



STAFF REPORT

Planning Commission

Meeting Date:

8/14/2017

Staff Report Number:

17-055-PC

Regular Business:

Clarification regarding conversion of existing covered parking (garage or carport) for use as a secondary dwelling unit, and associated replacement parking requirements

Recommendation

Staff recommends that the Planning Commission review a clarification relating to the conversion of existing garages or carports for secondary dwelling use, and the type and location of replacement parking that may be permitted. The Commission may provide comments for the consideration of the City Council, which will review a similar staff report prior to any procedural or documentation changes.

Policy Issues

Staff believes that the clarification described in this report would ensure that City practices would be in compliance with relevant State regulations. The clarification would also support Housing Element Policy H4.11, which encourages the development of secondary dwelling units.

Background

Assembly Bill 2299 (AB 2299) and Senate Bill 1069 (SB 1069) passed in the 2015-2016 legislative session and amended California laws relating to Secondary Dwelling Units (also referred to as Accessory Dwelling Units). The amendments relate to Government Code § 65852.2. Any existing municipal codes that do not meet the requirements of State law shall be considered null and void, and that agency shall thereafter apply the standards established in State law for the approval of Secondary Dwelling Units, unless and until the agency adopts an ordinance that complies with State law.

On December 5, 2016, the Planning Commission reviewed and recommended approval of Municipal Code revisions intended to bring local regulations into compliance with State law. On February 7, 2017, the City Council approved the Ordinance making these updates (with one minor modification), and the updated regulations formally went into effect 30 days later. Since the new regulations have gone into effect, staff has seen increased interest in the development of secondary dwelling units, which provide additional housing options while keeping neighborhood character consistent.

Analysis

Staff prepared the revisions earlier this year under the understanding that they fully implemented the State law requirements. However, as more jurisdictions have updated their ordinances, and as there has been more awareness and discussion of the State law changes, multiple property owners and builders have raised questions to staff on the topic of garage/carport conversions specifically.

Staff did include provisions in the earlier updates that facilitated the conversion of existing detached accessory buildings (many of which are garages) into secondary dwelling units. For example, such secondary dwelling units are not required to provide any new off-street parking for the unit itself. However, staff understood that the off-street parking requirement for the main dwelling unit could remain in effect. Since the standard main residence requirement is for two spaces (one of which must be a garage or carport), not in any front or side yard and not in a tandem layout, this would effectively prohibit garage conversions on many parcels where there is not room to build a new garage/carport or provide an uncovered parking space that isn't in a front or side yard.

After reviewing the State law in more detail and consulting other jurisdictions' associated ordinance updates (for example, Redwood City, East Palo Alto, and Mountain View), staff believes that the State law is fairly clear on the following points:

- If an existing garage or carport (whether attached or detached) is converted to a secondary dwelling unit, no off-street parking is required for the secondary dwelling unit itself; and
- Replacement parking for a converted garage or carport can be required for the main unit; however, it must be allowed in any configuration on the same lot, including covered spaces, uncovered spaces, tandem spaces, or mechanical parking lifts.

As a result, staff understands that scenarios such as the following would typically be permitted for buildings in existence as of the effective date of the State law (January 1, 2017):

- An applicant owns a parcel that meets the minimum lot size for secondary dwelling units (6,000 square feet) and contains a single-family residence and a two-car detached garage at the rear of the parcel, accessed by a long driveway that runs alongside the side of the house. The applicant is proposing to convert the garage to a secondary dwelling unit. The garage is within the maximum secondary dwelling unit size (640 square feet, or 700 if the unit is designed to meet disabled access requirements). No parking is required for the secondary dwelling unit since it is being converted from an existing building, and the driveway along the side would provide room for two uncovered tandem parking spaces for the main unit.
- A property owner with a single-family residence proposes to convert its attached two-car garage to a secondary dwelling unit. The parcel meets the minimum lot size for secondary dwelling units, and the garage does not exceed the maximum secondary dwelling unit size. No parking is required for the secondary dwelling unit since it is converting a portion of an existing building, and the driveway provides room within the front 20-foot setback for two uncovered parking spaces for the main unit.

By contrast, scenarios such as the following would not be permitted by right, although an applicant could potentially request a use permit or conduct other actions as noted:

- A property owner with a 5,750-square-foot parcel wishes to convert an existing garage to a secondary dwelling unit. There is room on the driveway for replacement parking in an uncovered and/or tandem configuration, but the lot size is below the minimum that is specified for secondary dwelling units, so this cannot be permitted through the building permit process. However, the applicant can apply for a use permit to develop a secondary dwelling unit in this case, since the local ordinance conditionally allows modifications to certain development standards, including lot size.
- A residence on a corner lot has its existing garage located 12 feet from the corner side lot line. If the garage was converted to secondary dwelling unit use, the driveway leading to the garage could not be

used to meet the main dwelling's parking requirement, since 12 feet would not provide sufficient distance for compliant uncovered parking spaces on the parcel. However, depending on the lot, there might be an option to construct a new driveway on the front side, where there would typically be a 20-foot setback.

The Municipal Code does not currently clearly permit garage/carport conversions to proceed without providing fully-compliant replacement parking (including at least one new covered parking space). However, based on the research recently conducted, staff believes that State law overrides the local ordinances on this topic. Staff is providing the Planning Commission (and City Council, following the Commission's review) with this clarification in order to provide a public opportunity for comment and direction, since parking is a known topic of interest. Absent guidance to the contrary from the City Council, staff intends to follow up this clarification with the following actions:

- Modify internal review procedures to permit such garage/carport conversions;
- Implement a new requirement for applicants proposing such conversions to acknowledge in writing that they are voluntarily constraining their own on-site parking options in a city that does not permit overnight on-street parking in most residential areas, and confirming their understanding that they may need to limit vehicle use as a result;
- Updating handouts to reflect these changes; and
- Returning to the Planning Commission and City Council with formal Municipal Code amendments to codify these provisions of State law (possibly bundled with other Zoning Ordinance corrections, for efficiency). These updates may include revisions to Municipal Code Section 8.20.070 ("Further limitations on motor vehicle storage"), which currently sets limits on parking that may be overridden by State law.

The City Council's review of this topic is tentatively scheduled for review on August 29, 2017. The Planning Commission's minutes for the August 14 meeting will not be available prior to that meeting, but staff will summarize any Commission comments/questions for the Council's consideration.

Impact on City Resources

This clarification is being accommodated within the existing budgets of the Planning Division and City Attorney, and is not expected to otherwise affect City resources. Secondary dwelling unit building permits will remain subject to existing fees that were established to cover City costs and address impacts.

Environmental Review

The clarification and future updates to implement it are not subject to the provisions of the California Environmental Quality Act ("CEQA") because the activity is not a project as defined by Section 15378 of the CEQA Guidelines. The clarification has no potential for resulting in physical change to the environment either directly or indirectly.

Public Notice

Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

None

Staff Report #: 17-055-PC

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