing Element;

WHEREAS, the Costa Mesa City Council finds that the amendments to Title 13 of the Costa Mesa Municipal Code regarding second units (also referred to as granny units, accessory apartments, in-law apartments) are consistent with the intent of the State Second Unit Law;

WHEREAS, the Costa Mesa City Council acknowledges that Government Code Section 65852.2(e) limits parking requirements to one parking space per unit or bedroom; however, this subsection allows a locality to make specific findings for additional parking requirements. In this case, Title 13, Chapter VI, Off-Street Parking Requirements, of the Costa Mesa Municipal Code requires a minimum of two parking spaces for a studio apartment. The Costa Mesa City Council finds it appropriate to apply this minimum standard of two parking spaces for a second unit, and this would be would be in addition to the parking required for the primary dwelling unit.

SECTION 1: TITLE 13 (ZONING CODE) AMENDMENTS. Title 13 of the Costa Mesa Municipal Code is hereby amended as follows:

A. Article 2, Definitions is amended to remove definition of accessory apartment.

B. Article 2, Definitions is amended to include a new definition for a second unit to read as follows:

"**Second unit.** A second dwelling unit established in conjunction with and subordinate to a primary dwelling unit. The second unit may be attached to the primary dwelling unit or located

in a detached accessory building on the same lot. It may also be referred to as an accessory apartment, granny unit, granny flat, or in-law apartment."

C. Chapter III Planning Applications, Section 13-28(e) is amended to read as follows:

"(e) **Development review.** The following shall be subject to development review:

(1) Single-story residential construction: In the R2-MD, R2-HD, and R3 zones, any single-story construction of 2 or fewer new single-story dwelling units. *Exception:* New single-story accessory buildings, such as garages or carports, single-story room additions, and other minor construction that comply with all applicable development standards shall not be subject to development review but shall be reviewed by the Planning Division.

(2) Two-story residential construction: In the R2-MD, R2-HD, and R3 zones, any two-story construction on a lot where there are 2 or fewer dwelling units or any second-story addition on a lot with more than 2 dwelling units that complies with any residential design guidelines adopted by City Council.

(3) Construction of new buildings or additions to existing buildings in the AP, CL, C1, C2, C1-S, MG, or MP zones. However, building additions that do not exceed 2,000 square feet or 50% of the existing building area, whichever is less, and comply with all applicable development standards shall not be subject to development review.

(4) Lot line adjustment; and

(5) Any other use specified in this Zoning Code as requiring development review."

D. Chapter IV City Land Use Matrix, Table 13-30 City of Costa Mesa Land Use Matrix, Row 12, Row 15.1, Row 20, Row 22.2, and Row 22.3 is hereby amended as shown in Exhibit "A."

E. Chapter V Development Standards, Sections 13-35 and 13-36 are hereby amended to read as follows:

"Sec. 13-35. SECOND UNITS

Pursuant to Government Code § 65852.2, local governments have the authority to adopt regulations designed to promote second units. A second unit which conforms to the requirements of this Section shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the General Plan designation and zoning classification for the lot.

The following criteria constitute the standards that the City shall use to evaluate a proposed second unit.

(a) An applicant for a building permit to construct a second unit must be the owner-occupant of the existing primary dwelling unit.

(b) A second unit shall be limited to a lot in the R1 zone with a minimum lot size of 7,260 square feet.

(c) A second unit shall not be intended for sale but may be rented.

(d) The primary dwelling unit shall be a single-family residence.

(e) If detached from the primary dwelling unit, the second unit size shall not exceed 1,200 square feet.

(f) If attached to the primary dwelling unit, the second unit size shall not exceed 30 percent of the existing living area of the primary dwelling unit.

(g) Two open parking spaces shall be provided for the second unit. The parking required for the primary dwelling unit pursuant to CHAPTER VI OFF-STREET PARKING STANDARDS shall not be attributed to the second unit. The parking need not be covered.

(h) A second unit shall comply with the residential development standards shown in TITLE 13, CHAPTER V, TABLE 13-32 and shall be subject to all applicable residential design guidelines.

(i) An application for a one-story second unit shall be considered ministerially by the Development Services Director or his/her designee. Where deviations from the residential development standards are requested, the second unit application is subject to the application processing procedures as set forth in TITLE 13, CHAPTER III PLANNING APPLICATIONS. An appeal shall be in accordance with TITLE 2, CHAPTER IX APPEAL, REHEARING AND REVIEW PROCEDURE.

(i) An application for a second unit involving second story construction may be subject to minor design review pursuant to TITLE 13, CHAPTER III PLANNING APPLICATIONS.

Sec. 13-36. Reserved for future use."

G. Chapter VI Off-Street Parking Standards, Section 13-85(d) is hereby amended to read as follows:

"**(d) Parking for second units.** Residential second units shall be provided with at least two (2) on-site parking spaces in addition to parking required for the existing single-family residence. The parking need not be covered. City of Costa Mesa Parking Standards shall apply."

H. Chapter XII Special Fee Assessments, Section 13-276(a)(1) is hereby amended to read as follows:

"Sec. 13-276. EXEMPTIONS

(a) Exempt development projects. Projects which fall within any of the categories listed below shall be exempt from the provisions of this article:

(1) Any residential construction that does not increase the number of permanent housing units on the lot where the construction takes place, such as remodeling or rebuilding an existing house or units. Second units are also exempt."

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: 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 5: 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 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 _____ 2011.

_____
GARY MONAHAN
Mayor of the City of Costa Mesa

ATTEST:

_____
City Clerk of the City of Costa Mesa

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT A

Costa Mesa Zoning Code

TABLE 13-30
CITY OF COSTA MESA LAND USE MATRIX

LAND USES	ZONES																				
	R1	R2MD	R2HD	R3	AP	CL	C1	C2	C1S[1]	TC[1]	MG	MP	PDRLD[1]	PDRMD[1]	PDRHD[1]	PDRNCM[1]	PDC[1]	PDI[1]	I&R[1]	I&RS[1]	P
11.Single room occupancy residential hotel (subject to City Council Policy 500-5)	•	•	•	•	•	•	C[2]	C[2]	•	•	•	•	•	•	•	•	•	•	•	•	•
ACCESSORY USES																					
12. ~~Accessory apartments (subject to the requirements of Section 13-35 ACCESSORY APARTMENTS)~~ Reserved for future use.	~~P[2]~~	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
13. Animals, keeping of	SEE TITLE 3, ANIMALS AND FOWL																				
14. Antennas: Amateur radio, Satellite dish, Communication	SEE CHAPTER IX, ARTICLE 2, ANTENNAS																				
15. Reserved for future use																					
15.1 Incidental residential use that includes a toilet in combination with a bathtub or shower.~~, bathtub, shower, or any combination thereof.~~ This applies to an accessory use contained in a detached structure, or contained within the main structure with no interior connection between the main and incidental use.	~~M~~C	MC	MC	MC	•	•	•	•	•	•	•	•	~~MC~~	MC	MC	MC	MC[3]	MC[3]	•	•	•
16. Day care facilities (15 children or more) (see also Nursery schools)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	•

Revised 3/98 Ordinance 98-5; 4/00 Ordinance 00-5; 2/01 Ordinance 01-1; 3/02 Ordinance 02-4; 6/02 Ordinance 02-12; 2/05 Ordinance 05-2; 7/05 Ordinance 05-11; 9/06 Ordinance 06-18

1. Uses proposed in this zone are subject to verification of consistency with the adopted master plan. Uses not specified in the master plan, could be allowed, subject to the review process indicated in this matrix, if the proposed use is determined to be compatible with the adopted master plan.
2. This use is subject to the requirements of the referenced Municipal Code article or section.
3. If residential uses exist, accessory uses shall be permitted.
4. For the purposes of this table, the symbols in the non-shaded areas shall have the following meaning: C - Conditional Use Permit; MC - Minor Conditional Use Permit; P - Permitted; • - Prohibited

TABLE 13-30
CITY OF COSTA MESA LAND USE MATRIX

LAND USES	ZONES																				
	R1	R2MD	R2HD	R3	AP	CL	C1	C2	C1S[1]	TC[1]	MG	MP	PDRLD[1]	PDRMD[1]	PDRHD[1]	PDRNCM[1]	PDC[1]	PDI[1]	I&R[1]	I&RS[1]	P
17. Family day care - large (7-14 children) (subject to the requirements of Section 13-37 LARGE FAMILY DAY CARE HOMES)	P[2]	P[2]	P[2]	P[2]	•	•	•	•	•	•	•	•	P[2]	P[2]	P[2]	P[2]	P[2,3]	P[2,3]	P	•	•
18. Family day care - small (up to 8 children)	P	P	P	P	•	•	•	•	•	•	•	•	P	P	P	P	P[3]	P[3]	P	•	•
19. Garage/yard sales - no more than 2 events permitted a year, not to exceed 3 consecutive days	P	P	P	P	•	•	•	•	•	•	•	•	P	P	P	P	P[3]	P[3]	•	•	•
20. Reserved for future use. ~~Granny units (subject to the requirements of Section 13-36 GRANNY UNITS)~~	~~P[2]~~	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
21. Home occupations (subject to the requirements of CHAPTER IX, ARTICLE 6, HOME OCCUPATIONS)	P[2]	P[2]	P[2]	P[2]	P[2,3]	P[2,3]	P[2,3]	P[2,3]	P[2,3]	P[2,3]	P[2,3]	P[2,3]	P[2]	P[2]	P[2]	P[2]	P[2,3]	P[2,3]	P[2]	•	•
22. Home occupations that generate traffic and do not involve more than one customer/client at a time or more than 8 customers/clients per day (subject to the requirements of CHAPTER IX, ARTICLE 6, HOME OCCUPATIONS)	MC[2]	MC[2]	MC[2]	MC[2]	MC[2,3]	MC[2,3]	MC[2,3]	MC[2,3]	MC[2,3]	MC[2,3]	MC[2,3]	MC[2,3]	MC[2]	MC[2]	MC[2]	MC[2]	MC[2,3]	MC[2,3]	MC[2,3]	•	•
22.1. Nonresidential accessory uses in a residential development not otherwise specified in this table	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•

Revised 3/98 Ordinance 98-5; 4/00 Ordinance 00-5; Ordinance 2/01; Ordinance 01-1
Revised 1/02 Ordinance 01-30; 3/02 Ordinance 02-4; 2/05 Ordinance 05-2; 7/05 Ordinance 05-11; 2/06 Ordinance 06-2; 02/07 Ordinance 07-2

1. Uses proposed in this zone are subject to verification of consistency with the adopted master plan. Uses not specified in the master plan, could be allowed, subject to the review process indicated in this matrix, if the proposed use is determined to be compatible with the adopted master plan.
2. This use is subject to the requirements of the referenced Municipal Code article or section.
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LAND USES	ZONES																				
	R1	R2MD	R2HD	R3	AP	CL	C1	C2	C1S[1]	TC[1]	MG	MP	PDRLD[1]	PDRMD[1]	PDRHD[1]	PDRNCM[1]	PDC[1]	PDI[1]	I&R[1]	I&RS[1]	P
22.2 Second Unit (subject to the requirements of CHAPTER V, SECTION 13-35 SECOND UNITS)	P[2]	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
22.~~3~~2 Temporary real estate and construction offices (subject to the requirements of CHAPTER IX, ARTICLE 10, TEMPORARY TRAILERS)	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]
INSTITUTIONAL AND RECREATIONAL USES																					
23. Cemeteries	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	•
24. Churches and other places of religious assembly (Subject to the requirements of ARTICLE 4.5 DEVELOPMENT STANDARDS FOR CHURCHES AND OTHER PLACES OF RELIGIOUS ASSEMBLY)	C[2]	C[2]	C[2]	C[2]	C[2]	C[2]	P[2]	P[2]	C[2]	C[2]	P[2]	P[2]	C[2]	C[2]	C[2]	C[2]	C[2]	C[2]	P[2]	C[2]	•
25. Civic and community clubs	C	C	C	C	C	C	P	P	P	P	C	C	C	C	C	C	C	C	C	•	•
26. Convalescent hospitals; Nursing homes	•	C	C	C	C	C	C	C	•	•	•	•	•	•	•	•	•	•	P	•	•
27. Country clubs; golf courses	C	C	C	C	•	•	•	•	•	•	•	•	C	C	C	C	•	•	P	C	•
28. Crematories - See also Mortuaries services	•	•	•	•	•	•	•	C	•	•	C	C	•	•	•	•	•	•	C	•	•
29. Fairgrounds; Outdoor festival (permanent)	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	•
30. Hospitals, general	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	P	•	•
31. Libraries, privately-operated	C	C	C	C	•	•	C	C	C	C	C	C	C	C	C	C	C	C	P	C	•
31a. Medical marijuana dispensary	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
32. Mortuary services without crematories	•	•	•	•	C	C	C	C	C	•	C	C	•	•	•	•	•	•	C	•	•

Revised 3/98 Ordinance 98-5; 4/00 Ordinance 00-5; 2/01 Ordinance 01-1; 3/02 Ordinance 02-4; 6/02 Ordinance 02-12; 2/05 Ordinance 05-2; 7/05 Ordinance 05-11; 9/06 Ordinance 06-18

1. Uses proposed in this zone are subject to verification of consistency with the adopted master plan. Uses not specified in the master plan, could be allowed, subject to the review process indicated in this matrix, if the proposed use is determined to be compatible with the adopted master plan.
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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. 10-___ as introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2010, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the ____ day of _____, 2011, 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 _____, 2011.

_____
City Clerk
City Council of the City of Costa Mesa