

ORDINANCE NO. 21-_____

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE 2015 GALVESTON LAND DEVELOPMENT REGULATIONS, BY AMENDING ‘ARTICLE 2: “USES AND SUPPLEMENTAL STANDARDS”, TO MODIFY THE REQUIREMENTS FOR ACCESSORY BUILDINGS AND STRUCTURES; PLANNING CASE NUMBER 21ZA-003; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, on March 5, 2015, City Council adopted the 2015 Galveston Land Development Regulations (LDR’s) including, “Article 2: Uses and Supplemental Standards”; and,

WHEREAS, as provided in the City staff report, attached and incorporated herein as **Exhibit 1**, the applicant, Ashley Rae Group, requests to modify Article 2: “Uses and Supplemental Standards” to modify the requirements for accessory buildings and structures. As currently regulated, accessory structures cannot be located on lots without a primary structure. The applicant wishes to allow for the construction of accessory structures on vacant lots if there is a lot under common ownership within 200 feet; and,

WHEREAS, as currently defined, accessory building means a structure that is subordinate to a principal building, and which serves a purpose that is customarily incidental to, but clearly associated with the principal use. Examples of residential accessory buildings and structures include storage sheds, gazebos, home workshops, children’s playhouses, greenhouses or other garden shelters, and detached residential garages and carports; and,

WHEREAS, the Applicant wishes to construct a pier; and,

WHEREAS, Section 2.401 of the LDR’s provide regulations for accessory buildings and structures and the Applicant’s request would require a text amendment; and,

WHEREAS, text amendments shall be based on the following criteria:

1. The proposed amendment will help to implement the City of Galveston Comprehensive Plan or if it involves a topic that is not addressed or not fully developed in the City of Galveston Comprehensive Plan. The proposed amendment will not impair implementation of the City of Galveston Comprehensive Plan and other adopted special-area and special-topic plans;
2. The proposed amendment is consistent with the stated purposes of these regulations;
3. The proposed amendment will maintain or advance the public health, safety, or general welfare;
4. The proposed amendment will help to mitigate adverse impacts of the use and development of land on the natural or built environment, including, but not limited to mobility, air quality, water quality, noise levels, storm water management, wildlife protection, and vegetation or will be neutral with respect to these issues;

5. The proposed amendment will advance the strategic objectives of the City Council such as fiscal responsibility, efficient use of infrastructure, public services, and other articulated City objectives; and,

WHEREAS, text amendments shall serve the purposes of:

1. Advancing the goals, objectives and policies of the City’s Comprehensive Plan and other adopted special-area and special-topic plans;
2. Securing adequate light, air, convenience of access, and safety from fire, flood and other danger;
3. Lessening or avoiding congestion in public ways; Promoting the public health, safety, comfort, morals, convenience and general welfare; and otherwise accomplishing the purposes of Texas Local Government Code Chapter 211, Municipal Zoning Authority; and,

WHEREAS, the Planning Commission, at its regular meeting of August 17, 2021, voted to recommend denial. The vote was unanimous; and,

WHEREAS, Staff finds that the request does not conform to the Criteria and Considerations for Text Amendment. Per Section 1.103 of the LDR, one of the purposes of the LDR is “Encouraging the most appropriate uses of land and minimizing conflicts among adjacent and nearby land uses.” Staff finds that the proposed text amendment has the potential to create conflicts among adjacent and nearby land uses. Accessory buildings are not currently permitted on lots that do not have a primary structure; and,

WHEREAS, due to non-conformance with the criteria and considerations for text amendments, Staff recommends denial of this request as submitted; and,

WHEREAS, after public notice and hearing as required by law, the City Council finds that it is in the public’s interest to amend the 2015 Galveston Land Development Regulations Article 2: “Uses and Supplemental Standards” to modify the requirements for accessory buildings and structures, as set out in Section 2 below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. In accordance with the City of Galveston 2011 Comprehensive Plan, the City Council of the City of Galveston hereby amends the 2015 Galveston Land Development Regulations by amending Article 2: Sec. 2.401” Accessory Buildings And Structures” to read and provide as follows:

SEC. 2.401 ACCESSORY BUILDINGS AND STRUCTURES

- A. **Generally.** The standards of this Section shall apply to accessory buildings and structures that are not specifically addressed elsewhere in this Article (e.g., accessory dwelling unit).
- B. **Timing of Construction.** No accessory building or structure shall be constructed unless the principal building has already been constructed or is under construction simultaneously with the accessory building. The City Manager may waive this requirement by securing assurance the primary structure will be completed within six months from the date the waiver is granted.
- C. **Location.** Accessory buildings shall be located on the same lot or parcel as the principal building or use to which they relate.
 - 1. Property owners may have/build an accessory building or structure on a vacant lot, if there is an improved lot under common ownership within 200 feet.
- D. **Encroachment into Easements.** Accessory structures shall not be located within access or utility easements unless the easement expressly allows the encroachment. A copy of the easement shall be provided to the City Manager prior to the issuance of permits or clearances for such accessory structures.
- E. **Attached Accessory Buildings.** The following standards shall apply to attached accessory buildings:
 - 1. Accessory buildings that are structurally attached to a principal building shall conform to all standards that apply to the principal building.
 - 2. Covered but otherwise unenclosed walkways shall not be considered attachments for the purposes of this subsection; however, overhangs from covered walkways shall not encroach into setbacks more than is allowed for principal buildings.
- F. **Residential Occupancy.** Residential occupancy shall not be permitted in accessory buildings that are not constructed and approved for residential use.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. All Ordinances of general and permanent nature, and amendments to such Ordinances, hereinafter adopted by the City Council, shall be drafted, so far as possible, as specific amendments of, or additions to, this Code. Amendments to this Code are intended for publication to the Galveston City Code. The Codifier is authorized pursuant to the Galveston City Code to make non-substantive changes to the Ordinance prior to publishing.

SECTION 6. In accordance with the provisions of Section 12 and 13 of Article II of The City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 7. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of The Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its Regular Meeting held on September 16, 2021, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this ____ day of _____, 2021.

Secretary for the City Council
of the City of Galveston



21ZA-003

STAFF REPORT

APPLICANT:

Ashley Rae Group

REQUEST:

Text Amendment

APPLICABLE ZONING LAND USE

REGULATIONS:

Article 2, Uses and Supplemental Standards

PROPOSED TEXT AMENDMENT:

Request for a text amendment to the Galveston Land Development Regulations, Article 2, Uses and Supplemental Standards, to modify the requirements for Accessory Buildings and Structures

EXHIBITS:

- A – Text Amendment
- B – Applicant’s Narrative

RECOMMENDATION

Denial

STAFF:

Catherine Gorman, AICP
Assistant Director/HPO
409-797-3665
cgorman@galvestontx.gov



LAND DEVELOPMENT REGULATIONS of 2015

Executive Summary

The applicant is requesting a text amendment to the Galveston Land Development Regulations (LDR), Article 2, Uses and Supplemental Standards, to modify the requirements for Accessory Buildings and Structures.

As currently regulated, accessory structures cannot be located on lots without a primary structure. The applicant is proposing to modify that requirement to allow for the construction of accessory structures on vacant lots if there is a lot under common ownership within 200 feet.

Section 2.401 of the LDR provide the following regulations for Accessory Buildings and Structures:

- A. **Generally.** The standards of this Section shall apply to accessory buildings and structures that are not specifically addressed elsewhere in this Article (e.g., accessory dwelling unit).
- B. **Timing of Construction.** No accessory building or structure shall be constructed unless the principal building has already been constructed or is under construction simultaneously with the accessory building. The City Manager may waive this requirement by securing assurance the primary structure will be completed within six months from the date the waiver is granted.
- C. **Location.** Accessory buildings shall be located on the same lot or parcel as the principal building or use to which they relate.

Please see Attachment B for the applicant’s narrative.

Criteria for Text Amendments

Per Section 13.700: Text Amendments of the Land Development Regulations:

Recommendations and decisions regarding petitions for amendments to the text of these regulations are legislative in nature, but shall be based on consideration of all the following criteria:

1. The proposed amendment will help to implement the adopted City of Galveston 2011 Comprehensive Plan or if it involves a topic that is not addressed or not fully developed in the City of Galveston 2011 Comprehensive Plan, the proposed amendment will not impair the implementation of the adopted City of Galveston 2011 Comprehensive Plan and other adopted special-area and special-topic plans when compared to the existing regulations.
2. The proposed amendment is consistent with the stated purposes of these regulations.
3. The proposed amendment will maintain or advance the public health, safety, or general welfare.
4. The proposed amendment will help to mitigate adverse impacts of the use and development of land on the natural or built environment, including, but not limited to mobility, air quality, water quality, noise levels, storm water management, wildlife protection, and vegetation or will be neutral with respect to these issues.
5. The proposed amendment will advance the strategic objectives of the City Council such as fiscal responsibility, efficient use of infrastructure, public services, and other articulated City objectives.

Per Section 13.702: Text Amendments of the Land Development Regulations:

Purposes: Text amendment proposals shall serve the following purposes:

1. Advancing the goals, objectives and policies of the City's Comprehensive Plan and other adopted special-area and special-topic plans;
2. Securing adequate light, air, convenience of access, and safety from fire, flood and other danger;
3. Lessening or avoiding congestion in public ways; Promoting the public health, safety, comfort, morals, convenience and general welfare; and Otherwise accomplishing the purposes of Texas Local Government Code Chapter 211, Municipal Zoning Authority.

Considerations for Text Amendments

Considerations: In preparation and considering proposals for text amendments, the Planning Commission and City Council shall pay reasonable regard to:

1. The Comprehensive Plan and related plans;
2. Current conditions and the character of current uses and structures in each district;
3. The most desirable use for which the land in each district is adapted;
4. The conservation of property values throughout the jurisdiction; and
5. Responsible development and growth.

Conformance with Criteria and Considerations for Text Amendments

Staff finds that the request does not conform to the Criteria and Considerations for Text Amendment. Per Section 1.103 of the LDR, one of the purposes of the LDR is “Encouraging the most appropriate uses of land and minimizing conflicts among adjacent and nearby land uses.” Staff finds that the proposed text amendment has the potential to create conflicts among adjacent and nearby land uses. Accessory buildings are not currently permitted on lots that do not have a primary structure. Accessory buildings are defined as:

Accessory Building means a structure that is subordinate to a principal building, and which serves a purpose that is customarily incidental to but clearly associated with the principal use. Examples of residential accessory buildings and structures include storage sheds, gazebos, home workshops, children’s playhouses, greenhouses or other garden shelters, and detached residential garages and carports.

Accessory buildings on lots that do not have a main structure can become nuisances. These types of structures do not have sanitation facilities and visitors to the structure do not have access to a bathroom. They can also be attractive to vagrants and trespassers.

The applicant’s narrative indicates that the concern about sanitary facilities can be addressed by requiring that there be an improved lot under common ownership within 200 feet of the vacant lot. Ms. Group also proposes gating the lot to deter trespassers. However, the applicant does not address what would happen in the case of a change of ownership.

Other Reviews

The Planning Commission reviewed at their meeting of August 17, 2021 and voted to recommend denial. The vote was unanimous.

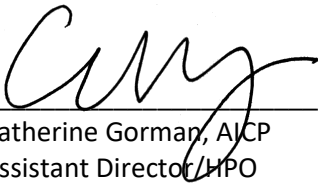
Staff Recommendation

Due to non-conformance with the criteria and considerations for text amendments, Staff recommends denial of this request as submitted. However, if the Planning Commission finds that the request conforms to the Criteria and Considerations for Text Amendments, the following additional regulations may be appropriate:

Location. Accessory buildings shall be located on the same lot or parcel as the principal building or use to which they relate.

1. An accessory building or structure may be constructed on a lot without a principal building provided there is an improved lot under common ownership within 200 feet; and
2. The vacant lot shall be fully fenced and "No Trespassing" signs shall be installed and maintained.

Respectfully Submitted,



Catherine Gorman, AICP
Assistant Director/HPO

8/30/2021

Date

Division 2.400 Supplemental Standards for Various Uses

SEC. 2.401 ACCESSORY BUILDINGS AND STRUCTURES

- A. **Generally.** The standards of this Section shall apply to accessory buildings and structures that are not specifically addressed elsewhere in this Article (e.g., accessory dwelling unit).
- B. **Timing of Construction.** No accessory building or structure shall be constructed unless the principal building has already been constructed or is under construction simultaneously with the accessory building. The City Manager may waive this requirement by securing assurance the primary structure will be completed within six months from the date the waiver is granted.
- C. **Location.** Accessory buildings shall be located on the same lot or parcel as the principal building or use to which they relate.
 - 1. Property owners may have/build an accessory building or structure on a vacant lot, if there is an improved lot under common ownership within 200 feet.
- D. **Encroachment into Easements.** Accessory structures shall not be located within access or utility easements unless the easement expressly allows the encroachment. A copy of the easement shall be provided to the City Manager prior to the issuance of permits or clearances for such accessory structures.
- E. **Attached Accessory Buildings.** The following standards shall apply to attached accessory buildings:
 - 1. Accessory buildings that are structurally attached to a principal building shall conform to all standards that apply to the principal building.
 - 2. Covered but otherwise unenclosed walkways shall not be considered attachments for the purposes of this subsection; however, overhangs from covered walkways shall not encroach into setbacks more than is allowed for principal buildings.
- F. **Residential Occupancy.** Residential occupancy shall not be permitted in accessory buildings that are not constructed and approved for residential use.

SEC. 2.402 OUTDOOR SWIMMING POOLS AND SPAS

- A. **Generally.** Outdoor swimming pools and spas are allowed as an accessory structure according to the standards of this Section and pursuant to other applicable provisions in the City Code of Ordinances and state law.
- B. **Timing and Location of Construction.** The following standards shall apply to the timing and location of swimming pool and spa construction:
 - 1. No swimming pool or spa shall be constructed unless:
 - a. The principal building has already been constructed or is under construction simultaneously;
or
 - b. The swimming pool or spa is or will be controlled by a property owners' association, and the development phasing plan allows its construction before construction on the lots to which the swimming pool or spa relates.

Application Form

Planning Commission/City Council

LDR Text Change

Detailed Narrative/Supporting Documentation:

I am requesting a text amendment under the following, in order to allow for an exception to the code: Section 2.401 Accessory Buildings and Structures.

B. Timing of Construction

1. Property owners may have/build an accessory building or structure on a vacant lot, if there is an improved lot under the same ownership within 200 feet.

In 2018, I bought two lots across the street from one another in the Robert I. Cohen neighborhood. The larger of the two lots is on the water on Offatts Bayou. The smaller lot is directly across the street, on the corner of 64th Street and Avenue L. I will be building a home on the smaller lot, with the plan to build my homestead on the waterfront lot. I will eventually use the house on the smaller lot as a guest house that my parents can stay at for extended visits, or possibly move into full time. I plan to build a boat house/dock on the waterfront lot, while I live across the street. As the city code is currently written, it does not allow for this condition.

There could be concerns with having a property with an accessory building or structure that does not have a principal building, which I would like to address.

- Sanitation: The requirement of having an improved lot within 200 feet of the lot with no primary structure will ensure that there are restroom facilities easily available to persons visiting that property.
- Trespassing: Neighbors may be concerned that properties without a principal building, but with an accessory building or structure, could be at higher risk of having unwanted trespassers in the neighborhood. I plan on gating my property.