

TOWN COUNCIL STAFF REPORT

Subject: Consider approval of Zoning Code Amendment 23-001 to update Municipal Code Section 17.52.055, *Accessory Dwelling Units*, Section 17.52.100 *Child Day Care Facilities*, and Municipal Code Chapter 17.40, *Water Efficient Landscape Regulations*.

Meeting Date: April 5, 2023

Written by: Kimberly Cooke, Senior Planner

RECOMMENDATION:

Staff recommends that the Town Council choose Option 1:

Waive the first reading and introduce by title only the Ordinance making the required CEQA and Municipal Code findings and approving Zoning Amendment 23-001 as recommended by the Planning and Economic Development Commission, or as modified by the Town Council. The proposed Zoning Code Amendment includes finding the project is exempt from additional environmental analysis pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

BACKGROUND:

The California Legislature has enacted a series of bills over the past few years aimed at easing a State-wide housing shortage as well as a shortage of regulated childcare options. To comply with new State requirements applicable to accessory dwelling units (ADUs) and child daycare facilities, local ordinances must be updated as needed to maintain consistency with State Law.

The proposed Zoning Code Amendment achieves consistency with recent changes to State law applicable to ADUs and State licensed family child care homes. This zoning code amendment process also provides an opportunity for the Town to implement three action items of the General Plan Public Health and Safety Element, which directs staff to update the Town's landscape regulations to incorporate defensible space standards that would be applicable to new and rehabilitated landscape projects.

The Zoning Code is an evolving document that may be updated as necessary, following the amendment procedures outlined in [Section 17.112](#) of the Municipal Code. The Zoning Code Amendment described in this staff report is not a comprehensive update, so the proposed text amendments are limited to updates that clarify existing regulations and include the addition of defensible space standards for landscape projects.

Planning and Economic Development Commission – February 14, 2023

On February 14, 2023, the PEDC held a public hearing to consider the proposed amendments to the Zoning Code. The Commission discussed the proposed amendments to the Zoning Code and were supportive of the proposed amendments as recommended by

staff. The Commission voted 4-0 to recommend approval of Zoning Code Amendment 23-001 to the Town Council. The PEDC Resolution is attached (Attachment 2).

ANALYSIS:

The proposed Zoning Code amendments are described below along with a brief explanation of the purpose for each amendment. For the complete text of the Zoning Code Amendments (additions shown in **blue underlined text** and deletions shown in **red strikethrough text**), see Attachment 1 – Exhibits “A, B, and C” respectively.

M.C. Section 17.52.055 - Accessory Dwelling Units

The proposed revisions to the Zoning Code will achieve compliance with state legislative requirements imposed by SB 897 and AB 2221. These recent legislative requirements enact development standards that all local jurisdictions must utilize when evaluating applications for accessory dwelling units (ADUs).

The amendment will increase the allowed height of detached and attached ADUs that are located within a side or rear setback area, up to four (4) feet from the property line. The permitted height for detached ADUs will increase from 16 to 18 feet with an allowance for an additional two feet to accommodate a roof pitch that aligns with the primary dwelling unit. The permitted height of detached ADUs on a lot with an existing or proposed multi-family dwelling will also increase from 16 to 18 feet. The permitted height of an ADU attached to a primary dwelling will increase from 16 feet to 25 feet. Additionally, front setback requirements cannot preclude the construction of an 800 square foot ADU that meets height limits and complies with four-foot side and rear setbacks.

Rationale: This amendment is limited to incorporating the mandated ADU standards described above, which will bring the Accessory Dwelling Unit standards into compliance with State law.

M.C. Section 17.52.100 - Child Day Care Facilities

Senate Bill 234 enacted *the Keeping Kids Close to Home Act*, which prohibits cities and counties from requiring any small or large family day care home licensed by the CA Department of Social Services, from having to obtain a land use/zoning permit and/or business license to operate. Health and Safety Code section 1597.45, states that Large Family Child Care Homes (caring for up to 14 children) shall be treated the same as Small Family Child Care Homes (caring for up to 8 children) under all local laws. The law states that cities and counties must consider the operation of a Large Family Child Care Home to be the same as a residential use of property as is the case with Small Family Child Care Homes.

Rationale: Section 17.52.100.A.1, is amended to provide clarification of the applicable State licensing division and briefly describes the role that agency has in oversight of all licensed child care facilities. Standards of section 17.52.100.B specific to large family day care homes has been deleted because large family day care homes are required to be treated the same as small family day care homes. The

new section 17.52.100.B. combines land use standards for small and large family day care homes, and clarifies that a single dwelling includes single-family homes, apartments, condos, townhouses, duplexes, and other multi-family buildings.

Currently, Section 17.52.100.C - *Standards for Child Day Care Centers*, incorporates the land use standards applicable large family day care homes by reference. Since the standards specific to large family day care homes are proposed to be deleted, the standards applicable to Child Care Centers will be modified to add the relevant land use standards that were previously required of large family day care centers. These standards include the fire protection and outdoor activity areas and snowshed standards.

Allowable land use Table [17.24.020](#) – Commercial Zoning Districts, has been updated to add large family day care homes alongside the small family day care homes land use category. Large family daycare homes are currently excluded. A reference to the applicable Code Section for the specific use regulations has been added for reference, as this was inadvertently omitted in the allowable land use table. The updated table also strikes the footnote which limits specific uses on the ground floor on primary or secondary active frontages. This footnote would not apply to the establishment of a small or large family day care within an existing residence so it should be deleted for clarity.

M.C. Chapter 17.40 - Water Efficient Landscape Regulations

The purpose of the proposed amendment to Chapter 17.40 is to integrate wildfire risk-reduction strategies into the design and implementation of new and rehabilitated landscape projects on private property. In 2019, the Town updated its Public Health and Safety Element of the General Plan. This update included the adoption of climate adaptation strategies and action items that direct staff to implement actionable strategies that can reduce the Town’s vulnerability to specific climate related hazards, including wildfire.

The three specific General Plan Action items that are addressed by the proposed Zoning Code Amendment are referenced below:

- S.5.A.2. Action: Prepare wildfire mitigation landscape standards to address wildfire hazard within the Structure Ignition Zone.
- S.5.A.3. Action: Review the Zoning Code to ensure compatibility with wildfire mitigation landscape standards and modify if necessary.
- S.6.F.2. Action: Update building and landscaping requirements and protocols that integrate Cal Fire and MLFPD regulations and procedures.

Rationale: There is no current requirement to address wildfire hazard mitigation as part of the Town’s landscape or screening requirements. The proposed zoning code amendment proposes standards for defensible space and fuels reduction that would be implemented for new and rehabilitated landscape projects. The proposed landscape standards are primarily taken from the final recommendations report that was prepared for the Town by the Community Planning Assistance for Wildfire (CPAW) team.

OPTIONS ANALYSIS

Option 1: Waive the first reading and introduce by title only the Ordinance making the required CEQA and Municipal Code findings and approving Zoning Amendment 23-001 as recommended by the Planning and Economic Development Commission, or as modified by the Town Council. The proposed Zoning Code Amendment includes finding the project is exempt from additional environmental analysis pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

Option 2: Deny Zoning Code Amendment 23-001.

Option 1 would allow the Ordinance to proceed to a second reading on April 19, 2023. The Ordinance would become effective 30 days after the second reading.

Option 2 would not allow the Ordinance to be approved. The Town Council would need to make findings for denial. Findings for denial are the same as those for approval (Municipal Code Sections 17.112.060 and 17.116.060), but the finding would be inconsistency or noncompliance.

FINANCIAL CONSIDERATIONS:

Staff time for processing ZCA 23-001 is funded through the Town's General Fund.

ENVIRONMENTAL CONSIDERATIONS:

Public Resources Code section 21083.3 and State CEQA Guidelines section 15183 mandate that projects consistent with the development densities established by existing zoning, community plan or General Plan policies for which an environmental impact report was certified shall not require additional environmental review except as might be necessary to examine whether there are significant environmental impacts peculiar to the project or otherwise not previously analyzed.

Based on this staff report, including its attachments, the Town's General Plan, the Zoning Code, and all other evidence contained in the administrative record for this project, the Ordinance (Attachment 1) finds that this amendment to the Zoning Code is: (1) consistent with the development densities established by the General Plan; (2) does not have the potential to result in impacts peculiar to the project; (3) there are no other potential impacts of this amendment to the Zoning Code that were not addressed in the General Plan EIR; (4) there are no potentially significant off-site or cumulative impacts posed by this amendment to the Zoning Code that were not addressed in the General Plan EIR; and (5) substantial new information has not come to light that shows that impacts previously addressed will be more significant than described in the General Plan EIR.

Consequently, under Public Resources Code section 21083.3 and State CEQA Guidelines section 15183(c), no additional EIR or other environmental analysis is required.

LEGAL CONSIDERATIONS:

The proposed amendments to Municipal Code Section 17.52.055 - Accessory Dwelling Units and Section 17.52.100 - Child Day Care Facilities are necessary to maintain consistency with State law.

Public Notice for this application was published as a ¼ page advertisement in The Sheet on March 25, 2023, and April 1, 2023.

ATTACHMENTS:

Attachment 1: Town Council Ordinance 23-XX - Zoning Code Amendment 23-001

Attachment 2: Planning and Economic Development Commission Resolution 2023-04

Attachment 3: Planning and Economic Development Commission Staff Report dated February 14, 2023.