

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B 74-15

Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: 4/6/2015

Re: Accessory Dwelling Unit - Zoning text amendment (Case 15-53)

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance

Supporting documentation includes: Summary of Board/Commission Reports (including draft ordinance), Excerpts from Minutes

Executive Summary

Approval of this request will result in an amendment to Chapter 29 (Zoning Regulations) of the City Code as it relates to the definition and standards associated with accessory dwelling units (ADUs) contained in Sections 29-2 (Definitions) and 29-7 (District R-2).

Discussion

On February 2, 2015, the Council authorized staff to prepare text amendments to the existing Accessory Dwelling Unit (ADU) ordinance intended to clarify where an ADU could be located on a qualifying site and how fire access standards could be met. The request to prepare the text changes was in response to concerns that the existing standards might be overly restrictive and inflexible. In addition to granting authorization to proceed forward with the text changes, Council also requested that the Planning Commission reconsider the inclusion of an owner occupation requirement in the ADU standards.

Section 29-2 (Definitions) - Proposed change

The current definition does not specifically allow for the conversion of a part of the floor area within a principal single-family dwelling to be used as an ADU. The definition below, prepared by the Code consultants and proposed for inclusion in the new Unified Development Code, corrects this deficiency:

Accessory Dwelling Unit ("ADU"). A secondary dwelling unit created on a lot with a principal one-family dwelling, and which is subordinate to the principal dwelling. Accessory dwellings may be internal to or attached to the principal dwelling, or built as a detached structure.

Section 29-7 (R-2, Two-Family Dwelling District) - Proposed change

The provisions of Section 29-7, related to fire access, do not permit any part of an ADU to be greater than 150 feet of travel distance (i.e., the length of a fire hose) from the street. Fire Department staff

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have indicated that this restriction, which reflects an equivalent Fire Code standard, could be administratively waived in situations where a residential sprinkler system is installed, or where adequate fire access is provided to the ADU. The underlined exemption clause to Section 29-7(b)(3)b is proposed to incorporate added flexibility:

For the purpose of providing adequate fire protection access, the distance from the nearest street frontage to the center of the rear wall of an accessory dwelling unit shall not exceed one hundred fifty (150) feet of travel distance unless otherwise specified by the most current adopted edition of the International Fire Code or authorized by the City of Columbia Fire Department.

Owner Occupancy Requirement

As requested, staff presented Council's request that an owner occupation requirement be reconsidered for inclusion in the ADU standards. Such a clause would require at least one of the dwelling units (i.e., the principal dwelling or its associated ADU) to be occupied by the property owner as opposed to allowing both units to be rented. This condition does not currently apply to housing arrangements such as duplexes or other situations where multiple dwelling units occupy a single lot.

The proposed requirement was previously discussed during the drafting of the original ADU ordinance and dismissed by the Commission as being unfair and unnecessary. The Environment and Energy Commission (EEC) agreed with the PZC on this matter, and suggested that an owner occupation requirement would be unnecessarily restrictive and difficult to enforce. Owner occupation requirements are commonly (but not always) included in ordinances that permit ADUs in single-family zoning districts (e.g., R-1).

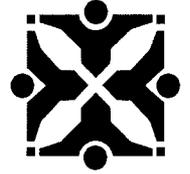
Columbia's ordinance restricts ADUs to the R-2 (Two-Family) and R-3 (Multi-Family) districts, which represent only seven percent of the city's total residential lots. These districts currently allow multiple dwelling units per lot without any owner occupation requirement. Given that the existing standards have not resulted in any permits being issued for an ADU, the inclusion of an amendment to include an owner occupancy clause should also consider increasing the number of lots on which an ADU could be permitted (i.e. expanding into the R-1 One-Family Dwelling District).

At its meeting on March 19, 2015, the Planning and Zoning Commission voted unanimously (8-0) to approve the above-referenced amendments to Sections 29-2 and 29-7, and to address the question of owner occupation as a separate matter at a later date. Commissioners agreed that the proposed amendments to the definition and fire accessibility standards should not be delayed by tying them to the more sensitive issue of owner occupancy requirements, which may require more time to resolve. No one from the public spoke either for or against this request.

The staff report (including the draft ordinance) and meeting excerpts are attached.

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Fiscal Impact

Short-Term Impact: No new capital spending is expected within the upcoming 2 years as a result of this proposal.

Long-Term Impact: None.

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Community Character, Health, Social Services and Affordable Housing

Strategic Plan Impact: Growth Management

Comprehensive Plan Impact: Land Use & Growth Management, Livable & Sustainable Communities

Suggested Council Action

The Commission recommends the following:

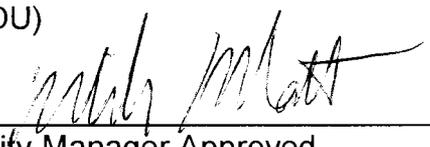
1. Amend the Accessory Dwelling Unit definition in Section 29-2 to accommodate ADUs within existing principal single-family structures
2. Amend Section 29-7(b)(3)b. to accommodate exceptions from the Fire Code's 150-foot fire access requirement
3. Consider the inclusion of an owner occupancy requirement as a separate item so as not to delay adoption of the above-referenced amendments (1 & 2)

Legislative History

July 7, 2014: Council approved Ordinance #22109, amending Chapter 29 of the City Code to establish standards for an accessory dwelling unit (ADU)



Department Approved



City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 74-15

AN ORDINANCE

amending Chapter 29 of the City Code as it relates to the definition and standards associated with accessory dwelling units; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 29 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 29-2. Definitions.

For the purpose of this chapter, the following words and terms as used are defined to mean the following:

Accessory building or use. A detached subordinate building having a use customarily incident to and located on the lot occupied by the main building; or a use customarily incident to the main use of the property.

Accessory dwelling unit (also known as an "ADU"). A secondary dwelling unit created on a lot with a principal one-family dwelling, and which is subordinate to the principal dwelling. Accessory dwellings may be internal to or attached to the principal dwelling, or built as a detached structure.

Adult day care home. A group home designed to provide care and supervision to meet the needs of five (5) or more functionally impaired adults for periods of less than twenty-four (24) consecutive hours but more than two (2) hours per day in a place other than the adult's home.

...

Driveway. An area established or used for ingress and egress of vehicles from a street or thoroughfare to any point on private property.

~~Dwelling, accessory (also known as an "accessory dwelling unit" or "ADU"). A secondary dwelling unit created on a lot with a principal one-family dwelling and which is subordinate to the principal dwelling. Accessory dwellings may be attached to the principal dwelling or built as a detached structure.~~

Dwelling, multiple-family. A building containing three (3) or more dwelling units.

...

Sec. 29-7. District R-2, two-family dwelling district.

(a) Purpose. This district is intended to provide for one-and two-family residential developments of various types and mixes. The principal land use is one-family or duplex residential dwellings.

(b) *Permitted uses.* In district R-2, no building or land shall be used, and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses (for exceptions see section 29-28, Non-Conforming Uses, and section 29-31, Board of Adjustment):

...

(3) Height and area requirements:

a. The lot area must be a minimum of five thousand (5,000) square feet, and the lot width must be a minimum of fifty (50) feet to accommodate an accessory dwelling.

b. A detached accessory dwelling shall be located a minimum of ten (10) feet behind the principal dwelling, and a minimum of six (6) feet from any side or rear lot line. On corner lots, the accessory dwelling shall be setback not less than the distance required for the principal residence from side streets. For the purpose of providing adequate fire protection access, the distance from the nearest street frontage to the center of the rear wall of an accessory dwelling unit shall not exceed one hundred fifty (150) feet of travel distance, unless otherwise specified by the most current adopted edition of the International Fire Code or authorized by the City of Columbia Fire Department.

...

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2015.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor



SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Summary of Board/Commission Reports (including draft ordinance), Excerpts from
Minutes

**AGENDA REPORT
PLANNING AND ZONING COMMISSION MEETING
March 19, 2015**

SUMMARY

A request by the City of Columbia to amend Chapter 29 (Zoning Regulations) of the City Code as it relates to the definition and standards associated with accessory dwelling units (ADUs) contained in Sections 29-2 (Definitions) and 29-7 (District R-2).

DISCUSSION

The existing ADU (accessory dwelling unit) ordinance was identified as an implementation item in the City's 2013 Comprehensive Plan update (Columbia Imagined), and was advanced by Council to meet a perceived demand for this alternative housing style, which supports several of the plan's conservation, sustainability, and livability objectives. The Planning and Zoning Commission designed the ordinance to be simple and easy to use and enforce. While staff have received several inquiries about ADU requirements, there have not yet been any successful permits issued for this housing type, which was adopted on July 7, 2014.

In response to concerns that the existing standards might be overly restrictive and inflexible, Planning staff have prepared the following ordinance text amendments for the Commission's consideration (a draft ordinance is attached).

Section 29-2 (Definitions)

The accessory dwelling unit definition in Section 29-2 (Definitions) does not specifically allow for the conversion of part of the floor area within a principal single-family dwelling to be used as an ADU. Staff recommends adopting the following definition prepared by the Code consultants (Clarion) for inclusion in the Unified Development Ordinance, which corrects this deficiency:

Accessory Dwelling Unit ("ADU"). A secondary dwelling unit created on a lot with a principal one-family dwelling, and which is subordinate to the principal dwelling. Accessory dwellings may be internal to or attached to the principal dwelling, or built as a detached structure.

Section 29-7 (R-2, Two-Family Dwelling District)

Section 29-7 of the City's Zoning Regulations restricts the distance at which any part of an accessory dwelling may be constructed from the street to no more than 150 feet of travel distance (i.e., the length of a fire hose). Columbia Fire Department staff have recently indicated that this restriction, which reflects an equivalent Fire Code standard, could be administratively waived in situations where a residential sprinkler system is installed, or where adequate fire access is provided to the building. To incorporate added flexibility, staff suggests including an exemption clause to Section 29-7(b)(3)b., as follows (proposed new language is underlined):

For the purpose of providing adequate fire protection access, the distance from the nearest street frontage to the center of the rear wall of an accessory dwelling unit shall not exceed one hundred fifty (150) feet of travel distance unless otherwise specified by the most current adopted edition of the International Fire Code or authorized by the City of Columbia Fire Department.

Owner Occupancy Requirement

In addition to the above-recommended text changes, Council has asked the Commission to reconsider the inclusion of an owner occupation requirement in the ADU standards. Such a clause would require at least one of the dwelling units (i.e., the principal dwelling or its associated ADU) to be occupied by the property owner as opposed to allowing both units to be rented. This condition does not currently apply to similar housing arrangements such as duplexes or other situations where multiple dwelling units occupy a single lot, and this requirement was previously dismissed by the Commission as unfair and unnecessary during the drafting of the original ADU ordinance. The Environment and Energy Commission (EEC) agreed with the PZC on this matter, and suggested that an owner occupation requirement would be unnecessarily restrictive and difficult to enforce.

Owner occupation requirements are commonly (but not always) included in ordinances that permit ADUs in single-family zoning districts (e.g., R-1). However, Columbia's ordinance restricts ADUs to the R-2 (Two-Family) and R-3 (Multi-Family) districts, which represent only 7% of the city's total residential lots, and which already allow multiple dwelling units per lot without any owner occupation requirement.

Given that the existing ADU standards have not resulted in a single permit being issued for the housing type, staff does not believe that an owner occupancy requirement should be applied at this time. Alternatively, staff suggests broadening the potential number of lots on which an ADU could be permitted by amending the Zoning Regulations to accommodate ADUs in the R-1 (One-Family Dwelling District).

RECOMMENDATION

Staff recommends the following:

1. Amend the Accessory Dwelling Unit definition in Section 29-2 to accommodate ADUs within existing principal single-family structures
2. Amend Section 29-7(b)(3)b. to accommodate exceptions from the Fire Code's 150-foot fire access requirement
3. If the Commission wishes to recommend in favor of including an owner occupancy requirement, it should be conditional upon amending the ordinance to permit ADUs in the R-1 (One-Family Dwelling District).

Report prepared by Steve MacIntyre; Approved by Pat Zenner

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
MARCH 19, 2015

IV) PUBLIC HEARING

Case No. 15-53

A request by the City of Columbia to amend Chapter 29 (Zoning Regulations) of the City Code as it relates to the definition and standards associated with accessory dwelling units (ADUs) contained in Sections 29-2 (Definitions) and 29-7 (District R-2).

DR. PURI: May we have a staff report, please?

Staff report was given by Mr. Steve MacIntyre of the Planning and Development Department.

Staff recommends:

1. Amend the Accessory Dwelling Unit definition in Section 29-2 to accommodate ADUs within existing principal single-family structures.
2. Amend Section 29-7(b)(3)b to accommodate exceptions from the Fire Code's 150-foot fire access requirement.
3. If the Commission wishes to recommend in favor of including an owner occupancy requirement, it should be conditional upon amending the ordinance to permit ADUs in the R-1 (One-Family Dwelling District).

DR. PURI: Commissioners, any questions of Staff? Mr. Lee?

MR. LEE: Mr. MacIntyre, I'm just a little curious if the -- given that the 150-foot rule is not currently in the ordinance now, why was the applicant denied because of the 150-foot rule?

MR. MacINTYRE: The 150-foot rule actually is in the ordinance. It's the exception that isn't available. So because the ordinance reads so precisely that, you know, an ADU cannot be built behind 150 feet of hose length or access length. There is no option for exception where the Fire Department has identified that they may be willing to grant one. So the amendment is to -- and I apologize if I misstated it earlier, but the amendment being requested would be to grant some possibility for exception from the 150-foot rule where Fire Department deems it appropriate.

MR. LEE: If the builder puts in a fire suppression unit or something like that?

MR. MacINTYRE: That would be one option, yes. Yeah. Or an access --

MR. LEE: Thank you.

MR. MacINTYRE: -- drive. You're welcome.

DR. PURI: Do you want to say something special counsel?

MR. MOEHLMAN: Yes.

DR. PURI: You need to approach that mic so she can transcribe.

MR. MOEHLMAN: Thank you, Chairman. I was actually at that Board of Adjustment meeting, and so I can speak to it from direct experience.

DR. PURI: Okay.

MR. MOEHLMAN: The problem with the ADU ordinance as it currently exists and something identified by the Board of Adjustment was that the fire code and the zoning code were inconsistent. And at that application, basically one of the reasons that the Board of Adjustment had to deny it is because even if they got relief from the Board of Adjustment, they still weren't in compliance with the fire code. And there was the vice versa effect of that as well. They could be in compliance with the fire code, and -- but not meet the requirements of the zoning code. And so what the amendment is really doing is kind of matching the two up. So if you're in compliance with one, you're in compliance with the other. And if the exceptions match up as well.

DR. PURI: Thank you.

MR. MOEHLMAN: Thank you.

DR. PURI: Any other questions of the Staff, Commissioners? I see none. We'll open the public hearing.

PUBLIC HEARING OPENED

DR. PURI: Anybody wishing to speak on this matter, please approach the podium. I see no one.

PUBLIC HEARING CLOSED

DR. PURI: Discussion, Commissioners?

MS. BURNS: I had one thought.

DR. PURI: Ms. Burns?

MS. BURNS: Thank you. I wondered about floating the idea of -- I understand with the lack of applications and the lack of ability to issue a permit that we want this to move forward. I wondered about accepting the accommodations for existing principal single-family structures -- the first two of the Staff recommendations and waiting on the R-1 or the owner occupancy and giving that possibly six-month's time to see if it did allow for additional applications and where we were then.

MR. MacINTYRE: What I would suggest is certainly I think that would be possible. You could frame a motion that only addresses one and two and then put forward a recommendation for it to go back. That would actually need to happen if the Commission agrees that R-1 ought to be reconsidered as well along with it. There would certainly need to be a change in the overall structure of the provisions within the current ordinance to reflect sensitivities that exist in the R-1 district which were not considered for the R-2.

MS. BURNS: Thank you. I just didn't know if any of my fellow Commissioners had thoughts on that or reasons why that would be a good or bad idea.

DR. PURI: Mr. Stanton?

MR. STANTON: We discussed this pretty extensively, and that's why we focused on R-2 to get this ADU kind of off the ground and then we would revisit R-1 at a future date. And primarily for that issue of the owner occupancy, so I think we have discussed that extensively in two work sessions, so we will just leave R-1 as it is and see if this works out with R-2 first.

MS. BURNS: So are you saying accept this recommendation?

MR. STANTON: My opinion is recommendation one and two as they are written and --

MS. BURNS: Okay. Thank you.

DR. PURI: Anybody else. Okay. I think I agree with Ms. Burns also. I think one and two are appropriate. I think three can be left on the table. I think we have beat this dead horse in work session quite a bit. So I think with that, does anybody want to make a motion?

MS. BURNS: I move that we follow Staff's recommendations one and two for Case No. 15-53, the accessory dwelling units pertaining to the City Code as it relates to the definition and standards of accessory dwelling units.

MR. STANTON: Second.

DR. PURI: That's with the exception of number three. Right?

MS. BURNS: Yes.

DR. PURI: Yes. Mr. Stanton seconds. May we have roll call, Mr. Secretary?

MR. STRODTMAN: Yes, Mr. Chair.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Dr. Puri, Mr. Reichlin, Mr. Stanton, Mr. Strodtman, Ms. Russell, Ms. Burns, Mr. Lee, Ms. Loe. Motion carries 8-0.

MR. STRODTMAN: The motion will be forwarded to City Council for approval.