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/**ORDINANCE AMENDMENT REVIEW SHEET**

Amendment: C20-2015-002 Subchapter F: Carport and Garage Exemptions; ERC and TOD Zoning

Description: Consider an amendment to Title 25 of the City Code to change regulations related to Subchapter F gross floor area exemptions for garages and carports, and to clarify that Subchapter F does not apply to property zoned ERC or TOD.

Proposed Language: See attached draft ordinance.

Summary of proposed code changes:

- Will eliminate the possibility of a change in gross floor area exemption when a carport is enclosed to become a garage.
- Will clarify that Subchapter F does not apply to ERC or TOD zoning districts.

Background: Initiated by Planning Commission on April 28, 2015

Subchapter F (McMansion) regulations allow for exemptions to be taken in some situations, such that certain structures are not counted against the allowable Floor Area Ratio (FAR). Under the current code, a carport that is within ten feet of the principal structure may receive an exemption of 450 square feet; however, if this carport is enclosed, the exemption is reduced to 200 square feet. The change in exemption when a carport was enclosed was causing confusion for homeowners, who were sometimes finding themselves over the allowable FAR and thus in violation of the code, and in March of 2015 the Residential Design and Compatibility Commission wrote a memo to Council outlining the problem (see attached memo). The proposed amendment would eliminate the above-described problem by making the exemption based on the proximity of the parking structure to the principal structure, regardless of the structure type. *(See PART 2 of the draft ordinance).*

The East Riverside Corridor Regulating Plan (in which property is zoned ERC) and Transit Oriented Districts (in which property is zoned TOD) each have their own land use regulations, including compatibility regulations, that supersede regulations that apply to the rest of the city, including Subchapter F (McMansion standards). However, it was never made explicit that property included in these special area regulating plans should be exempted from Subchapter F, which has caused some confusion. In practice, staff does not apply Subchapter F standards to property in the above mentioned special area plans, but a change to the code would clarify that such is the case. *(See PART 1 of the draft ordinance).*

Staff Recommendation: Approve proposed ordinance.

Board and Commission Actions

September 16, 2015: To be reviewed by the Planning Commission.

Council Action

October 15, 2015: A public hearing has been set.

Ordinance Number: NA

City Staff: Greg Dutton

Phone: 974-3509

Email: greg.dutton@austintexas.gov

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ORDINANCE NO. _____

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AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2, SUBCHAPTER F, REGARDING RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Subsection 1.3.4 of Section 1.3 (*Exceptions*) of City Code Chapter 25-2, Subchapter F (*Residential Design and Compatibility Standards*) is amended to read as follows:

1.3.4.

This Subchapter does not apply to a property zoned Downtown mixed use (DMU) district, ~~[or]~~ Central business district (CBD), East Riverside Corridor (ERC) district, or transit oriented development (TOD) district.

PART 2. Subsection 3.3.2 of Section 3.3 (*Gross Floor Area*) of City Code Chapter 25-2, Subchapter F (*Residential Design and Compatibility Standards*) is amended to read as follows:

3.3.2.

Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter:

A. Up to 450 square feet of:

1. A detached rear parking area that is separated from the principal structure by not less than 10 feet; or
2. A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either:
 - a. detached from the principal structure; or
 - b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width. ~~[; or]~~

~~[3. A parking area that is open on two or more sides, if:~~

- ~~i. it does not have habitable space above it; and~~

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ii. ~~the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport.]~~

B. Up to 200 square feet of:

- 1. An attached parking area if it used to meet the minimum parking requirement; or
- 2. A garage that is less than 10 feet from the rear of the principal structure, provided that the garage is either:
 - a. detached from the principal structure; or
 - b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width.

C. An applicant may receive only one 450-square foot exemption per site under paragraph A. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same site under paragraph B, but only for an attached parking area used to meet minimum parking requirements.

PART 3. This ordinance takes effect on _____, 2015.

PASSED AND APPROVED

_____, 2015 §
 §
 § _____
 Steve Adler
 Mayor

APPROVED: _____
Anne L. Morgan
Interim City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

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MEMORANDUM

To: Residential Review Stakeholders

From: Greg Guernsey, Director 
Planning and Development Review Department

Date: December 17, 2013

Subject: East Riverside Corridor Regulating Plan and Subchapter F: Residential Design and Compatibility Standards

The East Riverside Corridor (ERC) Regulating Plan was adopted on May 9, 2013. In reviewing proposed residential projects in the corridor, it was determined that clarification was needed relating to LDC Chapter 25-2-492, Subchapter F: Residential Design and Compatibility Standards.

The ERC Regulating Plan includes building design standards and compatibility standards that directly conflict with Subchapter F and were specifically developed for this corridor based on extensive community input. Therefore, this memo clarifies that Subchapter F does not apply within the ERC zoning district.

If you have any questions or require additional information, please contact Erica Leak at (512) 974-2856.

cc: Erica Leak, Planning and Development Review Department
Donna Galati, Planning and Development Review Department
Daniel Word, Planning and Development Review Department

March 12, 2015



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RE: RDCC Proposed Revisions to Subchapter F. Carports/Garage Exemptions

Mayor, Mayor Pro-Tem, and City of Austin Council Members,

The Residential Design and Compatibility Commission (RDCC) has recently been presented with numerous instances of homes designed and built to circumvent the intent of the Subchapter F (i.e. McMansion) ordinance.

Background:

The McMansion ordinance, adopted in 2006 after intensive task force work, established two new measures for compatibility between single-family homes. These are the "tent" that controls the height of walls near property lines and the "bulk" or Floor Area Ratio (FAR) limits to the overall size of the home and its accessory structures.

The RDCC was established alongside the ordinance to give relief to designers when good designs ran into compliance issues with the ordinance. Lately we have seen several cases that request extra FAR to accommodate the infill of carports originally permitted as exempted areas. We are bringing this specific issue to your attention because we have determined that a code modification is needed as soon as possible to stop a builder practice that is impacting homeowners and undermining the Land Development Code.

Situation:

1. Homes are being designed, permitted and constructed with attached open carport structures that are exempt from being included in the calculation of Gross Floor Area. These plans claim the allowed 450 SF carport exemption for an open structure.
2. After the building receives its final inspection, a homeowner will decide to enclose the carport, creating a garage. This modification results in adding bulk to the building and the total Floor Area Ratio may now be exceeded in cases where the maximum allowable square footage has been consumed by the permitted design.
3. If the homeowner seeks a permit to enclose the carport it may be denied, or if work is done without a permit, code enforcement may cite the homeowner for the changes.
4. In several cases we have heard, the builder, knowing the floor area ratio has been consumed, has intentionally made circumvention of the code very convenient by sizing the front opening to exactly accommodate the installation of a double garage door. Some owners do not understand that the new home they have purchased is already maxed out per the code, and changes specifically enclosing exempted open carports, are not permitted.
5. The ordinance is designed to incentivize a 450 square foot detached garage so as not to add bulk to the home. Alternately, there is an exemption for up to 200 square feet of garage attached to the home, but since this adds bulk, it intentionally does not completely exempt a double attached garage, and the area greater than 200 square feet is counted in the total allowable FAR, again, to incentivize a detached garage.

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6. Several of these cases have been brought to the RDCC by home owners seeking to increase the allowable FAR in order to permit a garage door they may have already installed.
7. The RDCC has denied each of these cases because they violate the intent of the ordinance and do not comport with RDCC's mission.
8. One such RDCC case was appealed to the former City Council; it was denied and the RDCC ruling upheld. Some cases have also been presented to the Board of Adjustment though they fail to meet the hardship criteria. Ultimately, if these requests are supported by the RDCC, BoA or the City Council, this will result in these owners being granted greater FAR rights than their neighbors might have. Also, these actions will encourage tacit circumvention of the code.

After several months of consideration, the RDCC unanimously feels that the best and most logical remedy, to maintain the intent of the FAR limits and to ensure the code is applied equally to all property owners, is to modify the Subchapter F ordinance as follows:

Recommendation:

1. Delete section 3.3.2 A.3.(i) and (ii) in its entirety:

"3. A parking area that is open on two or more sides, if:

- i. it does not have habitable space above it; and*
- ii. the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport."*

2. Section 3.3.2 C should be modified as follows to eliminate confusion:

C. "An applicant may receive a maximum 450 square foot exemption per site for this section 3.3.2."

We strongly urge your immediate consideration of this revision; please let us know if you have any questions.

Cordially,

William Burkhardt, AIA
Chair/Residential Design and Compatibility Commission

Karen McGraw AIA
Vice Chair/Residential Design and Compatibility Commission