



# REQUEST FOR PLANNING COMMISSION ACTION

**MEETING DATE:** May 7, 2020

**TITLE:** ZONING ORDINANCE UPDATE – ACCESSORY DWELLING UNITS

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 April 2, 2020, meeting, the Planning Commission considered this item and continued it to the May 7, 2020, meeting, to allow staff time to review and incorporate additional Commission recommendations into the Zoning Ordinance update.

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

Detailed information regarding the history of the 2019 legislation related to Accessory Dwelling Units is included in the April 2, 2020, Planning Commission report (PC Attachment 2). The specific state regulations are included as PC Attachment 3.

### 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.

As a charter city, the City of Irvine maintains the authority to regulate certain aspects of ADU and JADU standards 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 that 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 to 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.

At its April 2, 2020 meeting, the Planning Commission requested staff to look into the following issues:

1. Setbacks

The Planning Commission expressed interest in maintaining privacy and neighborhood integrity by requiring the side and rear setbacks to be consistent with those required by the underlying zoning.

Proposed action: The existing Zoning Ordinance, as codified today, requires side and rear yard setbacks be consistent with those required for the underlying zoning of a property. The proposed draft Zoning Ordinance will retain this requirement for ADUs.

## 2. Height/Number of Stories

The Planning Commission expressed concern with the maximum height of accessory dwelling units.

Proposed action: The existing Zoning Ordinance, as codified today, limits the building height for all detached accessory dwelling units to 15.5 feet in height regardless of the height of the primary structure. The draft Zoning Ordinance sets the maximum height to 16 feet, consistent with the state law, but establishes a limitation by prohibiting detached accessory dwelling units from having a loft, mezzanine, or second story.

## 3. Appearance

The Planning Commission requested the ordinance include language to ensure all proposed accessory dwelling units are consistent architecturally with the primary unit and the surrounding neighborhood.

Proposed action: The City's existing zoning, as codified today, includes ADU design standards that ensure compatibility with the primary unit and the surrounding neighborhood. Furthermore, the existing design standards address the overall privacy concerns raised by the Planning Commission. The draft Zoning Ordinance retains the design standards in the existing ordinance as follows:

- a. Exterior stairs and doors shall not be visible from any public right-of-way, excluding alleys;
- b. The design, color, material, pitch, and texture of the roof shall be substantially the same as the principal dwelling unit;
- c. The color, material, and texture of all building walls, window types, and door and window trims shall be similar to, and compatible with the principal dwelling unit;
- d. The architectural style of the Accessory Dwelling Unit and Junior Accessory Dwelling Unit shall be the same or similar to the principal dwelling unit, or, if no architectural style can be identified, the design of Accessory Dwelling Unit shall be architecturally compatible with the principal dwelling unit, and shall maintain the scale and appearance of a single family dwelling and be in harmony with the neighborhood;
- e. All windows and doors for the Accessory Dwelling Unit shall be designed to minimize the privacy impacts onto the adjacent properties including, but not limited to, window placement above eye level and/or horizontally off-set to avoid direct alignment with the adjacent property's windows, and windows and doors located toward the existing on-site residence;

- f. When a garage, carport, or covered parking structure that is visible from any public right-of-way is converted or demolished in conjunction with the construction of an Accessory Dwelling Unit, the design shall incorporate features to match the scale, materials, and landscaping of the original house that preserves the existing streetscape and character of the surrounding neighborhood;
- g. Adequate access by emergency services to both the primary residence and Accessory Dwelling Unit shall be provided;
- h. Enhanced landscaping and strategically located open space shall be provided to ensure privacy and screening of adjacent properties;
- i. The Accessory Dwelling Unit shall not cause a substantial adverse change as defined in California Public Resources Code Section 5020.1 on any real property that is listed in the National Register of Historic Places and/or California Register of Historic Places.

#### 4. Access

The Planning Commission requested staff explore the allowances for internal access between the primary unit and the attached accessory dwelling unit, converted accessory dwelling unit, and junior accessory dwelling unit.

Proposed action: The California Building Code does not prohibit an internal access point between the primary unit and the attached accessory dwelling unit, converted accessory dwelling unit, and junior accessory dwelling unit. The California Building Code does require separation between the independent units through the use of fire walls and fire rated doors. The existing Zoning Ordinance requires compliance with the latest building code requirements. Staff does not propose additional language to impose further limitations. Building Code requirements as well as specific requirements for ADUs compared to simple room additions help to address the concerns raised regarding the overexpansion of existing dwelling units. There is no precedent or regulation that specifically allows the City to prohibit the internal access between the primary unit and the accessory dwelling unit. Additionally many of the multi-generational housing that currently exists or is available for sale in Irvine has both internal and exterior ingress/egress. All accessory dwelling units or junior accessory dwelling units are required to construct permanent facilities for living, sleeping, eating, cooking, bathing, and sanitation facilities. .

The following table highlights the more significant changes that will be updated from existing requirements in the Zoning Code. The table reflects how the proposed zoning ordinance addresses the issues identified by the Planning Commission.

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. There must be legal ownership of either the primary unit or the ADU or the JADU.

Maximum Height for Unit	15.5 feet or the principal unit height, whichever is less	16 feet for detached ADUs (lofts, mezzanine, or the like, and second story prohibited); height of the principal unit for attached and converted ADUs and JADUs
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	For public safety, 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 separate unit number assigned to it.

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 and JADU definitions and includes additional related definitions to address the City's unique ownership and development scenarios. The definitions are outlined in detail in the PC staff report from April 2, 2020 (PC Attachment 2).

In parallel with the above recommended changes to the Zoning Ordinance, staff is also developing a modified process for review and approval. Homeowners interested in adding an ADU and/or JADU to their property will need to provide a title report to identify and confirm the underlying ownership to determine 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 that apply. 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. 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. Deed restrictions will include:

- The ADU or JADU shall not be sold or owned separately from the primary dwelling unit;
- The ADU or JADU shall not be rented for a period less than thirty consecutive days;
- The ADU or JADU or primary dwelling unit associated with the ADU and or JADU shall be owner occupied.

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 April 2, 2020, meeting. On February 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. April 2, 2020 Planning Commission Report
3. State Department of Housing and Community Development Local Agency ADU Memorandum (January 10, 2020)
4. Planning Commission Resolution 20-3777, Zone Change

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