



## STAFF REPORT

### City Council

Meeting Date:

8/29/2017

Staff Report Number:

17-187-CC

Informational Item:

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

### Recommendation

This is an informational item and does not require City Council action.

### 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). On December 5, 2016, the Planning Commission reviewed and recommended approval of Municipal Code revisions intended to bring local regulations into compliance with these new State laws. 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 City's 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 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 proposes 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 with this clarification in order to

provide a public opportunity for comment and questions, since parking is a known topic of interest.

As part of its August 14, 2017, review, the Planning Commission accepted staff's clarified understanding of State law regarding garage/carport conversions as described in this report. As an informational-type item, the report did not require any Commission action, although several individual Commissioners noted a related interest in lowering the 6,000-square-foot parcel size threshold for secondary dwelling units, in order to allow more properties to develop such units. As noted by staff to the Commission at the August 14 meeting, the current 6,000-square-foot threshold was adopted by the City Council in 2014, after reviewing a Planning Commission recommendation that it be set at 5,000 square feet for most zoning districts. The City Council raised the threshold after receiving public comment from three residents of Belle Haven (where most parcels are less than 6,000 square feet in size) about parking and other potential negative impacts from secondary dwelling units. As a result, staff considers the lot size topic to be settled for the time being, and any potential modification to this requirement would require specific City Council direction and changes to priorities/resources. However, the City Council should note that the Housing Commission recently independently recommended a reduction in the minimum lot size required to develop a secondary dwelling unit, in order to include more lots.

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
- 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.

### **Public Notice**

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

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