

# MYER'S DEVELOPMENT CODE AMENDMENT CITY COUNCIL REPORT

<b>Applicant</b>	Robert and Diane Myers
<b>Meeting Date</b>	January 12, 2021
<b>Requested Action/Purpose</b>	Approval of proposed amendments to the Lehi City Development Code
<b>Date of DRC Review</b>	October 14, 2020
<b>Date of Planning Commission Review</b>	November 12, 2020
<b>REQUIRED ACTION</b>	
<b>Planning Commission</b>	Review and recommendation
<b>City Council</b>	Final approval

## APPLICABLE DEVELOPMENT CODE REGULATIONS

### **Section 04.060. Criteria for Approval.**

No amendment to this Code, or the Zoning District Map(s), may be recommended for approval by the Commission nor approved by the City Council unless such amendment or conditions thereto are consistent with the General Plan. In considering a Code amendment, or Zoning District Map(s) amendment, the applicant shall identify, and the City Staff, DRC, Commission, and the City Council may consider the following factors, among others:

1. The effect of the proposed amendment on the character of the surrounding area;
2. Consistency with the goals and policies of the General Plan.
3. Consistency and Compatibility of the proposed zone with the General Plan land uses of nearby and adjoining properties.
4. The suitability of the properties for the uses requested and their suitability for the existing uses identified by the General Plan;
5. Whether a change in the uses allowed for the affected properties will unduly affect the uses, or proposed uses for nearby and adjoining properties;
6. The gain to the public health, safety and welfare from the existing classification to the proposed amendment; and
7. The overall community benefit of the proposed amendment.

### **Section 26.020.E General Requirements.**

E. No accessory building or structure shall include a residential dwelling or have kitchen facilities or be rented or otherwise used as a separate dwelling.

## REPORT ANALYSIS

The applicants request approval of a Development Code amendment to Section 26.020.E allowing ADU units above garages on lots greater than half an acre. The applicant provided multiple articles showing the benefits of having ADU including above garage units. Along with this a narrative was submitted detailing how the amendment conforms with the General Plan goals.

City Council tabled this item at the December 8, 2020 regular meeting with direction to staff to discuss the following items:

- Language for the development code to allow it next to the garage not just above
- Look into making detached garages a conditional use
- Look at the demand on the system and at a mechanism for determining if the subdivision has capacity

- The types of units that would be allowed in detached garages.

Planning, building, engineering, and the Fire Marshal met to discuss these items and have proposed new language for the Development Code Amendment. The proposed changes will allow for a detached ADU as a conditional use, on lots that are at least 22,000 square feet in size. The proposed amendment also requires that the ADU must contain at least 300 square feet of living space and be attached to a garage that is at least 12 x 20 feet. Staff also added language that the dwelling portion of the building must be 5 feet way from the property line. This was added to prevent potential problems with living units too close to other properties and the wide variety of privacy concerns that come with that.

The engineering department indicated that they do not have the manpower to evaluate each lot for extra capacity in the system. They are comfortable with the current language that only allows these units on parcels half an acre or larger. Evaluating capacity will continue to take place for the City at large and more consideration can be given for ADUs in the future.

The Fire Marshal also indicated a need to address these units separately to help first responders find the unit in a timely manner. Staff talked to the county and determined the best way to address would be two numbers up or down from the current house's address. For example, a home addressed 153 East would have an accessory unit addressed as either 151 East or 155 East. The proposed amendment will require this new address to be displayed on the garage with large enough numbers to be seen from the street.

Staff feels that they have adequately addressed the City Council's questions and concerns for the proposed amendment. However, they also recognize the need for the continuation of the conversation on ADUs with the potential for additional amendments in the future.

Planning staff receives several calls a month from residents inquiring about the possibility of having an ADU above their garage. These calls indicate a general interest in this type of ADU. The code currently does allow for an ADU above an attached garage but does not allow one if the garage is detached. The proposed development code amendment would allow for these detached, above the garage, accessory dwelling units.

Planning Staff has the opinion that increasing the availability for ADU's will have a positive impact on housing for Lehi City. Studies show that ADU's can have a positive impact on housing affordability, different housing options, and the potential for life cycle housing. The General Plan Land Use element includes goals to increase the supply and type of housing available in Lehi. Allowing over-garage ADU's will allow for one more type of unit in Lehi. The qualification that the parcel must be great than a half an acre in size will limit the areas where these can go. Only allowing them on larger lots, at least to start with, may prevent the perception of overcrowding in single family residential areas.

## PLANNING DIVISION RECOMMENDATION

Planning Division staff recommends **APPROVAL** of the proposed amendment of the Development Code including DRC comments from October 14, 2020. This recommendation is based on the following findings:

1. The proposed amendment to the Lehi City Development Code is not detrimental to the public health, safety, and welfare of Lehi City.
2. The proposed Development Code amendment is in conformance with the purposes, intent, and provisions of the General Plan and its various elements.
3. The proposed Development Code amendment provides additional life-cycle housing options within existing neighborhoods.
4. Additional findings based upon information presented during the public hearing.

## PLANNING COMMISSION RECOMMENDATION

The Planning Commission reviewed the proposed Myers Development Code Amendment on November 12, 2020. The minutes and motion from this meeting are as follows:

**2.1) Public hearing and recommendation of Robert and Diane Myers' request for review of a Development Code Amendment to Section 26.020.E., allowing Accessory Dwelling Units (ADU) units above garages on parcels greater than half an acre.**

Brittney Harris, City Planner, presented information on the agenda item. She clarified they would like it above and next to the garage with language to allow to that. ADU's allowed if garage is attached to the main structure. DRC concerns with safety such as units being set back from house with access for emergency vehicles and stairway access, specifically the Fire Marshalls comments.

Commissioner Bunker asked about Power's concern being not in favor of the request. Brittney clarified it was the same as the Fire Marshalls concerns. Commissioner Ellis asked about the concerns with the fire. Brittney clarified the concerns were with the lot size and compared it to a flag lot, mainly allowing general access to emergency vehicles. Commissioner Peterson asked for clarification on whether it was only being allowed above a garage. Brittney stated it was worded to allow only above a structure. Ross stated a key point was to limit parcels half acres or greater and the reasoning was to allow for additional parking. Commissioner Nielsen clarified this was for attached structures only. Kim stated the Fire Department did not make any recommendations for verbiage.

The applicants were present. They addressed the concerns that DRC suggestions.

Commissioner Nielsen opened the public hearing.

Commissioner Nielsen closed the public hearing.

**Motion:** Commissioner Peterson moved to forward a positive recommendation of Robert and Diane Myers' request for review of a Development Code Amendment to Section 26.020.E., allowing Accessory Dwelling Units (ADU) units above garages on parcels greater than half an acre with the request that Staff work with the Fire Department to add language deemed necessary to mitigate the concerns with the DRC comments about access to those units and also any other DRC comments that are noted. Commissioner Jackson seconded.

**Vote:** Commissioner Ellis, yes; Commissioner Jackson, yes; Commissioner Peterson, yes; Commissioner Bunker, yes; Commissioner Eyre, yes; Commissioner Nielsen, yes. The motion passed unanimously.

## CITY COUNCIL MINUTES

The City Council reviewed the proposed amendment on December 8, 2020 the minutes and motion from this meeting are as follows:

**11. Consideration of Ordinance #66-2020, a Development Code Amendment to Section 26.020.E., allowing Accessory Dwelling Units (ADU) units above garages on parcels greater than half an acre.**

Robert and Diane Myers were the applicants. Mrs. Myers stated that they requested that the language say that the unit can be above or beside the garage, rather than just above the garage. Mayor Johnson stated that that could present some concerns, because based on that language it could include constructing an additional single-family home on the same lot. It's not a concern if the ADU still looks like a garage. The Mayor wants to help but they need to make sure it doesn't have any unintended consequences. Mr. Struthers stated that they could add language stating that the unit can't exceed a certain percentage of the garage space, so that it's still smaller than the garage use. There was also discussion of having this be a conditional use. Ryan Wood, City Attorney, suggested that rather than trying to draft this right now, the Council could table this item and ask the Planning staff to redraft the proposed Ordinance.

**Motion:** Councilor Koivisto moved to **table this item and direct staff to analyze possible percentages for this type of use and analyze the demand on infrastructure in the appropriate area, and also look at adding the ADU use to the side of a garage.** Councilor Southwick seconded the motion.

**Roll Call Vote:** Councilor Albrecht, Yes; Councilor Condie, Yes; Councilor Southwick, Yes; Councilor Hancock,

Yes; and Councilor Koivisto, Yes. The motion passed unanimously.