

CITY OF MOUNTAIN VIEW

**ENVIRONMENTAL PLANNING COMMISSION
STAFF REPORT
MARCH 1, 2017**

6. PUBLIC HEARINGS

6.1 Accessory Dwelling Unit Regulations Update

RECOMMENDATION

That the Environmental Planning Commission (EPC) recommends that the City Council adopt a resolution recommending that the city council adopt an ordinance repealing and replacing Article IV, Division 10 relating to Accessory Dwelling Unit; amending Chapter 36; and amendments of Article III, Division 2, Section 36.06.50; Article IV, Division 2; Article IV, Division 10; Article X, Division 3, Section 36.32.50; and Article XVII, Division 2, Sections 36.60.05 and 36.60.09 (Chapter 36 of the City Code) to achieve consistency with California Senate Bill 1069 (Weickowski) and Assembly Bill 2299 (Bloom) pertaining to the construction of Accessory Dwelling Units (Exhibit 1).

PUBLIC NOTIFICATION

The Commission's agenda is advertised on Channel 26, and the agenda and this report appear on the City's website. Courtesy notices of this meeting were mailed to the City's Housing Element interested parties list. Staff will send a separate notification of the upcoming City Council meeting regarding this item.

PURPOSE

The purpose of this meeting is to present the proposed Accessory Dwelling Unit Ordinance and other related City Code text amendments to the EPC for a formal recommendation to the City Council.

BACKGROUND AND ANALYSIS

In June 2016, the City updated its Companion Unit or Accessory Dwelling Unit ("ADUs") Ordinance (Exhibit 2—City of Mountain View Companion Unit Regulations). The revised ordinance relaxed many existing development standards, such as eliminating the minimum lot size requirement, to encourage development of more companion units within the City.

In September 2016, Governor Brown signed [Senate Bill 1069](#) and [Assembly Bill 2299](#), amending multiple Government Code sections related to land use. The legislation is intended to address the current housing crisis and increase affordable housing opportunity and availability by streamlining the local development review process, allowing more flexibility, and relaxing current regulations related to ADUs. The Statute is clear that if cities do not conform to the State's new Accessory Dwelling Unit regulations by January 1, 2017, all local ordinances are considered null and void. In the event this happens, the State's regulations become effective until such time that the local jurisdiction adopts such ordinance.

Staff has performed a consistency review of the Mountain View City Code relating to the new ADU legislation and has identified necessary modifications to bring the City Code into conformance with the State law. The modifications are related to parking requirements, building setbacks, and the conversion of interior living area of an existing single-family house (or a detached garage) to an ADU. The attached table (Exhibit 3 – Analysis of New Laws) summarizes the changes needed to bring the City's ADU ordinance into compliance with the State law.

Proposed Accessory Dwelling Unit Ordinance

The proposed ADU ordinance is based on the City's previous Companion Unit Ordinance with minor changes to comply with the new State law. The ordinance aims to strike a balance between the City Council's direction to ease local companion unit regulations while limiting significant changes that could impact the residential character of neighborhoods.

Summary of Proposed Revisions

The following is a summary of the proposed changes to the Mountain View City Code. Sections have been identified in the City Code for revisions to reflect the amendments in the Government Code:

1. "Accessory Dwelling Unit" Definition:

All references to the term "Companion Unit" in the Mountain View City Code, when used in the context of an "accessory dwelling unit" have been replaced to conform to the new State law. In addition, the definition of "Companion Unit" has been updated to match the State's definition of an "accessory dwelling unit" and moved to the appropriate alphabetical order in Section 36.60.05.

Discussion: This is not a requirement of the State law. However, staff believes this is an appropriate opportunity to make the local ordinance consistent with the State definition to reduce confusion over the different terms.

2. Conversion of Existing Carport or Accessory Structures into an ADU:

The new State law allows conversion of an existing detached garage or any other accessory structure into an ADU while maintaining minimum fire safety setbacks. Per the current regulations, there is no minimum side yard setback for an accessory structure located in the rear yard. No minimum rear yard setback is required if the cumulative width of all the accessory structures in the required rear yard is less than 33 percent of the width of the lot.

Discussion: The current City regulations require a minimum ten foot (10') rear yard setback and five foot (5') side yard setback for a new ADU. Based on the new State law, one can construct a detached garage and convert it into an ADU later at reduced setbacks that are much closer to the property lines. Staff notes that such conversions could result in potential significant privacy impacts. Since this is a clear requirement of the new State law, staff is recommending the new ADU ordinance allow such conversions. Such conversions will still have to conform to Building Code requirements such as fire-rated walls at the property line.

This change in Code will also allow conversion of existing nonconforming accessory structures into an ADU provided no structural modifications are made to the existing structure and it meets the current Building Code. The City's current nonconforming Code section does not allow structural modifications to nonconforming buildings.

3. Required Parking:

- a. *ADU Parking:* Currently, the City requires one parking space/unit (covered or uncovered) for an ADU in addition to two required spaces for the primary residence. However, the new State legislation mandates that if the lot meets certain criteria, such as being within one-half mile of public transit or in an architecturally significant historic district, or if an ADU is part of an existing primary residence or an existing garage, no parking spaces are required for the ADU.

Discussion: The new State legislation is ambiguous on the specific definition of “public transit.” Based on the intent of the new State legislation to encourage ADU development by relaxing the development requirements, staff has interpreted public transit as in this context for Mountain View any public transit stop or public transit line (bus, VTA light rail, or Caltrain).

Several neighboring cities have taken a different approach and limited the definition of public transit to only rail or bus stops. Staff’s recommendation provides for a broader definition of public transit that meets the intent of encouraging more ADU development.

- b. *Primary Dwelling Unit Parking:* The existing ordinance requires replacement parking when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, whether attached or detached. However, State law now allows applicants to provide these replacement off-street parking spaces in any combination, including uncovered, covered, carport, tandem, or mechanical automobile lifts.

Discussion: Current City regulations require two parking spaces (one covered and one uncovered) for the primary dwelling unit. Based on the new State law requirement, if an existing garage, which provides the required covered parking for the primary home, is converted into an ADU, the parking lost in this conversion can be replaced as an uncovered parking space. This can result in a situation where the property will have only uncovered parking spaces. Staff notes that this may significantly change the character of a residential neighborhood. Since this is a requirement of State law, this change is included in the proposed ADU ordinance.

4. Allowable Unit Size:

- a. *Minimum Unit Size:* The new State law requires a minimum ADU size of 150 square feet. This new minimum unit size has been added to the ADU development standards in Section 36.12.70.

Discussion: This is a requirement of State law and has been incorporated in the proposed ordinance.

- b. *Maximum Unit Size:* The State legislation allows ADUs up to 1,200 square feet.

Discussion: Maximum ADU sizes were discussed during the ordinance update in June 2016. At that time, the City Council decided to maintain the maximum ADU size to 700 square feet with an additional 200 square feet for a garage. Staff discussed whether cities could limit the size of dwelling units to less than 1,200 square feet with HCD staff and was told cities have the discretion to limit the maximum size. The existing City regulations intend for ADUs to be an accessory use on a property by limiting the unit size to 700 square feet. Since this is an optional element, staff recommends maintaining the maximum ADU size to 700 square feet with an additional 200 square feet for a new garage to be consistent with the City's current ordinance.

5. Second Story ADU:

The new State law allows for ADUs to be built "above an existing garage" with a minimum five feet (5') rear and side setback.

Discussion: The City's current regulations require a second-story ADU to have the same setback as the primary dwelling unit (i.e., 25 percent of the average lot depth). This setback requirement is intended to reduce privacy impacts from second-story developments in residential zones. Staff believes that a reduced setback of only five feet (5') from the rear and side property lines for a second-story ADU may create privacy impacts to surrounding homes. Currently, only inhabitable single-story accessory structures are allowed less than ten feet (10') from the rear and side property lines in order to avoid privacy impacts to surrounding properties.

Several neighboring cities have adopted regulations to limit second-story detached ADUs with additional height, landscaping, and location restrictions because of concerns over potential privacy issues. Staff recommends that second-story ADUs above detached garages meet the required second-story setbacks of the primary dwelling unit in order to address potential privacy impacts to surrounding homes.

6. Permit Processing:

The new legislation requires ADUs be approved "ministerially" if they conform to the city's ordinance. This means that no separate planning permit

is required, only a building permit. The approval must be within one hundred twenty (120) days after receiving the ADU application.

Discussion: This revision to the Mountain View City Code does not change the City's current process for review of ADUs. With the proposed changes, the procedure will be clearly described in the City Code.

7. Junior Accessory Dwelling Units:

Assembly Bill 2406 created special rules for Junior Accessory Dwelling Units (JADUs), which are ADUs 500 square feet or smaller, located entirely within an existing single-family residence, and with an internal access to the primary residence and an external entry. State law requires that at least one of the units on the site (JADU or the primary dwelling unit) to be owner occupied, JADU can share a bathroom with the primary dwelling unit, and is limited to an efficiency kitchen. The law allows cities the option of creating specific standards for JADUs, or to regulate them as ADUs.

Discussion: In discussion with HCD, JADUs were found to have no additional benefit to a city besides that they may count towards the City's share of regional housing need allocation (RHNA). Staff could not find any additional benefit to a property owner to create a JADU versus renting out a bedroom in a primary dwelling unit. Therefore, staff is not proposing a new JADU as part of the ADU ordinance at this time. If the City decides to consider this, an optional ordinance is attached to this report (Exhibit 4—Junior Accessory Dwelling Unit Standards).

ENVIRONMENTAL REVIEW

The proposed project complies with the California Environmental Quality Act (CEQA) because the proposed amendment is categorically exempt under CEQA pursuant to Section 15282(h) ("Other Statutory Exemptions: Second Units").

NEXT STEPS

Following a recommendation from the EPC for the proposed amendments, the item will be heard at a City Council public hearing tentatively scheduled for March 28, 2017, where Council will consider the EPC recommendation.

CONCLUSION

The proposed Code revisions will ensure that ADU regulations in the City are consistent with the new State law, encouraging the production of new housing while protecting the character of single-family neighborhoods.

Staff recommends the EPC recommend that the City Council adopt an ordinance to amend the Zoning Code, Article III, Division 2, Section 36.06.50; Article IV, Division 2; Article IV, Division 10; Article X, Division 3, Section 36.32.50; and Article XVII, Division 2, Sections 36.60.05 and 36.60.09 (Chapter 36 of the City Code), in response to recently adopted State legislation regarding ADUs for compliance with State law, and for internal consistency.

ALTERNATIVES

1. Recommend denial of the proposed text amendments.
2. Modify the proposed text amendments.

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- Exhibits:
1. Resolution for EPC Recommendation
 2. City of Mountain View Companion Unit Regulations
 3. Analysis of New Laws
 4. Proposed Junior Accessor Dwelling Unit Regulations