

UNOFFICIAL MINUTES
PLANNING COMMISSION AND HISTORIC PRESERVATION COMMISSION
WEDNESDAY, APRIL 17, 2019

A. CALL TO ORDER: The Planning Commission meeting was called to order by Chairperson Kyle Brown in Ganesha Park at 6:03 p.m.

B. PLEDGES OF ALLEGIANCE: Commissioner Gallivan led the flag salute.

C. ROLL CALL: Roll was taken by Development Services Director Gutierrez.

COMMISSIONERS PRESENT: Planning Commission Chair Kyle Brown, Vice-Chair Jorge Grajeda, Commissioners Alfredo Camacho-Gonzalez, Gwen Urey (arrived at 6:05 p.m.), Dick Bunce, Ron VanderMolen and Kristie Kercheval

Historic Preservation Commission Chair Debra Martin (arrived at 6:28 p.m.), Vice-Chair Jim Kercheval, Commissioners Ann Tomkins, Tamara Gonzalez, Jennifer Williams, Alice R. Gomez, James Gallivan

COMMISSIONERS ABSENT: None

STAFF PRESENT: Development Services Director Anita Gutierrez, Senior Planner Vinny Tam, City Attorney Todd Leishman

ITEM D:
PUBLIC COMMENT:

None

ITEM E:
HEARING ITEMS:

None

ITEM F:
COMMISSIONER COMMUNICATION:

None

ITEM G:
PLANNING MANAGER COMMUNICATION:

Development Services Director Gutierrez reported Commissioner Urey joined the meeting at 6:05 p.m.

ITEM H:
DISCUSSION:

1. Joint Study Session of the Planning and Historic Preservation Commissions to discuss the draft Accessory Dwelling Unit ordinance.

Development Services Director Gutierrez introduced Senior Planner Vinny Tam. She thanked him and other staff members for the exhibits and information they provided for this discussion. She introduced legal representative Todd Leishman from Best, Best and Krieger (BBK) and City of Pomona staff Rene Guerrero, Interim Director of Public Works and Nichole Horton, Senior Water Resources Engineer.

Senior Planner Vinny Tam provided a presentation on this item.

- What is an Accessory Dwelling Unit (ADU)?
 - ADU is also known as a second unit, granny flat or an in-law unit.
 - State of California defines an ADU as an attached or detached residential dwelling unit, which provides complete independent living facilities for one or more persons; it shall include permanent provisions for living, sleeping, eating, cooking and sanitation all on the same parcel as single-family dwelling.
 - What does it look like?
 - Detached; exhibit showed a main home and an accessory structure (garage or shed) and a free-standing single story ADU in-between.
 - Attached; exhibit showed ADU attached to an existing home or other accessory structures (garage).
 - Convert existing accessory structures to an ADU (i.e. garage).
 - Convert space within an existing home into an ADU.
 - Three bills were passed by the State of California, which became effective on January 1, 2017, which overhauled what was known as secondary units and become Accessory Dwelling Units.
 - In January 2018, updates and clarification to the original law were passed which made local ordinances that were not compliance with the state standards null and void, leaving the state standards prevailing.
 - The City of Pomona ordinance is currently null and void; staff are relying on state standards to address all ADU requests.
 - Since the new ADU regulations became effective, Pomona has had 110 permanent applications for ADUs, 9 in the historic districts and 38 permits have been issued (1 in the historic district).
 - Displayed a map showing locations; final identified in green, plan check identified in red. He noted the ADUs are dispersed throughout the City.
 - Displayed detail of the historic districts; 2 ADU in Hacienda Park, 3 ADU in Wilton Heights and 4 ADU in the Lincoln Park.
 - Two ways to implement ADU regulations; 1) continue using the state standards or 2) adopt a City of Pomona ordinance to have more control over standards, how ADUs are built and how they will function within the city.
 - He addressed commissioner feedback from previous presentations:
 - How is density going to function in multi-family zones if we get ADUs that are permitted in that area?
 - Senior Planner Tam reported staff did a spot check on some of the areas where single family dwelling units are zoned R-3. He stated these areas shouldn't have a significant effect because the lot is substandard, and the dwelling unit conversion is 15 to 30 and on a lot this size one could build up to 2-3 units. Therefore, if there was an existing home and an ADU goes is built, there would be two units which would be approved in an R3 zone regardless.
 - Senior Planner Tam noted there are some areas with larger lots that staff will continue to analyze as they develop the ordinance.
 - Fees?
 - There are not development impact fees for ADUs now. ADUs were not considered when Development Impact Fees were initially adopted. A fee analysis would need to happen for the City of Pomona to adopt those fees. He noted the State of California allows Development Impact Fees that are proportional, so substantially less or proportional to a single-family home for an ADU. He reported the Planning Division will begin a fee analysis that will include Development Impact fees for ADUs. He

stated once City Council adopts the fees then staff can start applying those to the ADUs.

Commissioner Grajeda asked if the City of Pomona was providing any financial assistance programs for building Accessory Dwelling units.

Development Services Director Gutierrez replied not now, and nothing is in the works.

Chair Brown opened the public hearing.

Debra Clifford, 182 Monroe, Historic Society of Pomona Valley, long time member of Pomona Heritage and past president. She expressed concerns about building ADUs in historic areas and the effect on the value and/or historic nature. She shared there is an example ADU behind a lovely two story with an attic craftsman that is larger than the front house on East Alvarado. She expressed concern that this type of home overlooks side yards, so windows need to be considered along with massing and placement on the property. She asked if the City was going to allow people to put in ten-foot fences to protect privacy. She suggested that architectural review be done by the Historic Preservation Commission before final approval is given by the Planning Department.

Mitch Elias, 204 E. Jefferson, Lincoln Park; requested the City of Pomona take a long and careful approach in the development of an ADU ordinance so that it doesn't erode the historic districts or other communities. He noted owner occupancy for those seeking ADUs is very important to ensure that the communities do not fall prey to outside investors.

Chair Brown closed the public hearing.

Senior Planner Tam presented the Draft Accessory Dwelling Unit Ordinance in sections taking comments from Commissioners after each section is presented.

A. Purpose and Intent, Definitions and Permit Procedure (Introductory Sections).

B. Zoning; identify areas where they are going to permit ADUs throughout the City.

- ADUs, according to state standards, should be permitted in zones for single-family residential or multi-family residential use and that permits single family dwellings as a use within those zones.
- Currently in the City of Pomona there are about 13 base zones and 13 specific plan areas that do permit these types of uses, 26 in total. He noted 7 of the 26 is where most of the parcels will permit ADUs; the R1-7200 zone, the R1-6000, the R2, the R3 and Phillips Ranch Specific Plan areas for single family residential, multi-family residential and the R1-7500. Those constitute 90% of all parcels that would permit ADUs; two maps were displayed.
- He clarified these numbers are somewhat misleading, because the Phillips Ranch Specific Plan multifamily residential zone, constitutes 5% of those zones that permit ADUs, but if we go to an actual map of those zones you will see that it is fully built out.

Chair Brown asked if an interior space could be converted to an ADU.

Senior Planner Tam replied potentially, there can only be one single family dwelling on a lot and here there are multiple dwellings on a lot, which by definition would prevent them.

C. Other considerations when locating ADUs:

- According to the State of California a city can exclude ADUs in areas if there is concern over adequate water service, sewer service, impacts on traffic flow, or impacts on public safety.
 - He noted Public Works and Water Resources Departments have not identified any concerns and therefore have not excluded any areas for ADUs based on public safety concerns.

Commissioner Martin joined the meeting at 6:28 p.m.

Commissioner Tomkins commented other cities have looked at high density areas as fire zones and or sections of the city that have streets that aren't sufficiently wide. She asked if staff had analyzed Pomona's streets and parking situation.

Interim Director of Public Works Guerrero replied a majority of Pomona's residential neighborhood streets meet today's standards for capacity. He stated he doesn't find any issues with adding an ADU that would cause a higher level of traffic that could lead to congestion and have an impact on public safety.

Commissioner Tomkins replied she heard someone at City Council meeting about District 4's preferential parking zone say that when cars are parked on the side it was difficult driving in and only one car could move down the street.

Interim Director of Public Works Guerrero replied that may be one of the unique situations in the City.

Commissioner Tomkins stated if ADUs were allowed on every one of those parcels, wouldn't that become a public safety issue.

Development Services Director Gutierrez replied they cannot require parking spaces for ADUs; Commissioner Tomkins replied that is her point.

Development Services Director Gutierrez replied they would not necessarily be parking on the street. She noted if a garage was converted one would be required to provide replacement parking on site. She shared in her experience with jurisdictions that have tried to employ public safety exceptions it's been limited to areas in high fire severity zones, such as the mountains with winding roads and single access. She stated even though Pomona streets may be limited due to parking there is still a two way means of ingress and egress.

D. The Single-Family Dwelling Requirement.

- The draft ordinance proposes a requirement that there be a primary dwelling unit (PDU) on the same lot. If there are any vacant lots, it will require that the PDU and ADU be constructed concurrently.
- He noted there are some scenarios in the City of Pomona where there are lots with more than one home on the property. He asked if the Commissioners feel its ok to allow more than one ADU on those properties.

Commissioner James Kercheval clarified if the question was to limit to one ADU no matter the size the property. He commented the Planning Commission has seen several properties in Pomona where developers bought a lot and built five condos. He stated allowing more than one ADU might encourage an owner to not sell his property to a developer and would be more friendly to the neighborhoods citywide preserving the primary house and keeping the neighborhood in a similar condition. He suggested guidelines that the lot would have to be large enough lot to handle more than one but would allow some freedom and a person to maintain their home in parts of Pomona where infill is tempting. He noted if someone is provided an opportunity to build something on their property, it will increase the value of that property as well as possibly generate income. He stated he is open to discussing.

Development Services Director Gutierrez shared City Attorney Todd Leishman clarified that the current state statute doesn't allow an ADU on a lot with two single family dwelling units, however, the City of Pomona does have the ability to more permissive.

Commissioner James Kercheval replied that is what he is proposing.

Commissioner VanderMolen stated he feels multiple ADUs are outside the scope of an Ads purpose; for families, mother in law flats, granny flats. He expressed concern that loosening the regulations will transform area into a transient neighborhood.

Senior Planner Tam noted the Commissioner comments.

Commissioner James Kercheval suggested allowing more than one unit under specific scenarios, (i.e. larger lots).

Commissioner VanderMolen stated ADU should be limited to one per lot because of the intent.

Commissioner Kristie Kercheval reported the state law says the purpose is to be able to rent an ADU to people and have the flexibility to rent to lower income families or students. She noted it provides extra passive income for the middle class to pay property taxes or mortgages.

Chair Brown commented he is thinking about the long narrow lots in South Pomona in the supplemental overlay area that allow three homes on a lot.

Senior Planner Tam stated Chair Brown was speaking about the R1E Overlay zone.

Chair Brown expressed concerns about adding the ability for multiple ADU units in these areas, because it would potentially permit six ADUs on one property and confusion over which primary residence and ADU belongs to. He stated the R1E property owners have more choices than most people have in the City and could choose to develop with multiple houses or to keep a larger lot with an ADU.

Commissioner Williams asked if the Commission can create rules specific to historic districts pertaining to the number of ADUs allowed. She suggested one ADU in historic districts regardless of the number of primary dwelling units and allowing more flexibility outside of a historic district.

Commissioner James Kercheval responded agreed with Commissioner Williams about creating more restrictive laws that are not across the entire City. He commented Pomona already has a “marketing deficit” with the entire city, because some people do not like historic districts. He suggested being consistent across the entire with the ordinance.

Development Services Director Gutierrez replied to Commissioner Williams that the Commission can differentiate between historic districts and the rest of the City. She stated the Commission could be more permissive outside of those historic districts.

Commissioner Tomkins commented it seems odd to allow ADUs on lots with multiples houses. She stated the purpose of the legislation was to allow single family districts to have an additional home, but multi-family zones can build another house because it's allowed in the zoning code.

Commissioner Martin agreed with Commissioner Williams comments. She commented if the City allows multiple dwellings in a historic district it's going to impact the landscape and architecture, because historically they weren't there in the first place.

Development Services Director Gutierrez asked what Commissioners support exploring the idea of more than one ADU per lot besides Commissioner Kercheval.

Commissioner Gallivan stated he supports allowing a single ADU as the state defines it. He noted if there is a lot of land there are other routes.

Development Services Director Gutierrez asked for a show of hands vote of all those in support of allowing only one ADU in historic districts. She stated she will take that direction and move forward in the historic districts allowing one ADU.

Commissioner Grajeda commented that historic districts are more desirable and voiced concerns that an investor would try and build as many ADUs as possible. He stated he supports limiting to just one ADU.

Development Services Director Gutierrez asked the Planning Commission is there was support for staff to explore the option of having more than one ADU per lot in areas outside of the historic districts.

Commissioner Urey asked if they could have multiple standards based on specific zoning category or lot size.

City Attorney Todd Leishman replied if the City is meeting the statutory requirement as the baseline there is a ton of flexibility to be more generous. He noted there isn't the same flexibility to be stricter.

Development Services Director Gutierrez clarified the question was the ability to differentiate by zone.

City Attorney Todd Leishman replied you have a lot of flexibility.

Development Services Director Gutierrez reiterated there is the flexibility.

Commissioner VanderMolen spoke about the neighborhoods that haven't been designated historic (the residential streets above Lincoln Park and the Yorba District) that are strictly R1 zoned single family homes. He suggested giving them the same courtesy as historic districts because people move into those neighborhoods for a reason. He suggested looking at R1 as being the standard neighborhood Pomona wants to keep intact, allowing a lesser impact in those areas.

Commissioner Kristie Kercheval politely disagreed with Commissioner VanderMolen and spoke about people loving those homes and but also wanting their freedom to build whatever they want. She shared there were people in her neighborhood that tried to build ADUs before these laws were passed who ran into a lot of problems because of restrictive laws. She stated she understands how Commissioner VanderMolen feels and doesn't want to ruin the character of those areas. She noted ADUs are historic they were built a long time ago and provided a few examples. She suggested the ordinance address privacy in support of the speaker who spoke earlier about a home towering the neighboring house.

Commissioner VanderMolen clarified he isn't against ADUs, he just wishes to be sensitive to certain neighborhoods.

Development Services Director Gutierrez asked if the Planning Commission is open to more than one ADU.

Chair Brown replied some Commissioners are and some aren't.

Development Services Director Gutierrez asked for a show of hands.

Commissioner Kristie Kercheval stated maybe someone in the R3 zoning would see the ADU option and pick that because there are less restrictions and then a smaller more restrained house would be built rather than something huge.

Commissioner James Kercheval commented that is what he meant to say.

Development Services Director Gutierrez asked the Planning Commission two questions; 1) Do the Commissioners agree with the general sentiment from the Historic Preservation Commission that Pomona should only allow one ADU per lot in historic districts. She reported a consensus on this question. 2) Is there any interest by the Commissioners to explore allowing more than one ADU per lot outside of historic districts. She reported three hands in support of exploring that option, which is less than a quorum, so staff will work on a couple ideas to present at a future discussion.

Commissioner Grajeda commented the City of Pomona is a very desirable location, in the middle of everywhere (in between Orange County, Riverside County, San Diego County and L.A. County) with access to all the freeways. He stated the desirability for the city is already out there and if they open the door for more than one unit the City will get overpopulated and may draw the wrong people to come into this area. He voiced support to limit to one ADU at this time and more units are necessary they can explore that in the future.

Development Services Director Gutierrez noted Commissioner Grajeda comments. She stated staff has the direction they need on that issues and are ready to move forward.

- E. Number of bedrooms;** Senior Planner Tam reported the proposed ordinance has restrictions to limit to two bedrooms maximum. He asked how the Commissions would like to define a bedroom and if they would want to maintain that restriction for two bedrooms. He noted the state law has no restrictions on the number of bedrooms.

Development Services Director Gutierrez clarified there is currently no restriction, but the City can add restrictions in that regard.

Commissioner James Kercheval asked what the legal living space is per person and suggested using that as a guideline to calculate square footage.

Development Services Director Gutierrez answered the minimum habitable unit is an economy unit at 220 square feet. She stated the minimum size of bedroom is 8 x 10, or as small as 100 square feet which would coincide with the minimum of an efficiency unit of 220 square feet of an actual unit.

Commissioner James Kercheval proposed the ordinance follow the minimum square footage for a human to determine the number of bedrooms for an ADU. He stated if a person is only able to do a 800 square foot house, then there would be a divisible amount to use for the number of people, rather than just stating every ADU no matter what configuration or square footage is two bedrooms.

Commissioner Gallivan commented too many bedrooms will create an extended car problem.

Chair Brown commented parking has been a topic of discussion at the Planning Commission, and historically there have been concerns with new housing projects (i.e. with five bedrooms). He stated he likes the idea of controlling the number of bedrooms, because it's provides some governance on the total number of people that might be in that unit and suggest the total number of cars that may need to be parked. He noted the City can't put additional parking restrictions on an ADU so he likes the idea of two bedrooms.

Commissioner VanderMolen echoed Chair Brown's comments and noted a 1,200 square feet home with 200 square feet per person would allow six people. He voiced support for the two-bedroom restriction.

Commissioner Tomkins shared a lot of other cities are restricting ADUs to one bedroom. She stated if the City is wanting to accomplish affordable housing then affordable is small.

Senior Planner Tam shared the neighboring jurisdictions near Pomona (Claremont, San Dimas, Chino, Chino Hills, Montclair, Laverne and Diamond Bar) and four cities limit an ADU to a two-bedroom maximum, however, they don't define bedroom. He asked what's a difference between the living room or dining room and a bedroom and asked if the Commissions might want to limit rooms instead of just bedrooms.

Chair Brown asked if there was a standard the assessor uses for identifying bedrooms, like a closet some other element.

Senior Planner Tam replied he is not sure. He shared an example of a person building a room without a closet and then a month later or year later adding one (without a permit), so that now that room becomes a bedroom. He stated there are enforceability issues.

Commissioner Grajeda spoke limiting bedroom size and stated an 800-1,200 square foot ADU can have up to three bedrooms. He noted if they allow two bedrooms in 1,200 square feet the bedrooms could be so big, they might be later subdivided into 4 bedrooms. He suggested defining that better and stated he feels three bedrooms in 1,200 square feet will work fine.

Commissioner Urey commented she supports the two-bedroom standard, because it accommodates families and provides housing for children. She stated she wouldn't want many ADUs with three bedrooms because it wouldn't be accessory anymore and more like a house.

Commissioner VanderMolen commented times are changing and that's why the state laws are changing. He noted many kids move back in with their parents. He asked Senior Planner Tam what the surrounding cities standards are the size of their ADUs with two bedrooms.

Senior Planner Tam replied he can get that information.

Chair Martin called for hand vote by her fellow Commissioners for those who support limiting ADUs to two bedrooms, those who support more than two bedrooms and those that support limiting to one bedroom.

Development Services Director Gutierrez reported most of the Commissioners support two bedrooms and there was secondary support for one bedroom. She stated staff will provide additional information at the next meeting.

F. Unit Size; the proposed ordinance and state standard state 50% of the primary dwelling unit or 1,200 square feet maximum if the ADU is attached and a detached the max square footage of 1,200 square feet.

Commissioner VanderMolen recommended the maximum square footage decrease to 800 square feet for a two bedroom for the reasons of affordability and impacts on the neighborhood. He spoke about an ADU being bigger than the house they are behind.

Commissioner Bunce agrees with Commissioner VanderMolen. He asked for the rationale for going as high as 1,200 square feet.

Development Services Director Gutierrez replied the current state standard allows up to 1,200 square feet.

Commissioner Bunce asked if the state provided any rationale for that number.

Development Services Director Gutierrez replied no.

Commissioner Tomkins replied to Commissioner Bunce that there are whole cities that have huge lots (five acres) and so the maximum is 1,200 square feet. She stated in historic districts she has an issue with a detached ADU being 1,200 square feet and not tied to the size of any dwelling. She stated she supports 50% of the primary dwelling being the max size.

Commissioner Gonzalez shared an example of an ADU in Lincoln Park on Kingsley Ave that is almost 200 square feet larger than the original home. She stated she supports ADUs being limited to 50% of the size of the original home, not to exceed 1,200 square feet, even if the lot size would allow it. She commented Pomona is overbuilding and over populating. She noted there are homes, not just in historic districts, that meet the guidelines of potentially becoming historic, therefore she supports creating a governance on what the size the house can be and how many bedrooms are allowed.

Commissioner Kristie Kercheval shared the ADU studies found that a lot people rent out their home below market to friends and family. She stated she personally would not want to rent to somebody she doesn't know. She spoke about there being a chain reaction, and that if an ADU is rented it frees up housing somewhere else.

Chair Brown stated he supports the sentiments Commissioner Gonzalez and Commissioner Tomkins in terms of thinking about a proportional standard in addition to the total square footage. He stated 50% may be appropriate but he is not prepared to commit to that figure. He stated there are a lot of lots where 1,200 square feet may be excessive. He spoke about lot coverage and expanding on what the standards are currently, which is 35% in most zones. He noted these things in combination will serve to limit the size, but there may be lots where one can go up to 1,200 square feet. He pointed out in the definition of Accessory Dwelling Unit there is not definition for the conversion or the interior ADU and he feels the size of that needs to be limited as well. He stated if and conversion or interior is 50% of the existing dwelling than that becomes a duplex. He suggested a limit on the percentage of the interior an ADU could take up from the square footage.

Development Services Director Gutierrez replied there is a state law that does not authorize the City to put standards on converted portions of the primary dwelling unit.

Commissioner Camacho-Gonzalez commented he supports keeping ADUs affordable as they were intended to provide affordable housing for students, families and those in transition. He stated he is not comfortable with the 1,200 square foot maximum. He voiced support for keeping ADUs proportionate in historic districts. He stated 800-900 square feet controls the number of bedrooms.

Development Services Director Gutierrez reported a consensus of imposing some type of proportional standard for ADUs compared to the primary dwelling unit, as well as, potentially decreasing the maximum size of an ADU from 1,200 square feet to something lower, number to be determined.

Commissioner Gallivan asked if a person could build both an attached and a detached ADU. He noted there was one case in the historic district where the person tripled the size of their house.

Development Services Director Gutierrez replied only one ADU is permitted.

Commissioner Kercheval responded to Commissioner Gallivan that there was an addition that met the standard percentage on the house and an attached garage with the five bedrooms. He shared that this was a multi-generational family that wanted to live together, so the larger number of bedrooms was for children and grandparents and the addition on the house was to enlarge their kitchen so that they could eat together and enjoy family time. He stated he wishes to tread gently on the ability of families to be able to live together on the same property.

Development Services Director Gutierrez asked for a hand vote from for support to do a proportional standard for the secondary unit based on the primary unit. She reported the Historic Preservation Commission and Planning Commission both replied yes. She asked if there was support from the Commissions to limit the maximum size of an ADU. She reported the Historic Preservation Commission replied yes, however; the Planning Commission was split. She stated staff will propose some options.

- G. **Lot Coverage;** Senior Planner Tam displayed several exhibits showing primary dwellings with various sized ADUs to demonstrate how a combination of standards work together to limit ADU size. He reported the current ordinance is proposing a 45% lot coverage.

Commissioner Grajeda asked if the maximum coverage include patio cover.

Development Services Director Gutierrez replied yes, patio cover counts towards building coverage

Senior Planner Tam added any additional accessory structures that exist (i.e. shed) also all count towards lot coverage.

Commissioner James Kercheval spoke about the ADU not exceeding the height of the primary structure. He asked if Senior Planner Tam would show two-story situations.

Senior Planner Tam stated those are coming up.

Commissioner Kristie Kercheval asked about placement of windows;

Senior Planner Tam stated they have section for architectural standards they will discuss windows then.

Chair Brown commented he is not convinced that we need to adjust the standard of 35% lot coverage, based on the exhibits shown. He stated he needs to see more evidence before agreeing to adjust the lot coverage upward to accommodate an ADU. He spoke about maintaining the character of neighborhoods as they exist today and noted lot coverage is a big part of that. He stated there is clear evidence that not many people could participate as a result.

Senior Planner Tam replied staff incorporated a lot coverage number of 45% because the minor deviation variance is used often and something that is already widely available under the base code for residential zones. He confirmed Chair Brown would like to maintain the 35% lot coverage.

Chair Brow replied yes, because one would still have that minor deviation.

Senior Planner Tam replied they incorporated the 45% because staff needs to maintain ministerial review. He asked for a quick poll to maintain lot coverage at 35%. The Planning Commission voted 5 of 7 in support and the Historic Preservation Commission voted 5 of 7 in support.

Commissioner VanderMolen asked how that would reflect on the 800 versus 1,200 square foot.

Senior Planner Tam replied the standards are going to work together, so a smaller unit size would be able to stay within the 35% lot coverage more easily. He noted a capped lot coverage is going to limit the overall unit size, regardless of what is set.

Commissioner VanderMolen asked if one standard supersedes another.

Senior Planner Tam replied no they work in tandem; a project would have to meet in all. He provided an example that if the ordinance allows up to 2,000 square feet, but have a lot coverage of 35%, if you can't hit the 35% you can do the 2,000 square feet.

Senior Planner Tam clarified the Commissions would like to consider something less than the 35% for historic districts.

City Attorney Todd Leishman stated it would be hard to justify allowing 35% with one home in historic district and 20% for a house plus an ADU. He stated there isn't rational for restricting to even less than what a single home can be built to, because it's a home and an ADU.

Commissioner Tomkins commented 35% might not be compatible with the time historic districts were built. She expressed concern that if the City is not going to apply the Secretary of the Interior Historic Preservation Standards with respect to the mass, scale and lot coverage and examine historic properties individually in the ordinance then the City risks losing the historic character of its districts.

Development Services Director Gutierrez replied the standard in historic districts is still 35%. She clarified if Commissioner Tomkins was saying that figure may not be the appropriate standard for historic districts or if some of the homes already built are more than 35%. She noted if a home is currently over 35%, they are considered legal non-conforming and they wouldn't be able to expand.

Commissioner Tomkins replied she doesn't know enough about the specifics and because there are three separate districts, each may have different sized home and lots. She commented applying these

kinds of arbitrary standards for a designated historic district, does not protect the character of that district. She stated it's a much more precise evaluation on a historic property that you can come up with in an ordinance.

City Attorney Todd Leishman replied yes, the custom has been to address things through discretionary review and looking at things on a case by case basis to tailor the approval to the situation; however, under this statute the only option is to have a compliant statute with ministerial check the box. He stated his advice to all his clients is to imagine the Conditional Use Permit process or historical permit process and make a laundry list of things that you would want to impose and then make that the ministerial list. He noted it may be hard on some people, however, the City has the option to permit a discretionary review if the purely ministerial statutory approval is too constraining for an individual. He noted this wasn't apparent until Housing and Community Development (HCD) issued their guidance in their draft ordinance and they have a provision that says if you want to do anything that bigger or different from this ministerial box one must go through a discretionary review process. He stated the only thing ministerial gets an individual is a right to do their ADU without going through discretionary review.

Development Services Director Gutierrez added the answer is not to make everything discretionary, it must be keeping with the intent.

City Attorney Todd Leishman stated you must have a statutorily compliant ministerial box.

Commissioner Tomkins commented Pasadena has a ministerial box that only allows ADUs if you are converting existing space and then new construction (attached or detached) require discretionary review.

Commissioner James Kercheval asked for a definition of ministerial and discretionary for the public.

City Attorney Todd Leishman stated ministerial means a project must meet a yes or no check box that can be objectively proven by the staff, its not subjective and discretionary is any decision that reasonable people could disagree and its based-on opinion of preference.

Commissioner Tomkins reported in talking to HCD she was informed if Pomona falls within the Historic District California Register criteria then it doesn't have to allow to protect our historic properties. She added to allow an ADU in existing space it is not going to negatively impact the character of that building, however, new construction has the potential of harming a historic property. She stated that is why she suggested smaller ADUs in historic districts or making that ministerial box small and then we could approve something larger if it complied with the Secretary of the Interior Standards.

Commissioner Bunce replied that state requirements are such that there must be compatibility in terms of style, construction materials and so forth, so why would that impact historical nature of a district.

Commissioner Tomkins replied they have to apply the Secretary of the Interior standards which are about compatibility, but there are also other parts of it that applies to the entire property. She stated its closer to the judgement than ministerial. She stated if the City is not applying the Secretary of the Interior Standards it is not protecting historic properties. She noted the whole purpose of these standards is to identify what's historically significant about a particular property.

Chair Brown suggested discussing whether ADUs are appropriate in historic districts. He stated he believes the City can decide they are not because the protection of historic resources is considered.

Commissioner VanderMolen asked if the City could do an overlay in historic districts to keep ADUs proportionate to the neighborhood.

Development Services Director Gutierrez replied yes; we can explore that.

Commissioner Kristie Kercheval expressed her concern about the history of zoning laws requested the Commission be mindful they are not perpetuating acts past acts of segregation and think of ways to be inclusive. She shared the original CC&R's in her neighborhood said white only. She commented some of our laws in our country contributed to the housing problems today because of those zoning laws.

Senior Planner Tam mentioned there is a section in the ordinance that addresses historic properties and the Commissions can talk about them in detail when staff gets to that section.

- H. **Lot Size:** The proposed ordinance does not require a minimum lot size. He shared the neighboring cities of Claremont, Chino, Diamond Bar and San Dimas that have a minimum lot size requirement or 10,000 square foot.

Commissioner Tomkins asked if the neighboring cities are new ordinances or existed before the state standards.

Senior Planner Tam replied these are existing ordinances that were adopted after the 2017 law went into effect. He noted some of these cities are reconsidering. He shared this week Claremont is having a study session to consider changes to the existing ordinance.

City Attorney Todd Leishman noted when you compare what other cities have on their books, most if not all have at least amended their code to come into compliance with the 2017 and 2018 bills, but all of these ordinances including the ordinance for Pomona have to go to HCD to be reviewed within 60 days of passage. He reported the HCD has an extraordinary backlog and have not reviewed very many that have been done in the last two years. He commented if Chino Hills or Diamond Bar has something on the books that you think that looks awesome don't think it's invulnerable, because it's very likely that HCD hasn't looked at it yet or expressed an opinion one way or another.

Commissioner Urey Asked what size and percent of the lots in the zones they are discussing.

Senior Planner Tam replied 27% of all the parcels permitting ADUs are in R1-7200 zone.

Commissioner Urey commented 10,000 square feet sounds huge.

Development Services Director Gutierrez added 24% is R1-6000, so almost 50%.

Commissioner Urey commented 10,000 square feet seems exclusive.

Senior Planner Tam confirmed Commissioner Urey is opposed to a minimum lot size of 10,000 square foot or greater.

Development Services Director Gutierrez commented all the other elements control the size of the ADUs more than lot size. She reported seeing nods and took that as a consensus.

Development Services Director Gutierrez reported the Commissioners took at five-minute break.

Development Services Director Gutierrez requested in the interest of time that the Commissioners could go through the rest of the ordinance and identify key topics they want to discuss this evening. She stated this item will return to each Commission respectively providing more time to discuss.

Chair Brown opened the public hearing.

Arturo Jimenez, 393 E. Alvarado Street; expressed concerns with nonconforming uses in the historical areas (i.e. larger apartment complexes next to residential homes). He commented that he knows the law put the Commissions in a hard place on how to mitigate those issues. He shared where he lives all the houses north of Alvarado in the 200 block are single family homes, and south of where he lives, he has about 15 units on three lots creating a big parking problem. He voiced support for putting in a historical portion of the ordinance. He stated he put a lot of money into his house to

bring back that part of Pomona. He shared his experience on the Planning Commission with cell phone towers being too excessive and now cell phone towers have nice art which wasn't allowed at one time. He spoke about lot sizes and stated most of the larger residential lots are about 6,500 square feet because of the GI Housing that's in place. He stated if the City doesn't make room for these houses to have ADUs people are going to come back and say the system did not allocate for them.

Guillermo Gonzalez, Arturo Jimenez's neighbor, expressed concerns with some of the elements of the ordinance and the sizes being too big. He stated the intent and purpose of the law passed at state level was to ensure more affordable housing, because rents in California are outrageous. He stated if the City allows someone to build a 1,200 square foot ADU they are effectively allowing another high price rental unit which just adds to the problem. He suggested limiting the size to smaller affordable units. He voiced support to do this through the ministerial process and if a person wants to use the discretionary process to build something bigger on a bigger lot then the Commission can allow them to do that.

Senior Planner Tam asked if the Commissioners have any questions regarding Utility Connections and Fees.

Commissioner James Kercheval confirmed the City of Pomona conforms to the state law and there is not any additional cost for hooking up to sewer or water.

Commissioner Tomkins commented the report states people are not required to have a separate meter, however, if someone wants one does the ordinance comply with pricing on that additional meter?

Nichole Horton, Senior Water Resources Engineer replied if a resident decides to request a new separate meter they can do so. She stated the rate structure is set in place, it's not adjustable and one would contact the Water Resources Department to find that out.

Commissioner Grajeda asked if the fee applied to a single unit or by the size of the unit. He asked what the fee was for a gas meter or electrical meter.

Nichole Horton, Senior Water Resources Engineer replied it depends on the size of the water meter, a small ADU up to 1,200 square feet would necessitate a 5/8-inch meter and if someone wanted to install a separate meter it would cost approximately \$9,000 for a brand-new meter. She stated she doesn't take care of electrical.

Senior Planner Tam gave the Commissioners time to review the ordinance and provide any topics they want to focus on and prioritize. He noted they can circle back on the other standards at the individual Commission meetings.

Architecture and Building Height was requested. Development Services Director Gutierrez suggested Affordability be discussed. Chair Brown requested to discuss the Garage Conversion. Commissioner James Kercheval requested to talk about the Rental Period and Deed Restrictions. Commissioner Tomkins asked about Junior ADUs. Commissioner Grajeda requested owner occupancy.

Senior Planner Tam summarized he heard the following: Building Height, Architecture, Affordability, Garage Conversions, Rental Period, Deed Restrictions, JADUs, Historic and Owner Occupancy.

- I. Building Height;** The ordinance is currently proposing to have thirty-five feet, two-story limitation on building height, however the ADU cannot be any taller than the primary dwelling unit.

Commissioner Martin confirmed if it's a neighborhood if all one stories; they would only be able to build a one story. Staff confirmed that is correct.

Commissioner Williams clarified that the way it's written now height is based only on the primary dwelling unit. She asked if it would also be based on the neighborhood character.

Development Services Director Gutierrez replied no, just the primary dwelling unit on the lot.

City Attorney Todd Leishman added the neighboring properties don't affect height.

Senior Planner Tam summarized staff will move forward with the consensus that the Commissions support this standard.

- J. Architecture, Standard 11;** Senior Planner Tam stated to ensure that the architecture of the ADU is consistent with the architecture of the primary dwelling unit the following elements of the ADU must be same in appearance as those in the primary dwelling unit; Architectural style, architectural detailing, construction materials, finishes and color, door trim and style, window trim and style, roof type, and pitch.

Commissioner Martin commented the less impact the better, so whatever the architecture of the main structure is the ADU should match throughout the whole city.

Commissioner Kristie Kercheval asked about if the use of foam or vinyl materials that look like wood and would appear as the same construction materials comply. She noted the overarching paragraph at the top says it must be the same in appearance, but not the same materials.

Senior Planner Tam replied they would take that into consideration.

City Attorney Todd Leishman asked Commission Kristie Kercheval if that a good thing or bad thing.

Commissioner Kristie Kercheval replied a bad thing.

City Attorney Todd Leishman asked why.

Commissioner Kristie Kercheval replied because materials that look like wood only do for short while and then fall apart.

Commissioner Gonzales added if someone did small vinyl siding to replicate wood siding, in appearance the fact is it is not in character with the home.

City Attorney Todd Leishman replied from a ministerial standard it is easier to say it must be the same, but that means when you are replacing hand cut cedar shingles, you can't go the fireproof composite ones that look the same.

Commissioner Kristie Kercheval agreed and suggested rethinking this subject.

City Attorney Todd Leishman stated the reason was to allow upgrades that are more fireproof, however, he understands nobody like faux wood vinyl. He stated he needs to draft and asked the Commissioners what they want.

Commissioner Kristie Kercheval replied something that encourages bonafide materials. She suggested Agrees the Historic Commission help people pick the right materials and guide them away from the cheap stuff.

Development Services Director Gutierrez suggested stating "vinyl materials not allowed".

Commissioner Kristie Kercheval replied but there are different grades of vinyl and with some type a person wouldn't be able to tell until they looked closely.

Development Services Director Gutierrez replied it needs to be ministerial and a check box.

Chair Brown suggested generating a list of acceptable building materials and if it's similar in appearance it would be approved, the same way the City picks species of trees. He asked how the Commissions would generate that list.

Development Services Director Gutierrez replied that would be a long list of materials and suggested making a list of prohibitive materials instead.

Commissioner Gallivan reported companies are selling plastic prebuilt ADUs online and expressed concern over this.

Commissioner Kristie Kercheval commented there are some high end, multi-million-dollar prebuilt ADUs that exist and look good.

Commissioner Gallivan spoke about houses that were built to last hundreds of years. He shared in Europe there are requirements that a house and hardware must last 200 years. He expressed concerns that the plastic ADUs and plastic windows are going to fall apart. He shared the roof on the Casa Primera was recently replaced, and original shingles were used because it was extremely important to go back to the historic look and not some plastic looking.

Development Services Director Gutierrez commented she know windows are particularly important in historic districts and suggested no vinyl windows citywide.

Chair Martin replied at least for the historic districts and should be like for like for wood windows. She suggested creating a separate committee about design recommendations.

Development Services Director Gutierrez clarified Chair Martin is favor of materials matching exactly to the materials on the primary home.

Commissioner Martin said similar.

Development Services Director Gutierrez clarified if her preference was similar or exact.

Commissioner Martin replied nothing is ever going to be exact because its sixty years later.

Commissioner Williams agreed that it can't be exact, especially if it's an ADU addition because there must be a designation noting it's a different structure and not the original structure. She stated she thinks similar.

Development Services Director Gutierrez confirmed consensus was similar but prohibitive materials. She suggested adding this as an agenda item and discussing further with the Historic Preservation Commission.

City Attorney Todd Leishman reminded this must be ministerial, it must be a yes or no checkbox. He stated the City doesn't get to say what similar or compatible.

Commissioner Tomkins expressed concerns about destroying the historic district.

City Attorney Todd Leishman replied you can say "same".

Commissioner Kristie Kercheval commented same will trigger people coming to the Commission because they can't get the same.

City Attorney Todd Leishman clarified if an individual says they don't want to do stucco like the main house and they want to do siding, then they would be stepping outside the ministerial box and have the option to request to go through the discretionary process.

Commissioner Tomkins stated they didn't discuss denying them or an appeal process.

Commissioner Williams stated she advocates that the ordinance specifically states the use of the same materials for historic homes and if a person doesn't want to then they must use the discretionary option. She expressed concerns about requiring too much for people who are not in historic districts and that the ordinance could become prohibitive which defeats the purpose, as well as, opens the Commission up to challenges about the code. She expressed concerns about people using materials that are unsafe or people in homes from the 1990's where there are not good guidebooks on how to create an ADU that follows the same architecture. She stated that she feels the architectural like for like needs to happen for historic homes/districts and supports not having such strict standards outside of historic districts.

Commissioner Gallivan shared the Santa Ana ADU ordinance talks about going to their Historic Preservation Commission and architectural questions are brought to an architectural architect.

Development Services Director Gutierrez replied Santa Ana's ordinance may not have been reviewed by HCD.

Commissioner Gallivan commented he would rather see the City be cautious than allow something horrible

Development Services Director Gutierrez requested to move on, and stated staff will bring this topic back at the Commission level.

K. Affordability; Senior Planner Tam reported some jurisdictions have an affordability requirement or option for ADUs that are rented.

- Example 1: The City of San Dimas has a program if you rent the ADU you must make it affordable to either low or very low-income households based on HUD standards and there is a self-certification each of the property owners must provide certifying compliance. He noted this would require additional oversight from City staff.
- Example 2: The City of Claremont is considering waiving the parks development impact fees if individuals rents their ADU at affordable rates to low or very low-income households.

Development Services Director Gutierrez stated staff favors the covenant requiring the affordability for rentals only, because it allows for a person to have family live there too. She noted some caveats were if you were renting to a person 62 years or age or older or students.

Senior Planner Tam replied the covenant for San Dimas was a 50-year covenant that automatically renews.

Commissioner VanderMolen asked if the ADU could be rented out immediately upon building.

Development Services Director Gutierrez replied there was no restriction on the length of time before you could rent out. She noted renting ADUs would help Pomona's ARENA number and support the number of affordable units.

Commissioner VanderMolen asked who will be overseeing this requirement.

Development Services Director Gutierrez replied it's self-reporting.

Senior Planner Tam confirmed San Dimas is self-certification. He stated he doesn't know how many units they have and how much of a burden it is on staff.

Commissioner Camacho-Gonzalez voiced support for an affordability component.

Commissioner Grajeda asked if there was a restriction on rent if the owner moves to the ADU and rents the front those.

Senior Planner Tam replied the way the ordinance written right now, there is an owner occupancy requirement and it doesn't matter which unit the owner lives in; the primary dwelling unit or ADU, either one. He stated the rented one would have that be affordable if the Commission wishes to place an affordability regulation into the standards.

Commissioner Williams confirmed the affordability standards would apply to the house if the owner moved into the ADU.

Senior Planner Tam replied yes, if the owner chose to rent out the primary unit. He noted staff can create a standard to place it on the ADU only.

Commissioner Tomkins asked about looking at raising fees because there are not any now on these ADUs.

Development Services Director Gutierrez replied they don't have any development impact fees for ADUs, unless it is a new build at the same time as a new primary single-family home.

Commissioner Tomkins shared Pasadena has an incentive program where the residential impact fee of \$19,000 for each ADU is dramatically reduced to less than \$1,000 if it is rented to someone with an affordability covenant. She reported there is a bill pending right now looking at requiring cities as part of the Housing Element to provide incentives for affordable housing. She stated Pasadena has really created an incentive for the ADUs to be affordable and suggested Pomona do the same to be positioned to follow that law if it gets passed.

Development Services Director Gutierrez replied the Development Impact Fees will take some time to update and this ordinance will come before then.

Commissioner Tomkins suggested setting up a waiver of fees when the fees go up.

Commissioner VanderMolen asked what happens with the property is sold and both front and back house become a rental.

Senior Planner Tam replied if the City were to pursue the affordability requirement, there would be a covenant that runs with the land, stating that the ADU must rented at a low/very low rate. He stated the new owner would take on that covenant and be required to live in the primary dwelling.

Commissioner Williams spoke about considering the tenant when writing the rules. She asked what would happen to the tenant with the primary dwelling unit owner moved out. She asked if basic renter rights would apply.

Senior Planner Tam replied staff would assume so but would have to research.

Commissioner Gonzalez commented there are already issues with code enforcement. She asked who would monitor to make sure the owners are still living in the primary residence.

Commissioner Williams agreed and added to make sure that the ADU resident is treated properly and given proper notice.

Commissioner James Kercheval spoke about the person who builds the ADU being able to recoup the cost of building when then the City puts a stipulation that they must rent at low income rates. He asked if City Attorney Todd Leishman for an opinion on this.

City Attorney Todd Leishman replied that is not a legal question, its for a business owner to figure out. He stated it might not make good business sense and he doesn't think the legislature thought at all about affordability covenants when they passed this law.

Commissioner James Kercheval asked why Pasadena would have an affordably covenant.

City Attorney Todd Leishman replied because it makes it harder to build an ADU if you have an affordability covenant on it.

Commissioner Kristie Kercheval replied she can look at it because she has the numbers.

Commissioner James Kercheval asked staff to come up with analysis.

Development Services Director Gutierrez asked if there is interest from the Commissions on ensuring units are rented at an affordable rate.

Commissioner Grajeda asked what affordable rent is based on; income or location of the property.

Development Services Director Gutierrez replied it's typically based on income and HUD standards.

Commissioner Grajeda spoke about a couple moving into the ADU once their kids move out and renting the front home which is double the size for what it's worth. He asked if this was something worth spending time on.

Chair Brown suggested proceeding with the ordinance as written which does not address this and the City could add this option later. He stated an affordability covenant needs to be weighed in the context of a larger affordable housing scheme for the City.

Development Services Director Gutierrez reported nods of agreement and staff will take that direction.

L. Garage Conversions, Standard 8E

Chair Brown stated there is some question if the state legislation allows choices in allowing garage conversions or not. He reported Pomona has a policy now that says single family homes need to have a garage, and the state standard would effectively undermine that. He suggested thinking through the process in all zones about whether garages are still an important transportation storage mechanism or whether the City is comfortable transitioning those into housing. He shared constituents have approached him and asked if they could convert their garage for more livable area (i.e. a bedroom, or study) and right now Pomona does not allow that. He asked if it's logical for the City to continue to hold the ground on not adding more livable area but allows turning a garage it into a dwelling unit for another family.

Development Services Director Gutierrez replied it's a relevant point, but state law does not give local jurisdictions the authority to have an opinion on whether to allow garage conversions, it's just allowed. She noted interior conversions are also allowed by the state statute.

Chair Brown commented the standard he read today made of point of not saying garages, it stated including but not limited to a studio, pool house or other similar structure and there were other sections where it specifically reference the idea of garages and definitions of living area as not including garages.

City Attorney Todd Leishman asked Chair Brown to clarify his question.

Chair Brown replied does the state law allow the City ordinance to determine whether garage conversions are allowed or not.

City Attorney Todd Leishman replied no.

Chair Brown asked why.

City Attorney Todd Leishman replied because the state laws states "a local agency shall ministerially approve an application for a building permit to create within a zone for a single-family use one accessory dwelling unit per single family lot, if the unit is contained within the existing space of a single family residence (includes the garage if attached) or accessory structure (if the garage is not attached) including but not limited to a studio, pool house, or other similar structure". He stated HCD says that is a garage and requires an independent exterior access, as well as, side and rear setbacks sufficient for fire safety. She stated the question becomes if it's a legal nonconforming garage that sits at the property line is there enough setback for fire safety. He noted the fire department would state one needs at least 3-5 feet, but then the code addresses that elsewhere. He stated when there is a garage one doesn't get to have different setbacks.

Commissioner Tomkins asked if it is because the garage is an accessory structure.

City Attorney Todd Leishman replied because it fits within the definition of a converted ADU. He agreed it's odd that a person can't create a den but can create a home for another family.

Chair Brown confirmed the ordinance where one is required to build a garage when you build a single-family home wouldn't be enforceable.

City Attorney Todd Leishman replied yes; it's largely gutted if there is an ADU involved that's converted.

Chair Brown confirmed that this has implications city-wide.

Development Services Director Gutierrez confirmed it will affect historic districts and all zones.

Commissioner Kristie Kercheval confirmed there was a rule you can't convert a garage to just a room.

Development Services Director Gutierrez replied that is correct you cannot legally convert your two-car garage into a living room.

Chair Brown added but you can make it an entirely separate living area for somebody. He stated this is where the logic breaks down and the City must revisit because making the garage an office has less impacts on the neighborhood and parking.

Development Services Director Gutierrez replied the state felt housing units were more important.

Commissioner Bunce commented the major reason the state is undertaking this is the first place is the housing shortage. He stated what's being said makes logical sense under normal circumstances, however, these are not normal circumstances and the state has to deal with the housing shortage.

- M. Rental Period (Standard 21);** Senior Planner Tam read "an ADU may not be rented for a period of fewer than 30 days". He noted the state standard allows municipalities flexibility to permit short-term rentals.

Development Services Director Gutierrez asked if everyone agrees, the majority did.

Commissioner James Kercheval commented that there is a thriving Airbnb environment in the City of Pomona, specifically around the Fairplex and he stated the City is close enough to Disneyland for some hosts. He stated an owner-occupied Airbnb host is most likely to be great neighbors, taking care of their homes and controlling noise to not have the impression that people are coming and going. He spoke about people wanting to experience living in an older/historic home and if it's an owner-occupied host he thinks they should allow for that. He stated there are some people who'd like to make additional income and recoup the cost of building the ADU. He stated he supports allowing the freedom if its owner occupied. He shared he did a survey and people are renting out a room in their home for \$100 per night and found out the bottom half of the Lassie House, which is registered as a historic registered home and listed on Airbnb currently.

Commissioner Gonzalez asked who would enforce this is taking place. She commented she doesn't think they can operate on the exceptions to the rule on this.

Commissioner Williams stated she doesn't object to an Airbnb owner, however, the ADU is supposed to create affordable housing and she doesn't support using up staff and resources for people to make more money in an Airbnb situation. She asked if this would be accomplishing the affordability goal.

Commissioner Kristie Kercheval replied yes; it works both ways. She stated the state provision talks about how a rental property helps people stay in their homes, because homes are so expensive. She shared there is an organization called LAMás that helps people from lower incomes to build their ADUs for people who have Section 8 vouchers to live in. She stated the point is to help lower income people have that extra money. She noted there are also studies on cities with open Airbnb laws that show people end up having long term rentals because they don't want the hassle. She requested the Commissions consider allowing short term rentals.

Development Services Director Gutierrez replied the consensus was keeping it as proposed, but it doesn't prohibit further discussions at the individual commissions.

The Commissioners asked for another vote.

Development Services Director Gutierrez asked for a show of hands of who supports keeping the language as proposed to the minimum of 30-day rental for an ADU.

Commissioner James Kercheval requested to add the language owner occupied, because there is a difference.

City Attorney Todd Leishman asked who supports no short-term rentals and a count was taken.

Chair Brown asked about other regulations regarding Airbnb rentals.

Development Services Director Gutierrez replied they don't have a citywide ordinance for Airbnb or short-term rentals currently.

Chair Gallivan confirmed the vote. Development Services Director Gutierrez replied there was not support for short-term rentals, so staff will leave the ordinance as is until future discussion at the individual Commissions.

- N. Deed Restrictions, Standard 23;** Prior to the issuance of occupancy for an ADU a deed restriction or similar instrument that runs with the land shall be recorded against the property and shall specific information they want included in the deed restriction.

Commissioner Tomkins asked if a person were to remove the kitchen facilities in an ADU would it remove the deed restrictions because it's no longer an ADU.

Senior Planner Tam replied a kitchen is a minimum requirement for an ADU.

Development Services Director Gutierrez replied without a kitchen it would be an accessory structure (i.e. Pool House).

Commissioner Tomkins confirmed the City wouldn't allow a person to build it that way.

Chari Brown clarified they wouldn't let you convert your garage that way.

Commissioner Tomkins confirmed pool houses are allowed.

City Attorney Todd Leishman commented the state law is wacky and leads to absurd results at almost every turn.

Commissioner James Kercheval asked what motivates deed restrictions.

City Attorney Todd Leishman replied to put the next owner on notice.

Development Services Director Gutierrez added to put the next owner on notice of a requirement. She noted if the short-term rental element were taken out it would also come out the deed restriction.

O. JADUs

Commissioner Tomkins asked why JADUs were not included.

Development Services Director Gutierrez commented staff felt they didn't get a whole lot out of a JADU and it's a whole separate process to add code for and administer. She stated it's essentially a room addition, which can be done without having to do an ADU.

Commissioner Tomkins confirmed the JADU kitchen required 30” appliances.

Development Services Director Gutierrez replied a JADU only requires a hot plate.

Commissioner Tomkins commented that seems odd. She stated it could be useful for students without having to provide a full-size kitchen. She asked if the 30-inch appliances were part of the code.

Development Services Director Gutierrez and Senior Planner Tam replied yes, it’s part of the state standards.

Senior Planner Tam explained if they have an ordinance addressing JADUs that would be in there because it is a requirement in the state standard.

Commissioner Tomkins commented they are more affordable to build.

Senior Planner Tam replied there are less restrictions because one is not building full kitchen or a full bathroom.

Commissioner Tomkins confirmed they are less than 500 square feet.

Senior Planner Tam replied correct, 500 square feet or less.

Development Services Director Gutierrez asked for a show of hand for those that support leaving the JADU out.

P. Historic Properties, Standard 25

Commissioner James Kercheval asked if corner lots require a vegetation shield, taller fence or if there was an exception because the ADU can obviously be seen when driving by.

Development Services Director Gutierrez replied as it is currently proposed that an ADU is not visible from the public right of way and there is no exception written for corner lots therefore, unless the ADU could be shielded by shrubs or an architectural feature of the existing primary dwelling it would not be allowed in historic districts as written.

Commissioner James Kercheval asked if the Commissions would be favorable to an exception.

Chair Brown commented it goes beyond corner lots, because it states, “not visible from the public right of way” and alleys are public right of ways. He stated no one could build an ADU on street with alleys which is the vast majority of lots in Lincoln Park. He confirmed he was interpreting this correctly.

Development Services Director Gutierrez replied yes.

City Attorney Todd Leishman replied as a practical matter it would result in most ADUs in those areas being converted.

Development Services Director Gutierrez reported this language came from the Glendale ordinance discussed with the Historic Preservation Commission, so staff included it here.

Chair Martin commented in Lincoln Park that would mean more additions versus detached ADUs.

Development Services Director Gutierrez replied even an addition that could be seen from the public right of way under the current language wouldn’t be allowed. She stated the policy is open for changes.

Commissioner Gallivan commented if a garage was converted it wouldn't be a problem because they are usually seen from the front and it would architecturally look like a house.

Senior Planner Tam stated there is a provision that states a legally established accessory structure located on a historic property may be converted in whole or in part to an ADU. He noted staff were trying to limit seeing additions from the public right of way to protect the historic structures and properties.

Commissioner James Kercheval commented he thinks it creates problems for the staff having to tell people who live on a corner lot or alley they can't.

Development Services Director Gutierrez asked if there was interest from the Commission to explore and alternative.

Commissioner Gallivan replied he thinks alleys should be excluded because the ordinance would be too restrictive.

City Attorney Todd Leishman confirmed the language should be "not visible from the street right of way".

Chair Brown commented it sounds like the City would be allowing somebody to modify an interior of a garage or part of their house for an ADU in these districts, however, they may not build a separate ADU because it would be visible from the street or alley. He suggested for those wishing to build a new structure that is visible from the street there could be a discretionary review process.

Development Services Director Gutierrez commented that applies to Commissioner Tomkins not wanting new ones built at all. She clarified if its and ADU you are going to be able to see it and you want to build it, it goes to discretionary.

Chair Brown confirmed anything that's going to be visible in the historic district would potentially come before the Historic Preservation Commission via a discretionary review process. He stated that might address some of the concerns about the architectural materials.

Development Services Director Gutierrez replied that a great compromise. She recommended writing the standard as follows; "anything that would be visible from the right of way would have to go through a Major Certificate of Appropriateness before the Historic Preservation Commission."

Commissioner Gonzalez asked why the City is not focusing on the ages of homes with 50-year criteria. She spoke about Ganesha Hills having beautiful homes and not having any additional limitations on those properties. She commented she feels it's something the Commissions need to consider, because they have larger lots. She suggested adding an age requirement to protect significant structures.

Development Services Director Gutierrez commented a home that is pre-1945 or 50 years or older that the Commission wishes to apply additional discretion on is something that would then go the Planning Commission because it's outside of historic district.

Chair Brown clarified that as of today that would be any house built before 1969.

Development Services Director Gutierrez replied if you worded it 50 years or older yes.

Commissioner Gonzalez replied because that designates a potential for that structure to be deemed historic.

Commissioner Kristie Kercheval expressed concerns that the City would receive backlash to this.

Commissioner Gonzalez replied it's not about historic districts it's about historic structures.

Commissioner Kristie Kercheval stated she agrees they don't want wacky things going on and suggested doing it in a way it helps people, because people already hate the whole historic thing.

Commissioner Gonzalez commented there are people in her district that hate historic things; however, they want to protect the City's historic structures and history.

Commissioner Kristie Kercheval replied the best way to do that is to win people over and not to alienate them.

Commissioner Tomkins spoke about protecting our historic things and asked what kind of protection this will provide.

Commissioner Gonzalez replied she doesn't see it as alienating people, she thinks the people that respect historic structures want to do the right thing. She stated people that don't, do not need to be in Pomona because they want to tear down those structures. She stated as a Historic Preservation Commissioner she is working to protect those structures and protect the people that live next door to those structures. She stated she would hate to live in Ganesha Hills and have somebody build a monstrosity next to her beautiful home.

Commissioner Kristie Kercheval replied she agrees but she thinks restricting new builds are more important (the setbacks, the size).

Commissioner Tomkins commented the issue of giving 50 years is that people may not have been thinking of them as historic properties.

City Attorney Todd Leishman cautioned against extending special historic related restrictions to ADUs outside of your designated historic districts and to properties aren't officially historic properties. He suggested having a separate discussion about how to expand the scope of what we call historic than all the historic related ADU standards would automatically get folded in.

Commissioner Gomez agreed and suggested a joint meeting to look at the value of these historical homes not necessarily in historical districts.

City Attorney Todd Leishman asked if this is an ADU issue or a historic property issue. He stated he didn't hear anything about having special rules about what is historic. He asked for clarification because he must write this.

Commissioner Gomez spoke about homes being brought to the Commission that clearly haven't followed the guidelines because they weren't give the proper instructions in likeness, so it's very important to have something that clearly uses the right verbiage.

Development Services Director Gutierrez reported a consensus that anything in the historic districts that can be seen and visible from the right of way would require a major Certificate of Appropriateness. She stated she doesn't have consensus on expanding that scope into areas outside of historic districts that have a home on a lot that is 50 years of age or older. She agreed with City Attorney Todd Leishman that is a discussion for another night and another time.

Commissioner Bunce stated it would be wise to omit alleys from the public right of way reference.

Development Services Director Gutierrez asked if there was a consensus to remove alleys.

Chair Brown replied his is not in favor of removing alleys. He stated he believes it gives the City more discretion to have alleys included.

Chair Martin agreed.

Development Services Director Gutierrez asked who was in favor of excluding alleys from the right of way in historic districts. She reported alleys will still be included.

- Q. Owner Occupancy (Standard 22);** Senior Planner Tam stated either the primary dwelling unit or the ADU must always be owner occupied. If the property ceases to be owner occupied the ADU may not be used as a dwelling.

Commissioner Grajeda commented he thinks its overkill. He provided the scenario where his kids moved out and he retired so he moves into the backhouse with his wife and then he would have to rent his home at a low-income rate instead of the market value. He stated he would depend on that income and then someday his kids would inherit the property. He expressed concern that the kids would have to sell their own home and move into the property or tenants would have to vacated and find somewhere else to live. He stated he feels this would be cutting people from an opportunity.

Commissioner James Kercheval agreed and stated it eliminates the opportunity for the parents to pass on wealth to their children. He stated the children would be forced to sell it and not be allowed to have an investment with passive income which is wealth to the succeeding generation.

Development Services Director Gutierrez replied one wouldn't necessarily have to sell, they could just rent the primary house and not the ADU separately or rent the entire property to a family.

Commissioner Grajeda stated but then you have an empty unit that is going to go waste.

Development Services Director Gutierrez replied the ADU could also be converted.

Commissioner Tomkins commented other cities did it a little differently, stating one couldn't rent the two units out separately (two separate tenants) but you could rent it out to someone who occupied both units, so a large family who wasn't going not rent out the ADU and but could live and use it.

Commissioner Grajeda asked what the odds of that are when you must rent to low income people in both homes.

Commissioner Urey replied the Commission decided not to include the affordability covenant so a person could rent their home at market rate.

Development Services Director Gutierrez confirmed this does not call for affordable rentals. She stated that was a separate discussion and that wasn't supported. She clarified this standard is only to require that an owner occupy either the primary or the ADU.

Commissioner Williams asked how "owner occupied" is defined.

Development Services Director Gutierrez replied owner occupied means a property owner currently resides on the property in either the primary dwelling unit or the ADU.

Commissioner Williams requested to ensure that the language did not throw people out upon someone passing away.

Senior Planner Tam replied some cities have language related to different scenarios, for example an older person who is living in the home who needs to go into a health care facility or someone who is in the military and going away for service. He noted these standards allow up to three years where the requirements would not apply. He stated the Commissions could consider inserting similar language to address specific scenarios.

Chair Brown asked if there are situations where trusts or businesses own homes.

Development Services Director Gutierrez replied yes.

Chair Brown asked who the owner would be if a trust owned a home.

Development Services Director Gutierrez replied usually there is a trustee; trusts have a primary trust trustee or co-trustees and secondary trustees, so anyone designated in that trust.

Senior Planner Tam stated there has been some language in other cities that states whoever acts in that capacity acts as the property owner. He stated staff could insert language that addresses those scenarios where the property owner is not a legal person.

Commissioner Camacho-Gonzalez asked the rationale for including a deed restriction and if it was to protect folks from building an ADU selling the house and then turning a profit. He asked if the situation where the kids inherited the property, if they were to remove the kitchen would it remove this deed restriction.

Development Services Director Gutierrez replied to the later point, if they wanted to remove the kitchen, it's no longer an ADU and if they add it back at a later point, it would then become an ADU again and that restriction would apply again because it would come through plan check if they did it legally. She clarified the kids would inherit the deed restriction because it runs with the land. She stated the deed restriction is meant to create permanent housing solutions and not rentals.

Commissioner James Kercheval spoke about a scenario where a couple is living in the ADU renting out the front home and then his wife passes away and the husband must go into assisted living. He asked if the husband would be forced to sell, instead of just collecting income off his property. He asked if there was a way to write something to help someone during end of life situations.

Senior Planner Tam replied as he mentioned earlier, yes there is language that can be added to address these scenarios.

Commissioner James Kercheval asked for samples of that language.

Commissioner Gallivan clarified he wouldn't be forced to sell, just not use the back unit as an additional dwelling.

Commissioner James Kercheval replied but it would sit there empty.

Commissioner Grajeda commented the people who build ADUs are typically people who have been in the home long enough to have enough equity to be able to afford to build the second unit. He expressed concerns that one must rent that home to a low-income family.

Development Services Director Gutierrez replied there is no low-income affordability element here.

Commissioner Grajeda continued with concerns that the owner would not be able to recoup their money, not being able to pass the property onto his kids and would be evicting tenants. He stated he feels it defeats the purpose.

Development Services Director Gutierrez stated she sees two options here; 1) don't include a provision all together for owner occupancy or 2) include a provision but add language that allows for special circumstances for a limited time period.

Chair Brown commented he likes number two.

Development Services Director Gutierrez asked who supports creating alternative language to allow for special scenarios for a limited amount of time. She reported support for this.

Development Services Director Gutierrez stated this concludes the presentation. She stated staff will review and bring the proposed ordinance back to each the Planning Commission and Historic Commission separately as an actual ordinance with discussion on topics identified. She noted she hope to bring the ordinance for public hearing and adoption in May/June.

Commissioner Williams clarified the discussion pertained to historic properties not just historic districts.

Development Services Director Gutierrez replied correct which may be a single historic landmark outside of a district.

ADJOURNMENT:

The City of Pomona Planning and Historic Preservation Commissions special meeting was adjourned by Chairperson Brown at 9:25 p.m. to a date, time and location to be determined.

Anita D. Gutierrez, AICP
Development Services Director

Jessica Thorndike, Transcriber

The minutes of this meeting are filed in the Planning Division of City Hall, located 505 South Garey Avenue, Pomona, CA, 91766.