

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 3/11/13		Item Number: <u>PH-2</u>	
AGENDA ITEM: Public Hearing – Introduction of an Ordinance Amending Title 17, Zoning, of the Culver City Municipal Code, Section 17.400.100 – Residential Uses – Accessory Residential Structures and Section 17.610.020 – Nonconforming Structures (Zoning Code Amendment ZCA P-2011100).			
Contact Person/Dept.: Thomas Gorham, Jose Mendivil/CDD		Phone Number: (310) 253-5727 (310) 253-5757	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☒		Action Item: ☐ Attachments: ☒	
Public Notification: Published in the Culver City News on (2/28/13); Meetings and Agendas – City Council (03/05/13).			
Department Approval: Sol Blumenfeld (02/27/13)		City Attorney Approval Carol Schwab (by H. Baker) (03/04/13)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (03/04/13)		City Manager Approval: John Nachbar (03/05/13)	
<u>RECOMMENDATION:</u> Staff recommends the City Council introduce an Ordinance amending Title 17, Zoning (the “Zoning Code”), of the Culver City Municipal Code (CCMC), Section 17.400.100 – Residential Uses – Accessory Residential Structures and Section 17.610.020 – Nonconforming Structures (Zoning Code Amendment ZCA P-2011100). <u>PROCEDURE:</u> 1. Mayor seeks motion to receive and file affidavit of mailing and positing of public notice. 2. Mayor seeks motion to declare the public hearing open and calls on staff for a brief staff report and City Council poses questions to staff as desired. (As the City is the applicant in this case, the staff report will also serve as the applicant’s presentation and shall be made after the public hearing has been opened.) 3. City Council receives comments from the general public. 4. Mayor seeks a motion to close the public hearing after all testimony has been presented. 5. City Council thoroughly discusses the matter and arrives at its decision.			

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BACKGROUND:

The purpose of the proposed City-initiated Zoning Code Amendment (ZCA P-2011100) to Section 17.400.100 is to reduce the overall size of accessory residential structures and their potential impacts to adjacent properties and to reduce the possibility that they can be used as separate residential units, while still providing opportunities for modest additions to them and to allow for construction of new, small accessory residential structures that are incidental and subordinate to the primary dwelling unit. The proposed amendments to CCMC Section 17.610.020 regarding nonconforming structures will enable property owners to maintain existing nonconforming conditions, but will eliminate the current allowance to expand nonconforming setbacks by prohibiting nonconforming setbacks to be extended and requiring all new construction to a nonconforming structure to meet the applicable current CCMC requirements relating to setback and height.

The City Council directed staff to prepare the subject amendments based upon concerns about a building addition to a legal nonconforming accessory structure. The building permit for the project was lawfully issued and the project has been constructed.

Some of the complainant's concerns were:

- The addition to the accessory structure is oversized for the lot.
- The accessory structure addition serves as a second dwelling unit in an R-1 zoned area that only allows one dwelling unit per lot.
- The neighborhood should have been notified of the building permit issuance.
- The project is out of character for the neighborhood, undermines the right to privacy, and is not consistent with the Zoning Code.

The current Zoning Code allows:

- Additions to legal non-conforming structures that increase overall non-conforming conditions which may negatively impact adjacent properties relative to views, privacy and other concerns.
- Accessory structures that may become future code enforcement problems as they are easily converted to illegal second dwelling units.
- Accessory structure to be larger than the primary dwelling unit on the lot on which they are located.
- Additions to residential nonconforming structures and accessory structures may result in negative impacts to abutting properties since they are often located more closely to the property lines.

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On October 12, 2011 the Planning Commission held a Study Session where staff presented draft recommendations on amending the Zoning Code related to residential accessory structures and legal nonconforming residential structures. The Planning Commission considered the staff recommendations and testimony provided at the meeting and directed staff to finalize the proposed amendments to Zoning Code Section 17.210.010 – Purpose of Residential Zoning Districts – A through F.

On December 14, 2011 and January 25, 2012, the Planning Commission conducted a public hearing on the proposed ZCA P-2011100. The intent of the amendments is to strike a balance between owners who wish to make additions to their legal nonconforming structures and accessory residential structures and those who are most immediately impacted by the property improvements due to view and privacy issues. The Planning Commission considered the staff recommendations and testimony provided at the meetings and adopted Resolution No. 2012-P001 (Attachment No. 3) recommending proposed amendments affecting residential accessory structures and nonconforming structures as outlined in Exhibit A (Attachment No. 2) and as discussed in detail below.

The purpose of ZCA P-2011100 is to minimize the amount of remodeling and the size of an existing legal nonconforming property and to properly locate development of accessory structures.

DISCUSSION

Current Code Provisions

Section 17.610.020 - Nonconforming Structures provides standards for proposed additions to nonconforming structures and currently states:

“...The construction, enlargement, expansion, extension, or reconstruction of a nonconforming structure shall be subject to the following:

...The work shall be allowed if it results in an increase or enlargement of the area, space, or volume of the structure only if the structure is nonconforming with respect to setbacks, height, distance between structures, architectural projections, staircase and landing area encroachments, and the requirements of the Uniform Building Code are met. New additions, replacement structures or alterations shall not increase existing nonconformities (e.g., the construction may comply with the existing nonconforming setbacks but shall not propose any further encroachment in the required setbacks)...”

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The legal nonconforming setback line may continue for an addition to a nonconforming structure provided that the existing nonconforming setback does not encroach further into required setbacks and that that alterations or additions shall not increase the height of nonconforming setback nor encroach into any existing nonconforming setback or distance between buildings.

Zoning Code Section 17.400.100 – Accessory Residential Structures

This Section provides specific development standards for accessory residential structures that include maximum height and setbacks. This Section currently states:

“... Accessory uses and structures shall be incidental to and not alter the residential character of the site... The maximum allowable heights of residential accessory structures are specified in Table 4-4 (Maximum Heights for Residential Accessory Structures), below.

Table 4-4
Maximum Heights for Residential Accessory Structures

<i>Applicable Zoning District</i>	<i>Maximum Height</i>
<i>Single-Family Residential (R1), Two-Family Residential (R2) and Three-Family Residential (R3) zoning districts.</i>	<i>26 ft</i>
<i>Low density Multiple-Residential (RLD), Medium Density Multiple-Residential (RMD) and High Density Multiple-Residential (RHD) zoning districts.</i>	<i>30 ft</i>

...The structure shall have a setback of at least 2 feet from every perimeter property line, except that the setback shall be the same as required for the primary dwelling in the zoning district in which the accessory structure is located whenever the accessory structure:

- i Exceeds 12 feet in height; or*
- ii. Is within a setback facing a public street right-of-way.*

...If the structure is a carport or garage, it shall be set back from a public street right-of-way as necessary to conform with the requirements of Subsection 17.320.035.N. (Special Parking Requirements for Residential Uses).

...The following structures are exempt from the accessory structure setback requirements:

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- i. Movable structures not exceeding 12 feet in height including children's play equipment, pet shelters, and similar structures may be placed within a required side or rear setback without limitation on location.*
- ii. Trash enclosures may be placed within a required rear or side setback without limitation on location.*

...Roofed accessory structures shall not occupy more than 50% of the required rear or side setbacks, provided that the Director may approve additional coverage where a replacement open area equivalent to the additional coverage over 50% is substituted elsewhere on the site, provided that:

- a. The Director determines that the usability and location of the substitute area is equally satisfactory.*
- b. The substitute area does not exceed a slope of 10%, and has no dimension less than 15 feet."*

The sections of the Zoning Code affected by the proposed amendments are **Sections 17.610.020.A.1 – Nonconforming Structures** and **17.400.100 – Residential Uses - Accessory Residential Structures**. The proposed text changes are outlined in strikethrough/underline format in Attachment No. 2.

Planning Commission Recommendations

Amendments to Section 17.610.020.A.1 (Nonconforming Structures)

- Elimination of current allowance to extend nonconforming setbacks for additions.
- Require all new construction to follow current code setback and height standards.

These amendments will still enable owners to maintain their existing nonconforming conditions, but will eliminate expansion of the nonconforming condition by prohibiting nonconforming setbacks to be extended and requiring all new construction to meet the current code setback and height standards.

Amendments to Section 17.400.100 (Residential Uses - Accessory Residential Structures)

- Limits second story additions to existing residential accessory structures used as garages, provided the second story addition meets the required primary setbacks.
- Allows only $\frac{3}{4}$ baths in residential accessory structures.
- Prohibits wet bars in accessory structures.
- Allow only a sink and drain (wash basin) in garages

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- Restricts accessory structures to a maximum size of 800 square feet

The provision that second story additions are permitted only to existing accessory structures used as garages and that second story additions meet the primary setback requirements, along with the provision of limiting the size of accessory structures to 800 square feet, will allow a very modest second story addition to an existing garage and address the concerns of large accessory structures regarding potential impacts to neighboring properties. In addition, by only limiting this provision to accessory garage structures it will reduce the impacts of having two stories of living space close to the abutting side and rear property lines. Attachment No. 4 provides an illustration of how a second story addition to a typical 400 square foot garage would layout. The second story addition would have to meet the required 4 foot side and 10 foot rear primary setbacks and would result in an approximate 216 square foot maximum addition to the garage structure. The proposed limitations provide an adequate amount of floor area for a home office, workout room, extra bedroom, or recreation room without significantly increasing the size of the accessory structure.

In addition, the provision to prohibit wet bars in accessory structures and only allowing a sink and drain (wash basin) in a garage will make it more difficult to install a kitchen in the accessory structure which would make it a separate unit, as defined in the Zoning Code.

Although not part of the proposed text amendments, staff will also implement a process to require applicants who are proposing an addition to provide a courtesy notice to abutting properties prior to start of construction.

Environmental Determination:

Pursuant to Sections 15162 and 15168 of the California Environmental Quality Act (CEQA), the proposed Zoning Code Amendment (ZCA P2011100) is within the scope of the Culver City General Plan Update Program EIR approved on September 24, 1996 (PEIR), the circumstances under which the PEIR was prepared have not significantly changed, and no new significant information has been found that would impact the PEIR. Therefore, no new environmental analysis is required.

Summary:

The intent of the recommend amendments is to strike a balance between owners who wish to make additions to their legal nonconforming structures and residential accessory structures and those who are most immediately impacted by the property improvements due to view and privacy issues. These amendments will reduce the

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overall size of residential accessory structures and reduce the possibility that they can be used as a separate residential unit, while still providing opportunities for modest additions to accessory structures and will require additions to nonconforming structures to meet all current Zoning Code requirements related to setbacks and height thereby limiting the potential impacts to adjoining properties.

FISCAL ANALYSIS:

The proposed restrictions will reduce the size and limit the location of additions to accessory structures and nonconforming structures which may lead to deferred property maintenance and property improvements potentially devaluing property, which may have an impact related to property tax revenue. However, the recommended amendments are intended to strike a balance between owners who wish to make additions to their legal nonconforming structures and residential accessory structures and those who are most immediately impacted by the property improvements due to view and privacy issues. The proposed amendments will provide opportunities for modest additions to accessory structures and still allow additions to nonconforming structures so long as they meet current code standards allowing some flexibility to improve non-conforming structures and accessory structures. Further, the amendments will make it more difficult to convert an accessory structure into a separate dwelling unit and potentially will reduce the number of code enforcement cases related to illegal units.

ATTACHMENTS:

1. Proposed Ordinance
2. Exhibit A – Proposed Text Changes in “strikethrough/underline” format
3. Planning Commission Resolution No. 2011-P006
4. Example site plan

MOTIONS:

That the City Council:

Introduce an Ordinance amending Title 17, Zoning, of the Culver City Municipal Code, Section 17.400.100 – Residential Uses – Accessory Residential Structures and Section 17.610.020 – Nonconforming Structures (Zoning Code Amendment ZCA P-2011100).