



Culver CITY

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**PLANNING COMMISSION
MEETING AGENDA
WEDNESDAY, OCTOBER 12, 2011
7:00 P.M.**

PUBLIC COMMENT

The Planning Commission will listen to the public on any item on the agenda or item of interest that is not on the agenda. The Planning Commission cannot legally take action on any item not scheduled on the agenda. Such items may be referred for administrative action or scheduled on a future agenda.

If you wish to speak to the Commissioners, please complete a Speaker's Card and present it to the Secretary before the agenda item is called. You will be called to the podium by name when it is your turn to speak to the Commissioners.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

Persons wishing to speak on agenda items will be called at the time the agenda item is brought forward. Comments will generally be limited to five minutes per speaker; however, a three-minute limit may be declared by the Chairperson for agenda items for which many Speaker Cards have been submitted.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

A total of twenty minutes shall be devoted to audience participation at the beginning of the agenda. Speakers will be called on in the order cards were received by the Secretary. If additional time is needed, the Chairperson will allow for same at the end of the agenda.

When the Secretary calls your name, please advance to the podium and state your name and city of residence. Speakers must limit their comments to five minutes. A three-minute limit may be declared by the Chairperson if there is a large number of individuals desiring to address the Commissioners.

NOTE: AT OR ABOUT 11:00 P.M., COMMISSION MEMBERS WILL DETERMINE WHETHER TO CONTINUE WITH DISCUSSION OF REMAINING ITEMS ON THE AGENDA OR TO CARRY SOME/ALL OF THE ITEMS OVER TO A FUTURE MEETING DATE.

CELL PHONES AND OTHER DISTRACTIONS

Use of cell phones, pagers and other communication devices is prohibited while the Planning Commission Meeting is in session. Please turn all devices off or place on silent alert and leave the Chambers to use. During the meeting, please refrain from applause or other actions that may be disruptive to the speakers or the conduct of City business.

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ALD

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Culver CITY

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AGENDA
Planning Commission
Wednesday, October 12, 2011
7:00 p.m.
Mike Balkman Council Chambers

CALL TO ORDER & ROLL CALL

Anthony Pleskow, Chair
Scott Wyant, Vice Chair
Linda Smith Frost, Commissioner
Marcus Tiggs, Commissioner
John Kuechle, Commissioner

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT – Items Not On The Agenda

A-1

Study Session - Consideration of Zoning Code Text Amendments Affecting Residential Accessory Structures and Residential Non-Conforming Structures. Action: Provide Staff with direction. ***Continued from August 24, 2011.***

CONSENT CALENDAR. *Note: Consent Calendar items are considered to be routine in nature and may be approved by one motion. Public requests to discuss Consent Calendar items must be filed with the Secretary before the Consent Calendar is called.*

C-1. Secretary's Report. ***Approve Report.***

C-2. Approval of Minutes of July 13, 2011.

ITEMS FROM STAFF

ITEMS FROM PLANNING COMMISSION

ADJOURN

Upcoming Public Meeting Schedule –Tentative – 2011

Date	Day	Time	Location
<i>City Council</i>			
October 24	Monday	7:00PM	Council Chambers
<i>Redevelopment Agency</i>			
October 17	Monday	7:00PM	Council Chambers
<i>Civil Service Commission</i>			
November 12	Wednesday	7:00PM	Council Chambers
<i>Cultural Affairs Commission</i>			
November 8	Tuesday	7:00PM	Council Chambers
<i>Parks & Recreation Commission</i>			
November 1	Wednesday	7:00PM	Patacchia Room
<i>Planning Commission</i>			
November 9	Wednesday	7:00PM	Council Chambers

Meetings may be added or changed.



Attachment No. 2

~~uses, or to any oil well, oil well structures, or equipment that has been abandoned or the use has been discontinued for a period of at least one year~~

E. Conditional Uses.

1. **Conformity of uses requiring Administrative Use Permits and Conditional Use Permits.** Any use existing at the time of adoption of this Title, in a zoning district that allows the use subject to the granting of an Administrative Use Permit or Conditional Use Permit, shall be deemed a legal nonconforming use and may only continue to the same extent that it previously existed.
2. **Previous Administrative Use Permits or Conditional Use Permits in effect.** A use that was established with an Administrative Use Permit or a Conditional Use Permit but is no longer a use allowed by this Title within the applicable zoning district may continue in compliance with the provisions and terms of the original permit. If the Administrative Use Permit or Conditional Use Permit specified a termination date, then the use shall terminate in compliance with the original permit.

17.610.015 - Loss of Nonconforming Status**A. Termination by Discontinuance of Use.**

1. If a nonconforming use of land or a nonconforming use of a conforming structure is discontinued for a continuous period of at least one year, the rights to a legal nonconforming status shall terminate.
2. The one-year period shall not apply if the Director determines that legitimate and continual efforts to reuse or release the subject property have been made during the one-year period.
3. The determination of abandonment shall be supported by evidence satisfactory to the Director (such as the actual removal of equipment, furniture, machinery, structures, or other components of the nonconforming use, the turning-off of the previously connected utilities, or where there are no business receipts/records available to provide evidence that the use is in continued operation).
4. Without further action by the City, further use of the site or structure shall comply with all ~~of the current regulations of the applicable zoning district and all other applicable~~ provisions of this Title.

17.610.020 - Nonconforming Structures**A. Alterations or Additions.** The construction, enlargement, expansion, extension, or reconstruction of a nonconforming structure shall be subject to the following:

1. **Increase in area.** 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).

~~2. **Improvements to nonconforming multiple-family and nonresidential primary structure(s).**~~

- ~~a. **Major improvement defined.** A major improvement is an improvement that will add 10% or more, with a minimum of 750 square feet, to the existing gross floor area of the multiple-family or nonresidential structure(s) on the site, as determined by the Building Official.~~
- ~~b. **Minor improvement defined.** If the City determines that the estimated value of the work for which the permit is requested is equal to 10% or more of the replacement value of the multiple-family or non-residential structure(s) on the site, but at least \$50,000.00 (to be adjusted annually each July 1st to reflect the increase in the Consumer Price Index for all Urban Consumers, Los Angeles/Riverside/Orange County Area as established by the U.S. Department of Labor for the period from March of the preceding year through March of the current year), it shall be considered a minor improvement. In application of this Section, "work value" and "replacement value" shall be determined as follows:~~
 - ~~i. **Work value.** Each permit shall indicate the value of the work to be performed. If the Building Official believes the work value estimate indicated on the permit is too low, the Building Official shall estimate the value of the proposed work for the purpose of this calculation.~~
 - ~~ii. **Replacement value.** The replacement value of an existing structure shall be determined using tables of reconstruction costs published by the International Conference of Building Officials. The type of construction is determined, and a cost per square foot is derived from the table. This cost is multiplied by the number of gross square feet in the structure to obtain the estimated reconstruction cost of the structure.~~
 - ~~iii. **Commercial revitalization area.** If the proposed minor improvements include exterior building facade improvements to an existing structure located within an area designated by the Council as a Commercial Revitalization Area, the portion of the work value devoted to exterior building facade improvements shall not be included in determining the 10% or \$50,000.00 enforcement threshold for minor improvements.~~
- ~~c. **Incidental improvements defined.** An improvement that does not qualify as a major or minor improvement shall be considered an incidental improvement.~~

- ~~d. **Requirements.** Whenever a permit for a major improvement or minor improvement to an existing nonconforming structure is requested, the Director shall not approve the~~



THOMAS GORHAM
Deputy Community
Development Director

Attachment No. 3

Culver CITY

PLANNING DIVISION

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ZONING CODE INTERPRETATION ZCI 08-01

Date: August 6, 2008

Subject: Nonconforming Structures

Code Section(s): 17.610.020.A. (Alterations or Additions)
17.610.020.A.1. (Increase in area)

Discussion: Section 17.610.020.A. discusses alterations or additions to nonconforming structures. Subsection 17.610.020.A.1 allows a nonconforming structure's area, space or volume to increase provided existing nonconformities related to setbacks, height, distance between structures, and staircase and landing area encroachments are not increased.

Determination: Pursuant to Zoning Code Section 17.120.015 (Procedures for Interpretations) the following is recorded as an Official interpretation of Zoning Code: Sections 17.610.020.A. (Alterations or Additions) and Subsection 17.610.020.A.1. (Increase in area):

- 1) The alteration or addition shall not encroach into any existing nonconforming setback.
- 2) The alteration or addition shall not increase the height of the structure within the nonconforming setback area. Any portion of the alteration or addition which increases the height of the structure shall comply with the current code required height and setback requirements.
- 3) The alteration or addition shall not result in a reduction of any nonconforming distance between structures.
- 4) The alteration or addition shall not result in an increase of a nonconforming staircase or landing area encroachment.

By: Thomas Gorham
Thomas Gorham
Deputy Community Development Director/Planning Manager

- J. Occupancy Restrictions.** There shall be no occupancy restrictions on the accessory unit however, the applicant for an accessory unit pursuant to this section must be a resident property owner.
- K. Setbacks.** The setback requirements for an accessory dwelling unit shall be the setback requirements of the zone in which the dwelling unit is located.
- L. Conversion of Nonconforming Structure.** When an existing nonconforming accessory structure is converted to an accessory dwelling unit, the required setbacks for the zone in which the unit is located must be provided. Legal nonconforming setbacks must be brought into conformance with the zoning regulations in effect at the time the unit is converted.
- M. Design Standards.** Specific design standards to encourage design compatible with existing structures on-site and to protect the privacy of adjacent properties may be applicable to the project as determined by the Administrative Use Permit process.
- N. Additional Standards.** All other standard requirements shall apply according to the zone in which the subject property is located; including but not limited to, open space, building height and distance between structures.

17.400.100 - Residential Uses - Accessory Residential Structures

This Section provides standards for accessory structures allowed in compliance with Article 2 (Zoning Districts, Allowable Land Uses and Zone-Specific Standards):

A. General Requirements for Residential Accessory Structures.

1. **Relationship of accessory use to the main use.** Accessory uses and structures shall be incidental to and not alter the residential character of the site.
2. **Allowable heights.** 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

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

3. Allowable setbacks.

- a. 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.
 - b. 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).
 - c. Exceptions. The following structures are exempt from the accessory structure setback requirements:
 - 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.
4. **Site coverage.** 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.

~~17.400.105 - Residential Uses - Multiple-Family Residential Standards~~

This section provides development and operation standards for multiple-family residential projects, addressing the requirements for private and common open space, laundry facilities, and other required project features in compliance with Article 2 (Zoning Districts, Allowable Land Uses and Zone-Specific Development Standards).

- A. **Open Space Requirements.** All multiple-family residential projects shall provide permanently maintained outdoor open space for each dwelling unit (private space), and for all residents (common space) as required in Chapter 17.210 (Residential Zoning Districts).
- 1. **Configuration of open space.**
 - a. **Location on site.** Required open space areas:
 - i. Shall be easily accessible.
 - ii. Shall be provided as continuous, usable site elements, which may include setback areas at ground level.

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Meeting Date: October 12, 2011 (Continued from August 24, 2011)		Item Number: <u>A-1</u>
AGENDA ITEM: Study Session - Consideration of Zoning Code Text Amendments Affecting Residential Accessory Structures and Residential Non-Conforming Structures.		
Contact Person/Dept.: Thomas Gorham		Phone Number: (310) 253-5727.
Public Hearing: ☐	Action Item: ☒	Attachments: ☒
Public Notification: On August 4, 2011, Courtesy Notification Mailed to All Residential Property Owners, All homeowner associations , and Various Members of the Community Commenting on the 4213 Vinton Avenue Plan Check ; Signs on Planning Counter Posted August 4, 2011; Published in the Culver City News on August 4, 2011; Master Notification List on August 4, 2011.		
Planning Approval: Thomas Gorham, Planning Manager / Deputy Community Development Director	Department Approval: Sol Blumenfeld, Community Development Director	
<u>RECOMMENDATION:</u> Staff recommends the Culver City Planning Commission (the “Commission”) discuss and provide input regarding draft amendments to the Zoning Code affecting Residential Accessory Structures and Residential Non-Conforming Structures and direct staff to proceed with text amendments modifying various Zoning Code Sections as noted below. <u>BACKGROUND:</u> In response to City Council direction, staff has prepared draft recommendations on amending the Zoning Ordinance related to residential accessory structures and legal non-conforming residential structures. The City Council direction was based upon a complaint from a property owner who expressed concerns about a building addition to a legal non-conforming accessory structure that abuts his property.¹ The building permit for the project was lawfully issued and the project is under construction. (Please see Attachment No. 1). 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.		
1		

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Staff believes that many of the points raised above reflect broader policy issues that should be explored by Commission and Council. However, it is important to note that the current code reflects the policy decisions of the Council and Commission at the time and was the product of a lengthy and deliberate process. Further a significant amount of the housing stock is non-conforming to current codes and any changes may affect a large number of properties. The policy implications are:

- Additions to legal non-conforming structures increase overall non-conforming conditions which may negatively impact adjacent properties relative to views, privacy and other concerns.
- Accessory structures may become predestined code enforcement problems as they are easily converted to illegal second dwelling units,
- Accessory structure should be smaller than the primary dwelling unit on the lot on which they are located.
- By right 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.

DISCUSSION:

This study session is intended to provide the Planning Commission with options to consider in revising the code to address the above policy issues. The Commission should decide which, if any, of the above policy issues should be addressed and then direct staff on potential code changes. The sections of the Zoning Code affected by the proposed amendments are Sections 17.610.020 – Nonconforming Structures and 17.400.100 – Accessory Residential Structures. Further, the purpose of these proposed amendments is to maintain the character of existing residential neighborhoods (Zoning Code Section 17.210.010 – Purpose of Residential Zoning Districts – A through F) while allowing for property improvements such as square footage additions.

Current Code Provisions

Section 17.610.020 - Nonconforming Structures – A.1 (Attachment No. 2)

The section 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

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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)...”

Basically the legal nonconforming setback line can continue for an addition to a nonconforming structure provided that the existing nonconforming setback does not encroach further into required setbacks. Zoning Code Interpretation, ZCI 08-01 (Attachment No. 3) further clarifies 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 (Attachment No.4)

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

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

...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*

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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:

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."

Amendment Options

If the Commission determines that that a code amendment is warranted, it may want to consider the following options. The language is not in strike-out/underline format, because it is intended only for policy discussion purposes. Please also note that it is intended only to apply to residential properties.

Potential Amendments to Section 17.610.020 (Nonconforming Structures) include:

1. Eliminate current allowance to extend nonconforming setbacks for additions with all new construction following current code setback/height development standards.
2. Limit extent of any additions to structures with nonconforming setbacks to 50% of the structure's existing floor area.
3. Require Notification to abutting properties for residential building additions to legal nonconforming structures at Building Permit application submittal.

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4. Do not allow expansion or additions to nonconforming structures unless the nonconforming conditions are brought into code compliance.

Potential Amendments to Section 17.400.100 (Accessory Residential Structures) include:

1. Prohibit 2nd story additions on garages that do not meet the primary structure setbacks.
2. Prohibit full or $\frac{3}{4}$ baths in accessory structures.
3. Restrict maximum allowable size of accessory structures to 50% of the primary structure or 800 square feet whichever is less, to reduce bulk and mass adjacent to rear and side property lines.
4. Prohibit accessory structures from being used as bedrooms.
5. Prohibit wet bars in accessory structures.
6. Revise Covenant language required for accessory structures (to ensure rooms in accessory structures are not rented out as separate dwelling units) to be clear on use restrictions for accessory structures.

Outcomes of Potential Amendments

Each of these actions will affect to some degree the ability to expand and improve affected properties. Below is a summary of the pros and cons for each of the proposed amendments.

Potential Amendments to Section 17.610.020 (Nonconforming Structures)

1. Eliminate current allowance to extend nonconforming setbacks for additions with all new construction following current code setback/height development standards.

Pros:

- All new construction will follow current code.
- There will be no room for interpretation with the straight, forward application of the Zoning Code.
- Potential impacts to adjoining properties will be eliminated because all new construction will follow current Zoning Code development standards.

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Cons:

- Building jogs could prove problematic to engineer and create an added expense for property owners.
- There will be less flexibility for property owners in how they can design their additions.

2. Limit extent of any additions to structures with nonconforming setbacks to 50% of the structure's existing floor area.

Pros:

- All legal nonconforming structures will be limited in their expansion potential thereby limiting perception and reality that these structures are increasing their nonconformity.

Cons:

- If the code eliminates the allowance for nonconforming setback lines then this proposed amendment is not needed since all new construction will follow current code development standards.
- Property owners will be less inclined to improve their properties because the economics may not work out for only a partial addition.
- It is not equitable to prohibit property owners with legal nonconforming structures to add to their homes and at the same time allow other property owners to do the same amount of expansion simply because their homes are newer and/or conform to current code standards.
- A significant amount of properties in Culver City have legal non-conforming setbacks and reducing potential property improvements could result in overall property value reductions.

3. Require Notification to abutting properties for residential building additions to legal nonconforming structures at Building Permit application submittal.

Pros:

- Provides notification to neighbors and a general awareness of construction activity in their neighborhood.

Cons:

- Staff cost will increase due to added notification procedures.
- Notification requirements will be inconsistent for all additions because some properties will be conforming while others, legal nonconforming.

4. Do not allow expansion or additions to nonconforming structures unless the nonconforming conditions are brought into code compliance.

Pros:

- Eliminate potential for neighborhood scrutiny of expansions.
- May encourage non-conforming structures to be rebuilt.

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- Expansions of nonconforming structures will result in 100% conformity.

Cons:

- Neighbors have been living next to each other for years with existing nonconforming situations. If the 1st recommendation is approved the nonconforming situation will not be expanded.
- Overall property values may go down as a significant amount of properties in Culver City have at least one nonconforming development standard and property owners will be less inclined to improve their properties due to added cost.
- It is not equitable and more burdensome for property owners with legal nonconforming structures to make additions while property owners with conforming structures have an easier path to make a similar addition to their property.
- There will be an increased expense for simple additions.

Potential Amendments to Section 17.400.100 (Accessory Residential Structures)

1. Prohibit 2nd story additions on garages that do not meet the primary structure setbacks.

Pros

- Eliminates massing of accessory structures.
- Eliminates potential for creation of illegal units.
- May reduce privacy impact issues.
- Eliminates creation of non-conforming structures.

Cons

- May discourage improvements properties.
- May reduce open space because property owners will be forced to build at ground level.

2. Prohibit full or $\frac{3}{4}$ baths in accessory structures.

Pros

- Limits illegal conversions of accessory structures into dwelling units.
- Limits the owner's ability to rent out rooms.

Cons

- Does not allow flexibility for owners' ancillary activities requiring a shower (gym, car repair, etc.)
- Discourages improvements to properties.
- There will be an added burden to property owners who want to build accessory rooms and do not intend to rent room.

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3. Restrict maximum allowable size of accessory structures to 50% of the primary structure or 800 square feet whichever is less, to reduce bulk and mass adjacent to rear and side property lines.

Pros

- Limits size of accessory structures and makes accessory structures ancillary to primary structures.
- Reduces potential privacy issues.
- Reduces conflict with neighbors.
- Limits conversions of accessory structures to dwelling units.

Cons

- Limits options for property improvements.
- Does not allow flexibility for property owners wishing to improve their properties.

4. Prohibit accessory structures from being used as bedrooms.

Pros

- Limits illegal conversions of accessory structures to dwelling units.

Cons

- This will be difficult to enforce and will require an over reaching involvement by the City in the private lives of residents.
- This will be difficult to define; nothing in the Zoning Code limits where people can sleep in their homes.
- Does not allow flexibility for the property owner who best knows how to distribute bedrooms for his/her family.
- This will be an added burden on property owners who wish to add accessory structures but do not intend to rent rooms.

5. Prohibit wet bars in accessory structures.

Pros

- May discourage illegal conversions.

Cons

- Does not allow flexibility for property owners (some property owners wish to put a bar outside in the accessory structure).

6. Revise Covenant language to clarify use restrictions for accessory structures.

- This is not an amendment but a commitment by staff to work with City Attorney on language that is sound and enforceable.

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Staff Recommendations

The proposed amendments include several recommendations that may have collateral impacts such as deferred property maintenance that could affect neighborhood property values.

Based on the analysis above Staff recommends that the 1st proposed amendment to Zoning Code Section 17.610.020 (Nonconforming Structures) be adopted: Eliminate current allowance to extend nonconforming setbacks for additions with all new construction following current code setback/height development standards. This amendment will continue to allow property improvements while not creating onerous requirements for property owners of nonconforming structures. It will also ensure that all new additions follow current code requirements thereby reducing potential conflicts with neighbors.

With regard to Zoning Code Section 17.400.100 (Accessory Residential Structures) the following proposed amendments are recommended by staff:

- Prohibit 2nd story additions on garages that do not meet the primary structure setbacks.
- Prohibit full or ¾ baths in accessory structures.
- Restrict maximum allowable size of accessory structures to 50% of the primary structure or 800 square feet whichever is less, to reduce bulk and mass adjacent to rear and side property lines.

With these amendments in place accessory residential structures will quantifiably remain subordinate to the primary dwelling unit and the restroom restriction will make it difficult to illegally convert such structures to 2nd units. The second story restriction will be limiting for many properties but it will result in less bulk and massing for accessory structures located very near side and rear property lines. These amendments will also reduce potential conflicts between neighbors.

LEGAL NONCONFORMING DWELLING UNITS

In considering these various proposed amendments, staff wishes to communicate to the Commission that numerous residential properties have at least one non-conforming development standard. The City has been in existence since 1917 and has gone through various development phases with annexations and development of new tracts on raw land. Much of the residential areas of the City have been built-out since at least the 1960's when previous zoning standards were in place (dating back to 1917). These proposed changes will affect these numerous properties and their improvement capacity to some degree.

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FISCAL ANALYSIS:

As stated in the pros/cons analysis, there is potential that several amendments may lead to deferred property maintenance and property improvements thereby devaluing property. This will have a significant impact in the fiscal health of the City related to property tax revenue. With limited opportunities to improve properties, there may be a reduction in building permits issued for residential rehabilitation and tenant improvements resulting in decreased revenue to the City's General Fund. The staff recommended amendments are intended to limit nonconforming expansions and illegal conversions while allowing some flexibility to improve nonconforming properties and accessory structures

CONCLUSIONS:

In summary, the Planning Commission may wish to consider all or some of the proposed amendments but should balance new proposed restrictions with the need to allow property maintenance and not unduly constrain property improvements.

NOTES:

1. On March 3, 2011, a Building Permit for a Single Family Dwelling Alteration was issued for a 663 square foot second floor addition to an existing single story accessory structure that is located at the rear of the property (project site) that is developed as a single family residence. The existing single story accessory structure contained a two-car garage, recreation room, bathroom, and laundry room. With the second story addition to the accessory structure, the first story will maintain the two-car garage and the recreation room will be revised to include a restroom, closet, and staircase to the second story. The second story will contain an art studio, home office, a restroom, and closets. In conformance with staff's interpretation of the Zoning Code, the rooms in the accessory structure are considered to be bedrooms and part of the main dwelling unit. Per the Zoning Code, a single family house requires two covered parking spaces regardless of the number of bedrooms in the dwelling and the additional rooms in the accessory structure did not trigger additional parking since the project site already has a two-car garage.

The existing one-story accessory structure had a height of approximately twelve feet and consequently was required to only have a 2-foot setback from the rear and side property lines. The existing accessory structure had a north facing side setback of 5-feet and a rear setback of 5.83-feet. At 1-foot, the south facing side setback is legal non-conforming. Accessory structures more than 12-feet in height but never exceeding a maximum limit of 26 feet in height are required to have setbacks that are at least as great as the setbacks for the primary structure (10 feet from the rear and 4 feet from the sides). The Zoning Code does not prohibit additions to legal non-conforming structures and the second story addition to the existing structure was allowed as long as it was setback at least 10 feet from the rear and 4 feet from the sides (as required by code). The second story addition is being built with a 10 foot rear setback, a 5 foot north facing side setback, and a 4 foot south facing side setback. The structure is approximately 20 feet in height, below the maximum allowed 26 foot height limit for accessory structures. The accessory

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structure/ remains at least 9 feet from the primary dwelling unit (the Zoning Code requires a minimum 5 foot separation) and square footage of the existing house combined with the square footage of the accessory structure (excluding the garage area) is less than the maximum code allowed dwelling unit size. In summary, the addition is consistent with R-1 zone development standards. A covenant prohibiting the renting out of the accessory structure as a separate dwelling unit was also required.

ATTACHMENTS:

- 1) Legal Non-conforming /Accessory Structure Project Photos.
- 2) Section 17.610.020 - Nonconforming Structures – A.1
- 3) Zoning Code Interpretation, ZCI 08-01
- 4) Zoning Code Section 17.400.100 – Accessory Residential Structures