

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2014-012 accessory dwelling units

Description: Consider an ordinance amending City Code Title 25 to reduce regulatory barriers to building accessory dwelling units including minor setback changes and reduced parking and driveway requirements.

Proposed Language: See attached draft ordinance.

Summary of proposed code changes:

- 1) Reduce building separation from 15 feet to 10 feet.
- 2) Allow an entrance within 10 feet of a property line.
- 3) Remove driveway placement requirement.
- 4) Change parking requirement to 1 off street space for all secondary units.
- 5) Prohibit use in new units as Short Term Rental
- 6) Apply the ordinance citywide
- 7) Reduce minimum lot size for two family residential use in SF-3 to 5,750 sq. ft.
- 8) Allow two family residential use in SF-2 zoned lots, minimum lot size 5,750 sq.ft.
- 9) Increase maximum unit size to 0.15 FAR.

Background: Initiated by Council Resolution 20140612-062.

In June 2014, City Council approved a resolution to develop an ordinance that reduces regulatory barriers to make accessory dwelling units easier to build, in particular, “eliminating parking and driveway requirements.”

Staff held two public meetings in September and October 2014. The goal of the first meeting was to solicit feedback from community members on what they considered to be the positive and negative impacts of more ADUs. The proposed amendments were presented at the second public meeting where community members could comment on specific recommendations. The proposed ordinance is a result of discussions with zoning, comprehensive planning, CodeNext and residential review staff and community comments.

The proposed ordinance was presented and discussed at the Codes and Ordinances Subcommittee meeting several times, the second of which was attended by many community members who spoke both in support of and in opposition to the changes. The most contested items were reducing the parking requirement and whether the ordinance should be applied citywide or on an opt-in/out basis.

Discussion at Planning Commission included questions about affordability, short term rentals, opting in and out and parking requirements.

Staff Recommendation: See Summary of Proposed Amendments table for staff comments on specific regulations, page 3.

Board and Commission Actions

March 17, 2015: No recommendation by the Codes and Ordinances Subcommittee on a 2-1 vote (Commissioner Stevens nay; Commissioners Chimenti and Zaragoza absent).

April 28, 2015: Planning Commission sent the ordinance back to the Codes and Ordinances subcommittee with amendments on a 5-3 vote (Commissioners Oliver, Nortey and Hernandez nay; Commissioner Roark absent). The amendments were to revise parking requirements, prohibit use as Type 2 short term rentals, and consider a list of additional considerations submitted by a stakeholder. **(Public hearing closed).**

May 19, 2015: Ordinance as written recommended by Codes and Ordinances subcommittee on 3-0 vote (Commissioners Stevens and Oliver absent). Subcommittee also recommends developing pre-approved plans and investigating the feasibility of sub meters (rather than separate meters) as both could facilitate the construction of secondary units.

May 26, 2015: Planning Commission approved proposed ordinance on consent 5-0 vote (Commissioners Hatfield, Hernandez, Stevens and Shieh absent).

June 1, 2015: Community Development Commission endorsed proposed ordinance with additional recommendations. (See recommendation sheet).

Council Action

June 9, 2015: Planning and Neighborhoods Council Committee recommended further discussion of issues at August and September meetings.

June 18, 2015: Approved on first reading, 10-1. **(Public hearing closed).**

August 17, 2015: Planning and Neighborhoods Committee discussed possibility of creating a loan fund; recommended asking City Manager to request more research. Discussed pre-approved plans and need to identify resources required to create plans. Recommended PC/staff parking recommendation to reduce off-street parking requirement to 1 space and grandfather legally non-compliant parking, 3-1. Recommended PC/staff recommendation to prohibit Type 2 short term rentals, 4-0.

September 21, 2015: Planning and Neighborhoods Committee discussed lot size, parking requirement, structure size and AWU meter issue. (See above table under Staff Recommendation. See Planning and Neighborhoods committee report).

October 15, 2015: Approved on 2nd reading with amendments, 11-0.

Ordinance Number: NA

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Summary of Proposed Amendments – Accessory dwelling unit code amendment

| PROPOSED AMENDMENT | PLANNING COMMISSION RECOMMENDATION | PLANNING & NEIGHBORHOODS COMMITTEE RECOMMENDATION | STAFF RECOMMENDATION |
|--|------------------------------------|---|--|
| 10' Building separation | Recommended | Recommended | Recommended |
| Allow entrance within 10' of a property line | Recommended | Recommended | Recommended |
| Remove driveway requirement | Recommended | Recommended | Recommended |
| 1 off street parking space required | Recommended | Recommended | Recommended |
| Prohibit Type 2 STR | Recommended | Recommended | Recommended |
| Apply city wide | Recommended | Not discussed | Recommended |
| ADDED AMENDMENTS (by P&N Committee 09/21/15) | PLANNING COMMISSION RECOMMENDATION | PLANNING & NEIGHBORHOODS COMMITTEE RECOMMENDATION | STAFF COMMENTS |
| Reduce minimum lot size for two family residential use in SF-3 to 5,750 sq. ft. | Not reviewed | Recommended | Support amendment |
| Allow two family residential use on SF-2 zoned lots (minimum lot size 5,750 sq. ft.) | Not reviewed | Recommended | Support allowing two family residential use in SF-2 except in Neighborhood Planning areas with Council adopted plans. Areas with adopted Neighborhood Plans had the opportunity to allow secondary apartments during their planning processes. The ordinance approved at second reading, October 15, 2015, allows two family residential uses in SF-2 districts and would supersede decisions made during neighborhood planning processes that did not adopt the secondary apartment infill tool. |
| Increase maximum structure size | Not reviewed | Increase maximum to 0.15 FAR with 550 SF maximum on 2 nd floor | Support increase to 0.15 FAR, not to exceed a gross floor area of 1,100 total square feet, no more than 700 of which may be on the 2 nd floor. |
| Modified STR Type 1 restriction | Not reviewed | Secondary dwellings operating as an STR prior to October 1, 2015 will count toward the 3% / census tract cap. | Support amendment |

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| Preservation Bonus | Not reviewed | <p>Allow a larger second dwelling if the older primary structure remains; place restrictive covenant on older primary structure</p> | <p>Concerns with administration and enforcement of a preservation bonus include:</p> <p>Establishing new processes and systems to implement such a program.</p> <p>Additional research would be required of staff to determine the age of an existing structure, which is not always readily obtained or determined.</p> <p>Staff would be required to manage the processing of legal documentation to be filed in the deed records to serve as notice to future property owners of the limitations on the property. Processing of these legal documents would mimic current processes to record “joint-use access easements” and “unified development agreements” which are cumbersome and would require review from city legal staff. This additional complexity could add 6 to 8 weeks to the review cycle for a residential permit application.</p> <p>In order to ensure that the homes protected by the preservation bonus were not demolished, the residential demolition permit applications would require a review of other buildings on site. Current processes only require review of the building being proposed for demolition. This could impact the ability to provide same day processing. City staff does not have access to title research and would rely on applicants to provide any recorded information applicable to homes preserved through the preservation bonus.</p> <p>On properties with an ADU, staff will be required to research the history of the ADU before a permit for an addition to the existing main home could be issued. This adds additional complexity to the permit review and would increase review cycle times.</p> <p>If approved, considerations should be provided for extending review times for these types of applications.</p> |
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| ADDED AMENDMENT (by Staff 10/15/15) | | | |
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| In Section 25-2-893E, change term “accessory dwelling” to “employee dwelling”. | Not reviewed | Not reviewed | To reduce confusion as “accessory dwelling” has been used throughout this code amendment process to refer to “two family residential” use and “secondary apartments” and not as the term is used in Section 25-2-893E. The change is to the terminology only and will not make substantive changes to any of the regulations. |
| AMENDMENT FROM COUNCIL (10/15/15) | | | |
| Secondary unit built after October 1, 2015 may not be used as a short term rental for more than 30 days in a calendar year. | Not reviewed | Not reviewed | Staff does not support this provision because there is no way to enforce the 30 day limit. |