Request for: Changes to the Accessory Dwelling Unit Requirements in the Zoning Ordinance (Articles 33, 36, 37, 45)

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

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Reason for the Request: Consider revisions to regulations addressing Accessory Dwelling Units (ADU) in response to concerns raised from recent ADU development.

Key Considerations: Height, privacy, setbacks, development barriers, and compliance with state law.

Public Notice: On May 10, 2019, notice of the first public hearing was published on the City’s website, published in the San Mateo Daily Journal, posted on Redwood City Voice, and shared with all interested parties. The Planning Commission continued the public hearing to June 18, 2019 and an additional notice was posted on the City’s website and social media outlets. The City has received written comment on this topic which is attached to this staff report. Notification was also posted on the City’s ADU website: www.redwoodcity.org/adu.

Staff Recommendation:

✓ Adopt Resolution 19-06 recommending that the City Council approve amendments to the Zoning Ordinance to limit height and square footage of second story ADUs above detached garages, incentivize one-story ADUs, and make miscellaneous amendments.
BACKGROUND
Planning Commission reviewed proposed updates to the Accessory Dwelling Unit (ADU) ordinance at their May 21, 2019 public hearing. Staff suggested a number of code changes that would affect two-story ADUs above detached garages and detached one-story ADUs. The code changes included a reduction to the maximum height for two-story detached structures, new standards to increase privacy for surrounding neighbors, and general incentives to one-story ADUs.

Staff received written comments prior to the meeting and heard several public comments at the Planning Commission hearing regarding a desire to ban second story ADUs over garages, reduce the second story height limit beyond staff’s recommendation, or limit the size of second story ADUs above garages. Members of the public expressed concerns about the proximity of second-story ADUs above garages to property lines and the ability to look into neighboring yards. There was strong concern about privacy, shadowing, mass, and the potential impacts that new two-story rear yard structures would impose on neighborhood character. Additionally, there were concerns that ADUs above garages could generate conflict and interfere with community cohesion.

The Commission shared many of the concerns from the public about two-story ADUs above garages including negative impacts to privacy, the change in character to single-family neighborhoods, bulk and height within rear yard areas, and State undermining of local control. The Commission asked staff to study allowable sizes for efficiency units, daylight planes, story poles, and feasibility of half-stories height limits. The Commission requested staff to contact adjoining municipalities on their interpretation of the State Law.

The Commission appreciated staff’s previous recommendations to limit privacy impacts from two-story ADUs in the rear yard and to incentivize one-story ADUs (PC staff report 05.21.19), but requested additional information to support reducing second-story ADUs above detached garages including reducing the maximum allowable height for two-story detached ADUs, and imposing square footage limitations on ADUs above garages to reduce their impacts to adjoining properties. The Commission also requested staff to contact the State of California Department of Housing and Community Development (HCD) requesting an interpretation on the intention of the State ADU Law and whether it is possible to prohibit new second story ADUs above garages and still comply with State ADU Law in a manner that would not make the local ordinance null and void.

ANALYSIS
Based on Planning Commission direction, staff is providing additional analysis from HCD, discussion from adjacent cities, and information on reduction in heights and sizes of ADUs over garages.

HCD Memo: Staff contacted HCD requesting guidance on the ADU law (Government Code Section 65852.2) and clarification on whether it was possible to prohibit new construction of second-story ADUs above existing garages. Staff received a letter on June 5, 2019, from HCD (Attachment 2), which elaborates further, as follows:

- The City cannot burden or unreasonably restrict the development of ADUs, nor can it prohibit ADUs within existing space above a garage.
- With regard to new ADU development above a garage:
  - Development standards cannot be excessively burdensome so as to unreasonably restrict ADU construction;
Maximum unit sizes under 500 square feet are generally considered burdensome depending on the circumstances;

- Other standards and design rules can address height concerns;
- Not allowing ADUs above garages may be inconsistent with the City’s Housing Element, and
- HCD is authorized to review actions or inactions inconsistent with the Housing Element.

The HCD memo is not legally binding but rather is an advisory document. While staff continues to interpret State Law as requiring the City to allow new ADU space above a garage, the HCD guidance letter provides clarification on the limits of the City’s discretion with regards to ADUs generally. The HCD letter specifies that not allowing ADUs over garages may be inconsistent with Program H-12 of the Housing Element, which includes an objective to review and consider revising development standards for second units to facilitate the development of more second units, including allowing units to be built over detached garages (Page H-160).

**Maximum Height – Second Story ADUs above Garages:** Previously, staff proposed a maximum height of 24 ft. for detached two-story ADUs. The Planning Commission and members of the public indicated that 24 ft. still felt too tall and asked staff to explore banning ADUs over detached garages or further reducing the maximum height, preferably to 17 ft. or considering half-stories. Staff consulted further with the City’s Building Department and with construction professionals to evaluate the factors that determine the height of a structure, including lot slope, floodplain, foundation systems, typical garage ceiling heights, ceiling joist thickness, building code requirements for habitable space ceiling heights, and roof slope.

Limiting height to 17 ft. could unduly restrict second stories, as this limit may not be consistently feasible for two-story construction. Similarly, a half-story must have a ceiling height of less than 7 ft., which is shorter than what is required for habitable living area. Most second-story ADUs above garages could be constructed within a maximum allowable height of 20 ft. Typical foundation systems vary between 4"-12". Typical ceiling height for a garage is 8 ft., but garages may be taller in some areas. Typical thickness for ceiling joists between floors is 12" (joists, fire-rated gypsum board, plywood, and flooring). Minimum building code ceiling height for habitable area is 7 ft., however a common ceiling height is 8 ft. Roof forms with a typical 4:12 slope can add another 1.5 ft. to 3 ft. to the height of the structure. Adding together these conservative building dimensions, a second-story ADU above a garage would be approximately 20’ tall.
Limiting maximum heights to 20 ft. would still allow for feasible ADU construction above a garage, but necessitate a flat or shallow-pitched roof and could cause some architectural constraints. These constraints may not allow an ADU to match the architectural style of the main home, especially with respect to roof form. It may also pose construction limitations on sloped lots or in floodplain areas. Staff will review ADU architectural design as part of the City’s study of “Residential Design Guidelines” to develop best design practices to mitigate visual impacts.

HCD specified that cities cannot impose development standards that excessively burden and unreasonably restrict development of ADUs. The City needs to ensure that its ADU regulations remain consistent with its building code, as required by State Law. Unduly restricting the height of ADUs over detached garages in a manner inconsistent with its adopted building code could potentially be inconsistent with the State Law and make the entire ordinance null and void, including limitations to bulk and height created to address privacy concerns.

*Staff’s Recommendation:* Further reduce the maximum building height to 20 ft. and establish a maximum plate height to 8 ft. for second story ADUs. Commission may also suggest alternatives to City Council.

Privacy - Eliminate Balconies: Staff previously proposed prohibiting balconies that face immediately adjacent side and rear neighbors. However, staff heard strong concern about privacy and the potential impacts of second story balconies in the rear yard. In response, staff recommends prohibiting balconies entirely for second story detached ADUs. Implementation would not be contrary to State Law and would protect neighbor privacy.

*Staff’s Recommendation:* Prohibit second-story balconies and decks entirely. Exterior stairways would still be allowed facing the interior of the lot to promote design options and affordable construction. Commission may also suggest alternatives to City Council.
Square Footage Limitation for ADUs above Detached Garages: Currently, a second story ADU above a detached garage has the same maximum allowable square footage as an ADU constructed entirely on the ground floor (700 square feet). The minimum dimensions for a one-car garage are 10 feet width by 20 feet-6 inches in length (205 square feet) and a two-car is 19 feet in width by 20 feet-6 inches in length (390 square feet). Recent applications have proposed new 700-square foot garages to support a 700 sq. ft. second-story ADU above. The community has expressed concern that these structures are overly bulky and out of scale with the neighborhood.

The Commission discussed limiting ADUs above garages to the size of an efficiency unit (280 sq. ft.). While efficiency units are initially defined as 150 square feet, recent changes to State Law and International Building Code have modified the minimum size to approximately 280 sq. ft. (Section 1207.4 of the 2018 International Building Code). The letter from HCD indicates that maximum unit sizes under 500 square feet would generally be considered burdensome. The State has not indicated that a uniform square footage is required for detached one-story ADUs and second story ADUs above detached garages. HCD’s recommended requirement of a 500 square foot unit size could be met through split-level construction where the upper floor is limited to 280 sq. ft. and the lower floor is allowed to be larger. The maximum allowable unit size of 700 sq. ft. would still apply to the entire unit; however, second story portions of the ADUs would be limited to 280 sq. ft. The split-level construction is feasible as staff has received applications with this type of construction, which is predominately popular with one-car garages.

Staff considered a ratio limiting the square footage of a second-story ADU in proportion to the size of the detached garage below. However, requiring this type of ratio would tie allowable ADU square footage to garage size and could incentivize larger garages with storage areas. Standardization of allowable square footage allows for straightforward explanation to the public, simple application in the field, and would not prohibit ADU development. A 400 square foot maximum for ADUs above garages was considered which would align with the required size for a two-car garage, however an ADU would still require split-level construction in order to be consistent with the HCD recommended 500 sq. ft. unit size. The feedback received from the public and direction received from the Commission was to explore smaller unit sizes above garages.

Staff’s Recommendation: Restrict second story ADUs above garages to 280 square feet. A 280 square foot efficiency unit above a garage could provide sleeping quarters, cooking facilities, and a full bathroom with an option for larger square footage on the ground floor through split-level construction. Commission may also suggest alternatives to City Council.

The Commission also asked staff to study daylight planes and story poles. A daylight plane acts as a type of setback and could not be more restrictive than the 5 ft. side and rear setbacks required by State Law. Implementation of a daylight plane would not reduce the allowable square footage above a garage. Story poles are not required for other construction projects in Redwood City, including two-story additions. A requirement for a second-story ADU that is not applied to a second-story addition or new two-story home could be considered unduly burdensome.

Summary of Recommendations
Based on public input, direction from the Planning Commission, and clarifications from HCD, the following list represents a summary of recommendations.
Second Story ADUs and Privacy:
- Reduce maximum heights for second-story ADUs above garages from 28 ft. to 20 ft. to limit height and mass and to keep units secondary to the single-family home.
- Limit portions of the ADU above garages to 280 sq. ft.
- Prohibit all balconies and second-story decks on detached ADUs.
- Restrict exterior stairs facing immediately adjacent neighbors to reduce privacy impacts.
- Require opaque or clerestory windows when facing immediately adjacent side and rear neighbors to reduce privacy impacts.
- Prohibit roof decks above accessory structures to reduce privacy impacts.

One-Story ADU Incentives:
- Reduce single-story rear setbacks from 10 ft. to 6 ft. to increase ADU production.
- Exempt ADUs from a 50% rear lot coverage requirement to increase buildable footprint in the rear yard.
- Allow replacement of detached garages into ADUs to ensure new structures comply with setbacks and to prevent two-story structures in the rear yard.
- Increase ADA maximum size from 800 sq. ft. to 1,000 sq. ft. in order to incentivize construction.
- Exempt one-story ADUs from the Hillside Ordinance to reduce further barriers to ADU construction.

GENERAL PLAN CONFORMANCE
The proposed Zoning Amendment would further the City Housing Element’s policies and programs that promote a variety of housing types that are accessible to all income levels.

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. One of the objectives of Program H-12 is to review and consider revising development standards for second units to facilitate the development of more second units, including allowing units to be built over detached garages. HCD has the authority to review actions or inactions inconsistent with the housing element pursuant to Government Code Section 65585. The proposed amendments would reduce allowable heights and the unit sizes above garages, but would not significantly reduce the feasibility of ADU development.

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
The adoption of an ordinance to implement Government Code section 65852.2 (the Accessory Dwelling Unit Law) is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code
section 21080.17. The related amendments not specifically related to the state law are considered exempt from CEQA as there is no possibility of a significant impact on the environment, per Section 15061(b)(3), because the proposed zoning amendments are minor changes that would not substantially increase the intensity or the use of the structures.

ALTERNATIVES
1. Adopt resolution with modifications to proposed amendments, which may include lowering maximum height, second floor square footage, prohibiting exterior stairs, or providing more incentives for one-story ADUs.
2. Deny the proposed ordinance amendments.

ATTACHMENTS
1. Planning Commission Resolution 19-06 Amending the Zoning Ordinance
2. HCD Memo (06.05.19)
3. Updated Detached ADU Standards in Nearby Cities
4. Public Comment

LINKS TO RELATED RESOURCES
1. PC Staff Report (05.21.19)

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