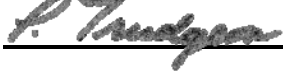


ROSEVILLE
REQUEST FOR COUNCIL DISCUSSION

DATE: 4/25/2011
ITEM NO: 13.d

Department Approval:



City Manager Approval:



Item Description: Request by the Roseville City Council to continue the discussion about the mechanism for regulating accessory dwelling units.

1.0 BACKGROUND

1.1 At the regular City Council meeting on April 18, 2011, the City Council was asked to take action on two agenda items related to accessory dwelling units (ADUs); an application to approve a particular ADU as a conditional use, and proposed additions to the zoning regulations pertaining to ADUs. While the proposed conditional use was ultimately approved, Councilmembers expressed some concerns about addressing ADUs as conditional uses, preferring to approach them as interim uses instead. The Council then directed Planning Division staff to do some more research into how other communities regulate ADUs and to prepare additional materials for discussing ADUs as interim uses.

1.2 Planning Division staff didn't have adequate time to prepare the additional research about ADUs in other communities in time to include meaningful discussion in this report, but more conversation on this topic can be had at the April 25th City Council meeting.

1.3 By their nature, interim uses are explicitly temporary, requiring a property owner to reapply at regular intervals if the use (an ADU, in this case) is to be continued. This is attractive to Councilmembers because an interim use approval appears to give some greater oversight or control over a particular use than does a more permanent conditional use approval. To the extent that a property owner would need to repeatedly seek reapproval, the interim use process does offer that additional control, but Planning Division staff sees some problems with regulating ADUs as interim uses and believes that conditional use approvals offer nearly as much control.

2.0 PROBLEMS WITH THE INTERIM USE APPROACH

2.1 The most fundamental problem with using interim use approvals to regulate ADUs is that, by definition, an interim use is one that is normally prohibited by the zoning code. Based on the way Roseville's zoning code currently works, uses are either allowed (i.e., as principal or accessory uses that are permitted or conditionally permitted), or they're not. A select few, particularly egregious uses are specifically identified as prohibited. All other uses not explicitly allowed or prohibited are simply not addressed in the code and are considered to be implicitly prohibited. Therefore, to regulate ADUs as interim uses, ADUs would have to return to their status as being prohibited and must either be specifically identified as prohibited, or be omitted from the code entirely. Planning Division staff believes that ADUs should be allowed as a way to diversify housing choices in the community, provide affordable housing options, or allow family members

to care for aging or infirm relatives and, if the Council agrees with this, then prohibiting ADUs would not seem be a productive step toward regulating them in a positive way.

2.2 Even if there's no intellectual qualms about using the interim use process to routinely, and more-or-less permanently, allow what is ostensibly a prohibited use, eliminating ADU requirements from the code discards the parameters within which an ADU proposal might be considered. Planning Division staff, the Planning Commission, and the City Council might all agree that a particular ADU could be approved with a set of conditions to include all of the pertinent size and occupancy limits and the design standards that are presently in (or proposed for) the zoning code, but the City could not refuse to accept and act upon an application to utilize something like a motor home or camper as an ADU. Such an application may even become the norm; since the City doesn't need a compelling reason to deny a proposed interim use (which, again, is a prohibited use to begin with), homeowners may reasonably be reluctant to make expensive improvements to their homes if they have no assurance that they'll be allowed to utilize an ADU from one year to the next.

3.0 STRENGTHS OF THE CONDITIONAL USE APPROACH

3.1 The conditional use process allows the City to clearly establish the parameters within which an ADU application will be accepted, as well as to codify the requirements that would apply to all ADUs if they're approved. Applications would still necessarily be reviewed to ensure that a particular proposal would not create the sort of negative impacts which the conditional use process guards against, but the City would not have to address the camper-type application used as an example in the preceding paragraph.

3.2 Conditional use approvals have a permanence that may impart more confidence to property owners who can then justify making better improvements to their properties that are more harmonious with the surrounding neighborhood. But conditional use approvals are not so permanent as to prevent revocation. A conditional use approval can be revoked at any time that an ADU fails to meet every applicable code requirement or condition of approval; the revocation process is the same public hearing/Council action process as for conferring the approval. For example, if a particular ADU is found at some point in the future to be injurious to the surrounding neighborhood, the City can initiate the process to revoke the approval. If a property owner makes expensive improvements to his/her home to create an ADU, the threat of revocation would seem to be a meaningful incentive to ensure that the ADU continues to meet all of the applicable code requirements.

3.3 And, while no specific expiration date can be established in a conditional use approval, the approval can be made to expire if the use is discontinued for a specified period of time. In this event, the approval for an ADU which has been unused for that purpose for the requisite number of months or years can be revoked through exactly the same process as that described above for violations of the code requirements. Even if the City pursues the revocation of a fallow approval, the current and future property owners can be reasonably confident that the conditional use could be reapproved in the future when there are plans to resume occupancy of the ADU.

4.0 SUGGESTED ACTION

The City Council should discuss these issues and provide further direction to staff.

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