

CITY OF ESCONDIDO

Planning Commission and Staff Seating



A. CALL TO ORDER: 7:00 p.m.

B. FLAG SALUTE

C. ROLL CALL:

D. MINUTES: 02/28/17

The Brown Act provides an opportunity for members of the public to directly address the Planning Commission on any item of interest to the public before or during the Planning Commission's consideration of the item. If you wish to speak regarding an agenda item, please fill out a speaker's slip and give it to the minutes clerk who will forward it to the chairman.

Electronic Media: Electronic media which members of the public wish to be used during any public comment period should be submitted to the Planning Division at least 24 hours prior to the meeting at which it is to be shown.

The electronic media will be subject to a virus scan and must be compatible with the City's existing system. The media must be labeled with the name of the speaker, the comment period during which the media is to be played and contact information for the person presenting the media.

The time necessary to present any electronic media is considered part of the maximum time limit provided to speakers. City staff will queue the electronic information when the public member is called upon to speak. Materials shown to the Commission during the meeting are part of the public record and may be retained by the City.

The City of Escondido is not responsible for the content of any material presented, and the presentation and content of electronic media shall be subject to the same responsibilities regarding decorum and presentation as are applicable to live presentations.

If you wish to speak concerning an item not on the agenda, you may do so under "Oral Communications" which is listed at the beginning and end of the agenda. All persons addressing the Planning Commission are asked to state their names for the public record.

Availability of supplemental materials after agenda posting: any supplemental writings or documents provided to the Planning Commission regarding any item on this agenda will be made available for public inspection in the Planning Division located at 201 N. Broadway during normal business hours, or in the Council Chambers while the meeting is in session.

The City of Escondido recognizes its obligation to provide equal access to public services for individuals with disabilities. Please contact the A.D.A. Coordinator, (760) 839-4643 with any requests for reasonable accommodation at least 24 hours prior to the meeting.

**The Planning Division is the coordinating division for the Planning Commission.
For information, call (760) 839-4671.**

E. WRITTEN COMMUNICATIONS:

"Under State law, all items under Written Communications can have no action, and will be referred to the staff for administrative action or scheduled on a subsequent agenda."

1. Future Neighborhood Meetings

F. ORAL COMMUNICATIONS:

"Under State law, all items under Oral Communications can have no action, and may be referred to the staff for administrative action or scheduled on a subsequent agenda."

This is the opportunity for members of the public to address the Commission on any item of business within the jurisdiction of the Commission.

G. PUBLIC HEARINGS:

Please try to limit your testimony to 2-5 minutes.

1. ZONING CODE AMENDMENT – AZ 16-0007 (Continued from 02/14/17):

REQUEST: Amendments to the Escondido Zoning Code (EJC) to bring City regulations of second dwelling units (now called accessory dwelling units) into compliance with recent State law changes. A majority of the proposed changes are focused to Article 70 of the Zoning Code, where specified provisions regarding accessory dwelling units are provided. However, additional EJC amendments are necessary to help maintain internal consistency between various code sections. No development project is proposed.

PROPERTY SIZE AND LOCATION: Citywide

ENVIRONMENTAL STATUS: Exemption under the General Rule, CEQA Section 15061(b)(3).

APPLICANT: City of Escondido

STAFF RECOMMENDATION: Approval

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

H. CURRENT BUSINESS:

Note: Current Business items are those which under state law and local ordinances do not require either public notice or public hearings. Public comments will be limited to a maximum time of three minutes per person.

I. ORAL COMMUNICATIONS:

"Under State law, all items under Oral Communications can have no action and may be referred to staff for administrative action or scheduled on a subsequent agenda."

This is the opportunity for members of the public to address the Commission on any item of business within the jurisdiction of the Commission.

J. PLANNING COMMISSIONERS

K. ADJOURNMENT

CITY OF ESCONDIDO

**MINUTES OF THE REGULAR MEETING OF THE
ESCONDIDO PLANNING COMMISSION**

February 28, 2017

The meeting of the Escondido Planning Commission Meeting was called to order at 7:00 p.m. by Chairman Weber in the City Council Chambers, 201 North Broadway, Escondido, California.

Commissioners present: Jeffery Weber, Chairman; Stan Weiler, Commissioner; James Spann, Commissioner; Michael Cohen, Commissioner; Joe Garcia, Commissioner; Don Romo, Commissioner; and James McNair, Commissioner.

Commissioners absent: None.

Staff present: Bill Martin, Director of Community Development; Rozanne Cherry, Principal Planner; Mike Strong, Assistant Planning Director; Jay Paul, Associate Planner; Homi Namdari, Assistant City Engineer; Adam Phillips, Deputy City Attorney; and Ty Paulson, Minutes Clerk.

MINUTES:

Moved by Commissioner Spann, seconded by Commissioner Weiler, to approve the minutes of the February 14, 2017, meeting. Motion carried. Ayes: Weiler, Cohen, Romo, Garcia, McNair, and Spann. Noes: None. Abstained: Weber. (6-0-1)

SELECTION OF CHAIR & VICE-CHAIR

ACTION:

Moved by Commissioner Weiler, seconded by Commissioner Garcia, to nominate Commissioner Weber as Chairman. Motion carried. Ayes: Weiler, Cohen, Romo, Garcia, McNair, and Spann. Noes: None. Abstained: Weber. (6-0-1)

ACTION:

Moved by Commissioner Weiler, seconded by Commissioner Cohen, to nominate Commissioner Romo to Vice-chairman. Motion carried. Ayes: Weber, Weiler, Cohen, Garcia, McNair, and Spann. Noes: None. Abstained: Romo. (6-0-1)

WRITTEN COMMUNICATIONS – Received.

FUTURE NEIGHBORHOOD MEETINGS – None.

ORAL COMMUNICATIONS: – None.

PUBLIC HEARINGS:

1. PRECISE DEVELOPMENT PLAN MODIFICATION – PHG 17-0003:

REQUEST: A modification to the Precise Development Plan for the Escondido Hills Plaza to revise the comprehensive sign program to allow for internally illuminated cabinet type signs with push through letters for all shop tenants. The existing internally illuminated monument sign also is proposed to be modified to provide new center identification and tenant panels, and a finished base. The overall height and size of the sign would remain the same. The proposal also includes adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: 555 West Country Club Lane

Jay Paul, Associate Planner, referenced the staff report and noted that staff's main issues was whether the proposed changes to the sign program are appropriate for the shopping center. Staff recommended approval based on the following: 1) The proposed modifications to the sign program are appropriate because the new signs would not be out of scale with the existing size of the center and suite frontages; and 2) The modified provisions would allow for an upgraded, uniform and more visible type of sign for each tenant space that is compatible with the design of the building, while still providing for a well-designed and cohesive program for the center to ensure the continued quality of the signs and overall character of the center.

Commissioner Cohen concurred with staff's recommendation for Pylon Sign Option B as outlined in the staff report. He also felt the address should be included on the signage. Mr. Paul noted that methods for providing the property address was discussed.

Commissioner Cohen and staff discussed the timing for changing out the signage.

Commissioner Weiler and staff discussed possible locations for the signage for 7 Eleven as well as clarifying said signage locations.

Commissioner Garcia felt the site needed address signage so it could be seen from Centre City Parkway or Country Club Lane.

Commissioner Cohen suggested adding language regarding specifying the green color being used for the signage so the signage matched.

Commissioner Spann concurred with the site needing address signage. He also was in favor of the proposed rock veneer on the posts.

ACTION:

Moved by Commissioner Spann, seconded by Commissioner Cohen, to approve staff's recommendation and approving Pylon Sign Option B that eliminated the finished base as outlined in the staff report. The motion included adding language to specifically identify the green color being used for the signage for the purpose of consistency. Motion carried unanimously. (7-0)

2. ZONING CODE AMENDMENT – AZ 16-0010:

REQUEST: An amendment of the Escondido Zoning Code (EZC) to streamline various review processes including the Conditional Use Permit (CUP) process by establishing a Minor CUP and clarifying requests that would be subject to a minor CUP; expanding the review authority of the Zoning Administrator to include minor CUPs, reasonable accommodation and environmental documents; identifying additional requests available under the existing administrative adjustment process; and clarifying the Plot Plan review process. Included are other minor amendments needed to support these code changes and update references. Changes are proposed to EZC Articles 1, 16, 26, 39, 55, 57 and 61. The proposal also includes the adoption of the environmental determination prepared for the project. No development project is proposed.

PROPERTY SIZE AND LOCATION: Citywide

Rozanne Cherry, Principal Planner, referenced the staff report and noted that staff recommended approval based on the following: 1) The proposed amendments to the Zoning Code implement another portion of the "Working Together to Get to Yes!" program associated with the City Council's 2015-2016 Action Plan Economic Development goal to "Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development"; 2) The proposed amendments to the Zoning Code would streamline existing development review processes by eliminating some public hearing requirements for certain applications where the value added by the process has not balanced with the simplicity of the request and the time delay imposed upon project applicants; 3) Generally, the public hearings for the affected applications are sparsely attended

and typically generate minimal discussion by the hearing body. Lowering project review down to the Zoning Administrator or administrative level results in cost savings and reduced processing times for both the project applicant and staff; and 4) The proposed amendments would provide greater flexibility in scheduling public hearings for minor CUPs and variances, since the Zoning Administrator would be able to schedule reviews on an as-needed basis.

Commissioner Garcia and staff discussed examples of minor CUPs.

Commissioner Spann felt anything with a questionable design should come before the Commission. Mrs. Cherry noted that any minor CUP could be referred to the Commission. Mr. Strong noted the director had the authority to refer or bring items before the Commission for their review and consideration.

Chairman Weber referenced Page 4, under non-residential zones and questioned if the zone was changed whether this amendment would apply. Mrs. Cherry replied in the negative.

Commissioner Weiler and Commissioner McNair thanked staff for clarifying the language and making it more concise.

Chairman Weber questioned whether there was any quantification as to what was being saved by the subject amendment. Mrs. Cherry noted that the main savings had to do with time.

Commissioner Garcia thanked staff for consolidating and streamlining the process.

ACTION:

Moved by Commissioner Weiler, seconded by Commissioner McNair, to approve staff's recommendation. Motion carried unanimously. (7-0)

CURRENT BUSINESS:

1. Precise Development Plan **(Case. No. PHG 16-0024)** to remodel several suites within the Del Norte Plaza shopping center to accommodate a new 25,173 SF retail suite for Ross Dress for Less.

Location: 334 W. El Norte Pkwy

Jay Paul, Associate Planner, referenced the staff report and noted staff's main issue was the compatibility of the proposed building design with the overall design of Del

Norte Plaza shopping center. Staff recommended approval based on the following: 1) the project would comply with all applicable development standards of the subject zone, including parking, lot coverage, and setbacks. The proposed project design and proposed retail use is compatible with the surrounding types of uses and structures within the shopping center. Although there are some material and minor contextual differences in the new building design from other existing in-line shops, the proposed colors, materials and architectural features are well-coordinated and complementary to the site and its surroundings, and would further enhance the appearance of the commercial center.

Commissioner Romo asked if any signage was proposed for the rear of the center. Mr. Paul noted that signage would be allowed but nothing had been proposed.

ACTION:

Moved by Commissioner Weiler, seconded by Commissioner Spann, to approve staff's recommendation. Motion carried unanimously. (7-0)

2. **2016 GENERAL PLAN ANNUAL PROGRESS REPORT**
(Case No. MISC 17-0001)

Review the Annual Progress Report on the implementation of the General Plan, including the Housing Element Report.

Mike Strong, Assistant Planning Director, referenced the staff report and noted that the item was informational only. Staff recommended that the Planning Commission receive the report for the following reasons: 1) General law cities, applicable charter cities, and counties are required to file APRs on the implementation of their General Plan with their local legislative body, OPR and HCD. These reports are due April 1st of each year. The Planning Commission serves as an advisory role on planning-related and legislative-related activities pursuant to Chapter 20 of the Escondido Municipal Code; 2) Annual reports help inform the State of California of local planning activities; and 3) A general plan can be measured by how well its objectives, policies, and programs are implemented. The APR provides information for decision makers to assess how the Escondido General Plan was implemented during the previous 12-month reporting period. The APR could help identify necessary "course adjustments" or modifications to the General Plan, and means to improve local implementation.

Commissioner McNair and staff discussed the statistics on Page 14 of the staff report.

Chairman Weber noted he was amazed at activity as cited in the report.

Commissioner Weiler and staff discussed the forums and methods for public input.

Report received.

ORAL COMMUNATIONS: None.

PLANNING COMMISSIONERS:

Commissioner Cohen and staff briefly discussed the status of the ROSS signage.

Commissioner Spann and staff briefly discussed the status of the Wells Fargo building on Escondido Boulevard.

ADJOURNMENT:

Chairman Weber adjourned the meeting at 8:13 p.m. The next meeting was scheduled for March 14, 2017, at 7:00 p.m. in the City Council Chambers, 201 North Broadway, Escondido, California.

Mike Strong, Secretary to the Escondido
Planning Commission

Ty Paulson, Minutes Clerk

PLANNING COMMISSION

Agenda Item No.: G.1
Date: March 14, 2017

CASE NUMBER: AZ 16-0007

APPLICANT: City of Escondido

LOCATION: Citywide

TYPE OF PROJECT: Zoning Code Amendment

PROJECT DESCRIPTION: Consideration of amendments to the Escondido Zoning Code to bring City regulations of second dwelling units into compliance with relevant State requirements. No development project is proposed.

BACKGROUND/SUMMARY OF ISSUES: Article 70 of the Escondido Zoning Code is being updated to address new accessory unit regulations as required by State law. To maintain internal consistency between various code sections of the Zoning Code, the request also includes amendments to Article 1, 7, 8, 10, 12, 13, 14, 39, and 65. The Planning Commission opened the Public Hearing on February 14, 2017, reviewed and considered the request, and continued the Public Hearing to March 14, 2017 to continue discussion of the draft ordinance.

During the commission's deliberations, the Commission identified areas of concern, where additional discussion was needed. Attachment "PC-2" has been provided to follow-up on that request to facilitate the commission's review of the amendment request and to encourage additional oral and written input from the public on how best to amend the code in light of the new State laws. This attachment can be used to help organize the Planning Commission's review of "standing" policy-related issues. The February 14th staff report and draft ordinance is included as Attachment "PC-1."

As set forth, the Commission will be asked to open the continued public hearing, receive testimony, discuss any policy-related issues, review and consider the draft ordinance, and forward a recommendation to the City Council.

ATTACHMENTS:

PC-1 Planning Commission staff report and draft ordinance, dated February 14, 2017
PC-2 Areas of additional study/discussion

Respectfully submitted,



Mike Strong
Assistant Planning Director

ATTACHMENT PC-1

**Planning Commission staff report and draft ordinance, dated
February 14, 2017**

PLANNING COMMISSION

Agenda Item No.: H.4
Date: January 24, 2017

CASE NUMBER: AZ 16-0007

APPLICANT: City of Escondido

LOCATION: Citywide

TYPE OF PROJECT: Zoning Code Amendment

PROJECT DESCRIPTION: Consideration of amendments to the Escondido Zoning Code to bring City regulations of second dwelling units into compliance with relevant State requirements. No development project is proposed.

BACKGROUND/SUMMARY OF ISSUES: Government Code Section 65852.2 (Second Dwelling Unit law) was enacted in 1982 to encourage the creation of second dwelling units throughout the State of California. Second dwelling units, accessory apartments, accessory dwelling units, or granny flats (hereinafter collectively referred to as Accessory Dwelling Units) provide an important source of rental housing within existing neighborhoods and can provide more housing options for the elderly, in-home health care providers, family members, students, and others. Despite State efforts to facilitate Second Dwelling Units, many local governments have passed ordinances that constrain their construction. Because the State Legislature wants to ease Second Dwelling Unit restrictions, several State laws were passed over the years to make it easier for homeowners to build or legalize Second Dwelling Units. These State laws were approved and enacted in 1986, 1990, 1994, 2002, and most recently in 2016.

The City of Escondido already has an Accessory Dwelling Unit ordinance in place. Article 70 of the Zoning Code includes specified provisions regarding areas where Accessory Dwelling Units may be located and their associated standards for new construction or conversion into a legalized unit. However, Article 70 is not internally consistent with recent changes in State law or new standards set by the State.

- Assembly Bill (AB) 2299 and Senate Bill (SB) 1069 (Statutes of 2016) mandates easier regulatory processing of Accessory Dwelling Units by eliminating parking requirements under specified circumstances and prohibits a city or county from requiring a new or separate utility connection between the unit and the utility (or imposing a related connection fee or capacity charge). These bills also replace the term "Second Unit" or "Second Dwelling Unit" with "Accessory Dwelling Unit."

Under basic Planning and Zoning laws, the implementation of city and county ordinances must be carried out consistent with relevant State or Federal laws. In response to these recent State law changes, cities and counties across California will be revising their regulations, consistent with the new requirements and/or the new limitations of the Government Code.

The City of Escondido proposes to amend Articles 70 of the City's Zone Code to respond to and fulfill the new State-mandated requirements. Other factors to be considered as part of the amendment request are included as Exhibit "A" to this Staff Report. Exhibit "B" displays those portions of the Escondido zoning regulations that are proposed to be changed. The changes are listed in order by section number, with strikeout typeface illustrating deletions, and underlined typeface illustrating new text.

REASONS FOR STAFF RECOMMENDATION: Staff recommends approval of the proposed Resolution, recommending that the City Council adopt, with any suggested edits, amendments to Articles 1, 7, 8, 10, 12, 13, 14, 39, 65, and 70 of the Zoning Code, for the following reasons:

1. The proposed amendments to Article 70 of the Zoning Code address recent changes in State law and provide use and development standards to implement relevant State law requirements. (Any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to Accessory Dwelling Unit law are null and void.)
2. Proposed amendments to other code sections help maintain internal consistency between various code sections. They are ancillary to the focused amendments to Article 70 (i.e. they are minor and technical in nature).
3. It is the intent of State law that any Accessory Dwelling Unit Ordinance ordinances adopted by local agencies are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create Accessory Dwelling Units in zones in which they are authorized. The proposed amendments would help facilitate Accessory Dwelling Unit construction for homeowners to meet current and future housing needs.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "MDS", is positioned above the printed name and title.

Mike Strong
Assistant Planning Director

ANALYSIS

ENVIRONMENTAL STATUS:

The proposed zoning code amendments are exempt from CEQA, pursuant to Section 15061(b)(3). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Accessory Dwelling Units approved are themselves statutorily exempt from CEQA pursuant to Section 15268 (Ministerial Projects) of the CEQA Guidelines and Section 21080(b)(1) of the Public Resources Code. In addition, Accessory Dwelling Units can be found categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA Guidelines, authority cited under Public Resources Code Section 21083 and 21087.

ZONING CODE AMENDMENT ANALYSIS:

In 2016 the legislature passed Assembly Bill (AB) 2299 and Senate Bill (SB) 1069, requiring more simple and inexpensive permitting processes for Accessory Dwelling Units (also known as ADUs, accessory apartments, second dwelling units, or granny flats). Accessory Dwelling Units include a new dwelling unit built on the same property as an existing home. It could also consist of the conversion of part of an existing dwelling or accessory structure, like a garage.

For simplicity, the following table highlights some of the recent changes to State law and provides a reference link to the full text of the three bills.

Bill Number and Author	Bill Summary
<u>AB 2299 (Bloom)</u>	• Replaces the term “second unit” with “accessory dwelling unit” throughout the law. • Changes setback rules for units constructed above a garage. • Changes the rules for garage conversions. Replacement parking may be located in any configuration on the same lot, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. Full text:

	http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_2251-2300/ab_2299_bill_20160927_chaptered.pdf
<u>SB 1069 (Wieckowski)</u>	• Provides that Accessory Dwelling Units shall not be considered new residential uses for the purposes of calculating private or public utility connection fees, including water and sewer service. • Imposes timelines for issuing permits. Requires consideration (approval or denial) within 120 days after receiving an application, unless for projects involving actions at a higher level, then the permit will also be decided upon at that higher level. • Directs agencies to impose standards, including but not limited to, parking, height, setback, lot coverage, architectural review, maximum size of the unit, and standards that prevent adverse impacts to historic property. • Accessory Dwelling Units shall not be required to provide fire sprinklers if they are not required for the primary residence. • Prohibits the imposition of parking standards under specific circumstances. Full text: http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_1051-1100/sb_1069_bill_20160927_chaptered.pdf

As a result of these recent State law changes and based on previous amendments to the law, City staff has determined the extent to which the Escondido Zoning Code diverges from State law and identified all revisions necessary to bring the City into compliance with relevant State requirements. Various planning documents were reviewed to ensure continued consistency and/or to support the implementation of relevant State law changes. Based on this document review, City staff recommends the following sections of the Zoning Code be updated to better align local regulations with recent changes in State law or new standards set by the State.

- Article 70 provides regulations for the establishment of Accessory Dwelling Units in residential zones. The City will continue to apply Zoning Code regulations that allow Accessory Dwelling Units by-right in the RA, RE, R1, R2, R3, and R4 residential zones, in accordance with State law. The draft changes to Article 70 represents the City's effort in responding to State law changes and fulfilling the requirements under revised State law.

Some of the more significant changes proposed to our Zoning Code are related to city permitting requirements, direct access requirements, and imposing more flexible parking standards, as summarized below.

Permitting Procedures: State law requires development applications for Accessory Dwelling Units to be considered ministerially within 120 days of application (i.e. without discretionary review or a hearing). The permit process must apply predictable, fixed, and clear standards. These standards must be administratively applied to the application and may not subject to discretionary decision-making. Currently, the City of Escondido requires special review by a “second dwelling unit permit.” However, there should be no local legislative, quasi-legislative or discretionary consideration of the application, except provisions for authorizing an administrative appeal of a decision.

Access: The proposed zoning code amendments allow Accessory Dwelling Units to be more “independent” from the primary, single-family residence. Currently, the zoning code requires Accessory Dwelling Units to have direct access from the living area of the primary structure. The proposed zoning code amendment would remove this requirement and instead require independent exterior access. However, the code would continue to require Accessory Dwelling Units to be attached to the primary residence - except in the Old Escondido Neighborhood historic district, where Accessory Dwelling Units may be detached when the unit is accessed from an alley or located over a detached garage.

Parking: The proposed zoning amendment reduces parking requirements for Accessory Dwelling Units. Off street parking is permitted through tandem parking on an existing driveway. Setbacks are not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an Accessory Dwelling Unit, which conflicts with existing rules in some residential zones. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the Accessory Dwelling Unit can be constructed wholly or partly above the garage, including extending beyond the garage walls. Also, when a garage, carport or covered parking structure is demolished, the replacement parking must be allowed in any “configuration” on the lot, including covered spaces, uncovered spaces, or tandem spaces.

- Minor technical changes to other sections of the Zoning Code are necessary to make sure our local code is internally consistent through references and meanings in its entirety.
 - Article 1 includes a list of Zoning Code-related meanings and definitions. AB 2299 replaces the term “second unit” with “accessory dwelling unit” throughout the law, requiring cities and counties to do the same. Similarly,

Article 1 is proposed to be amended to replace the term “second unit” with accessory dwelling unit.”

- Articles 7, 8, 10, 12, 13, and 14 address permitted uses and development regulations in residential zones ranging from Residential Agriculture (RA) to Heavy Multiple Residential Zone (R4). Because the term “second unit” would be replaced by “accessory dwelling unit” elsewhere in the Zoning Code, Articles 7, 8, 10, 12, 13, and 14 would all have to be amended.
- Article 39 addresses off-street parking requirements for different use categories. Article 39 is proposed to be amended to replace the term “second unit” with “accessory dwelling unit.”
- Article 65 addresses permitted uses and development regulations in the Old Escondido Neighborhood District. Article 65 is proposed to be amended to replace the term “second unit” with “accessory dwelling unit.”

HOUSING ELEMENT LAW AND RHNA ANALYSIS:

There is a statutory recognition that the availability of housing is a matter of statewide importance and that cooperation between government and the private sector is critical to attainment of the State's housing goals. All California localities are required by Article 10.6 of the Government Code (Section 65580-65590) to adopt housing elements as part of their general plans, and submit draft and adopted elements to the Department of Housing and Community Development (HCD) for review of compliance with State law. Cities and counties can employ a variety of development strategies and/or commit specific program actions to address the adequate sites requirements and fulfill their Regional Housing Needs Assessment (RHNA) housing number obligations as part of the Housing Element update process.

For the 2013-2021 Housing Element cycle, the City of Escondido successfully approved a local Housing Element that was found to be in substantial conformance with State law, without the need to monitor Accessory Dwelling Unit construction and its ability to accommodate future housing in the City. Notwithstanding the status of our current Housing Element, it will be necessary to track and monitor Accessory Dwelling Unit activity moving forward.

Subsequent to the approval of this zoning code amendment, City staff will begin tracking Accessory Dwelling Unit construction to monitor the effectiveness of Escondido's efforts to promote Accessory Dwelling Units. By analyzing the housing need by income group that could be accommodated through "independent" Accessory Dwelling Unit development, cities and counties can rely on Accessory Dwelling Units as part of an overall adequate sites strategy to accommodate (a portion) of the regional housing need, which will be helpful for the City of Escondido when seeking compliance with State law (in preparation of the 2021-2028 Housing Element planning cycle). This will reduce the future need for further rezonings in the City to accommodate additional housing. Consistently maintained records between now and the start of the next planning cycle will reveal trends in Accessory Dwelling Unit construction or may support our efforts to count realistic capacity for Accessory Dwelling Unit based on an estimate of affordability at the time of occupancy.

It is important to note that discussions about Housing Element programs and other housing opportunities, such as Junior Dwelling Units, need to be addressed in the future, separately from this action. The Planning Commission need only focus on the regulatory matters before it directly related to updating Article 70 and other relevant sections of the Zoning Code, to ensure basic State law compliance.

EXHIBIT "A"
FACTORS TO BE CONSIDERED
AZ16-0007

Zoning Code Amendment

1. The public health, safety, and welfare would not be adversely affected by the proposed Zoning Code amendments.
2. The proposed zoning code amendments would not conflict with any State law. Pursuant to Article XI, Section 7 of the California Constitution, a city may make and enforce within its limits, all police, sanitary, and other ordinances that are not in conflict with general laws. The State Legislature has made recent changes in State law to encourage the creation of Accessory Dwelling Units by easing provisions relating to unit location, parking, fees and other requirements. Pursuant to Section 65852.150 of the Government Code, Accessory Units are a valuable form of housing in California and that those units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, within existing neighborhoods. The proposed zoning code amendments will ensure that the City's Zoning Code is consistent with California Government Code requirements for Accessory Units.
3. The proposed zoning code amendments would not be detrimental to surrounding properties because the amendments involve existing development application types. The amendment would not expand or reduce the type of land uses that may be established in the City and no physical improvements are proposed as part of this zoning code amendment. Future construction of Accessory Dwelling Units must comply with any applicable laws and standards. This includes the Building Code, the Fire Code, and any property standards by-laws.
4. The proposed zoning code amendments would be consistent with the goals and policies of the General Plan because it encourages compact, efficient urban form, which makes more efficient use of existing infrastructure. It also supports increasing the stock of rental accommodation in an area by providing more housing options for extended families or for a live-in caregiver. The proposed zoning code amendments would not diminish the Quality of Life Standards of the General Plan, nor adversely impact the community health or natural resources.
5. The proposed zoning code amendments do not conflict with any specific plan.

EXHIBIT "B"
PROPOSED CHANGES TO THE ZONING CODE
AZ16-0007

Amend the various zoning code sections to read as specified below.

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS, SECTION 33-8

Revise the existing definitions as set forth below.

Attached unit means a unit completely within an existing principal building or added to an existing principal building; provided, that both dwelling units shall be attached by a common wall, floor or ceiling, and not simply by an attached breezeway or porch; and shall be contained within one (1) building. ~~A second~~An accessory dwelling unit constructed above an existing detached garage shall be considered an attached unit.

(8) ~~Second~~Accessory dwelling means a secondary, but independent living facility, which is located or established on the same lot as the primary residence. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation. ~~A second~~An accessory dwelling unit ~~is could be located within the living area of the existing dwelling;~~ attached, and a part of the main building on the premises; or located above an existing detached garage.

ARTICLE 7: RESIDENTIAL AGRICULTURE ZONE

Revise Section 33-102 as set forth below.

(r) ~~Second~~Accessory dwelling units ~~as defined in section 33-8~~ (with permit as required by section 33-1477 of Article 70);

Revise Section 33-109 (d) as set forth below.

(6) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-109 (e) as set forth below.

Required parking for ~~second~~accessory dwelling units may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-110 (b) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-110 (c) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-112 (c)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-112(c)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 8: RESIDENTIAL ESTATES ZONE

Revise Section 33-122 as set forth below.

(s) ~~Second~~ Accessory dwelling units ~~as defined in section 33-8~~ (with permit as required by section 33-1477 of Article 70.

Revise Section 33-129 (d) as set forth below.

(6) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-129 (e) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-130 (b) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-130 (c) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-132 (c)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-132(c)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 10: SINGLE FAMILY RESIDENTIAL ZONE

Revise Section 33-162 as set forth below.

(l) ~~Second~~ Accessory dwelling units ~~as defined in section 33-8~~ (with permit as required by section 33-1477 of Article 70.

Revise Section 33-169 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-169 (e) as set forth below.

Required parking for ~~second~~ accessory dwelling units may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-170 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-170 (c) as set forth below.

Required parking for ~~second~~ accessory dwelling units may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-173 (c)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-173(c)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 12: LIGHT MULTIPLE RESIDENTIAL ZONE

Revise Section 33-212 as set forth below.

(k) ~~Second~~Accessory dwelling units ~~as defined in section 33-8~~ (with permit as required by section 33-1477 of Article 70.

Revise Section 33-219 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-219 (e) as set forth below.

Required parking for ~~a second~~an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-220 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-220 (c) as set forth below.

Required parking for ~~a second~~an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-222 (d)(2) as set forth below.

~~A second~~An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-222(e)(1)(d)(1), but shall meet the minimum unit size requirements of the Uniform Building Code and Uniform Housing California Building Standards Code.

ARTICLE 13: MEDIUM MULTIPLE RESIDENTIAL ZONE

Revise Section 33-242 as set forth below.

(k) ~~Second~~Accessory dwelling units ~~as defined in section 33-8~~ (with permit as required by section 33-1477 of Article 70.

Revise Section 33-249 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-249 (e) as set forth below.

Required parking for a ~~second~~ an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-250 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-250 (c) as set forth below.

Required parking for a ~~second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-252 (d)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-252(e)(1)(d)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 14: HEAVY MULTIPLE RESIDENTIAL ZONE

Revise Section 33-272 as set forth below.

(i) ~~Second~~ Accessory dwelling units ~~as defined in section 33-8~~ (with permit as required by section 33-1477 of Article 70.

Revise Section 33-280 (d) as set forth below.

(5) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-280 (e) as set forth below.

Required parking for a ~~second~~ an accessory dwelling unit may be provided within the side yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-281 (b) as set forth below.

(4) Accessory dwelling units shall conform to the setback requirements of the underlying residential zone unless as otherwise permitted by Article 70.

Revise Section 33-281 (c) as set forth below.

Required parking for ~~a second~~ an accessory dwelling unit may be provided within the rear yard setback only if said yard is adjacent to an alley and a minimum twenty-four (24)-foot back-up is maintained.

Revise Section 33-283 (e)(2) as set forth below.

~~A second~~ An accessory dwelling unit shall not be subject to the minimum unit size, as described in section 33-283(e)(1), but shall meet the minimum unit size requirements of the ~~Uniform Building Code and Uniform Housing~~ California Building Standards Code.

ARTICLE 39: OFF-STREET PARKING

Revise the *Second dwelling unit* use category in Section 33-765 to *Accessory dwelling unit* [emphasis added to former and latter categories], and revise note as set forth below.

One (1) parking space for the unit, in addition to those spaces required by this section for the primary residential use as provided by section 33-1474 of Article 70. All spaces shall be located on-site.

ARTICLE 65: OLD ESCONDIDO NEIGHBORHOOD

Revise Section 33-1373 (b) as set forth below.

~~Second~~ Accessory dwelling units as defined in section 33-8, are permitted subject to a ~~second~~ an accessory dwelling unit permit in conformance with Article 70 of this chapter.

ARTICLE 70: SECOND DWELLING UNIT

Replace Article title from *Second Dwelling Units* to *Accessory Dwelling Units* [emphasis added to former and latter titles]. A similar change shall be made, without limitation, to any and all Municipal Code and/or Zoning Code table of contents or charts that reference this article title.

Revise Section 33-1470, Purpose, as set forth below.

The purpose of this article is to provide regulations for the establishment of ~~second~~ accessory dwelling units in residential zones. The intent of the article is to provide affordable housing in areas where adequate public facilities and services are available, and where impacts upon the residential neighborhoods directly affected would be

minimized. This article shall not be considered in the application of any local ordinance, policy, or program to limit residential growth. ~~Second dwelling units shall be designed to minimize the effect of the new second dwelling unit on adjacent properties, any potential impacts shall be oriented to the primary residence.~~

Section 33-1471, Definition.

Delete section title and content. Reserve section number for future use.

Revise Section 33-1472, Permitted zones, as set forth below.

~~Second~~Accessory dwelling units shall be permitted in the RA, RE, R1, R2, R3 and R4 zones on properties with only one (1) single-family residence on the lot, subject to the approval of an ~~second~~accessory dwelling unit permit. ~~Second~~Accessory dwelling units within the Old Escondido Neighborhood shall observe the same standards and review procedures required of similar building expansions in that neighborhood.

~~Second~~Accessory dwelling units shall not be permitted on property developed in a planned development zone or as a part of a planned unit approval, unless approved as a part of the original PD or PUA and the subject lot is not less than six thousand (6,000) square feet in size.

Revise Section 33-1473, Occupancy limitations, as set forth below.

(a) Owner-occupied. The owner of the property shall reside on the parcel on which the ~~second~~accessory dwelling unit is located. The ~~second~~accessory dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.

(b) Deed restriction. Building permits will not be issued for the establishment of an ~~second~~accessory dwelling unit or its occupancy prior to the applicant's submittal of evidence that a deed restriction, which sets forth the occupancy limitations prescribed by the ordinance, has been filed with the county recorder. This deed restriction shall run with the land; inure to the benefit of the city as well as to the benefit of the other residential property owners within the subdivision; and, be coterminous in tenure with the life of the ~~second~~accessory dwelling unit.

Revise Section 33-1474, Development standards, as set forth below.

~~Second~~Accessory dwelling units shall be subject to all development standards of the zone in which the property is located, except as modified below:

(a) Lot area. ~~Second~~Accessory dwelling units may be constructed on any legal lot in a residential zone provided all requirements of this article and the zoning and building codes are met.

- (b) Number of bedrooms. A maximum of one (1) bedroom shall be permitted.
- (c) Location on lot. ~~Second~~Accessory units must be physically attached to the primary structure by a substantial contiguous shared wall ~~and shall also have access from the primary structure~~ or be located within the living area of the existing dwelling; except for ~~second~~accessory dwelling units proposed in the Old Escondido Neighborhood historic district where ~~second~~accessory units may be detached when the unit is accessed from an alley or located over a detached garage.
 - (1) Accessory dwelling units shall have independent exterior access.
 - (2) An accessory dwelling unit that is constructed above a garage must have a setback of five feet from the side and rear lot lines.
- (d) Maximum unit size. For lots less than ten thousand (10,000) square feet, attached ~~second~~accessory dwelling units shall not exceed five hundred (500) square feet. For lots over ten thousand (10,000) square feet, ~~second~~accessory dwelling units shall not exceed six hundred forty (640) square feet. The floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area of the primary residence up to a maximum of 500 square feet or 640 square feet based on lot size.
- (e) Minimum unit size. The minimum permitted size of a ~~Second~~an accessory dwelling unit shall be defined by the ~~Uniform Building Code and Uniform Housing Code~~ California Building Standards Code. The minimum unit size of the residential zone shall not apply to the ~~second~~accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.
- (f) Height. ~~Second~~Accessory dwelling units shall conform to the height limits of the zone ~~and shall be limited to one (1) story.~~
- (g) Lot coverage. The entire lot shall conform to the lot coverage limitation of the zone in which the property is located.
- (h) Parking requirements. Off-street parking for the primary dwelling shall conform to the current parking standards, as required in Article 39 of the Escondido Zoning Code and:
 - (1) One (1) additional off street parking space, covered or uncovered, shall be provided for a ~~second~~an accessory dwelling unit, and shall not be tandem. Parking provisions may be provided as tandem parking on an existing driveway

or permitted within a setback area, in locations determined to be satisfactory by the Director of Community Development, unless the Director determines that parking in setback areas or tandem parking is not feasible based on specific site or regional topographical or fire and life safety conditions, or not permitted anywhere else in the jurisdiction.

(2) Required parking for the ~~second~~ accessory dwelling unit shall be permitted in a side yard or rear yard only when said yard is abutting an alley and a minimum backup of twenty-four (24) feet is provided.

(3) Parking for the ~~second~~ accessory dwelling unit shall be accessible, ~~not conflict with access and required parking for the primary structure~~ and be located to minimize impacts on adjacent properties.

(4) Notwithstanding any other law, the City will not impose parking standards for an accessory dwelling unit when the unit is located within one-half mile of public transit, located within the Old Escondido Neighborhood or when there is a car share vehicle located within one block of the unit. The City will also waive parking requirements for new accessory dwelling units when the accessory dwelling unit is contained within the existing living area of the primary residence.

When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, replacement parking may be located in any configuration on the same lot as the accessory unit.

(i) Design of the unit. Accessory dwelling units shall be designed to minimize the effect of the new accessory dwelling unit on adjacent properties.

(1) Any potential impacts shall be oriented to the primary residence. The second dwelling unit shall not create a second front entrance visible from adjacent streets. Access doors and entry for the ~~second~~ accessory dwelling unit shall not be oriented to the nearest adjacent property line or create a second "front door" entrance. For the purposes of this article, a second front door entrance is a secondary entry way that is comparable to the main entrance. The design, construction, and presence of the accessory dwelling unit shall conform with the single family character of the neighborhood. There may only be one obvious entrance visible to the street.

(2) Proposed accessory dwelling units shall respect the residential scale and design character of existing homes. The accessory dwelling unit's color and materials must match those of the primary residence, maintaining compatibility with the neighborhood. The ~~planning staff~~ Director shall review ~~second~~ accessory dwelling unit applications to ensure the addition is integrated with the primary

structure with respect to roof design, height, compatible materials, color, texture, and design details. If the accessory dwelling unit is an addition to a site with known historic resources or has been determined have historic value by the Director, all improvements shall retain the historical and/or architectural value and significance of the landmark, historical building, or historical district. The improvements shall be compatible with and retain the texture and material of the primary building(s) and/or structure(s) or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the relationship of such features to similar features of other buildings within an historical district.

- (j) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street.
- (k) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

Revise Section 33-1475, Other regulations, as set forth below.

- (a) Garage conversions. ~~Garage conversions to second accessory dwelling units are prohibited unless replacement covered off street parking is provided which conforms to Article 39 of this chapter.~~ Converted garages must meet all building code requirements for a dwelling unit and provisions of the ordinance. No setback shall be required for an existing garage that is converted to an accessory dwelling unit.
- (b) Guest house. An attached guest house may be converted to ~~a second~~ an accessory dwelling unit provided all provisions of this article and the building code and zoning code are met. A guest house and ~~a second~~ an accessory dwelling unit may occur on the same lot provided the lot is over twenty thousand (20,000) square feet in area and provided the guest house does not contain kitchen facilities and is not rented. No more than one (1) ~~second~~ accessory dwelling unit or no more than one (1) guest house are permitted on a lot.
- (c) The City may require a new or separate utility connection for any attached or detached accessory dwelling units that are not contained within the existing space of a single family residence or accessory structure.

Replace Section 33-1476 title from *Existing nonpermitted second units* to *Existing nonpermitted accessory units* [emphasis added to former and latter titles].

Revise Section 33-1476, Existing nonpermitted accessory units, as set forth below.

This article shall apply to all ~~second~~ accessory dwelling units which exist on the date of passage of the ordinance. All units which do not have a permit, or cannot receive a

permit, upon passage of the ordinance codified herein shall be considered in violation and shall be subject to code enforcement action.

Revise Section 33-1477, Application and procedure, as set forth below.

~~The director~~Director of Community Development shall approve a ~~second dwelling unit permit for an accessory dwelling unit within 120 days of submission of a complete application, unless he or she determines it is determined that such the~~ permit does not meet the requirements of this article. The ~~director~~Director may refer any unit to the planning commission or Historic Preservation Commission prior to the ~~director's~~Director's decision for conformance with the specific criteria outlined in section 33-1474(i).

Revise Section 33-1478, Findings for approval and denial, as set forth below.

The decision to deny an application shall be in writing and shall state the reasons therefor. A permit for an accessory dwelling unit shall be issued upon a finding that all of the following have been established: In granting a second dwelling unit permit, the following findings shall be established as complete without further written action:

- (a) Adequate public facilities and services are available;
- (b) All requirements of this article and the zoning code are met;
- (c) The project will not create a second front entrance;
- (d) The unit is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details; and
- (e) The accessory dwelling unit does not create any adverse impact on any real property that is listed in the local, state, or federal Register of Historic Places.

Revise Section 33-1480, Fees, as set forth below.

- (a) Upon the filing of an permit for an accessory dwelling unit, a fee in an amount to be established by resolution of the city council shall be paid by the applicant to the city.
- (b) Any party who appeals the director's a determination made by the Director of the Community Development shall submit an appeal processing fee as determined by the city council.
- ~~(b) For purposes of determining building permit fees, a second dwelling unit shall be considered a room addition and shall not be subject to subarea facilities plan fees.~~



CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
Attn: Chief Deputy Recorder Clerk
1600 Pacific Hwy, Room 260
San Diego, CA 92101

From: City of Escondido
Planning Division
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: Zoning Code Amendment / AZ 16-0007

Project Applicant: City of Escondido

Project Location - Specific: Citywide

Project Location - City: Escondido

Project Location - County: San Diego

Description of Nature, Purpose and Beneficiaries of Project:

Amendment to the Escondido Zoning Code, Article 70, to bring City regulations of second dwelling units (now called accessory dwelling units) into compliance with recent State law changes.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project: Mike Strong, Assistant Planning Director, City of Escondido
Telephone: (760) 839-4556 Address: 201 N. Broadway, Escondido, CA 92025

☐ Private entity ☐ School district ☒ Local public agency ☐ State agency ☐ Other special district

Exempt Status:

Exemption. CEQA Section 15061(b)(3) "General Rule".

Reasons why project is exempt:

1. The proposed zoning code amendment consists of text changes and does not involve any physical modifications or lead to any physical improvements beyond those typically exempt. The amendment involves only changes to several review processes for existing types of applications and would not have the potential for causing a significant effect on the environment.
2. Future development applications will include environmental review and the preparation of appropriate individual CEQA documents.
3. In staff's opinion, the proposed code amendments would have no impact on fish and wildlife resources, sensitive species or habitat, or affect any cultural or historic resources, since there is no physical development project associated with the code changes.

Lead Agency Contact Person: Mike Strong

Area Code/Telephone/Extension (760) 839-4556
Email: mstrong@escondido.org

Signature: 
Mike Strong, Assistant Planning Director

Date

☒ Signed by Lead Agency

Date received for filing at OPR:

☐ Signed by Applicant

ARTICLE 70. SECOND DWELLING UNITS**Sec. 33-1470. Purpose.**

The purpose of this article is to provide regulations for the establishment of second dwelling units in residential zones. The intent of the article is to provide affordable housing in areas where adequate public facilities and services are available, and where impacts upon the residential neighborhoods directly affected would be minimized. Second dwelling units shall be designed to minimize the effect of the new second dwelling unit on adjacent properties, any potential impacts shall be oriented to the primary residence. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1471. Definition.

Second dwelling unit means a secondary, but independent living facility which is located or established on the same lot as an existing single-family residence (for purposes of this article this existing residence shall be termed "the primary residence"). It includes permanent provisions for living, sleeping, eating, cooking and sanitation. A second dwelling must be attached to the primary residence; except in the Old Escondido Neighborhood historic district where second dwelling units may be detached when the unit is accessed from an alley or located over a detached garage.

Outside the Old Escondido Neighborhood historic district, a second dwelling unit shall be attached to the existing dwelling unit by a contiguous, shared wall and shall also have access from the living area of the primary structure.

For purposes of this article, living area means the interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory structure. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03; Ord. No. 2016-15, § 4, 10-26-16)

Sec. 33-1472. Permitted zones.

Second dwelling units shall be permitted in the RA, RE, R1, R2, R3 and R4 zones on properties with only one (1) single-family residence on the lot, subject to the approval of a second dwelling unit permit. Second dwelling units within the Old Escondido Neighborhood shall observe the same standards and review procedures required of similar building expansions and new structures in that neighborhood. Second dwelling units shall not be permitted on property developed in a planned development zone or as a part of a planned unit approval, unless approved as a part of the original PD or PUA and the subject lot is not less than six thousand (6,000) square feet in size. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03; Ord. No. 2016-15, § 4, 10-26-16)

Sec. 33-1473. Occupancy limitations.

(a) Owner-occupied. The owner of the property shall reside on the parcel on which the second dwelling unit is located. The second dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.

(b) Deed restriction. Building permits will not be issued for the establishment of a second dwelling unit or its occupancy prior to the applicant's submittal of evidence that a deed restriction, which sets forth the occupancy limitations prescribed by the ordinance, has been filed with the county recorder. This deed restriction shall run with the land; inure to the benefit of the city as well as to the benefit of the other residential property owners within the subdivision; and, be coterminous in tenure with the life of the second dwelling unit. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1474. Development standards.

Second dwelling units shall be subject to all development standards of the zone in which the property is located, except as modified below:

(a) Lot area. Second dwelling units may be constructed on any legal lot in a residential zone

provided all requirements of this article and the zoning and building codes are met.

(b) Number of bedrooms. A maximum of one (1) bedroom shall be permitted.

(c) Location on lot. Second dwelling units must be physically attached to the primary structure by a substantial contiguous wall and shall also have access from the primary structure; except for second dwelling units proposed in the Old Escondido Neighborhood historic district where second dwelling units may be detached when the unit is accessed from an alley or located over a detached garage.

(d) Maximum unit size. For lots less than ten thousand (10,000) square feet, attached second dwelling units shall not exceed five hundred (500) square feet. For lots over (10,000) square feet, second dwelling units shall not exceed six hundred forty (640) square feet.

(e) Minimum unit size. The minimum permitted size of a second dwelling unit shall be defined by the Uniform Building Code and Uniform Housing Code. The minimum unit size of the residential zone shall not apply to the second dwelling unit.

(f) Height. Second dwelling units shall conform to the height limits of the zone and shall be limited to one (1) story.

(g) Lot coverage. The entire lot shall conform to the lot coverage limitation of the zone in which the property is located.

(h) Parking requirements. Off-street parking for the primary dwelling shall conform to the current parking standards, as required in Article 39 of the Escondido Zoning Code and:

(1) One (1) additional off street parking space, covered or uncovered, shall be provided for a second dwelling unit, and shall not be tandem.

(2) Required parking for the second dwelling unit shall be permitted in a side yard or rear yard only when said yard is abutting an alley and a minimum backup of twenty-four (24) feet is provided.

(3) Parking for the second dwelling unit shall be accessible, not conflict with access and required

parking for the primary structure and be located to minimize impacts on adjacent properties.

(i) Design of the unit. The second dwelling unit shall not create a second front entrance visible from adjacent streets. Access doors and entry for the second dwelling unit shall not be oriented to the nearest adjacent property line. The planning staff shall review second dwelling unit applications to ensure the addition is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details.

(j) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03; Ord. No. 2008-22, § 8, 9-10-08; Ord. No. 2016-15, § 4, 10-26-16)

Sec. 33-1475. Other regulations.

(a) Garage conversions. Garage conversions to second dwelling units are prohibited unless replacement covered off-street parking is provided which conforms to Article 39 of this chapter. Converted garages must meet all building code requirements for a dwelling unit and provisions of the ordinance.

(b) Guest house. An attached guest house may be converted to a second dwelling unit provided all provisions of this article and the building code and zoning code are met. A guest house and a second dwelling unit may occur on the same lot provided the lot is over twenty thousand (20,000) square feet in area and provided the guest house does not contain kitchen facilities and is not rented. No more than one (1) second dwelling unit or no more than one (1) guest house are permitted on a lot. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1476. Existing nonpermitted second units.

This article shall apply to all second dwelling units which exist on the date of passage of the ordinance. All units which do not have a permit, or cannot receive a permit, upon passage of the ordi-

nance codified herein shall be considered in violation and shall be subject to code enforcement action. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1477. Application and procedure.

The director shall approve a second dwelling unit permit unless he or she determines that such permit does not meet the requirements of this article. The director may refer any unit to the planning commission prior to the director's decision for conformance with the specific criteria outlined in section 33-1474(i). (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03; Ord. No. 2008-22, § 8, 9-10-08; Ord. No. 2011-19R, § 5, 1-11-12)

Sec. 33-1478. Findings for approval and denial.

The decision to deny an application shall be in writing and shall state the reasons therefor. In granting a second dwelling unit permit, the following findings shall be established as complete without further written action:

- (a) Adequate public facilities and services are available;
- (b) All requirements of this article and the zoning code are met;
- (c) The project will not create a second front entrance;
- (d) The unit is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1479. Appeal.

(a) Upon denial of an application, the applicant may appeal the decision to the planning commission.

(b) Upon receipt of a written request for a hearing anytime prior to the effective date of a decision on the permit, the director shall notice a public hearing before the planning commission in ac-

cordance with the provisions of section 33-1300 of this chapter.

(c) The appeal hearing shall be conducted in accordance with the provisions of sections 33-1303 and 33-1304 of the Escondido Zoning Code, and shall be acted upon in accordance with the determination and findings specified in section 33-1478 of this article. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Sec. 33-1480. Fees.

(a) Any party who appeals the director's shall submit an appeal processing fee as determined by the city council.

(b) For purposes of determining building permit fees, a second dwelling unit shall be considered a room addition and shall not be subject to subarea facilities plan fees. (Ord. No. 92-42, § 1, 11-4-92; Ord. No. 2002-15R, § 5, 5-1-02; Ord. No. 2003-15, § 4, 6-4-03)

Secs. 33-1481—33-1489. Reserved.



Courtesy of Karen Chapple, UC Berkeley

California Department of Housing and
Community Development *Where Foundations Begin*

Accessory Dwelling Unit Memorandum

December 2016



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Understanding Accessory Dwelling Units and Their Importance



Courtesy of Karen Chapple, UC Berkeley

California's housing production is not keeping pace with demand. In the last decade less than half of the needed housing was built. This lack of housing is impacting affordability with average housing costs in California exceeding the rest of the nation. As affordability becomes more problematic, people drive longer distances between a home that is affordable and where they work, or double up to share space, both of which reduces quality of life and produces negative environmental impacts.

Beyond traditional market-rate construction and government subsidized production and preservation there are alternative housing models and emerging trends that can contribute to addressing home supply and affordability in California.

One such example gaining popularity are Accessory Dwelling Units (ADUs) (also referred to as second units, in-law units, or granny flats).

What is an ADU

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms:

- *Detached*: The unit is separated from the primary structure
- *Attached*: The unit is attached to the primary structure
- *Repurposed Existing Space*: Space (e.g., master bedroom) within the primary residence is converted into an independent living unit
- *Junior Accessory Dwelling Units*: Similar to repurposed space with various streamlining measures

ADUs offer benefits that address common development barriers such as affordability and environmental quality. ADUs are an affordable type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators. ADUs are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multifamily infill buildings. ADUs can provide as much living space as the new apartments and condominiums being built in new infill buildings and serve very well for couples, small families, friends, young people, and seniors.

ADUs are a different form of housing that can help California meet its diverse housing needs. Young professionals and students desire to live in areas close to jobs, amenities, and schools. The problem with high-opportunity areas is that space is limited. There is a shortage of affordable units and the units that are available can be out of reach for many people. To address the needs of individuals or small families seeking living quarters in high opportunity areas, homeowners can construct an ADU on their lot or convert an underutilized part of their home like a garage

into a junior ADU. This flexibility benefits not just people renting the space, but the homeowner as well, who can receive an extra monthly rent income.

ADUs give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care and helping extended families to be near one another while maintaining privacy.

Relaxed regulations and the cost to build an ADU make it a very feasible affordable housing option. A UC Berkeley study noted that one unit of affordable housing in the Bay Area costs about \$500,000 to develop whereas an ADU can range anywhere up to \$200,000 on the expensive end in high housing cost areas.

ADUs are a critical form of infill-development that can be affordable and offer important housing choices within existing neighborhoods. ADUs are a powerful type of housing unit because they allow for different uses, and serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education and services for many Californians.

Summary of Recent Changes to ADU Laws



Courtesy of Karen Chapple, UC Berkeley

The California legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in single family and multifamily zones provides additional rental housing and are an essential component in addressing housing needs in California. Over the years, ADU law has been revised to improve its effectiveness such as recent changes in 2003 to require ministerial approval. In 2017, changes to ADU laws will further reduce barriers, better streamline approval and expand capacity to accommodate the development of ADUs.

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, friends, students, the elderly, in-home health care providers, the disabled, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the Department has prepared this guidance to assist local governments in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a brief summary of the changes for each bill.

SB 1069 (Wieckowski)

S.B. 1069 (Chapter 720, Statutes of 2016) made several changes to address barriers to the development of ADUs and expanded capacity for their development. The following is a brief summary of provisions that go into effect January 1, 2017.

Parking

SB 1069 reduces parking requirements to one space per bedroom or unit. The legislation authorizes off street parking to be tandem or in setback areas unless specific findings such as fire and life safety conditions are made. SB 1069 also prohibits parking requirements if the ADU meets any of the following:

- Is within a half mile from public transit.
- Is within an architecturally and historically significant historic district.
- Is part of an existing primary residence or an existing accessory structure.
- Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- Is located within one block of a car share area.

Fees

SB 1069 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service.

Fire Requirements

SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

ADUs within Existing Space

Local governments must ministerially approve an application to create within a single family residential zone one ADU per single family lot if the unit is:

- contained within an existing residence or accessory structure.
- has independent exterior access from the existing residence.
- has side and rear setbacks that are sufficient for fire safety.

These provisions apply within all single family residential zones and ADUs within existing space must be allowed in all of these zones. No additional parking or other development standards can be applied except for building code requirements.

No Total Prohibition

SB 1069 prohibits a local government from adopting an ordinance that precludes ADUs.

AB 2299 (Bloom)

Generally, AB 2299 (Chapter 735, Statutes of 2016) requires a local government (beginning January 1, 2017) to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements, as follows:

- The unit is not intended for sale separate from the primary residence and may be rented.
- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- The unit is either attached to an existing dwelling or located within the living area of the existing dwelling or detached and on the same lot.
- The increased floor area of the unit does not exceed 50% of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- The total area of floorspace for a detached accessory dwelling unit does not exceed 1,200 square feet.
- No passageway can be required.
- No setback can be required from an existing garage that is converted to an ADU.

- Compliance with local building code requirements.
- Approval by the local health officer where private sewage disposal system is being used.

Impact on Existing Accessory Dwelling Unit Ordinances

AB 2299 provides that any existing ADU ordinance that does not meet the bill's requirements is null and void upon the date the bill becomes effective. In such cases, a jurisdiction must approve accessory dwelling unit based on Government Code Section 65852.2 until the jurisdiction adopts a compliant ordinance.

AB 2406 (Thurmond)

AB 2406 (Chapter 755, Statutes of 2016) creates more flexibility for housing options by authorizing local governments to permit junior accessory dwelling units (JADU) through an ordinance. The bill defines JADUs to be a unit that cannot exceed 500 square feet and must be completely contained within the space of an existing residential structure. In addition, the bill requires specified components for a local JADU ordinance. Adoption of a JADU ordinance is optional.

Required Components

The ordinance authorized by AB 2406 must include the following requirements:

- Limit to one JADU per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence.
- The owner must record a deed restriction stating that the JADU cannot be sold separately from the single-family residence and restricting the JADU to the size limitations and other requirements of the JADU ordinance.
- The JADU must be located entirely within the existing structure of the single-family residence and JADU have its own separate entrance.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or have its own bath.

Prohibited Components

This bill prohibits a local JADU ordinance from requiring:

- Additional parking as a condition to grant a permit.
- Applying additional water, sewer and power connection fees. No connections are needed as these utilities have already been accounted for in the original permit for the home.

Fire Safety Requirements

AB 2406 clarifies that a JADU is to be considered part of the single-family residence for the purposes of fire and life protections ordinances and regulations, such as sprinklers and smoke detectors. The bill also requires life and protection ordinances that affect single-family residences to be applied uniformly to all single-family residences, regardless of the presence of a JADU.

JADUs and the RHNA

As part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a JADU toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit which is fairly flexible. Local government count units as part of reporting to DOF. JADUs meet these definitions and this bill would allow cities and counties to earn credit toward meeting their RHNA allocations by permitting residents to create less costly accessory units. See additional discussion under JADU frequently asked questions.

Frequently Asked Questions: Accessory Dwelling Units

Should an Ordinance Encourage the Development of ADUs?

Yes, ADU law and recent changes intend to address barriers, streamline approval and expand potential capacity for ADUs recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment and implementation of local ADU ordinances must be carried out consistent with Government Code Section 65852.150:

(a) The Legislature finds and declares all of the following:

- (1) Accessory dwelling units are a valuable form of housing in California.*
 - (2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.*
 - (3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.*
 - (4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.*
 - (5) California faces a severe housing crisis.*
 - (6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.*
 - (7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.*
 - (8) Accessory dwelling units are, therefore, an essential component of California's housing supply.*
- (b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.*

Are Existing Ordinances Null and Void?



Yes, any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to ADU law will be null and void. Until an ordinance is adopted, local governments must apply "state standards" (See Attachment 5 for State Standards checklist). In the absence of a local ordinance complying with ADU law, local review must be limited to "state standards" and cannot include additional requirements such as those in an existing ordinance. .

Are Local Governments Required to Adopt an Ordinance?

No, a local government **is not required** to adopt an ordinance. ADUs built within a jurisdiction that lacks a local ordinance must comply with state standards (See Attachment 5). Adopting an ordinance can occur through different forms such as a new ordinance, amendment to an existing ordinance, separate section or special regulations within the zoning code or integrated into the zoning code by district. However, the ordinance should be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

Can a Local Government Preclude ADUs?

No local government cannot preclude ADUs.

Can a Local Government Apply Development Standards and Designate Areas?

Yes, local governments may apply development standards and may designate where ADUs are permitted (GC Sections 65852.2(a)(1)(A) and (B)). However, ADUs within existing structures must be allowed in all single family residential zones.

For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations. ADUs can be avoided or allowed through an ancillary and separate discretionary process in areas with health and safety risks such as high fire hazard areas. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development. Designating areas where ADUs are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow and public safety. Utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g., no less than 500 feet between ADUs) may unreasonably restrict the ability of the homeowners to create ADUs, contrary to the intent of the Legislature.

Requiring large minimum lot sizes and not allowing smaller lot sizes for ADUs can severely restrict their potential development. For example, large minimum lot sizes for ADUs may constrict capacity throughout most of the community. Minimum lot sizes cannot be applied to ADUs within existing structures and could be considered relative to health and safety concerns such as areas on septic systems. While larger lot sizes might be targeted for various reasons such as ease of compatibility, many tools are available (e.g., maximum unit size, maximum lot coverage, minimum setbacks, architectural and landscape requirements) that allows ADUs to fit well within the built environment.

Can a Local Government Adopt Less Restrictive Requirements?

Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or amending general plan policies.

Santa Cruz has confronted a shortage of housing for many years, considering its growth in population from incoming students at UC Santa Cruz and its proximity to Silicon Valley. The city promoted the development of ADUs as critical infill-housing opportunity through various strategies such as creating a manual to promote ADUs. The manual showcases prototypes of ADUs and outlines city zoning laws and requirements to make it more convenient for homeowners to get information. The City found that homeowners will take time to develop an ADU only if information is easy to find, the process is simple, and there is sufficient guidance on what options they have in regards to design and planning.

The city set the minimum lot size requirement at 4,500 sq. ft. to develop an ADU in order to encourage more homes to build an ADU. This allowed for a majority of single-family homes in Santa Cruz to develop an ADU. For more information, see <http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/accessory-dwelling-unit-development-program>.

Can Local Governments Establish Minimum and Maximum Unit Sizes?

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c)). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.

Can ADUs Exceed General Plan and Zoning Densities?

An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Minimum lot sizes must not be doubled (e.g., 15,000 square feet) to account for an ADU. Further, local governments could elect to allow more than one ADU on a lot.

New developments can increase the total number of affordable units in their project plans by integrating ADUs. Aside from increasing the total number of affordable units, integrating ADUs also promotes housing choices within a development. One such example is the Cannery project in Davis, CA. The Cannery project includes 547 residential units with up to 60 integrated ADUs. ADUs within the Cannery blend in with surrounding architecture, maintaining compatibility with neighborhoods and enhancing community character. ADUs are constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing.

How Are Fees Charged to ADUs?

All impact fees, including water, sewer, park and traffic fees must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact (e.g., significantly less than a single family home).

Fees on ADUs, must proportionately account for impact on services based on the size of the ADU or number of plumbing fixtures. For example, a 700 square foot new ADU with one bathroom that results in less landscaping should be charged much less than a 2,000 square foot home with three bathrooms and an entirely new landscaped parcel which must be irrigated. Fees for ADUs should be significantly less and should account for a lesser impact such as lower sewer or traffic impacts.

What Utility Fee Requirements Apply to ADUs?

Cities and counties cannot consider ADUs as new residential uses when calculating connection fees and capacity charges.

Where ADUs are being created within an existing structure (primary or accessory), the city or county cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge.

For other ADUs, a local agency may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures.

What Utility Fee Requirements Apply to Non-City and County Service Districts?

All local agencies must charge impact fees in accordance with the Mitigation Fee Act (commencing with Government Code Section 66000), including in particular Section 66013, which requires the connection fees and capacity charges to be proportionate to the burden posed by the ADU. Special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Providers should consider a proportionate or sliding scale fee structures that address the smaller size and lesser impact of ADUs (e.g., fees per square foot or fees per fixture). Fee waivers or deferrals could be considered to better promote the development of ADUs.

Do Utility Fee Requirements Apply to ADUs within Existing Space?

No, where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) must not be required.

Does "Public Transit" Include within One-half Mile of a Bus Stop and Train Station?

Yes, "public transit" may include a bus stop, train station and paratransit if appropriate for the applicant. "Public transit" includes areas where transit is available and can be considered regardless of tighter headways (e.g., 15 minute intervals). Local governments could consider a broader definition of "public transit" such as distance to a bus route.

Can Parking Be Required Where a Car Share Is Available?

No, ADU law does not allow parking to be required when there is a car share located within a block of the ADU. A car share location includes a designated pick up and drop off location. Local governments can measure a block from a pick up and drop off location and can decide to adopt broader distance requirements such as two to three blocks.

Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?

Yes, ADU law deliberately reduces parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical or fire and life safety conditions or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of ADUs.

Local governments must provide reasonable accommodation to persons with disabilities to promote equal access housing and comply with fair housing laws and housing element law. The reasonable accommodation procedure must provide exception to zoning and land use regulations which includes an ADU ordinance. Potential exceptions are not limited and may include development standards such as setbacks and parking requirements and permitted uses that further the housing opportunities of individuals with disabilities.

Is Covered Parking Required?

No, off street parking must be permitted through tandem parking on an existing driveway, unless specific findings are made.

Is Replacement Parking Required When the Parking Area for the Primary Structure Is Used for an ADU?

Yes, but only if the local government requires off-street parking to be replaced in which case flexible arrangements such as tandem, including existing driveways and uncovered parking are allowed. Local governments have an opportunity to be flexible and promote ADUs that are being created on existing parking space and can consider not requiring replacement parking.

Are Setbacks Required When an Existing Garage Is Converted to an ADU?

No, setbacks must not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an ADU. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

Also, when a garage, carport or covered parking structure is demolished or where the parking area ceases to exist so an ADU can be created, the replacement parking must be allowed in any "configuration" on the lot, "...including,

but not limited to, covered spaces, uncovered spaces, or tandem spaces, or...." Configuration can be applied in a flexible manner to not burden the creation of ADUs. For example, spatial configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

Are ADUs Permitted in Existing Residence or Accessory Space?

Yes, ADUs located in single family residential zones and existing space of a single family residence or accessory structure must be approved regardless of zoning standards (Section 65852.2(a)(1)(B)) for ADUs, including locational requirements (Section 65852.2(a)(1)(A)), subject to usual non-appealable ministerial building permit requirements. For example, ADUs in existing space does not necessitate a zoning clearance and must not be limited to certain zones or areas or subject to height, lot size, lot coverage, unit size, architectural review, landscape or parking requirements. Simply, where a single family residence or accessory structure exists in any single family residential zone, so can an ADU. The purpose is to streamline and expand potential for ADUs where impact is minimal and the existing footprint is not being increased.

Zoning requirements are not a basis for denying a ministerial building permit for an ADU, including non-conforming lots or structures. The phrase, "...within the existing space" includes areas within a primary home or within an attached or detached accessory structure such as a garage, a carriage house, a pool house, a rear yard studio and similar enclosed structures.

Are Owner Occupants Required?

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5

Are Fire Sprinklers Required for ADUs?

Depends, ADUs shall not be required to provide fire sprinklers if they are not or were not required of the primary residence. However, sprinklers can be required for an ADU if required in the primary structure. For example, if the primary residence has sprinklers as a result of an existing ordinance, then sprinklers could be required in the ADU. Alternative methods for fire protection could be provided.

If the ADU is detached from the main structure or new space above a detached garage, applicants can be encouraged to contact the local fire jurisdiction for information regarding fire sprinklers. Since ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, students, the elderly, in-home health care providers, the disabled, and others, the fire departments want to ensure the safety of these populations as well as the safety of those living in the primary structure. Fire Departments can help educate property owners on the benefits of sprinklers, potential resources and how they can be installed cost effectively. For example, insurance rates are typically 5 to 10 percent lower where the unit is sprinklered. Finally, other methods exist to provide additional fire protection. Some options may include additional exits, emergency escape and rescue openings, 1 hour or greater fire-rated assemblies, roofing materials and setbacks from property lines or other structures.

Is Manufactured Housing Permitted as an ADU?

Yes, an ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007).

Health and Safety Code Section 18007(a) “**Manufactured home**,” for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

Can an Efficiency Unit Be Smaller than 220 Square Feet?

Yes, an efficiency unit for occupancy by no more than two persons, by statute (Health and Safety Code Section 17958.1), can have a minimum floor area of 150 square feet and can also have partial kitchen or bathroom facilities, as specified by ordinance or can have the same meaning specified in the Uniform Building Code, referenced in the Title 24 of the California Code of Regulations.

The 2015 International Residential Code adopted by reference into the 2016 California Residential Code (CRC) allows residential dwelling units to be built considerably smaller than an Efficiency Dwelling Unit (EDU). Prior to this code change an EDU was required to have a minimum floor area not less than 220 sq. ft unless modified by local ordinance in accordance with the California Health and Safety Code which could allow an EDU to be built no less than 150 sq. ft. For more information, see HCD's Information Bulletin at <http://www.hcd.ca.gov/codes/manufactured-housing/docs/ib2016-06.pdf>.

Does ADU Law Apply to Charter Cities and Counties?

Yes. ADU law explicitly applies to “local agencies” which are defined as a city, county, or city and county whether general law or chartered (Section 65852.2(i)(2)).

Do ADUs Count toward the Regional Housing Need Allocation?

Yes, local governments may report ADUs as progress toward Regional Housing Need Allocation pursuant to Government Code Section 65400 based on the actual or anticipated affordability. See below frequently asked questions for JADUs for additional discussion.

Must ADU Ordinances Be Submitted to the Department of Housing and Community Development?

Yes, ADU ordinances must be submitted to the State Department of Housing and Community Development within 60 days after adoption, including amendments to existing ordinances. However, upon submittal, the ordinance is not subject to a Department review and findings process similar to housing element law (GC Section 65585)

Frequently Asked Questions: Junior Accessory Dwelling Units

Is There a Difference between ADU and JADU?



Courtesy of Lilypad Homes and Photo Credit to Jocelyn Knight

Yes, AB 2406 added Government Code Section 65852.22, providing a unique option for Junior ADUs. The bill allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are typically bedrooms in a single-family home that have 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, but is not required to have a private bathroom. Current law does not prohibit local governments from adopting an ordinance for a JADU, and this bill explicitly allows, not requires, a local agency to do so. If the ordinance requires a permit, the local agency shall not require additional parking or charge a fee for a water or sewer connection as a condition of granting a permit for a JADU. For more information, see below.

ADUs and JADUs

REQUIREMENTS	ADU	JADU
Maximum Unit Size	Yes, generally up to 1,200 Square Feet or 50% of living area	Yes, 500 Square Foot Maximum
Kitchen	Yes	Yes
Bathroom	Yes	No, Common Sanitation is Allowed
Separate Entrance	Depends	Yes
Parking	Depends, Parking May Be Eliminated and Cannot Be Required Under Specified Conditions	No, Parking Cannot Be Required
Owner Occupancy	Depends, Owner Occupancy May Be Required	Yes, Owner Occupancy Is Required
Ministerial Approval Process	Yes	Yes
Prohibition on Sale of ADU	Yes	Yes

Why Adopt a JADU Ordinance?

JADUs offer the simplest and most affordable housing option. They bridge the gap between a roommate and a tenant by offering an interior connection between the unit and main living area. The doors between the two spaces can be secured from both sides, allowing them to be easily privatized or incorporated back into the main living area. These units share central systems, require no fire separation, and have a basic kitchen, utilizing small plug in appliances, reducing development costs. This provides flexibility and an insurance policy in homes in case additional income or housing is needed. They present no additional stress on utility services or infrastructure because they simply repurpose spare bedrooms that do not expand the homes planned occupancy. No additional address is required on the property because an interior connection remains. By adopting a JADU ordinance, local governments can offer homeowners additional options to take advantage of underutilized space and better address its housing needs.

Can JADUs Count towards the RHNA?

Yes, as part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, a JADU, including with shared sanitation facilities, that meets the census definition and is reported to the Department of Finance as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. Local governments can track actual or anticipated affordability to assure the JADU is counted to the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit application.

A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

Can the JADU Be Sold Independent of the Primary Dwelling?

No, the JADU cannot be sold separate from the primary dwelling.

Are JADUs Subject to Connection and Capacity Fees?

No, JADUs shall not be considered a separate or new dwelling unit for the purposes of fees and as a result should not be charged a fee for providing water, sewer or power, including a connection fee. These requirements apply to all providers of water, sewer and power, including non-municipal providers.

Local governments may adopt requirements for fees related to parking, other service or connection for water, sewer or power, however, these requirements must be uniform for all single family residences and JADUs are not considered a new or separate unit.

Are There Requirements for Fire Separation and Fire Sprinklers?

Yes, a local government may adopt requirements related to fire and life protection requirements. However, a JADU shall not be considered a new or separate unit. In other words, if the primary unit is not subject to fire or life protection requirements, then the JADU must be treated the same.

Resources



Courtesy of Karen Chapple, UC Berkeley

Attachment 1: Statutory Changes (Strikeout/Underline)

Government Code Section 65852.2

(a) (1) ~~Any~~ A local agency may, by ordinance, provide for the creation of ~~second-accessory dwelling~~ units in single-family and multifamily residential zones. The ordinance ~~may~~ shall do ~~any~~ all of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second-accessory dwelling~~ units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of ~~second-accessory dwelling~~ units on traffic ~~flow~~. flow and public safety.

(B) (i) Impose standards on ~~second-accessory dwelling~~ units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that ~~second-accessory dwelling~~ units do not exceed the allowable density for the lot upon which the ~~second-accessory dwelling~~ unit is located, and that ~~second-accessory dwelling~~ units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. ~~Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of ADUs, permits, within 120 days after receiving the application.~~ A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of ADUs. an accessory dwelling unit.

(b) (4) (1) An When ~~existing ordinance governing the creation of an accessory dwelling unit by~~ a local agency which has not adopted an ordinance governing ADUs in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a ADU if the ADU complies with all of the following: that complies with this section.

(A) The unit is not intended for sale and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The ADU is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached ADU shall not exceed 30 percent of the existing living area.

(F) The total area of floorspace for a detached ADU shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements which apply to detached dwellings, as appropriate.

(I) Approval by the local health officer where a private sewage disposal system is being used, if required.

(2) ~~(5)~~ No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) ~~(6)~~ This subdivision establishes the maximum standards that local agencies shall use to evaluate ~~proposed ADUs on lots~~ a proposed accessory dwelling unit on a lot zoned for residential use which contain ~~that contains~~ an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision~~ (a), subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant~~ owner-occupant or that the property be used for rentals of terms longer than 30 days.

(4) ~~(7)~~ No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any ~~A~~ local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ADUs an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(5) ~~(8)~~ ~~A ADU which conforms to the requirements of~~ An accessory dwelling unit that conforms to this subdivision shall ~~be deemed to be an accessory use or an accessory building and shall~~ not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use ~~which that is~~ consistent with the existing general plan and zoning designations for the lot. The ~~ADUs~~ accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) ~~(b)~~ No When a local agency shall adopt an ordinance which totally precludes ADUs within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing ADUs within single-family and multifamily zoned areas justify adopting the ordinance. that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(d) ~~(c)~~ A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second-accessory dwelling~~ units. No minimum or maximum size for ~~a second~~ an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings which ~~that~~ does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the

use of the ADU and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction. Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of ~~second-accessory dwelling~~ units shall be determined in accordance with Chapter 5 (commencing with Section 66000). 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs. an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ~~ordinances~~ ordinance adopted pursuant to subdivision (a) ~~or (e)~~ to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area," area means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) ~~"Second-"~~ "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second-~~ An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for ~~second~~ accessory dwelling units.

Government Code Section 65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A sink with a maximum waste line diameter of 1.5 inches.

(B) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

(C) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether the junior accessory dwelling unit is in compliance with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. A permit shall be issued within 120 days of submission of an application for a

permit pursuant to this section. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For the purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For the purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Attachment 2: Sample ADU Ordinance

Section XXX1XXX: Purpose

This Chapter provides for accessory dwelling units on lots developed or proposed to be developed with single-family dwellings. Such accessory dwellings contribute needed housing to the community's housing stock. Thus, accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities, including near transit on single family lots.

Section XXX2XXX: Applicability

The provisions of this Chapter apply to all lots that are occupied with a single family dwelling unit and zoned residential. Accessory dwelling units do exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot.

Section XXX3XXX: Development Standards

Accessory Structures within Existing Space

An accessory dwelling unit within an existing space including the primary structure, attached or detached garage or other accessory structure shall be permitted ministerially with a building permit regardless of all other standards within the Chapter if complying with:

1. Building and safety codes
2. Independent exterior access from the existing residence
3. Sufficient side and rear setbacks for fire safety.

Accessory Structures (Attached and Detached)

General:

1. The unit is not intended for sale separate from the primary residence and may be rented.
2. The lot is zoned for residential and contains an existing, single-family dwelling.
3. The accessory dwelling unit is either attached to the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
4. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
5. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet.
6. Local building code requirements that apply to detached dwellings, as appropriate.
7. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
8. No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
9. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.

Parking:

1. Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking, including on an existing driveway or in setback areas, excluding the non-driveway front yard setback.
2. Parking is not required in the following instances:
 - The accessory dwelling unit is located within one-half mile of public transit, including transit stations and bus stations.

- The accessory dwelling unit is located in the WWW Downtown, XXX Area, YYY Corridor and ZZZ Opportunity Area.
 - The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - When there is a car share vehicle located within one block of the accessory dwelling unit.
3. Replacement Parking: When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking shall not be required and may be located in any configuration on the same lot as the accessory dwelling unit.

Section XXX4XXX: Permit Requirements

ADUs shall be permitted ministerially, in compliance with this Chapter within 120 days of application. The Community Development Director shall issue a building permit or zoning certificate to establish an accessory dwelling unit in compliance with this Chapter if all applicable requirements are met in Section XXX3XXXX, as appropriate. The Community Development Director may approve an accessory dwelling unit that is not in compliance with Section XXX3XXXX as set forth in Section XXX5XXXX. The XXXX Health Officer shall approve an application in conformance with XXXXXX where a private sewage disposal system is being used.

Section XXX5XXX: Review Process for Accessory Structure Not Complying with Development Standards

An accessory dwelling unit that does not comply with standards in Section XXX3XX may be permitted with a zoning certificate or an administrative use permit at the discretion of the Community Development Director subject to findings in Section XXX6XX

Section XXX6XXX: Findings

- A. In order to deny an administrative use permit under Section XXX5XXX, the Community Development Director shall find that the Accessory Dwelling Unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors.
- B. In order to approve an administrative use permit under Section XXX5XXX to waive required accessory dwelling unit parking, the Community Development Director shall find that additional or new on-site parking would be detrimental, and that granting the waiver will meet the purposes of this Chapter.

Section XXX7XXX: Definitions

- (1) "Living area means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.
- (2) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:
- (A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- (3) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(4) (1) "Existing Structure" for the purposes of defining an allowable space that can be converted to an ADU means within the four walls and roofline of any structure existing on or after January 1, 2017 that can be made safely habitable under local building codes at the determination of the building official regardless of any non-compliance with zoning standards.

Attachment 3: Sample JADU Ordinance

(Lilypad Homes at <http://lilypadhomes.org/>)

Draft Junior Accessory Dwelling Units (JADU) – Flexible Housing

Findings:

1. **Causation:** Critical need for housing for lower income families and individuals given the high cost of living and low supply of affordable homes for rent or purchase, and the difficulty, given the current social and economic environment, in building more affordable housing
2. **Mitigation:** Create a simple and inexpensive permitting track for the development of junior accessory dwelling units that allows spare bedrooms in homes to serve as a flexible form of infill housing
3. **Endangerment:** Provisions currently required under agency ordinances are so arbitrary, excessive, or burdensome as to restrict the ability of homeowners to legally develop these units therefore encouraging homeowners to bypass safety standards and procedures that make the creation of these units a benefit to the whole of the community
4. **Co-Benefits:** Homeowners (particularly retired seniors and young families, groups that tend to have the lowest incomes) – generating extra revenue, allowing people facing unexpected financial obstacles to remain in their homes, housing parents, children or caregivers; Homebuyers - providing rental income which aids in mortgage qualification under new government guidelines; Renters – creating more low-cost housing options in the community where they work, go to school or have family, also reducing commute time and expenses; Municipalities – helping to meet RHNA goals, increasing property and sales tax revenue, insuring safety standard code compliance, providing an abundant source of affordable housing with no additional infrastructure needed; Community - housing vital workers, decreasing traffic, creating economic growth both in the remodeling sector and new customers for local businesses; Planet - reducing carbon emissions, using resources more efficiently;
5. **Benefits of Junior ADUs:** offer a more affordable housing option to both homeowners and renters, creating economically healthy, diverse, multi-generational communities;

Therefore the following ordinance is hereby enacted:

This Section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit, permitted as set forth under State Law AB 1866 (Chapter 1062, Statutes of 2002) Sections 65852.150 and 65852.2 and subject to different provisions under fire safety codes based on the fact that junior accessory dwelling units do not qualify as “complete independent living facilities” given that the interior connection from the junior accessory dwelling unit to the main living area remains, therefore not redefining the single-family home status of the dwelling unit.

A) **Development Standards.** Junior accessory dwelling units shall comply with the following standards, including the standards in Table below:

- 1) **Number of Units Allowed.** Only one accessory dwelling unit or, junior accessory dwelling unit, may be located on any residentially zoned lot that permits a single-family dwelling except as otherwise regulated or restricted by an adopted Master Plan or Precise Development Plan. A junior accessory dwelling unit may only be located on a lot which already contains one legal single-family dwelling.
- 2) **Owner Occupancy:** The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the accessory dwelling, except when the home is held by an agency such as a land trust or housing organization in an effort to create affordable housing.
- 3) **Sale Prohibited:** A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

- 4) **Deed Restriction:** A deed restriction shall be completed and recorded, in compliance with Section B below.
- 5) **Location of Junior Accessory Dwelling Unit:** A junior accessory dwelling unit must be created within the existing walls of an existing primary dwelling, and must include conversion of an existing bedroom.
- 6) **Separate Entry Required:** A separate exterior entry shall be provided to serve a junior accessory dwelling unit.
- 7) **Interior Entry Remains:** The interior connection to the main living area must be maintained, but a second door may be added for sound attenuation.
- 8) **Kitchen Requirements:** The junior accessory dwelling unit shall include an efficiency kitchen, requiring and limited to the following components:
 - a) A sink with a maximum waste line diameter of one-and-a-half (1.5) inches,
 - b) A cooking facility with appliance which do not require electrical service greater than one-hundred-and-twenty (120) volts or natural or propane gas, and
 - c) A food preparation counter and storage cabinets that are reasonable to size of the unit.
- 9) **Parking:** No additional parking is required beyond that required when the existing primary dwelling was constructed.

Development Standards for Junior Accessory Dwelling Units

SITE OR DESIGN FEATURE	SITE AND DESIGN STANDARDS
Maximum unit size	500 square feet
Setbacks	As required for the primary dwelling unit
Parking	No additional parking required

- B) **Deed Restriction:** Prior to obtaining a building permit for a junior accessory dwelling unit, a deed restriction, approved by the City Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a junior accessory dwelling unit identified in this Section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Department stating that:
 - 1) The junior accessory dwelling unit shall not be sold separately from the primary dwelling unit;
 - 2) The junior accessory dwelling unit is restricted to the maximum size allowed per the development standards;
 - 3) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory dwelling unit, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or housing organization in an effort to create affordable housing;
 - 4) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a junior accessory dwelling unit on the property.
- C) **No Water Connection Fees:** No agency should require a water connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.
- D) **No Sewer Connection Fees:** No agency should require a sewer connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard

may be assessed.

- E) **No Fire Sprinklers and Fire Attenuation:** No agency should require fire sprinkler or fire attenuation specifications for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.

Definitions of Specialized Terms and Phrases.

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(1) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Attachment 4: State Standards Checklist (As of January 1, 2017)

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.	65852.2(a)(1)(D)(ii)
	Accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.	65852.2(a)(1)(D)(iv)
	Total area of floor space for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines are not required for an accessory dwelling unit that is constructed above a garage.	65852.2(a)(1)(D)(vii)
	(Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)

* Other requirements may apply. See Government Code Section 65852.2

Attachment 5: Bibliography

Reports

ACCESSORY DWELLING UNITS: CASE STUDY (26 pp.)

By United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities, and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

THE MACRO VIEW ON MICRO UNITS (46 pp.)

By Bill Whitlow, et al. — Urban Land Institute (2014)
Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

RESPONDING TO CHANGING HOUSEHOLDS: Regulatory Challenges for Micro-units and Accessory Dwelling Units (76 pp.)

By Vicki Been, Benjamin Gross, and John Infranca (2014)
New York University: Furman Center for Real Estate & Urban Policy
Library Call # D55 3 I47 2014

This White Paper fills two gaps in the discussion regarding compact units. First, we provide a detailed analysis of the regulatory and other challenges to developing both ADUs and micro-units, focusing on five cities: New York; Washington, DC; Austin; Denver; and Seattle. That analysis will be helpful not only to the specific jurisdictions we study, but also can serve as a model for those who want to catalogue regulations that might get in the way of the development of compact units in their own jurisdictions. Second, as more local governments permit or encourage compact units, researchers will need to evaluate how well the units built serve the goals proponents claim they will.

SCALING UP SECONDARY UNIT PRODUCTION IN THE EAST BAY: Impacts and Policy Implications (25 pp.)

By Jake Webmann, Alison Nemirow, and Karen Chapple (2012)
UC Berkeley: Institute of Urban and Regional Development (IURD)
Library Call # H44 1.1 S33 2012

This paper begins by analyzing how many secondary units of one particular type, detached backyard cottages, might be built in the East Bay, focusing on the Flatlands portions of Berkeley, El Cerrito, and Oakland. We then investigate the potential impacts of scaling up the strategy with regard to housing affordability, smart growth, alternative transportation, the economy, and city budgets. A final section details policy recommendations, focusing on regulatory reforms and other actions cities can take to encourage secondary unit construction, such as promoting carsharing programs, educating residents, and providing access to finance.

SECONDARY UNITS AND URBAN INFILL: A literature Review (12 pp.)

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

YES, BUT WILL THEY LET US BUILD? The Feasibility of Secondary Units in the East Bay (17 pp.)

By Alison Nemirow and Karen Chapple (2012)
UC Berkeley: IURD
Library Call # H44.5 1.1 Y47 2012

This paper begins with a discussion of how to determine the development potential for secondary units, and then provides an overview of how many secondary units can be built in the East Bay of San Francisco Bay Area under current regulations. The next two sections examine key regulatory barriers in detail for the five cities in the study (Albany, Berkeley, El Cerrito, Oakland, and Richmond), looking at lot size, setbacks, parking requirements, and procedural barriers. A sensitivity analysis then determines how many units could be built were the regulations to be relaxed.

YES IN MY BACKYARD: Mobilizing the Market for Secondary Units (20 pp.)

By Karen Chapple, J. Weigmann, A. Nemirow, and C. Dentel-Post (2011)
UC Berkeley: Center for Community Innovation.
Library Call # B92 1.1 Y47 2011

This study examines two puzzles that must be solved in order to scale up a secondary unit strategy: first, how can city regulations best enable their construction? And second, what is the market for secondary units? Because parking is such an important issue, we also examine the potential for secondary unit residents to rely on alternative transportation modes, particular car share programs. The study looks at five adjacent cities in the East Bay of the San Francisco Bay Area (Figure 1) – Oakland, Berkeley, Albany, El Cerrito, and Richmond – focusing on the areas within ½ mile of five Bay Area Rapid Transit (BART) stations.

Journal Articles and Working Papers:

BACKYARD HOMES LA (17 pp.)

By Dana Cuff, Tim Higgins, and Per-Johan Dahl, Eds. (2010)
Regents of the University of California, Los Angeles.
City Lab Project Book.

DEVELOPING PRIVATE ACCESSORY DWELLINGS (6 pp.)

By William P. Macht. Urbanland online. (June 26, 2015)
Library Location: Urbanland 74 (3/4) March/April 2015, pp. 154-161.

GRANNY FLATS GAINING GROUND (2 pp.)

By Brian Barth. Planning Magazine: pp. 16-17. (April 2016)

Library Location: Serials

"HIDDEN" DENSITY: THE POTENTIAL OF SMALL-SCALE INFILL DEVELOPMENT (2 pp.)

By Karen Chapple (2011)

UC Berkeley: IURD Policy Brief.

Library Call # D44 1.2 H53 2011

California's implementation of SB 375, the Sustainable Communities and Climate Protection Act of 2008, is putting new pressure on communities to support infill development. As metropolitan planning organizations struggle to communicate the need for density, they should take note of strategies that make increasing density an attractive choice for neighborhoods and regions.

HIDDEN DENSITY IN SINGLE-FAMILY NEIGHBORHOODS: Backyard cottages as an equitable smart growth strategy (22 pp.)

By Jake Wegmann and Karen Chapple. Journal of Urbanism 7(3): pp. 307-329. (2014)

Abstract (not available in full text): Secondary units, or separate small dwellings embedded within single-family residential properties, constitute a frequently overlooked strategy for urban infill in high-cost metropolitan areas in the United States. This study, which is situated within California's San Francisco Bay Area, draws upon data collected from a homeowners' survey and a Rental Market Analysis to provide evidence that a scaled-up strategy emphasizing one type of secondary unit – the backyard cottage – could yield substantial infill growth with minimal public subsidy. In addition, it is found that this strategy compares favorably in terms of affordability with infill of the sort traditionally favored in the 'smart growth' literature, i.e. the construction of dense multifamily housing developments.

RETHINKING PRIVATE ACCESSORY DWELLINGS (5 pp.)

By William P. Macht. Urbanland online. (March 6, 2015)

Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

ADUS AND LOS ANGELES' BROKEN PLANNING SYSTEM (4 pp.)

By CARLYLE W. Hall. The Planning Report. (April 26, 2016).

Land-use attorney Carlyle W. Hall comments on building permits for accessory dwelling units.

News:

HOW ONE COLORADO CITY INSTANTLY CREATED AFFORDABLE HOUSING

By Anthony Flint. The Atlantic-CityLab. (May 17, 2016).

In Durango, Colorado, zoning rules were changed to allow, for instance, non-family members as residents in already-existing accessory dwelling units.

NEW HAMPSHIRE WINS PROTECTIONS FOR ACCESSORY DWELLING UNITS (1 p.)

NLIHC (March 28, 2016)

Affordable housing advocates in New Hampshire celebrated a significant victory this month when Governor Maggie Hassan (D) signed Senate Bill 146, legislation that allows single-family homeowners to add an accessory

dwelling unit as a matter of right through a conditional use permit or by special exception as determined by their municipalities. The bill removes a significant regulatory barrier to increasing rental homes at no cost to taxpayers.

[NEW IN-LAW SUITE RULES BOOST AFFORDABLE HOUSING IN SAN FRANCISCO.](#) (3 pp.)

By Rob Poole. Shareable. (June 10, 2014).

The San Francisco Board of Supervisors recently approved two significant pieces of legislation that support accessory dwelling units (ADUs), also known as "in-law" or secondary units, in the city...

[USING ACCESSORY DWELLING UNITS TO BOLSTER AFFORDABLE HOUSING](#) (3 pp.)

By Michael Ryan. Smart Growth America. (December 12, 2014).

ATTACHMENT PC-2

Areas of additional study/discussion

This attachment is intended to highlight the policy-related issues that were identified during the February 14, 2017 Planning Commission meeting and put “on hold” for further discussion. The information helps wrap-up the Commission’s review of the proposed draft ordinance, prior to forwarding a recommendation to City Council.

The following information is not intended to limit commissioner deliberations. After receiving written and oral input from the public, the Commission may still discuss other policy-related issues at the March 14, 2017 Public Hearing (and at any additional hearings continued to a date specific the Commission determines necessary).

Uncovered and Tandem Parking:

The details of parking regulations can actually have wide-ranging impacts on a community. For this reason, some members of the Planning Commission expressed concern over new State regulations that reduce the parking requirements for new Accessory Dwelling Units and replacement parking. The requirements, as specified by State law, are provided for reference:

65852.2(d)(x)(I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those off street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

Although recent State law changes have been made in an attempt to respond to a matter of statewide importance, the Legislature also expressed its intent, to some degree, to recognize local regulations. A city may concurrently regulate areas affected by this new State legislation as long as they are compatible. Some policy approaches for discussion include:

1. To minimize any physical impacts of uncovered parking in the front yard, exclude non-driveway areas of the front yard setback area. (Only one driveway can serve the property.)
2. To reduce any visual impacts of uncovered parking in the front yard, require new fencing or a landscaping buffer area around new uncovered parking that is provided in the non-driveway area. (Fencing or walls of a certain height must be located outside of a front yard setback area.)
3. To reduce the amount of vehicle storage or stacking, only allow one set of tandem parking. If both units on the lot use the same driveway for access purposes, then the driveway must be paved to a width of 16 feet.
4. To reduce excessive hardscaping in areas visible to the street, only allow soft surface and permeable parking areas in non-driveway areas.

Garage Conversions:

A residential garage is intended to store one or more personal vehicles. Some garages have enough space, even with cars inside, for the storage of items such as bicycles or a lawnmower; in some cases, there may even be enough space for a workshop. At the February 14, 2017 Public Hearing, some members of the Planning Commission expressed concern over garage conversions.

Some policy approaches for discussion include:

1. Mitigate the loss of household storage space somewhere else on the property.
2. Because a local agency may establish minimum and maximum unit size requirements:
 - ☐ Establish that only an efficiency unit can be constructed through a garage conversion. An efficiency unit is 150 square feet, which would leave the remaining garage space area for vehicle and household item storage
 - ☐ Require garage conversions to be a minimum of 450 square feet. (Most two-car garages measure 400 square feet.)

All of the options noted above have been provided to help facilitate commissioner discussion and are not intended to represent staff direction. Staff is soliciting commissioner ideas and input on these issues and any others that may be of concern as we move forward to implement State law.