DATE: July 22, 2019

SUBJECT
Changes to the Accessory Dwelling Unit (ADU) Requirements in the Zoning Ordinance (Articles 33, 36, 37, 45)

RECOMMENDATION
Waive the first reading and introduce Zoning Ordinance Amendments limiting the impacts of Accessory Dwelling Units (ADUs) built over detached garages, incentivizing one-story ADUs, and making other miscellaneous amendments; and

OPTION: The City Council may also consider adoption of an urgency ordinance (effective immediately) for the Zoning Ordinance Amendments limiting the impacts of Accessory Dwelling Units (ADUs) built over detached garages, incentivizing one-story ADUs, and making other miscellaneous amendments. (Requires an affirmative vote of six (6) Councilmembers)

STRATEGIC INITIATIVE
Housing

BACKGROUND
On October 26, 2015, the City Council amended the Accessory Dwelling Unit (ADU) regulations, easing restrictions and encouraging the creation of more accessory dwelling units in residentially-zoned areas of Redwood City. These amendments were in response to the affordable housing shortage and the longstanding difficulty in creating accessory dwelling units under the original ordinance. The ADU ordinance has been recognized as an important tool that can address affordable housing issues and support multigenerational living. ADUs also create more options for increasing affordable housing stock in existing residential areas while preserving neighborhood character.

In September 2016, the State legislature passed new bills requiring cities to ease restrictions on Accessory Dwelling Units (ADUs). The intent of the State law was to reduce barriers and streamline approvals to accommodate the development of ADUs. These rules reduce parking requirements, allow garage conversions by right, and prohibit setbacks of more than 5 feet for ADUs constructed on top of detached garages.
garages. The City Council amended the Accessory Dwelling Unit Ordinance and made consistency changes to other sections of the code on March 27, 2017 to comply with the State law and retain local control where possible. Construction of ADUs has increased since City code amendments were implemented (See Table 1).

![Figure 1 – New ADU Applications](image)

Since these amendments have taken effect, staff has heard concerns about the impacts of second-story ADUs constructed over detached garages. Neighbors have expressed concerns about the proximity of second-story ADUs above garages to property lines and the ability to look into neighboring yards. These concerns also include privacy, shadowing, mass, and the potential impacts that new two-story rear yard structures would impose on neighborhood character. Some members of the public have requested a ban on second story ADUs over garages, reduction in second story height limits, or a limit on the size of second story ADUs above garages.

The State legislature is currently reviewing proposed legislation related to ADUs, which if passed, would require the City to update the ADU Ordinance in the near future to remain compliant with State law. New legislation could further affect the City’s ability to regulate ADU development. For example, SB13 would prohibit replacement parking when a garage is demolished or converted for ADU construction and would prohibit owner-occupancy requirements. City staff will continue to follow ADU legislation and its possible effects on Redwood City.

**Planning Commission Hearing and Summary of Recommendations**

On May 21, 2019 and June 18, 2019, the Planning Commission reviewed staff’s recommendations to address neighborhood character, privacy concerns, and barriers to ADU construction. The Planning Commission adopted staff’s recommendations summarized in the bullet points below, and asked staff to study additional issues that are addressed later in this report:
Second Story ADUs:
- Reduce maximum heights for second-story ADUs above detached garages from 28 ft. to 20 ft. to limit height and mass, and to keep units secondary to the single-family home.
- Limit portions of the ADU above garages to 280 sq. ft.
- Prohibit all balconies and second-story decks on detached ADUs.
- Restrict exterior stairs facing immediately adjacent neighbors.
- Require opaque or clerestory windows when facing immediately adjacent side and rear neighbors.
- Prohibit roof decks above accessory structures.

One-Story ADU Incentives:
- Reduce single-story rear setbacks from 10 ft. to 6 ft. to increase ADU production.
- Exempt ADUs from a 50% rear lot coverage requirement to increase buildable footprint in the rear yard.
- Allow replacement of detached garages into ADUs to ensure that new structures comply with setbacks, and to prevent two-story structures in the rear yard.
- Increase ADA maximum size from 800 sq. ft to 1,000 sq. ft. in order to incentivize construction.
- Exempt one-story ADUs from the Hillside Ordinance to reduce further barriers to ADU construction.

ANALYSIS
The Planning Commission is recommending amendments that implement two strategies to address neighbor concerns:

1. Limit the size, height, and potential neighborhood impacts of two-story ADUs over garages
2. Incentivize construction of one-story ADUs

Second Story Detached ADUs
While the state ADU law (Government Code Section 65852.2) could be worded more clearly, staff interprets it as mandating that Redwood City allow construction of second story ADUs with 5 ft. side and rear setbacks above a garage, including existing detached garages with nonconforming setbacks. However, State law does not stipulate maximum height, maximum square footage, or privacy guidelines for second story ADUs, so that cities may tailor these regulations to fit local values, provided that the regulations do not prohibit or unreasonably burden ADU construction.

Limiting Maximum Height of ADUs above Detached Garages
In Redwood City, detached one-story ADUs are limited to 14 ft. in height while a second story ADU above a garage is allowed with a maximum height of 28 ft. (consistent with single-family homes). Some of the factors that determine the height of a structure include lot slope, drainage slope, floodplain, foundation systems, garage ceiling heights, ceiling joist thickness, building code requirements for habitable space ceiling heights, and roof slope (See Figure 2). Most second story ADUs could be constructed within a maximum allowable height of 20 ft. to 24 ft. with standard 8 ft. plate heights.
The Planning Commission recommends limiting maximum allowable height to 20 ft. with 8 ft. maximum floor plate height. Limiting maximum heights to 20 ft. would still allow ADU construction above a garage, but may necessitate a flat or shallow-pitched roof and could result in architectural style incompatibility with the main home, especially with respect to roof form. To date, the shortest proposed ADU above a garage has been 20’-7” and the median height for proposed ADUs above garages has been 23’-6”.

The City will review ADU architectural design as part of the City’s study of “Residential Design Guidelines” to develop best design practices to mitigate visual impacts and architectural style incompatibilities. Community outreach on the design guidelines will begin this summer, and staff expects to bring recommendations for City Council consideration in early 2020.

Limiting Maximum Floor Area of ADUs above Detached Garages
Currently, a second story of an ADU above a detached garage has the same maximum allowable square footage as an ADU constructed entirely on the ground floor (700 square feet). Some recent applications have proposed large detached garages to support a 700 sq. ft. second-story ADU above. The community has expressed concern that these structures are overly bulky and out of scale with the neighborhood.

The Planning Commission recommends limiting portions of ADUs above detached garages to 280 sq. ft. A 280 sq. ft. unit above a garage could provide sleeping quarters, cooking facilities, and a full bathroom for a single person; however, it would not provide sufficient room for families or multiple people. The remaining allowable floor area beyond 280 sq. ft. (up to a maximum of 700 sq. ft.) would be built on the ground floor, resulting in a split-level ADU (see Figure 3). Split-level construction is feasible and is typically associated with one-car garages.

As described below in the Consistency with State Law section, the State of California Department of Housing and Community Development (HCD) indicates that maximum unit sizes under 500 square feet would generally be considered burdensome. The State has not indicated that a uniform square footage is required for detached one-story ADUs and second story ADUs above detached garages. HCD’s
recommended minimum 500 square foot unit size is feasible through either split-level or single story construction, up to the City’s current maximum ADU size of 700 sq. ft.

Figure 3 – Split Level ADU

Additional Restrictions for ADUs over Detached Garages
The City does not have regulations to address privacy for upper story development in the rear yard; however, the City can impose development standards and architectural guidelines, which could address these neighborhood concerns. The Planning Commission is recommending the following to address neighborhood concerns:

- Prohibit all balconies and second-story decks on detached ADUs.
- Prohibit roof decks above accessory structures.
- Restrict exterior stairs facing immediately adjacent neighbors.
- Require opaque or clerestory windows when facing immediately adjacent side and rear neighbors.

The City has heard concerns about the potential neighborhood impacts of second story balconies and exterior stairs in the rear yard. In response, the Planning Commission recommends amendments to prohibit balconies entirely for second story detached ADUs and prohibit roof decks above accessory structures. The amendments also limit locations of unenclosed stairwells and prohibit open stairways facing immediately adjacent side and rear yards. Exterior stairways would still be allowed facing the interior of the lot to promote deign options and affordable construction (Figure 4).

Lastly, the amendments require sensitive treatment of windows facing immediate adjacent neighbors. Windows located on the second story of an ADU above detached garages shall be opaque or clerestory when facing immediate adjacent side and rear neighbors. All of these privacy measures would be consistent with State law.
Incentivize One Story Detached ADUs
The Planning Commission recommends a series of amendments to allow flexibility in development standards and incentivize the development of one story ADUs.

Reduce Rear Setbacks
In 2015, the City re-evaluated rear yard setbacks for detached ADUs and reduced the standard from 20 ft. to 10 ft. to promote creation of ADUs while maintaining neighborhood compatibility and mitigating noise impacts. This change in rear setback is one reason for the increase in ADU construction from 2015 to 2016 (7 ADUs to 22 ADUs – see Figure 1 above).

In 2017, State law required cities to allow conversion of existing structures to an ADU, including structures with nonconforming setbacks at property lines. Redwood City’s zoning code requires a 6 ft. setback for new detached accessory structures, such as sheds, pool homes, and garages, and has the same development standards as ADUs for height and bulk. The Planning Commission recommends changing the rear ADU setback to 6 ft. to be consistent with the requirements for accessory structures and to increase the amount of yard space available to construct ADUs (see Fig 5).
Rear Yard Coverage
Redwood City’s zoning code prohibits ADUs from covering more than 50 percent of the required rear yard area. The Planning Commission recommends removal of the 50 percent rear yard lot coverage limit for ADUs to allow for more buildable footprint and to further incentivize single-story ADU construction. Restrictions within the rear yard area could otherwise encourage homeowners to build on the top of existing detached garages. ADUs would still be subject to the overall lot coverage requirement for the entire site.

Replacement of Detached Garages into ADUs
The Planning Commission recommends regulations to allow ADUs to replace detached garages with the requirement that the new structure is compliant with all current setback requirements. Allowing replacement of detached garages into ADUs would incentivize single-story ADU construction that is compliant with current setbacks.

Increase ADA compatible ADU Square Footage
In 2017, the City increased the maximum allowable sizes for both standard ADUs and ADA compatible ADUs to incentivize housing stock for people with disabilities. However to date, no ADA compliant ADUs have been constructed due to strict ADA construction requirements and an inadequate incentive to construct these ADUs. Planning Commission recommends allowing a 1,000 sq. ft. maximum for ADA compliant ADUs.

Hillside ADUs
The Planning Commission recommends exempting one-story ADUs from the Hillside Ordinance regulations. Construction of one-story ADUs align with the following purpose of hillside regulations: 1) ensuring that homes are integrated and scaled to the size of the property and 2) allowing reasonably-sized
homes can further the goals of neighborhood quality and accommodate diverse family and multi-generational needs. Currently, one-story ADUs on hillside lots may require review with a public hearing based on the lot slope or total gross floor area. This process for one story ADUs in hillside areas is inconsistent with one-story ADUs elsewhere in Redwood City and creates additional time and cost to process applications for one story ADU development having minimal impacts.

Consistency with State Law
The City needs to ensure that its regulations do not unduly restrict ADUs in a manner inconsistent with its adopted building code and State law. Inconsistency could make the entire ordinance null and void, including proposed limitations to bulk and height created to address neighborhood concerns. There has been significant discussion regarding the State law, as the wording of the law’s provision regarding construction of a new ADU above a garage is unclear.

Due to the State law's lack of clarity, the Planning Commission requested that staff contact the State of California Department of Housing and Community Development (HCD) to obtain an interpretation on the intention of the State ADU law (Government Code Section 65852.2), and whether it is possible to ban second story ADUs above garages and still comply with State ADU law.

Staff received a letter on June 5, 2019, from HCD (Attachment C), which elaborates further, as follows:

- The City cannot burden or unreasonably restrict the development of ADUs, nor can it prohibit ADUs within existing space above a garage.
- With regard to new ADU development above a garage:
  - Development standards cannot be excessively burdensome so as to unreasonably restrict ADU construction;
  - Maximum unit sizes under 500 square feet are generally considered burdensome depending on the circumstances;
  - Other standards and design rules can address height concerns;
  - Not allowing ADUs above garages may be inconsistent with the City’s Housing Element; and,
  - HCD is authorized to review actions or inactions inconsistent with the Housing Element.

The HCD memo is not legally binding but rather is an advisory document. While the City continues to interpret State law as requiring allowance of new ADU space above a garage, the HCD guidance letter provides clarification on the limits of the City’s discretion concerning ADUs generally. The HCD letter specifies that not allowing ADUs over garages may be inconsistent with Program H-12 of the Housing Element, which includes an objective to review and consider revising development standards for second units to facilitate the development of more second units, including allowing units to be built over detached garages (Page H-160). HCD specified that cities cannot impose development standards that excessively burden and unreasonably restrict development of ADUs or the local ADU ordinance is null and void.

Other Planning Commission Considerations
At the Planning Commission public hearing, the public voiced a variety of opinions, including support of the amendments, desire for stricter limitations on two story ADUs, as well as opposition to additional
restrictions on this type of housing. While the Planning Commission approved the resolution, it asked staff to study the following prior to the City Council hearing:

1. Implement a sliding scale to allow proportional increases in square footage for second story ADUs above garages.
2. Allow additional square footage for second story ADUs above detached garages through a public hearing or additional findings.
3. Explore the City of Belmont’s ADU regulations and consider adopting code amendments to allow varying height maximums in association with roof form and/or distance from property lines, require façade compatibility with the main home, and require the architectural style to be compatible with the main home.
4. Lot coverage exemption for detached one-story ADUs.
5. Allow ADUs to be exempt from the City’s half-story height requirements.

**Sliding Scale**
A sliding scale could allow a proportional increase in floor area above a detached garage when tied to another independent variable, for example, lot size, distance from property lines, or height of structure. Establishing a connection between ADU square footage and its impact to neighboring properties can be inexact. A sliding scale would be difficult to implement without further study and analysis of any established practices in other jurisdictions.

**Square Footage Exemption, Public Hearings and Findings**
A public hearing process and additional findings to justify an increase of square footage above a maximum amount over a detached garage would be possible. The findings would have to be adjudicated by the Zoning Administrator or Planning Commission. A public hearing process would require additional administrative resources and may not be the most efficient use of these functions; however, it would allow for more intensive public notice and review. Establishing findings based on subjective criteria could result in additional appeals.

**Study the City of Belmont’s ADU regulations**
The City of Belmont allows detached two-story ADU height maximums based on setbacks and roof form. ADUs are allowed a height of 17 ft. for a flat roof, 22 ft. for a pitched roof when set back less than 5 ft. from the property line, and 20 ft. and 24 ft. respectively for structures that meet the setback requirements for the main home. All structures above 18 ft. tall are required to comply with residential design guidelines.

Additionally, Belmont’s ADU regulations require the ADU to match the exterior façade materials and architectural style of the new home. Redwood City’s ADU ordinance already includes architectural standards (Section 37.3.F) which require the ADU to be architecturally compatible with the architectural style and exterior paint and materials of the main home. The Planning Commission’s recommended height restrictions could affect ADU architectural styles and may not allow for the ADU to match the main home. The requirement for matching façade materials and architectural styles could be addressed through the upcoming residential design guideline effort.
Lot Coverage Exemptions
Current lot coverage requirements limit the amount of building area that may cover a lot (such as 40 percent maximum lot coverage). A homeowner may choose to build a two-story ADU to avoid conflict with a lot coverage limitation, and exempting ADUs from this provision could incentivize detached structures for constrained sites. A lot coverage exemption may require additional exemptions for setbacks between buildings and pervious area. A lot coverage exemption would not apply to structures associated with ADUs such as attached garages or porches.

Half-story
The Planning Commission requested that staff explore exemptions for ADUs to half story height regulations in order to encourage more living space within attics. However, current ADU regulations do not preclude a design of an ADU above a garage to implement a half story height. ADUs above garages that exceed the ceiling height and living space ratio/threshold within the zoning guidelines of a half-story are considered a second story, which is permitted above a garage by code. Design considerations to encourage half-story heights above garages will be studied through the residential design guidelines effort.

GENERAL PLAN CONFORMANCE
The proposed Zoning amendments would further the City Housing Element’s policies and programs that promote a variety of housing types that are accessible to all income levels.

Program H-12: Second Units. Second units offer an additional source of affordable housing to homeowners and the community. Redwood City’s Zoning Ordinance establishes development standards for second units on lots in residential areas with an existing single-family use. The development of this important housing type should be facilitated, while ensuring compatibility with and limited impact on existing neighborhoods. One of the objectives of Program H-12 is to review and consider revising development standards for second units to facilitate the development of more second units, including allowing units to be built over detached garages. HCD has the authority to review actions or inactions inconsistent with the housing element pursuant to Government Code Section 65585. The proposed amendments would reduce allowable heights and the unit sizes above garages, but would not significantly reduce the feasibility of ADU development.

The Zoning amendments would also be consistent with Program BE-1: Amend Zoning Ordinance and Map, which contains the following bulleted point: Consider modifying second unit standards to facilitate increased density while preserving older structures.

FISCAL IMPACT
No fiscal impacts to the City have been identified.

ENVIRONMENTAL REVIEW
This activity is not a project under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, section 15378, because it has no potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment.
The adoption of an ordinance to implement Government Code section 65852.2 (the Accessory Dwelling Unit Law) is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080.17. The related amendments not specifically related to the State law are considered exempt from CEQA as there is no possibility of a significant impact on the environment, per Section 15061(b)(3), because the proposed zoning amendments are minor changes that would not substantially increase the intensity or the use of the structures.

PUBLIC NOTICE
Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

On July 12, 2019, notice of the City Council public hearing was published on the City’s website and in the San Mateo Daily Journal. The City Council meeting notice was emailed to interested parties as well as neighborhood association chairpersons. Additional notice and information was posted on the City’s social media outlets, as well as the City’s weekly e-news publication. Information regarding the ADU amendment process is located on the City’s ADU website: www.redwoodcity.org/adu.

The City has received written comment on this topic, which is attached in Attachment D.

ALTERNATIVES
Based on the analysis above, the City Council can choose to add additional regulations to the proposed zoning ordinance amendments:

1. Direct staff to prepare a sliding scale square footage allowance for second story ADUs.
2. Direct staff to prepare a public hearing process and findings to consider larger ADU floor area above a detached garage beyond the maximum allowed.
3. Direct staff to prepare additional ADU regulations which allow taller ADU heights based on roof form and/or distance from property lines.
4. Direct staff to prepare additional ADU regulations to require compatible façade treatments and matching architectural style with the main home on the site.
5. Exempt ADUs from lot coverage regulations.
6. Exempt ADUs from the half-story height requirements.

ADDITIONAL ALTERNATIVE: Urgency Ordinance (requires an affirmative vote by 6 Councilmembers)
If Council chooses to adopt the staff recommendation, a second reading of the ordinance changes would occur at the regularly scheduled August 26, 2019 Council meeting. The effective date would be September 25, 2019, which is 30 days after the second reading. All ADU applications that have not been deemed complete prior to September 25, 2019 would be subject to the adopted ordinance.

The public record for this item includes facts, evidence, and comments from members of the public that continuing to issue architectural permits for second story ADUs over garages under Article 37 without amendment poses an immediate threat to public peace, health and safety, because where such units have been approved, their size, scale and massing has been injurious to the equal rights of the neighboring property owners. Specifically, comments from the public state that these approvals were incompatible
with neighborhood character, compromised privacy, affected light and air, impacted property values, and posed security concerns.

In order to provide protection against second story ADU development that may pose an immediate threat to public peace, health and safety under existing regulations, Council may adopt the staff recommended ordinance and an urgency ordinance that would make the regulations in the adopted ordinance effective immediately. All existing applications for ADUs that have not been deemed complete as of the urgency ordinance adoption date would be subject to the regulations contained therein. Currently, there is at least one application for Architectural Permits for second story ADUs that has been submitted and would be deemed complete and/or issued between now and the time a traditional ordinance would be adopted. In order to adopt the urgency ordinance, six out of seven councilmembers must vote in favor of adoption.

Staff has provided an urgency ordinance for Council consideration in Attachment B.

ATTACHMENTS
Attachment A: Ordinance Amending Article 33, 36, 37, and 45 Regarding Accessory Dwelling Unit Requirements
Attachment B: Urgency Ordinance Amending Article 33, 36, 37, and 45 Regarding Accessory Dwelling Unit Requirements
Attachment C: Letter from State of California Department of Housing and Community Development
Attachment D: Written Public Comment

FILES AVAILABLE ON THE WEBSITE WWW.REDWOODCITY.ORG/ADU

1. PC Staff Report 05.21.19
2. PC Staff Report 06.18.19

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