



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: August 11, 2005
AGENDA DATE: August 5, 2005
PROJECT: Reasonable Accommodation Zoning Ordinance Amendments
(MST2005-00317)
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Beatriz Ramirez, Project Planner
John Ledbetter, Principal Planner

RECOMMENDATION

Staff recommends that the Planning Commission initiate the following zoning ordinance amendments and direct Staff to prepare ordinance changes that will be forwarded to the Ordinance Committee and City Council for introduction and subsequent adoption.

1. Amend Chapter 28.90 of the Municipal Code, Automobile Parking Requirements, to codify the existing administrative practice of allowing the conversion of an existing parking space(s) to accessible parking space(s) or access aisle(s) without a parking modification, even if the conversion results in fewer parking spaces than required under the Chapter 28.90. This allowance would not be available in connection with new or expanded residential uses.
2. Amend Section 28.87.062, Yard Encroachments, to allow new accessible parking spaces, access isles, or accessible ramps necessary to make an existing residential use accessible to encroach into any required yard without a modification of the yard requirements. This allowance would not be available in connection with new or expanded residential uses.
3. Amend Section 28.92.026, Modifications, to add a modification category and finding(s) specific to requests for modifications to zoning standards that are necessary to provide accessibility to existing residential units.

INTRODUCTION AND BACKGROUND

State and Federal law requires local governments to make reasonable accommodations (modifications or exceptions) to their land use regulations and practices when necessary to provide disabled persons¹

¹ A disabled person is an individual who has a physical or mental impairment that limits or substantially limits one or more major life activities. Exhibit A includes an attachment with the definition of "disability" from the California Fair Employment and Housing Act.

an equal opportunity to housing. (See Exhibit A, Memo with attachments from HCD addressing Housing Element Legislation)

State law governing the preparation of General Plan Housing Elements requires:

1. As part of a governmental constraints analysis, a housing element must analyze potential and actual constraints upon the development, maintenance and improvement of housing for persons with disabilities, and demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the housing need for persons with disabilities.
2. As part of the required constraints program, the element must include programs that remove constraints or provide reasonable accommodations for housing designed for persons with disabilities.

In response to this law, the City of Santa Barbara Housing Element (2004) includes strategy 1.1.5:

“The City shall amend the Municipal Code to provide persons with disabilities seeking equal access to housing to request reasonable accommodation in the application of City zoning laws.”

DISCUSSION

Cities throughout California have responded to the State and Federal mandate for reasonable accommodation in numerous fashions including: preparation of a reasonable accommodation ordinance; enumerating established procedures that ensure reasonable accommodations for persons with disabilities; or creating a group home ordinance.

The City currently addresses most accommodation requests from the disabled administratively. In order to implement Housing Element strategy 1.1.5, Staff recommends the following amendments to the Municipal Code:

Conversion of Parking Spaces

Currently, the Planning Division’s administrative practice is to allow existing required parking spaces to be converted from a standard space(s) to an accessible space or access aisle without a modification, even if the conversion results in fewer spaces than required by the Zoning Ordinance, if the accessible parking requirements are not triggered by an expansion of existing or new development.

Recommended Amendment: Amend Chapter 28.90 of the Municipal Code, Automobile Parking Requirements, to codify the existing administrative practice of allowing the conversion of an existing parking space(s) to accessible parking space(s) or access aisle(s) without a parking modification, even if the conversion results in fewer parking spaces than required under the Chapter 28.90. This allowance would not be available in connection with new or expanded uses.

Yard Encroachments

The City's Zoning Ordinance specifies required yards (setbacks) to provide separation between improvements on one parcel and adjacent parcels or public rights of way. Presently, if a structure or improvement is proposed within one of the required yards, an applicant must seek approval of a modification of the zoning standard. Staff proposes an amendment to the Zoning Ordinance yard standards to allow certain accommodating structures and improvements, such as accessible parking spaces, access aisles or accessibility ramps, to be placed within required yards without the need of a modification. This proposed change would not eliminate the need for a building permit, building code compliance, or design review if required.

Recommended Amendment: Amend Section 28.87.062, Yard Encroachments, to allow new accessible parking spaces, access isles, or accessible ramps necessary to make an existing residential use accessible to encroach into any required yard without a modification of the yard requirements. This allowance would not be available in connection with new or expanded residential uses.

Modifications

Currently, the modification process is available to applicants requesting relief from zoning standards. Staff recognizes that it may not be possible to anticipate every potential accessibility improvement in order to revise the zoning standards to allow for accessibility improvements as a matter of right. Therefore, Staff recommends amending Section 28.92.026 of the Municipal Code to allow for modifications to any zoning standard when necessary to make an existing residential unit accessible

Although Staff anticipates that these modifications will be requested in order to benefit a particular individual, Staff does not recommend limiting the approval of the modification to the use of the residence by a particular individual. Staff believes the community benefit of an accessible residence that could serve other disabled persons in the future justifies the approval of a modification without regard to the use of any particular individual.

Once the Staff Hearing Officer (SHO) position is implemented, any modifications for reasonable accommodation would be granted by the SHO. Approval or denial of the modifications would be appealable to the Planning Commission.

It is Staff's intention not to charge a fee for modifications necessary to provide accessibility to existing residential uses. All other fees applicable to the project including fees associated with zoning approvals, design review and building permits would continue to be charged.

Recommended Amendment: Amend Section 28.92.026, Modifications, to add a modification category and finding(s) specific to requests for modifications to zoning standards that are necessary to provide accessibility to existing residential units.

SUMMARY AND NEXT STEPS

Staff recommends Planning Commission initiate the recommended amendments that would carry out

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Housing Element Implementation Strategy 1.1.5. to enable people with disabilities flexibility in zoning standards when seeking access to housing. Again, the goal of this program is to codify our existing administrative practices into the zoning ordinance, to allow reasonable encroachments in the private setbacks for ramps, disabled parking, etc., and add modification findings specifically for disabled individuals requesting flexibility from standards.

Once feedback is received by the Commission, the ordinance amendments will be drafted and forwarded to Council Ordinance Committee. If Council Ordinance Committee finds acceptable the ordinance amendments will then be forwarded to the full Council for introduction and then adoption.

Exhibit:

A. Memorandum to Planning Directors from Division of Housing Policy Development,
June 17, 2002

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