



**DATE:** June 7, 2016

**CATEGORY:** Public Hearing

**DEPT.:** Community Development

**TITLE:** **Companion Unit Ordinance Update and Other Potential Text Amendments**

### **RECOMMENDATION**

1. Introduce an Ordinance Amending Sections 36.12.70 and 36.60.09 of Chapter 36 of the Mountain View City Code Related to Companion Unit Regulations, to be read in title only, further reading waived, and set a second reading for June 14, 2016 (Attachment 1 to the Council report).
2. Introduce an Ordinance Amending Section 41.6 of Chapter 41 of the Mountain View City Code Related to Dwelling Density and In-Lieu Fees for Companion Units, to be read in title only, further reading waived, and set a second reading for June 14, 2016 (Attachment 2 to the Council report).

### **BACKGROUND**

The City Council included a Major Goal (for Fiscal Years 2015-16 and 2016-17) to update the City's companion unit regulations as a strategy to improve the quantity, diversity, and affordability of housing units in the City.

Several City policies support an update to the companion unit regulations; for example, the 2030 General Plan (Policy LUD 3.5) encourages residential developments serving a broad range of diverse households and incomes. The 2015-2023 Housing Element also includes Program 4.3, to review the companion unit ordinance and study the options, benefits, and impacts of modifying the ordinance to remove constraints that may limit the construction of companion units. The Housing Element also states that the City will evaluate the Park Land Dedication In-Lieu Fee to determine if the current fee is appropriate for the encouragement of companion unit development, or whether the fee constrains the development of companion units.

## **State Law**

Government Code Section 65852.2, also known as the Second Unit Law, requires that the preparation, adoption, amendment, and implementation of local second-unit ordinances be carried out consistent with Government Code Section 65852.150:

The Legislature finds and declares that second units are a valuable form of housing in California. Second units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create second units benefit from added income, and an increased sense of security.

It is the intent of the Legislature that any second-unit ordinances adopted by local agencies have the effect of providing for the creation of second units and that provisions in these ordinances relating to matters including unit size, parking, fees and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create second units in zones in which they are authorized by local ordinance.

## **SB 1069 (Wieckowski) Second Units Legislation**

Legislation, specifically SB 1069, has been introduced to amend Section 65852.150 of the Government Code cited above. The proposed bill seeks further flexibility in local regulations for companion (second) units and streamlines the permitting process for companion (second) unit developments. The bill awaits action by the Senate.

## **Companion Unit Policy Background in Mountain View**

The City's companion unit regulations were last updated in 2003 to be consistent with State law and to further encourage companion unit development (see Attachment 3 for the City's current companion unit regulations). Since 2003, 13 companion units have been permitted and 11 of the permitted units have actually been constructed.

## **ANALYSIS**

In May 2015, the City began the companion unit ordinance update process to identify the constraints in the current regulations and to study possible modifications to the City's existing regulations while preserving neighborhood character.

Staff notes that if the companion unit standards are loosened as proposed, additional companion units could potentially be built in the City. However, the number of potential new companion units is not expected to make a significant contribution to the overall number of housing units in the City or their affordability.

### **Previous City Council and Environmental Planning Commission (EPC) Direction**

#### Environmental Planning Commission (EPC) Study Session (June 3, 2015)

At this meeting, staff brought a number of topics to the EPC for consideration and discussed the pros and cons of potential modifications to some of the City's regulations and fees related to companion units. From that discussion, the EPC directed staff to do further research into the following topics:

- Minimum Lot Size
- Parking
- Unit Size
- Park Land Dedication In-Lieu Fee
- Rent-Restricted Units
- Amnesty Program for Nonpermitted Units

Staff also surveyed second-unit regulations from neighboring cities and provided this information to the EPC (see Attachment 4).

#### City Council Study Session (September 15, 2015)

At this meeting, staff presented the Council with the information provided to the EPC and their comments, as well as information on the topics they requested additional research on (see Attachment 5). The City Council directed staff to further explore two key topics: (1) reducing the minimum lot size requirement for companion units; and (2) reducing the Park Land Dedication In-Lieu Fee. The City Council supported maintaining all of the other development standards. The City Council also supported reducing the parking requirement to one space per unit and directed staff to study the possibility of allowing companion units on substandard lots. The results of the study are discussed later in the report.

## **Public Outreach**

Staff conducted two workshops on November 19, 2015 and January 28, 2016 to seek public input on several key topics. The community workshops included a staff presentation, public discussion, and a “poster session” to collect feedback on the key topics (Attachment 6). The workshops were attended by a total of 30 participants. This included one property owner who had built a companion unit in the City and other property owners who were interested in adding a companion unit on their property. Overall, workshop participants wanted to see a relaxation in the current companion unit regulations and the creation of more affordable housing options in the City. An online survey was also posted on the City’s website to collect additional community input. The survey included similar questions to those discussed at the two community workshops.

## **Public Input Summary**

Over 100 comments were received covering three major topics through all of the City’s outreach efforts. Residents expressed a wide range of sentiments during the public outreach process. Community members indicated that companion units could provide additional affordable housing opportunities and represent a way to earn additional income or support extended families. A majority of the responses (84 percent) indicated that some element of the existing companion unit ordinance should be changed.

Residents who had obtained approval of a companion unit or were exploring the possibility of such a unit requested that more flexibility be provided regarding larger unit sizes and required parking. Regarding the issue of Park Land Dedication In-Lieu fees, most favored a reduced fee that would not place an undue financial burden on the construction of these smaller units. A complete summary of the public outreach feedback received through the outreach efforts is included in Attachment 7.

The following are key summary points from the public outreach efforts:

- The current companion unit regulations should be more flexible to encourage more companion unit development.
- The minimum lot size requirements for companion units should be reduced.
- The Park Land Dedication In-Lieu Fee is a costly burden and should be reduced or eliminated.
- The City should consider regulations for rent-restricted companion units.

- The City should adopt regulations regarding Airbnb-type (short-term rental) uses because they impact the availability of affordable housing and adversely impact residential neighborhood character.

## **Key Amendments**

In response to community feedback, as well as City Council and EPC direction, staff has prepared the proposed changes to the existing ordinance. See Attachment 1 – Exhibits A and B for the recommended amendments to the City Code.

### **1. Definition of a Companion Unit**

Companion unit is not defined in the City Code and hence, staff recommends adding the following definition of a “Companion Unit” to City Code Section 36.60.09 to provide greater clarity:

“Companion unit”: A secondary dwelling unit located on the same parcel of land as a primary dwelling unit which meets the requirements and development standards for a companion unit as described in the City Code Sec 36.12.70. “Accessory structures” are separately defined in this chapter.

This definition will help distinguish a companion unit from a primary dwelling unit and other accessory structures. A companion unit is different from an accessory structure, such as a detached office or garage, as accessory structures cannot be used as a separate dwelling unit and cannot include a kitchen.

### **2. Minimum Lot Size**

Minimum lot size requirements are one of the most significant regulatory requirements restricting companion unit development. The current code requires a minimum lot size that is 35 percent larger than required by the applicable zone. For example, for an R1-zoned parcel, the minimum required lot size is 6,000 square feet, and the minimum lot size for a companion unit for that zone would, therefore, be 8,100 square feet. Based on these current regulations, only 1,020 (13 percent) of R1-zoned parcels meet the companion unit minimum lot size requirement.

### *Substandard Lot Prototype*

At the September 2015 Study Session, the City Council directed staff to study companion unit prototypes on substandard lots. A substandard lot is one that does not meet the minimum lot size required by the applicable zoning district. Attachment 8 shows five companion unit development scenarios on a substandard lot that meets all other development standards (such as setback, unit size, location, FAR,<sup>1</sup> etc.). The combined floor area in the main house and companion unit cannot exceed the allowable FAR for the zoning district.

*Staff Recommendation:* Eliminate the minimum lot size requirement entirely. This will allow companion unit development on any single-family, residentially zoned property irrespective of the lot size (including substandard lots). Other development standards such as FAR, companion unit size, setbacks, and building height would be maintained and will help regulate new companion unit development to ensure they do not significantly impact existing neighborhood character.

### 3. **Parking**

The City requires one parking space (covered or uncovered) per bedroom for each companion unit. Most companion units in Mountain View have one bedroom, though it may be possible to have two small bedrooms in a unit.

At the initial June 2015 Study Session, the EPC acknowledged the current on-street parking issues in some residential neighborhoods and suggested that current companion unit parking requirements remain. Initial Council direction (September 2015) supported reducing the parking requirement to one space per unit. It should be noted that this parking requirement is specifically for the companion unit and is separate from the parking required for the primary dwelling unit.

*Staff Recommendation:* Reduce the parking requirement for a companion unit to one space per unit. Maintain the flexibility for required parking to be covered or uncovered.

---

<sup>1</sup> Floor area ratio (FAR) is the relationship between the amount of floor area on a lot and the size of the lot expressed as a ratio (for example, 0.5:1, or just 0.5). FARs are used in most zoning districts to establish the maximum allowed floor area. In the R1 Zone, FARs range between 0.40 and 0.45.

#### 4. **Park Land Dedication In-Lieu Fee**

The current fee has been in place since 1997 and is intended to generate revenue for park development needed to accommodate additional residents. However, the Park Land Dedication In-Lieu Fee requirement adds a significant cost to developing a new companion unit. New companion units pay a Park Land Dedication In-Lieu Fee that ranges between \$15,000 and \$30,000 per companion unit.

##### *Park Land Fee Calculation*

The formula for calculating Park Land Dedication In-Lieu fees is governed by State law (the Quimby Act). Fees are based on the amount of park land required to serve future City residents at a rate of three acres per 1,000 residents. Persons per dwelling unit (ppdu) is based upon the average number of persons occupying the housing types listed in the most recent U.S. Census. The value of an acre of land is based on the fair market value in the proposed residential development at the time the building permit is pulled.

$$\text{Required Park Land Dedication In-Lieu Fee} = A \times B \times C$$

Where:

A = the park land dedication acreage required per dwelling unit (DU) within the proposed residential development for park and recreational facilities.

B = the number of net new dwelling units in the proposed residential development.

C = the fair market value per acre of land in the proposed residential development.

The park land dedication acreage requirement (A) is based on the density for each housing type as shown in Table 1 below. A detailed description for calculating Park Land Dedication In-Lieu fees can be found in Mountain View City Code Sections 41.6 through 41.9.

**Table 1 – Density Table**

Dwelling Density	DUs Per Acre	Density of Persons Per Dwelling Unit	Acreage Requirement Per DU Within Subdivision
Low	1 to 6	2.7	.0081
Medium-Low	7 to 12	2.3	.0069
Medium	13 to 25	2.0	.0060
Medium-High and High	26+	2.0	.0060
Mobile Homes	7 to 14	1.5	.0045

Based on the current code, staff applies a density of 2.7 ppdu and a 0.0081 acreage requirement per dwelling unit for both a single-family residence and a companion unit, even though a companion unit will most likely house only one or two persons.

A survey of other second-unit ordinances shows that most neighboring cities do not require any additional park land dedication or related in-lieu fee for a companion unit. These cities have other regulations such as minimum lot size requirements which restrict companion unit development.

Reducing the Park Land Dedication In-Lieu Fee could reduce a significant barrier to new companion unit development. It would also reduce the amount of park land dedication in-lieu fees generated from new companion unit construction. Staff presents two options for Council consideration.

*Option A:* Reduce the Park Land Dedication In-Lieu Fee for companion units to 45 percent of the fee applicable to a new single-family home. This would align the density consideration for companion units with a mobile home (1.5 ppdu) which is already established in the density table (refer to Table 1). This recommendation reflects the limited occupancy characteristics of companion units which would not have a significant impact on park resources.

*Option B:* Eliminate the Park Land Dedication In-Lieu Fee requirement entirely for companion units.

Staff presented these two options to the EPC which recommended Option A.



### **Fiscal Impact of Option A and Option B:**

Option A yields a Park Land Dedication In-Lieu Fee in the range of \$6,750 to \$13,500 per unit. Assuming that the number of companion units developed over the next 10 years is doubled (approximately 30 units), Option A would yield \$405,000 based on the maximum per unit in Park Land Dedication In-Lieu fees compared to no revenues with Option B. To provide the Council with some context, a total of \$4,650,000 in Park Land Dedication In-Lieu fees was collected for a recently approved 150-unit apartment project (2015).

*Staff Recommendation:* Option A - Reduce the Park Land Dedication In-Lieu Fee for companion units to 45 percent of the fee applicable to a new single-family home.

### **EPC Meeting**

The EPC reviewed the proposed draft text amendments at their meeting on April 20, 2016 (see Attachment 9—April 20, 2016 EPC Staff Report). The EPC recommended approval of all the draft text amendments to Chapter 36 and supported reducing the Park Land Dedication In-Lieu Fee for companion units to 45 percent of the fee applicable to a new single-family home (Option A).

The EPC also requested City Council consider two additional items related to this topic. Staff's response to the request is in italics.

1. Regulate short-term rental uses in the context of companion units.

*Staff has been monitoring such regulations in other jurisdictions. If the City Council is interested in regulating short-term rentals, staff recommends any regulations should apply Citywide and include other units in addition to companion units. The preparation of an ordinance regulating short-term rentals, such as Airbnb, would be a significant work item for the Community Development Department, the City Attorney's Office, and the Finance and Administrative Services Department because it involves both zoning and taxation issues and would require reprioritizing other assignments. Currently, at the request of the City of Mountain View, the Santa Clara County Leadership Academy is working on a group project to identify and study Best Practices for municipal regulation of short-term rentals and we should receive this information in the fall.*

*For these reasons, staff is not recommending further consideration of the regulation of short-term rental uses for Mountain View at this time. If the City Council is interested in exploring this topic further, staff recommends it be added as a separate work item in a year.*

2. Consider additional owner occupancy requirement for one of the units on R1 parcels with a new companion unit development.

*Staff believes the intent of the update process is to simplify and reduce the regulatory requirements related to the companion unit development process to encourage companion unit development and create additional housing units in the City. Additional regulatory requirements such as proof of owner occupancy for one of the units on the parcel may not help encourage companion unit development. This will also require additional enforcement mechanisms to make sure ownership is maintained throughout the life of the project(s). For these reasons, staff is not recommending further consideration of additional owner occupancy requirements at this time.*

*Staff also believes the EPC's main concern for requiring one of the units be owner occupied is to avoid short-term rentals and related impacts that could affect the neighborhood. As explained in the previous section, staff feels short-term rentals is a separate topic. If the City Council is interested in exploring this topic further, staff recommends it be added in the future as a separate work item.*

### **FISCAL IMPACT**

Minor costs to update documents, and potential loss of Park Land Dedication In-Lieu Fee revenue.

### **CONCLUSION**

The proposed companion unit regulations are being amended to encourage companion unit development and to increase the number of housing units in the City.

### **ALTERNATIVES**

1. Modify the proposed text amendments.
2. Deny the proposed text amendments.
3. Refer the project back to the EPC for additional consideration.
4. Provide other direction.

### **PUBLIC NOTICING**

The City Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's Internet website. Notice of the public hearing was published in the

newspaper pursuant to Government Code Section 65090 and mailed to over 50 interested stakeholders.

Notifications regarding the required update to the regulations were placed in the *Mountain View Voice* and on the City's website and social media accounts. The information was available to the public beginning on June 3, 2016.

Prepared by:

Diana Pancholi  
Assistant Planner

Terry Blount  
Assistant Community Development  
Director/Planning Manager

Approved by:

Randal Tsuda  
Community Development Director

Daniel H. Rich  
City Manager

DP-TB/7/CAM  
807-06-07-16CR-E

- Attachments:
1. Zoning Ordinance Amendment (Chapter 36)
  2. Ordinance amending Mountain View City Code Chapter 41
  3. Companion Unit Development Standards
  4. Summary of Research on Other Second-Unit Ordinances
  5. [September 15, 2015 City Council Study Session Memo](#)
  6. Community Outreach Posters
  7. Community Outreach Survey Summary
  8. Substandard Lot Prototypes
  9. [April 20, 2016 Environmental Planning Commission Staff Report](#)