



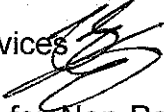
# CITY OF PALM SPRINGS

## DEPARTMENT OF PLANNING SERVICES

### MEMORANDUM

**Date:** April 7, 2010

**To:** Planning Commission

**From:** Craig A. Ewing, AICP, Director of Planning Services 

**Subject:** ZTA 5.1235 - Amnesty / Abatement Program for Non-Permitted Canopy Structures

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On February 3, 2010, the Commission conducted its second study session on the issue of non-permitted canopies and carports. In addition to providing preliminary responses to staff's policy questions (see attached report), the Commission asked that a windshield survey be conducted in order to identify on-the-ground conditions related to these structures. Last month, staff conducted surveys in four single family neighborhoods. Two upper income and two middle income neighborhoods in different parts of the City were reviewed. No addresses were noted and no enforcement actions are being taken as a result of these surveys.

#### **Windshield Survey**

The purpose was to develop a perspective around the issues of location, size, setbacks, height and materials. Over seventeen hundred lots were surveyed. Staff found it necessary to exercise some judgment in deciding what kinds of structures should be included on the survey. The typical canopy might be a canvas cover over a metal frame; however, staff included other structures, if they met the following criteria:

- The structure appeared to be made of impermanent materials, but was being used as a permanent structure, or
- The structure was made of permanent materials (brick, block or wood posts; metal or wood roof), but was located within in a required front or side yard.

Where the carport appeared to be fully integrated into the original dwelling, it was not counted unless it encroached to near the property line (five feet or less). Staff did not make any notes regarding the possibility of garage conversions where non-permitted canopies or carports were found.

In the review of the survey data, staff noticed certain patterns and also certain issues in which no real pattern emerged:

#### **Overall characteristics**

- Out of 1716 lots surveyed, 155 non-permitted canopies and carports were identified. Therefore, about nine percent of the single family homes had a

non-permitted canopy. Given the large sample size and the four neighborhoods selected, this is probably a reasonably accurate estimate for the City as a whole, subject to the following caveats:

- Some non-permitted canopies and carports were missed because they were not visible from the street. (These would increase the total number.)
  - Some identified structures may actually have permits. (These would decrease the total number.)
  - A very few properties had more than one non-permitted canopy or carport.
- There did not appear to be a clear pattern of distribution of non-permitted canopies / carports among neighborhoods:
    - Upper-income Neighborhood #1: 9 percent (41 out of 438)
    - Upper-income Neighborhood #2: 4 percent (13 out of 332)
    - Middle-income Neighborhood #1: 4 percent (19 out of 481)
    - Middle-income Neighborhood #2: 18 percent (82 out of 465)
  - Non-permitted canopies / carports were more prominent in the southerly part of the City (one upper- and one middle-income neighborhood were located south of Ramon Road). In the northerly (more windy?) neighborhoods north of Alejo Road, fewer non-permitted canopies were observed. (See discussion below regarding materials used.)
  - It appears that, in the main, non-permitted canopies and carports were evenly distributed throughout any particular neighborhood. However, it also appeared that properties which were located on edges, corners or on remnant parcels within a subdivision were somewhat more likely to have a non-permitted canopy or carport than the more conventionally-subdivided interior lots within the tract.

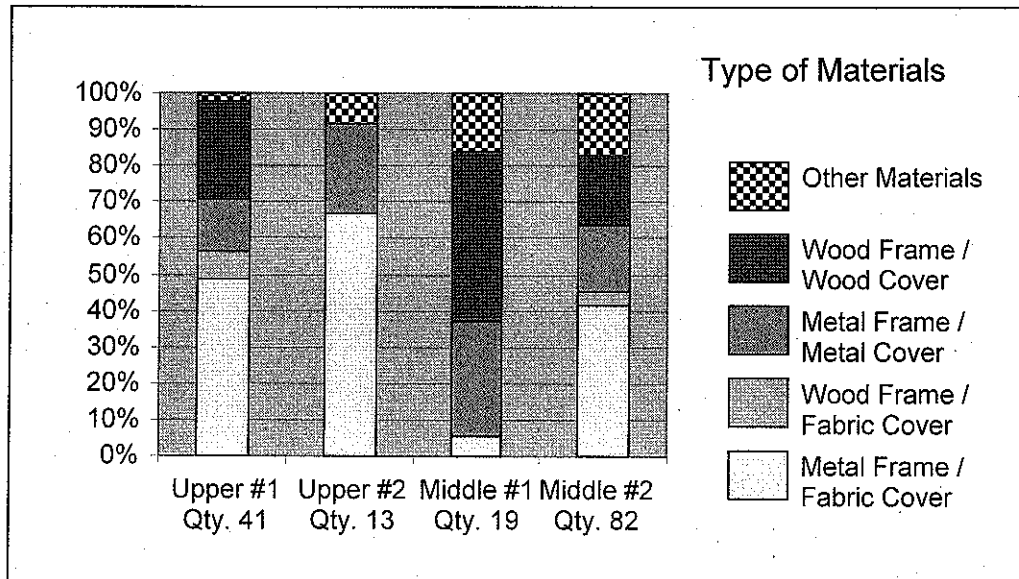
#### Materials Used

- In three of the four neighborhoods, the most common construction materials are metal frames with canvas or other fabric covers. The fourth neighborhood, Middle-income Neighborhood #1, is in the most northerly and windiest location of the four neighborhoods:
  - Upper-income Neighborhood #1: 20 out of 41
  - Upper-income Neighborhood #2: 8 out of 13
  - Middle-income Neighborhood #1: 1 out of 19
  - Middle-income Neighborhood #2: 34 out of 82
- Overall, most commonly used construction materials are metal or wood frames, with canvas, metal or wood roofs:
  - Metal Frame / Fabric Cover: 63
  - Wood Frame / Fabric Cover: 37
  - Metal Frame / Metal Cover: 30

- Wood Frame / Wood Cover: 6
- Other Materials: 19

“Other materials” covered a variety of conditions, including frameworks with no covers (8), brick/block and wood (5), wood and metal (4) wood and tar-and-gravel (1) and metal and bamboo (1)

- In the most northerly and wind-prone neighborhood – Middle-income Neighborhood #1), canvas covered canopies were rarely found (one out of 19). The most common material used in this neighborhood was wood / wood, (9 out of 19) and metal / metal (6 of 19)
- The following chart shows how the different materials were observed in each neighborhood, by percentage, not actual numbers:



Setbacks

- Many structures were located on, or immediately adjacent to the property lines, whether along the front, street side or interior side line. For those located in the interior side setback, most were within five feet of the side property line. (Any structure within five feet of an interior property line is required by the Building Code to be fully enclosed and meet fire-resistive construction standards.)

- Front Setbacks
  - 0 to 2 ft 22
  - 2 to 10 21
  - 10 to 20 45
  - More than 20 46 (Many of these would comply with the 25-foot setback requirement for front yards.)

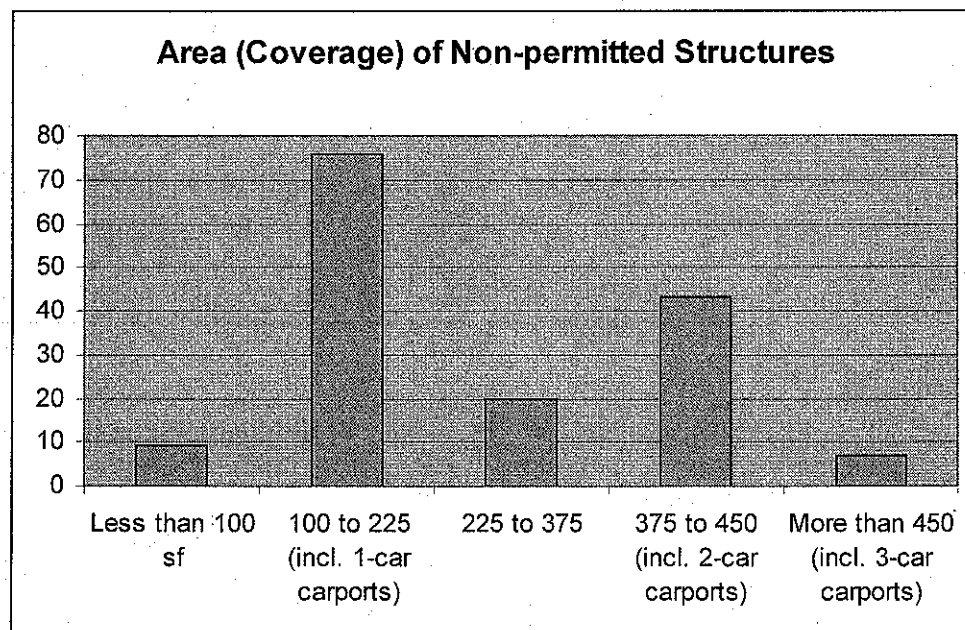
- Street Side Yards (for Corner Lots)
  - 0 to 5 ft 11
  - 5 to 10 4
  - 10 to 20 6
  - More than 20 3 (Many of these would comply with the 25-foot setback requirement for street side yards.)
  
- Interior Side Yards
  - 0 to 2 ft 68
  - 2 to 5 12
  - 5 to 10 23
  - More than 10 20 (These would comply with the 10-foot setback requirement for interior side yards.)

Rear yards were not surveyed, but staff notes that several canopies / carports located on corner lots appeared to encroach into rear setbacks.

**Area (Coverage)**

- Canopies and carports ranged widely in size, from small triangular canvases connected to fence posts, to three-car carports. About half of all canopies / carports found are one-car sized (100 to 225 sf); the second most common is sized for two cars (375 to 450 sf):

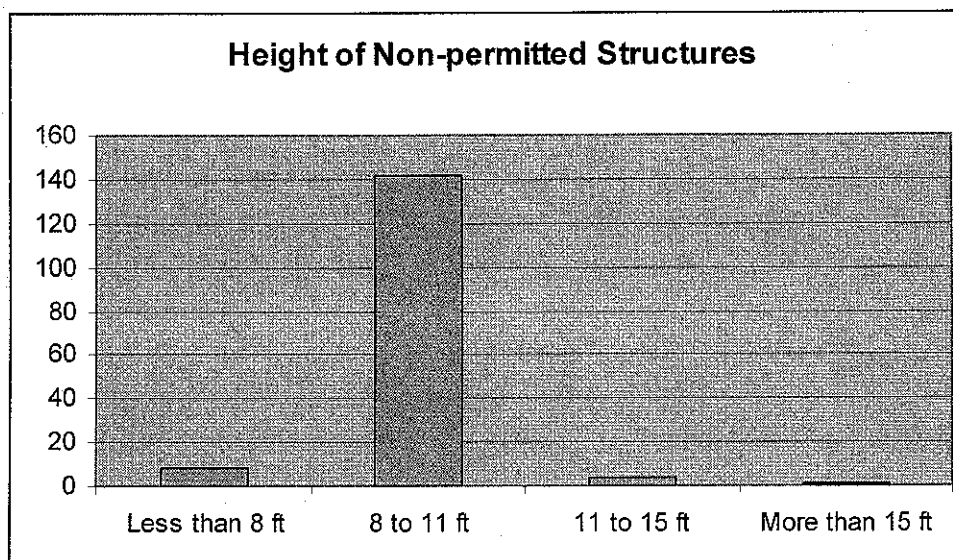
- Less than 100 sf 9 6%
- 100 to 225 76 49% (includes 1-car canopy / carports)
- 225 to 375 20 13%
- 375 to 450 43 28% (includes 2-car canopy / carports)
- More than 450 7 4% (includes 3-car canopy / carports)



### Height

- Heights ranged from seven to fifteen feet, but the vast majority is eight to eleven feet. (One structure was noted at 22 feet; it was a second-story canopy on a garage roof deck.) Many of the wood structures were built with relatively flat shed roofs and would be about eight, nine or ten feet in height. Canvas-covered structures typically were of a gabled roof design which could mean that a single structure would be seven or eight feet at the ends, but nine to thirteen feet (or higher) along the ridge:

○ Less than 8 ft	8	5%
○ 8 to 11	142	92%
○ 11 to 15	4	3%
○ More than 15	1	<1%



### Esthetics and Other Issues

- About 25% of the canopies / carports were in first-rate condition. Another quarter were in fair condition, and the remainder were either poorly installed or in a deteriorated / dilapidated condition.
- Non-permitted canopies and carports in poor condition or which were poorly integrated into the look of the main dwelling were often – though not always – found on properties which had other maintenance issues (accumulated debris, abandoned vehicles, unkempt landscaping, etc.)
- As previously noted, the survey did not seek to identify any garages that might have been converted to other use. Nevertheless, staff observed that many homes lacked any other covered parking. In other cases, staff saw open garages behind or beside a canopy, where the garage was used entirely for storage of household goods or other materials. In many cases, it could not be determined if the existing garage was available for vehicle storage.

### **Developing an Amnesty Program**

Based on the direction received from the Commission at its February 3, 2010 meeting, a draft amnesty program could look something like this:

#### Introduction

*The Non-Permitted Canopy / Carport Amnesty Program allows homeowners to retain certain shelter structures which were installed without permits. The terms of the amnesty program are designed to allow continued use of canopies, carports and other covered structures, including those within required yard areas (setbacks), subject to the terms of the program. **In all cases, Building Code requirements must be met, and many existing structures may have to be rebuilt or removed.** The amnesty program has been developed to achieve two goals:*

- 1. Avoid penalties for bringing non-permitted structures into compliance, and*
- 2. Allow replacement structures, subject to the rules below.*

**Please note that if you remove your canopy, carport or other structure prior to applying for the amnesty for any reason, it will not be eligible for the program.**

#### Why have an Amnesty?

*The City of Palm Springs recognizes that many people have erected light-weight canvas canopies and other structures to provide additional covered parking, storage or for other needs. When these structures have been in place for 90 days or more, they become "permanent" and are subject to the City's building and zoning codes. The Building Code aims to make sure permanent structures are safe, while the Zoning Code assures that permanent structures are sized and located to fit the neighborhood.*

*The City's Building and Zoning Codes treats any light-weight or temporary structure to be a permanent structure when it is in place for more than 90 days. The Building Code addresses these as permanent structures because they are subject to the intense winds and weather of the desert, to groundshaking and to "live" and "dead" loads. When they are not adequately secured to the ground or otherwise properly constructed, they may cause injury, property damage or even death. In short, a canvas canopy on an aluminum frame is as significant to the health and safety of the community as any wood, block or steel building.*

*Any non-permitted structure must be brought into compliance with the Building and Zoning Codes, without exception. However, the amnesty program takes into consideration the long-term and widespread use of non-permitted canopies / carports. It gives people the opportunity to enjoy the benefits of their canopies while assuring that the structure is safe, appropriate and attractive. The amnesty program offers reduced permit fees, the opportunity for setback reductions, and a means to provide additional covered parking which might not otherwise be allowed.*

#### Taking Advantage of the Amnesty

*In order to be eligible for the benefits of the amnesty program, homeowners must meet certain application requirements:*

1. Non-permitted structures must have been erected prior to the start of the program. Any structures installed without permits after \_\_\_\_\_, 201x will not be eligible for amnesty and will be subject to code enforcement abatement.
2. Application for amnesty must be filed within six months of the start of the program (no later than \_\_\_\_\_, 201x)
3. If your application is approved, you will need to bring your structure into compliance within one year of approval, or you may lose the benefits of the amnesty. Extensions may be allowed for good cause, at the discretion of the City.

### Amnesty Regulations

The amnesty will apply to a wide range of non-permitted carports and canopies which have been installed on single family residential properties. Some have been used for extra parking or where no other covered parking is provided. Some are used to cover storage areas or to increase covered patio space. The Amnesty will be available to the following structures:

1. Any existing, non-permitted canopies or carport used to provide covered parking, patio cover, storage of household goods, pool covers, and the like. Non-permitted structures used to store business parts, equipment, or supplies at a single family home are not eligible for the amnesty.
2. The canopy or carport may be constructed of any type of material, including wood, steel, aluminum, canvas and other fabrics, masonry block or brick, tar-and-gravel, etc.

The amnesty will allow qualifying canopies and carports to be located within existing front, rear and side yards (including street corner side yards) with the following limitations:

3. If an existing, non-permitted canopy / carport is located within the front yard or street side yard setback (typically required to be 20 to 25 feet), the amnesty-allowed front or street side yard setback may be whatever is set by the existing, non-permitted structure, but in no case closer than one (1) foot to the property line.
4. If an existing, non-permitted canopy / carport is located within the rear yard or interior side yard setback (typically required to be 10 to 15 feet), the amnesty-allowed rear or interior side setback may be whatever is set by the existing, non-permitted structure, but in no case closer than five (5) feet.
5. The maximum allowed area (coverage) for a non-permitted canopy / carport structure shall be no greater than what is currently existing, but in no case more than 400 square feet (the size of an average 20 ft x 20 ft. two-car garage)
6. The maximum allowed height for a non-permitted canopy / carport shall be no greater than what is currently existing, but in no case more than twelve (12) feet (the maximum allowed height at the property line in the R-1 zone)

7. *Canopies / carports shall be subject to design review. Staff shall review all projects for design (esthetic) issues, and may refer any case to the City Architectural Advisory Committee (AAC)*

#### *Amnesty Procedures*

*The amnesty program will be administered through procedural rules that must deal with a large number of individual cases in a consistent manner. The underlying process will be no different than any zoning clearance: Application – Analysis & Review – Findings – Decision & Conditions – Appeal. Building permits will also be issued consistent with normal rules: Application – Plan Check – Permit Issuance – Inspections – Sign-off. Within these processes certain specific rules will apply:*

1. *After an application is determined to be qualified under the above rules, planning staff will process the application, with the option of including the AAC in design review.*
2. *Notification will be provided in advance to Immediately adjacent neighbors*
3. *“Findings” will be required for a decision on an amnesty request:*
  - a. *The need for covered parking*
  - b. *The structure’s condition and appearance*
  - c. *An existing garage which is used for storage of household goods could be rejected as justification for approving an amnesty canopy / carport.*
  - d. *An illegally-converted garage may be allowed as justification for an amnesty canopy / carport; however, building permits for the conversion must be obtained and legalization completed during the amnesty period.*
  - e. *Individual cases will be considered on their specific merits within the program.*

Based on this draft, staff is seeking Commission guidance so that a draft ordinance may be prepared and submit for public hearing review.

#### *Attachments:*

*Staff memo: Follow-up to Commission Study Session of February 3, 2010*






**CITY OF PALM SPRINGS**  
**DEPARTMENT OF PLANNING SERVICES**  
**MEMORANDUM**

**Date:** February 3, 2010 – *Report of Commission Discussion – 2/3/10*

**To:** Planning Commission

**From:** Craig A. Ewing, AICP, Director of Planning Services 

**Subject:** Establishment of an Amnesty / Abatement Program for Non-Permitted Canopy Structures

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Based on the direction received from the Commission at its January 13, 2010 meetings, staff has proceeded with the preparation of an amnesty program for existing non-permitted canopy structures. To begin, staff has developed a set of questions for the Commission's review that would set the terms of such a program.

The Commission should work through each question, some of which may be decided by consensus and some will need a motion and vote. **Please note that these questions may take some time for the Commission to answer, and that a decision is not required at this Study Session. Staff will be seeking Commission dialogue, which may include direction for more research before a decision is made.** We also recommend that you review all the questions before drawing any conclusions on individual issues.

Once completed, staff will begin the development of code language for recommendation by the Commission to City Council.

1. Establishing the timing of the program  
Amnesties typically have certain time limits by which people may apply and thereafter comply with the program:
  - a. What should the cut-off date be for construction of a non-permitted structure that would be eligible for an amnesty?
    - The effective date of adoption of the ordinance***
    - December 31, 2009
    - Other date \_\_\_\_\_

- b. What should the cut-off date be for applying for the amnesty (after this date, the amnesty would not be available)?
- Within 6 months of construction cut-off date**
  - Within one year of construction cut-off date
  - No end date.
- c. Once a determination is made that the project qualifies under the terms of the amnesty / compliance program, how much time should the applicant have to bring the property into compliance (i.e., obtain final inspection / sign-off)?
- 90 days
  - Six months, subject to an indemnity waiver
  - Two years, subject to an indemnity waiver
  - Five years, subject to an indemnity waiver
  - Compliance required only at time of property sale / transfer
  - Different schedules for different circumstances, including project cost, availability of other legal, covered parking, etc.
  - One year, subject to an indemnity waiver; extension available with cause**

2. Amnesty Rules and Procedures

The regulations within the amnesty program must address a number of issues to set the boundaries by which individual applications may be qualified and evaluated:

- a. Most existing, non-permitted canopies are used to provide covered parking, but some are used for other purposes, including pool covers, storage and the like. Should the amnesty program be limited to parking covers or to any existing, non-permitted canopy?
- Any canopy or covering structure may be eligible, regardless of purpose**
  - Only canopies / carports located for use as parking cover may be eligible.

b. What kind of existing, non-permitted canopy or carport structure should be considered eligible for amnesty (even if the structure itself might not remain for reasons of the Building Code)?

- Any covered canopy regardless of materials, including suspended fabric.**
- Only solid, non-fabric structures, including wood, steel, aluminum, fiberglass, or combinations
- Only stick-built carports
- Other definition \_\_\_\_\_

c. If an existing, non-permitted canopy / carport is located within the front yard or street side yard setback (typically required to be 20 to 25 feet), what should the amnesty-allowed front or street side yard setback be (subject to safe visibility, as determined by Public Works)?

- Whatever is set by the existing, non-permitted structure; no closer than 1 foot to front / street side property line**
- Zero feet
- 20% setback reduction (as allowed by an AMM)
- No reduction from code-required setback
- Other setback: \_\_\_\_\_

d. If an existing, non-permitted canopy / carport is located within the interior side yard setback (typically required to be 10 feet), what should the amnesty-allowed interior side setback be (subject to a minimum of 5 feet, per the State Building Code)?

- Whatever is set by the existing, non-permitted structure; no closer than 5 feet to interior side property line**
- Five feet
- 20% setback reduction (as allowed by an AMM)
- No reduction from code-required setback
- Other setback: \_\_\_\_\_

- e. Should there be a maximum allowed area (coverage) for each canopy / carport?
- No greater than what is currently existing
  - No greater than what is currently existing, but in no case more than 400 square feet (the size of an average 20 ft x 20 ft. two-car garage)**
  - Max 400 square feet
  - Max 200 square feet (a typical 10 x 20 foot one-car garage)
  - No limit
  - Other area \_\_\_\_\_
- f. Should there be a maximum allowed height for a canopy / carport?
- No greater than what is currently existing
  - No greater than what is currently existing, but in no case more than 12 (the maximum allowed height at the property line in the R-1 zone)
  - Max 12 feet
  - Other height \_\_\_\_\_
  - (No decision)**
- g. Canopies / carports which are highly visible due to their proximity to front or side property lines have raised concerns about these structures' appearance (esthetics). What approach should the amnesty program take regarding design review of existing, non-permitted structures or their replacements under the program?
- No design review, except in hillsides or on Major Thoroughfares (current rule in R-1 zone)
  - Design review by staff with option for AAC review for all existing / replacement structures (findings discussed below)**
  - Design review by Planning Commission for all existing / replacement structures (findings discussed below)

Other approach \_\_\_\_\_

3. Amnesty Procedures

The amnesty program will be administered through procedural rules that must deal with a large number of individual cases in a consistent manner. The underlying process will be no different than any zoning clearance: Application – Analysis & Review – Findings – Decision & Conditions – Appeal. Within this process are specific questions for the amnesty:

a. After an application is determined to be qualified under the above rules, who makes the decision on the approval?

**Planning Staff, with the option of including the AAC**

AAC required, then Planning Staff

AAC required, then Planning Commission

Different approvals for different circumstances, including amount of zoning relief, proposed materials, project size, etc.

Other method \_\_\_\_\_

b. How much notification should be provided to the community prior to a decision?

No notification

**Immediately adjacent neighbors**

400-foot radius mailing / publication in the Desert Sun

Other \_\_\_\_\_

c. Since "findings" will be required for a decision on an amnesty request, what values should the findings reflect in determining the continuation or replacement of an existing, non-permitted canopy / carport (in addition to basic health & safety, etc.)?

**Need for parking (for car covers; see discussion below)**

**Appearance (need design "principles" for guidance)**

Compatibility with home / neighborhood

Others \_\_\_\_\_

4. Other issues are likely to be raised by the discovery and processing of existing, non-permitted canopies and carports, especially illegally converted garages, garages used for storage and the like. How should the amnesty program address these issues?
- a. Should garages used for storage be a justification for covered parking located in required setbacks?
- Yes, findings should be available to allow
- No, findings should be available to allow**
- b. Should illegally-converted garages be a justification for covered parking located in required setbacks?
- Yes, findings should be available to allow, and permits on converted garage must be obtained.**
- No
- Illegally-converted garages should be outside the purview of the amnesty program