



POLK COUNTY

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338
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COMMUNITY DEVELOPMENT

AUSTIN MCGUIGAN
Director

MEMORANDUM

TO: Board of Commissioners
FROM: Sidney Mulder, Planning Manager
DATE: March 7, 2022
SUBJECT: Ordinance 22-01: Amendments to the Polk County Zoning Ordinance Section 127.0020(G)(5)

Consent Calendar – March 16, 2022

RECOMMENDATION:

Planning staff recommends that the Board of Commissioners adopt Ordinance 22-01 in order to amend the text to Polk County Zoning Ordinance (PCZO) Section 127.0020(G)(5).

ISSUE:

Should Polk County adopt changes to PCZO Section 127.020(G)(5) in order to eliminate a three (3) car private garage limitation for properties located within the Suburban Residential (SR) Zoning District, and outside of an adopted urban growth boundary of a city?

BACKGROUND:

On November 23, 2021, this legislative amendment was initiated by the Polk County Board of Commissioners in order to consider updating PCZO Section 127.020(G)(5). Updates to PCZO 127.020(G)(5) would allow properties that are located within the Suburban Residential zone, that are located outside of an adopted urban growth boundary (UGB) of a city, to be exempt from a current three (3) car private garage limitation.

On January 25, 2022, the Polk County Planning Commission conducted a duly noticed public hearing and recommended that the Polk County Board of Commissioners adopt the proposed amendment to the PCZO. On March 2, 2022, the Polk County Board of Commissioners conducted a duly noticed public hearing and passed a motion to approve the proposed amendments, and directed staff to prepare an Ordinance.

ALTERNATIVES:

1. Adopt Ordinance 22-01, included as Attachment A;
2. Direct staff to amend Ordinance 22-01 and return it to the Board for adoption; or
3. Other.

FISCAL IMPACTS:

Fiscal impacts to Polk County include staff time necessary to prepare an Ordinance and updated sections of the PCZO.

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**BEFORE THE BOARD OF COMMISSIONERS FOR
POLK COUNTY, OREGON**

In the matter of Legislative Amendment)
LA 21-03; amendments to the Polk County)
Zoning Ordinance Section 127.020(G)(5) to)
eliminate a three car private garage)
limitation for properties located within the)
Suburban Residential (SR) Zoning District,)
but are outside of an adopted urban growth)
boundary (UGB) of a city)

ORDINANCE NO. 22-01

WHEREAS, on November 23, 2021, Board of Commissioners initiated Legislative Amendment 21-03 to amend the Polk County Zoning Ordinance to consider a proposal to eliminate the three (3) car private garage limitation for properties that are located within the Suburban Residential (SR) Zoning District, but are outside of an adopted urban growth boundary of a city; and

WHEREAS, on January 25, 2022, the Polk County Planning Commission conducted a duly noticed public hearing for Legislative Amendment 21-03 to receive public testimony. The Planning Commission deliberated at the January 25, 2022 public hearing and recommended that the Board of Commissioners amend Polk County Zoning Ordinance Section 127.020(G)(5) to eliminate a three (3) car private garage limitation for properties that are located within the Suburban Residential (SR) Zoning District, but are outside of an adopted urban growth boundary of a city; and

WHEREAS, the Board of Commissioners conducted a duly noticed public hearing on March 2, 2022, and provided an opportunity for the submission of public testimony. The Board of Commissioners deliberated at the March 2, 2022 public hearing, and after considering all of the public testimony passed a motion to approve Legislative Amendment 21-03 as recommended by the Planning Commission and Planning Staff; now therefore

THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Sec. 1 Polk County Adopts findings in support of Polk County Planning File LA 21-03, contained in Exhibit A hereto.

Sec. 2 Polk County Adopts amendments to the Polk County Zoning Ordinance as set forth in Exhibit B hereto.

Sec. 3 That Polk County determines that an emergency related to the economic welfare of the citizens of Polk County is declared and this ordinance is effective immediately upon passage.

Dated this 16th day of March, 2022 at Dallas, Oregon.

POLK COUNTY BOARD OF COMMISSIONERS

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Lyle Mordhorst, Chair

Craig Pope, Commissioner

Jeremy Gordon, Commissioner

Approved as to Form

Morgan Smith
County Counsel

First Reading: _____

Second Reading: _____

Recording Secretary: _____

Ordinance 22-01
Findings in Support of Legislative Amendment 21-03

I. CRITERIA FOR LEGISLATIVE AMENDMENTS

A legislative amendment to the text of the Polk County Zoning Ordinance (PCZO) may be approved provided that the request is based on substantive information and factual basis to support the change. In amending the PCZO, Polk County shall demonstrate compliance with PCZO 115.060. The applicable review and decision criteria are listed in bold, followed by staff's analysis and findings.

1. AMENDING THE TEXT OF THE POLK COUNTY ZONING ORDINANCE.

- (A) **[ORS 197.612(1)] An amendment to the text of the Polk County Zoning Ordinance solely for the purpose of conforming the ordinance to new requirements in a land use statute, statewide land use planning goal or rule of the Land Conservation and Development Commission implementing the statutes or goals may be made without holding a public hearing when:**
- (1) **Polk County gives notice to the Oregon Department of Land Conservation and Development of the proposed change in the manner provided by ORS 197.610 and 197.615;**
 - (2) **The Oregon Department of Land Conservation and Development confirms in writing that the only effect of the proposed change is to conform the Polk County Zoning Ordinance to the new requirements; and**
 - (3) **The Planning Division provides notice of the proposed change to the Planning Commission.**
- (B) **An amendment to the text of the Polk County Zoning Ordinance under the provisions of subsection (A) of this section shall be considered a ministerial decision and not a land use action. Amendments under subsection (A) of this section need only be adopted on the Board of Commissioner's Consent agenda.**
- (C) **All amendments to the text of the Polk County Zoning Ordinance that are not included in subsection (A) of the section shall be processed under the procedures and criteria for a legislative comprehensive plan amendment described in Chapter 115. [PCZO 111.215]**

Staff Findings: The proposed text amendments apply to a development standard in the zoning ordinance that limits the capacity of private garages in the Suburban Residential (SR) zone for the storage and protection of not more than three (3) motor vehicles for each single-family dwelling. The proposed text amendment is not for the purpose of conforming to new requirements found in Oregon Revised Statutes (ORS), Statewide Planning Goals, or Oregon Administrative Rules (OAR). Therefore, the proposed text amendments shall be processed under the procedures and criteria for a legislative comprehensive plan amendment described in PCZO Chapter 115. Pursuant to PCZO 115.040, the Planning Commission conducts a public hearing and makes a recommendation to the Board of Commissioners. The Board of Commissioners holds a separate public hearing and makes the local decision for this matter. Staff's findings to address the criteria listed in PCZO 115.060 are provided below.

- 2. Compliance with Oregon Revised Statutes, and the statewide planning goals and related administrative rules. If an exception to one or more of the goals is necessary, Polk County shall adopt findings which address the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4; [PCZO 115.060(A)]**

Staff Findings: As discussed above, the proposed text amendment applies to a development standard that limits the capacity of private garages that can be constructed on properties within the SR zone. Currently, the development standard found in PCZO 127.020(G)(5) states:

(G) Accessory uses and structures:

- (5) Garages and parking areas for the storage and protection of the automobiles of the residents of the dwelling, including a private garage for not more than three (3) motor vehicles for each single-family dwelling on the same lot with or within the dwelling to which it is accessory and in which no garage, business or industry is conducted;

The SR zone has a limit on the capacity of a private garage allowed for the storage of motor vehicles, but does not have a limit on the number or size of residential accessory buildings for private use. Therefore, it is reasonable to qualify an accessory structure's ability to store motor vehicles based on the number and/or size of bay doors. Accessory structures can be used for a number of uses, including personal storage, and a bay door is the distinguishing feature that differentiates a garage from other types of accessory structures. Accessory structures that are entered through a man door instead of a bay door are not subject to these same limitations. Based on this reasoning, the size and number of bay doors is currently evaluated to determine whether or not an accessory structure looks and functions as a private garage. The proposed text amendments would remove this limitation for properties that are located within the SR zone that are outside of an adopted UGB of a city, thereby allowing for additional private garage capacity on these properties without having to go through a full variance process, which requires a public hearing. The proposed text amendment would allow the development standards for private garages to more closely align with the development standards for other types of accessory residential structures that are currently permitted in the SR zone.

Staff has not identified any applicable ORS, OAR, or the Statewide Planning Goals that are directly applicable to the proposed PCZO text amendment.

The application complies with this criterion.

(B) Conformance with the Comprehensive Plan (PCCP) goals, policies and intent, and any plan map amendment criteria in the plan; [PCZO 115.060(B)]

1. **Polk County will strive to permit those uses that have little or no impact on neighboring properties without requiring a land use determination or limited land use determination.** [PCCP Section 2, Element A, Goal 1.3]
2. **Polk County will maintain the area outside the urban growth boundaries with low-density living areas, open space lands, agricultural uses, and other uses compatible with the intent and purpose of the adopted urban growth policies of the city and County land use plans [PCCP Section 2, Element K, Policy 2.11 "Urban Land Development"]**

Staff Findings: As discussed above, when evaluating whether or not an accessory structure constitutes a private garage, the evaluation is based on whether or not the structure looks like a garage *and* could function like a private garage. When evaluating this criteria and the rationale for why there are limitations on the capacity of private garages and not a similar limit applied to other accessory structures in the SR zone, it is reasonable to conclude that the intent is to prevent private garages from being the predominant structure type on a parcel and to reduce the potential visual impacts of garage bay doors. Currently, a full variance application and approval is required in order to construct more than a three car garage on SR zoned properties. During the variance process, property owners often times articulate that allowing additional private garage space would actually improve the visual appeal of the neighborhood by allowing oversized or unsightly equipment, such as a trailer or riding lawn mower, to be stored indoors rather than being stored outdoors.

Staff finds that this development standard is more appropriate for properties that are located inside of an UGB because there is a potentially higher risk of visual impacts from an abundance of large garage bay doors on smaller uniform subdivision lots. These areas are generally higher density residential areas which are planned to eventually be annexed into city limits. It is not uncommon for cities to adopt development codes that pertain to reducing the visual impacts of garages. For example, some cities in Oregon have banned the design of “snout houses” for new construction, which is when the garage is located closer to the street than the remaining portion of the house. These types of development standards also imply that garages can have a negative visual impact to the surrounding neighborhood.

Properties located outside of an UGB area are typically larger in size and are not planned to be annexed into city limits in the near future. Because these properties are typically larger in size, it is common for property owners to need equipment to maintain the property, such as a tractor or riding lawn mower, which requires a bay door for accessibility and could thereby function as a garage. Staff finds that the proposed text amendments would alleviate the requirement of obtaining a land use authorization (full variance) for development that has little to no impact on neighboring properties. Obtaining a full variance would still be an option for properties within an UGB in order to construct additional private garage capacity, and through that process it would be determined whether or not there would be any significant impacts on a case-by case basis.

A property owner expressed concerns about how the proposed amendments could potentially impact their neighborhood, specifically due to increased development, noise, and traffic to the residential community. The proposed amendments are a development standard that would allow additional capacity for private garages, allowing property owners to store automobiles, tractors, lawn mowers, etc. indoors rather than outdoors. The proposed amendment would not allow any additional dwellings and would not affect the existing density of single-family dwellings. For these reasons, staff finds that the proposed amendment is not anticipated to increase noise or traffic within the neighborhoods of SR zoned properties.

3. **Polk County will support development of housing which provides variety in location, type, density and cost where compatible with development on surrounding lands and consistent with the predominately rural character of the County.** [PCCP Section 2, Element L, Policy 1.3 “Residential Development”]
4. **Comprehensive plans must be continually evaluated in terms of changing public values, and in light of unforeseen physical, environmental, social or economic factors which may occur. If planning is to play an effective role in the process to provide for the needs of people, land uses must be inventoried, needs identified and new development and facilities designed to meet their needs. All this must be done on a regular, continuing basis for planning to be effective.** [PCCP Section 5, “Plan Evaluation and Update”]

Staff Findings: Although a private garage is a not a dwelling, it is a structure that is accessory to a dwelling. Staff finds that the proposed text amendments would allow for additional variety of improvements on properties that are zoned for residential development. As discussed above, the proposed text amendment would only affect SR zoned properties that are located outside of an UGB, which are predominantly rural in character. These properties can primarily be found within unincorporated communities, such as Perrydale, Rickreall, and Buena Vista. There are also some SR zoned properties that are located just outside of the UGB for Dallas and Salem, which are typically larger in size than properties within the nearby UGB. The proposed text amendment would allow additional opportunities for property owners to construct a private garage without having to go through a timely and expensive land use process, which can be a deterrent for many property owners.

Comments were provided from six (6) different property owners who expressed support of this legislative text amendment. Some of the commenters own property within Polk County’s SR zone, outside of the UGB, and have expressed interest in constructing additional private garage space if

this text amendment is approved. Other commenters own property within Polk County's SR zone and inside of an UGB, but still expressed support of the proposed change.

(C) That the proposed change is in the public interest and will be of general public benefit; and [PCZO 115.060(C)]

Staff Findings: Currently, a lengthy and expensive land use process is required in order to construct more than a three car private garage. A full variance request requires a public hearing before the Polk County Hearings Officer. The proposed text amendment would be in the public interest and of general public benefit because it would eliminate this requirement for properties that are located outside of an UGB, and would allow the development standards for private garages to more closely align with the development standards for other types of accessory structures, such as an accessory structure that is entered through a man door.

Based on the above reasoning, staff finds that the proposed amendments to the PCZO comply with this criterion.

(D) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land. [PCZO 115.060(D)]

Staff Findings: Polk County has adopted intergovernmental agreements (IGAs) with each of the cities that have an UGB that extend outside of city limits and into Polk County's planning jurisdiction. Because the proposed text amendments would only be applicable to properties that are located outside of an UGB, staff finds that the IGA's between Polk County and each of the cities is not applicable to the proposed text amendment.

The proposed text amendment complies with this criterion.

Amendments to Polk County Zoning Ordinance Chapter 127

127.020. USE. Within any SR, Suburban Residential Zone, no building, structure or premises shall be used, arranged or designed to be used, erected, structurally altered or enlarged, except for one or more of the following uses:

(G) Accessory uses and structures:

- (5) Garages and parking areas for the storage and protection of the automobiles of the residents of the dwelling, excluding public garages. If located inside of an adopted urban growth boundary of a city, a private garage is limited to not more than three (3) motor vehicles for each single-family dwelling on the same lot with or within the dwelling to which it is accessory to. **[Amended by Ordinance 22-01]**