



# City of Culver City

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## Staff Report Details (With Text)

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**Title:** PC: Consideration of a Zoning Code Amendment (P-2017-0052-ZCA), Amending Zoning Code Section 17.210.015, Table 2-2 and Section 17.400.095 related to Accessory Dwelling Units.

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**Attachments:** 1. 2017-03-22\_ATT 1\_Resolution\_ZCA Amendment for ADUs.pdf

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**PC: Consideration of a Zoning Code Amendment (P-2017-0052-ZCA), Amending Zoning Code Section 17.210.015, Table 2-2 and Section 17.400.095 related to Accessory Dwelling Units.**

**Meeting Date:** March 22, 2017

**Contact Person/Dept:** Sol Blumenfeld, Community Development Director/CDD  
Michael Allen, Contract Planning Manager

**Phone Number:** (310) 253-5761/ (310) 253-5660/ (310) 253-5746

**Fiscal Impact:** Yes ☐ No ☒

**General Fund:** Yes ☐ No ☒

**Public Hearing:** ☒

**Action Item:** ☐

**Attachments:** ☒

**Public Notification:** (Email) Master Notification List (2/15/17, 3/2/17 and 3/15/17); (Posted) City website (2/15/17, 3/2/17, and 3/15/17); (Published) Culver City News on 2/16/17.

**Department Approval:** Sol Blumenfeld, Community Development Director (03/16/2017)

### RECOMMENDATION

That the Planning Commission adopt Resolution No. 2017-P006 (Attachment No. 1) recommending to the City Council approval of Zoning Code Amendment (P2017-0052-ZCA), amending Culver City Municipal Code (CCMC), Title 17 - Zoning (Zoning Code) Section 17.210.015 - Residential Zoning District Land Uses and Permit Requirements, Table 2-2 - Allowed Uses and Permit Requirements for Residential Zoning Districts; and

Section 17.400.095 - Residential Uses - Accessory Dwelling Units, in order to allow accessory dwelling units through a ministerial approval and modifying the development standards to be in compliance with current State housing law.

### **PROCEDURES:**

1. Chair calls on staff for a brief staff report and Planning Commission poses questions to staff as desired.
2. Chair opens the public hearing, providing the applicant the first opportunity to speak, followed by 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:**

Government Code Section 65852.2(i) defines an Accessory Dwelling Unit (ADU) as:

“[A]n attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.”

Chapter 17.210 of the City's Zoning Code (Table 2-2 of Section 17.210.015), currently allows an Accessory Dwelling Unit (ADU) to be constructed in R1, R2, R3 and RLD (Low Density Multiple-Family Residential) Zones with the issuance of an Administrative Use Permit (AUP). An AUP is a discretionary action requiring certain findings for approval. This conflicts with current state housing law which mandates, that an application for an ADU “shall be considered ministerially without discretionary review...” (Government Code Section 65852.2(a)(3)). The State has taken this proactive role in regulating ADUs because they are seen as an effective way to provide affordable housing in a community. State law mandates the inclusion of ADUs in residential zones; however, a local jurisdiction may adopt an ordinance establishing certain zoning requirements for the permitting of an ADU.

Effective January 1, 2017, the State amended the ADU regulations to further limit a city's ability to regulate ADUs as follows:

- 1.) **Parking:** Cities are limited to requiring only one parking space per bedroom or unit. In addition, such parking space must be allowed to be in a tandem configuration or located in setback areas, unless certain findings can be made (infeasible based upon specific site or regional topographical or fire and life safety conditions, or not permitted anywhere else in the jurisdiction). However, cities may not impose any additional parking requirements if an ADU is located within ½ mile of public transit; within a historic district; part of an existing primary residence or an existing accessory structure; in an area where on-street parking permits are required, but not offered to the occupant of the ADU; or located within one block of a car share area.

- 2.) **Fees:** Prohibits calculating separate utility connection fees or capacity charges for water and sewer for ADUs, and requires proportionate fee charges for attached and detached ADUs so that they do not exceed the reasonable cost of providing the service.
- 3.) **Fire Sprinklers:** Prohibits cities from requiring fire sprinklers in an ADU if they are not required in the primary residence.
- 4.) **Existing Space:** Cities must allow one ADU per single family lot in any single family residential zone, provided the unit is located entirely within an existing primary residence or accessory structure; has independent exterior access from the existing residence; and has side and rear setbacks that meet fire safety requirements. If an ADU is to be located within an existing space and meets the aforementioned requirements, then a city can only require that the ADU comply with the Building Code.
- 5.) **Nullification of City's Existing ADU Ordinance:** After January 1, 2017, any ADU ordinance that does not meet the requirements of the amended state ADU law is null and void, unless and until the local agency adopts an ordinance that complies with state law. (As discussed above, the City's current ADU regulations are unenforceable at this time.)
- 6.) **Current Processing of ADU Applications:** Pursuant to Government Code Sections 65852.2 (a)(3) and (b), any application for an ADU permit must be considered ministerially, without discretionary review, within 120 days after receiving the application.

## **DISCUSSION:**

### ***State ADU Law***

Although state law has restricted a city's ability to regulate ADUs, the amended state ADU law still provides local agencies with the following regulatory authority (except as otherwise provided by state ADU law as discussed above):

- Designate areas within the jurisdiction where ADUs may be permitted;
- Impose standards on ADUs that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards the prevent adverse impacts on any real property that is listed in the California Register of Historic Places;
- Restrict ADUs to the maximum allowable density for the lot upon which it is located and require the ADU to be consistent with the existing general plan and zoning designation for the lot;
- Restrict ADUs from being sold separately from the primary residence;
- Require the applicant of the ADU to be an owner-occupant; and
- If the ADU is to be rented, require that it be rented for terms longer than 30 days.

### ***Current City Zoning Code Provisions***

The following summarizes the applicable and permissible development standards for ADUs, which are set forth in the current Zoning Code (Section 17.400.095) and are included or modified in the

proposed Zoning Code Amendment, to address the requirements of the amended state law:

- A. Minimum Lot Size.** A minimum lot size of 6,000 square feet shall be required for the construction, use and maintenance of accessory dwelling units. **(Partially inconsistent with state law. Although state law does not preclude a city from establishing a minimum lot size, cities may not establish a standard that would burden the development of ADUs. In addition, minimum lot sizes may not be applied to ADUs located within existing structures. Given that a majority of lots in the City are on average 5000 square feet, staff is recommending this provision be modified. Amendments to the current provision are being proposed to address these issues.)**
- B. Maximum Unit Size.** The maximum permitted unit size may be up to 1/2 the gross square footage of the primary dwelling unit on the lot, but shall not exceed 600 gross square feet in floor area. **(Consistent with state law.)**
- C. Minimum Unit Size.** The minimum unit size shall be 220 square feet. **(Consistent with state law.)**
- D. Zones in which Accessory Dwelling Units may be Constructed.** The construction, use, and maintenance of accessory dwelling units shall only be permitted in the R1, R2 and R3 Zones. **(Partially inconsistent with state law. State law requires cities to allow ADUs in multi-family residential zones. Amendments to the current provision are being proposed to address this issue.)**
- E. Density.** Accessory dwelling units shall be permitted on properties with no more than one existing dwelling unit currently on the site. No more than one accessory dwelling unit is allowed on a property. **(Partially inconsistent with state law. State law requires cities to allow ADUs in multi-family residential zones. Amendments to the current provision are being proposed to address this issue.)**
- F. Minimum Room Dimensions.** Minimum room dimensions, including ceiling heights, floor area and width, shall meet the Uniform Building Code regulations in effect at the time of construction. **(Consistent with state law)**
- G. Location.** Accessory dwelling units shall be located behind the primary dwelling. **(Inconsistent with state law. ADUs must be allowed to be located within an existing dwelling unit. Amendments to the current provision are being proposed to address this issue.)**
- H. Parking.** One uncovered non-tandem parking space shall be required for an accessory unit. Required parking may not be located within the front setback area leading to the required covered parking. No tandem parking is permitted unless it is adjacent to an alley. If access to parking for the accessory dwelling unit is provided from an alley, the applicant shall pay a pro-rata share for the paving of an unpaved alley. **(Inconsistent with state law. Required parking may be located anywhere on the lot and may be provided in tandem and no additional paving requirements may be established in connection with the proposed ADU. Amendments to the current provision are**

being proposed to address this issue.)

- I. Habitability.** Accessory dwelling units shall be fully habitable and shall include kitchen and bathroom facilities. A maximum of one separate bedroom shall be permitted per unit. **(Consistent with state law.)**
- J. Occupancy Restrictions.** There shall be no occupancy restrictions on the accessory unit however, the applicant for an accessory must be a resident property owner. **(Consistent with state law.)**
- 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. **(Partially inconsistent with state law. State law allows the City to impose standards relating to setbacks in general. However, where an ADU is proposed for the conversion of an existing garage, no setback shall be required; and where an ADU is located above a garage, the maximum setback allowed is five feet from the side and rear lot lines. Amendments to the current provision are being proposed to address this issue.)**
- 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. **(Partially inconsistent with state law. State law allows the City to impose standards relating to setbacks in general. However, where an ADU is proposed for the conversion of an existing garage, no setback shall be required; and where an ADU is located above a garage, the maximum setback allowed is five feet from the side and rear lot lines. Amendments to the current provision are being proposed to address this issue.**)
- 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. **(Partially inconsistent with state law. State law allows the City to impose standards on design; however, the AUP process is not permitted as discussed herein above. Amendments to the current provision are being proposed to address this issue.)**
- 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. **(Inconsistent with state law. To the extent any “other standard requirements” are not consistent with state law, they would be unenforceable. Amendments to the current provision are being proposed to address this issue.)**

### ***Proposed Zoning Code Amendments***

See Exhibit A. Proposed changes are shown in strikethrough and underlined.

**ENVIRONMENTAL DETERMINATION:**

Pursuant to Sections 15162 and 15168 of the California Environmental Quality Act (CEQA), Zoning Code Text Amendment (P2016-0077-ZCA) is within the scope of the Culver City General Plan Update Program EIR approved on September 24, 1996 (PEIR 1) and the Culver City Redevelopment Plan Amendment and Merger Program Subsequent EIR approved on November 16, 1998 (PEIR 2). The circumstances under which PEIR 1 and PEIR 2 were prepared have not significantly changed and no new significant information has been found that would impact either PEIR 1 or PEIR 2; therefore, no new environmental analysis is required.

**MOTION:**

That the Planning Commission:

1. Approve the attached resolution recommending to the City Council approval of Zoning Code Amendment P-2017-0052-ZCA regarding accessory dwelling units.

**ATTACHMENTS:**

1. Resolution No. P-2017-P006 and Exhibit A - Draft Zoning Code Text Amendments