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PLANNING DEPARTMENT

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TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING GROUP LIVING AND ACCESSORY DWELLING, BUILDINGS AND USES AND AMENDING CHAPTERS 1 AND 2

FILE NUMBER: LDC 14-06

APPLICANT: City of Phoenix

STAFF REPORT: Available April 15, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: May 12, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) correct the definitions for residential terms; 2.) clarify the standards for accessory dwellings in the Residential zones; 3.) clarify the difference between Accessory Uses and Accessory Buildings and the standards for each; and 4.) clarify process for the development of group living structures.

Nearly all of the proposed changes are designed to clarify the standards that the City currently has. It provides better definitions for terms such as Accessory Use. It uses the State language to describe the Group Living Structures. It directs uses that are similar and use the same process, to one category, again to make it easier to understand.

The proposal limits the coverage of some of the accessory buildings. This is designed to protect neighbors and be more consistent with the requirements for the primary building on the property.

II. PROPOSED AMENDMENTS: The proposed amendments are:

1.3 Definitions

Accessory dwelling: A small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section A.

Accessory use: Accessory uses are uses that are incidental and subordinate to the principal use on the same lot, i.e. storage. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

~~Accessory use or structure:~~ Accessory ~~uses and~~ structures are ~~uses or~~ structures that are incidental and subordinate to the principal ~~use or~~ structure on the same lot. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

~~Childcare center:~~ Facilities that provide care and supervision of minor children for periods of less than 24 hours. ~~(see also “Family child care providers”). “Family child care providers” provide care for not more than 12 children in a home.~~ See also, ORS 657A for certification requirements.

Family child care providers. Centers that provide care for not more than 12 children in a home. See also, ORS 657A for certification requirements.

Group Living Structure. A structure that contains sleeping areas and at least one set of cooking and sanitary facilities that is used as a residence for Group Living uses:
- Residential facility/group care facility. A residence for 6 to 15 physically or mentally disabled persons, and for staff persons. The facility may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Facility; See Chapter 2.2.9 – Special Standards for Certain Uses, Section F. or
- Residential home/group care home. A residence for five or fewer physically or mentally disabled persons, and for staff persons. The residence may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Home. See Chapter 2.2.9 – Special Standards for Certain Uses, Section F.

Residential facility/group care facility. See Group Living Structure.

Residential home/group care facility. See Group Living Structure.

Chapter 2.2 – Residential Districts (R-1, R-2, R-3, HO)

2.2.3 – Building Setbacks

D. Setback Exceptions. The following architectural features are allowed to encroach into the setback yards: eaves, chimneys, bay windows, overhangs and similar architectural features may encroach into setbacks by no more than three feet. Accessory structures which are no higher than the adjacent fence and no higher than six feet, may encroach into the side yard and/or rear yard setbacks. Porches, decks and similar structures may encroach into front setbacks...

2.2.5 - Maximum Lot Coverage

A. Maximum Lot Coverage. The following maximum lot coverage standards shall apply:

1. Single Family Detached Houses - 40 percent
2. Duplexes and Triplexes - 50 percent
3. Single Family Attached Townhomes - 60 percent
4. Multiple Family Housing - 60 percent
5. Neighborhood Commercial and Public/Institutional Uses - 80 percent

B. Maximum lot coverage includes all of the housing units, the accessory dwelling unit (Section 2.2.9.A) and all accessory structures (Section 2.2.9.H).

2.2.9 – Special Standards for Certain Uses

This section supplements the standards contained in Sections 2.2.1 through 2.2.8. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Residential District:

A. Accessory dwelling (attached, separate cottage, or above detached garage). An accessory dwelling is a small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. The housing density standard of the Residential District does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size and number of accessory dwellings on individual lots to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards:

1. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code.
2. One Unit. A maximum of one accessory dwelling unit is allowed per lot.
3. Floor Area. The maximum floor area of the accessory dwelling shall not exceed 50% of the primary unit, with an 800 square foot maximum.
- 4. Lot coverage. The accessory dwelling shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.*
- 4.5. Building Height. The building height of detached accessory dwellings (i.e., separate cottages) shall not exceed building height requirements in Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
- 5.6. Buffering. A ~~minimum 6-foot~~ hedge or fence may be required to buffer a detached accessory dwelling from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas by either the occupants or adjacent residents.
- 6.7. Setbacks. Setbacks shall meet the Residential District requirements.
- 7.8. Architectural Compatibility. Architectural compatibility with the main residence is required.
- 8.9. Parking. One off-street, paved parking space shall be required in addition to off-street parking required by the primary residence.

B. Manufactured homes on individual lots.

C. Manufactured Home Park.

D. Single-family attached (townhouses), Duplexes, and Triplexes.

E. Multi-family housing.

F. ~~Residential care homes and facilities.~~ *Group living structures.* *Group living structures* Residential care homes are residential treatment or training homes or adult foster homes licensed by the State of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, for five or fewer individuals (homes) or six to 15 individuals (facilities) who need not be related. Staff persons required to meet state licensing requirements

shall not be counted in the number of facility residents and need not be related to each other or the residents. ~~Residential care homes and facilities~~ ***Group living structures*** shall comply with the following standards, consistent with ORS 197.660-670:

1. Licensing. All residential care homes shall be duly licensed by the State of Oregon.
2. Parking. Parking shall be provided in accordance with Chapter 3.4 – Vehicle and Bicycle Parking requirements.
3. Development Review. Development review shall be required for new structures to be used as ~~residential care homes or facilities~~ ***Group living structures***, and for conversion of an existing residence to be used as a residential care home, to ensure compliance with the licensing, parking, and other requirements of this Code.

G. Public and Institutional Land Uses.

H. Accessory Uses and Structures Accessory ~~uses and~~ structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Residential District include detached garages, sheds, workshops, green houses, and similar structures. (For standards applicable to Accessory Dwellings, please refer to Chapter 2.2.9 – Special Standards for Certain Uses, Section A.) All accessory structures shall comply with all of the following standards:

1. Primary use ***and primary structure are*** required. An accessory structure shall not be allowed without another permitted ~~primary~~ use (e.g., as listed in Table 2.2.2) ***and permitted primary structure.***
2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way.
3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
4. Floor Area. The maximum floor area of the accessory structure shall not exceed 330 square feet;
5. Building Height. The building height of detached accessory structure shall comply with Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
6. ***Lot coverage. The accessory structure shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.***

Chapter 2.3 City Center District

2.3.10 Special Standards for Certain Uses

C. Accessory Uses and Structures Accessory ~~uses and~~ structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the City Center District include small workshops, greenhouses, studios, storage sheds, and similar structures. Accessory uses and structures are allowed for all permitted land uses within the City Center District, as identified in Table 2.3.2.A Accessory structures shall comply with the following standards:

1. Primary use *and primary structure are* required. An accessory structure shall not be allowed before or without another *permitted* primary use *and permitted primary structure* as identified in Table 2.3.2.a.
- 2.
- 3.
- 4.
- 5.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

FINDING: This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 21, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 31, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B .1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: ~~The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Housing Element, Goal 1.1: “Promote the efficient use and esthetic design of urban residential uses.”~~ *The proposed language will make the addition of other structures on the property within the conditions listed.*

FINDING: The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Housing Element, Goal 1, Policy 1.3: “Promote the efficient use and esthetic

design of urban residential uses.” The proposed language will make the use of residential land more efficient. The current requirement of five or ten feet setbacks for an accessory structure that is lower than the adjacent fence limits the usability of the yards and is inefficient.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this code and other applicable implementing ordinances.

FINDING: The proposed changes do not require any changes to be made on the part of the homeowner. This clarifies the options and allows the owner to make decisions about the design of the home and the use of more of the area of the lot.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact Transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The clarification of Group Living Quarters, Accessory Dwelling Units, Accessory Uses and Accessory Structures will have no significant transportation impact to the City transportation facility.

~~**FINDING:** The change of the vision clearance requirements will not significantly affect the transportation facility. The proposed vision clearance is consistent with the requirements of other cities within the region and will bring the City of Phoenix in line with this norm.~~

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Staff recommends that the Planning Commission review the proposed amendments to the above listed sections of the Phoenix Development Code and the Phoenix Municipal Code, take testimony, and direct Staff on a recommendation to City Council.