



CITY OF FULLERTON

Community & Economic Development Department

Item No. 5
February 19, 2020
7:30 p.m.
Public Hearing

**TO: Chair Carvalho and
Members of the Planning Commission**

APPLICATION

Amendments to Title 15 of the Fullerton Municipal Code pertaining to Accessory Dwelling Units (LRP-2019-0083)

APPLICANT

City of Fullerton

AUTHORIZATION

The Planning Commission adopted Resolution No. 2019-31 on December 11, 2019, stating its intention to consider amendments to the Fullerton Municipal Code (FMC) to address new state law provisions pertaining to accessory dwelling units and junior accessory dwelling units.

FMC Sections 15.72.040 and 15.72.050 authorize the Planning Commission to hold a public hearing to consider an amendment to FMC Title 15 and to determine whether the proposed amendment is consistent with the objectives of the Zoning Ordinance and the General Plan. Planning Commission action will be a recommendation to the City Council.

PUBLIC OUTREACH

On February 5, 2020, notification was posted on the City's website and at the Maintenance Services Department, Main Library, Museum Center and City Hall on the Public Notice Boards. In addition, notice was published in the Fullerton Tribune on the same date.

BACKGROUND / HISTORY

The State Legislature first adopted regulations for second-family residential units in 1982. At that time, the legislature identified a "tremendous unmet need" for new housing in California, declared that "existing housing resources are vastly underutilized," and made findings that second-family

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residential units were: (1) a useful tool to provide a cost-effective means of serving development through the use of existing infrastructure, (2) provides a relatively affordable housing option; (3) provides a means for purchasers of existing homes to meet payments of high interest loans; and (4) provides security for homeowners who fear both criminal intrusion and personal accidents while alone.

In its first authorization to create second units in single-family and multifamily residential zones, the State allowed cities to adopt local ordinances which required a conditional use permit as well as other development standards regarding size, setbacks, parking, design and occupancy prior to allowing for the construction of a second dwelling unit.

Subsequent amendments to the original law were made by the State in 1986, 1990, 1994 and 2003 regarding development standards, maximum size of the second dwelling unit, required parking and provisions for ministerial approval of certain types of accessory dwelling units.

In 2016, Governor Brown signed three pieces of legislation that substantially revised regulations pertaining to second dwelling units statewide. A summary of the provisions of each piece of legislation is provided below:

- SB 1069:
 - Municipal code references to “secondary dwelling unit” be replaced with the term “accessory dwelling unit.”
 - Local ordinances must state that ADU applications will be approved or disapproved within 120 days after a complete application is received.
 - ADUs up to 1,200 square feet or up to 50 percent of the living area in an existing dwelling may be permitted.
 - Cities cannot require more than one parking space per bedroom.
 - Cities must allow off-street parking requirements to be met through tandem parking or within required setback areas (as well as through covered parking or extended driveways).
 - Cities must waive parking requirements for ADUs that are entirely contained within existing structures, or that are within one-half mile of public transit, one block of a car-share vehicle, or in a historic district.
 - Fire sprinklers can only be required for the ADU if they would be required for an equivalent addition to the primary residence.
 - Additional streamlined requirements (relating to setbacks and other development standards) apply to ADUs that are contained entirely within existing structures.
 - Local agencies may not collect water and sewer connection fees for ADUs that do not add habitable floor space, and must structure fees for other types of ADUs so they are proportional to the impacts on service demand.
- AB 2299 featured many of the same provisions as SB 1069, including prohibitions on requiring additional parking for ADUs in certain circumstances.
- AB 2604 created a new class of ADUs called junior accessory dwelling units that are entirely contained within the footprint of existing homes. Junior ADUs must incorporate an existing bedroom, include an efficiency kitchen, have a door leading directly to the outside of the house, and be less than 500 square feet. The new law requires that Junior ADUs be permitted without an off-street parking space and without utility connection charges.

In October 2019, the Governor signed several pieces of legislation which further changed the way cities regulate accessory dwelling units. The five bills, which became law on January 1, 2020 touch on various components of either accessory dwelling units (ADUs) or junior accessory dwelling units (JADUs), or both. A summary of each piece of legislation is provided below.

- AB 68, AB 881, and SB 13 amended Government Code sections 65852.2 and 65852.22 to expand the number of situations in which ADUs and JADUs must be allowed, and limited the fees and regulations that cities may impose on ADUs.
- SB 13 added Health & Safety Code Section 17980.12 to limit a city's ability to engage in code enforcement upon ADUs.
- AB 587 added Government Code 65852.26 to enable cities to allow certain ADUs (e.g., those built by Habitat for Humanity), to be separately sold.
- AB 670, amended Civil Code § 4751 to require common interest developments (e.g. home owners associations) to allow most ADUs and JADUs despite any codes, covenants and restrictions ("CC&Rs") or other instrument stating otherwise.

The intent of these most recent pieces of legislation is to continue to advance the state's goals to provide housing to accommodate California's growing population and to meet current and future needs for affordable and special needs housing.

ANALYSIS

The City of Fullerton has continually amended the Fullerton Municipal Code (FMC) to remain in compliance with state law regarding second dwelling units since the City adopted its original Ordinance in 1984. Subsequent amendments to the FMC have occurred in 1989, 1997, 2004, 2009, 2013, and 2017. Amending the Municipal Code to remain consistent with state law is not only a best practice for local municipalities, but also allows the City to retain local control over aspects of ADU and JADU regulations that would otherwise default back to State law.

Similar to previous amendments, the proposed amendments to Title 15 of the FMC retain any existing provisions that remain compliant with the new state laws and amend only the sections where necessary to conform to current state law. However, to facilitate ease of use and understanding, staff has reorganized the provisions of 15.17.100 by dwelling type and standardized the order of the regulations. Consistent with state law, the dwelling types and their application are as follows:

Accessory Dwelling Unit – Existing Building or Structure

ADUs constructed (1) within the existing space of a dwelling or structure, including a garage, (2) as an added story on top of an existing dwelling or structure, or (3) in the same location and to the same dimensions as an existing structure.

Accessory Dwelling Units – New Construction

ADUs (1) attached to an existing or proposed dwelling, including an attached garage, (2) detached from an existing or proposed dwelling whether or not the ADU is freestanding or attached to a detached accessory structure, or (3) for any construction not covered by the the provisions for ADU – Existing Building or Structure or JADU, including but not limited to, the expansion of an the existing building or structure by more than 150 sq. ft.

Junior Accessory Dwelling Units

JADUs constructed within the walls of an existing or proposed single-family residence, excluding any attached or detached garage.

Attachment 2 provides a summary comparison, by unit type, of the current regulation and the proposed regulation.

CEQA DETERMINATION

The Accessory Dwelling Unit ordinance amendment qualifies for a Statutory Exemption from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15282 (h). The Section establishes a specific exemption for the adoption of an ordinance regarding second units in a single-family or multifamily residential zone to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code.

REQUIRED FINDINGS

Pursuant to Fullerton Municipal Code Section 15.72.050, in order to recommend approval of the Zoning Ordinance Amendment, the Planning Commission shall first make the findings listed below. The information and analysis presented in the Staff Report and the following facts and findings form the basis for the staff recommendation.

Finding: That the proposed Zoning Ordinance amendment is consistent with the objectives of the Zoning Ordinance and General Plan.

Fact: The amendment is authorized by FMC Chapter 15.72. The City Council adopted a Resolution of Intention on December 11, 2019, to update the Municipal Code to comply with new State laws pertaining to accessory dwelling units and junior accessory dwelling units.

Fact: The amendment supports the following Overarching Policy of the General Plan: Overarching Policy OAP1: Comply with State and Federal Laws and regulations while maintaining local control in decision making.

Fact: The amendment supports the following Fullerton Plan policy: Policy Action 3.4: Facilitate Infill Development – including encouragement of housing affordable to very-low, low- and moderate-income households through a menu of regulatory incentives.

Finding: That the proposed Zoning Ordinance promotes the public health, safety and welfare of the community.

Fact: The amendment provides incentives for creation of new housing units to address existing demand for housing, including rental housing for lower income households.

Fact: The amendment provides for new infill housing in the form of accessory dwelling units and junior accessory dwelling units within existing neighborhoods, which can result in the reduction of urban sprawl and the environmental effects of long distance commuting, by providing opportunities for new housing in closer proximity to job centers.

RECOMMENDED ACTION

Adopt Planning Commission Resolution Number PC-2020-20 amending Chapter 15.17, entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FULLERTON, CALIFORNIA, RECOMMENDING THAT THE FULLERTON CITY COUNCIL AMEND MUNICIPAL CODE CHAPTER 15.17 TO UPDATE THE ZONING ORDINANCE PROVISIONS PERTAINING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS IN SINGLE AND MULTIPLE FAMILY ZONES AND ASSOCIATED DEFINITIONS IN 15.04 IN ACCORDANCE WITH RECENT LEGISLATION AMENDING THE CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22.

DATED: February 14, 2020

Prepared by:



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Assistant Planner

Reviewed and approved for Agenda by:



Matt Foulkes, Director
Community and Economic Development
Department

Attachments to Report:

1. Draft Planning Commission Resolution
2. ADU Comparison Table
3. Notice of Intent Resolution No. 2019-31
4. Hearing Notice