



City of Carson

Report to Mayor and City Council

July 15, 2014
Special Orders of the Day

SUBJECT: PUBLIC HEARING TO CONSIDER ORDINANCE NO. 14-1539 APPROVING ZONE TEXT AMENDMENT NO. 18-14 TO AMEND THE CARSON ZONING ORDINANCE TO ALLOW MULTIPLE DWELLING UNITS IN THE RS ZONE WITH APPROVAL OF A CONDITIONAL USE PERMIT AND UNDER CERTAIN REQUIREMENTS

Submitted by Jeff Westbrook
Acting Director of Community Development

Approved by Nelson Hernandez
City Manager

I. SUMMARY

This item was continued at the July 1, 2014 City Council meeting. On May 13, 2014, at a noticed public hearing, the Planning Commission recommended approval of Zone Text Amendment No. 18-14 (ZTA) to allow legal nonconforming multiple dwelling units in the Residential, Single-Family (RS) zoning district under certain requirements and with approval of a Conditional Use Permit (Exhibit No. 1). Adoption of Ordinance No. 14-1539 would effectuate implementation of the ZTA.

II. RECOMMENDATION

CONTINUE this item to August 5, 2014, to allow time for staff to complete the noticing process.

III. ALTERNATIVES

1. REFER this matter back to the Planning Commission with revision instructions.
2. TAKE another action that the City Council deems appropriate.

IV. BACKGROUND

On November 4, 2003, the City Council adopted Ordinance No. 03-1290 regarding second dwelling units and accessory structures within residential zones. The ordinance, which required owners of legal nonconforming second dwelling units to obtain a CUP by December 4, 2008, became effective on December 4, 2003.

In 2009, letters were sent to property owners indicating the status of their second dwelling unit. The notices provided two ways of bringing a legal nonconforming second dwelling unit into compliance:

1. Obtain ministerial approval from the Planning Division by demonstrating that the second dwelling unit meets the requirements of

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Section 9122.8 (Second Dwelling Units) and Section 9125.6 (Second Dwelling Unit Development Standards) of the Carson Municipal Code (CMC); or

2. Obtain a CUP if the second dwelling unit does not meet the requirements described in Section 9122.8 (Second Dwelling Units) and Section 9125.6 (Second Dwelling Unit Development Standards).

By adopting Ordinance No. 03-1290, the City accommodated existing legal nonconforming second dwelling units in the RS zone. However, the ordinance did not address properties zoned RS that have three or more legal nonconforming units. As such, these units are subject to abatement under Section 9182.22, Termination of Existing Nonconforming Use.

On March 25, 2014, the Planning Commission held a workshop regarding legally-established multiple dwelling units (three or more) in the RS zone. Staff has identified approximately 28 properties zoned RS with three or more units. Based on Section 9182.22 of the CMC, these properties are nonconforming and are given an amortization period to be brought into conformance. The amortization period is either 20 years from adoption of the Ordinance in 1977 or 35 years from the date of construction, whichever results in a later termination date. The 20-year amortization period would give owners an expiration date in 1997; the second amortization period based on the date of construction would give owners until the mid-1980s to mid-1990s to continue with a nonconforming use since many of the homes were built in the 1950s to 1960s. In either case the amortization period has expired and multiple dwelling units in the RS zone should have been abated. However, due to the sensitivity of the issue and the likelihood that families would be displaced, this provision has not been actively enforced.

This issue has recently emerged due to the number of multifamily homes with three or more units listed for sale in RS zones. The City has recorded a notice on all residential properties requiring a residential property report (RPR) prior to a sale. Unfortunately, staff cannot approve the RPR because of the expired amortization period; therefore people cannot buy or sell these homes.

A solution would be to bring the property into conformance by combining or demolishing units. This would be costly and potentially result in the displacement of numerous residents. Rather, the ZTA would provide the City an alternative to demolishing units while requiring upgrades to multifamily units that would improve existing neighborhoods. The ordinance amendment would also be consistent with the State Department of Housing and Urban Development's goal of preserving affordable housing and providing alternative housing types.

On May 13, 2014, the Planning Commission recommended approval of ZTA No. 18-14, as described in Resolution No. 14-2515 (Exhibit No. 2). The proposed amendment would revise CMC Section 9182.3 (Exhibit No. 3) to allow legal

nonconforming multiple dwelling units in the RS zoning district with approval of a Conditional Use Permit and under certain requirements, i.e. brought up to code, four of which are as follows:

- New or rehabilitated landscaping;
- Exterior changes to promote compatibility of buildings and structures with surrounding development;
- General repairs to vehicular maneuvering or parking areas;
- Modifications designed to bring a structure more nearly into compliance with the applicable standards for multiple dwelling units.

Refer to Exhibit No. 4 for other additional requirements.

Staff recommends adoption of Ordinance No. 14-1539 to implement the ZTA.

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. Planning Commission staff report, May 13, 2014, without exhibits. (pgs. 5-8)
2. Planning Commission Resolution No. 14-2515. (pgs. 9-10)
3. Carson Municipal Code Section 9182.3 Nonconforming Residential Density. (pg. 11)
4. Ordinance No. 14-1539. (pgs. 12-15)

Prepared by: Richard Rojas, AICP, Associate Planner

TO:Rev05-13-2014

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Public Works
Community Development	Community Services

Action taken by City Council

Date_____

Action_____



CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

PUBLIC HEARING: May 13, 2014
SUBJECT: Zone Text Amendment No. 18-14
APPLICANT: City of Carson
REQUEST: Recommend to the City Council approval of an ordinance amendment to the Carson Municipal Code regarding multiple dwelling units in the RS zone
PROPERTIES INVOLVED: Citywide

COMMISSION ACTION

Commissioner Diaz moved, seconded by Chairman Faletogo, to approve staff recommendation; to amend Section 9182.3, Nonconforming Residential Density, "For a property with three or more units, the applicant shall provide a full inspection report for all units on the property," deleting Nos. 2 and 3; and moved to adopt Resolution No. 14-2515. Motion carried, 9-0.

COMMISSIONERS' VOTE

<u>AYE</u>	<u>NO</u>		<u>AYE</u>	<u>NO</u>	
X		Chairman Faletogo	X		Gordon
X		Vice-Chair Verrett	X		Piñon
X		Brimmer	X		Saenz
X		Diaz	X		Schaefer
X		Goolsby			

Item No. 11A

EXHIBIT NO. 01



I. Introduction

The Planning Commission held a workshop on March 25, 2014 regarding legally-established multiple dwelling units (3 or more) in the RS zone. Staff has identified approximately 28 properties zoned RS with three or more units. Based on Section 9182.22 of the Carson Municipal Code (CMC), these properties are nonconforming and are given an amortization period to be brought into conformance. The amortization period is either 20 years from adoption of the Ordinance in 1977 or 35 years from the date of construction, whichever results in a later termination date. The 20-year amortization period would give owners an expiration date in 1997; the second amortization period based on the date of construction would give owners until the mid-1980s to mid-1990s to continue with a nonconforming use since many of the homes were built in the 1950s to 1960s. In either case the amortization period has expired and multiple dwelling units in the RS zone should have been abated. However, due to the sensitivity of the issue and the likelihood that families would be displaced, this provision has not been actively enforced by staff.

This issue has recently emerged because of a number of multifamily homes with three or more units in the RS zone wanting to be sold. The City has recorded a notice on all residential properties indicating that a residential property report (RPR) is required before a property can be sold. The dilemma is staff cannot sign-off the RPR because of the expired amortization period, and realtors are caught in a situation in which they cannot buy or sell these homes. The solution would be to bring these buildings into conformance by combining or demolishing units. This would be costly to owners because of the reduced number of units and the need to demolish structures, not to mention the social impacts of having to relocate families.

Instead, the proposed ordinance amendment would give the City an alternative to demolishing units while requiring upgrades to multifamily units that would improve existing neighborhoods. Furthermore, the ordinance amendment would be consistent with the State Department of Housing and Urban Development's (HUD's) goal of preserving affordable housing and providing alternative housing types.

II. Background

On November 4, 2003, the City Council adopted Ordinance No. 03-1290 regarding second dwelling units and accessory structures within residential zones, pursuant to amendments made in 2002 by the State to Section 65852.2 of the California Government Code. The ordinance went into effect on December 4, 2003, and requires legal nonconforming second dwelling units to obtain a conditional use permit (CUP) by December 4, 2008.

In 2009, letters were sent to property owners indicating the status of their second dwelling unit. The notices indicated two ways of bringing a legal nonconforming second dwelling unit into compliance:

1. Obtain ministerial approval from the Planning Division by demonstrating that the second dwelling unit meets the requirements of Section 9122.8 (Second Dwelling Units) and Section 9125.6 (Second Dwelling Unit Development Standards) of the CMC; or



2. Obtain a conditional use permit if the second dwelling unit does not meet the requirements described in Section 9122.8 (Second Dwelling Units) and Section (Second Dwelling Unit Development Standards).

By adopting Ordinance No. 03-1290, the City accommodated existing legal nonconforming second dwelling units in an RS zone. However, the ordinance did not address properties zoned RS that have three or more legal nonconforming units. As such, these units are subject to abatement under Section 9182.22, Termination of Existing Nonconforming Use, as described above.

In order to address properties zoned RS that have three or more existing units, staff considered two options:

1. Zone Change Case – change the zone of properties that have three or more units from RS to RM (Residential, Multifamily)
2. Zoning Text Amendment – change the Zoning Ordinance to include a mechanism to allow these units to remain.

Option 1: Zoning Change Case

For clustered properties with existing, lawfully established multiple dwelling units, a zone change from RS (Residential, Single-family) to RM (Residential, Multifamily Dwelling) is an option. This accommodates the increased density of having three or more existing units on a single lot. However, the RM zone also permits additional residential uses (e.g., condominium, boarding house) and non-residential uses (e.g., private elementary school, church, auto parking lot) that are not permitted in the RS zone. These differences could allow a property owner to introduce uses that are not compatible with predominately single-family neighborhoods and negatively impact quality of life. In areas where a zone change would be inconsistent with the General Plan Land Use, a General Plan Amendment would also be required.

Option 2: Zoning Text (Ordinance) Amendment

A zoning text amendment would target properties zoned RS that have three or more existing units by providing a specific pathway for approval. The amendment would revise the current standards that apply only to properties zoned RS with second units to properties zoned RS with multiple dwelling units. This would allow properties with existing multiple dwelling units (3 or more) to continue indefinitely with a CUP.

In order to bring these properties into conformance, staff recommends:

Zoning Text (Ordinance) Amendment – Staff recommends an ordinance amendment to allow properties with existing multiple units (3 or more) to continue indefinitely with a CUP. This would be similar to Ordinance No. 03-1290, which provided options to allow existing nonconforming second dwelling units to remain.



III. Proposed Ordinance Amendment

The existing Section 9182.3 (Nonconforming Residential Density) will be revised to include multiple dwelling units as well as second dwelling units located in the RS or RA zone. A CUP will be required in order for the nonconformity in residential density to remain. The following will be made mandatory for properties with three or more units:

1. A full inspection report for all units on the property.
2. A survey of support from all homeowners and tenants within 500 feet of the property with a majority in agreement with the property's compatibility with the neighborhood and legal nonconforming status.
3. Written support from abutting homeowners on the same street. If a homeowner cannot be contacted or is unresponsive sufficient evidence must be provided to show good faith that outreach was made.

IV. Recommendation

That the Planning Commission:

- RECOMMEND APPROVAL to the City Council of an amendment to the Carson Municipal Code regarding multiple dwelling units in an RS zone, as described in Exhibit 1; and
- WAIVE further reading and ADOPT Resolution No. _____ entitled "A Resolution of the Planning Commission of the City of Carson recommending approval to the City Council of an amendment to the Carson Municipal Code regarding multiple dwelling units in the RS zone."

V. Exhibits

1. Proposed resolution
2. Proposed ordinance amendment

Prepared by: Richard Rojas, AICP, Associate Planner

Reviewed and Approved by: _____

John F. Signo, AICP, Acting Planning Manager



CITY OF CARSON
PLANNING COMMISSION
RESOLUTION NO. 14-2515

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF CARSON RECOMMENDING APPROVAL TO THE CITY
COUNCIL OF AN AMENDMENT TO THE CARSON MUNICIPAL
CODE REGARDING MULTIPLE DWELLING UNITS IN THE RS
ZONE**

**THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA,
HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:**

Section 1. On May 13, 2014, the Planning Commission held a public hearing regarding an amendment to the Carson Municipal Code allowing legally-established multiple dwelling units in the RS zone to remain under certain criteria, as described in Exhibit A. The public hearing was held at 6:30 P.M. at City Hall, Helen Kawagoe Council Chambers, 701 East Carson Street, Carson, California. A notice of time, place and purpose of the aforesaid hearing was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid hearing.

Section 3. The Planning Commission finds that:

- a) Policy 3.1 of the Housing Element of the General Plan seeks to "facilitate and encourage diversity in types, prices, ownership, and size of single-family homes, apartments, townhomes, mixed-use housing, transit-oriented development, and live-work housing." Policy 3.3 states, "Facilitate a mix of affordability levels in residential projects and dispersal of such units to achieve greater integration of affordable housing throughout the community." The existing housing stock of multiple dwelling units provides residents with affordable rental housing consistent with these policies.
- b) The proposed ordinance amendment would provide additional opportunities for the continued use of existing lawfully established multiple dwelling units by requiring a conditional use permit approved by the Planning Commission pursuant to CMC 9172.21.
- c) When approving a conditional use permit, the Commission shall make findings regarding the adequacy of on-site parking and applicable development standards. The Commission shall require that a report be submitted by the applicant, which shall provide and include plans to eliminate or mitigate any building, plumbing, electrical and fire code deficiencies. The report shall be prepared by a qualified building inspector.



d) The Commission may require additional improvements to the property, or any buildings or structures thereon, which may include but are not limited to the following:

1. New or rehabilitated landscaping;
2. Exterior changes to promote compatibility of buildings and structures with surrounding development;
3. General repairs to vehicular maneuvering or parking areas; and
4. Modifications designed to bring a structure more nearly into compliance with the applicable standards for residential development.

Section 4. The Planning Commission further finds that the zoning code text amendment is found to be exempt by the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), because the ordinance amendment will not have the possibility to make a direct significant effect on the environment.

Section 5. Based on the aforementioned findings, the Commission hereby recommends approval to the City Council of an amendment to the Carson Municipal Code regarding multiple dwelling units in the RS zone.

Section 6. The Secretary shall certify to the adoption of the Resolution and shall transmit copies of the same to the applicant.

PASSED, APPROVED AND ADOPTED THIS 13th DAY OF MAY 2014.


CHAIRMAN

ATTEST:


SECRETARY



9182.3 Nonconforming Residential Density.

A. Existing lawfully established second dwelling units located in the RS or RA Zone shall obtain a conditional use permit by the Planning Commission pursuant to CMC 9172.21. An application for a conditional use permit shall be submitted within a five (5) year period of the effective date of the ordinance codified in this Section or prior to the termination of the amortization period, whichever provides the greater amount of time.

When approving a conditional use permit, the Commission shall make findings regarding the adequacy of on-site parking and applicable development standards contained in CMC 9125.6. The Commission shall require, as a condition precedent to the continued use of the property under the conditional use permit, that a report be submitted by the applicant, which shall provide and include plans to eliminate or mitigate any building, plumbing, electrical and fire code deficiencies. The Commission may require additional improvements to the property, or any buildings or structures thereon, which may include but are not limited to the following:

1. New or rehabilitated landscaping;
2. Exterior changes to promote compatibility of buildings and structures with surrounding development;
3. General repairs to vehicular maneuvering or parking areas;
4. Modifications designed to bring a structure more nearly into compliance with the applicable standards for second dwelling units.

This Section shall not validate any existing illegal second dwelling unit. An application for a permit may be made pursuant to CMC 9122.8 and 9125.6 to convert an illegal second dwelling unit to a conforming second dwelling unit, and the standards and requirements for said conversion shall be the same as for newly proposed second dwelling units.

B. In the RS or RA Zone, a lawfully established residential use of a type or with a density of dwelling units no longer permitted in the RS or RA Zone shall be considered to be a nonconforming use subject to the provisions of CMC 9182.21 through 9182.23.

C. In the RM Zone, a lawfully established residential use which becomes nonconforming with respect to the density of dwelling units, but is otherwise a permitted use, shall be permitted to continue indefinitely provided there is no further increase in the number of units. (Ord. 03-1290, § 10)



ORDINANCE NO 14-1539

AN ORDINANCE OF THE CITY OF CARSON REGARDING MULTIPLE
DWELLING UNITS WITHIN SINGLE-FAMILY RESIDENTIAL ZONES AND
AMENDING THE CARSON MUNICIPAL CODE

WHEREAS, in 1977, the adoption of the Zoning Ordinance of the Carson Municipal Code (CMC) created a number of nonconforming multiple dwelling units located in RS (Residential, Single-family) or RA (Residential, Agriculture) zones; and

WHEREAS, the Zoning Ordinance allows a 20-year amortization period in which property owners would have to abate the nonconformity and bring such structures into conformance; and

WHEREAS, the amortization period expired in 1997, however, the City has not actively sought remediation because of the loss of housing and amount of hardship bestowed upon residents; and

WHEREAS, in 2003, the City adopted Ordinance No. 03-1290 allowing legal nonconforming second dwelling units in the RS or RA zones to continue indefinitely under certain requirements, but did not address the issue of properties with three or more units in the RS or RA zones except under the standards of Section 9125.5, Multiple Single-Family Rental Units, which most legal nonconforming multiple dwelling units do not meet; and

WHEREAS, as a result of State goals and policies encouraging cities to preserve affordable housing and provide alternative housing types, an ordinance amendment is needed to keep legal nonconforming multiple dwelling units of three or more in the RS or RA zone; and

WHEREAS, the proposed ordinance amendment is consistent with the Carson Municipal Code and General Plan; and

WHEREAS, on March 25, 2014, the Planning Commission held a workshop to discuss legal nonconforming multiple dwelling units in the RS and RA zones and the need for preservation if such units are in good condition, compatible with adjacent development, and does not cause a substantial nuisance or significant impact to the surrounding neighborhood; and

WHEREAS, on May 13, 2014, the Planning Commission held a public hearing to discuss an ordinance amendment to the CMC regarding legal nonconforming multiple dwelling units of three or more in an RS or RA zone, which at the conclusion of said public hearing, the Planning Commission recommended to the City Council approval of said ordinance amendment; and

WHEREAS, on _____, 2014, the City Council held a public hearing to discuss an ordinance amendment to the Carson Municipal Code (CMC) regarding legal nonconforming multiple dwelling units of three or more in a single-family residential zone.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 9182.3 (Nonconforming Residential Density) of Division 2 (Nonconformities) of Part 8 (Implementing Provisions) of Chapter 1 (Zoning) of Article IX (Planning and Zoning) of the Carson Municipal Code is hereby amended by adding the following underlined text and deleting the following stricken text with all other text remaining unchanged, as follows:

“§ 9182.3 Nonconforming Residential Density.

A. Existing lawfully established ~~second~~ multiple dwelling units located in the RS or RA Zone shall obtain a conditional use permit by the Planning Commission pursuant to CMC 9172.21. An application for a conditional use permit shall be submitted within a five (5) year period of the effective date of the ordinance codified in this Section or prior to the termination of the amortization period, whichever provides the greater amount of time.

When approving a conditional use permit, the Commission shall make findings regarding the adequacy of on-site parking and applicable development standards contained in CMC 9125.5 and 9125.6, as applicable. The Commission shall require, as a condition precedent to the continued use of the property under the conditional use permit, that a report be submitted by the applicant, which shall provide and include plans to eliminate or mitigate any building, plumbing, electrical and fire code deficiencies. The Commission may require additional improvements to the property, or any buildings or structures thereon, which may include but are not limited to the following:

1. New or rehabilitated landscaping;
2. Exterior changes to promote compatibility of buildings and structures with surrounding development;
3. General repairs to vehicular maneuvering or parking areas;
4. Modifications designed to bring a structure more nearly into compliance with the applicable standards for ~~second~~ multiple dwelling units.

For a property with three or more units, a full inspection report for all units on the property is required.

This Section shall not validate any existing illegal ~~second~~ or multiple dwelling units. An application for a permit may be made pursuant to CMC 9122.8, 9125.5, and 9125.6 to convert an illegal ~~second~~ or multiple dwelling units to a conforming ~~second~~ or multiple dwelling units, and the standards and requirements for said conversion shall be the same as for newly proposed ~~second~~ or multiple dwelling units.

B. In the RS or RA Zone, a lawfully established residential use of a type or with a density of dwelling units no longer permitted in the RS or RA Zone shall be considered to be a nonconforming use subject to the provisions of CMC 9182.21 through 9182.23 until such time as a conditional use permit or other such special approval is granted.

C. In the RM Zone, a lawfully established residential use which becomes nonconforming with respect to the density of dwelling units, but is otherwise a permitted use, shall be permitted to continue indefinitely provided there is no further increase in the number of units. (Ord. 03-1290, § 10)”

Section 2. If any provision(s) of this Ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

Section 3. The City Clerk shall certify to the adoption of this Ordinance, and shall cause the same to be posted and codified in the manner required by law.

Section 4. This ordinance shall be effective thirty (30) days following its adoption.

PASSED, APPROVED and ADOPTED this ____th day of _____, 2014.

Mayor Jim Dear

ATTEST:

City Clerk Donesia L. Gause, CMC

APPROVED AS TO FORM:

City Attorney

