

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.3.	SITE LOCATION: Citywide
HEARING DATE: January 21, 2021	GENERAL PLAN: N/A
CASE NO.: Amendment No. A-027-2020	ZONE: N/A
APPLICANT: City of Garden Grove	
OWNER: N/A	CEQA DETERMINATION: Exempt

REQUEST:

Recommend approval to the City Council of a City-initiated zoning text amendment to Title 9 of the Garden Grove Municipal Code (Land Use Code) pertaining to the regulation of accessory dwelling units and junior accessory dwelling units to conform to changes in State law.

BACKGROUND:

Accessory Dwelling Units (ADUs) have been identified by the State of California as providing an important affordable housing option essential to meeting the State's growing housing shortage.

In 1982, the State enacted legislation that authorized local jurisdictions to adopt provisions permitting second-units while maintaining local control. In 2002, Assembly Bill (AB) 1866 was adopted to update the second-unit law to require local jurisdictions to allow second-units by-right on lots improved with an existing single-family home, subject to reasonable zoning and development standards.

In 2016, Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 were adopted amending State law to further restrict local control over second-units for the purpose of allowing property owners more flexibility to build ADUs.

In 2019, the State legislature adopted a series of bills, SB 13, AB 68, AB 587, AB 671 and AB 881, that became effective on January 1, 2020, which further restricted local control over ADUs and Junior ADUs (JADUs) in order to facilitate more housing production. The new State ADU/JADU law strictly limits the scope of zoning regulations and development standards local jurisdictions may apply to ADUs, while allowing local jurisdictions some flexibility to continue to regulate certain aspects of ADUs, such as maximum unit size, height, setback, and architectural review, within specified parameters. Pursuant to State law, local jurisdictions must adopt a new ordinance consistent with State law in order to impose any zoning regulations on ADUs and JADUs beyond the minimum default standards specified in State law.

During the interim period, from January 1, 2020 to the present, the City has applied the minimum default requirements in the new State law to all ADU and JADU projects submitted for plan check review, and has continued to issue building permits for their construction pending approval of a new ADU and JADU ordinance.

On July 16, 2020, the Planning Commission held a Public Hearing to consider Amendment No. A-027-2020 and a draft ordinance proposed by staff. Amendment No. A-027-2020 would repeal portions of Chapter 9.08 of Title 9 (Zoning) of the Garden Grove Municipal Code pertaining to Accessory Dwelling Units, and would add Chapter 9.54 to Title 9 of the Municipal Code to establish regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units to comply with State law. The Planning Commission voted 7-0 to adopt Resolution No. 5995-20 recommending that the City Council approve Amendment No. A-027-2020 and adopt the draft ordinance proposed by staff.

On August 25, 2020, the City Council held a Public Hearing to consider Amendment No. A-027-2020 and the draft ordinance recommended by the Planning Commission. At the meeting, the City Council recognized that State law mandates jurisdictions to allow ADUs and JADUs; however, the City Council also recognized the impacts ADUs and JADUs have on the community, including changing the character of residential neighborhoods. The City Council voted 7-0 to direct staff to further review State law to identify areas of the law where the City could exercise further local control over ADUs and JADUs and to consider additional revisions to the draft ordinance to ensure it provides for as much local control possible, while still ensuring compliance with State law.

On September 8, 2020, staff presented a revised draft ordinance to the City Council, which proposed revisions staff believed to be consistent with State law (Attachment 1). The proposed revisions included, but were not limited to: limiting the maximum number of bedrooms in an ADU to two (2); reducing the maximum unit size of ADUs; and increasing the building separation between ADUs and the detached structures. Following a Public Hearing and discussion, the City Council voted 7-0 that the revised draft ordinance be remanded to the Planning Commission for review and recommendation to the City Council.

State law requires local jurisdictions to submit a copy of their adopted ADU and JADU ordinance to the Department of Housing and Community Development (HCD) for review to determine compliance with State Law. Local jurisdictions may also submit draft ADU and JADU ordinances to HCD for preliminary review and feedback. State law also authorizes HCD to adopt guidelines to implement uniform standards or criteria that supplement or clarify the State ADU law.

On September 15, 2020, the City submitted a copy of the revised draft ordinance as presented to City Council at the September 8, 2020 City Council Meeting to HCD for preliminary review.

In September 2020, HCD also released an updated Accessory Dwelling Unit (ADU) Handbook setting forth HCD's guidance clarifying the intent of the new State ADU law and providing answers to frequently asked questions about ADUs (Attachment 2).

On October 22, 2020, a meeting was held between City staff and HCD to discuss the revised draft ordinance. At the meeting, HCD noted several areas of the revised draft ordinance that HCD believed were inconsistent with State law, including the limit on the number of bedrooms allowed in ADUs.

Staff has prepared an updated revised draft ordinance for the Planning Commission's consideration based on the guidance contained in HCD's September 2020 ADU Handbook and the feedback provided by HCD during the October 22, 2020 meeting (Attachment 3). This updated revised draft ordinance incorporates the City Council recommended changes that HCD did not identify as being inconsistent with State law. The changes from the draft ordinance originally recommended by the Planning Commission on July 16, 2020 are shown in redline/strikeout format.

DISCUSSION

The following discussion describes the most significant changes to the draft ordinance:

Number of Bedrooms

The City Council requested that the number of bedrooms in ADUs be limited to two (2) bedrooms; however, while State law does not specifically prohibit jurisdictions from imposing bedroom restrictions, HCD subsequently clarified that jurisdictions cannot limit the number of bedrooms in ADUs. According to HCD's new ADU Handbook, a limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered an impermissible restraint on the development of ADUs. HCD also clarified that ADU ordinances that incorporated restrictions to the number of bedrooms would not be certified. Therefore, the revised ordinance has been modified to exclude language restricting the number of bedrooms in ADUs, consistent with HCD's interpretation of State law.

Number of ADUs Permitted in Multiple Family Developments

State law allows multiple family developments to construct up to two (2) detached ADUs, and allows multiple ADUs to be constructed within portions of existing multiple-family structures not used for livable space, such as storage rooms, boiler rooms, passageways, attics, basements, garages, etc., up to 25% of the existing multiple-family units. The HCD ADU Handbook clarifies that jurisdictions can regulate the configuration of new ADUs and ADU conversions allowed on multiple-family developments. Jurisdictions are not required to allow both new ADUs and ADU conversions to be developed concurrently on properties developed with multiple-family residences. With HCD's interpretation of this State law provision, the ordinance has been revised to limit properties with multiple-family developments to

either 1) no more than two (2) detached ADUs or 2) one or more converted ADUs as allowed by State law. Furthermore, all new ADUs must be developed as detached units, as specified by State law.

Maximum Unit Sizes

State law allows jurisdictions to establish maximum unit sizes for ADUs; however, State law also establishes minimum and maximum ADU sizes that jurisdictions must allow by right. Staff originally recommended a maximum ADU size of 1,200 square feet, which is the default standard under State law for jurisdictions without a compliant ordinance. Based on the City Council's feedback, however, staff has revised the draft ordinance to limit maximum unit sizes to full extent permitted by State law. The revised draft ordinance limits ADUs designed as a studio or one-bedroom unit to a maximum size of 850 square feet, and two or more bedroom units to a maximum size of 1,000 square feet. In addition, ADUs cannot exceed 800 square feet in size in cases where both an ADU and JADU are developed or proposed to be developed on a site. These maximum sizes were presented to City Council at the September 8, 2020 City Council Meeting.

Replacement Parking for JADUs Parking

State law requires jurisdictions to allow JADUs within the walls of an existing single-family residence. The HCD ADU Handbook clarifies that a garage attached to a single-family residence is considered to be within the walls of the existing single-family residence, and can be converted into a JADU. Furthermore, the HCD ADU Handbook indicates that jurisdictions can impose replacement parking requirements for JADUs proposed within an attached garage (unlike ADUs). The revised ordinance includes provisions allowing JADUs in an attached garage, but requiring replacement parking for any garage converted into a JADU. The required garage parking can be replaced on the same lot as covered spaces, uncovered spaces, or tandem spaces.

ADU Building Height

State law authorizes jurisdictions to limit the overall building height of one-story ADUs to 16 feet; however, jurisdictions are permitted to establish a maximum building height greater than 16 feet. The revised ordinance reduces the maximum allowed building height of ADUs from 17 feet to 16 feet, as authorized by State law.

ADU Building Separation

The revised ordinance increases the minimum building separation from five (5) feet to (6) feet between detached ADUs and the primary residence and/or other detached structures on the same site. The six (6) foot building separation was required by the 2017 ADU ordinance, and was also presented to City Council at the September 8, 2020 meeting.

Other Revisions

The revised ordinance also includes revisions that make ADU design standards more objective, clarify specific building and fire code requirements, and eliminate other requirements HCD considers to be inconsistent with State law.

The revised ordinance incorporates the recommended changes by City Council, and the recommended changes by HCD for the ordinance to be in compliance with State law.

A comprehensive comparison of the 2017 ADU Ordinance, the State law regulations, and proposed ADU and JADU regulations is provided in Attachment 4.

Once the revised ordinance is adopted by the City, a copy of the ordinance will be submitted to HCD for review for compliance with State law.

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Adopt the proposed Resolution recommending approval of Amendment No. A-027-2020 to the City Council.

LEE MARINO
Planning Services Manager

By: Maria Parra
Senior Planner

- Attachment 1: Revised Draft ADU and JADU Ordinance presented to City Council on September 8, 2020
- Attachment 2: California Department of Housing and Community Development, Accessory Dwelling Unit Handbook, September 2020
- Attachment 3: Revised Draft ADU and JADU Ordinance for Planning Commission Consideration
- Attachment 4: Comparison Chart of the 2017 ADU Ordinance, the State law regulations, and Proposed Draft ADU and JADU Ordinance
- Attachment 5: Planning Commission Staff Report and Resolution No. 5995-2020 dated July 16, 2020
- Attachment 6: Draft Planning Commission Resolution No. 6015-21
- Attachment 7: Draft City Council Proposed ADU and JADU Ordinance

RESOLUTION NO. 6015-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THE CITY COUNCIL APPROVE AMENDMENT NO. A-027-2020, A ZONING TEXT AMENDMENT TO TITLE 9 OF THE GARDEN GROVE MUNICIPAL CODE TO REPEAL THE EXISTING AND ADOPT NEW REGULATIONS FOR THE DEVELOPMENT OF ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS IN THE CITY TO CONFORM TO CHANGES IN STATE LAW.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on January 21, 2021, does hereby recommend approval of Amendment No. A-027-2020 to the City Council.

BE IT FURTHER RESOLVED in the matter of Amendment No. A-027-2020, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The case was initiated by the City of Garden Grove.
2. The City of Garden Grove is proposing to repeal portions of Chapter 9.08 of Title 9 (Zoning) of the Garden Grove Municipal code pertaining to accessory dwelling units, and to add Chapter 9.54 to Title 9 of the Municipal Code to establish regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units consistent with State law.
3. The Planning Commission recommends the City Council find that the proposed amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17 (CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code) and CEQA Guidelines Section 15061(b)(3) (It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).
4. Pursuant to legal notice, a public hearing was held on January 21, 2021, and all interested persons were given an opportunity to be heard.
5. Report submitted by City staff was reviewed.
6. The Planning Commission gave due and careful consideration to the matter during its meeting of January 21, 2021; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission are as follows:

FACTS:

The proposed Code Amendment is a text amendment intended to conform the City's Municipal Code with recent State law changes by incorporating provisions and regulations pertaining to accessory dwelling units ("ADUs") and junior accessory units ("JADUs").

Effective January 1, 2020, Senate Bill (SB 13) and Assembly Bills (AB) AB 68, 587, 671, and 881 amended Government Code Sections 65852.2 and 65852.22 and added Government Code Section 65852.6 for the purpose of further facilitating the housing production of ADUs and JADUs to address the State's housing shortage. These amended State laws establish new requirements and limitations that local jurisdictions must comply with in order to retain authority to continue to regulate ADUs. The proposed text amendment will be make the City's regulations for ADUs and JADUs consistent with the amended State law.

On July 16, 2020, the Planning Commission held a Public Hearing to consider Amendment No. A-027-2020 and a draft ordinance proposed by staff. Amendment No. A-027-2020 would repeal portions of Chapter 9.08 of Title 9 (Zoning) of the Garden Grove Municipal Code pertaining to Accessory Dwelling Units, and would add Chapter 9.54 to Title 9 of the Municipal Code to establish regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units to comply with State law. The Planning Commission voted 7-0 to adopt Resolution No. 5995-20 recommending that the City Council approve Amendment No. A-027-2020 and adopt the draft ordinance proposed by staff.

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On October 22, 2020, a meeting was held between City staff and HCD to discuss the revised draft ordinance. At the meeting, HCD noted several areas of the revised draft ordinance that HCD believed were inconsistent with State law, including the limit on the number of bedrooms allowed in ADUs.

The revised draft ordinance for the Planning Commission's consideration is based on the guidance contained in the HCD's September 2020 ADU Handbook and the feedback provided by HCD during the October 22, 2020 meeting. The updated revised draft ordinance incorporates the City Council recommended changes that HCD did not identify as being inconsistent with State law.

FINDINGS AND REASONS:

1. The Amendment is internally consistent with the goals, objectives and elements of the City's General Plan.

The proposed Land Use Code Amendment is internally consistent with the goals, policies, and elements of the General Plan. The proposed text amendments will bring the City's Land Use Code into conformance with recent changes to State law pertaining to accessory dwelling units (ADUs) and junior accessory units (JADUs). The intent of the changes to the State law is to continue to facilitate the housing production of ADUs and JADUs, which are considered as an essential affordable housing option to address the State's housing shortage. Pursuant to State law, ADUs and JADUs will be allowed in zones where single-family and multiple-family uses are permitted. Goal LU-2 and Policy LU-2.2 of the General Plan Land Use element encourage a diverse mix of housing types in the City. In addition, the goal of the General Plan Housing Element is to encourage the development of affordable housing to meet the City's regional housing needs as well as to provide housing that encourages people of all economic levels to live in Garden Grove. ADUs and JADUs will provide for more housing opportunities in the City that will meet the City's regional housing needs.

- 2. The Amendment will promote the public interest, health, safety and welfare.

The proposed Land Use Code Amendment will promote the public health, safety and welfare. The proposed text amendments will bring the City’s Land Use Code into conformance with changes to State law relating to accessory dwelling units (ADUs) and junior accessory units (JADUs). The proposed text amendments are intended to be consistent with current State law, and will facilitate the housing production of ADUs and JADUs, which are an essential affordable housing option to meet the State’s housing shortage. Nevertheless, to minimize impacts of ADUs and JADUs to existing residential neighborhoods, the Land Use Code will continue to contain reasonable development standards and regulations for ADUs and JADUs, as permitted by State law, including prohibiting the short-term rental of ADUs and JADUs and requiring owner-occupancy for properties developed with JADUs and the recordation of a corresponding deed restriction.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN THE STAFF REPORT:

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

- 1. Amendment No. A-027-2020 possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.D.1 (Code Amendment).
- 2. The Planning Commission recommends that the City Council approve Amendment No. A-027-2020 and adopt the draft Ordinance attached hereto as Exhibit "A".

Adopted this 21st day of January 2021

ATTEST:

/s/ DAISY PEREZ
VICE CHAIR

/s/ JUDITH MOORE
RECORDING SECRETARY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, JUDITH MOORE, Secretary of the City of Garden Grove Planning Commission, do hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Garden Grove, California, at a meeting held on January 21, 2021, by the following vote:

AYES:	COMMISSIONERS:	(5)	LE, LINDSAY, PEREZ, RAMIREZ, SOEFFNER
NOES:	COMMISSIONERS:	(0)	NONE
ABSENT:	COMMISSIONERS:	(1)	LEHMAN

/s/ JUDITH MOORE
RECORDING SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is February 11, 2021.

DRAFT MINUTE EXCERPT

GARDEN GROVE PLANNING COMMISSION

PUBLIC HEARING - AMENDMENT NO. A-027-2020, CITY OF GARDEN GROVE, CITYWIDE.

Applicant: CITY OF GARDEN GROVE

Date: January 21, 2021

Request: A request by the City of Garden Grove to amend the provisions of Title 9 (Zoning) of the Garden Grove Municipal Code pertaining to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) to conform to State Law. This project is exempt from review under the California Environmental Quality Act pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Sections 15282(h) and 15061(b)(3).

Action: Resolution No. 6015-21 was approved.

Motion: Lindsay Second: Ramirez

Ayes: (5) Le, Lindsay, Perez, Ramirez, Soeffner

Noes: (0) None

Absent: (1) Lehman