

Agenda Report

January 30, 2017

TO: Honorable Mayor and City Council

FROM: Planning & Community Development Department

SUBJECT: ZONING CODE TEXT AMENDMENT TO SECTIONS 17.22.030, 17.50.275 AND 17.80.020 OF THE ZONING CODE TO REVISE THE CITY'S SECOND DWELLING UNIT ORDINANCE

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed Zoning Code text amendment is exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.17 and CEQA Guidelines Section 15061(b)(3),
2. Adopt the Findings of Consistency (Attachment A); and
3. Conduct the first reading of the "Ordinance of the City of Pasadena amending Sections 17.22.030, 17.50.275 and 17.80.020 of Title 17 (Zoning Code) of the Pasadena Municipal Code to revise the City's Second Dwelling Unit Ordinance."

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission reviewed the proposed amendments to the existing Second Dwelling Unit Ordinance (Section 17 50.275 of the Zoning Code) and other applicable sections of the Zoning Code on December 14, 2016, and voted unanimously to recommend approval of the proposed amendments. Generally, the Planning Commission acknowledged that the proposed Zoning Code amendment is necessary to comply with the state law and to retain the City's authority to continue to enforce most of the City's existing Ordinance; however, the Planning Commission expressed strong concerns regarding potential impacts of new regulations for second dwelling units being imposed by the State upon local municipalities.

EXECUTIVE SUMMARY:

On September 27, 2016, Governor Brown signed Assembly Bill 2299 ("AB 2299") and Senate Bill 1069 ("SB 1069") into law, both of which became effective on January 1, 2017. These two bills amended various sections of the State Government Code related to second dwelling unit regulations. The new laws regulate parking, type and size of units, approval process and timelines, and water and sewer utility requirements applicable to second dwelling units in an attempt to facilitate the creation of these units to assist with the housing crisis in the state.

Most importantly, the amended State Law invalidates a local agency's existing second unit ordinance if it does not comply with all of the requirements of the newly adopted state standards by the date in which these bills became effective (January 1, 2017). As such, the Planning and Community Development Department is proposing to amend the City's existing Second Dwelling Unit Ordinance (Section 17.50.275 of the Zoning Code) and other applicable sections in order to align with the amended state law, which will allow the City to continue to enforce the majority of the City's existing Ordinance. A more comprehensive review of the City's Second Dwelling Unit Ordinance as mandated by the Housing Element Implementation Program #13.2 is anticipated to start later this year.

BACKGROUND:

California Government Code Section 65852.2 requires local governments to use a ministerial (i.e. by-right) process for second dwelling unit applications, subject to reasonable development standards. As required, the City Council adopted the existing Ordinance (Zoning Code Section 17.50.275) in June 2004 to allow by-right approval of second dwelling units in all single-family residential zoning districts subject to certain criteria (e.g. minimum lot size requirement, owner-occupant requirement, various development standards such as size, setback, and height limits, etc.), except where prohibited by the Ordinance. The existing criteria were established to address concerns voiced from the public related to the potential for additional traffic, increased density, massing of development, privacy issues, and potential loss of neighborhood character and identity. The City's existing Ordinance is included as Attachment B to this report.

In the past several years, there have been considerable discussions throughout the state regarding a housing crisis in California, which is associated with rising housing costs and a shortage of affordable housing options. In recognition of these issues, AB 2299 and SB 1069 were signed into law on September 27, 2016, amending the existing State Law related to second dwelling unit regulations. The adopted provisions became effective on January 1, 2017.

ANALYSIS:

Amended State Law (Assembly Bill 2299 and Senate Bill 1069)

Together, AB 2299 and SB 1069 amended various sections of the California Government Code that regulates second dwelling units, making considerable changes to the ability of local municipalities to regulate such units. These changes can be categorized into four topic areas, which include parking, type and size of units, approval process and timelines, and water and sewer utility requirements. The notable provisions of AB 2299 and SB 1069 are as follows:

- Existing local second dwelling unit ordinances will become invalidated if not in full compliance with the requirements of the amended State Law by January 1, 2017;
- Replaces the term “Second Unit” with “Accessory Dwelling Unit”;
- An accessory dwelling unit can either be attached to the existing dwelling, located within the living area of the existing dwelling, or detached and located on same property as the existing dwelling;
- No parking can be required if an accessory dwelling unit meets specified criteria (i.e. proximity to a public transit stop, type of accessory dwelling unit, location within historic district, unavailability of a required on-street parking permit, and proximity to a shared car service);
- If an accessory dwelling unit does not qualify for parking exemption, only one parking space can be required for an accessory dwelling unit (does not have to be a covered space);
- No setback can be required for an existing garage that is converted into an accessory dwelling unit, and no more than five feet of side or rear yard setback can be required for an accessory dwelling unit constructed above an existing garage;
- Notwithstanding other applicable restrictions or standards, cities must approve applications to create an accessory dwelling unit without any restrictions (e.g. location and size of the lot) if the unit is located in a single-family zoning district, is contained within existing space of the existing residence or accessory structure, has independent exterior access, and side and rear yard setbacks are sufficient for fire safety; and
- An accessory dwelling unit cannot be considered as a new residential uses for the purpose of calculating utility charges, and cities cannot require a new or separate utility for certain types of units.

A detailed summary of the changes mandated by AB 2299 and SB 1069 is Attachment C, and the full text of Section 65852.2 of the Government Code as amended by AB 2299 and SB 1069 is Attachment D.

City's Existing Second Dwelling Unit Ordinance (Section 17.50.275 of the Zoning Code)

The City's existing Second Dwelling Unit Ordinance (Attachment A) established type, location, operational, and development standards for second dwelling units, which can be summarized as follows:

- Type of Unit: The City's existing Ordinance only recognizes detached second dwelling units; trailers and prefabricated housing are not permitted to be used as a second dwelling unit.
- Location Standards: Second dwelling units are permitted on any legal lot that is located within single-family residential zoning districts (RS) and is at least 15,000 square feet in size; however, second dwelling units are prohibited in Hillside and Landmark Overlay District. In addition, there must be a minimum distance of 500 feet is required between properties with second dwelling units.
- Operational Standards: Properties with a second dwelling unit must be owner-occupied. No more than 20 new accessory dwelling units are permitted per year, with no more than 200 new accessory dwelling units within a 10-year period.
- Development Standards: Second dwelling units are limited to 800 square feet in size, limited to one story (maximum 12 feet to the top plate and 17 feet to the highest ridgeline, and cannot exceed the height of the primary structure), must be located behind the rear building line of the primary residence. In addition, a minimum building separation of 6 feet or 10 feet is required, depending on whether there is a door or not, and no entry to a second dwelling unit can be visible from the public right-of-way. In terms of parking, two covered spaces are required per unit, overnight parking permits cannot be issued for a property with a second dwelling unit, and a second driveway is generally not permitted. Other than as specified above, second dwelling units are required to comply with all other development standards that apply to the primary residence.

In order to properly review the City's existing Ordinance and the newly amended State law, staff consulted with legal counsel specializing in housing-related matters. Based on the review conducted, while many existing provisions of the City's existing Ordinance still meet the intent of the State law as amended, the City's existing Ordinance does not fully comply with the newly amended State law as a whole. Particularly, the City's existing Ordinance is out of compliance related to types of units allowed as the City's existing Ordinance is more restrictive than what the State Law permits. Also, the City's existing parking standard applicable for second dwelling units exceeds the maximum requirement established by the State Law. Lastly, the minimum separation requirement between two properties with second dwelling units and the limit on the number of new second dwelling units per year and in 10-year period do not comply with State law.

Proposed Amendments to the Zoning Code

Because the City's existing Ordinance does not fully comply with the newly amended State Law, there is an immediate need to amend the City's existing Ordinance in order to retain the City's authority to continue to enforce the majority of the City's existing Ordinance. The following generally summarizes the changes proposed:

- The term "Second Dwelling Unit" will be replaced with "Accessory Dwelling Unit" throughout the Zoning Code;
- The definition of accessory dwelling unit will be modified to include both attached and detached units. The new definition will read: *"A residential dwelling unit that provides complete independent living facilities for one or more persons on the same parcel as a legal single family residence. An accessory dwelling unit may be attached to the existing dwelling unit, located within the existing space of the existing dwelling, or detached from the existing dwelling and located on the same lot as the existing dwelling. An accessory dwelling unit shall include permanent provisions that include, but are not limited to, living, sleeping, eating, cooking, and sanitation."*
- Trailers and prefabricated buildings would no longer be prohibited as second dwelling units;
- Accessory dwelling units contained entirely within the existing space of a single-family residence or accessory structure, which have independent exterior access and the side and rear setbacks are sufficient for fire safety would be allowed in all single-family zoning districts without any restriction, subject only to the specific standards established by the state law. In other words, such units will be allowed in all single-family zoned properties regardless of lot size or location;
- The minimum parking requirement for an accessory dwelling unit is reduced to one parking space in any form of covered, uncovered, or tandem on an existing driveway;
- No setbacks can be required for an existing garage that is converted into an accessory dwelling unit unless required for sufficient fire safety;
- When existing parking spaces (i e. garage or carport) for a primary dwelling unit are demolished in conjunction with the construction of an accessory dwelling unit, the replacement parking spaces for the primary dwelling unit can be provided in any form of covered, uncovered, tandem spaces, or by the use of mechanical automobile parking lifts;
- Accessory dwelling units are exempt from parking standards under the following circumstances: 1) the accessory dwelling unit is located within one-half mile of public transit stop; 2) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure; 3) When on-street parking permits are required

but not offered to the occupant of the accessory dwelling unit; or 4) when there is a commercial car share vehicle drop-off/pick-up located within one block of the accessory dwelling unit; and

- The minimum separation requirement between two properties with accessory dwelling units and the limit on the number of new accessory dwelling units per year and in 10-year period are no longer applicable.

Other Provisions in the City's Existing Ordinance

The majority of other existing provisions of the City's existing Ordinance, which were determined to be in compliance with the amended State Law, will remain in place as these provisions were originally established to address concerns voiced from the public related to various issues. These provisions include, but are not limited to: 1) minimum lot size requirement (15,000 square feet); 2) prohibition of second dwelling units in Hillside and Landmark Overlay Districts; and 3) maximum size (800 square feet). Only exception is that the lot size requirement and the prohibition within Hillside and Landmark Overlay Districts cannot be applied to new accessory dwelling units that are contained entirely within the existing space of a single-family residence or accessory structure, which have independent exterior access and the side and rear setbacks are sufficient for fire safety.

In addition, the City will be able to continue to enforce other regulations applicable to single-family neighborhoods including property maintenance and housing issues, which typically include issues such as parking (e.g. parking in the front yard in locations other than the driveway) and excessive noise.

Comprehensive Review of the City's Existing Second Unit Ordinance

The purpose of the proposed amendment to the City's existing Ordinance is to bring the City's Ordinance into compliance with the State Law, which will allow the City to continue to enforce the majority of the City's existing Second Dwelling Unit Ordinance. However, the City's Housing Element includes an implementation program that requires a comprehensive review of the City's existing Ordinance to evaluate feasibility of changes to the Ordinance to better facilitate development of such units (Implementation Program Objective #13.2), and work on this program objective is anticipated to begin later this year. Further amendments to the provisions of the City's existing Ordinance that are not changing at this time will be considered as part of a comprehensive public process associated with this work program.

REQUIRED FINDINGS:

In order to amend specific plans and the zoning code, the City Council is required to make certain findings as set forth in the Section 17.74.070.B of the PMC. As detailed in Attachment A (Findings of Consistency), the required findings can be made for the proposed amendment.

COUNCIL POLICY CONSIDERATION:

The proposed amendment to the specific plans and the Zoning Code furthers the goals and policies of the General Plan related to housing choices, adequate and affordable housing, neighborhood character, and housing diversity, as described in Attachment A (Findings of Consistency).

ENVIRONMENTAL ANALYSIS:

The proposed amendments to the Zoning Code are exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.17 and CEQA Guidelines Section 15061(b)(3), in that the proposed amendments are for an ordinance that is adopted to implement the provisions of Government Code Section 65852.2 and it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment. The proposed amendments are technical changes only and they do not entitle any development.

FISCAL IMPACT:


There is not a direct fiscal impact associated with the adoption of the proposed Zoning Code Amendment.

Respectfully submitted,



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Attachments (4)

- A – Findings of Consistency
- B – Existing Second Unit Ordinance (Section 17 50 275 of the Zoning Code)
- C - Detailed summary of the changes mandated by AB 2299 and SB 1069
- D - Full text of Section 65852 2 of the Government Code