Agenda Report

June 19, 2017

TO: Honorable Mayor and City Council

FROM: Planning & Community Development Department

SUBJECT: **ZONING CODE TEXT AMENDMENTS TO SECTION 17.50.275 TO REVISE THE CITY'S ACCESSORY DWELLING UNIT REGULATIONS**

RECOMMENDATION:

It is recommended that the City Council:

1. Acknowledge that the proposed Zoning Code text amendments are exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.17;

2. Adopt the Findings of Consistency (Attachment A);

3. Approve the proposed Zoning Code Amendments as contained in this report; and

4. Direct the City Attorney to prepare an ordinance within 60 days amending Title 17 of the Pasadena Municipal Code (Zoning Code) as presented in this report.

PLANNING COMMISSION RECOMMENDATION:

On May 24, 2017, the Planning Commission considered a series of proposed amendments to the City's existing accessory dwelling unit regulations, and voted to recommend the approval of the staff recommendation, with two additional modifications as follows:

1. The minimum lot size requirement applicable to accessory dwelling units created by adding new square footage be lowered to 5,000 square feet; and

2. Require that the size of detached accessory dwelling units be smaller than the existing primary dwelling.

In addition, the Planning Commission requested the ordinance language clearly state: 1) standards applicable to accessory dwelling units located within Landmark Overlay Districts are also applied to accessory dwelling units located within National Register Districts; 2) standards applicable to original windows and doors for accessory dwelling

units located within historic districts and individually designated properties are also applied to non-original windows and doors that previously replaced original windows and doors with an approval of a Certificate of Appropriateness; and 3) the difference between accessory structures and accessory dwelling units.

EXECUTIVE SUMMARY:

In January 2017, the City Council adopted a set of targeted amendments to the City's accessory dwelling unit regulations in order to comply with the recently amended state law. Among the actions taken in January, the City Council directed the Planning & Community Development Department to conduct a comprehensive review of the existing accessory dwelling unit regulations and return by end of June 2017 with potential revisions. Consistent with this direction, this report provides background on the State Law and the existing local regulations, and identifies proposed revisions, including expansion of the areas where accessory dwelling units can be constructed, along with provisions designed to reduce potential impacts to the single-family neighborhoods.

BACKGROUND:

State Law

Over the past several years, there has been considerable discussion throughout California regarding a state-wide housing crisis, rising housing costs, and a shortage of affordable housing options. One approach to address these issues includes facilitating the creation of accessory dwelling units as a way to increase housing supply. In recognition of these issues, State Law related to accessory dwelling units was amended in September 2016 through both AB 2299 and SB 1069, making considerable changes to the ability of local municipalities to regulate such units.

The most notable provisions of the amended State Law are as follows:

- Existing local accessory dwelling unit ordinances are invalidated if not in full compliance with the requirements of the amended State Law; and

- Accessory dwelling units created by converting existing space, or "Interior Accessory Dwelling Units," must be allowed in all single-family zoning districts without any restriction. As such, cities have no ability to limit where Interior Accessory Dwelling Units can be constructed, and no standard that may prevent one's ability to create such unit can be required.

In addition:

- For all accessory dwelling units, no parking can be required if an accessory dwelling unit is within half a mile of a public transit stop;

- If an accessory dwelling unit does not qualify for parking exemption, only one parking space or one space per bedroom can be required for an accessory dwelling unit (does not have to be a covered space);

- 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 do not have to be covered spaces; and

- 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.

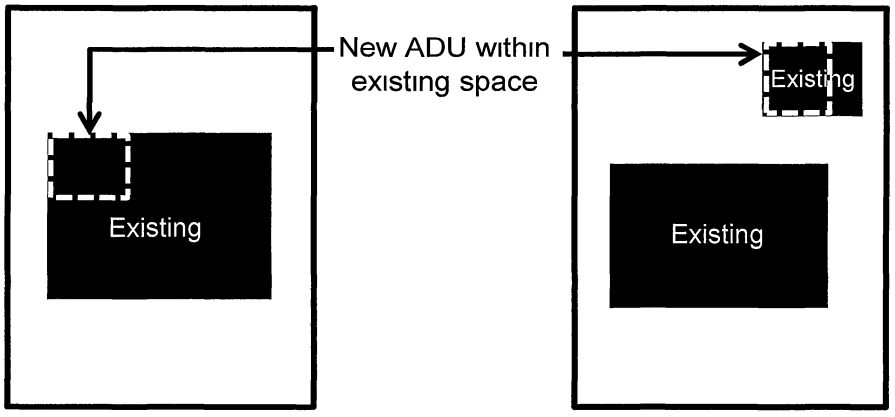
While State Law still authorizes local municipalities to adopt additional restrictions, they may do so as long as the additional restrictions do not conflict with the regulations established in the State Law. The full text of State Law (Section 65852.2 of the Government Code) is included as Attachment B.

City's Existing Accessory Dwelling Unit Regulations (Section 17.50.275 of the Zoning Code)

The City's original accessory dwelling unit regulations (previously known as second dwelling unit regulations) were adopted in 2004; however, the City Council adopted targeted changes to the City's 2004 regulations in January 2017 in order to bring them into compliance with the State Law. Below is a summary of the key provisions of the City's current regulations that reflect the targeted changes adopted by the City Council in January:

Accessory Dwelling Units Created by Converting Existing Space ("Interior Accessory Dwelling Units")

Figure 1: Interior Accessory Dwelling Units



- Type of Unit: Both attached and detached accessory dwelling units are permitted.

- Operational Standards: Properties with an accessory dwelling unit must be owner-occupied, accessory dwelling units cannot be sold separately from the primary dwelling unit, and accessory dwelling units created after January 1, 2017 have a minimum rental of more than 30 days. Property owners are required to record a covenant certifying compliance with these requirements.

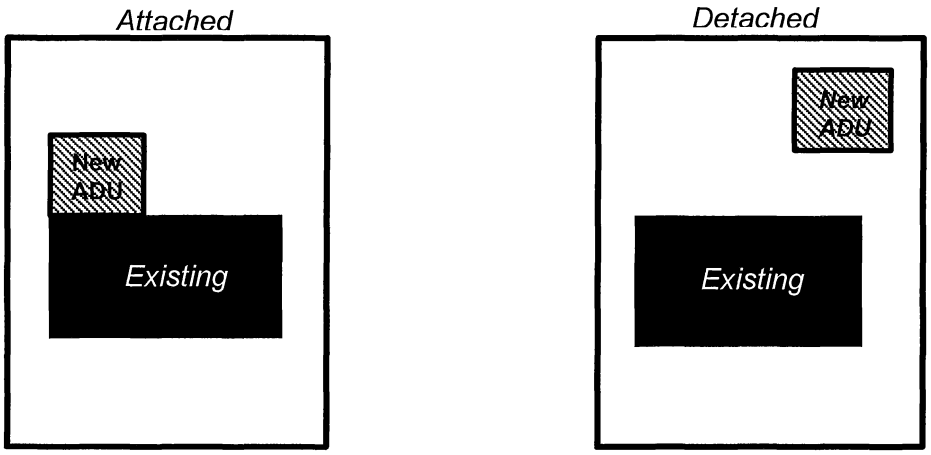
- Location Standards: Permitted on any lot that is located within any single-family residential zoning district (RS).

- Parking Standards: No additional parking space is required.

- Development Standards: Must provide an exterior door, and side and rear yard setback must be sufficient for fire safety. No other standards apply per State Law.

Accessory Dwelling Units Created by Adding New Square Footage ("Exterior Accessory Dwelling Units")

Figure 2: Exterior Accessory Dwelling Units



- Type of Unit: Both attached and detached accessory dwelling units are permitted.

- Operational Standards: Properties with an accessory dwelling unit must be owner-occupied, accessory dwelling units cannot be sold separately from the primary dwelling unit, and accessory dwelling units created after January 1, 2017 have a minimum rental of more than 30 days. Property owners are required to record a covenant certifying compliance with these requirements.

- Location Standards: Permitted on any lot that is at least 15,000 square feet in size and is located within any RS zoning district that is not part of a Hillside or Landmark Overlay District.

- Parking Standards: One parking space in any form of covered, uncovered, or tandem on an existing driveway is required per unit unless the property meets established criteria for exemption (e.g proximity to public transit stops and commercial car share vehicle drop-off/pick-up location).

- Development Standards: The unit size is generally limited to 800 square feet in size and 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) unless such accessory dwelling unit is attached to an existing two-story primary dwelling. In addition, a minimum building separation of six or 10 feet is required, depending on whether there is a door facing a wall of another structure or not, and no entry to an accessory dwelling unit can be visible from the public right-of-way. Other than as specified above, this type of accessory dwelling unit is required to comply with all other development standards that apply to the primary residence.

The City's existing accessory dwelling unit regulations, Section 17.50.275 of the Zoning Code, is included as Attachment C. It should be noted that many provisions of the City's existing regulations (e.g. parking requirements, location where Interior Accessory Dwelling Units are permitted and certain setback requirements) cannot be changed as they are mandated by the State Law.

Existing Accessory Dwelling Units in the City

Between 2004 and 2016, a total of two building permits for accessory dwelling units were approved and constructed. Since the beginning of 2017, the City received four accessory dwelling unit applications, two of which were subsequently withdrawn.

A more challenging task involves documenting the legally non-conforming accessory dwelling units in the City. It is estimated that there are approximately 740 properties in RS-zoned districts that currently consist of two dwelling units according to the data from the Los Angeles County Assessor's Office. A map depicting these properties is Attachment D. However, it should be noted that not all of these 740 properties are developed with a legally non-conforming accessory dwelling unit. It is likely that many of these properties are developed with a legally non-conforming duplex since a number of the existing single-family zoned properties were down-zoned from a multi-family zoning district in the past. In support of this assertion, the Los Angeles County Assessor's Office does not distinguish between accessory dwelling units and duplexes. In addition, it is possible there may be other legally non-conforming accessory dwelling units or duplexes that are not captured in this estimate.

There are also a number of additional properties that have an unpermitted accessory dwelling unit. However, since these units were constructed without an approval from the City and are not reported to the Los Angeles County Assessor's Office, there is no database that can be utilized to accurately determine the total number of such units. According the City's Code Compliance Division, there are 25 active code compliance cases involving unpermitted conversion of existing space into a dwelling unit as of May 26, 2017.

Community Meetings

As part of the current work program to amend the accessory dwelling unit regulations, city staff solicited public input at two community meetings attended by approximately 80

people. Since the State Law significantly limits the local municipalities' ability to regulate Interior Accessory Dwelling Units, which are accessory dwelling units created by converting existing space, the main focus of the community meetings was to gather public input on potential changes related to development standards that currently apply to Exterior Accessory Dwelling Units, which are accessory dwelling units created by adding new square footage.

The majority of the public comments received indicated support for adopting less restrictive standards for accessory dwelling units by lowering the maximum lot size requirement, allowing accessory dwelling units in Hillside and Landmark Overlay Districts, and multi-family zoning districts under certain conditions, increasing the maximum unit size, and allowing second-story accessory dwelling units. However, there were also comments received in opposition to adopting less restrictive standards based on concerns related to the preservation of single-family neighborhoods. Other additional comments received included concerns related to enforcement of the required operational standards (e.g. owner-occupant requirement, short-term rental prohibition), the Residential Impact Fee, and the impact of accessory dwelling units on housing supply and affordable housing. A more detailed summary of public comments is Attachment E.

ANALYSIS:

Proposed Amendments

As previously mentioned, recently amended State Law significantly restricts the ability of local municipalities to regulate accessory dwelling units. Based on a review of State Law, Cities do have an ability to regulate accessory dwelling units that are created by adding new square footage, or Exterior Accessory Dwelling Units. As such, the majority of the proposed changes pertain to Exterior Accessory Dwelling Units.

The proposed amendments aim to facilitate the creation of accessory dwelling units to provide additional housing opportunities as intended by the State Law by significantly expanding areas where accessory dwelling units can be constructed while providing appropriate standards and limitations as allowed by the State Law to maintain the character of the single-family neighborhoods. In addition, the proposed amendments are consistent with the City Council direction from the January 30, 2017 meeting where the staff was directed to return with comprehensive amendments that would facilitate production of accessory dwelling units, including changes in the minimum lot size requirement.

In considering potential changes, staff considered the public comments received at the community meetings (Attachment E), other local municipalities' accessory dwelling regulations (Attachment F), and property profiles of existing residential districts in the City. A full summary of the proposed changes is included as Attachment G.

Location Requirement for Detached Exterior Accessory Dwelling Units

- *Minimum Lot Size*
  (Existing: 15,000 square feet / Proposed: 5,000 square feet)

  The existing minimum lot size requirement of 15,000 square feet is very restrictive, as only 3,073 out of 20,331 (15 percent) RS-zoned properties in the City are 15,000 square feet in size or larger. When taken with other location prohibitions of Exterior Accessory Dwelling Units, including restrictions in the Hillside and Landmark Districts, only 1,275 out of 20,331 (six percent) of the City's single family properties are eligible to construct an Exterior Accessory Dwelling Unit. As such, the majority of the public comments received at the community meeting supported establishing lower minimum lot size requirement, which ranged from 5,000 square feet to 10,000 square feet.

  In order to establish a new minimum lot size requirement that is appropriate for the City and consistent with the intent of State Law, staff analyzed minimum lot size requirements of other municipalities, along with property profiles of Pasadena. A 10,000 square-foot minimum was analyzed, but it was determined that it would not be consistent with the intent of the State Law as only 35 percent of RS-zoned properties fall under this category.

  Staff research of other local municipalities' accessory dwelling unit regulations indicated that the minimum lot size requirements for accessory dwelling units in other municipalities were generally consistent with the minimum lot size required of a typical single-family zoning district in respective municipalities. As such, staff originally recommended that 7,200 square feet, which is the minimum lot size required for new properties in the RS-6 zoning district, be established as the new minimum lot size requirement for Exterior Accessory Dwelling Units for Pasadena; more than 75 percent of RS-zoned properties are located in RS-6 zoning district.

  However, the Planning Commission voted to further reduce the minimum lot size requirement for Exterior Accessory Dwelling Units to 5,000 square feet because there is a significant number of RS-zoned properties that currently do not meet the 7,200 square feet minimum lot size requirement (approximately 5,373 properties, or 26 percent of all RS-zoned properties – Attachment H). While not necessarily concentrated geographically, many of these properties are located in parts of the City where concerns related to displacement of long-term residents have been paramount due to rise in housing cost and limited income associated with an aging demographic, as expressed at community meetings. In addition, there were a number of comments received at both the community meetings and the Planning Commission meeting supporting a minimum lot size requirement of 5,000 square feet to be as inclusive as possible (approximately 94 percent of RS-zoned properties are 5,000 square feet or larger).

  For these reasons, the minimum lot size requirement for Exterior Accessory Dwelling Units is proposed to be 5,000 square feet.

- *Base Zoning*
  (Existing: RS zones / Proposed: RS and RM zones with one unit)

  The primary intent of the State Law is to allow one accessory dwelling unit per single-family property. In order to ensure orderly development of accessory dwelling units as mandated by the State Law while protecting the character of the single-family neighborhoods from any additional density beyond two units per property, it is proposed that accessory dwelling units be only permitted on RS-zoned properties that are either vacant or consist of one single-family home. Any legally non-conforming RS-zoned properties that currently consist of two or more residential units will not be permitted to construct an additional accessory dwelling unit, but the owner may apply to make the legally non-conforming unit into a legal accessory dwelling unit if all the required standards for accessory dwelling units can be met. An unpermitted accessory dwelling unit may be made into a legal unit by complying with the applicable regulations.

  In addition, because there are a number of Multi-Family zoned properties (RM-12, RM-16, RM-16-1, RM-32, and RM-48) that consist of only one single-family home, accessory dwelling units are proposed to be permitted on such properties. This is deemed appropriate since the Zoning Code recognizes such properties as single-family residential uses, and requires that these properties be developed subject to the development standards applicable to RS-6 Zoning District.

- *Landmark Overlay District*
  (Existing: not permitted / Proposed: permitted in both Landmark and other historic districts, such as State and National Register Districts, if not visible)

  Landmark Overlay Districts are areas that were determined to be historically significant at the local level. There are a total of 21 Landmark Overlay Districts in residential districts (not including new districts pending codification), totaling approximately 2,941 properties, of which 2,694 properties are 5,000 square feet or larger.

  In Landmark Overlay Districts, along with other State and National Register Districts, a discretionary permit ("Certificate of Appropriateness") is required for any exterior alterations, additions, and new construction that is visible from a public right-of-way to ensure that these proposed changes are compatible with the character of the individual property and/or historic district and that significant historic structures are preserved. New constructions, additions, and alterations are permitted without a design review in Landmark Overlay Districts and other historic districts today as long as they are consistent with the development standards of underlying Zoning Districts and not visible from the public right-of-way. In addition, there are a number of individually designated properties (e.g. historic landmarks, historic monuments, Greene & Greene, etc.), where a Certificate of Appropriateness is required for any type of alteration, addition, and new construction (includes interior renovations if the

property is designated as a historic monument or Greene & Greene), regardless of whether or not it is visible from the public right-of-way.

Under the existing regulations, Exterior Accessory Dwelling Units are not permitted on properties located within Landmark Overlay Districts. The same prohibition has been applied to State and National Register Districts by Zoning Code interpretation. While there was some support for the current prohibition in Landmark Overlay Districts, a majority of the public input received at the community meetings suggested that Exterior Accessory Dwelling Units are consistent with the original development pattern of many of these districts and therefore should be allowed subject to appropriate design review for historic compatibility.

Based on a significant number of RS-zoned properties in the existing Landmark Overlay Districts (approximately 14 percent of all RS-zoned properties) and the existing development pattern of such districts (approximately 11 percent of the properties within Landmark Overlay Districts already consist of two or more units), allowing Exterior Accessory Dwelling Units within these districts may be appropriate if compatibility with the respective historic districts can be ensured with proper design review. However, the Certificate of Appropriateness, which is a discretionary permit, cannot be required for accessory dwelling units per State Law which mandates that all accessory dwelling units be processed ministerially.

Therefore, it is proposed that Exterior Accessory Dwelling Units be permitted in Landmark Overlay Districts and other historic districts (i.e. State and National Register Districts) as long as such units are not visible from the public right-of-way and therefore not subject to a discretionary review process. This is consistent with the existing threshold for a Certificate of Appropriateness, since projects that are not visible from the public right-of-way are not subject to the City's design review. It should be noted that Exterior Accessory Dwelling Units will not be permitted on individually designated properties as all exterior improvements, whether visible or not visible from the public right-of-way, requires a Certificate of Appropriateness review.

The proposed changes related to the location requirements for Exterior Accessory Dwelling Units will expand the number of properties eligible to construct a new Exterior Accessory Dwelling Unit in RS-zoned properties from 1,275 properties to 13,320 properties, which is an increase from six percent to 66 percent (additionally, approximately 1,759 RM-zoned properties will be eligible to construct a new Exterior Accessory Dwelling Unit). A map comparing the areas where new Exterior Accessory Dwelling Units are currently and proposed to be permitted is included as Attachment I.

Maximum Unit Size
(Existing: 800 sq. ft. / Proposed: lesser of 800 sq. ft. or the primary dwelling unit)

The City's existing regulations limit the size of an Exterior Accessory Unit to 800 square feet, while State Law permits local municipalities to allow as high as 1,200 square feet. A number of public comments received at the community meetings urged the City to

utilize the size allowed by the State Law and increase the maximum unit size to 1,200 square feet.

Establishing appropriate size and scale limitations for accessory dwelling units is important as the size and scale of any structure on a lot plays a crucial role in the character of the neighborhood and may impact the privacy of adjacent properties. As the term suggests, accessory dwelling units are intended to be accessory to the primary residence and should be clearly subordinate to the main home (i.e. size of the unit is approximately 50 percent of the existing primary dwelling or less).

For this reason, many local municipalities adopted a maximum unit size that is lower than 1,200 square feet, ranging from 500 to 800 square feet (see Attachment F). Some cities have adopted a maximum unit size that is proportional to the lot size or the size of the existing primary residence to respect varying neighborhoods. Further, in many instances a 1,200 square-foot accessory dwelling unit would not be subordinate to the primary structure in Pasadena; the majority of residences (more than 75 percent) on the RS-zoned properties in the City consist of an existing primary dwelling unit that is smaller than 2,400 square feet.

In addition, the median house size for the properties located within the typical single-family residential zone (RS-6 zoning district) that are at least 5,000 square feet is approximately 1,570 square feet. For these reasons, the current maximum size of 800 square feet, which is approximately 51 percent of the median house size for properties that are at least 5,000 square feet in a typical residential district, is appropriate. This restriction will generally ensure that Exterior Accessory Dwelling Units are subordinate and accessory to the primary dwelling. Limiting the size of Exterior Accessory Dwelling Units to 50 percent of the primary dwelling unit will further restrict the size of Exterior Accessory Dwelling Units to below 800 square feet because many existing homes in the City are less than 1,600 square feet. Therefore, staff originally recommended maintaining the maximum unit size of Exterior Accessory Dwelling Units at 800 square feet.

Consistent with the staff recommendation, the Planning Commission voted to maintain the existing maximum unit size of 800 square feet for Exterior Accessory Dwelling units; however, the Planning Commission additionally recommended that in no case the size of the Exterior Accessory Dwelling Units be allowed to be larger than the existing primary dwelling. Including such provision ensures that Exterior Accessory Dwelling Units are smaller than the primary dwelling unit, including ones that may be unusually small.

Minimum Unit Size for Exterior Accessory Dwelling Units
(Existing: none / Proposed: 150 square feet)

The City's existing regulations currently do not specify a minimum size for accessory dwelling units. In order to ensure development of properly sized accessory dwelling units, it is proposed that a minimum unit size of an accessory dwelling unit be

established in compliance with the State Law, which is 150 square feet (an efficiency unit, as defined in Section 17958.1 of Health and Safety Code).

Setbacks for Detached Exterior Accessory Dwelling Units
(Existing: same as primary residence / Proposed: may encroach into side and rear setbacks)

Exterior Accessory Dwelling Units are required to comply with most of the development standards that apply to the primary residence, which includes rear yard setback requirement of 25 feet. While this requirement is reasonable for Exterior Accessory Dwelling Units that are attached to the primary residence, it may hinder the ability to construct an Exterior Accessory Dwelling Unit that is detached from the primary residence. Since the existing Zoning Code allows detached accessory structures such as pool houses, detached garages and carports to be placed as close as two feet from rear and side property lines under certain circumstances (at least 100 feet from the front property line or entirely with the rear 25 feet of the property, and in compliance with an established encroachment plane standard), it is proposed that this alternative setback requirement applicable to detached accessory structures be applied to detached Exterior Accessory Dwelling Units.

Windows and Doors for Interior Accessory Dwelling Units located within Historic Districts
(Existing: none / Proposed: original windows and doors must be retained to reasonable extent)

The State Law requires local municipalities to permit Interior Accessory Dwelling Units in all single-family zoned properties, regardless of whether the property is located within a historic or a hillside district. Also, local municipalities cannot require any standards that may prevent the ability to create such a unit. Even though Interior Accessory Dwelling Units in general would typically involve minimal exterior changes as they are created by converting an existing space, there would be cases where historic windows and/or doors may need to be modified.

In order to reduce potential negative impacts that new Interior Accessory Dwelling Units may have on historic districts, it is proposed that the original windows and doors (including openings and garage doors) on contributing properties to Landmark and other historic districts that are visible from the public right-of-way, including non-original windows and doors that previously replaced original windows and doors with an approval of a Certificate of Appropriateness, be retained unless this requirement prevents the creation of such units (e.g. non-compliance the required Building and/or Fire Code). For individually designated properties, this requirement will apply to all original windows and doors regardless of their location. This is consistent with the existing threshold for a Certificate of Appropriateness, as previously explained. It should be noted that such standard is not necessary for Exterior Accessory Dwelling Units since such units are permitted in historic districts only if they are not visible from the public right-of-way, and are not permitted on individually designated properties.

Location of an Entry Door
(Existing: not visible / Proposed: not on same façade as primary residence)

Currently, the entry door of an accessory dwelling unit is not permitted to be visible from the public right-of-way. Similar provisions exist in other local municipalities in an effort to maintain the single-family neighborhood character, as two separate entry doors being visible from a street is a traditional characteristic of a duplex. However, concerns raised at community meetings expressed that it is an unnecessary requirement that may hinder the ability to construct an accessary dwelling unit depending on the site conditions.

Because Exterior Accessory Dwelling Units are typically set back significantly from the front property line as they are located in the rear of a property, the visual impact of an entry door of such units is relatively low even if it is facing the street. However, attached accessory dwelling units may be located closer to the street, so the visual impact of an entry door of these units could potentially be more significant in altering the single family character of the neighborhood. Therefore, it is proposed that this provision be modified so the entry door to an attached Exterior Accessory Dwelling Unit is not on the same façade as the entry door to the primary dwelling. In addition, the same standard will apply to attached Interior Accessory Dwelling Units, to the extent that this requirement would not prohibit creation of such units.

Building Separation
(Existing: six feet and ten feet / Proposed: six feet)

Currently, the minimum required distance between an Exterior Accessory Dwelling Unit and the primary residence is six feet, measured eave to eave, except that ten feet, also eave to eave, is required when the entry door of the unit faces the wall of another structure on the property. Staff proposes to simplify this requirement by maintaining the six foot minimum separation in all cases, regardless of the location of the entry door. This standard is consistent with the distance separation requirements for all other accessory structures (e.g. detached garages, gazebos, etc.).

Other Items Considered but No Change Recommended:

- *Prohibition in Hillside Overlay District*

  Areas within the Hillside Overlay District are often characterized by significant topographical variations, streets of substandard width, and a large amount of natural vegetation. Impacts of new construction often pose concerns in hillside neighborhoods, particularly related to impacts on potential traffic congestion, availability of parking, grading associated with new construction, and damage to roadways. Also, construction in hillside areas can have impacts on public safety due to construction vehicles and machinery traversing narrow hillside streets. Hillside areas also have a higher fire and natural disaster risk, since many streets within Hillside Overlay Districts are considered "substandard" due to their narrow width, which poses challenges in providing timely emergency access.

In recognition of this, the City requires a discretionary permit approval ("Hillside Development Permit") for any new houses and additions of certain size. The purpose of this review process is to ensure that the proposed developments in the Hillside Overlay District are consistent with the intent of the district, which is to preserve significant natural topographic features and minimize developmental impacts to topography, maintain and protect natural resources such as flora and fauna, wildlife habitats, and mature trees, prohibit features that would create or increase safety hazards such as fire, floods, and landslides, and avoid residential densities that would require extensive grading or generate extensive traffic. Such review cannot be required of accessory dwelling units, as all reviews must be ministerial.

Therefore, the existing regulation prohibiting new Exterior Accessory Dwelling Units within the Hillside Overlay District is proposed to remain in place based on potential public safety concerns associated with unique site conditions present on the majority of areas within the Hillside Overlay District as allowed by the State Law, which include narrow and winding streets, unavailability of on-street parking, overdevelopment and grading, and steep slopes.

- *Second Story Accessory Dwelling Units and Increase in Height Limit*

Second story Exterior Accessory Dwelling Units are currently not permitted in the City, unless the Exterior Accessory Dwelling Unit is attached to an existing two-story primary dwelling. The height limit for a detached Exterior Accessory Dwelling Unit is 17 feet at the highest point and 12 at the top plate (where the roof meets the exterior walls). For comparison, detached accessory structures (e.g. pool house, work shed, etc.) are limited to one-story in height, with a maximum height of 15 feet at the highest point and nine at the top plate.

A number of comments received at the community meetings requested the City allow Exterior Accessory Dwelling Units to be constructed above detached non-habitable accessory structures as well as single-story residences. Some of the comments also requested increase in height limit to accommodate second story accessory dwelling units. Other comments suggested that two story detached accessory structures were appropriate if the primary structure was already two stories.

Allowing two-story Exterior Accessory Dwelling Units has the potential to create a number of negative impacts, including view obstruction and privacy issues. State Law prohibits local cities from requiring a side and rear setback of more than five feet for accessory dwelling units constructed over a garage; therefore, if an Exterior Accessory Dwelling Unit is permitted to be constructed over a detached structure, the City could not impose the same setback and encroachment plane requirements that apply to the primary residence, resulting in negative impacts related to view obstruction and privacy of adjacent properties since detached structures are typically located close to the side and rear property lines.

As noted above, the City's existing Zoning Code already recognizes this issue by limiting the height of all detached accessory structures to one story. Also, allowing an attached Exterior Accessory Dwelling Unit on a property with a single-story primary dwelling may not conform to the idea of it being "subordinate" to the main house. Lastly, as noted above, the current height limit applicable to detached Exterior Accessory Dwelling Unit is already higher than what is allowed for detached accessory structures. Therefore, in order to preserve traditional single-family neighborhood characteristics, staff does not recommend permitting second-story accessory dwelling units above non-habitable detached accessory structures, nor above an existing one-story house.

Residential Impact Fee

At the community meetings, concerns were raised regarding the Residential Impact Fee and its potential as a disincentive to construct accessory dwelling units. The Residential Impact Fee was established in 1988 (Chapter 4.17 of the Pasadena Municipal Code) to provide funds for City parks and park facilities to mitigate impact of new residential development. This fee applies to all new residential development in the City, including accessory dwelling units, and is calculated based on the number of bedrooms per unit. The current fee rate for a one-bedroom dwelling unit is $18,979.88, and only affordable housing residential developments qualify to receive a reduction.

Given the relatively high amount of this fee, it was expressed that it could deter many homeowners from pursuing construction of an accessory dwelling unit, and a waiver or a significant reduction should be given to accessory dwelling units if the City's intent is to facilitate creation of such units. Planning & Community Development Department staff is currently working with the Public Works Department, the Department that implements this fee, to craft a waiver or a reduction in the Residential Impact Fee.

Other Items Requested by City Council

As part of the motion adopted on January 30, 2017 related to the comprehensive review of the accessory dwelling unit regulations, the City Council directed staff to: 1) review the existing two-car covered parking requirement; 2) explore creation of a pre-approved set of accessory dwelling unit plans; and 3) provide guidelines on how to address unpermitted existing units.

Two-Car Covered Parking Requirement

The City's Zoning Code currently requires all new single-family developments to provide two-car covered parking spaces per unit (i.e. garage, carport), and the existing single-family developments without two-car covered parking spaces are required to comply with this requirement if an addition of more than 150 square feet is proposed. At the January 30, 2017 meeting, there was a concern raised by a member of public regarding this requirement, stating that such a requirement has an unfair impact on properties of smaller size because it limits the development capacity of such properties and therefore

is discriminatory.

Since the proposed amendments are associated with the City's accessory dwelling unit regulations, staff reviewed the potential impact of the two-car covered parking requirement on development of accessory dwelling units. The review of the existing State mandate shows that there is sufficient flexibility needed to construct such units since at most only one uncovered parking space can be required of an accessory dwelling unit, which can also easily be exempted. In most parts of the City, no parking is required for new accessory dwelling units per the established exemption criteria (i.e. within half mile of a public transit stop).

In addition, even though the City's existing regulations require existing on-site parking spaces be replaced if they are eliminated to construct an accessory dwelling unit, the State requires local municipalities to allow the replacement parking spaces to be in any form (i.e. uncovered, tandem on a driveway). For these reasons, it is determined that the existing two-car covered parking requirement for single-family residential properties do not have a significant impact on potential development of accessory dwelling units.

Pre-approved Accessory Dwelling Unit plans

The Planning & Community Development Department is currently in the process of developing a list of potential consultants that could aid the City to design pre-approved accessory dwelling unit construction plans. It is anticipated that the procurement of needed consultant services for this work effort will be finalized after the proposed amendments to the accessory dwelling unit regulations are approved.

Guidelines for Unpermitted Units

Currently, an unpermitted accessory dwelling unit may be made a legal unit by complying with the applicable regulations. Persons who desire to legalize such units must submit all required plans for a plan check process, at which time all respective City departments will review the submitted plans for compliance with all applicable regulations (i.e. Building Code, Fire Code, and Zoning Code). After the plan check is approved and all required fees are paid, a building permit is issued and the subsequent process would follow, which includes required inspections and issuance of Certificate of Occupancy. Detailed information of the plan check process and various informational handouts can be obtained at the Permit Center or on the City's website (www.cityofpasadena.net/PermitCenter/Permit_Information/).

In order to provide additional information to the public, it is the intent of the Planning & Community Development Department to develop a comprehensive informational handout related to development of accessory dwelling units, including the pre-approved accessory dwelling unit plans mentioned above and guidelines to legalize unpermitted units. It is anticipated that preparation of such document will be finalized after the proposed amendments to the accessory dwelling unit regulations are approved.

REQUIRED FINDINGS:

In order to amend the Zoning Code, a proposed amendment must be: 1) in conformance with the goals, policies, and objectives of the General Plan, and 2) not detrimental to the public interest, health, safety, convenience, or general welfare of the City. It is the staff recommendation that the necessary findings can be made, and are included in Attachment A.

COUNCIL POLICY CONSIDERATION:

The proposed amendment to the Zoning Code furthers the goals and policies of the General Plan related to housing choices, compatibility, scale and character of new construction in a designated landmark and historic districts, adequate and affordable housing, neighborhood character, housing character and design, appropriate scale and massing, garages and accessory structures, neighborhood character, housing diversity, and the Implementation Program 13.2 of the Housing Element, as described in Attachment A (Findings of Consistency).

ENVIRONMENTAL ANALYSIS:

Under California Public Resources Code (CPRC) Section 21080.17, California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implement the provisions of Section 65852.2 of the Government Code, which is State accessory dwelling unit law. Therefore, the proposed Zoning Code text amendments to the City's accessory dwelling unit regulations are statutorily exempt from the CEQA in that the proposed amendments consists of provisions that further implements the state accessory dwelling unit law.

FISCAL IMPACT:

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

Respectfully submitted,

DAVID M. REYES
Director of Planning & Community
Development Department

Prepared by:

Joanne Hwang
Planner

Reviewed by:

for
Arthi Varma, AICP
Principal Planner

Approved by:

STEVE MERMELL
City Manager

Attachments (9)

A Findings of Consistency
B Full Text of Government Code Section 65852 2
C Section 17 50 275 of the Zoning Code (Existing)
D Map – RS-Zoned Properties with two Units on a Lot
E Summary of Comments Received at the Community Meetings
F Summary of Other Cities' Accessory Dwelling Unit Regulations
G Summary of Proposed Changes
H Map – RS-Zoned Properties that are smaller than 7,200 square feet
I Map – Where Exterior Accessory Dwelling Units are Currently and Proposed to be Permitted