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MEMORANDUM

DATE: November 29, 2017

TO: Marion County Planning Commission

FROM: Marion County Public Works/Planning – Brandon Reich, Senior Planner

SUBJECT: Standards for Urban Accessory Dwelling Units

BACKGROUND

Urban areas in Oregon may permit a variety of housing types in their residential zones in order to provide the needed housing identified by Statewide Land Use Planning Goal 10—Housing. The Goal gives local governments the ability to permit accessory dwelling units (ADUs) on land within urban growth boundaries in order to provide affordable, long-term housing for urban residents.

In Marion County, Aumsville, Keizer, Salem and Silverton permit ADUs in conjunction with a residence on a parcel of land. In 2017, the Oregon State Legislature recognized the importance of ADUs as a housing choice by adopting legislation that requires, based on population, certain cities and counties to allow ADUs in areas zoned for detached single-family dwellings. This legislation goes into effect on July 1, 2018.

Accessory dwelling units are accessory to the main dwelling on the property and have standards applied to ensure the units remain accessory to the primary use of the property and cannot function as separate, independent uses on a lot. The standards also maintain the residential nature of the neighborhood.

The transportation requirements of ADUs are similar to other residential uses that make marginal increases in the demands on a roadway network, such as adding additional bedrooms to a home, changing the number of persons occupying a dwelling, or operating a home occupation. There is no evidence that permitting ADUs on urban residential properties will cause a significant increase in the traffic on a roadway network or cause a road to change its classification.

Generally, the standards that apply to the placement of an ADU fall into broad categories. A local government decides how to best adopt standards within a category in order to ensure ADUs achieve certain objectives, such as being compatible with existing neighborhoods and smaller in scale to the existing single family home on the property.

Since the beginning of 2017, Marion County Planning staff worked with the Marion County Planning Commission to discuss ADUs generally and the categories of standards that can be applied to ADU development. On June 21, 2017, the Marion County Board of Commissioners initiated consideration of amendments to the Marion County Urban Zoning Code to consider standards that would apply to ADU development. The Board directed the Marion County Planning Commission to hold a hearing on the matter and make a recommendation to the Board.

On August 1, 2017, the Marion County Planning Commission held a hearing on ADU standards and made a recommendation to the Board. The discussion that follows is the Planning Commission's recommendation except where indicated.

On September 5, 2017, the Marion County Board of Commissioners held a work session on ADU standards to discuss the Marion County Planning Commission recommendation and to ask staff for additional information on ADUs and options for standards that could be adopted. On November 1, 2017, the Board scheduled a public hearing on the matter for November 29, 2017.

COMMENTS

The Department of Land Conservation and Development provided comments on August 1, 2017 supporting the county's work in adopting standards for ADUs. DLCD staff provided ideas for best practices when adopting standards.

FACTS AND ANALYSIS

Below is a discussion of ADU standards organized by category:

Standards Recommended for Adoption

Type of ADU

Planning Commission Recommendation: Permit interior ADUs, units built inside an existing dwelling or attached garage; attached ADUs, units sharing a wall with, or within 5 feet of an existing dwelling or attached garage; and site built and modular detached ADUs, units located on a property more than 5 feet from an existing dwelling or attached garage.

Discussion: Allowing interior, attached and detached ADUs gives the greatest flexibility to the property owner in developing the type of ADU desired on their property. Other standards, such as size and location, will ensure that the ADU is consistent with the existing residential neighborhood. A recreation vehicle, since it is a type of vehicle, would not be permitted to be used as an ADU unless the unit was removed from its chassis and placed on a permanent foundation. Manufactured dwellings would not be permitted as an ADU since they are generally hard to locate in a side or rear yard and newer ones, similar to other ones meeting the minimum requirements for being placed in the UGB today on residential lots, are larger than the maximum of 900 square feet for an ADU.

At the work session on September 5, 2017, the Board asked staff to consider also permitting manufactured dwellings. During discussions with the Planning Commission, at least one member of the commission supported using a manufactured dwelling as an ADU. The manufactured dwelling would be required to meet the standards for development of an ADU (such as size, location on the parcel and setbacks). Additionally, similar standards could be applied as currently apply to a manufactured dwelling on a lot in the urban growth boundary: roof pitch, siding, height off the ground, etc. A

manufactured dwelling meeting the standards for size, location and appearance ensures the ADU is consistent with the residential nature of the area where it is placed.

Size

Planning Commission Recommendation: 900 square feet of living space or 75% of the size of the footprint of the main dwelling, whichever is less.

Discussion: This standard is consistent with other jurisdictions' maximum sizes for ADUs (Salem, 900 square feet; Silverton, 800 square feet; Aurora, 1000 square feet; Keizer, 750 square feet). The standard for the maximum size, and the requirement the ADU be smaller than the footprint of the existing home, ensure that the ADU remains accessory to the primary residence on the property and the ADU remains in scale to the residential use of the neighborhood it is placed in.

Location

Planning Commission Recommendation: Detached ADUs permitted only in side yards or rear yards. Attached or interior ADUs would be permitted in front, side or rear yards.

Discussion: Other buildings accessory to the primary dwelling are permitted in side and rear yards. This standard would be consistent with existing standards for accessory structures in residential neighborhoods. Additionally, not locating detached ADUs in front yards limits the visual impact of ADUs on neighborhoods. Attached or interior ADUs would be constructed similar to an addition on a dwelling today, which is permitted in any yard consistent with meeting property line setbacks.

Density Standards

Planning Commission Recommendation: ADUs be exempt from density standards.

Discussion: This ensures that an ADU could be placed on a property as accessory to the dwelling where other standards are met (such as setbacks from property lines, location placed on the property, size of the ADU, etc.). If ADUs were not exempt from density standards, there could be circumstances where it is physically possible to locate an ADU on a property (or place one interior to a dwelling), but density standards prevent the placement of the ADU. Since ADUs are accessory to the dwelling on the property, and are intended to be a less intensive use than a complete, separate dwelling, it is appropriate to not apply density standards to the placement of an ADU.

Land Division

Planning Commission Recommendation: Land with an ADU cannot be divided off from the land containing the main dwelling.

Discussion: Since the ADU is accessory to the dwelling, it must remain on the same parcel as the dwelling.

Number of ADUs permitted on a property

Planning Commission Recommendation: One

Discussion: Limiting ADUs to one unit associated with a dwelling minimize any impact to residential neighborhoods. Multiple dwelling units on a property can be permitted in other zones, such as multi-family zones that permit duplexes or cottages.

Height of ADU

Planning Commission Recommendation: Not exceed height of primary dwelling.

Discussion: This standard ensures the ADU is scaled so that it visually appears accessory to the dwelling on the property and ensures the ADU is consistent with the residential nature of the neighborhood.

At the work session on September 5, 2017, the Board asked staff to consider standards that would allow an ADU to be constructed to a maximum height, such as 25 feet for a detached ADU and 35 feet for an attached or interior ADU. These heights provide flexibility for a homeowner wishing to construct an ADU on a property with an existing one-story home, while ensuring that height of the ADU remains residential in nature. Detached ADUs would be able to be up to 25 feet tall regardless of the height of the existing dwelling and less than the maximum of 35 feet permitted for residential development.

Setbacks from property lines

Planning Commission Recommendation: If located in a side yard: behind the front plane of the home and 5 foot minimum from side property line. If located in rear yard: behind the rear plane of the home, not take up more than 25% of the required rear yard, and not project above the following height limits: nine feet at the lot line, increasing one foot for each one foot of distance from the lot line to a maximum height of 20 feet. Roof drainage shall be accommodated within the confines of the property.

Discussion: This standard applies the same setbacks to ADUs as are applied to other accessory structures. This ensures adequate setbacks from neighboring properties and is consistent with development already allowed in the zone.

At the work session on September 5, 2017, the Board asked staff to compare the setback requirements of Salem's ADU code and Marion County's code for accessory structures. Salem, for instance, requires setbacks for an ADU in the rear yard of 5 feet from the rear property line and 5 feet from the side property line. Marion County's code for accessory structures establishes setbacks based on height of the structure and the location in the rear yard. Staff found no substantial differences between setback methods; ADUs fit into rear yards similarly in either case. Both sets of standards additionally appear to provide separation for an ADU from neighboring properties and ensure adequate distance between structures for fire and safety standards.

Parking

Planning Commission Recommendation: If interior or attached, one additional parking space. If detached, two additional parking spaces. No new curb cuts are permitted.

Discussion: Requiring two additional parking spaces for the ADU is the same as the requirement for the dwelling on the property. Since it is possible a garage would provide two parking spaces and the driveway in front of the garage an additional two parking spaces, this standard should be able to be met. However, if the ADU is constructed internally, it may result in the conversion of the garage to the ADU. Since the garage would no longer be available for parking, it's harder to achieve two additional spaces. In that case, the proposal is to require only one additional parking space. Prohibit new curb cuts to

extend or create driveways because that removes a space from on street parking to create a new space off street, which equates to no net gain in parking spaces. New spaces can be created off street using the existing driveway.

At the work session on September 5, 2017, the Board asked staff to compare parking requirements between Salem's ADU code and the planning commission recommendation. While Salem's code does not require additional parking spaces associated with an ADU, the city changed whether it considers the driveway as a parking space. Now driveways count as 1-2 spaces. This effectively provided parking that could be used in conjunction with an ADU. Marion County counts both the spaces in the garage and in the driveway as parking spaces. Thus, some dwellings have up to four existing parking spaces at a property in conjunction with a dwelling and would not require additional parking spaces if a detached ADU were constructed.

Rental duration

Planning Commission Recommendation: 30 days minimum rental.

Discussion: This standard is to ensure that ADUs are not used as short-term rentals or vacation stays. ADUs are intended to be occupied over longer durations (months) in order to address the need for affordable, long term housing. Allowing ADUs to be rented for the short-term would limit the ability of the standards to achieve that housing objective.

Deed Restriction

Planning Commission Recommendation: Property owner required to record a deed restriction acknowledging the standards for ADUs.

Discussion: This ensures that future property owners are made aware of the standards that apply to the ADU that is already constructed on the property they are purchasing.

Zones where permitted

Planning Commission Recommendation: In Urban Transition zones permit interior or attached only. In Single Family Residential and Urban Development zones, permit interior, attached, or detached ADUs. Do not permit ADUs in other zones.

Discussion: Urban Transition zones are meant for future urban development upon annexation. A detached ADU would take up space on a property intended for redevelopment at city densities, limiting the ability of the property to be developed once it's annexed into the city. Therefore, only permitting interior or attached ADUs would maximize the amount of the land available for development upon annexation. ADUs would be permitted in zones where single-family residences are allowed, the Single Family Residential and Urban Development zones, subject to the ADU meeting the other standards for development (location on the parcel, setbacks, size, etc.). Additional dwelling units are already permitted on property in multi-family zones and do not need ADU provisions. In zones where dwellings are not permitted outright (i.e., industrial or commercial), permitting additional residential development could make the lot more non-conforming upon annexation, which could make financing or redevelopment of the property more difficult.

Approval process

Planning Commission Recommendation: ADUs are permitted outright, subject to standards and no land use review is required.

Discussion: Since ADUs are being permitted only in zones that already permit residences and are accessory to the residential use of the property, it is not necessary to review their placement as a land use decision. The placement of an ADU would be subject to the standards outlined above upon application for a building permit to construct one on a parcel. Existing ADUs at the time the ordinance is adopted could be legalized through an adjustment application provided by the property owner. Standards for new ADUs would be able to be varied through the urban adjustment process.

Standards Not Recommended for Adoption

Property owner-occupied status

Discussion: It is not proposed to require the owner of the property to live in either the ADU or main house. In residential areas, dwellings are commonly being rented now. It appears that whether the ADU or dwelling or both are rented will not change residential nature of the use and is consistent with existing residential rentals in neighborhoods already occurring.

Screening

Discussion: The standards proposed for adoption will ensure that ADUs are consistent with existing residential development in neighborhoods and any impact from them will be minimal. Therefore, screening, in addition to the standards proposed above would not be required.

Ability to be rented

Discussion: Portland and Ashland, which both permits ADUs without a property owner occupancy requirement, have found that the owner lives on the property 70%-80% of the time anyway. Without the owner occupancy requirement, it's possible to finance the property as a "duplex" where a portion of the renter's income is counted toward the property owner's income for loan qualifying purposes, making it more viable to finance the construction of an ADU. Also, the enforcement of the owner occupancy requirement is tremendously difficult (according to Eugene) and it takes a lot of staff time on a continuous basis to enforce the requirement.

Design Standards

Discussion: Design standards are difficult to adopt and tend to be discretionary in nature. Marion County does not currently have a design review process. Without an existing design review process in place, it would be difficult to apply design standards to ADUs. The standards for development proposed above would ensure compatibility with the residential nature of the neighborhoods ADUs are placed in without requiring design standards in addition to those standards.