



STAFF REPORT

TO: Planning Commission

HEARING DATE: May 21, 2014

STAFF: Steve Regner, Planning Technician

APPLICATION: **TA2012-0003 Text Amendment to Accessory Dwelling Unit**

REQUEST: City-initiated proposal to amend Chapter 40, Section 40.05 of the Development Code, Approval Criteria of Accessory Dwelling Units; Chapter 60, Sections 60.50.03 and 60.50.05., Special Use Regulations for Accessory Dwelling Units and Accessory Structures; and Chapter 90, adding the definition of Accessory Dwelling Units.

APPLICANT: City of Beaverton

AUTHORIZATION: Ordinance 2050 (Development Code), effective through Ordinance No. 4576

APPLICABLE CRITERIA: Development Code Section 40.85.15.1.C. 1-7 (Text Amendment Approval Criteria)

RECOMMENDATION: **APPROVAL of TA2012-0003 (Text Amendment to Accessory Dwelling Unit) as shown in Exhibit 1 of this report.**

TABLE OF CONTENTS

	Page No.
APPLICATION PROCESSING	3
Subject Application	
Procedures	
120 Day Requirement	
Public Notice	
BACKGROUND INFORMATION	4-5
Summary	
PROPOSED TEXT AMENDMENT	5-6
FACTS & FINDINGS	6-10
In response to Text Amendment	
Approval Criteria	
CONCLUSION & RECOMMENDATION	10
EXHIBITS	10

APPLICATION PROCESSING

Subject Application:

This application for Text Amendment proposes to clearly define what constitutes an Accessory Dwelling Unit (ADU) by adding an entry for ADU's in Chapter 90 of the Development Code. The primary purpose of this amendment is to reduce confusion and ensure consistent code application. In part, the proposed amendment is intended to clarify what elements are required to be present for an Accessory Dwelling Unit. The amendment also proposes to clarify the manner in which Accessory Dwelling Units can be created, and differentiates Accessory Dwelling Units from Accessory Structures as described in Sections 60.50.03.2 and 60.50.05 of the Development Code.

Development Code Text Amendment Adoption and Appeals

Before the City Council may adopt an amendment to the Development Code, the procedures identified in Section 50.50 of the Development Code shall be followed. Section 50.50 identifies the procedural requirements for all Type 4 applications. The procedure for appealing a Type 4 decision is identified in Section 50.75.

120 Day Requirement:

Development Code Text Amendments are not subject to the State Statute requiring final decisions on land use applications to be made within 120 days.

Public Notice:

1. Notice was posted in City Hall and the City Public Library on April 16, 2014.
2. Legal notice was published in the Valley Times on April 24, 2014.
3. State law requires local governments to provide notice to the Department of Land Conservation and Development (DLCD) for proposed amendments to Comprehensive Plans and implementing ordinances (ORS 197.610 and OAR 660-018-000). A temporary rule, effective January 1, 2012, requires notices 35 days in advance of the first evidentiary hearing for a plan or ordinance amendment. Staff submitted notice of the Text Amendment to DLCD electronically on April 14, 2014, and via mail April 16, 2014, thus complying with the minimum 35-day noticing requirement.
4. City of Beaverton Code (under Section 50.50) requires mailing notice to all NAC chairs in areas that could be affected by the proposed ordinance, 35-days prior to the initial hearing. Provisions under Section 50.50 also require mailing notice to the Chair of the Beaverton Committee for Citizen Involvement and Washington County Land Use and Transportation in the same time required under Section 50.50. Notice was mailed accordingly on April 16, 2014.

Previous Actions:

No previous actions taken.

BACKGROUND INFORMATION

Standards and regulations contained in Section 40.05 of the Development Code were added to the Development Code in 2003, creating a specific application for Accessory Dwelling Units. Accessory Dwelling Units had previously been regulated in Section 60.40 (now 60.50.03) since 1999. Past regulations have not defined Accessory Dwelling Units.

The absence of a definition for Accessory Dwelling Units has prompted various questions of staff by those interested in adding ADU's to the primary dwelling. Specifically, staff has been asked:

- What are the required elements of an Accessory Dwelling Unit?
- What can I build without creating an Accessory Dwelling Unit?
- What if I take out 'item X' from the plans, would that exempt the proposal for the Accessory Dwelling Unit regulations?

Without clear direction from code, staff has generally relied on the presence of a 220 volt kitchen appliance as the trigger for an Accessory Dwelling Unit. Though this practice has generally worked, the lack of code provision has led to some frustration from some applicants.

The proposed Text Amendment seeks to clarify the required elements of an Accessory Dwelling Unit. Exhibit 3 illustrates the five ways Accessory Dwelling Units would be able to be added to a property that has a primary dwelling unit.

A Planning Commission work session was held June 13, 2012 to provide context for the research conducted for the text amendment and to solicit feedback from Planning Commission. The memo to Planning Commission, Exhibit 4, outlines key areas of concern associated with Accessory Dwelling Units and Accessory Structures, as well as discussion points to solicit feedback. The Planning Commission was generally in agreement on most discussion points, but did not reach a conclusion on maximum building height for Accessory Dwelling Units. Based on comments received from the work session, the staff recommended proposal would permit Accessory Dwelling Units to be built to a height regulated by the underlying zone, which can vary from 35 feet in the R10 zone to 60 feet in the R1 zone, possibly resulting in Accessory Dwelling Units being taller than the primary dwelling unit. Some concern was expressed that the creation of Accessory Dwelling Units taller than the primary structure could have a negative impact on the neighborhood. The alternative would be to restrict the Accessory Dwelling Unit to a height limit that is no higher than the primary dwelling unit on site, as noted on Exhibit 3.

Question for Planning Commission:

Should the height limit of an Accessory Dwelling Unit be regulated by the underlying zone or required to be no taller than the primary dwelling unit on site?

Changes to Accessory Structures

Staff has received feedback from applicants that limits on Accessory Structure size (not including Accessory Dwelling Units) are too restrictive for larger properties. Based on research of code requirements from neighboring jurisdictions, including Gresham, Hillsboro, Lake Oswego, and Tigard, staff concludes that the City's Development Code is comparable. However, based on feedback from applicants, this Text Amendment is proposing a slight increase to the allowed size of Accessory Structures on lots above 10,000 square feet, from 700 square feet to 800 square feet. Despite the increase, the proposed allowance would still be comparable to standards adopted by other local jurisdictions.

Public Comment Received:

As of the date of issuance of the staff report and recommendation there were no written comments from the public submitted to the record.

PROPOSED TEXT AMENDMENT

Exhibit 1 hereto shows proposed changes to existing text with new proposed text shown **highlighted** and eliminated text shown in **strikethrough**.

Staff proposed changes are summarized as follows (in the order as they appear on the Draft Text, **Exhibit 1**):

1. Add text to Section 40.05.15.C (ADU Approval Criteria) adding Flexible Setbacks to the list of applications that can modify Chapter 20 provisions.
2. Add text to Section 40.05.15.C (Approval Criteria) noting that the size restrictions for Accessory Dwelling Units are the same, regardless of how the Accessory Dwelling Unit is created.
3. Strikes and replaces Section 60.50.03.2.A (Design Standards for ADU) with more detailed and expanded description of the manner in which Accessory Dwelling Units may be created.
4. Adds text to Section 60.50.03.2.B (Parking for ADU) clarifying that the parking space must be hard surfaced.
5. Modify Section 60.50.05.2.A (Accessory Uses and Structures) slightly increasing the size allowance of structures of lots over 10,000 square feet.

6. Modify Section 60.50.05.3.B (Accessory Uses and Structures) clarifying that it does not apply to Accessory Dwelling Units.
7. Adds text to Chapter 90 (Definitions) clarifying that Accessory Dwelling Units do not fall under the definition of an Accessory Structure.
8. Adds definition for Accessory Dwelling Unit in Chapter 90 (Definitions).

Facts and Findings in support of these changes are identified herein.

FACTS AND FINDINGS

Section 40.85.15.1.C of the Development Code states that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C. 1 through 7 are satisfied.

The following are facts and findings prepared in response to Section 40.85.15.1.C., approval criteria for Text Amendment, for TA2012-0003:

Criterion 1. The proposal satisfies the threshold requirements for a Text Amendment application.

Facts and Findings

The threshold for Text Amendment under Section 40.85.15.1.A reads: *An application for Text Amendment shall be required when the following threshold applies: 1. Any change to the Development Code, excluding changes to the zoning map.*

The proposed Text Amendment is intended to amend certain text as contained in Chapter 40, Section 40.05.; Chapter 60, Section 60.50.03.; and Chapter 60, Section 60.50.05 of the Development Code. Also, one definition in Chapter 90 (Definitions) is proposed to be added, and one existing definition is proposed to be amended. Therefore, staff finds that the approval criterion has been satisfied.

FINDING: For the reason stated above, the proposed amendment complies with Criterion No. 1.

Criterion 2. All City application fees related to the application under consideration by the decision-making authority have been submitted.

Facts and Findings

Policy No. 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City-initiated application are not required where the application fee would be paid from the City's General Fund. In the subject case, the City Community Development Department, a General Fund program, initiated the application. Therefore, payment of the application fee is not required. Accordingly, staff finds that the approval criterion is not applicable.

FINDING: For the reason stated, staff finds that approval criterion No. 2 is not applicable.

Criterion 3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.

Facts and Findings

Metro's Urban Growth Management Functional Plan is the document that defines how local governments are to implement the Metro Regional Urban Growth Goals and Objectives and the Metro Regional Framework Plan. Metro's Urban Growth Management Functional Plan (herein referred to as the "UGMFP") is comprised of the following titles:

- Title 1. Housing Capacity
- Title 2. ~~Regional Parking Policy~~ *Repealed*
- Title 3. Water Quality and Flood Management
- Title 4. Industrial and Other Employment Areas
- Title 5. Neighbor Cities and Rural Reserves
- Title 6. Centers, Corridors, Station Communities and Main Streets
- Title 7. Housing Choice
- Title 8. ~~Compliance Procedures~~ *Repealed*
- Title 9. Performance Measures
- Title 10. Definitions
- Title 11. Planning for New Urban Areas
- Title 12. Protection of Residential Neighborhoods
- Title 13. Nature in the Neighborhoods.
- Title 14. Urban Growth Boundary

The City is required to bring its land use regulations into conformance with the UGMFP and the Titles as listed above. The Development Code has been amended to incorporate several policies of the UGMFP. This proposal for text amendment does not conflict with policies or statements found in the UGMFP.

With the scope and focus of this amendment limited to certain changes to the definition and design of Accessory Dwelling Unit, as well as slight increases to the allowance of Accessory Structures, staff does not foresee any conflict with the Titles as listed above. Therefore, staff find that the approval criterion has been satisfied.

FINDING: For the reason stated herein, the proposed amendment complies with Criterion No. 3.

Criterion 4. *The proposed text amendment is consistent with the City's Comprehensive Plan.*

Facts and Findings

Staff reviewed Goals and Policies of the City's Comprehensive Plan and found nothing that applies specific to the regulation of Accessory Dwelling Units. Possibly applicable are Goals and Policies found in Chapter 4 of the Comprehensive Plan. These Goals and Policies (4.2.1.1.a and 4.2.2.1.a) are identified below.

From Chapter 4 - Section 4.2, Housing Element:

4.2.1.1 Goal: Maximize use of buildable residential land in the City

Policy a. *Increase residential capacity in the City to substantially comply with the requirements of Title 1 of the Metro Urban Growth Management Functional Plan.*

4.2.2.1 Goal: Provide an adequate variety of quality housing types to serve Beaverton's Citizenry

Policy a. *Allow for development of a wide variety of housing types in the City.*

Facts and Findings

The purpose of this amendment is to ensure regulations are easy to understand and implement. Herein staff has explained how the Development Code currently does not have a definition for Accessory Dwelling Units.

The allowance of Accessory Dwelling Units, first added to the Development Code in 1999, has provided the opportunity for lower cost, smaller dwelling units to be added to residential lots that otherwise might be underdeveloped. The proposed addition of an Accessory Dwelling Unit definition, along with more clearly defining the methods in which and Accessory Dwelling Unit may be created, should increase understanding and possibly lower constraints for creation of Accessory Dwelling Units in zones where they are already permitted.

FINDING: Staff therefore find the Text Amendment proposal to be consistent with Goals and Policies 4.2.1.1.a and 4.2.2.1.a shown above. The proposed amendment therefore complies with Criterion No. 4.

Criterion 5. *The proposed text amendment is consistent with other provisions within the City's Development Code.*

Facts and Findings

There are no conflicts between the proposed text and the other provision of the Development Code. Currently there is no definition of an Accessory Dwelling Unit, even though the use is specifically identified within the Residential Land Use Section of Chapter 20. This proposal corrects that by adding a definition

FINDING: For the reason stated herein, the proposed amendment complies with Criterion No. 5.

Criterion 6. *The proposed amendment is consistent with all applicable City ordinance requirements and regulations.*

Facts and Findings

Staff has identified applicable Development Code provisions and Comprehensive Plan Policies addressed in response to Criteria 4 and 5 above. Standards and approval criteria for Accessory Dwelling Units are found only within Section 40.05 and Special Regulations are found in Section 60.50.03. Staff has not identified other applicable City ordinance requirements or regulations that would be affected by this proposed amendment. Therefore, staff finds that approval criterion six has been satisfied.

FINDING: For the reason stated herein, the proposed amendment complies with Criterion No. 6.

Criterion 7. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

Facts and Findings

Staff have identified that there are no other applications or documents related to the request that will require further City approval. Therefore, staff find that approval criterion has been satisfied.

FINDING: For the reason stated herein, the proposed amendment complies with Criterion No. 7.

Summary of Findings: Based on the facts and findings as contained herein, staff find that the proposed Text Amendment meets the criteria for approval.

CONCLUSION AND STAFF RECOMMENDATION

Based on the facts and finding presented, staff conclude that the proposed text amendment to the Development Code is consistent with applicable Text Amendment approval criteria of Section 40.85.15.1.C. 1-7. Therefore, staff recommend that the Planning Commission **approve TA2012-0003 (Text Amendment to Accessory Dwelling Unit) as shown in Exhibit 1 of this report**, thereby forwarding a recommendation of Ordinance adoption to the City Council.

EXHIBITS

- | | |
|-----------|--|
| Exhibit 1 | Proposed Text Amendment to Sections 40.05, 60.50.03, 60.50.05, and Chapter 90 of the Development Code with changes to existing text, with new proposed text shown highlighted and eliminated text shown in strikethrough . |
| Exhibit 2 | Full text of Sections 40.05, 60.50.03, 60.50.05, and relevant portion of Chapter 90 (existing) for reference. |
| Exhibit 3 | Illustrations of proposed methods for Accessory Dwelling Units creation |
| Exhibit 4 | Planning Commission Work Session Memo dated June 6, 2012 |

From Chapter 40, Section 40.05 of the Beaverton Development Code – Accessory Dwelling Unit

CHAPTER 40 - APPLICATIONS

40.05.15.1.C Approval Criteria

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code. [ORD 4265; October 2003]
4. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Flexible Setback, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
5. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Regulations) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
6. There is only one detached dwelling on the subject site.
7. The proposed accessory dwelling unit is no more than fifty percent (50%) of the gross floor area of the primary detached dwelling or 800 square feet, whichever is less, regardless of how the accessory dwelling unit is created.
8. The proposal is not located over any easement.
9. The exterior finish materials of the proposal is the same as the detached dwelling in terms of type, size, placement, and finish.
10. The roof pitch of the proposal matches the roof pitch of the detached dwelling.

11. The trim of the proposal is the same as the detached dwelling in type, size, location, and finish.
12. The windows of the proposal match those on the detached dwelling in terms of proportion (height to width ratio) and orientation (vertical vs. horizontal).
13. The eaves of the proposal project the same distance as the eaves on the detached dwelling.
14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for an Accessory Dwelling Unit shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Accessory Dwelling Unit application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.

SPECIAL REQUIREMENTS

From Chapter 60, Section 60.05 of the Beaverton Development Code – Special Use Regulations

CHAPTER 60 – SPECIAL REQUIREMENTS

60.50.03. Accessory Dwelling Unit. [ORD 4048; July 1999]

1. **Purpose.** Accessory dwelling units are intended to increase the City's housing stock while minimizing neighborhood impacts, respecting the scale and design of detached dwelling residential neighborhoods, and maintaining their character. At the same time, accessory dwelling units are not intended to apply toward any minimum density requirements in other sections of this Code. [ORD 4224; August 2002]
2. **Design standards.** The following design standards are specific to the construction of an accessory dwelling unit. The standards are intended to ensure that the accessory dwelling units are compatible in scale, architectural design, and accessory to the primary residence. Where development standards are absent in this section, the development standards of the underlying zone apply.
 - A. An accessory dwelling unit may be created in one of the following ways ~~manner~~:
 1. Adding floor area or converting existing living area, attic, basement or garage (except required parking) separated from the primary structure by a locking door, separate entrance, or both; ~~Conversion of existing living area, attic, basement or required parking;~~
 2. Constructing a new structure, attached to the primary unit by either:
 - a. a fully enclosed breezeway extending no further than twenty (20) feet from the primary structure or,
 - b. a shared wall, where at least fifty percent (50%) of the linear feet of the accessory dwelling unit's shared wall shall be attached to the primary dwelling;~~Adding floor area, subject to the limitations of the zoning district in which it is located;~~

SPECIAL REQUIREMENTS

3. Constructing a new structure, detached from the primary structure by at least six (6) feet; ~~Constructing a new structure, attached structure, or manufactured home with an internal or detached accessory dwelling unit.~~
4. Constructing a new structure above a detached garage;
5. Constructing a new structure attached to a detached garage by a shared wall, where at least fifty percent (50%) of the linear feet of the accessory dwelling unit's shared wall shall be attached to the primary dwelling.

B. Parking.

1. Where the accessory dwelling unit is built on parking areas required for the primary dwelling, the required parking shall be replaced on site.
2. One additional hard surfaced parking space is required on site.

~~C. Location.~~

- ~~1. Accessory dwelling units must be attached by the floor, ceiling, wall, or portion thereof to the primary unit or must be separated by 8 feet from the primary unit.~~
- ~~2. Accessory dwelling units shall be built in accordance with state and local codes.~~

60.50.05. Accessory Uses and Structures. (Other than Accessory Dwelling Units) [ORD 4048; July 1999]

1. Structures or uses incidental and subordinate to the uses allowed as Permitted and Conditional Uses in any zone are allowed as accessory uses and structures subject to the provisions of this section. [ORD 4462; January 2008] [ORD 4474; March 2008] [ORD 4498; January 2009]
2. All accessory buildings must comply with the following provisions:
 - A. Size. For lots ten thousand (10,000) square feet or less, the combined footprint of all accessory structures may not exceed five hundred (500) square feet. For lots greater than ten thousand (10,000) square feet, the combined footprint may not

SPECIAL REQUIREMENTS

exceed ~~eight~~ ~~seven~~ hundred (800~~700~~) square feet. However, regardless of size, the lot coverage by all accessory structures shall be no more than twenty five (25) percent of a rear yard area; [ORD 4474; March 2008]

- B. Height. Accessory structures shall not exceed one story and shall be no greater than fifteen (15) feet in height; [ORD 4474; March 2008]
 - C. They shall not be allowed in a required front yard;
 - D. They shall not be located within six (6) feet of main building for residential lots. Required separation distances for commercial, multiple use, and industrial zoned lots shall be determined by the applicable Building Code; [ORD 4224; August 2002] [ORD 4474; March 2008]
 - E. Setbacks. A structure with a height of eight feet or less shall be located no closer than three (3) feet to any lot line nor built over an easement. For each foot of height, or fraction thereof, in excess of eight feet, the accessory structure shall be set back one additional foot from all lot lines; [ORD 3293; November 1982]; [ORD 4224; August 2002] [ORD 4474; March 2008]
 - F. They shall cause no encroachment upon or interference with the use of any adjoining property or public right-of-way;
 - G. Attached accessory structures. When an accessory structure is attached to the main structure, such accessory structure shall be considered as part of the main structure. Attached means wall-to-wall or any permanent attachment, as determined by the Director; [ORD 4474; March 2008]
 - H. They shall be built in accordance with the applicable building codes as determined by the Building Official. [ORD 3293; November 1982] [ORD 4474; March 2008]
3. Examples of residential accessory uses. The following types of accessory structures or similar structures as determined by the Planning Director shall be permitted in districts where residential use types are allowed:
- A. A greenhouse or hothouse;

SPECIAL REQUIREMENTS

- B. A guesthouse may be maintained accessory to a dwelling, provided the guesthouse does not meet the definition of an Accessory Dwelling; ~~provided there is no kitchen space or cooking facilities in the guesthouse;~~
 - C. Pools;
 - D. Children's playhouses and structures;
 - E. Sheds;
 - F. Barns;
 - G. Gazebos;
 - H. Solar and wind energy systems;
 - I. Recreation room;
 - J. Laundry facilities;
 - K. Garage;
 - L. Accessory storage.
 - M. Pump House;
 - N. Fenced Dog Run;
 - O. Dog Houses;
 - P. Tennis and other game courts.
- [ORD 4474; March 2008]

- 4. Non-residential accessory uses. Accessory uses customarily associated with the principal commercial or industrial use shall be permitted where these commercial and industrial use types are authorized. [ORD 4474; March 2008]

From Chapter 90 of the Beaverton Development Code – Definitions

CHAPTER 90 - DEFINITIONS

Access Management. [ORD 3965; November 1996] City regulations of access to streets, roads, and highways from public roads and private driveways. Regulations may include but are not limited to restrictions on the siting of interchanges, restrictions on the type, number and location of access to roadways, and use of physical controls, such as signals, channelization and raised medians.

Accessory Structure or Use. A structure or use incidental, appropriate, and subordinate to the main structure or use (excludes Accessory Dwelling Units as defined in this ordinance)

Accessory Dwelling Unit. A dwelling incidental and subordinate to the primary dwelling that contains a kitchen, bathroom, and sleeping area. For Accessory Dwelling Units, a kitchen shall consist of any combination of cooking appliances, including, but not limited to, a range, stove, oven, or cooktop.

Accessway. [ORD 3965; November 1996] One or more connections that provide pedestrian and/or bicycle passage either between streets or between a street and a building, school, park, transit stop, or other destination.

40.05. ACCESSORY DWELLING UNIT

40.05.05. Purpose.

The purpose of an Accessory Dwelling Unit application is to provide a mechanism to allow accessory dwelling units. Accessory dwelling units are normal, incidental and subordinate to a detached dwelling. This Section is carried out by the approval criteria listed herein.

40.05.10. Applicability.

An Accessory Dwelling Unit application may be requested for a property with a detached dwelling as the principal use in any zoning district that allows accessory dwelling units.

40.05.15. Application.

There is a single Accessory Dwelling Unit application which is subject to the following requirements.

1. Accessory Dwelling Unit.

- A. Threshold. An application for Accessory Dwelling Unit shall be required when the following threshold applies:
 - 1. An accessory dwelling unit is proposed to be added to a property.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35. of this Code, shall apply to an application for Accessory Dwelling Unit. The decision making authority is the Director.
- C. Approval Criteria. In order to approve an Accessory Dwelling Unit application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for an Accessory Dwelling Unit application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.05.15.1.C.

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code. [ORD 4265; October 2003]
4. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
5. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Regulations) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
6. There is only one detached dwelling on the subject site.
7. The proposed accessory dwelling unit is no more than fifty percent (50%) of the gross floor area of the primary detached dwelling or 800 square feet, whichever is less.
8. The proposal is not located over any easement.
9. The exterior finish materials of the proposal is the same as the detached dwelling in terms of type, size, placement, and finish.
10. The roof pitch of the proposal matches the roof pitch of the detached dwelling.
11. The trim of the proposal is the same as the detached dwelling in type, size, location, and finish.
12. The windows of the proposal match those on the detached dwelling in terms of proportion (height to width ratio) and orientation (vertical vs. horizontal).
13. The eaves of the proposal project the same distance as the eaves on the detached dwelling.

40.05.15.1.C.

14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

- D. Submission Requirements. An application for an Accessory Dwelling Unit shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Accessory Dwelling Unit application shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of an Accessory Dwelling Unit application to ensure compliance with the approval criteria.

- F. Appeal of a Decision. Refer to Section 50.60.

- G. Expiration of a Decision. Refer to Section 50.90.

- H. Extension of a Decision. Refer to Section 50.93.

60.50. SPECIAL USE REGULATIONS.**60.50.03. Accessory Dwelling Unit.** [ORD 4048; July 1999]

1. **Purpose.** Accessory dwelling units are intended to increase the City's housing stock while minimizing neighborhood impacts, respecting the scale and design of detached dwelling residential neighborhoods, and maintaining their character. At the same time, accessory dwelling units are not intended to apply toward any minimum density requirements in other sections of this Code. [ORD 4224; August 2002]
2. **Design standards.** The following design standards are specific to the construction of an accessory dwelling unit. The standards are intended to ensure that the accessory dwelling units are compatible in scale, architectural design, and accessory to the primary residence. Where development standards are absent in this section, the development standards of the underlying zone apply.
 - A. An accessory dwelling unit may be created in the following manner:
 1. Conversion of existing living area, attic, basement or required parking;
 2. Adding floor area, subject to the limitations of the zoning district in which it is located;
 3. Constructing a new structure, attached structure, or manufactured home with an internal or detached accessory dwelling unit.
 - B. Parking.
 1. Where the accessory dwelling unit is built on parking areas required for the primary dwelling, the required parking shall be replaced on site.
 2. One additional parking space is required on site.
 - C. Location.
 1. Accessory dwelling units must be attached by the floor, ceiling, wall, or portion thereof to the primary unit or must be separated by 8-feet from the primary unit.

60.50.03.2.C.

- 2 Accessory dwelling units shall be built in accordance with state and local codes.

[ORD 4224; August 2002]

60.50.05. Accessory Uses and Structures. (Other than Accessory Dwelling Units) [ORD 4048; July 1999]

1. Structures or uses incidental and subordinate to the uses allowed as Permitted and Conditional Uses in any zone are allowed as accessory uses and structures subject to the provisions of this section. [ORD 4462; January 2008] [ORD 4474; March 2008] [ORD 4498; January 2009]
2. All accessory buildings must comply with the following provisions:
 - A. Size. For lots ten thousand (10,000) square feet or less, the combined footprint of all accessory structures may not exceed five hundred (500) square feet. For lots greater than ten thousand (10,000) square feet, the combined footprint may not exceed seven hundred (700) square feet. However, regardless of size, the lot coverage by all accessory structures shall be no more than twenty five (25) percent of a rear yard area; [ORD 4474; March 2008]
 - B. Height. Accessory structures shall not exceed one story and shall be no greater than fifteen (15) feet in height; [ORD 4474; March 2008]
 - C. They shall not be allowed in a required front yard;
 - D. They shall not be located within six (6) feet of main building for residential lots. Required separation distances for commercial, multiple use, and industrial zoned lots shall be determined by the applicable Building Code; [ORD 4224; August 2002] [ORD 4474; March 2008]
 - E. Setbacks. A structure with a height of eight feet or less shall be located no closer than three (3) feet to any lot line nor built over an easement. For each foot of height, or fraction thereof, in excess of eight feet, the accessory structure shall be set back one additional foot from all lot lines; [ORD 3293; November 1982]; [ORD 4224; August 2002] [ORD 4474; March 2008]

60.50.05.2.

- F. They shall cause no encroachment upon or interference with the use of any adjoining property or public right-of-way;
 - G. Attached accessory structures. When an accessory structure is attached to the main structure, such accessory structure shall be considered as part of the main structure. Attached means wall-to-wall or any permanent attachment, as determined by the Director; [ORD 4474; March 2008]
 - H. They shall be built in accordance with the applicable building codes as determined by the Building Official. [ORD 3293; November 1982] [ORD 4474; March 2008]
3. Examples of residential accessory uses. The following types of accessory structures or similar structures as determined by the Planning Director shall be permitted in districts where residential use types are allowed:
- A. A greenhouse or hothouse;
 - B. A guesthouse may be maintained accessory to a dwelling, provided there is no kitchen space or cooking facilities in the guesthouse;
 - C. Pools;
 - D. Children's playhouses and structures;
 - E. Sheds;
 - F. Barns;
 - G. Gazebos;
 - H. Solar and wind energy systems;
 - I. Recreation room;
 - J. Laundry facilities;
 - K. Garage;
 - L. Accessory storage.
 - M. Pump House;
 - N. Fenced Dog Run;
 - O. Dog Houses;
 - P. Tennis and other game courts.
[ORD 4474; March 2008]
4. Non-residential accessory uses. Accessory uses customarily associated with the principal commercial or industrial use shall be permitted where these commercial and industrial use types are authorized. [ORD 4474; March 2008]

60.50.05.

5. A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions of Section 10.20.
6.
 - A. The City Council may, by resolution, establish a list of uses found not to be accessory to specific Permitted Uses.
 - B. Prior to including a use on such list the City Council shall hold a public hearing and allow interested persons an opportunity to testify on the matter.
 - C. The City Council may delegate to the Planning Commission the authority to perform the functions authorized and required by this subsection.

[ORD 4474; March 2008]

60.50.10. Height Regulations. The height limitations contained in this Code do not apply to normal appurtenances placed on or extending above the roof level, such as spires, belfries, cupolas, chimneys, antennas, ventilators, elevator housing, or other structures; provided, however, that no structure shall be erected which fails to comply with any applicable state or federal law or regulation. Antennas for wireless communication facilities are not exempted by this section from the applicable height regulations as specified in this Code. [ORD 3293; November 1982] [ORD 4107; May 2000] [ORD 4248; May 2003] [ORD 4498; January 2009]

60.50.15. Projections into Required Yards and Public Right-of-Way. [ORD 3162; April 1980]

1. The following structures may project into required yards, but may not project into a utility easement without an encroachment permit, as issued by the City Attorney per the consent and approval of the City Engineer. [ORD 4584; June 2012]

:

- A. Paved terraces may project into required front, side or rear yards provided that no structures placed thereon shall violate other requirements of this ordinance.
- B. Unroofed landings and stairs may project into required front and rear yards only.

DEFINITIONS

Access. The place, means, or way by which pedestrians, vehicles, or both shall have safe, adequate and usable ingress and egress to a property or use. A private access is an access not in public ownership or control by means of deed, dedication or easement. [ORD 3494; March 1986]

Access Management. [ORD 3965; November 1996] City regulations of access to streets, roads, and highways from public roads and private driveways. Regulations may include but are not limited to restrictions on the siting of interchanges, restrictions on the type, number and location of access to roadways, and use of physical controls, such as signals, channelization and raised medians.

Accessory Structure or Use. A structure or use incidental, appropriate, and subordinate to the main structure or use.

Accessway. [ORD 3965; November 1996] One or more connections that provide pedestrian and/or bicycle passage either between streets or between a street and a building, school, park, transit stop, or other destination.

Acreage, Net. [ORD 4046; June 1999] The net acreage for a site is defined as the proposal size expressed in acreage minus any unbuildable area. The following areas are deemed undevelopable for the purposes of calculating net acreage:

1. Street dedications and those areas used for private streets and common driveways; and
2. Environmentally constrained lands, such as open water areas, floodplains, water quality facilities, wetlands, natural resource areas, tree preservation areas, and Habitat Benefit Areas set aside in conservation easement, separate tract, or dedicated to a public entity; and
3. Land set aside in separate tracts or dedicated to a public entity for schools, parks, or open space purposes. [ORD 4414; January 2007]

Added Traffic. [ORD 4103; May 2000] For purposes of fulfilling Section 60.55.10. (Traffic Impact Analysis) requirements, “added traffic” is defined as traffic generated by developments or phases of developments that have received final development approval but are not yet occupied.

Adjacent. Near or close. For example, an Industrial zoning district across the street from a Residential zoning district shall be considered as "adjacent". [ORD 4584; June 2012]

Adjoin. See “Abut”.

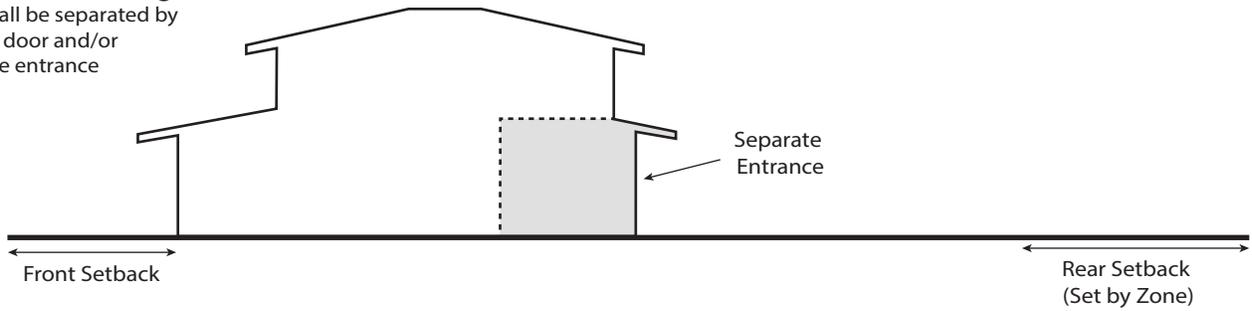
Permitted Accessory Dwelling Unit Scenarios

Permitted by Proposed Text Amendments

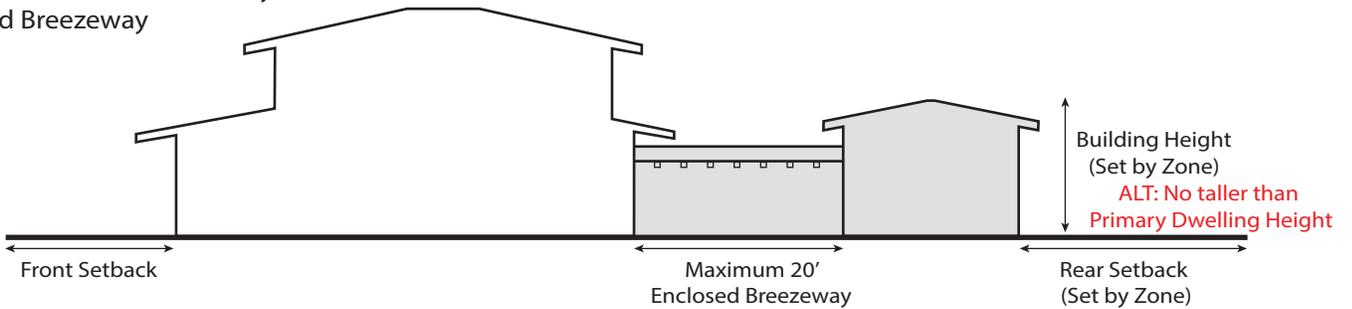
Existing Structure Proposed ADU Structure

Conversion of Existing Floor Area

ADU shall be separated by locking door and/or separate entrance

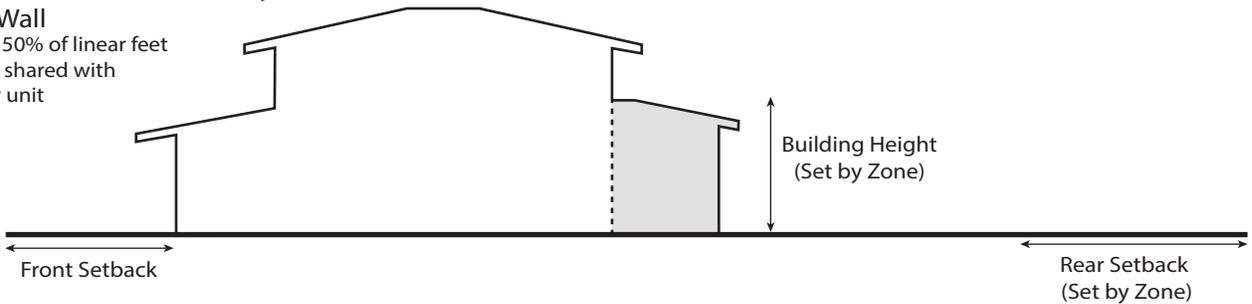


New Construction Attached by Enclosed Breezeway

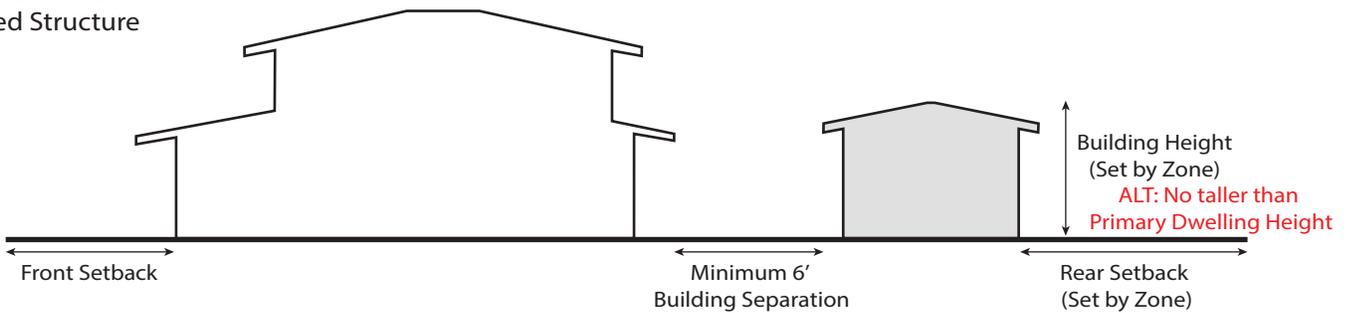


New Construction Attached by Shared Wall

At least 50% of linear feet shall be shared with primary unit

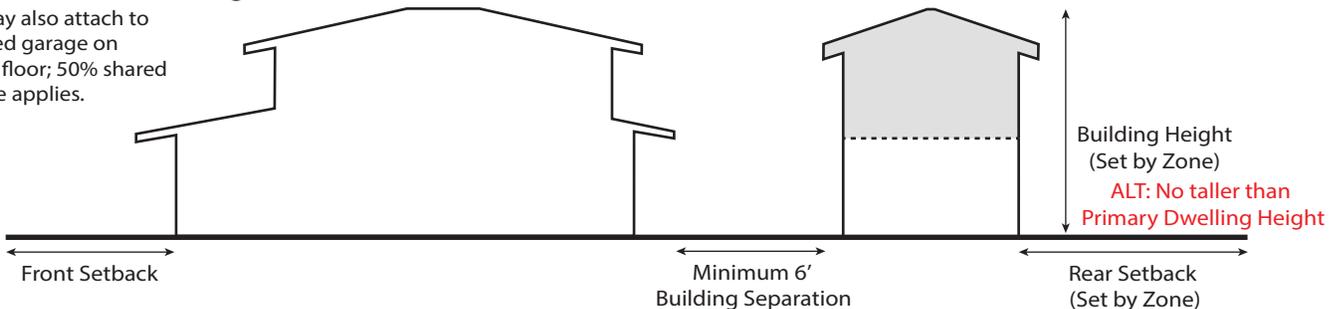


New Construction of a Detached Structure



ADU Above Detached Garage

ADU may also attach to detached garage on ground floor; 50% shared wall rule applies.





MEMORANDUM

City of Beaverton

Community Development Department

To: Beaverton Planning Commission
From: Lindsey Kuipers, Planning Technician, CEDD
Date: June 6, 2012
Subject: Worksession: Accessory Dwelling Unit and Accessory Structure
Text Amendment

The purpose of this memo is to provide context for an accessory dwelling unit (ADU) and accessory structure (AS) text amendment currently under development, to summarize the work staff has completed on revising the existing text, and to solicit feedback from Planning Commissioners on four key points that will be identified later in this memo.

The proposal for amending the ADU/AS text is motivated by the feedback staff receives from applicants over the counter and through the permitting process. Many applicants are coming to the Planning or Building Divisions with submittals for ADUs on their property unaware of the code requirements they need to meet in order to receive approval for their “mother-in-law unit.” Much of the confusion during the permitting process comes from vague Development Code standards for ADUs that over time have been applied unevenly and inconsistently. Common issues staff encounters with applicants include: a lack of flexibility in numerical standards (particularly square footage), a lack of understanding of what is/is not an ADU or AS, and the desire to construct a larger ADU or AS than what the Development Code permits. This has prompted staff to take a closer look at the ADU and AS sections of the Beaverton Development Code.

During the past several months, staff have met to review different iterations of draft ADU/AS text. Most of the focus was on the ADU text as applicants have raised more concerns with this section of the Development Code. Research was conducted to compare Beaverton’s existing standards to those of other local jurisdictions. This resulted in a realization that Beaverton’s numerical standards are comparable to other jurisdictions, but Beaverton’s detail and clarity in defining what is/is not an ADU/AS was

lacking. Staff have identified the following key areas of concern within the existing ADU/AS sections:

1. A lack of clarification and differentiation between the ADU and AS sections of the Development Code. The two are related, but have different requirements. Over time, the line between the ADU and AS requirements has become inconsistent.
2. Existing code specifications regarding size requirements have been difficult to address. For example, an addition to a structure can be of any size as long as the site development standards for the zone are being observed or receive approval of an Adjustment or Variance.

However, when does the addition become an ADU? Applicants begin assessing projects with questions like “if there is a sink but no stove, then it’s not an ADU”. This leads to the potential for a property owner to build an ADU that is much larger than intended by the Development Code.

3. A lack of clarity in describing where and when an ADU is permitted (i.e. “is an ADU permitted above a garage? In a backyard?”)

Staff would now like to solicit feedback from Planning Commissioners on four key points before proceeding with a public hearing for the text amendment. The four points staff would like to discuss during the work-session to be held on June 13, 2012 are as follows:

1. **At this time, any proposal to modify ADU standards is ineligible for review under the Adjustment application. Should the City allow for an Adjustment application to be filed by the applicant, granting a degree of change to the numerical standards of an ADU?** If so, then,
 - a. Should an Adjustment application be limited to a Minor Adjustment (up to and including a 10% adjustment from the size restriction on ADUs in Section 40.05.15.1.C.8), or should a Major Adjustment application also be permitted (up to and including a 50% adjustment from the size restriction on ADUs in Section 40.05.15.1.C.8)?
 - b. Or, instead of allowing an Adjustment application to be filed, should we increase the size limitation on ADUs from 800 SF maximum to 900 or 1,000 SF? Our current 800 SF maximum is common throughout the Portland metropolitan region.
2. **Should the City allow ADUs to be built to the same Site Development Requirements as a new residence in that zone?**
 - a. This would mean that the potential building envelope determined by the Site Development Requirements in Chapter 20 for a new residence would

apply to ADUs, such that a detached ADU could be built to the maximum height and setbacks that the zoning allows.

- b. The maximum height permitted in a residential zone is 60'. Do we want to allow ADUs that are potentially up to 60 feet tall and greater than 800 square feet (upon approval of an Adjustment)? This would include ADUs above garages.
3. **Should the City allow ADUs in conjunction with small lot attached housing?** Currently, the Development Code allows ADUs in residential and commercial zones but not in Multiple Use zones. The text amendment would allow ADUs in all Multiple Use zones.
4. **Should the City allow for an Adjustment application to be filed by the applicant, granting a degree of change to the numerical standards of an AS?** The text amendment now grants applicants a maximum of 800 square feet towards all accessory structures for lots 10,000 square feet or larger; this has been increased from 700 square feet in the existing Development Code.

Staff would like to focus our discussions with the Commission on the four points listed above. A brief amount of time will be allocated for answering general questions regarding the ADU/AS section of the Development Code (see Exhibit A) should Commissioners have comments regarding the existing text.