



# City of Culver City

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## Staff Report

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**File #:** 20-595, **Version:** 1

**Item #:** A-2.

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**CC - (1) Adoption of an Ordinance Amending Title 17, Zoning, of the Culver City Municipal Code (CCMC), Section 17.400.095 as it Relates to the Standards and Requirements for Accessory Dwelling Units (P2019-0265-ZCA); or (2) Reintroduction of the Ordinance with Modification Based on Clarification from the California State Department of Housing and Community Development Regarding Minimum Square Footage of Accessory Dwelling Units Attached to or Within a Primary Dwelling Unit.**

**Meeting Date:** January 13, 2020

**Contact Person/Dept:** Michael Allen/Current Planning Manager

**Phone Number:** (310) 253-5710

**Fiscal Impact:** Yes ☐ No ☒

**General Fund:** Yes ☐ No ☒

**Public Hearing:** ☐ **Action Item:** ☐ **Attachments:** ☒

**Public Notification:** (Email) Meetings and Agendas - City Council (1/08/20); (Posted) City Website (1/08/20); (Published) Culver City News (11/21/19)

**Department Approval:** Sol Blumenfeld, Community Development Director (01/06/20)

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### **RECOMMENDATION**

Staff recommends the City Council (1) adopt an ordinance (Attachment No. 1) approving Zoning Code Amendment (P2019-0265-ZCA), amending Culver City Municipal Code (CCMC), Title 17 - Zoning Code Section 17.400.095, Residential Uses - Accessory Dwelling Units (ADU), to remove barriers to current standards in accordance with new California State standards for accessory dwelling units that went into effect January 1, 2020; or (2) reintroduce the Ordinance with modification based on clarification from the California State Department of Housing and Community Development (HCD) regarding minimum square footage of accessory dwelling units attached to or within a primary dwelling unit.

### **BACKGROUND/DISCUSSION**

#### **Planning Commission Recommendation**

On November 13, 2019, the Planning Commission considered Resolution No. 2019-P012

recommending City Council approval of the Zoning Code Amendment related to ADUs. The Commission took no action on the proposed Resolution and expressed concern regarding potential impacts of the new state law on the character of existing single-family residential zones. The Commission acted to defer any decision on the Zoning Code Amendment to City Council and provided the following refinements to the recommended standards:

- Reduce maximum unit size for two or more-bedroom units from 1,200 square feet, to 1,000 square feet.
- Eliminate the provision allowing separate conveyance of an ADU.
- Increase the required side and rear yard setback from 2 feet to 4 feet and modify the CCMC side and rear yard setback standards for accessory residential structures and garages from 2 feet to 4 feet.

### **City Council First Reading and Introduction**

On December 9, 2019, the City Council, after opening public comment and discussing proposed changes, introduced the proposed Ordinance (5-0).

Discussion included deliberation of square footage allowances, building height, setbacks, garage conversions, and parking requirements. Subsequently, City Council introduced the proposed Ordinance, after increasing the minimum ADU size for a two or more-bedroom ADU from 1,000 square feet to 1,200 square feet, and including a provision allowing a 2-foot side and rear yard setback for ADUs located adjacent to side and rear property lines immediately abutting a non-residential zone.

The proposed Ordinance, including the directed changes and clarification, is presented for adoption.

### **HCD Clarification of State Regulations Subsequent to Introduction of Ordinance**

On January 2, 2020, subsequent to the City Council's introduction of the Ordinance, staff received clarification regarding conflicting provisions in state law from the California State Department of Housing and Community Development (HCD), the responsible agency for implementation of state ADU laws. New state law stipulates that the square footage of an ADU attached to or built within a primary dwelling unit is limited to 50% of the square footage of the primary dwelling unit. However, a subsequent section of the regulations prevents local agencies from establishing development standards that would prohibit a minimum of an 800 sq. ft. ADU. These provisions are in conflict when 50% of the square footage of the primary dwelling unit would result in an ADU less than 800 sq. ft. (i.e. any primary dwelling unit less than 1,600 sq. ft.).

HCD clarified that the provision preventing local jurisdictions from prohibiting the construction of a minimum of an 800 sq. ft. ADU was not applicable to the 50% threshold for ADUs built within or attached to a primary dwelling unit. The 800 sq. ft. minimum allowance is applicable to any other configuration of detached ADUs when considering all other development standards (i.e. setbacks, FAR, etc.).

The proposed Ordinance, as introduced on December 9, 2019, layers both provisions. This results in an allowance of at least an 800 sq. ft. ADU built within or attached to a primary dwelling unit regardless of the primary dwelling unit square footage. For example, under the City's Ordinance, as introduced, an 800 sq. ft. ADU could be constructed within or attached to a primary dwelling unit of 1200 sq. ft., regardless of the fact that 50% of the primary dwelling unit would only allow for a 600 sq. ft. ADU under the state regulations.

It is permissible for the City's regulations to be less restrictive than state law; therefore, the City Council has the authority to adopt the Ordinance as-is. The City Council also has the option, if it desires, to modify the proposed Ordinance to be consistent with State law. In that case, the Ordinance would be revised to make it clear that where an ADU is attached to or constructed within the primary dwelling unit, it would be limited to a maximum square footage of 50% of the square footage of the primary dwelling unit.

Section 17.400.095.A.3 of the Ordinance would need to be revised as follows:

**A. Maximum Unit Size.**

1. The maximum permitted unit size of an attached accessory dwelling unit, or an accessory dwelling unit located entirely within a proposed or existing primary dwelling unit or accessory structure, shall not exceed 850 square feet for a one-bedroom unit or 1,200 for a two or more-bedroom unit, or 50% of the gross square footage of the primary dwelling unit on the lot, whichever is less.
2. The maximum permitted size of a detached accessory dwelling unit shall not exceed 850 square feet for a one-bedroom unit or 1,200 square feet for a two or more-bedroom unit.
3. Nothing in this Section shall prohibit ~~an attached~~ or a detached accessory dwelling unit that is at least 800 square feet, 16 feet in height, with four-foot side and rear yard setbacks, provided that the accessory dwelling unit is constructed in compliance with all other development standards of this Title.

If the City Council wishes to make this substantive modification, the Ordinance would need to be reintroduced at this meeting and brought back for a second reading and adoption on January 27, 2020.

## **ENVIRONMENTAL DETERMINATION**

Pursuant to CEQA Guidelines Section 15061(b)(3), the Project is exempt because it can be seen with certainty that there is no possibility that the Project to amend the Zoning Code will have a significant effect on the environment. The Project by itself, does not result in any physical changes in the environment because it will only amend the development standards for accessory dwelling units as an ancillary use within the City's residential zoning districts, and does not result in an intensification of development beyond what is already permitted in the Zoning Code allows.

## **FISCAL IMPACT**

There is no fiscal impact associated with the introduction of the proposed Ordinance.

## **ATTACHMENTS**

1. 2020-01-13\_ATT - ADU Ordinance Update

## **MOTION**

That the City Council:

1. Adopt an ordinance approving Zoning Code Amendment P-2018-0052-ZCA amending Culver City Municipal Code (CCMC), Title 17 - Zoning Code Section 17.400.095, Residential Uses - Accessory Dwelling Units;

### **OR**

2. Reintroduce the Ordinance with modification based on clarification from the California State Department of Housing and Community Development (HCD) regarding minimum square footage of accessory dwelling units attached to or within a primary dwelling unit.