

## CITY OF MOUNTAIN VIEW

### ENVIRONMENTAL PLANNING COMMISSION STAFF REPORT

WEDNESDAY SEPTEMBER 16, 2020

#### 5. PUBLIC HEARINGS

##### 5.1 Consideration of Text Amendments to Chapter 36 (Zoning Ordinance) of the City Code to Update Accessory Dwelling Unit Regulations to Align with New State Regulations

#### RECOMMENDATION

That the Environmental Planning Commission (EPC) adopt A Resolution Recommending the City Council Approve Zoning Text Amendments to Chapter 36 (Zoning Ordinance) of the City Code to Update Accessory Dwelling Unit Regulations to Align with New State Regulations, to be read in title only, further reading waived (Exhibit 1 to the EPC Staff Report).

#### PUBLIC NOTIFICATION

The EPC's agenda is advertised on Channel 26, the agenda and this report appear on the City's Internet website and were posted in accordance with the Brown Act, and a notice for the item was published in the newspaper.

#### BACKGROUND

On October 9, 2019, Governor Gavin Newsom signed into law several bills (Senate Bill No. 13, Assembly Bill No. 68, Assembly Bill No. 587, Assembly Bill No. 670, Assembly Bill No. 671, and Assembly Bill No. 881) amending multiple Government Code sections related to encouraging the production of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). This legislation became effective on January 1, 2020.

In spring 2020, staff brought proposed Zoning Ordinance amendments related to ADUs to the EPC for recommendation and to the City Council for adoption (see Exhibit 4 – [March 4, 2020 EPC Staff Report](#) and Exhibit 5 – [May 12, 2020 Council Report](#)). Before the second reading of the proposed ordinance, it was pulled from the agenda for further evaluation. The updated version of the proposed ADU regulations has been further refined and reflects the latest information and interpretations available from the California Department of Housing and

Community Development (HCD) on the numerous housing bills adopted earlier this year.

Zoning Ordinance amendments are required to be reviewed by the Santa Clara County Airport Land Use Commission (ALUC). On September 9, 2020, staff presented the draft ADU code amendments to the ALUC. The ALUC determined that the proposed Zoning Text Amendments are consistent with the Comprehensive Land Use Plan for Moffett Federal Airfield.

## **ANALYSIS**

The following is a summary of the proposed amendments to the City's existing ADU regulations, which would bring them into compliance with State law. This summary specifically highlights modifications to the proposed ADU regulations since they were last presented to the EPC in March 2020. The proposed code amendments can be found in their entirety in Exhibit 3—Redlined Draft Code Amendments.

### **Accessory Dwelling Unit and Junior Accessory Dwelling Unit Definitions**

Since this item was last reviewed by EPC, staff has added a new section (Section 36.12.65) to define terms specific to ADUs and JADUs. The purpose of the new section is to provide clarity and maintain internal consistency within the Zoning Code.

### **Single-Family ADUs**

State law stipulates many new development standards relating to the size of units, location, setbacks, heights, and exceptions. Upon further consideration, staff has modified the following standards for single-family ADUs since they were last reviewed by the EPC:

- **Setbacks**: State law mandates that local jurisdictions require no more than a 4' side and rear setback for all ADUs. Since March 2020, staff has added a requirement that the front setback of ADUs be consistent with the front setback of the underlying zone and eliminated the minimum 10' separation between ADUs and other structures. Minimum separation requirements will still apply under the California Building Code.
- **Rear Yard Coverage and Design**: Previously, staff recommended a maximum rear yard coverage of 30 percent for ADUs, which is consistent with the existing

standards for accessory structures. Additionally, staff recommended a requirement for ADUs to be constructed in the same architectural style and with the same materials as the primary residence. Staff has eliminated these recommendations in order to remove potential barriers to the construction of ADUs.

### **Multi-Family ADUs**

The City's current regulations do not allow ADUs in multi-family structures. State law mandates that local jurisdictions allow ADUs in existing multi-family structures as follows:

- ADUs within the portions of an existing multi-family dwelling structure that are not used as livable space, provided that each unit complies with State building standards for dwellings. Such accessory dwelling units shall not be created within any portion of the habitable area of an existing dwelling unit in a multi-family structure.
- Up to 25 percent of the number of existing multi-family units in the building, but at least one unit, shall be allowed. Up to two detached accessory dwelling units shall be permitted on a lot with an existing multi-family dwelling structure, provided that the height does not exceed 16' and 4' side and rear yard setbacks are maintained.

Since the EPC last reviewed the proposed amendments, these multi-family ADU standards have been reorganized into a table and expanded upon for clarity.

### **Parking**

The City's current regulations require one parking space for an ADU which may be covered or uncovered and can be located anywhere on the lot. The one parking space shall not be required if certain conditions about the property are met or if the ADU has no bedrooms (studio). State law has added a provision which eliminates the requirement to replace the parking lost if an existing garage or carport is converted to an ADU. Since the EPC last reviewed the proposed amendments, staff has clarified that no parking space is required for an ADU with no bedrooms.

### **Junior Accessory Dwelling Units**

The City's current regulations do not address JADUs. State law mandates that local jurisdictions allow one JADU within the footprint of a single-family home in

addition to one attached or detached ADU. Since the EPC last reviewed this item, staff has reformatted the JADU section into a table format for clarity and amended the following JADU standards:

- Previously, staff recommended to allow JADUs in the R1 District only. Staff has revised the proposed ordinance to allow JADUs on sites in any residential zone that contain one single-family home.
- Staff previously recommended that an ADU and a JADU could only be permitted on the same lot if the ADU was a detached ADU no greater than 800 square feet in size. While this is consistent with current State law, the State has introduced new legislation that, if passed, will remove the 800 square foot maximum for ADUs on lots with existing or proposed JADUs. Staff recommends implementing this provision now in anticipation of this new legislation.

### **Development Standard Exceptions**

The proposed development standards exception section was modified since last reviewed by the EPC to clarify that any development standard can be waived to allow construction of an 800 square foot ADU and height and setback standards do not apply to ADUs located entirely within a single-family dwelling, nonlivable space of a multi-family dwelling structure, or accessory structure or in the place of and to the same dimensions as existing accessory structures.

### **Amnesty Program**

Under State law, owners of unpermitted ADUs built before January 1, 2020 that receive notice to correct violations may request that the enforcement of the violations be delayed for five years if correcting the violation is not necessary to protect health and safety. The option for deferred enforcement of up to five years may incentivize the legalization of existing illegal ADUs by providing property owners with additional time to go through the permitting process without also incurring fines or other enforcement deadlines.

When the ADU ordinance was originally brought to Council in spring, Council supported staff's recommendation of a five-year amnesty program (to align with the State time frame for deferred enforcement), which would provide an expedited building permit process and waiver of illegal construction penalty fees for building permit applications to legalize unpermitted ADUs. If directed by Council, staff still intends to implement the program, which would not be included within the Zoning

Ordinance. Staff is in the process of creating an informational handout describing the overall ADU regulations and permitting process. If approved by Council, information on the amnesty program will be added to the handout.

## **ENVIRONMENTAL REVIEW**

The action to modify Chapter 36 for updates to the zoning text is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code, which provides that CEQA does not apply to the adoption of an Accessory Dwelling Unit ordinance to implement the provisions of Section 65852.2 of the Government Code. In addition, the action being considered does not constitute a “project” within the meaning of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) as these changes have no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

## **NEXT STEPS**

Following a recommendation from the EPC at this public hearing, the Zoning Text Amendments will be heard at a City Council public hearing tentatively scheduled for October 27, 2020.

## **CONCLUSION**

Staff recommends that the EPC recommend Council approve the proposed text amendments to comply with State legislation pertaining to Accessory Dwelling Units and Junior Accessory Dwelling Units.

## ALTERNATIVES

1. Recommend approval of the Zoning Text Amendments with modifications.
2. Request additional information from staff and continue the item.
3. Recommend disapproval of the Zoning Text Amendments.

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BW-SW/6/CDD  
840-09-16-20SR

- Exhibits:
1. Resolution for Recommendation of Council – Approval of Zoning Text Amendments
  2. Summary of Draft Amendments
  3. Redlined Draft Code Amendments
  4. [March 4, 2020 EPC Staff Report](#)
  5. [May 12, 2020 Council Staff Report](#)