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STAFF REPORT

DATE: October 24, 2017
TO: Mayor and City Councilors
FROM: Ron Pomeroy, Principal Planner
SUBJECT: **Ordinance No. 5040 - G 6-17:** Zoning Text Amendments to amend Chapter 17.12.010(D) (Accessory Dwelling Unit (ADU))

Council Goal:

Promote Sustainable Growth and Development

Report in Brief:

This action is the consideration of Ordinance No. 5040, an ordinance amending Chapter 17.12.010(D) (Accessory Dwelling Unit (ADU)) of the McMinnville Zoning Ordinance to remove local barriers for affordable housing and to encourage additional residential opportunities.

Background:

The proposed amendments began as a recommendation of the McMinnville Affordable Housing Task Force (MAHTF). As part of their efforts to remove barriers for affordable housing in McMinnville, the MAHTF reviewed the McMinnville Zoning Ordinance for affordable housing initiatives and efficiencies. They used the State of Oregon's Affordable Housing Measures checklist as a framework for their discussions. (Decision Document Attachment 1).

At their January 25, 2017 meeting, the MAHTF started their evaluation of the current McMinnville Zoning Ordinance to identify additional development code efficiency measures as they pertain to affordable housing. The discussion resulted in direction being provided to Planning Department staff to assemble an analysis evaluating comparable cities' development codes as they pertain to barriers and incentives to affordable housing with the goal of identifying potential efficiency measures that could be incorporated into the McMinnville Zoning Ordinance.

The multi-jurisdictional analysis included a review of development codes from the cities of Newberg, Ashland, Bend, Redmond, Corvallis, and Grants Pass.

Attachments:

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Exhibit A – G 6-17 Decision Document

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At the February 22, 2017 MAHTF meeting an analysis of the first set of potential efficiency measures was provided and discussed. Those measures included:

- Accessory Dwelling Units
- Multi-Family Off-Street Parking Requirements
- Under Four Units Off-Street Parking Requirements
- Residential Street Standards
- Minimum Density Standards
- Limitations on Low Density Housing Types
- Amount of High Density Zoning Districts
- Duplexes in Low Density Zones, and
- Attached Units Allowed in Low Density Zones

That analysis showed that McMinnville's efficiency measures are generally better for affordable housing than similar sized cities. However, there are some opportunities for improvements. One of those opportunities would be to consider modifications to McMinnville's current ADU regulations. Staff was asked to bring proposed draft amendments to the Zoning Ordinance governing ADUs to the MAHTF for consideration potentially resulting in a MAHTF recommendation to the Planning Commission for review of those modifications.

On July 26, 2017, the recommended amendments were presented to the McMinnville Affordable Housing Task Force for review, comment, and direction. At that meeting, the Task Force reviewed and discussed the proposed amendments and directed staff to move this recommendation forward for Planning Commission review at the August 17, 2017 work session.

At the August 17, 2017 Planning Commission work session the recommended amendments were presented for review, comment and direction. During that discussion, the Commission was additionally interested in considering the possibility of allowing modular buildings to be used as ADUs as well as limiting the height of ADUs under certain circumstances. Following discussion, the Planning Commission directed staff to bring this proposed amendment forward as a hearing item for public review, comment, and consideration in a public hearing to be held on September 21, 2017. At the culmination of that hearing, the Planning Commission voted unanimously to recommend that the Council consider and approved the recommended amendments at their October 24, 2017 public meeting.

Planning Department staff conducted an analysis across six similarly sized Oregon cities regarding opportunities to accommodate Accessory Dwelling Units on otherwise developed residential lots. (See Decision Document Attachment 2). Notable observations resulting from that comparative analysis were that by allowing ADUs as a permitted use on otherwise already developed single-family lots in *all* of its residential zones, McMinnville is more lenient than some jurisdictions which require either conditional use approvals or employ other limitations such as establishing minimum lot sizes in certain zones before ADUs are allowed. Regarding dwelling type, McMinnville is fairly similar to other cities by allowing the ADU to be either attached to or part of the main home or to be designed as a detached dwelling as long as applicable zoning setbacks were met.

Where McMinnville is more restrictive than most other surveyed cities is that the current McMinnville regulations require that an ADU be a minimum of 300 square feet in size while most of the other cities have not established a minimum size requirement for such a dwelling. Additionally, McMinnville's regulations cap the maximum size of an ADU to either 800 square feet or 40% of the size of the main

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residence, whichever is smaller. While this size/percentage ratio relationship is not unique to McMinnville, those established by other cities commonly allow a maximum of 1,000 square foot or 50% of the main house as a maximum size limitation.

Another notable difference can be experienced as a disincentive, or even a barrier, to affordable housing as it directly impacts the economic viability of constructing the ADU. To point, McMinnville currently requires an ADU to be provided with independent services that include, but are not limited to, water, sewer, and electricity. This means that, unlike a residential duplex that shares a common private sanitary sewer line that connects both dwellings to the public right-of-way, an ADU in McMinnville must install a separate sanitary sewer line directly to the public sewer line located in the right-of-way. This results in two sanitary sewer laterals being extended from one lot rather than one shared lateral in the case of a duplex dwelling.

The rationale behind this requirement is to proactively address the potential future partitioning of the residential lot into two lots enabling the sale of each dwelling unit separately. In this instance, the utilities would already be separate making the partitioning effort easier and less costly. However, this requirement does add costs to the project, and the costs are borne by the ADU applicant based upon a potential effort in the future and not in response to that effort. So the question to consider is if this requirement should be modified to allow an ADU to connect to the existing sanitary sewer lateral of the main residence and, in that manner, operate similarly to a duplex. The cost of extending a separate sewer lateral would then only be borne by those choosing to later move forward with a request to partition the units onto their own separate lots.

The City's Engineering Department has been consulted on this matter and is supportive of removing this requirement, noting that the costs for separation will need to be incurred at the time of a partition. While this is accurate, there are only a minor number of such properties that would, or could, actually partition the dwelling units on to their own lots while meeting all of the necessary remaining planning requirements relative to lot size, setbacks, etc. So, on balance, most ADU owners would experience a development savings over this life of the ADU as they are likely to remain on the same parcel. The Engineering Department concurs with this observation.

A third efficiency that could be provided would be to remove the current local zoning requirement that the property owner must reside on site within the primary dwelling unit. While this requirement was most likely adopted for reasons related to neighborhood social stability, the question of who lives in any given residential unit has no actual land use impact as they would yet remain two dwelling units regardless of who lives in each dwelling. There was some discussion of this by the MAHTF but no clear direction provided. That said, staff is supportive of this amendment and is comfortable bringing it forward as a proposed amendment for consideration.

Work Session Summary:

During the Planning Commission work session held on August 17th, the Commission discussed the possibility of allowing modular buildings to be used as ADUs as well as potentially limiting the height of ADUs under certain circumstances.

An email was submitted by Patty O'Leary on August 17, 2017 (See Decision Document Attachment 3), raising two questions: 1) could "prefab houses" (modular homes) be allowed as ADUs; and 2) could an existing smaller home be considered as the ADU if a larger home was constructed on the site and considered the main dwelling?

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Modular Homes –

The Commission discussed the idea of allowing modular homes as ADUs and asked staff to bring back information relative to the differences between these two types of dwelling units. Staff inquired of the McMinnville Building Official as to the difference between a manufactured home (currently prohibited for use as an ADU) and a modular home. The Building Official's response is provided (See Decision Document Attachment 4) and, in sum, clarifies that manufactured and modular homes are both constructed at a State of Oregon licensed manufacturing plant and each receive a different insignia upon completion. The main construction difference between the types of units is that manufactured homes are supported on rails placed on pads and secured are with anchors while modular homes transfer building loads to the exterior walls and are placed on permanent foundations. Modular homes are seen by lenders as a single-family dwelling while manufactured homes are recognized by lenders as real property (like an automobile) even if placed on a permanent foundation because of the insignia required by the State of Oregon. All other design differences between these types of units are individual design and customer preference based.

ADU and main dwelling designations –

Currently the construction of an ADU is limited in size not to approximate the size of the existing main dwelling unit. In the case of a small existing residence, this regulation could hamper the desired size of an ADU. The Commission discussed this situation and the idea of allowing the designation of these units to flip. In that instance, the small existing residence would become the ADU upon completion of the construction of a larger, new main dwelling unit. The size relationship between the two dwelling units would need to comply with current ADU regulations in place at that time.

Other direction-

The Planning Commission also discussed the possibility of limiting the height of a detached ADU such that it would not exceed the height of the main residence. This idea is based on an interest in ensuring design compatibility between residential structures on adjacent lots and within the surrounding neighborhood. In discussion, it was recognized that the only instances where this would come into play would be: 1) construction of a stand-alone detached ADU; and, 2) construction of an ADU above a detached structure (garage, for example). In the instance where the main residence is single story in design, this requirement would eliminate the possibility of constructing an ADU above a detached garage. If the main residence was two-story in design, the peak of the ADU would be required to be no higher than that of the two-story residence.

In researching detached ADU height regulations in the six Oregon cities previously reviewed for this project, staff finds that only the City of Bend places a limitation on detached ADU building height as shown in the table below. This analysis is provided only as a comparison of how other communities similar to McMinnville address this concern discussed by the Commission.

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COMPARATIVE DETACHED ADU BUILDING HEIGHTS							
Detached ADU Height in Low and Medium Density Residential Zones	McMinnville	Newberg	Bend	Ashland	Redmond	Corvallis	Grants Pass
	35 Feet	30 Feet	25 Feet if Primary Dwelling is 25 Feet or taller	35 Feet	35 Feet	30 Feet	35 Feet
			Height of Primary Dwelling if Primary Dwelling is less than 25 Feet				

Additional Agency Comment:

Additional comment was received from the Oregon Department of Land Conservation and Development (DLCD) on September 8, 2017 (See Decision Document Attachment 5). In sum, DLCD makes two recommendations: 1) Remove the on-site parking requirement for ADUs; and, 2) State that legally non-conforming structures are eligible to be converted to ADUs.

While DLCD has recently encouraged and recommended the reduction or removal of parking requirements for various land uses, the Planning Department would discourage this amendment as it would apply to ADUs. In recent years, much citizen testimony has been received at public hearings concerning the sufficiency of currently required on-site residential parking. As the Commission may recall, this was one of the more prominent concerns raised by citizens regarding the Baker Creek Development zone change and subdivision proposal reviewed last winter. Allowing the creation of an additional dwelling unit without requiring the provision of at least one parking stall to serve the new resident(s) needs would further place additional pressure for that parking need to be met on the public right-of-way.

Regarding a declaration that legal non-conforming structures be eligible to be converted to ADUs, this ability is already allowed and generally addressed in Chapter 17.63 (Nonconforming Uses) of the McMinnville zoning ordinance. Specifically, 17.63.030 (Structures – Alteration or extension) states:

“Structures conforming as to use but nonconforming as to height, yard requirements, setback, lot size, or density may be altered or extended, provided the alteration or extension does not result in a violation of this title, except as provided below:

- A. Dwellings may be altered or extended subject to the provision of Section 17.54.050 [Yards]
- B. Dwellings located in residential zones may be altered or extended so long as the alteration or extension does not result in a violation of this title or so long as the alteration or extension is confined within the existing building lines.

Since ADUs are currently allowed on all legally platted residential parcels and lots in McMinnville, the Planning Department would rely on Section 17.63.030, above, to allow the conversion of a legally non-

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conforming structure to an ADU. However, to make this explicitly clear, staff would suggest that the following be considered as an addition to the ADU standards:

9. That legally non-conforming accessory structures located on residentially zoned land may be converted to an accessory dwelling unit in accordance with the requirements of Chapter 17.63 (Nonconforming Uses).

This suggested standard is included in the Recommendation section below for your consideration.

Additional Public Comment:

Additional public comment was received from the Friends of Yamhill County (FYC) on September 21, 2017, (See Decision Document Attachment 6). FYC is supportive of the proposal and notes “The entire community will benefit from a housing mix that is financially accessible to the widest possible range of citizens.”

Proposed Amendments:

The amendments being proposed are as follows. As the requirements for ADU’s are found in the R-1 (Single-Family Residential) chapter of the zoning ordinance (Chapter 17.12) and referenced by the other residential zones, the proposed amendments are specific to Chapter 17.12. Text to be deleted is identified with a ~~bold strikeout~~ font and text to be added is identified with a **bold underlined** font.

McMinnville Zoning Ordinance (Ordinance 3380)

“Chapter 17.12.010 (Permitted Uses) – (D) Accessory dwelling unit (ADU) subject to the following standards.”

1. The accessory dwelling unit may be established by:
 - a. Conversion of an attic, basement, or garage or any other portion of the primary dwelling;
 - b. Adding floor area to the primary dwelling, including a second story; ~~or~~
 - c. Construction of a detached accessory dwelling unit on a lot with a primary single-family dwelling; ~~or~~
 - d. **Construction of a new primary dwelling with the existing dwelling being designated the ADU and found in compliance with all requirements of this Section.**
2. The square footage of the accessory dwelling shall not exceed ~~4050~~ **4050** percent of the primary dwelling exclusive of the garage, or ~~8001,000~~ **1,000** square feet, whichever is less. ~~The minimum area shall be as determined by the State of Oregon Building Codes Division. The minimum area shall not be less than 300 square feet.~~ **The minimum area shall be as determined by the State of Oregon Building Codes Division.**
3. **The building coverage of a detached ADU may not be larger than the building coverage of the primary dwelling.**
4. The accessory dwelling shall meet all applicable standards for this zone including, but not limited to, setbacks, height, and building codes in effect at the time of construction. **The maximum height allowed for a detached ADU is the lesser of 25 feet or the height of the primary dwelling.**
5. The structure’s appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit, **including roof pitch, eaves, window fenestration patterns, etc.**

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6. One additional off-street parking space shall be provided (in addition to any off-street parking required for other uses on the same parcel or lot).
- ~~6. The accessory dwelling unit must have independent services that include but are not limited to water, sewer, and electricity.~~
- ~~7. The property owner shall reside on site within the primary dwelling unit.~~
7. Not more than one accessory dwelling unit shall be allowed per lot or parcel.
8. The accessory dwelling unit shall contain a kitchen, bathroom, living, and sleeping area that are completely independent from the primary dwelling.
9. Manufactured homes, recreational vehicles, motor vehicles, travel trailers and all other forms of towable or manufactured structures, not to include modular structures, shall not be used as an accessory dwelling unit.
10. ADUs are exempt from the residential density standards of this code.
11. Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.
12. That legally non-conforming accessory structures located on residentially zoned land may be converted to an accessory dwelling unit in accordance with the requirements of Chapter 17.63 (Nonconforming Uses).

Discussion:

The Planning Commission conducted a public hearing on September 21, 2017. At that time there was public testimony in opposition of the proposal. Please see attached planning commission minutes from the September 21, 2017 meeting.

Fiscal Impact:

None to Municipality
Reduced private utility construction cost

Alternative Courses of Action:

- 1) **ADOPT** Ordinance No. 5040, approving G 6-17 and adopting the Decision, Findings of Fact and Conclusionary Findings.
- 2) **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting.
- 3) **DO NOT ADOPT** Ordinance No. 5040.

Recommended/Suggested Motion:

Staff recommends that the Council adopt Ordinance No. 5040 which would approve the zoning text amendments as recommended by the Planning Commission.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5040.

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