



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** September 19, 2017

**TO:** Carolyn Lehr, City Manager

**FROM:** Charles S. Bryant, Community Development Director

**SUBJECT:** Introduction And First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations In Title 9 Of The Emeryville Municipal Code Regarding Accessory Dwelling Units (Continued From May 2, 2017 City Council Meeting) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3))

## RECOMMENDATION

Staff and the Planning Commission recommend that the City Council adopt the first reading of the attached ordinance amending the Planning Regulations in Title 9 of the Emeryville Municipal Code to amend Article 14 of Chapter 5 and related provisions of Chapters 2, 4, 5, and 7, to update the Secondary Residential Unit regulations and rename them the Accessory Dwelling Unit regulations to make them consistent with current state law, and to clarify that the Court requirement applies only to Multi-unit Residential uses with ten units or more.

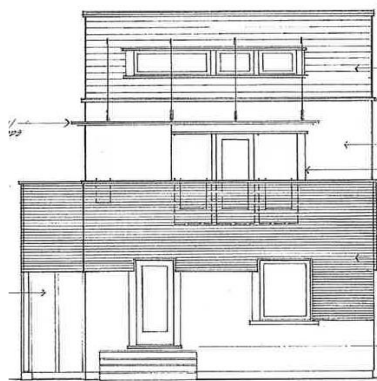
## BACKGROUND

On May 2, the City Council considered an Accessory Dwelling Unit Ordinance, continued the item, and directed staff to investigate the effect of the ordinance on lot coverage in the affected neighborhoods. The May 2 staff report is attached for reference (see Attachment 2).

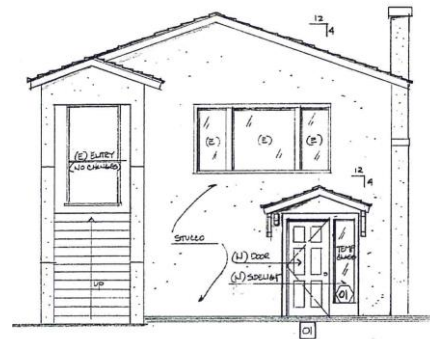
## DISCUSSION

### Approved Accessory Dwelling Units

Since the current Planning Regulations were adopted in 2013, two Accessory Dwelling Units (ADUs) have been approved, at 1276 61<sup>st</sup> Street and 5502 Beaudry Street. Both were within the footprint of the existing house, not increasing lot coverage. One was above the existing Single Unit, adding a story to the house. The other was in the basement of the existing Single Unit, adding a front door at street level. Street elevations of these houses with the ADUs are shown below.



1276 61<sup>st</sup> Street



5502 Beaudry Street

## Existing Regulations

Existing regulations have the effect of limiting lot coverage in the RM Medium Density Residential Zone, with and without ADUs.

Setbacks (Sections 9-4.301(a) and 9-5.1408(b)). In the RM zone, required side yards are 3 feet. Required front yards are the average of adjacent front yards, or 10 feet if there are no adjacent developed lots. Required rear yards are 15 feet except for ADUs, for which required rear yards are 5 feet. These requirements have the effect of limiting lot coverage and placing houses in a way that limits the area of rear yards, where ADU's might be placed.

Distance (Section 9-5.1408(d)). The existing Secondary Unit code section requires a distance of 6 feet between a detached ADU and the Single Unit. This language is kept in the proposed ADU code section. This further limits use of the area behind the house for an ADU.

Features (Section 9-4.301(d) and (e)). Patio roofs, breezeways, balconies, decks, stairs, porches, garages, and sheds are allowed in the required yards with restrictions. Garages and sheds may only be up to 20 feet wide, and may not be in the front or street side setback.

Other regulations affect open space character and ADU size.

Openness (Section 9-4.301(c)). All required yards are required to have pervious surfaces, and to be open from ground to sky, except for certain allowed features.

Landscaping (Section 9-4.504(b)). Development projects in all non-industrial zones must include landscaping covering at least ten percent of the site. "Landscaping" means living vegetation, planted in the ground.

## Potential Accessory Dwelling Units

Lots, ADU potential, and lot coverage are discussed here, and are analyzed in more detail in Attachment 1, Accessory Dwelling Unit Study.

Minimum Size of ADUs. The Planning Regulations do not set a minimum size for ADUs, but the Building Code does not recognize dwelling units smaller than Efficiency units. An Efficiency unit must have a 120-square-foot living room, a bathroom, a kitchen, and a closet. It would be difficult to build an efficiency unit complying with the Building Code in much less than 300 square feet. Making a minimal ADU two stories would not reduce the footprint much, because stairs would take up a large portion of the footprint. Therefore, staff has used 300 square feet as the minimum size in this analysis.

### Lots and ADU potential.

- 441 lots in the RM zone contain residences.
- 113 (26%) of those lots have a Single-Unit Residential use.
- 64 of those lots have enough space for a detached ADU (15% of residential lots).
- 42 of those lots are owner occupied, so a detached ADU would be allowed (9.5% of residential lots).

### Lot size.

- The 113 lots in Single-Unit Residential use range in size from 1,498 to 7,578 square feet, averaging 3,721 square feet.
- Of these lots, 13 are 2,500 square feet or smaller, 86 are 2,501-5,000 square feet, and 14 are larger than 5,000 square feet.

### ADU Potential with Setbacks and House Placement.

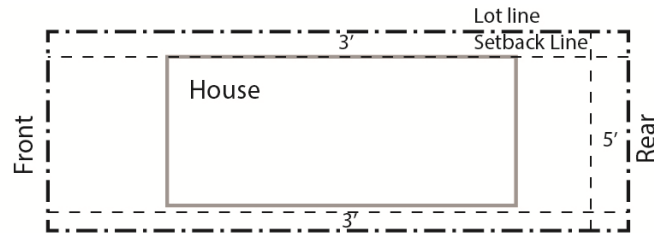
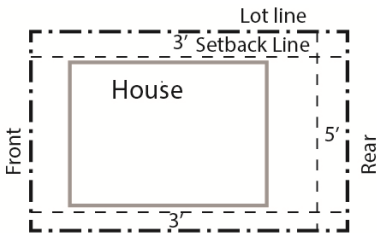
The existing Secondary Residential Units code section limits attached ADUs to half the size of the existing house. This language is kept in the proposed ordinance except for an increased maximum, from 900 to 1200 square feet, as mandated by the State.

#### Potential ADU Situations

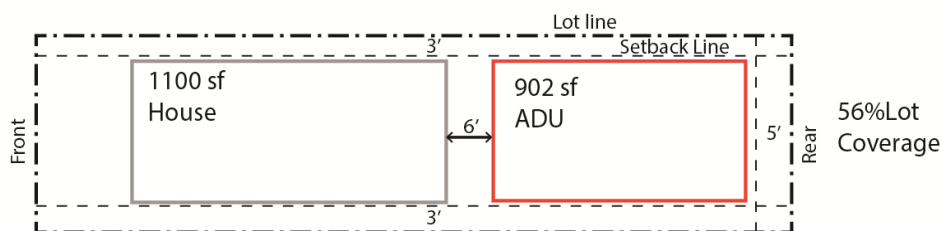
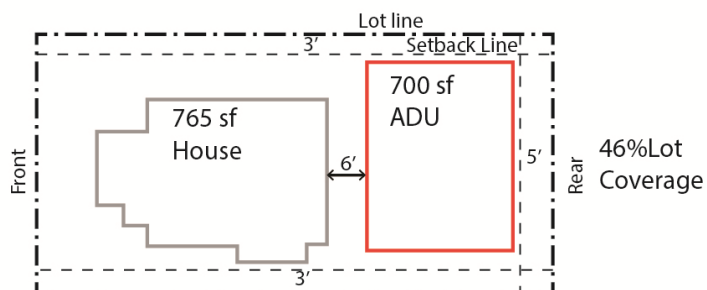
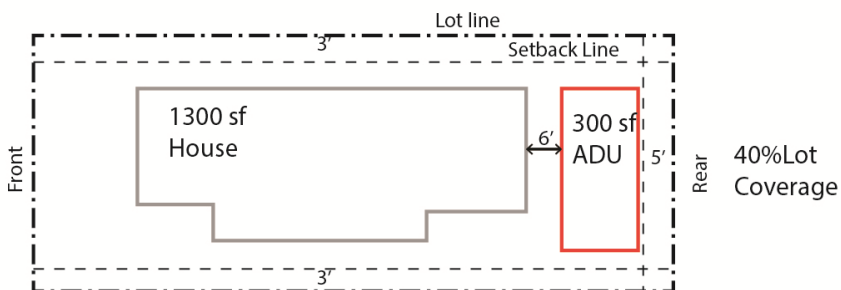
ADU Location	Effect on Lot Coverage
Within house	None
Add floor to house	None
Attached to house	Add up to half size of house
Detached from house	Add up to size of house or 1200 square feet, whichever is smaller

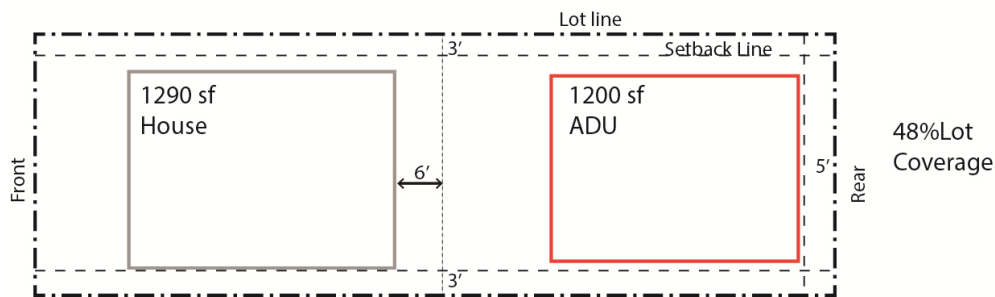
For detached ADUs, the State mandates allowing ADUs up to the size of the main house up to 1200 square feet. Location of the existing houses on the lots, along with required setbacks and required distance between buildings, limits potential for detached ADUs. The sketches below illustrate situations in Emeryville's RM zone.

Some lots are too small and have lot coverage too high to build a detached ADU. Other parcels have low lot coverage but large front setbacks, leaving rear yards too small to accommodate an ADU.



These factors also limit the size of one-story ADUs on lots that have space for them.





This results in the following potential for detached one-story ADUs on the 42 owner-occupied Single-Unit Residential lots:

- 8 could add 300-590 square foot ADU (2% of residential lots in the R-M zone).
- 10 could add 600-790 square foot ADU (2.5% of residential lots).
- 10 could add 800-1190 square foot ADU (2.5% of residential lots).
- 14 could add 1,200 square foot ADU (3% of residential lots); these lots range in size from 3,198 to 7,578 square feet, averaging 5,178 square feet.

## Lot Coverage

The following table shows percent lot coverage range and average, and percent open area average, for all 441 lots in the RM zone, for all 113 Single-Unit Residential lots, and for the 42 Single-Unit Residential lots that have space for an ADU and are owner-occupied, so could add a detached, one-story ADU. If the maximum ADU potential were realized, all as one-story detached ADUs, then average lot coverage in the RM zone would increase one percentage point, from 40% to 41%.

**Lot Coverage with Maximum One-Story Detached ADUs**

	Existing			With Maximum ADUs		
	Coverage		Open	Coverage		Open
	Range	Average	Average	Range	Average	Average
RM Zone	0-88%	40%	60%	0-88%	41%	59%
Single-Unit Residential	19-83%	38%	62%	19-83%	46%	54%
Lots that Could Add ADU (Single-Unit, adequate space, owner-occupied)	19-56%	33%	67%	34-76%	54%	46%

## Court Requirement

In the process of this analysis, staff realized that the Courts section of the Planning Regulations (Section 9-4.302), which was intended to apply only to Multi-unit Residential projects with ten units or more, does not explicitly state that. The purpose of the Courts section is to provide adequate separation of walls with window in multi-story residential buildings. The Court requirement achieves in large projects what streets and

setbacks achieve in the RM zone. The Courts code section requires residential walls to be separated by 14 feet at a bedroom window, 20 feet at a living room window, or the height of the opposite wall (which could be 30 feet if applied in the RM zone), whichever is greater. This is a larger separation than is required between buildings in the RM zone as provided by side setbacks and ADU rear setbacks and separation requirements. Applying this requirement to small projects would make it difficult to build any units in the RM zone. Staff recommends modifying the first sentence of Section 9-4.302 to read as follows: "Courts shall be provided between facing exterior walls of Multi-Unit residential buildings with ten units or more on the same lot in accordance with the requirements of this Section."

### **Policy Implications**

Existing regulations, combined with the placement of existing houses on their lots, limit ADU lot coverage. Lots with space for ADUs have low lot coverage, so their lot coverage with a maximum size ADU averages 54%, and their lot coverage range with ADUs is within the range of current lot coverages in the RM zone. Average lot coverage in the RM zone would only change from 40% to 41% if the maximum potential number and sizes of ADUs were developed. Given that lots where ADUs could be added have space for them, and that ADUs have a small effect on the overall openness of the neighborhoods, staff does not recommend any additional regulation to address lot coverage with ADUs. The only change to the ordinance proposed in May is the modification to the Court requirements in Section 9-4.302 described above.

### **FINDINGS**

Emeryville Municipal Code Section 9-7.1305 provides that the City Council, in approving amendments to the Planning Regulations, must make the following findings:

- (a) The proposed amendment is consistent with the General Plan.
- (b) The proposed amendment is necessary for public health, safety and welfare or will be of benefit to the public.
- (c) The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

In the Planning Commission's view, these findings can be made, as detailed in the attached draft Ordinance.

### **ENVIRONMENTAL REVIEW**

The proposed amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) under the "general rule" at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment. This is true because the ordinance involves no physical changes to land or structures

## **FISCAL IMPACT**

This ordinance would not have fiscal impacts on the City.

## **STAFF COMMUNICATION WITH THE PUBLIC**

The Planning Commission considered the proposed amendments to the Planning Regulations on March 23, 2017, and voted unanimously to recommend that the City Council adopt the item. The City Council considered the proposed amendments (except the Court requirement clarification) on May 2, 2017, and continued the item so that staff could research the effect of the ordinance on lot coverage.

## **CONCLUSION**

Staff recommends that the City Council take the following actions:

1. Introduce the Ordinance after a motion to read by title only.
2. Take public testimony regarding the Ordinance.
3. Adopt the first reading of the Ordinance.

**PREPARED BY:** Diana Keena, Associate Planner

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



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Carolyn Lehr, City Manager

## **ATTACHMENTS**

1. Accessory Dwelling Unit Study
2. Staff Report for City Council Hearing on May 2, 2017
3. Proposed Ordinance