



REQUEST FOR PLANNING COMMISSION ACTION

MEETING DATE: April 2, 2020

TITLE: ZONING ORDINANCE UPDATE – ACCESSORY DWELLING UNITS

A handwritten signature in cursive script, reading "Peter Carillo".

Director of Community Development

RECOMMENDED ACTION

- 1) Conduct the public hearing.
- 2) Adopt RESOLUTION NO. 20-3777 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IRVINE, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF A ZONE CHANGE (00822886-PZC) TO AMEND THE ZONING ORDINANCE BY PROVIDING NEW OR REVISED LAND USE/ZONING PROVISIONS RELATED TO ACCESSORY DWELLING UNITS; FILED BY THE CITY OF IRVINE COMMUNITY DEVELOPMENT DEPARTMENT

EXECUTIVE SUMMARY

At its March 5, 2020, meeting, staff requested and the Planning Commission granted a request for a continuance of this item to a date uncertain to allow for additional legal review and analysis.

Staff is proposing an update to the Zoning Ordinance to address recent changes in state legislation regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). The proposed update reflects the values of the City of Irvine emphasizing the City's commitment to a high standard of living and quality of life for all of its residents. The changes address state law, allowing the City to appropriately regulate ADUs and JADUs as we anticipate an influx of requests based on the relaxation of state standards.

Proposed amendments to the Zoning Ordinance Section 1-2-1 and Chapter 3-26 are included with redline changes in PC Attachment 1. Staff recommends that the Planning Commission recommend City Council adoption of the proposed Zoning Ordinance update.

COMMISSION / BOARD / COMMITTEE RECOMMENDATION

None.

ANALYSIS

Background

In 2019, the state Legislature amended Government Code Section 65852.2 related to ADUs as a result of passing several new bills, which took effect January 1, 2020. Those bills were Senate Bill 13 (Wieckowski), Assembly Bill 68 (Ting), Assembly Bill 881 (Bloom), Assembly Bill 587 (Friedman), Assembly Bill 670 (Friedman), and Assembly Bill 671 (Friedman). The new state regulations amend existing ADU law and are intended to facilitate the development of more ADUs and JADUs and reduce the perceived barriers to the approval of ADUs occurring on single-family residential properties and multi-family residential properties (Attachment 2). An ADU is an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on the same parcel with a proposed or existing primary residence. The ADU shall include permanent provisions for living, sleeping, eating, cooking and bathing. A JADU is an attached dwelling unit located within a single-family dwelling or accessory structure. It shall include permanent provisions for living, sleeping, eating, cooking, bathing, and sanitation facilities.

The City regulates ADUs through Chapter 3-26, Accessory Dwelling Standards, of the Zoning Ordinance. In 2018, the City amended its ADU standards to comply with then newly amended state law. This new legislation further amends the Government Code provisions relating to ADUs and how local jurisdictions may regulate ADUs and, in turn requires the City's Zoning Ordinance to be amended again.

Analysis

The purpose of the proposed amendments is to make the City's standards responsive to state law and, where allowed by state law and as a charter city, provide the City with authority to regulate additional aspects of ADUs and JADUs related to issues of municipal concern, such as ensuring humane housing for residents and ensuring consistency with the aesthetics of the neighborhood.

The City of Irvine believes the revisions to the statutes regarding the development of an ADU and JADU violate California Constitution provisions that allow charter cities to adopt their own procedures for matters that are considered "municipal affairs". Areas that are traditionally considered municipal affairs include local land use, zoning, aesthetics, and public safety. It is incumbent on charter cities like the City of Irvine to protect the character of neighborhoods and ensure they remain residential rather than commercial areas, to protect the dignity of residents living in the City by ensuring they

have adequate and humane shelter, and regulate traffic and parking impacts to protect residents' quality of life. The City of Irvine is dedicated to providing a wide spectrum of humane housing options that are free of public health and safety risks. As such, the ADU ordinance has been updated and, where appropriate, provisions are retained to reflect the City's commitment to the high quality of life for its residents.

The following table highlights the more significant changes that will be updated from existing requirements in the Zoning Code:

Provision	Existing City Requirement	Proposed Zoning Code Revisions
Allowable ADU per parcel	One	Two for single family residential designated parcels, up to two detached for multi-family residential designated parcels with restrictions
Minimum lot size for an ADU	5,000 square feet	No minimum
Provisions to mitigate traffic flow impacts	none	Near deficient intersections ADUs and JADUS are prohibited
Parking	Requires like-for-like replacement parking for ADU garage conversions at an existing single family detached residence.	Requires on-site replacement parking for ADU garage conversions at an existing single family detached residence. Garage conversions for multi-family residential is not permitted.
Approval	Requires approval or denial of an ADU building permit within 120 days after receiving a complete application	Ministerial approval or denial of an ADU building permit within 60 days after receiving a complete application
Fees	Applicable impact fees	No impact fees for ADUs smaller than 750 square feet, prorated fees of 25% or less for ADUs larger than 750 square feet

Occupancy	Requires legal owner to occupy either the primary unit or the ADU	Expanded to require owner occupancy of the associated primary unit or JADU.
Side and Rear Setbacks	Requires side and rear setbacks identified in the zoning code	Allows for a four foot setback from side and rear property lines or the building to building setbacks required by the California Building Code, whichever is more restrictive.
Maximum Height for Detached Unit	15.5 feet or the principal unit height, whichever is less	Allows for a maximum of 16 feet in height
Maximum Square Footage Detached ADU (Single Family and Multi Family)	ADUs were not permitted for multi-family residential under the previous law. ADU square footage for single family residential was based on lot size	1,200 square feet
Maximum Square Footage JADU	JADU not allowed	500 square feet
Maximum Square Footage Attached ADU (Single Family)	Limited to no more than 50% of the livable floor area (excluded garage and any accessory structure)	No more than 50% of the floor area of the existing or proposed primary dwelling unit, up to 1,200 square feet
Maximum Square Footage Conversion ADU (Single Family)	Limited to no more than 50% of the livable floor area (excluded garage and any accessory structure).	850 square feet for studio or 1 bedroom, 1,000 square feet for a 2 bedroom
Maximum Square Footage Attached ADU (Multi Family)	ADUs were not permitted for multi-family residential under the previous law	Attached or interior conversion ADUs will not be permitted in multi-family residential because the City does not support non-livable or non-habitable areas used as a residential unit.

Addressing	A separate address was not required	A separate address is required for all ADUs and JADUs. If possible, the address should be a separate numerical address from the primary unit. If that is not possible, the ADUs and JADUs will have a unit number assigned to it.
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In addition, the proposed code update replaces, modifies and adds definitions in Zoning Ordinance Chapter 3-26 and Section 1-2-1 associated with ADUs to be consistent with and align with the state’s ADU definitions and includes additional related definitions to address the City’s unique ownership and development scenarios as follows:

- a. Modify definition for “Residential, Accessory Dwelling Unit” as an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family or multi-family dwelling is or will be situated. An accessory dwelling unit also includes the following:
 - 1. An efficiency unit (defined below)
 - 2. A manufactured home, as defined in Section 18007 of the Health and Safety Code
- b. Modify definition of “Accessory Structure” as a non-habitable structure detached from the main building, on the same parcel, which is incidental and subordinate to the main building or to the use of land. Examples of accessory structures include, but are not limited to, a garden shed, a storage shed, and a child’s playhouse. Accessory structures are typically not served by utilities such as water, sewer, and natural gas. See also “cabana,” “patio/gazebo, solid covered,” and “pool house.” An “accessory dwelling unit” is considered a separate land use.
- c. Add definition for “Detached” as not attached.

- d. Add definition for “Car Share Vehicle” as part of an established short-term vehicle rental program intended where one or more car share vehicles stay in a fixed pick-up and drop-off location and available to the public to use on reservation or as needed basis. The use of rideshare services such as Uber and Lyft do not qualify as a car share service and the vehicles used by rideshare do not qualify as car share vehicles. This term is currently defined in the parking section of the ADU standards, for clarity it is being moved to the definitions section of the code.
- e. Add new definition for “Efficiency Unit” as defined in Section 17958.1 of the Health and Safety Code.

An efficiency unit consists of a living room of not less than 220 square feet of floor area. An additional 100 square feet of floor area shall be provided for each occupant of such unit in excess of two. The unit shall also provide the following: a separate closet, a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. The unit shall also have light and ventilation conforming to the California Building Code. Additionally, a separate bathroom containing a water closet, lavatory and bathtub or shower shall also be provided.

- f. Add new definition for “Residential, Junior Accessory Dwelling Unit (JADU)” as a unit that is no more than 500 square feet and is typically a bedroom in a home that has an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities including a sink, and a private bathroom. JADUs are permitted to expand by 150 square feet beyond the 500 square foot maximum only if the expansion is used for the building of ingress or egress.
- g. Add new definition for “Living Area” as the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
- h. Add new definition for “Local agency” as a city, county, or city and county, whether general law or chartered.
- i. Add new definition for “Neighborhood” as defined in Government Code Section 65589.5.

- j. Modify definition for “Nonconforming Use” as the lawfully established use of a building structure or land that does not conform to the use regulations of this zoning ordinance for the district in which it is located, either at the effective date of this zoning ordinance or as a result of subsequent amendments to this zoning ordinance. For purposes of an accessory dwelling unit see also Sec 3-26-8 for “Nonconforming zoning condition” definition.
- k. Add new definition for “Passageway” as a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- l. Add new definition for “Proposed dwelling” as a dwelling unit that is the subject of a permit application and that meets the requirement for permitting.
- m. Modify definition for “Pool House” as a one-story structure enclosed on three sides or less, that is detached from the main building. The roof of the pool house must be of a solid construction so as to protect the area below the structure from the elements. See also “accessory structure”, “cabana”, and “accessory dwelling unit”.
- n. Add new definition for “Public Transit” as a location, including but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. The fixed route service must provide transit service at 15-minute intervals or better during a.m. and p.m. peak commute periods. This definition is being added based on the state’s inclusion of a definition in recent legislation.
- o. Modify definition for “Residential, Single Family” as a single family detached residential unit located on a property of which the owner(s) of the single family detached residential unit is/are the same as the owner(s) of the property on which the unit is located.
- p. Add new definition for “Residential, Multi-Family” as 1) an attached residential unit or 2) a detached or attached residential unit located on a property owned by one or more individuals who do not own the residential unit. Examples of multi-family residential include, but are not limited to the following:
 - Single family detached structure located on an individual lot that is owned by one or more individuals who do not also own the single family detached structure.

- Single family detached structure located on a shared lot that is owned by one or more individuals who do not also own the single family detached structure.
 - Single family attached structure located on an individual lot owned by the same owner(s) as the single family attached residential unit on the lot.
 - Single family attached structure located on an individual lot owned by one or more individuals who do not also own the single family attached structure.
 - Single family attached structure located on a shared lot owned by one or more individuals who do not also own the single family attached structure.
 - Multi-family attached structure located on a shared lot owned by one or more individuals who do not also own the multi-family attached structure.
 - Multi-family attached structure located on an individual lot owned by one or more individuals who do not also own the multi-family attached structure.
- q. Modify the definition of “tandem space” to be more consistent with Government Code Section 65852.2

Homeowners interested in adding an ADU to their property will need to provide a title report to identify if the property is single family or multi-family. This will facilitate the permitting process by ensuring that the property owner is aware of the maximum ADU quantity permitted, as well as the specific development standards. The homeowner will also be provided a standardized copy of the covenant agreement indicating deed restrictions that must be recorded prior to the issuance of a building permit, including the ADU and JADU may not be sold or owned separately from the primary dwelling unit; the ADU and JADU shall not be rented for a period less than thirty consecutive days; and the ADU and JADU or primary dwelling unit associated with the ADU and/or JADU shall be owner occupied. The City will have sixty days to complete the review of an ADU application at which time, the City can approve or deny the application.

Following consideration of the Zone Change by the Planning Commission, the City Council is the final approval body for this item.

ENVIRONMENTAL REVIEW

Pursuant to Section 4 of the City of Irvine California Environmental Quality Act (CEQA) procedures and Article 5 of the CEQA Guidelines, it has been determined that the proposed project is covered by CEQA Guidelines Section 15282(h), which states that the adoption of an ordinance regarding second units in a single-family or mutli-family zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2

of the Government Code” are (statutory) exempt from the requirements of CEQA and the General Rule Exemption [Section 15061(b)(3)], for projects where it can be seen with certainty that the activity in question will have no significant effect on the environment. All other proposed updates are also exempt from CEQA under this same General Rule Exemption.

ALTERNATIVES CONSIDERED

The proposed revisions represent clarifications of previous statutes and new provisions responsive to new state law. The Planning Commission may propose to change, alter, or decline to recommend any of the proposed revisions. However, not adopting revisions proposed in response to state law, such as the recommended provisions for ADUs, will cause the regulation of ADUs and JADUs in the City of Irvine to default to existing, newly enacted state law.

PUBLIC OUTREACH

Staff has been fielding ADU public inquiries since fall 2019. In addition, staff is collaborating with the Public Information Office to create an ADU informational brochure. The brochure will be available at the Planning and Zoning counter upon adoption of the proposed amendments.

The Planning Commission continued the item at its March 5, 2020 meeting. On March 18, 2020, a public notice was published in the Orange County Register for the April 2, 2020, Planning Commission meeting. Public notices were also posted at designated City bulletin boards. As of the writing of this report, staff has not received any comments.

FINANCIAL IMPACT

None.

REPORT PREPARED BY: Marika Poynter, Principal Planner

PC ATTACHMENTS

1. Zoning Ordinance Revisions, Strike-out/Underline Version
2. State Department of Housing and Community Development Local Agency ADU Memorandum (January 10, 2020)
3. Planning Commission Resolution 20-3777, Zone Change

cc: Kam Chitalia, Chief Building Official
Steve Holtz, Manager of Neighborhood Services
Claudia Landeras-Sobaih, Principal Plan Check Engineer

Planning Commission Meeting

April 2, 2020

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