



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Steve Matarazzo, Interim Community Development Director
MEETING DATE: July 16, 2014
SUBJECT: Amendment to the Municipal Code Related to Occupancy Requirements for Second Units
CEQA: Class 1 Exemption: Permitting of Existing Facilities; and Class 3 Conversion of Small Structures

RECOMMENDATION

Introduce and hold first reading of an amendment to the Chapter 23 of the Municipal Code to alter the owner-occupancy requirements for an estimated 39 properties in the City that had permitted second units existing prior to August 5, 1992.

DISCUSSION

On April 17, 2014, the Planning Commission tentatively approved a use permit amendment for 547 Asilomar Avenue, allowing the second unit and primary house to be used without an owner occupying the primary house or the second unit. However, the Planning Commission required that one of the two units be a second home of the property owner. On May 22, 2014, the Planning Commission approved the relevant code amendment to change the owner occupancy requirement for Group 1 second unit properties. In the proposed amendment, either the second unit or the primary unit must be a second home of the property owner. One unit, but not both, can be rented. With this type of regulation, it is the intent of the Planning Commission to retain the single-family character of all areas of Pacific Grove that allow second units.

The Planning Commission approved an amendment to Municipal Code Section 23.80.060 (m) Occupancy of Second Units, to read as follows: (Underlining indicates proposed, new language.)

- (m) Occupancy
- (1) The principal place of residence of the building site owner shall be either the second unit or the primary unit.
 - (2) Occupancy of the unit not occupied as the principal place of residence by the owner shall meet at least one of the following criteria:
 - (a) Occupants shall qualify as no greater than a median income household as determined by the community development director. Rent charges shall not exceed 30 percent of median or below median income levels as determined annually by HUD.

- (b) No rent or other consideration is asked, required or paid as a condition of occupancy.
- (3) Occupancy of a second unit is limited to two persons.
- (4) The restrictions of subsections (1) and (2) shall not apply to second unit constructed prior to August 5, 1992 provided one of the units is a second home of the property owner. At no time may both the second unit and primary unit on the property be rented.

Planning staff originally misunderstood the direction of the Planning Commission and drafted the proposed code amendment to merely state, under subsection (4) that “the restrictions set forth in subsections (1) and (2) above do not apply to second units constructed prior to August 5, 1992.

All of the property owners of potentially effected units have been notified of this potential rule change. One property owner is requesting a further change to the proposed regulation to allow both units to be rented, and the primary unit to be rented for transient occupancy (29 days or less per month). Such a change would be contrary to the Planning Commission’s intent to have second unit neighborhoods somewhat self-regulated by property owners rather than short-term tenancies.

It is estimated that the proposed amendment would potentially affect 39 properties with second units.

FISCAL IMPACT

No fiscal impact. The second units and residences already exist. Property values should not change as a result of the owner occupancy adjustment.

ATTACHMENTS

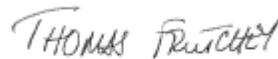
1. Ordinance

RESPECTFULLY SUBMITTED:



Steve Matarazzo, Interim
Community Development Director

REVIEWED BY:



Thomas Frutchey
City Manager

Ordinance No. _____

ORDINANCE TO AMEND SECTION 23.80.060(m) OF THE PACIFIC GROVE MUNICIPAL CODE PERTAINING TO OCCUPANCY RESTRICTIONS OF SECOND UNIT PROPERTIES WHERE THE SECOND UNIT WAS CONSTRUCTED PRIOR TO AUGUST 5, 1992

WHEREAS, on April 17, 2014, the Planning Commission considered an application to amend a use permit which would allow the primary residence of a property with a second unit to be used as a “second home” by the property owners, and not as their primary residence; and

WHEREAS, the Planning Commission found that property owner maintenance responsibilities would also be insured when one of the units was used as a second home of the property owner, as was the case with the use permit amendment request being considered; and

WHEREAS, on May 22, 2014, the Planning Commission recommended that Municipal Code Section 23.80.060(m) be amended by the City Council in order to allow an adjustment to occupancy restrictions pertaining to a limited number of second units constructed prior to August 5, 1992, based on its tentative action of April 17, 2014 to approve a related use permit amendment application;

WHEREAS, this ordinance is categorically exempt under CEQA as Class 1 and Class Exemptions: Permitting Existing Facilities (section 15301) and Conversion of Small Structures (section 15303); and

WHEREAS, the ordinance language provided below is the same language approved by the Planning Commission on May 22, 2014, and recommended for adoption.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF PACIFIC GROVE:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Pacific Grove Municipal Code Section 23.80.060(m) Occupancy of Second Units, is hereby amended to add subsection (4), to read: “The restrictions of subsections (1) and (2) shall not apply to properties with second units constructed prior to August 5, 1992 provided the primary or second unit is a second home to be occupied by the property owner. Under no circumstances are both units to be rented.”

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. Effective Date. This ordinance shall become effective thirty days following the date of its adoption.

PASSED AND ADOPTED by the City Council of Pacific Grove on this ____ day of ____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Bill Kampe, Mayor

ATTEST:

Ann Camel, City Clerk

APPROVED AS TO FORM:

David Laredo, City Attorney

