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## MEMORANDUM

**TO:** Mayor and City Council

**FROM:** Sue Edwards, Assistant City Manager  
Howard Lazarus, Acting Assistant City Manager

**SUBJECT:** Recommended Plan to Address Longstanding Noncompliant Residential Properties and Status of Code Compliance Actions in the Fairview Neighborhood

**DATE:** 4.19.2010

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**CC:** Marc Ott, City Manager  
Robert Goode, Assistant City Manager  
Greg Guernsey, Director, Planning and Development Review Department  
William E. Rhodes, Director, Code Compliance Department  
Victoria Li, Director, Watershed Protection Department  
Brent Lloyd, Assistant City Attorney  
Leon Barba, Assistant Director, Planning and Development Review Department

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**PURPOSE:** This memorandum provides an approach to address longstanding noncompliant conditions on residential properties in older subdivisions throughout the City and an update on how this approach is being applied to the Fairview neighborhood.

**GENERAL APPROACH:** The City recognizes that conditions non-compliant with building codes and land use codes exist in many older subdivisions throughout the City, and that many long-term property owners may not be aware of these conditions. As a means to address compliance and life safety issues fairly and equitably, the Directors of the Planning and Development Review Department (PDRD), Watershed Protection Department (WPD), and Code Compliance Department (CCD) recommend developing and implementing a program designed to encourage voluntary compliance for these residential properties. The program will be "branded" and marketed on a City-wide basis, and will incorporate the following components:

- Permit and inspection fees may be waived for home-owners who can demonstrate that non-permitted improvements have been in place for longer than twenty five (25) years (prior to adoption of the current land use code) and do not pose a threat to health and safety or otherwise substantially impact the surrounding neighborhood.

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- Improvements that encroach into the required zoning setback without the required variances from City Council and/or Board of Adjustment will be reviewed to determine if the conditions for administrative amnesty are met, and if so these improvements will be approved.
- Improvements to a property within a floodplain that require variances from the City Council will be presented to Council for consideration of a variance, and will be processed under the conditions established above if the variance is approved.
- Upon determination of the applicable variance considerations, conversions and enclosures of garages and carports into living space will be inspected only for life safety issues and a certificate of occupancy will be issued if no life safety issues are present or after these issues are corrected, if present.
- If Code Compliance Department inspectors identify noncompliant conditions on residential properties that fall under the parameters of the program described above, the inspectors will ~~inform the property owners of their eligibility to participate in the voluntary compliance program.~~

The PDRD Director will administer the program, and will provide annual progress reports to Council. The Director will present any necessary code changes to implement the program to Council for its review and adoption. The program will have an initial period of five years, pending review and continuation by Council.

**FAIRVIEW NEIGHBORHOOD:** The Code Compliance Department (CCD) recently sent Notice of Violation (NOV) letters to 67 property owners within the Fairview neighborhood concerning one or more of the following conditions:

- Construction and/or conversion work conducted without the required building and trade permits (e.g. electrical, plumbing, mechanical, etc.)
- Enclosure or construction of carports and/or conversion of garages into living space
- Development that encroaches into the required zoning setback and/or floodplain without the required variances from the City Council and/or Board of Adjustment, or administrative amnesty if applicable requirements are met.

The actions CCD took to address these violations incited a strong and immediate reaction from the community. In response, the CCD, WPD, and PDRD have developed and implemented the following proposed approach to address these types of pre-existing non-compliant conditions in the Fairview neighborhood:

- Three informational meetings have been held (November 9, 2009, January 16, 2010, and March 9, 2010) with the affected property owners.

- The timeframe for applying for construction permits and bringing the non-compliant properties into compliance has been extended by thirty (30) days. This period may be extended as long as the property owners are making good faith efforts to work with the City to address the violations on their properties.
- A single point of contact within PDRD has been provided.
- Based on our meetings with the homeowners, they desire to have floodplain variances taken to Council for consideration as a group. For the properties that have submitted building permit applications as of April 30, 2010, City staff is preparing a Request for Council Action to consider multiple requests for variances at a single meeting. The impacted property owners will be notified in writing of the date of the Council meeting. If Council does not approve the floodplain variances, then CCD will request individual meetings with each property owner to determine the appropriate next steps.
- If Council approves the floodplain variances, then PDRD will begin processing the permit applications. ~~Staff recommends that Council waive permit and inspection fees for the cited work on the affected properties, provided the property owners can demonstrate that the improvements have been in place for longer than twenty five (25) years to be consistent with the program outlined above.~~
- ~~Some of the improvements may require further variances or may be eligible for administrative amnesty to address non-compliance issues related to zoning, setback requirements, and similar issues. Resolution of these issues may require presentations to the Board of Adjustments (BOA) and/or review by the Building Official. Upon application, PDRD will work with the applicants to schedule their cases. With Council direction, the fees associated with these variances could also be waived, if the property owner can demonstrate that the improvements have been in place for longer than twenty five (25) years.~~
- After all permits have been issued, the property owner will request and PDRD will schedule the properties for inspection. Any existing life safety issues will have to be corrected. After required corrections (if any) are made, PDRD will issue the required Certificates of Occupancy (CO) and CCD will close out its case files.

**COORDINATION:** Greg Guernsey, PDRD Director, is the primary point of contact for implementation of the measures outlined above. William Rhodes, CCD Director is primary contact concerning code compliance matters.

