

**PLANNING COMMISSION
MINUTES
MAY 28, 2019 WORKSHOP
LOWER LEVEL – COMMUNITY ROOM
702 E. FRONT AVENUE**

COMMISSIONERS PRESENT:

Tom Messina, Chairman
Jon Ingalls, Vice-Chair
Lynn Fleming
Peter Luttrupp
Lewis Rumpler
Brinnon Mandel

STAFF MEMBERS PRESENT:

Hilary Anderson, Community Planning Director
Shana Stuhlmiller, Public Hearing Assistant
Mike Behary, Associate Planner

URBAN & INFILL HOUSING & ADU WORKGROUP:

Kevin Jester
Shauna Clark
Josh Suhr
Adam Graves
Tom Messina

COMMISSIONERS ABSENT:

Michael Ward

CALL TO ORDER:

The meeting was called to order by Chairman Messina at 5:30 p.m.

WORKSHOP:

Welcome – Hilary Anderson, Community Development Director

Ms. Anderson stated the objectives of the workshop and explained that the ADU & Infill Housing committee was formed to help with the ADU and Infill Housing codes, and said that the City is fortunate to have a diverse group of experts to assist with the task.

ADU Code Discussion – Mike Behary, Associate Planner

- Mr. Behary stated that in 2007 the City adopted (Accessory Dwelling Unit) ADU Codes.
- He explained the reason for the proposed code amendment was complaints and inquiries from builders and homeowners who were having a difficult time building an ADU on the second level of a garage.
- He stated that staff put together a committee in January, with the first workshop held in February, a second one in March and the last one in April.

ADU Unit Size

Current Code: ADU shall be a minimum of 300 square feet and a maximum of 700 square feet, excluding any garage area; provided, the square footage of the ADU shall not exceed 40% of the total square footage of the primary dwelling unit.

Proposed Code Amendment:

- No Minimum unit size.
- Increase maximum up to 800 SF
- ADU shall not exceed 75% of the total square footage of the primary dwelling unit.

Discussion:

Ms. Anderson said that they used to allow a 25 foot height in the rear yard, which was repealed, and it went back to the 18 foot limit because the 25 feet allowed was imposing on neighbors by taking away sunlight, fresh air, etc. Staff wanted to be sensitive on how they amend the code for ADU's to allow an increased height but not negatively impact the neighborhoods.

Mr. Graves inquired if there have been any complaints and stated that he found a website called accessorydwelling.org that has all of the ADU rules for various cities that have them in the entire United States. He commented that he went through the entire site and couldn't find any other cities that require that type of step back and questioned if other cities don't require it, why should we.

Ms. Anderson responded that the topic will be discussed later in the agenda, with images provided to better explain why these changes were proposed.

Mr. Behary explained that the current code allows ADU's to be a minimum of 300 square feet, with maximum of 700 square feet, and should not exceed 40% of the total square footage of the existing single family dwelling. He stated that this was discussed with the group, and the group decided they don't need a minimum size and build what is required through the building code. He inquired if there were any comments on section number one.

Ms. Anderson explained one change was removing the minimum size because of the "tiny house" movement and realizing people want to do smaller and that the group had questioned why they should have a minimum square footage, when they could simply rely on what is required in the building code.

Action: The group concurred with all proposed changes.

Building Height

Current Code: HEIGHT: 14' with a low or no slope roof (slope < 2 ½" – 12")
HEIGHT: 18' with a medium to high slope roof (slope > 2 ½" - 12")
HEIGHT: 32' in the buildable area.

Proposed Code Amendment:

- Maximum Height 24' for unit above garage (the roof slope requirements would be removed for new detached ADU's, but 2nd story ADU's must meet 2nd story step back).
- Maximum Height 18' for one story ADU.
- Allowable projections per existing code for such things as chimneys, antennas, etc.
- Railings and parapets cannot exceed maximum height.

Discussion:

Mr. Graves explained that he lives near an infill area and it seems the rules are different.

Ms. Anderson explained that they get many calls a week from people wanting to put in an ADU and sometimes what they request can't be done. She feels that ADU's are a tool to help with the infill housing need in the city.

Action: The group concurred with staff's recommendations.

Owner Occupancy

Current Code:

Enforcement and compliance is an issue.

- 14 of the 62 ADU's in the City are in question of being owner-occupied.
- This equates to over 22% of ADU's in the City that are not in compliance with this requirement.
- Enforcement is a problem, especially over time as properties change hands.

Proposed Code Amendment:

- Owner-occupancy would not be required, unless the property has a Short Term Rental (STR).
- If property is used for Short Term Rental (STR) then one unit must be owner occupied.
- Affidavit would still be required for all ADU's to acknowledge ADU status of property and compliance with code. City Code will be amended to address owner occupancy requirement for Short Term Rentals.

Discussion:

Ms. Anderson explained the process of how the City tracks a Short-Term Rental and explained that with a new permit or a permit renewal, staff could ensure that an affidavit has been recorded for the property, which says that one of the units has to be owner-occupied in order to minimize impact to the neighborhood.

Commissioner Ingalls commented that since a short term rental has to be owner-occupied, could they call this a "duplex."

Ms. Anderson explained that the maximum size of an ADU is 75% of the size of the house and that they are trying to provide various opportunities for infill housing to find what works with a neighborhood.

Commissioner Ingalls stated that his comment was not intended to be negative.

Action: The group concurred with the changes presented.

Parking Space Size ADU's – Parking / Size of Parking Space

Current ADU Code: One off-street parking space is required.

SIZE: 9' x 20'

Parking size requirements in some other cities:

Spokane, WA: 8' 6" x 18'

Sandpoint, ID: 9' x 19'

Bend, OR: 9' x 20'

Bellingham, WA: 9' x 18'

Proposed Code Amendment

No Change

Discussion:

Commissioner Ingalls inquired if the main house is required to have two parking spaces and if an ADU is required to have one.

Mr. Behary answered yes and explained that garage parking spaces count toward the requirement.

Ms. Anderson explained that the requirement for one parking space for an ADU was changed last year. She explained that by allowing an ADU above a garage, it opens up the side of the garage to count as a parking space versus having to use the lot for an ADU.

Commissioner Messina stated that it makes sense to provide a parking space for the ADU because it prevents parking on the street.

Mr. Graves inquired if it would be changed since under the current code no parking spaces are required. Ms. Anderson explained that they have already changed that portion of the code.

Mr. Graves stated that in Midtown you now can get parking permits and asked if you have an ADU, could one of those permitted spaces be used for an ADU.

Ms. Anderson explained that those spaces were intended to allow for family and friends to use that space and that the on-street parking in permit areas does not qualify as parking to offset the required off-street parking.

Mr. Suhr added that the code was changed to require the one parking space for an ADU when the Short-Term Rental code was approved.

Design Standards

Current ADU Code: Some design standards required.

Proposed Code Amendment:

- Remove design standards for new detached ADU's.
- Keep design standards for additions to an existing structure for the purpose of developing an accessory dwelling unit, which requires that they are designed consistent with the existing roof pitch, siding, and windows of the principle dwelling unit.
- Staff asked for guidance on exterior stairwells leading to a second level ADU. *Should exterior stairwells leading to a second level ADU be restricted or have certain design standards?*

Discussion:

Ms. Anderson commented that the topic of exterior stairwells came up with the group and they decided it needed further discussion because if you have an exterior stairwell, it can be unsightly. They questioned if the stairwell should be covered or not allowed on the exterior. Staff and the committee would like input from the Planning Commission on this topic. She explained that currently, in the city, there are some older homes that have been converted which have stairwells outside of the house.

Ms. Clark stated that she agrees some of the older stairwells can be unsightly and dangerous.

Mr. Graves commented if you have 24' foot garage and frame it in for the width of the stairwell you now have to make that garage 28 -32' foot wide to get a stairwell included and by adding the stairwell not enough room.

Mr. Behary asked if an exception should be made for outside stairs.

Mr. Graves stated he would concur to having exterior stairwells as an option.

Action: The group concurred with the proposed code changes, but decided to leave exterior stairwells as an option and not provide design standards for exterior stairs.

Existing garages and sheds

Current ADU Code: Not allowed if it doesn't meet setbacks; no provision for this.

Proposed Code Amendment:

- Existing single story garages and sheds would be allowed to be converted to an ADU, provided that the structure can meet the current adopted building codes and that it is not over the property line or in the City's right-of-way.
- The structure could not be expanded outward or upward without triggering the Non-Conforming Code and requiring the structure to meet the current standards.
- Existing 25' tall garages could be converted to an ADU without having to meet the 24' maximum height or the 2nd story step back requirements, but they would need to meet Building Code and ADU parking requirement, affidavit, etc.

Discussion:

Commissioner Messina explained that if you have a garage and want to put something above, it would allow another story above the garage.

Ms. Anderson commented that a height of 24' feet would be allowed with an ADU on top of a garage.

Ms. Clark stated that another option is for the placement of an ADU on the side of the house.

Mr. Behary explained that 800 square feet is the maximum allowable square footage for an ADU.

Ms. Anderson explained that if you have a garage that does not meet the new setback for ADU's, then the upper story would have to be set back further to meet the step back requirement. She stated that the existing part could stay, but if you are going up or out, then the new part has to comply with the new code.

Action: The group accepted all changes as presented.

Setbacks of Detached ADU

Current ADU Code: Allows ADU's to be 3 feet from side property line.

Proposed Code Amendment:

- SIDE: Minimum Five foot side yard setback required.
- All ADU's shall be set back from the side lot line at least five feet (5'). Remove the language from the code that allows ADU's to be three feet (3') from the property line.
- REAR with Alley: Minimum 3'
- REAR No Alley : Minimum 5'

Commissioner Ingalls inquired why the code had been changed from a 0' setback to a 3' setback.

Ms. Anderson explained that a complaint from neighbors was the issue of storm water running off onto their property, and that by allowing a 3' foot setback from the side property line it would allow storm water to be retained on the owner's property and not run off onto the neighbor's property.

Action: The group concurred with the proposed amendment.

2nd Story Step Back

Current Code: Does not address 2nd Story step backs for ADU's.

Proposed Code Amendment:

- The group agreed that there should be some side yard step back for the second story of detached ADU's in order to provide air space and light between properties. NOTE: This is being required to remove the concern of the previously repealed code that allowed 25' tall accessory structures that negatively impacted neighboring properties.
- The upper step back would begin at 10' height on the interior side property line and at 15' height on the rear yard property line.

Discussion:

Commissioner Rumpler said that he didn't understand why the setbacks are required.

Mr. Behary explained that the reason is to reduce the impact to neighbors by taking away their sunlight and encroaching on their neighbor.

Mr. Jester explained that if they didn't have something like that, you would be allowed to build a 24 foot block and the daylight you used to have is gone. He stated that this has occurred in various neighborhoods and has happened in his neighborhood where the neighbors used to have a lot of light on their patio and now, because of lack of sunlight, have a moss problem.

Ms. Clark explained that by requiring the same setback, it would be consistent with the other houses.

Mr. Graves said that the main house can go up 30-40 feet and block the sunlight, but when it comes to an ADU, the same rules do not apply. He asked if they will have the same restrictions within future infill overlay properties.

Ms. Anderson stated that it has been discussed.

Mr. Graves asked why the city is enforcing this rule when all the cities he has looked at don't have a setback rule.

Ms. Anderson explained that they have the step back rule in the Downtown Core (DC) and it is not new to the city.

Mr. Jester asked if Mr. Graves had looked at the City of Austin because they have a 2nd story step back requirement. Mr. Graves responded that he was not sure that he looked at Austin, but he did look at Washington, California, Oregon and Colorado, and he tried to look at comparable cities that may be ahead of the city, and none of them had that setback requirement.

Ms. Clark said that most of the lots in the city are small and putting a big wall between you and your neighbor would be overpowering.

Mr. Graves said that every garage in the city downtown is built with the 5' feet setback and making the rule that if anyone wants an ADU on top of garage you have to either knock down the entire structure, or relocate it to another area. He said that what you end up with is a small garage and are not able to put a stairway in the garage.

Commissioner Rumpler asked if the new homes built on Sherman are built on narrow lots and questioned

if those homes have ADU's.

Mr. Graves asked if they could have an exception to the rule when you can get a signoff from the neighbors. He added that his neighbor wouldn't care.

Commissioner Messina said they are trying to make the rule for the entire city and not for individual lots.

Commissioner Mandel asked if there will be a trial period once the changes are approved.

Ms. Anderson said that they do evaluate all of their codes once they are changed to see what is working and what is not, and if something is not working, they will make the changes.

Commissioner Luttrupp asked if they could do a pilot project for the proposed changes.

Ms. Anderson said they could do it in a specific overlay district.

Commissioner Mandel said that would be great, but you may not get real answers.

Ms. Anderson explained that the infill code is very specific and said that some of the boundaries make sense and might go too far in the residential areas. She said that the Sherman 5 project is on Sherman, so it is a mix of residential and commercial uses. She said that you could put something in that is more intense and sometimes infill districts may go too far into residential areas.

Commissioner Luttrupp said that if it doesn't work, then they can change it.

Commissioner Messina noted that staff recently repealed pocket housing for issues where it wasn't working like it was intended.

Commissioner Fleming said there is a guide from Vancouver, BC that would be perfect for this discussion and will send the link to the commission.

Ms. Anderson said that they tried to do a pilot project for the Fort Grounds area and the Council would not support it. She concurred that if something is changed, it should be for the entire city.

Mr. Jester said that what is being proposed looks logical.

Ms. Clark explained that they did sit down with staff and looked at examples from different cities, did comparisons, and did adopt some ideas from other cities. She said that she is a builder and has done some of these projects proposed in the city.

Commissioner Ingalls said that everything they do is trial and error, and feels this is going to be a better change.

Mr. Graves asked where they found the information on step backs because he looked at many cities and didn't find anything comparable. Mr. Behary responded that they got a lot of their information from the city of Austin, which had a similar code.

Mr. Jester explained that these changes to the code have been modified for Coeur d'Alene, which is more lenient.

Mr. Behary said that Spokane County also has the one-to-one ratio.

Mr. Graves said that there will be a lot of unusable space that will not be able to have an ADU. He said that the majority of downtown garages are 20 X 20 feet.

Ms. Anderson said that staff looked at the examples sent by Mr. Graves of his project and it could work with the proposed setback and 2nd story step back requirements.

Mr. Graves said that what was presented was great for new construction and that almost everything he has seen is downtown.

Mr. Behary said that you are allowed to do an ADU on the second floor and if you want it higher, you would have to have a 2nd story step back.

Mr. Jester said that the changes will allow for creativity.

Action: The group will accept staff's changes.

Lot Coverage/Open Space & Pervious Surface

Current Code: Does not address Lot Coverage / Open Space.

Proposed Code Amendment:

- 30% pervious surface will be required for all lots with an ADU.
- Pervious surfaces include such things as grass, AstroTurf, pavers, grass Crete, gravel, and decking materials (unless it has a concrete or impervious surface below it).
- There will not be a dimensional requirement or a requirement for a certain type or quantity of landscaping/trees (other than the standard street tree requirements).
- The permit submittal will need to show all pervious areas on the lot and calculations.

Discussion:

Ms. Anderson explained that within the pocket housing code they had an open space requirement and it didn't work well. She said the group came up with these suggestions to ensure that lots with ADU's aren't completely covered with buildings and hardscape surfaces.

Commissioner Ingalls said that he thinks it is great and a step in the right direction.

Next Steps:

Staff will prepare the recommended ADU code changes to the Zoning Ordinance for public hearing at the July Planning Commission Meeting.

ADJOURNMENT:

The meeting was adjourned at 6:30 p.m.

Prepared by Shana Stuhlmiller, Public Hearing Assistant