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**PC – PUBLIC HEARING: Consideration of the 2023 City-Initiated Annual Zoning Code Amendment Modifying Various Sections of the Zoning Code Related to Accessory Residential Structures, Accessory Dwelling Units, Definitions, and Nonconforming Structures; and a Statutory Exemption pursuant to CEQA Guidelines Section 15061(b) (3).**

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**Meeting Date:** February 8, 2023

**Contact Person/Dept:** Erika Ramirez, Current Planning Manager

**Phone Number:** (310) 253-5727

**Fiscal Impact:** Yes  No

**General Fund:** Yes  No

**Public Hearing:**  **Action Item:**  **Attachments:**

**Public Notification:** (E-Mail) Meetings and Agendas – Planning Commission (02/02/23); (Posted) City Website (01/18/23); Gov Delivery (01/18/23); (Published in) Culver City News (01/19/23).

**Department Approval:** Mark Muenzer, Planning and Development Director (02/1/23)

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**RECOMMENDATION:**

Staff recommends the Planning Commission adopt a resolution recommending to the City Council approval of the 2023 City Initiated Annual Zoning Code Amendment, P2022-0357-ZCA modifying various sections of the Zoning Code related to Accessory Residential Structures, Accessory Dwelling Units, Definitions, and Nonconforming Structures; and a Statutory Exemption pursuant to CEQA Guidelines Section 15061(b) (3).

**PROCEDURES:**

1. Chair calls on staff for a brief staff report and the Planning Commission poses questions to staff as desired.
2. Chair opens the public hearing and receives comments from the general public.
3. Chair seeks a motion to close the public hearing after all testimony has been presented.
4. Commission discusses the matter and arrives at its decision.

**BACKGROUND:**

The Current Planning Division identified various discrepancies and ambiguities in the Zoning Code that require correction, clarification and/or update to apply the Zoning Code effectively and consistently. The proposed Zoning Code Amendment is organized by topics or Zoning Code Sections, including:

- **Accessory Residential Structures (ARS) - Section 17.400.100** to clarify language;
- **Accessory Dwelling Units (ADUs) - Section 17.400.095** to align with ADU State law;
- **Definitions – Chapter 17.700** to clarify language for various definitions; and

- **Nonconforming Structures - Section 17.610.020**, to establish distinct standards for reconstruction and expansion of existing legal non-conforming accessory residential structures for through lots on the 4100 block of Charles Avenue in response to unique geographic circumstances.

## **DISCUSSION:**

### *Residential Uses – Accessory Residential Structures (Section 17.400.100)*

As defined in Section 17.700.010 – Definitions of Specialized Terms and Phrases, an Accessory Residential Structure (ARS) is any structure that is customarily a part of or clearly incidental to a residence, which does not change the character of the residential use and/or household; these may include detached accessory structures, and other similar structures normally associated with a residential use of property, such as garages, gazebos, storage sheds, greenhouses, and workshops. These structures do not include Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs), which are separately defined and have their own development standards in Section 17.400.095 – Residential Uses – Accessory Dwelling Units. The proposed changes to Section 17.400.100 – Accessory Residential Structures are intended to clarify certain aspects of the existing development standards and to provide internal consistency with ADU allowances. Below is a summary of the changes proposed to this Section as detailed in Exhibit A (Attachment No. 1).

- **Accessory Use–Covenant Required:** Based on the provisions of Section 17.595.045 – Covenants, the current process for approval of an accessory residential structure, such as a recreation room, pool room, workshop, or similar, requires that applicants record a covenant on the property. The covenant clearly identifies the accessory structure’s approved use and restricts it accordingly, ensuring the space/structure is not utilized or modified other than as approved and allowed by the Zoning Code. The change to this paragraph is to simply refer to the covenant section (17.595.045), making the requirement more visible and explicit.
- **Setbacks:** Changes to this subsection remove a circular reference and instead simply state the requirement for a setback to comply with the primary zone when an accessory residential structure or portion of it exceeds 12 feet in height, is located on the second floor, or is within a setback facing a public street right-of-way.
- **Two-story accessory structures and second story additions:** The proposed changes to this subsection clarify the intent of the existing language, which was to disallow two-story accessory residential structures, except when the ground floor is solely a garage. Although the existing language references second story additions, the intent was for the restriction to also apply to new two-story construction and the proposed language intends to clarify this restriction. In addition, given the standards allowing the conversion of garages to ADUs, the proposed language explicitly clarifies that when the ground floor is an ADU a second-floor accessory residential space is allowed. The primary restriction is that there cannot be 2 levels of accessory residential space except in the case of a garage.
- **Allowed amenities within garages:** Based on the implementation of existing language, bathrooms are not allowed within nor accessible from garages, and kitchens are not allowed in any accessory residential structures. The proposed changes make this more explicitly clear, which will ease implementation and enforcement. With the recent elimination of minimum required off-street parking, property owners may elect to convert garages to accessory residential structures without replacing parking but will be required to go through the process

of converting that space. Similarly, conversion to ADU's has also become increasingly streamlined and must be done through the corresponding process.

These changes will serve to better clarify existing standards and facilitate their continued implementation and enforcement.

#### Accessory Dwelling Units - Section 17.400.095

Modifications to Section 17.400.095 update Accessory Dwelling Unit (ADU) language to reflect the most recent changes to State law and clarify certain Code sections that have caused confusion during implementation. Specifically, parts of the Code were updated to clarify the following:

- Internal Access - Accessory Dwelling Units are independent living facilities and are not permitted to have internal access to the home. Junior Accessory Dwelling Units that share bathroom facilities with the main dwelling unit are permitted to have internal access. This was clarified in the updated text.
- Junior Accessory Dwelling Unit FAR - The State defined "proposed dwelling" as "a dwelling that is the subject of a permit application and that meets the requirements for permitting". JADUs are permitted to be converted from an existing or proposed dwelling. Since a proposed dwelling must meet the local requirements per the underlying zone, a JADU therefore must be included in the FAR of the main structure.
- JADU "Efficiency Kitchen" Definition - Efficiency kitchen for a JADU was defined to specify what is included as part of an efficiency kitchen. This language was taken from the State law and includes appliances and a food preparation counter.
- Updated Fees - A note is added in this section stating that ADUs are subject to applicable developments fees and limits on fees pursuant to State Law governing ADUs.
- Minimum Allowable Height - The minimum allowed height of an ADU was updated from 16 to 18 feet for an attached unit and 25 feet for a detached unit, although this already applies in Culver City as all ADUs are allowed to meet the minimum height standard of the underlying zone. This is a minimum of 27 feet for a flat roofed structure in the R1 Zone and at least 30 feet in all other residential zones.

#### Definitions - Amendments to Article 7: Definitions - Chapter 17.700

The purpose of the proposed amendments to Chapter 17.700 – Definitions, is to clarify certain definitions and add some definitions with the objective of reducing ambiguity of certain terms and ensure consistency within the Zoning Code and State statutes. Specific changes in strike out and underline format are in Exhibit A of Attachment No. 1. Below is a summary of each definition amendment.

Accessory Dwelling Unit, Junior (JADU). The current JADU definition accurately describes size, location, and sanitary facilities requirements and allowances for this type of housing but lacks language that further defines a JADU as a unit with kitchen facilities. The Zoning Code requires a JADU have a kitchen or efficiency kitchen and language is added to the definition that describes an efficiency kitchen consistent with State law.

Banks and Financial Services. The amendment to the Banks and Financial Services definition simply shifts a qualifier, “*Does not include check-cashing or payday-loan facilities*” from a table listing what is considered a bank and financial services business to a footnote just under the table. The qualifier does not belong in the table because it explicitly states what is not a bank or financial institution.

Bay Window. The Zoning Code allows bay window projections into setbacks but does not define the term. Staff proposes a new definition for bay window based on the Encyclopedia Britannica description of an “exterior protrusion from a structure’s exterior finished wall forming an interior recess and resulting in window surface area that extends beyond the flat wall”. Further, the definition provides dimension limits of both width and depth and requires a minimum number of inches above grade for the outside bottom portion of a bay window. Finally, the definition distinguishes between residential and non-residential bay windows and references the code section on maximum allowed projections into setbacks. The purpose of this amendment is to clarify what a bay window is and how much surface it can occupy as a protrusion from a flat wall.

Catering Services. The Zoning Code defines catering services for retail commercial and restaurant uses and lists the use under the definition for Food and Beverage Manufacturing. The listing under Food and Beverage Manufacturing is related to industrial catering such as a central bakery for distribution to supermarkets and with no on-site retail. Added language to the commercial and restaurant related catering services definition specifically states that it does not include industrial type catering which falls within the definitions listed under manufacturing.

Floor Area. The Zoning Code references floor area in various sections but defines it in the R1 Zoning District Chapter. Adding the definition to the Definitions Chapter of the Zoning Code ensures there is clear application of the term throughout the Code. The definition is expanded for clarification. The Floor Area definition includes the actual floor plate as well as common areas, bay windows under specific conditions, hallways, mechanical or computer rooms, storage rooms, restrooms, and elevator and stair shafts. Planning staff is often asked how the Zoning Code considers these elements in determining floor area. This definition will provide a clear answer.

Kitchen. Added language to the definition of kitchen clarifies the minimum number of amenities that would be found in a fully functional kitchen such as a stove and/or oven and refrigerator. The intent is to minimize the use of only plug-in counter-top appliances as a means providing a kitchen within a dwelling. The modified definition also assists in determining whether the kitchen prohibition in a garage is met for proposed modifications to residential garages.

Lot or Parcel. The amended definition clarifies that portions of a lot or parcel that are held in title by the property owner but that are subject to a public right-of-way easement for street purposes shall not be considered a part of the lot. In some instances, plans are submitted to the City for either a building permit or planning entitlement that show the project site’s property lines going to the centerline of the abutting street or alley. This is misleading because the property owner has no access or ability to develop the area covered by the right of way easement which is basically the public sidewalk and street. In addition, this portion of the lot or parcel is not included in the lot area when calculating residential density.

Lot Width. The lot width definition assumes a lot has a basic rectangular shape with lot corners at right angles (90 degrees). However, there are several lots in the City that are irregular in shape like flag lots that have a long, narrow strip for accessing the public right of way, lots that narrow in width from one end to the other, and lots with corners that are either less or greater than ninety (90) degrees. The definition is not practical in these cases and the added language states the widths of irregular shaped lots could

be determined through a Zoning Clearance. A Zoning Clearance acts as a case-by-case analysis of irregular shaped lots that are not uniform and cannot be subject to one metric for determining width (because each lot is unique). The ability to calculate lot width is key in determining the side setback in the Residential Hillside Overlay Zone. In the Residential Hillside Overlay Zone which includes several irregular shaped lots, the side setback is determined by calculating a percentage of the lot width. A Zoning Clearance will establish the width and subsequent side setback depending on the specifics of each lot.

Site and Street Line. The added language to these two definitions is analogous to the modified language in the definition for Lot or Parcel that clarifies a parcel does not include portions that are restricted to public right-of-way uses. The amendments to site and street line enforce the notion that the portions of the lot used for the public right of way, are not considered when determining a site or a street line.

### *Nonconforming Structures - Section 17.610.020, and Related Sections*

The purpose of the proposed amendments to Section 17.610.020 is to establish distinct standards for alterations and additions to existing legal non-conforming structures for through lots on the 4100 block of Charles Avenue, as directed by the Board of Zoning Adjustment (BZA).

Current code standards allow for an existing legal non-conforming structure to be enlarged, expanded, or extended if the structure is non-conforming with regards to setbacks, height, distance between structures, architectural projections, staircase and landing area encroachments, and the requirements of the Uniform Building Code are met. The newly constructed area is required to meet the code standards in place at the time of the building permit application.

On July 6, 2022, a Zoning Code Interpretation went before the BZA to consider whether there are unusual geographic circumstances on the 4100 block of Charles Avenue that warrant specific standards to be established for expansions to existing legal non-conforming accessory residential structures. The block is considered to have unique geographic circumstances due to the layout of the street network, which creates a series of through lots of irregular shape and size. A through lot is defined in Culver City Municipal Code (CCMC) Section 17.700.010 as a lot with frontage on two generally parallel streets. Pursuant to CCMC Section 17.700.010, on a through lot, both lot lines are front lot lines, and the lot is considered to have no rear lot line.

The properties on the subject block are currently zoned R2. An accessory structure within a front setback area must comply with the required setbacks for a primary dwelling in the zoning district, which are 15 feet from the front property line, and 4 feet from the side property line. If the accessory structure is a garage, there must be a 20-foot-long driveway leading to the garage. Most of the properties on the 4100 block of Charles Avenue have existing legal non-conforming accessory residential structures with regards to building setbacks, and driveway length. Due to the through lots having an irregular shape, options for expansion of existing accessory structures on the subject block are limited.

The BZA determined that the unique geographic circumstances justified the establishment of specific standards regulating expansion of accessory residential structures for through lots on the subject block and directed staff to draft a Zoning Code Amendment. The subject block is outlined in the below image.



Below is a summary of the proposed changes, as detailed in Exhibit A:

#### Section 17.610.020 - Nonconforming Structures

- Allow partial reconstruction of an existing non-conforming accessory structure to the same dimensions and in the same location as the existing structure if the work results in no more than 50% demolition of the exterior wall surface area and building footprint.
- Allow an expansion of an existing legal non-conforming structure to follow the same building line as the existing structure, provided the expansion provides a minimum 2-foot setback from one front lot line, and complies with the required side setback for the Zone. The height of the expanded area shall not exceed 12 feet and the maximum 800 square feet of cumulative floor area for all accessory structures shall continue to apply.
- Require that after partial reconstruction and/or an addition is constructed pursuant to these standards, subsequent modifications comply with the typical code required setbacks for accessory residential structures, and driveway length requirements. This is consistent with the intent of Chapter 17.610 – Non-Conforming Uses, Structures, and Parcels, to limit the extent to which nonconforming structures and uses may continue to be used, expanded, or replaced, while allowing improvements in their appearances.

For clarity and consistency within the Zoning Code, modifications to the following sections are also proposed:

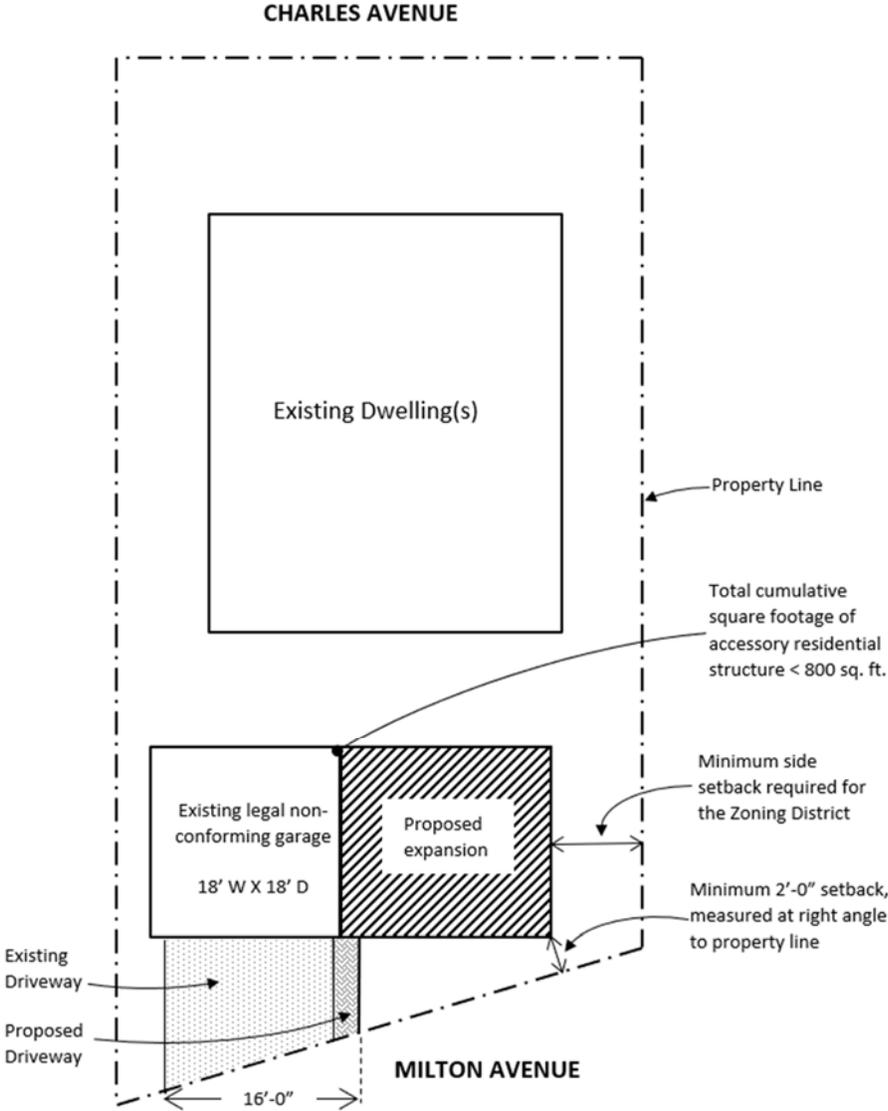
#### Section 17.400.100 – Accessory Residential Structures

- Add a reference to the standards established in Section 17.610.020 Non-Conforming Structures for through lots that front both Charles Avenue and Milton Avenue.

Section 17.320.035.N.1 – Special Parking Requirements for Residential Uses, Driveway Length

- Clarify that the driveway length standards in this Section apply unless otherwise specified by the Zoning Code

The following diagram shows an example of a garage expansion that would be permitted under the proposed amendment:



**PUBLIC OUTREACH**

CCMC Section 17.630.010 requires public notification via a publication in the Culver City News, a minimum of fourteen (14) days prior to the formal Public Hearing. Accordingly, a public notice was published on January 19, 2023, and posted on the City website and distributed electronically via GovDelivery on January 18, 2023. As of the writing of this report, staff has not received any public

comments, in writing or any other form, regarding the proposed Zoning Code Amendment in response to the public notice.

**CONCLUSION:**

Proposed amendments will clarify various sections of the Zoning Code, create consistency for various standards, and makes the code consistent with State law. Staff believes findings can be made and recommends the Planning Commission recommend adoption of the amendments to the City Council.

**ENVIRONMENTAL DETERMINATION:**

The proposed Zoning Code Amendment, P2022-0357-ZCA, is considered exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility the Project to amend the Zoning Code will have a significant effect on the environment. The proposed Zoning Code Amendment by itself does not result in any physical changes nor any significant effects on the environment as it does not change existing land use, density, or an intensification of development beyond what the Zoning Code currently allows. Furthermore, the proposed Zoning Code Amendment is not in conjunction with the approval of any development or use permit applications. Therefore, any projects seeking approval after the proposed Zoning Code Amendment, would be subject to appropriate CEQA analysis at the time of any such application.

**FISCAL ANALYSIS:**

There is no fiscal impact related to this item.

**ATTACHMENTS:**

1. 2023-02-08\_ATT – Proposed Resolution No. 2023-P002, including Exhibit A: Proposed Zoning Code Text Changes in “strikethrough/underline” format.

**MOTION:**

That the Planning Commission:

Adopt Resolution No. 2023-P002 recommending to the City Council approval of Zoning Code Amendment P2022-0357-ZCA, modifying various sections of the Zoning Code related to Accessory Residential Structures, Accessory Dwelling Units, Definitions, and Nonconforming Structures and a Statutory Exemption pursuant to CEQA Guidelines Section 15061(b) (3).