



Los Angeles County Department of Regional Planning

Planning for the Challenges Ahead



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REPORT TO THE REGIONAL PLANNING COMMISSION

DATE ISSUED:	April 16, 2020	
MEETING DATE:	April 29, 2020	AGENDA 6 ITEM:
PROJECT NUMBER:	2020-000600	
PROJECT NAME:	Accessory Dwelling Unit Ordinance	
PLAN NUMBER(S):	RPPL2020001003	
SUPERVISORIAL DISTRICT:	1-5	
PROJECT LOCATION:	Countywide	
PROJECT PLANNER:	Zoe Axelrod, Regional Planner zaxelrod@planning.lacounty.gov	

RECOMMENDATION

The Department of Regional Planning staff (Staff) recommends the Regional Planning Commission (RPC) adopt the attached resolution (Exhibit A) recommending **APPROVAL** to the Los Angeles County Board of Supervisors (Board) of the Accessory Dwelling Unit Ordinance, Advance Planning No. RPPL2020001003.

Staff recommends the following motion:

I MOVE THAT THE REGIONAL PLANNING COMMISSION CLOSE THE PUBLIC HEARING AND FIND THAT THE STATUTORIAL AND CATEGORICAL EXEMPTIONS QUALIFY PURSUANT TO STATE AND LOCAL CEQA GUIDELINES.

I ALSO MOVE THAT THE REGIONAL PLANNING COMMISSION ADOPT THE ATTACHED RESOLUTION RECOMMENDING APPROVAL TO THE LOS ANGELES COUNTY BOARD OF SUPERVISORS OF THE ACCESSORY DWELLING UNIT ORDINANCE, PLAN NO. RPPL2020001003, WITH THE REVISIONS RECOMMENDED BY STAFF.

PROJECT DESCRIPTION**A. Project Scope**

Plan Number RPPL2020001003 is a proposed ordinance amending Title 22 (Planning and Zoning) of the Los Angeles County Code (County Code) to establish development standards and case processing procedures for accessory dwelling units and junior accessory dwelling units pursuant to recent changes to State law (Section 65852.2 and Section 65852.22 of the California Government Code).

An accessory dwelling unit, commonly known as an ADU, granny flat, or second unit, is a dwelling unit with a full kitchen and bathroom, permitted as an accessory use to a single-family or multi-family residential building wherever such developments are permitted. ADUs are usually lower in cost to produce than a new single-family home because additional land purchase is not necessary. The additional unit or units can be a source of rental income for homeowners or provide living space for family members or caregivers.

A junior accessory dwelling unit, or JADU, is a dwelling unit with independent exterior access that is no more than 500 square feet in size and contained entirely within a single-family residence. As of January 1, 2020, JADUs are permitted without an ordinance adoption by a local agency, per State law. JADUs can provide homeowners with additional rental income or separate living space within the footprint of the existing residence.

B. Project Background

Accessory dwelling units (formerly called “second units”) have been permitted under State law and promoted as a source of additional, lower-cost housing in single-family residential neighborhoods since the 1980s. State law provides that a second unit or ADU does not count towards residential density calculations, and establishes the maximum development standards by which local jurisdictions can regulate ADUs without adoption of a local ordinance.

The County adopted its original Second Unit Ordinance in 2004. Between 2004 and 2017, only 663 applications for second units were approved, or an average of about 4-5 approvals per month. In recognition of the statewide housing affordability crisis, and the small number of accessory units permitted under existing ordinances, the State legislature made changes to the law to further limit the ability of local jurisdictions to regulate ADUs on January 1, 2017. These changes nullified the County’s Second Unit Ordinance. The State law changed the official name of these units from “second units” to “accessory dwelling units” to emphasize their accessory nature; restricted parking and setback requirements for ADUs; and exempted ADUs created from conversions of existing space in single-family homes and accessory structures from most development standards. The latter provided a pathway to legalization for existing unpermitted ADUs, including illegal garage conversions.

The number of ADU approvals has increased significantly since 2017 as a result of changes to the State law and applicants' growing familiarity with ADUs. In 2019, 932 ADUs were approved in unincorporated areas, and ADUs comprised 46 percent of all new permitted residential units in the unincorporated areas. The County's ADU Ordinance became effective on May 30, 2019.

On January 1, 2020, in response to the deepening housing affordability crisis, the State legislature enacted changes to the law to further reduce local zoning barriers to ADUs and JADUs. These changes once again nullified the County's existing ordinance. Changes include, but are not limited to:

- Allowing ADUs on properties in all zones where single-family or multi-family residential uses are permitted;
- Allowing JADUs on properties with existing or proposed single-family residences;
- Limiting local restrictions on ADU size and height;
- Prohibiting replacement of off-street parking requirements;
- Reducing required setbacks for ADUs; and
- Reducing the maximum ADU and JADU application review time from 120 days to 60 days.

C. Major Elements and Key Components

State law allows local jurisdictions to designate areas where ADUs and JADUs may be permitted and to impose local development standards unless otherwise specified. The Public Hearing Draft Ordinance dated March 26, 2020 (Exhibit B) includes the following major elements and key components:

- ***Prohibited Areas:*** In order to promote public health and safety in fire-prone areas, the County's previous ADU Ordinance prohibited the construction of new ADUs, and the conversion of existing spaces to ADUs, within Very High Fire Hazard Severity Zones (VHFHSZs) with substandard roads and limited access. Specifically, the previous ordinance required at least two means of access from the lot to a major highway via a road of at least 24 feet width. Properties that were unable to meet this standard were prohibited from adding an ADU.

The Public Hearing Draft Ordinance further clarifies this language by requiring two distinct means of access not overlapping with each other, as measured from the lot frontage to the point of intersection with a highway. As in the previous ordinance, each means of access must contain pavement of at least 24 feet in width, exclusive of sidewalks, if the lot is located in a VHFHSZ and a Hillside Management Area (HMA). For lots that are located in a VHFHSZ and not an HMA, the two distinct means of access may include unpaved roads of at least 24 feet in width maintained by Public Works. The proposed Ordinance also allows ADUs and JADUs on lots with a single means of access if such lots front onto a highway and vehicles enter directly from the highway.

- **Review and Decision:** Due to the new State requirement of a 60-day application review period, the proposed Ordinance clarifies that a Ministerial Site Plan Review or Revised Exhibit "A" may be submitted for a new single-family residence, new accessory structure, or any addition or expansion thereof, concurrently with an ADU or JADU application, provided that decisions on the concurrently reviewed applications must be made within 60 days of submittal. The proposed Ordinance also clarifies that any other planning and zoning or subdivision entitlement must become effective before an application for an ADU or JADU is accepted.
- **Maximum Number of ADUs and JADUs:** Per State law, any proposed or existing legally-built single-family residence in any zone that allows a single-family residence is permitted both one (1) ADU and one (1) JADU.

Any existing, legally-built housing type other than one single-family residence in any zone that allows residential uses is permitted one (1) ADU or 25 percent of existing dwelling units, whichever is greater, converted from non-livable spaces within existing multi-family residential buildings, and two (2) ADUs detached from existing multi-family residential buildings. For example, an 8-unit multi-family residential development would be allowed two (2) ADUs within the existing buildings, and two (2) detached ADUs.

- **Use Restrictions:** The proposed Ordinance describes all use restrictions for ADUs and JADUs. These restrictions include:
 - A prohibition against the sale of the ADU or JADU separate from the primary residence, per State law;
 - A prohibition against using the ADU or JADU for short-term rentals (less than 30 consecutive days), per State law; and
 - A prohibition against home-based occupations conducted within the ADU or JADU.
- **ADU Development Standards**
 - **Floor Area**

In accordance with State law, the proposed Ordinance permits detached ADUs that range in size from 150 square feet to 1,200 square feet. The total floor area of an attached ADU cannot exceed 50 percent of the habitable area of the single-family residence or the largest unit within a multi-family residential building at the time of application submittal, or 1,200 square feet, whichever is less, provided that an accessory dwelling unit of at least 800 square feet in size is allowed per State law. For example, a 1,400 square foot single-family residence would be allowed an 800 square foot attached ADU, despite the fact that 50 percent of the habitable area is 700 square feet. Furthermore, ADUs are not subject to Community Standards District (CSD) or Specific Plan provisions pertaining to floor area, gross structural area, or lot coverage.

- **Maximum Height**

State law requires local jurisdictions to permit an ADU of at least 16 feet in height. To ensure compliance with State law, the proposed Ordinance is more lenient regarding height limits than required by the State, and permits a maximum height of 25 feet for ADUs, with the following exceptions:

- Where there are height requirements in a CSD or Specific Plan, the ADU may not exceed the maximum height specified in the CSD or Specific Plan, or 25 feet, whichever is less;
- Near adopted State Scenic Highways, ADUs are limited to a maximum height limit of 18 feet; and
- On lots with existing multi-family residential buildings, detached ADUs are limited to a maximum height of 16 feet.

- **Required Yards**

State law prohibits a setback requirement for conversion of a garage or other “existing space” to an ADU, and limits the setbacks for an ADU constructed over an existing garage to a maximum of four feet. The proposed Ordinance implements these provisions by requiring a four-foot rear and side yard setback for all ADUs that are not created entirely within an existing space. The proposed Ordinance also clarifies that an ADU must meet the minimum front yard setback specified by the zone, CSD, Setback District, or Specific Plan.

- **Parking**

State law prohibits local parking requirements for ADUs that meet any of the following criteria:

- Located within a half-mile walking distance of public transit;
- Located in an architecturally and historically significant historic district;
- When the ADU is part of an existing primary residence or existing accessory structure;
- When on-street parking permits are required but not offered to the ADU occupant; or
- When there is a car share vehicle location within one block of the ADU.

In order to further incentivize the construction of ADUs, the proposed Ordinance goes beyond State mandates and does not require any parking for ADUs outside of VHFHSZs. One uncovered parking space is required for an ADU within or partially within a VHFHSZ that does not meet any of the criteria listed above. While parking requirements for the primary residential use remain unchanged, State law prohibits local jurisdictions from requiring the correction of any existing nonconforming condition, including parking, as a condition of approval for ADUs. Furthermore, when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted into an ADU, replacement parking is not required pursuant to State law.

- **JADU Development Standards:** In accordance with State law, the proposed Ordinance permits JADUs with a maximum floor area of 500 square feet. A JADU must contain an efficiency kitchen at a minimum. It must also have a separate entrance from the single-family residence, and must have access to a bathroom, which may be part of the JADU or provided as part of the single-family residence, with interior access provided. JADUs are not subject to Community Standards District (CSD) or Specific Plan provisions pertaining to floor area, gross structural area, or lot coverage. Moreover, no parking is required for JADUs.
- **Owner Occupancy Requirement:** Per State law, the proposed Ordinance specifies that if a property contains a JADU, either the single-family residence or JADU must be the principal residence of at least one legal owner of the lot, unless the property is owned by a governmental agency, land trust, or housing organization.
- **ADUs and JADUs in Community Standards Districts and Specific Plans:** The proposed Ordinance specifies that a CSD or Specific Plan shall not prohibit or require a discretionary permit for an ADU or JADU in areas where residential uses are permitted. Except as specified otherwise in the proposed Ordinance—such as specific development standards pertaining to floor area, height, and required yards—all CSD or Specific Plan provisions apply to ADUs and JADUs.

GENERAL PLAN CONSISTENCY

The Project is consistent with the following applicable goals and policies of the General Plan:

- Goal HE 1: A wide range of housing types in sufficient supply to meet the needs of current and future residents, particularly for persons with special needs, including but not limited to low income households, seniors, persons with disabilities, large households, single-parent households, the homeless and at risk of homelessness, and farmworkers.
- Policy HE 1.2: Mitigate the impacts of governmental regulations and policies that constrain the provision and preservation of housing for low and moderate income households and those with special needs.
- Goal HE 3: A housing supply that ranges broadly in housing costs to enable all households, regardless of income, to secure adequate housing.
- Policy HE 3.1: Promote mixed income neighborhoods and a diversity of housing types throughout the unincorporated areas to increase housing choices for all economic segments of the population.

- Goal LU 3: A development pattern that discourages sprawl, and protects and conserves areas with natural resources and SEAs.
- Policy LU 3.2: Discourage development in areas with high environmental resources and/or severe safety hazards.
- Goal LU 4: Infill development and redevelopment that strengthens and enhances communities.
- Policy LU 4.1: Encourage infill development in urban and suburban areas on vacant, underutilized, and/or brownfield sites.
- Policy LU 4.2: Encourage the adaptive reuse of underutilized structures and the revitalization of older, economically distressed neighborhoods.
- Goal LU 5: Vibrant, livable and healthy communities with a mix of land uses, services and amenities.
- Policy LU 5.1: Encourage a mix of residential land use designations and development regulations that accommodate various densities, building types and styles.
- Goal S 3: An effective regulatory system that prevents or minimizes personal injury, loss of life, and property damage due to fire hazards.
- Policy S 3.1: Discourage high density and intensifying development in VHFHSZs.

ENVIRONMENTAL ANALYSIS

Staff recommends that this project qualifies for a Statutory Exemption pursuant to California Environmental Quality Act (CEQA) Guidelines section 21080.17, which exempts the adoption of an accessory dwelling unit ordinance to implement the provisions of sections 65852.2 and 65852.22 of the California Government Code, per State determination. Staff further recommends that this project qualifies for a Categorical (Class 3) Exemption, per CEQA Guidelines section 15303, which exempts new construction or conversion of small structures, as in the case of a junior accessory dwelling unit.

CONSISTENCY WITH AIRPORT LAND USE COMPATABILITY PLAN

Section 1.5.1 of the Airport Land Use Commission (ALUC) Review Procedures requires that all zoning ordinances be reviewed by ALUC for consistency with the local airport land use compatibility plan. ALUC Staff reviewed the proposed ADU Ordinance and determined that it does not pose any compatibility concerns with the County Airport Land Use Plans. Pursuant to California Government Code 65852.2(a)(8), ADUs do not increase density in residential zones nor modify the existing residential land use designations

established by a general plan, and therefore are not considered an area of concern from an airport compatibility perspective.

OUTREACH AND ENGAGEMENT

A. County Department Comments and Recommendations

County departments were consulted during the Project's development. Departments consulted include Public Works (DPW), Fire (FD), Public Health (DPH), and Parks and Recreation (DPR). Staff did not receive any comments.

B. Public Agency Comments and Recommendations

The California Department of Housing and Community Development (HCD) was consulted during the Project's development. HCD communicated that based on their interpretation of State law, ADUs converted from existing space must be allowed in all areas where single-family or multi-family residential development is permitted, including in VHFHSZs. After careful review and consideration, Staff and County Counsel believe that the Ordinance as drafted is consistent with State law, which allows for exemptions due to health and safety concerns, and further, is consistent with the County's General Plan. Staff is continuing to work with HCD to resolve this issue.

C. Project Outreach and Engagement

Outreach for the Project included emails sent to a courtesy list of hundreds of members of the public. The Department advertised the RPC public hearing notice (Exhibit C) in 12 local newspapers with countywide distribution, including the Spanish-language newspaper *La Opinión*. The hearing notice and materials were posted on the Department's website, and promoted through social media. Copies of the hearing notice and hearing materials were provided to all DRP Field Offices, all County libraries, and the Altadena and Calabasas Libraries, as is standard practice. However, due to the current state of emergency, these facilities have remained closed to the public.

D. Public Comments

As of the publication of this report, Staff received one email from a resident in the East Los Angeles Third Street Specific Plan area, and one email from an Agua Dulce resident. See Exhibit D for copies of the public correspondence.

ADDITIONAL STAFF RECOMMENDATION

For clarification purposes and to ensure compliance with State law, Staff recommends the following revisions to Sections 22.14.010 (Definitions – A) and 22.140.640 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of the Public Hearing Draft Ordinance (dated March 26, 2020):

22.14.010 A.

...
Junior accessory dwelling unit. A dwelling unit with independent exterior access that is no more than 500 square feet in size and contained entirely within the footprint of a single-family residence, including an attached garage. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family residence, as set forth in Section 65852.22(h)(1) of the California Government Code, or a successor provision.

22.140.640 **Accessory Dwelling Units and Junior Accessory Dwelling Units.**

...
C. Prohibited Areas.

...
2. Very High Fire Hazard Severity Zone.

...
c. Notwithstanding Subsections C.2.a. and C.2.b. above, accessory dwelling units and junior accessory dwelling units shall be permitted on lots with a single means of vehicular access if such lots front a highway and vehicles back enter directly onto from the highway. For example, see Figure 22.140.640-A, below.

...
E. Maximum Number of Accessory Dwelling Units and Junior Accessory Dwelling Units. Table 22.140.640-A, below, identifies the maximum number of accessory dwelling units and junior accessory dwelling units permitted on a lot:

Table 22.140.640-A: MAXIMUM NUMBER OF ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS PERMITTED ON A LOT		
Principal Use on a Lot	Maximum Number	
	Accessory Dwelling Units	Junior Accessory Dwelling Units
<u>One proposed or existing, legally-built single-family residence in any zone that allows single-family residence</u>	<u>1</u>	<u>1</u>
<u>Any existing, legally-built housing type other than one single-family residence in any zone that allows residential use</u>	<u>1 or 25% of existing dwelling units, whichever is greater, converted from non-livable spaces within existing multi-family residential building(s); and</u> <u>2 detached from existing multi-family residential building(s)</u>	<u>:</u>

...
HG. Development Standards.

...
2. Junior Accessory Dwelling Units.

a. Floor Area.

i. Maximum. A junior accessory dwelling unit shall not exceed 500 square feet in size and shall contain at least an efficiency kitchen which includes

cooking appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the junior accessory dwelling unit.

ii. Expansion. A junior accessory dwelling unit may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing single single-family residence to accommodate ingress and egress, provided that the total floor area of the junior accessory dwelling unit does not exceed 500 square feet in size.

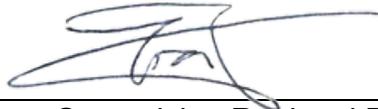
iii. Community Standards Districts and Specific Plans. The junior accessory dwelling unit shall not be subject to any Community Standards District or Specific Plan provision pertaining to floor area, gross structural area, or lot coverage.

...
K. Notwithstanding any contrary provision in this Title 22, the approval of an accessory dwelling unit or a junior accessory dwelling unit shall not be subject to the correction of any nonconforming zoning condition, including buildings or structures nonconforming due to standards or use, as defined in Section 22.14.020 of Division 2 (Definition), provided that the lot is in a zone that allows residential uses.

KL. To the extent that any provision of this Section is in conflict with State law, the applicable provision of State law shall control, but all other provisions of this Section shall remain in full force and effect.

Report

Reviewed By:



Tina Fung, Supervising Regional Planner

Report

Approved By:



Bianca Siegl, Deputy Director

LIST OF ATTACHED EXHIBITS

EXHIBIT A	Draft Resolution of the Regional Planning Commission
EXHIBIT B	Accessory Dwelling Unit Ordinance – Public Hearing Draft (March 26, 2020)
EXHIBIT C	Notice of Public Hearing
EXHIBIT D	Public Correspondence