



City of Palo Alto

City Council Staff Report

(ID # 8827)

Report Type: Action Items

Meeting Date: 1/29/2018

Summary Title: Update to ADU Ordinance to Conform with State Law

Title: PUBLIC HEARING: Adoption of an Ordinance Amending Section 18.42.040 of Title 18 (Zoning) to Conform With new State Laws Regarding Accessory Dwelling Units (ADU) and Finding the Changes Exempt From Review Under the California Environmental Quality Act (CEQA) Pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Sections 15061(b), 15301, 15303 and 15305. The Planning & Transportation Commission Recommended Approval of These Amendments on November 29, 2017

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that Council conduct a public hearing and adopt the ordinance in Attachment A, amending Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to comply with new State laws regarding Accessory Dwelling Units (ADU) and find the action exempt from review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Sections 15061(b), 15301, 15303 and 15305. The Planning & Transportation Commission Recommended Approval of these Amendments on November 29, 2017.

Background

Earlier this year, the City adopted comprehensive regulations related to ADUs to conform to State laws that became effective on January 1, 2017. These provisions can be found in Section 18.42.040 of the City's zoning ordinance (Title 18 of the Palo Alto Municipal Code).

Subsequently, the State Legislature passed two additional bills AB 494 and SB 229, signed by the Governor in September 2017, clarifying the previously adopted ADU legislation. The City's existing ordinance requires minor modifications to remain consistent with State law.

On November 29, 2017, the Planning & Transportation Commission considered the proposed amendments in the context of a larger “code cleanup” ordinance that will be coming to the Council for review early in the New Year and recommended adoption. The City Attorney’s Office recommends advancing the requested action ahead of the rest of the cleanup ordinance so that the City’s ADU requirements remain consistent with State law.

Discussion

Effective January 1, 2017, State law requires local jurisdictions to approve ADUs through a ministerial process. For proposed new ADU construction, either in a new structure or expansion of an existing structure (referred to in this report as a “New Construction ADU”), the jurisdiction can designate where ADUs are permitted and impose a range of development standards. Under the 2017 law, such ADUs may be allowed on a lot zoned for single-family or multifamily use that contains an existing single-family dwelling. In contrast, for ADUs proposed entirely within existing structures (i.e., conversion of a garage to ADU with no expansion), referred to in this report as an “ADU Conversion”, the jurisdiction has less latitude to impose restrictions or development standards. State law required that ADU Conversions be permitted on all lots with an existing single-family home in all single-family zoning districts.

With adoption of AB 494 and SB 229 in late 2017, the State made minor adjustments to prior legislation regarding ADUs. First, with respect to New Construction ADUs, the legislation clarified that an ADU may be allowed on a lot zoned for single-family or multifamily use that contains an existing or a **proposed** single-family dwelling. Regarding ADU Conversions, the legislation requires such ADUs to be permitted in any zoning district where single-family dwellings are permitted, not just single-family zoning districts; this would include multifamily zoning districts that allow single-family use.

The State requires local agencies to adopt conforming local regulations and the attached ordinance would do so. Specifically the proposed ordinance would:

- Clarify that ADUs may be constructed in conjunction with either an existing *or proposed* single family home.
- Specify that ADUs established through conversions of space within an existing single-family home or an existing accessory structure are allowed in all zoning districts where single family homes are an allowed use,¹ and not just in the R-1 and RE districts. Single-family homes are allowed in R-1, R-2, RE, RMD, and OS districts, and certain lots in the RM district (lots less than 6,000 square feet in RM-40 and less than 8,500 square feet in RM-15 and RM-30). The ordinance would allow ADU Conversions in these districts as

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well as on sites zoned Planned Community where single-family dwelling is an allowed use. The ordinance also includes a conforming amendment to the allowed land use table for the RM district in PAMC Chapter 18.13 to clarify that ADU Conversions may be allowed in the RM.

- Allow ADUs to be constructed in existing Planned Community zones where a single family home is an allowed use. Though not mandated by state law, this change would treat PC zones similarly to conventional zoning districts where single-family use is allowed.

An additional change in State law related to parking for ADUs does not conflict with the City's zoning ordinance and thus does not necessitate an amendment.

Separately, planning staff is working with the Planning and Transportation Commission (PTC) to assess the effectiveness and impacts of the ADU ordinance adopted by the City Council in 2017. The Council will have an opportunity to receive and consider the PTC's recommendations in the coming months and make additional adjustments to the City's zoning standards for ADUs that are consistent with State law if desired.

Policy Implications

If the City fails to act, State law would preempt the local zoning ordinance.

Resource Impact

N/A

Timeline

The proposed ordinance will become effective on the 31st day following adoption (second reading). The Council will have an opportunity to discuss additional changes to the local ADU ordinance later this spring, when the PTC completes its review and recommendations.

Environmental Review

The proposed changes constitute minor adjustments to the City's zoning ordinance to implement new State law requirements related to accessory dwelling units as established in Government Code Section 65852.2. The ordinance is therefore statutorily exempt from review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to a city's adoption of an ordinance to implement the provisions of Government Code Section 65852.2. These changes are also likely to result in few additional dwelling units dispersed throughout the City. As such, it can be seen with certainty that the proposed action will not have the potential for causing a significant effect on the environment, and no review under the California Environmental Quality Act

(CEQA) is needed per CEQA Guidelines Section 15061(b)(3), as well as Sections 15301, 15303 and 15305.

Attachments:

Attachment A: ADU Ordinance re New State Law Requirements and Update City's Regulations (PDF)

Ordinance No. _____
Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the
Palo Alto Municipal Code to Implement New State Law Requirements Related to
Accessory Dwelling Units and Update the City's Regulations

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Section 18.42.040 (Accessory and Junior Accessory Dwelling Units) of **Chapter 18.42 (Standards for Special Uses)** of Title 18 (Zoning) of the PAMC is amended as follows:

18.42.040 Accessory and Junior Accessory Dwelling Units

The following regulations apply to zoning districts where accessory dwelling units and junior accessory dwelling units are permitted.

(a) Accessory Dwelling Units

(1) Purpose

The intent of this section is to provide regulations to accommodate accessory dwelling units, in order to provide for variety to the city's housing stock and additional affordable housing opportunities. Accessory Dwelling Units shall be separate, self-contained living units, with separate entrances from the main residence, whether attached or detached. The standards below are provided to minimize the impacts of accessory dwelling units on nearby residents and throughout the city, and to assure that the size and location of such dwellings is compatible with the existing or proposed residence on the site and with other structures in the area.

(2) Minimum Lot Sizes

- A. In the R-1 district and all R-1 subdistricts, RE district, R-2 district, and RMD district, and properties zoned Planned Community (PC) where single-family residential is an allowed use, the minimum lot size for the development of an accessory dwelling unit is 5,000 square feet.
- B. In the OS District, the minimum lot size for the development of an accessory dwelling unit is 10 acres.

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(3) Setbacks and Daylight Plane

- A. Except as otherwise provided in this section, accessory dwelling units shall comply with the underlying zoning district's setbacks, including daylight plane requirements.

- B. Notwithstanding section A. above, no setback shall be required for an existing garage that is converted to an accessory dwelling unit, except as provided in subsection (a)(5) below.
- C. In districts permitting second story accessory dwelling units, a setback of ~~no more than~~ five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above a garage.

...

(5) Conversion of Space in Existing Single Family Residence or Existing Accessory Structure

Notwithstanding the provisions of subsections (a)(2), (a)(3), (a)(4), (a)(7) and (a)(8), in the R-1 district and all R-1 subdistricts, ~~and the RE-district only, R2, RMD and OS districts, and properties zoned RM or Planned Community (PC) where single-family residential is an allowed use,~~ an Accessory Dwelling Unit shall be permitted if the unit is contained within the existing space of a single-family residence or an existing accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety, and if the accessory dwelling unit conforms with the following:

...

(7) Additional Development Standards for Attached Accessory Dwelling Units

- A. Attached accessory dwelling units are those attached to the main dwelling. All attached accessory dwelling units shall be subject to the additional development requirements specified below.
- B. Attached unit size counts toward the calculation of maximum house size.
- C. Unit Size: The maximum size of an attached accessory dwelling unit living area shall not exceed 600 square feet and shall not exceed 50% of the proposed or existing living area of the primary dwelling unit. The accessory dwelling unit and any covered parking provided for the accessory dwelling unit shall be included in the total floor area for the site, but the covered parking area is not included in the maximum 600 square feet for attached unit. Any basement space used as an accessory dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the accessory unit.

SECTION 2. Section 18.13.030 (Land Uses) Table 1 of **Chapter 18.13 (Multiple Family Residential)** of Title 18 (Zoning) of the PAMC is amended as follows:

18.13.030 Land Uses

Table 1 specifies the permitted and conditionally permitted land uses in the multiple-family residence districts.

Table 1

Multiple Family Residential Uses

[P = Permitted Use • CUP = Conditional Use Permit Required]

	RM-15	RM-30	RM-40	Subject to Regulations in:
ACCESSORY AND SUPPORT USES				
Accessory Facilities and uses customarily incidental to permitted uses	P	P	P	Chapter 18.40
<u>Accessory Dwelling Unit when accessory to permitted single-family residence</u>	<u>P (1) & (4)</u>	<u>P (1) & (4)</u>	<u>P (2) & (4)</u>	<u>18.42.040</u>
Home Occupations, when accessory to permitted residential uses	P	P	P	Chapter 18.42
Horticulture, Gardening, and Growing of food products for consumption by occupants of a site	P	P	P	
Surface Parking Facilities located on abandoned railroad rights-of-way		CUP	CUP	
EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES				
Churches and Religious Institutions	CUP	CUP	CUP	
Private Clubs, Lodges, or Fraternal Organizations, excluding any such facility operated as a business for profit			CUP	
Private Educational Facilities	CUP	CUP	CUP	
PUBLIC/QUASI-PUBLIC USES				
Community Centers	CUP	CUP	CUP	
Utility Facilities essential to provision of utility services but excluding construction or storage yards, maintenance facilities, or corporation yards.	CUP	CUP	CUP	
RECREATION USES				
Neighborhood Recreational Centers	CUP	CUP	CUP	
RESIDENTIAL USES				
Single-Family	P (1)	P (1)	P (2)	
Two-Family	P (1)	P (1)	P (1)	
Multiple-Family	P	P	P	
Village Residential	P	(3)	(3)	18.13.050
Mobile Homes	P	P	P	
Residential Care Homes	P	P	P	
SERVICE AND RETAIL USES				
Convalescent Facilities			CUP	
Day Care Centers	CUP	CUP	P	18.40.160
Small Family Day Care Homes	P	P	P	
Large Family Day Care Homes	P	P	P	
Small Adult Day Care Homes <	P	P	P	
Large Adult Day Care Homes	CUP	CUP	CUP	
Eating and Drinking Services, except drive-in and		CUP	CUP	18.13.040(f),

take-out services				18.40.160
Personal Services and Retail Services of a neighborhood-serving nature		CUP	CUP	18.13.040(f), 18.40.160
TEMPORARY USES				
Temporary Uses, subject to regulations in Chapter 18.42	CUP	CUP	CUP	18.42.050
P = Permitted Use	CUP = Conditional Use Permit Required			

- (1) Permitted use only on lots less than 8,500 square feet in size.
- (2) Permitted use only on lots less than 6,000 square feet in size.
- (3) Permitted use only if lot is substandard in size, e.g., less than 8,500 square feet or less than 70 feet in width, or at the perimeter of a site in excess of one acre where used as a transition to low-density residential area.

(4) An Accessory Dwelling Unit associated with a single-family residence on a lot is permitted if it is contained within the existing space of a single-family residence or an existing accessory structure in accordance with and pursuant to Section 18.42.040(a)(5), subject to the provisions of Section 18.42.040 and such that no more than two total units result on the lot.

SECTION 3. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Council finds that the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b), 15301, 15302 and 15305 because constitute minor adjustments to the City’s zoning ordinance to implement new State law requirements related to accessory dwelling units as established in Government Code Section 65852.2, and these changes are also likely to result in few additional dwelling units dispersed throughout the City. As such, it can be seen with certainty that the proposed action will not have the potential for causing a significant effect on the environment.

SECTION 6. This Ordinance shall not apply to any planning or land use applications deemed complete as of the effective date of this Ordinance.

SECTION 7. This Ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Planning & Community
Environment