PLANNING COMMISSION
STAFF REPORT
August 18, 2020

Location: Citywide

Request for: Amendments to Accessory Dwelling Unit Ordinance approving zoning text amendments to Accessory Dwelling Unit (ADU) requirements in the Zoning Ordinance and other miscellaneous updates, including permitted ADU types allowed, side and rear setbacks, height for detached ADUs, and to comply with State law.

CEQA: Exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080.17 and Section 15061 (b) (3).

Planner: Apollo Rojas
Senior Planner
arojas@redwoodcity.org
650-780-7365

Reason for the Request: Compliance with State law and implementation of local standards where the City has discretion.

Key Considerations: Height, floor area and lot coverage application, short-term rentals, and compliance with State law.

Public Notice: On August 7, 2020, more than ten days before to the hearing date, notice of the Planning Commission hearing was posted on the City website, placed in the San Mateo Daily Journal, and posted to www.redwoodcity.org/adu. No comments were given as of preparation of this report.

Staff Recommendation:

✓ Recommend That the City Council Approve ADU-Related Amendments to Zoning Ordinance. Adoption of a resolution recommending approval of zoning text amendments to Accessory Dwelling Unit (ADU) requirements in the Zoning Ordinance and other miscellaneous updates, including permitted ADU types allowed, side and rear setbacks, a maximum 16’ height for detached ADUs, and maximum floor area to comply with State law.
BACKGROUND
On February 10, 2020, the Planning Commission and City Council held a Joint Study Session to discuss new State law ADU requirements that went into effect January 1, 2020. At the study session, staff provided an overview of the new State law requirements and provided policy questions for discussion. The study session considered areas where cities have discretion, including maximum ADU square footage, floor area and lot coverage applicability, and maximum height for detached ADUs and provided direction on staff policy questions. There was no formal action at the meeting as it was a study session.

At their Joint Study Session, the following themes emerged for adoption of the new City ordinance:

- Comply with new state ADU law,
- Simplify regulations, and
- Maintain 2019 City ADU ordinance standards to the extent feasible.

A discussion on ADU ordinance adoption procedures and staff recommendations was tentatively scheduled for the March 23rd City Council hearing, however this item was postponed so that the City Council and community could focus on health and safety issues related to the Covid-19 pandemic.

The City Council met on July 13, 2020 to discuss an urgency ADU ordinance adoption. Public comment included requests to adopt an urgency ordinance, including to limit the height of detached ADU heights to 16 feet, the minimum required by State law. Other public comment suggested simplifying the regulations and allowing more options to encourage the production of ADUs.

The City Council was split on the policy, particularly with height for detached ADUs and did not adopt an urgency ordinance. The Council proposed a motion to adopt an ADU ordinance with a 16 foot maximum height for detached ADUs, apply lot coverage and FAR standards for ADU’s over 800 sq. ft., and to grandfather existing ADU short term rentals on ADUs built prior to January 1, 2020, but to prohibit new short term rentals in all ADUs. The motion vote was 4–3 with the majority in favor, however six affirmative votes are required in order to pass an urgency ordinance.

Because the urgency ordinance was not adopted, staff was instructed to conduct a standard ordinance adoption process and to present to the ADU ordinance to the Planning Commission prior to returning to the City Council for introduction and adoption. In preparation for the ordinance returning to Council, staff was asked to study height for detached ADUs. During the Council hearing, there was uncertainty about the minimum height required for a second story and how the design would look like for a partial two-story detached ADU. Council also asked staff to research whether ADUs were being used as a residence or for other purposes such as recreation and to compile data from the last two years on average lot size, height, and square footage with a breakdown by neighborhood.

ANALYSIS/DISCUSSION
State law restricts what cities may require for new ADU construction to reduce barriers and streamline development of new ADUs. The State requires cities to amend their ordinance to comply with the provisions of the new laws, or the local ADU ordinance is considered invalid. When the local ordinance is considered invalid it has to abide by regulations of state law which are less restrictive. Because the City does not have an adopted local ordinance it has to abide by state law. A total of 47 applications have been received since January 1, 2020, when the new State regulations became effective and replaced our local ordinance.
Analysis of the new state ADU law is included in the [February 10, 2020 Joint Study Session staff report](#) and a summary of required changes to the City’s ADU ordinance to comply with State law is provided in July 13, 2020 City Council staff report, (also see [Linked Document #1](#)). Below is staff’s analysis and recommendations based on direction received from City Council and the areas where cities may regulate: Height, floor area, lot coverage, and short-term rentals:

**Height**
State law requires cities to allow new ADUs of at least 16 ft. in height, however cities may choose to allow taller ADUs. Currently ADUs are reviewed under State law and are allowed to meet the height maximums of the underlying zoning, up to 28 ft. in most cases, with 4 ft. setbacks from side and rear property lines until a local ordinance is adopted. The City’s 2019 ADU Ordinance allowed a second-story ADU above a detached garage of up to 20 ft. in height plus additional height for roof slope. At the February 2020 study session, the direction was to maintain the height provisions from the 2019 ADU Ordinance. At the July 13th City Council hearing, a majority of the councilmembers supported a 16 ft. height limit, while the other councilmembers supported taller heights to allow more housing options for ADUs, including the ability to have a usable second story.

During the July 2019 ADU ordinance discussion, members of the Planning Commission asked staff to explore banning ADUs over detached garages or further reducing the maximum height, preferably to 17 ft. or considering half-stories. In 2019 and 2020 a total of 128 ADUs were proposed and of those 31 detached ADUs were above 16 ft. in height.

The factors that determine the height of a structure include lot slope, floodplain, foundation systems, ceiling joist thickness, building code requirements for habitable space ceiling heights, and roof slope. Staff consulted with the City’s Building Department to estimate viable heights for foundation system, floor height for each story, ceiling joists, and roof pitch. Adding conservative building dimensions for the requirements a two-story ADU would be 17-18 ft. with a flat roof and 20-21 ft. with a typical 4:12 pitch, see table below:

<table>
<thead>
<tr>
<th>ADU Construction</th>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foundation System</td>
<td>4” - 12”</td>
</tr>
<tr>
<td>Ceiling Height – Floor 1</td>
<td>7’-6” or 8’</td>
</tr>
<tr>
<td>Floor / Ceiling Joist</td>
<td>1’</td>
</tr>
<tr>
<td>Ceiling Height – Floor 2</td>
<td>7’-6” or 8’</td>
</tr>
<tr>
<td>Total w/flat roof:</td>
<td></td>
</tr>
<tr>
<td>Plate Height 7.5’ or 8’</td>
<td>17’ or 18’</td>
</tr>
<tr>
<td>Roof Pitch – 4:12 (assuming a 20’ span)</td>
<td>3’</td>
</tr>
<tr>
<td>Total</td>
<td>20’ - 21’</td>
</tr>
</tbody>
</table>

A maximum height of 16 ft. would allow for a one-story building with loft space suitable for storage but not living area. An 18 ft. ADU would allow for a two-story with a flat roof and short ceiling heights, but adequate for living space and sleeping quarters. A 22 ft. ADU would allow for multiple designs for both a partial two-story ADU and a two-story ADU with full plate heights on the entire upper floor and a pitched roof. ADUs with lower heights could cause some architectural constraints to roof slope that may not allow an ADU to match the architectural style of the main home. Note that roof decks will still prohibited under Zoning
Ordinance section 36.5(H), which would not be changed in the proposed ordinance. In order to study height, the City engaged Larry Cannon, a design consultant and bay area architect, to prepare exhibits to better understand building heights and how the interior space translates into stories (see Figure 2 below and attachment #2 for additional ADU exhibits).

Figure 2 - Height Cross Sections

16' Single Story  18' Two Story  22' Two Story w/Full Plate Heights

In an effort to provide an objective standard (required by State law) and to provide clarity for the public, staff recommends modifying the maximum height to an objective measurement in order to simplify implementation for the public and help staff meet the 60-day ministerial timeline to evaluate ADUs. ADU height standards would apply to detached ADUs in both single-family lots and multifamily lots and all ADUs would be allowed a 4 ft. setback from the rear and side yards. Given the input received to date, staff research, and the need for a local ordinance that meets State law, staff recommends a maximum height of 16 ft. This recommendation, coupled with the recommendations to exempt ADUs from lot coverage and FAR, should provide flexibility for one-story ADUs.

**Staff Recommendation:** 16 feet height – One-story. Limit height at the minimum required by State law.

**Alternative:** 22 feet height – Two-story. As noted above, the State now defines minimum height requirements and removes language relating to constructing new space for ADUs above detached garages. An 18 ft. or 20 ft. ADU would have architectural constraints and would not allow for a variety of design options as shown in the ADU diagrams in attachment #2. A 22 ft. and two-story height maximum would allow the upper floor to be used as livable space and allow for a variety of design options including architectural compatibility with the main home.

**FAR & Lot Coverage**

**Square Footage:** Based on direction to simplify regulations and to comply with existing regulations, staff proposes to exempt ADUs from floor area ratio requirements for single-family homes. Current floor area exemptions include lots less than 5,000 sq. ft., ground floor additions, and second story additions of 100 sq. ft. or less. State law requires floor area exemptions for ADUs of up to 800 sq. ft., whether the ADU is attached, detached, located on the ground floor, or an upper floor. Any application of floor area ratio would be limited to ADUs above 800 sq. ft. on the second story. ADUs associated with duplexes or multifamily dwellings are not subject to a floor area ratio limitation. Because of the limited allowable application of floor area to ADUs by State Law and in order to simplify regulations, staff is recommending exempting all ADUs from floor area requirements.
Lot Coverage: State law dictates that cities cannot impose lot coverage, floor area, or open space standards, which would prohibit development of an 800 sq. ft. ADU (attached or detached). However, cities could impose a lot coverage requirement for ADUs larger than 800 sq. ft. Lot coverage would only be applicable to a narrow range of ADUs between 800 sq. ft. to 1,000 sq. ft. in most cases. Because of the limited allowable application of lot coverage to ADUs by State law and in order to simplify regulations, staff is recommending exempting all ADUs from lot coverage requirements.

City Council discussed FAR and lot coverage requirements. There was support for requiring floor area and lot coverage for ADUs above 800 sq. ft., however some of the support was contingent on with maximum allowable height for detached ADUs as there may be tradeoffs with reducing height that may require increasing lot coverage to maintain viable developable area in the rear yard. If floor area and lot coverage were applied to ADUs over 800 sq. ft., then the calculation would account the entire structure and not just the portion over 800 sq. ft. Out of the 47 total ADUs proposed in 2020, six were proposed above 800 square feet all of which were detached from the main home.

Staff Recommendation: Exempt ADUs from floor area and lot coverage requirements.

Short Term Rentals
Short-term rentals are defined as dwelling units or portions thereof that are rented for periods lasting less than 30 days, commonly offered through online hosting platforms such as Airbnb, VRBO, and HomeAway. New State law requires cities to prohibit short-term rentals from “streamlined” ADUs (up to 800 sq. ft. and up to 16 ft. tall with 4 ft. side and rear setbacks) and allows cities the option to prohibit short-term rentals entirely within ADUs. Current short-term rental regulations, adopted in 2018, do not allow an ADU to be used exclusively as a short-term rental and may only be used if the ADU is the primary residence of the short-term rental host and then would be limited to 120 calendar days within a year.

Because of the limited scope of legal ADUs, there would be administrative and enforcement challenges verifying that short-term rentals corresponded with one of the limited types of eligible ADUs for legal operation. There are currently seven sites that contain both an ADU and a registered short-term rental. The City Council indicated that these properties may be financially impacted by retroactively restricting them from using their properties as short-term rentals. Homeowners would still be able to rent ADUs on a long-term basis greater than 30 days.

Staff recommendation: Prohibit short-term rentals for any existing or new ADUs.

Fire and Building Code Compliance
In the interests of clarity, the draft ordinance will explicitly state that ADUs must comply with all applicable building and fire code requirements. Consistent with State law, ADUs shall not be required to provide fire sprinklers if they are not required for the primary residence. The ordinance does however permit fire sprinklers to address fire code compliance, as needed.

State Legislative Bills
The State Legislature periodically provides updates to laws governing ADUs. During the 2020 session there are three bills related to ADUs, however none of them would have significant implications on ADU development standards as compared to previous updates. Below is a summary of the bills currently under consideration:
AB 69 - Would establish a new program in the State Treasurer’s Office to help homeowners finance additional housing units, including ADUs and junior ADUs, and authorizes the California Housing Finance Agency (CalHFA) to issue revenue bonds to fund the program.

AB 2044 - Exempts ADUs from California Energy Code requirement for solar panels for new detached ADUs. This bill will not proceed during this year’s legislative session.

SB 1030 – Housing omnibus bill. An omnibus is a single bill that packages together a number of diverse or unrelated measures into a single bill. A section of the bill would correct some typographical errors made in the chaptering process between AB 68, AB 881, and SB 13 in 2019. This would clarify that ADUs would be approved if no determination is made within 60 days. Currently the law gives a 60-day timeline with no direction on the status of the application after 60-days. Cities may still deny ADUs if an application does not meet regulations. The spot bill would change a typographical error that would clarify that both ADUs and JADUs are allowed on a single lot. Currently, the City does allow both an ADU and JADU on a single lot, despite the current State ADU law language.

GENERAL PLAN CONFORMANCE

The proposed Zoning Amendments would further the City Housing Element’s policies and programs that promote a variety of housing types that are accessible to all income levels. Specific General Plan sections are cited below:

Program H-12: Second Units. Second units offer an additional source of affordable housing to homeowners and the community. Redwood City’s Zoning Ordinance establishes development standards for second units on lots in residential areas with an existing single-family use. The development of this important housing type should be facilitated, while ensuring compatibility with and limited impact on existing neighborhoods.

Program BE-1: Amend Zoning Ordinance and Map. Update the Zoning Ordinance and Zoning map to reflect the General Plan Land Use Map upon adoption of the General Plan. Create zoning districts as needed to implement the Land Use and Urban Form Chapter. Establish specific development standards for each newly created zoning district.

- Consider modifying second unit standards to facilitate increased density while preserving older structures

ENVIRONMENTAL REVIEW

Multiple provisions of CEQA apply to the proposed ordinance. The adoption of an ordinance to implement Government Code section 65852.2 (the Accessory Dwelling Unit Law) is a statutory exemption from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080.17. This applies to State law requirements that would be implemented by the proposed ordinance including the number of ADUs allowed, junior ADUs, ADUs in multifamily structures, setbacks, maximum allowable square footage, and providing for certain “streamlined” ADUs, all as specified in the linked July 13, 2020 staff report.

In addition to implementing State law requirements, the proposed ADU ordinance would implement local requirements. Implementation of these additional requirements is not considered a project under CEQA because it has no potential for resulting in either a direct or reasonably foreseeable indirect physical change
in the environment (CCR 15378). The implementation of both height-related standards and additional regulations related to short-term rentals (generally prohibiting), and ordinance effectiveness would not result in increases in density or intensity and would not be consider an environmental impact. These remaining items would be covered under the “common sense exemption” (CCR 15061(b)(3)).

ALTERNATIVES
1. Allow all existing short-term rentals in ADUs constructed prior to January 1, 2020. Remove primary residency requirement for ADUs and prohibit any new short-term rentals in all other ADUs.

ATTACHMENTS
1. Draft Resolution 20-07
2. ADU Exhibits by Larry Cannon

LINKED DOCUMENTS
1. ADU Staff Report – City Council July 13, 2020

REPORT PREPARED BY:
Apollo Rojas, Senior Planner

APPROVED BY:
Lindy Chan, Acting Planning Manager