



CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

NEW BUSINESS DISCUSSION: September 8, 2009
SUBJECT: Workshop regarding second dwelling units
APPLICANT: City of Carson
REQUEST: Discuss and consider requirements for second dwelling units
PROPERTIES INVOLVED: Citywide

COMMISSION ACTION

Concurred with staff
 Did not concur with staff
 Other

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairman Faletogo			Graber
		Vice-Chair Saenz			Park
		Brimmer			Schaefer
		Brown			Verrett
		Gordon			

Item No. 12A

I. Introduction

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 that legal nonconforming second dwelling units obtain a conditional use permit (CUP) approved by the Planning Commission by December 4, 2008.

The Planning Commission has reviewed and approved two CUP applications for second dwelling units since the Ordinance went into effect. Those two applications were located on Jamison Street and Jefferson Street. Additional notices will be sent soon to property owners that have legal nonconforming second dwelling units that are eligible for a CUP. There are still 131 properties in the RS (Residential, Single-family) zoning district which have second dwelling units and have not received a CUP. Staff has notified 61 property owners whose second dwelling units have no building permits on file and are considered illegal unless evidence of prior permits can be produced. Over the past two weeks, staff has received phone calls from several owners, some of which who have provided information from the County Assessor's office about the legalities of their units. Staff will be reviewing that information soon to determine if there is sufficient proof to show that the second dwelling unit was permitted.

The purpose of this workshop is to discuss second dwelling units, the standards for reviewing applications and the possible future influx of CUP applications due to the recent notices. Staff anticipates that the Planning Commission will be reviewing dozens of CUP applications for second dwelling units in the upcoming months.

II. Background

In response to a state mandate requiring that cities allow for second dwelling units, Ordinance No. 03-1290 established Section 9122.8 (Second Dwelling Units) and 9125.6 (Second Dwelling Unit Development Standards) of the Carson Municipal Code (CMC) which regulates second dwelling units. Section 9122.8 outlines the criteria required for permitting second dwelling units within single family residential zones. A second dwelling unit is defined as:

"Any residential dwelling unit which provides complete independent living facilities on the same parcel as legal, single-family residence and including, but not limited to, the permanent provisions for living, sleeping, eating, cooking, and sanitation. A second dwelling unit also includes efficiency units and manufactured homes."

Prior to the adoption of Ordinance No. 03-1290, second units could only be allowed on RS zoned properties at least 10,000 square feet in size. Second units on smaller properties were deemed legal, nonconforming subject to abatement. Both the Planning Commission and City Council were concerned with the loss of housing and the potential financial burdens placed on existing property owners resulting from the loss of the second dwelling unit.



One of the main requirements of Ordinance No. 03-1290 is that legal nonconforming second dwelling units are allowed to remain subject to the property owner obtaining a conditional use permit (CUP) by December 4, 2008. As of now, only two CUP applications have been approved by the Planning Commission since the Ordinance went into effect. Staff has identified existing second dwelling units on 131 properties in the RS (Residential, Single-family) zoning district, many of which are legal nonconforming and may be eligible for a CUP. Under Section 9172.21 of the CMC, the Planning Commission has the discretion to deny, approve, or approve with conditions a CUP application for a second dwelling unit. The Planning Commission may approve an existing legal nonconforming second dwelling unit regardless of the lot size or parking configuration.

Of the 131 properties with existing second dwelling units, 61 have been identified as having a second dwelling unit in which there is no current evidence of a building permit on file at the Building and Safety Division. These second dwelling units are not eligible for a CUP and must be abated, unless the property owner can prove the unit was in fact permitted legally, or if the property meets the minimum requirements described in Sections 9122.8 and 9125.6 of the CMC.

Legal Nonconforming Second Dwelling Units

The term "legal nonconforming" means that at the time the second dwelling unit was constructed, it was done so in accordance with the existing zoning requirements at that time. Hence, the structure is "legal." Subsequently, however, the zoning statutes have changed. Under the provisions of the new zoning statutes, the second dwelling unit no longer conforms (i.e. nonconforming) to the new regulations.

Section 9182.22 (Termination of Existing Nonconforming Uses) of the CMC stipulates that legal, nonconforming uses must terminate or be brought into conformance with applicable codes within a specified period of time. In this case, second dwelling units must be removed or brought into compliance no later than December 4, 2008.

There are two ways to bring a second dwelling unit into compliance:

Obtain ministerial approval from the Planning Division for a second dwelling unit which meets the requirements of Section 9122.8 (Second Dwelling Units) and Section 9125.6 (Second Dwelling Unit Development Standards) of the CMC; or

Obtain a conditional use permit pursuant to Section 9172.21 of the CMC and be subject to the provisions of Section 9182.3 (Nonconforming Residential Density) of the CMC.

Development Standards for Second Dwelling Units

Section 9125.6 (Second Dwelling Unit Development Standards) of the CMC requires a minimum lot size of 7,500 square feet within the RS zoning district in order to be able to obtain ministerial approval. Other requirements are as follows:



- The property must contain one (1) single-family residence.
- No more than one (1) second dwelling unit on a lot.
- No accessory living quarters or other structures used for living purposes can be located on the lot.
- Detached Unit Size
 - 500 square feet maximum for studio unit with one bathroom and kitchen
 - 650 square feet maximum for one-bedroom unit with one bathroom and kitchen
 - 700 square feet maximum for two-bedroom unit with one bathroom and kitchen
- Attached units shall not exceed 40 percent of the main unit
- Setbacks
 - 10 feet from primary residence
 - 6 feet from accessory structures
 - 5-foot side yard setback (10-foot side yard if located above an accessory structure)
 - 15-foot rear yard setback
- Height: 2 stories maximum up to 30 feet
- Parking
 - Studio: 1 uncovered off-street parking space outside of front yard setback area
 - 1-bedroom: 1 space within either a garage or carport
 - 2-bedroom: 2 spaces within a garage
 - 700-square-foot unit or larger: 2 spaces within a garage

If the lot size is less than 7,500 square feet or it does not meet development standards in Section 9125.6 (Second Dwelling Unit Development Standards) of the CMC as summarized above, a conditional use permit must be obtained, which requires a public hearing before the Planning Commission. Adequacy of on-site parking and applicable development standards will be reviewed in this process and specific conditions may be required to mitigate code deficiencies. The Commission may also require improvements to the property.

In both cases of ministerial approval and conditional use permit, there is a requirement that one of the units on the property must be owner occupied. A resale requirement and deed restrictions also apply.

Previous Planning Commission Workshops

On September 9, 2008, the Planning Commission held a workshop to discuss and consider illegal garage conversions. Staff explained that there is a proliferation of illegal garage conversions which do not meet health and safety requirements and increase on-street parking. The Planning Commission discussed the issue,



considered the possibility of legalizing garage conversions, and voted to receive and file.

Garage conversions are different from second dwelling units because most garage conversions are done illegally and eliminate existing parking. Many do not meet the health and safety requirements of the Building Code. On July 1, 1999, Ordinance No. 99-1555 went into effect requiring that a Residential Property Report (RPR) be obtained by a seller prior to the sale, exchange, or transfer of a residential property. The purpose of the RPR is to protect both the buyer and seller from engaging in the transfer of a home with illegal structures, unauthorized second dwelling units or nonconforming construction. The RPR requires an inspection that must be performed by the Building and Safety Division prior to the transfer of property. If violations are identified, they must be corrected as part of the RPR process. Since its inception in 1999, the RPR program has identified 523 garage-related violations, which include garage conversions.

On June 23, 2009, the Planning Commission held a workshop to discuss development standards applicable to existing residential units and new residential development. Staff discussed the various types of review for residential projects and common issues dealing with legal nonconforming homes. Issues of concern included parking deficiencies, setbacks, housing density, and special housing needs.

Neighborhoods in Carson / Parking Requirements Over the Years

Homes in the city of Carson were first constructed at the turn of the century with the first neighborhoods established the 1930s and 1940s. According to the General Plan Housing Element, 10 percent of the homes were built prior to 1949; 20 percent were built in the 1950s; and 40 percent were built in the 1960s. In total, approximately 85 percent of the homes were built prior to the city's Zoning Code becoming effective in 1977. Thus, most homes were built based on the requirements of the County of Los Angeles.

The use of vehicles became much more prevalent in the 1940s following World War II. As such, the County adopted a number of ordinances to address the growing popularity of the automobile. Table 1 summarizes the parking requirements for single-family homes under the County.

TABLE 1: SUMMARY OF COUNTY PARKING REQUIREMENTS FOR SINGLE-FAMILY HOMES

DATE	REQUIREMENT
Nov. 10, 1943	One open space per unit (Ord. No. 4292)
Jan. 13, 1950	Min. 144 s.f. required (Ord. No. 5447)
June 22, 1956	One covered space per unit (Ord. No. 6942)



Nov. 15, 1957	Require driveway to be 3-inches thick and made of macadam (Ord. No. 7239)
June 27, 1958	Space to have a minimum width of 8 ft. (Ord. No. 7349)
Sept. 14, 1962	Two covered parking spaces required (Ord. No. 8264)

On October 3, 1977, the city adopted the current Zoning Ordinance based mostly on the County's standards. The Zoning Ordinance includes a provision under Section 9162.21 requiring all new single-family homes on lots 50 feet wide or greater to provide a two-car garage in which the interior area measures no less than 20 feet by 20 feet. As a result, many garages for single-family homes built prior to 1977 became legal nonconforming. However, under Section 9182.41(F), legal nonconforming parking spaces, including garages and carports, are "allowed to continue indefinitely, except that an addition to a dwelling may be made without making the parking conforming provided the number of dwelling units is not increased and the addition does not occupy the only available space on the lot which could be used to meet the parking requirement."

III. Analysis

The State of California encourages cities to enhance opportunities for the production and preservation of housing to meet the broad range of economic needs of the community. Government Code Section 65589.5 states in part:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency



shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d)."

The Housing Element includes various goals and policies to encourage the preservation of existing housing. Ordinance No. 03-1290 provides specific tools to the Planning Commission to allow for the preservation of existing second dwelling units. The goal is to preserve housing units that provide safe and appropriate housing while not significantly contributing to negative impacts within the neighborhood. The following summarizes the typical issues considered for the CUP application for existing second dwelling units:

- Condition of Second Dwelling Unit – Since many second dwelling units were built many decades ago, some may be deteriorated and in need of repair. The city requires the property owner to obtain a residential inspection report conducted by a qualified building inspector. Conditions may be added requiring specific corrections or improvements.
- Parking – Many properties with second dwelling units do not meet today's parking standards since they were built many decades ago. The Planning Commission may determine if it is appropriate to require additional parking spaces or to allow second dwelling units to continue as legal nonconforming.
- Development Standards – Setbacks and other development standards may not be consistent with current requirements. The Planning Commission can determine that adequate development standards are in place to assure that neighboring properties are not unduly impacted by the continuation of the second dwelling unit.
- Precedence – Since the city may expect numerous CUP applications in the upcoming months, it is important that the Planning Commission consider the current CUP applications as setting precedence for future applications. This includes a determination on whether or not to allow second dwelling units to retain legal nonconforming parking.

IV. Conclusion

The Planning Commission should consider the issues discussed in this report and the opportunities to preserve existing housing opportunities. Ordinance No. 03-1290 will cause an influx of new CUP applications from homeowners wishing to keep their second dwelling units. The Planning Commission should be cognizant that early decisions will set precedence for CUP applications still to come. Second dwelling units provide an important housing resource and should be retained if deemed compatible with existing development in the vicinity, including aspects of site planning, land coverage, landscaping, appearance, scale of structures and open



space, and other features relating to a harmonious and attractive development of the area.

V. Recommendation

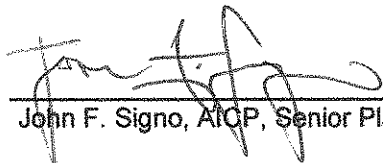
That the Planning Commission:

- CONSIDER and DISCUSS the information provided for in this workshop;
- DIRECT staff in procedures for processing CUP applications for second dwelling units; and
- RECEIVE and FILE.

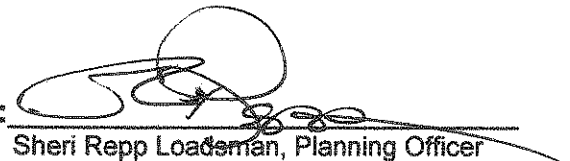
VI. Exhibits

None.

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