City Council Communication

Department: Community Development CASE #ZT-22-001 Applicant: City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51503	Ordinance No. _____	1st Consideration: 1/24/2022 2nd Consideration: 2/14/2022 3rd Consideration: 2/28/2022 Planning Commission: 1/11/2022

Subject/Title

Request: Public hearing on the request of the City of Council Bluffs to amend the definitions stated in Sections 15.03.220, *Dwelling, Multifamily*, 15.03.230, *Dwelling, Single-Family Detached*, and 15.03.235, *Dwelling, Single-Family Attached*, and 15.03.236, *Dwelling, Townhouse*, and to enact Chapter 15.35, *Infill Development*, to the Council Bluffs Municipal Code (Zoning Ordinance).

Background

The Community Development Department is requesting to amend Title 15: Zoning of the Council Bluffs Municipal Code (Zoning Ordinance) as follows:

- Enact Chapter 15.35: Infill Development to establish a process for constructing infill dwelling structures on very small existing lots of record that would otherwise be unbuildable due to the development standards of the base zoning district, and to establish a code chapter that may be expanded to facilitate future infill development needs;
- Amend Section 15.03.220: Dwelling, Multifamily to update the definition of a multifamily dwelling;
- Amend Section 15.03.230: Dwelling, Single-Family Detached to update the definition of a single-family detached dwelling;
- Amend Section 15.03.235: Dwelling, Single-Family Attached to update the definition of a single-family attached dwelling;
- Amend Section 15.03.236: Dwelling, Townhouse, to update the definition of a townhouse dwelling.

Enacting Chapter 15.35

The purpose of this request is to establish a mechanism by which very small existing nonconforming lots of record, which are currently undevelopable due to the development standards of the base zoning district, may be developed with infill dwelling structures. The City currently does not have a mechanism to allow this type of infill housing to be constructed. However, a number of residential lots exist around the City that are too small on which to build or rebuild any structure under existing development standards. Such lots have existed since prior to the enactment of current zoning and subdivision regulations. Because such lots are largely unbuildable due to the regulations of the base zoning district, there is the potential for a regulatory takings claim.

Most small unbuildable residential lots around the City currently contain residential structures, but if any of these structures were to be destroyed by more than 50% of its replacement cost at the time of destruction, they could not be rebuilt or repaired to their original state. Notably, existing zoning regulations would prevent any sort of new construction from occurring on such lots. Providing a process for development of infill dwelling structures via the conditional use permit process, as proposed with this text amendment, would enable such lots to be buildable, provided a proposed infill dwelling structure does not detract from the neighborhood form, function, or character.

Amending Sections 15.03.220, 15.03.230, 15.03.235, and 15.03.236
In order to enable infill housing to be developed on currently unbuildable residential lots, some of the City's housing definitions would need to be updated. Specifically, requirements for minimum floor area and minimum width for single-family attached and single-family detached homes may prevent such housing typologies from being built, depending on lot dimensions. Updating other housing typology definitions will put the City in a better position to allow a variety of housing to be developed through infill or other mechanisms.

All City Departments and local utilities received notification of the proposed text amendment. No departments or utilities expressed opposition to the request.

Discussion

1. The proposed Chapter 15.35: Infill Development is intended to establish a mechanism by which existing nonconforming residential lots of record that are so small that construction of a new residential structure would be impracticable under current zoning (Exhibit A) can be developed with infill dwelling structures. This proposed text amendment would establish and define the term "infill dwelling structure" as "a newly constructed residential building located on an existing nonconforming lot of record and that does not conform to the site development standards of the base zoning district because such standards would make the development not practicable." This term and definition would be specific to Chapter 15.35 rather than being an entirely new land use category. This text amendment would also establish a process by which an infill dwelling structure may be approved for construction.



Exhibit A. A series of nonconforming lots of record along 9th Avenue, north of the ConAgra plant, on which the base zoning regulations would make new residential development impracticable.

Currently, in order to build a residential structure in a way that does not conform to the base zoning regulations, a property must be granted a variance, otherwise the structure must conform to all site development standards for the base zoning district. Obtaining a variance is a rigid task, as an applicant must show sufficient evidence for five findings of fact that indicate hardship associated with unique conditions of the property. The Zoning Board of Adjustment cannot consider cost or design preferences when deciding whether to grant a variance. As written in the proposed Chapter 15.35 (Attachment A), infill dwelling structures would be subject to review through the Conditional Use Permit (CUP) process, as outlined in Section 15.02.090. Through this process, a property owner or developer, or their representative, would be required to submit a site-specific development

plan that shows proposed architectural renderings, setbacks, lot coverage, off-street parking, and other site development characteristics. The Zoning Board of Adjustment, which makes decisions on CUP requests, would have the ability to approve a site-specific development plan for an infill dwelling structure, provided the property could not be practicably developed under the base zoning regulations. The applicant would be responsible for providing justification for the necessity of a site-specific development plan.

Notably, the CUP process requires a public notice be sent to all owners of property within 200 feet of the subject property. As such, neighbors in the general vicinity of a proposed infill dwelling structure would have an opportunity to submit comments in support or opposition of a proposed infill dwelling structure. This process will provide ample opportunity to determine whether an infill dwelling structure would be beneficial or detrimental to neighborhood form, function, or character.

The proposed Chapter 15.35 is written in such a way that infill dwelling structures may only be built on existing nonconforming lots of record, located in zoning districts that allow residential land uses, on lots whose dimensions prohibit practicable development due to the site development standards of the base zoning district (Exhibit B). An infill dwelling structure could not be constructed on a newly created nonconforming lot, because Title 14: Subdivisions of the Council Bluffs Municipal Code prohibits the creation of nonconforming lots.

	Principal Structure Site Development Standards					
District	**Front Yard Setback**	**Side Yard Setback**	**Street Side Yard Setback**	**Rear Yard Setback**	**Maximum Height**	**Maximum Lot Coverage**
R-1	25 feet	greater of 5 feet or 10% of lot width at building setback line	15 feet	20 feet	35 feet	35%
R-1M	15 feet	greater of 5 feet or 10% of lot width at building setback line	15 feet	10 feet	35 feet	35%
R-2	25 feet	5 feet	15 feet	20 feet	35 feet	35%
R-3	20 feet	5 feet	15 feet	20 feet	60 feet	45%
R-4	20 feet	15 feet	5 feet with one foot indentation for every story above the first floor	20 feet	100 feet	60%

Exhibit B. Site development standards in base residential zoning districts.

The proposed Chapter 15.35 is also written in such a way that it can be expanded in the future to facilitate other types of infill development and enact design standards for infill development as needed.

2. Current housing typology definitions in City code require a minimum width of 20 feet and minimum floor area of 500 square feet for single-family detached and single-family attached dwellings, regulations which limit creativity in housing design throughout the City and would make these home types particularly difficult to build on lots eligible for infill dwelling structures. The definitions of the City's housing typologies have not been

updated since 1996, and modifications to the definitions would help enable the development of new housing options around the city, infill or otherwise. The Community Development Department is proposing updates to the definitions of single-family detached, single-family attached, townhome, and multifamily dwellings. Attachment B contains comparisons between existing and proposed definitions, along with photo examples of housing types around the City

3. The proposed Section 15.03.230: Dwelling, Single Family Detached (Attachment C) would eliminate the minimum width and area requirements for detached single-family homes. These requirements are generally arbitrary and not needed in order to achieve quality housing development. Virtually all new homes built in the City today exceed the minimum requirements, so the language is largely unnecessary. However, an infill dwelling structure on a very small nonconforming lot may not be able to meet these requirements. With this new definition, new creative housing designs will be possible on such lots, as well as other lots around the city.

4. The proposed Section 15.03.235: Dwelling, Single-Family Attached (Attachment C) would similarly eliminate minimum width and area requirements for attached single-family homes. Eliminating such regulations would allow for creative housing designs to make the best use of land, especially on lots eligible for infill dwelling structures.

5. The proposed Section 15.03.236: Dwelling, Townhouse (Attachment C) would update the existing definition to state that townhouses must be in a series of three or more attached dwellings, reducing overlap with the definitions of single-family attached dwelling, two-family dwellings, and multifamily dwellings. The new definition will also allow longer rows of townhouses to be constructed, potentially up to the length of an entire block face (the current definition limits townhouse structures to a maximum of four dwelling units). The new definition also clarifies that each townhouse dwelling shall have its own access to the public right-of-way, as opposed to units being accessed via shared hallways or other means. This update will allow more flexibility in the design of townhouse dwellings in the City.

6. The proposed Section 15.03.220: Dwelling, Multifamily (Attachment C), clarifies that multifamily dwellings include any residential structure containing three or more dwelling units, other than a townhouse. This change eliminates overlap between the definitions of townhouse and multifamily dwellings.

Recommendation

The Community Development Department recommends approval of the request to amend the definitions stated in Sections 15.03.220, *Dwelling, Multifamily*, 15.03.230, *Dwelling, Single-Family Detached*, and 15.03.235, *Dwelling, Single-Family Attached*, and 15.03.236, *Dwelling, Townhouse*, and to enact Chapter 15.35, *Infill Development*, to the Council Bluffs Municipal Code (Zoning Ordinance).

Public Hearing

Staff speakers for the request:
1. Brandon Siracuse, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503
2. Christopher Gibbons, Planning Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

Planning Commission Recommendation

The City Planning Commission recommended approval to amend the definitions stated in Sections 15.03.220, *Dwelling, Multifamily*, 15.03.230, *Dwelling, Single-Family Detached*, and 15.03.235, *Dwelling, Single-Family*

Attached, and 15.03.236, *Dwelling, Townhouse*, and to enact Chapter 15.35, *Infill Development*, to the Council Bluffs Municipal Code (Zoning Ordinance).

VOTE: AYE - Danielsen, Halm, Opperman, Rew, Scott, Stroebele, and VanHouten. NAY - None ABSTAIN - None ABSENT – Bass, Haner, Hutcheson, and Rater. VACANT - None Motion: Carried.

Attachments

Attachment A: Proposed Chapter 15.35: Infill Development of the Municipal Code (Zoning Ordinance)
Attachment B: Comparison Between Existing and Proposed Housing Typology Definitions
Attachment C: Proposed Chapter 15.03: Zoning Definitions of the Municipal Code (Zoning Ordinance)

Prepared by: Brandon Siracuse, Planner, Community Development Department