



CITY OF POMONA COUNCIL REPORT

September 9, 2019

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted By: Anita D. Gutierrez, AICP, Development Services Director

SUBJECT: INTRODUCTION AND FIRST READING OF AN ORDINANCE ADOPTING A CODE AMENDMENT TO THE CITY OF POMONA ZONING ORDINANCE (PZO) FOR THE PURPOSE OF REGULATING ACCESSORY DWELLING UNITS (ADUS) IN ACCORDANCE WITH STATE LAW.

RECOMMENDATION:

It is recommended that the City Council open the public hearing and after receiving testimony and public comment close the public hearing, introduce, waive further and give first reading to the following ordinance (Attachment 1):

ORDINANCE NO. 4269 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA APPROVING CODE AMENDMENT (CODE 12324-2019) ADDING SECTION .5809-26 TO THE CITY OF POMONA ZONING ORDINANCE PERTAINING TO ACCESSORY DWELLING UNIT REGULATIONS, AMENDING SECTION .580, .5809-13 AND SECTION .560 OF THE POMONA ZONING ORDINANCE PERTAINING TO ACCESSORY DWELLING UNIT REGULATIONS, DELETING “SECOND UNIT HOUSING” FROM SECTION .062 OF THE CITY OF POMONA ZONING ORDINANCE, AND DELETING SECTION .503-H(C)(4) FROM THE CITY OF POMONA ZONING ORDINANCE.

EXECUTIVE SUMMARY:

The State of California recently passed several bills effectively easing restrictions on ADUs in order to help address the housing shortage in California. As an example, the new restrictions would allow for the interior conversion of any accessory structure, like a garage, to an ADU if it meets minimum standards. While the State mandates the incorporation of specific standards, local agencies still have the ability to adopt their own standards as well. The proposed code amendment will include Pomona regulations to minimize impacts to existing neighborhoods while ensuring compliance with State law.

FISCAL IMPACT:

No Fiscal Impact.

PUBLIC NOTICING REQUIREMENTS:

Pursuant to Section .571(D) of the Zoning Ordinance, a notice of public hearing is required to be published in a newspaper of local circulation, at least ten days prior to the date of the public hearing. A notice was published in the Inland Valley Daily Bulletin on Friday, August 30, 2019 (Attachment No. 2).

PREVIOUS RELATED ACTION:

On August 14, 2019, the Planning Commission considered Code Amendment (CODE 12324-2019). As part of their consideration the Planning Commission discussed the ability to provide relief from the owner-occupancy requirement through a discretionary review, such as a Conditional Use Permit, which would allow property owners that do not live on-site to develop an ADU on their property. Ultimately, the Commission determined that allowing some form of relief from the owner-occupancy requirement through a Conditional Use Permit would be appropriate. The Planning Commission then voted 6-0-0-1 recommending that the City Council approve the draft Code amendment with new language that would allow relief from the owner-occupancy requirement through a Conditional Use Permit. Subsequent to the Planning Commission recommendation, staff consulted with the City Attorney's office and determined that the language in the original draft was sufficient to allow relief from the owner-occupancy requirement through a Conditional Use Permit. A copy of the Planning Commission staff report of August 14, 2019 is provided for Council consideration (Attachment 3).

ENVIRONMENTAL IMPACT:

State CEQA Guidelines Section 15282(h) establishes a statutory exemption for the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code. As such, the proposed Code amendment is consistent with this exemption and no additional environmental review or documentation is required under the California Environmental Quality Act (CEQA).

DISCUSSION:

Background: State Law Regulating Accessory Dwelling Units

In September 2016, California State Senate Bill (SB) 1069, State Assembly Bill (AB) 2299 and State Assembly Bill (AB) 2406 were signed into law. The combined bills took effect on January

1, 2017, and modified the California Government Code, which governs how local agencies regulate Accessory Dwelling Units (ADUs) formerly and commonly known as second units, secondary units, or in-law units. On January 1, 2018, two additional clean-up bills took effect, SB 229 and AB 494 that among other things further clarify language regulating ADUs.

The new State law is intended to address the shortage of affordable housing in California by easing restrictions on ADUs and includes several mandatory elements. The mandatory elements require that new ADUs be allowed in zones permitting single and multi-residential uses on properties with existing or proposed single residential units and eases development standards such as parking and unit size. If the minimum requirements of State law are satisfied by a local ordinance, the ordinance may impose development standards that include, but are not limited to parking, height, and setbacks as well as standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. It should be noted that the intent of the Legislature is to facilitate local ordinances that “are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units (Government Code Section 65852.150).”

The new State law also clarified that second units would be referred to from this point forward as ADUs, which effectively nullified and voided the City’s existing Second Unit Ordinance. Local agencies have the option to adopt local regulations to implement the new legislation. Alternatively, local agencies can default to State law for regulation of ADUs. However, local agencies are given a certain amount of discretion if local regulations are adopted. The City’s current ADU ordinance is not in compliance with State law and is therefore deemed “null and void” as of January 1, 2017. As such, the City is currently relying on State law to regulate new ADUs within the City of Pomona.

Status of Accessory Dwelling Units in Pomona

The City Council through their adopted priorities and goals for Fiscal Year 2019-20, directed staff to bring forward an accessory dwelling unit ordinance by December 2019. In the City of Pomona ADUs can 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 developments. ADUs can provide as much living space as new apartments and condominiums and serve the housing needs of couples, small families, young people, seniors, and multi-generational families.

The City of Pomona has seen an increase in the number of ADU applications since the adoption of the State law. Below is a summary of permit activity for requests to construct new ADUs since the new State law became effective on January 1, 2017:

City-Wide

- Total number of applications received: 155
- Total number of permits issued: 60

Historic Districts

- Total number of applications received: 14
 - Hacienda Park: 3 applications
 - Wilton Heights: 5 applications
 - Lincoln Park: 6 applications
- Total number of permits issued: 5
 - Hacienda Park: 2 permit issued
 - Wilton Heights: 1 permit issued
 - Lincoln Park: 2 permit issued

Prior to the new State law regulating ADUs, the City issued 22 second-unit permits from January 2006 through December 2016, averaging approximately two (2) permits per year. Since the new State law became effective, the City has experienced a significant increase in ADU applications, with approximately 60 applications submitted per year.

Planning Commission and Historic Preservation Commission Meetings

During the course of developing the draft ADU Ordinance, staff held a series of meeting to obtain input from the public as well as the Planning and Historic Preservation Commissions at the following public meetings:

- December 16, 2018 – Historic Preservation Commission – Discussion Item
- February 13, 2019 – Planning Commission – Discussion Item
- April 17, 2019 – Joint Study Session of the Planning Commission and Historic Preservation Commission
- June 26, 2019 – Planning Commission – Discussion Item
- July 3, 2019 – Historic Preservation Commission – Discussion Item
- August 14, 2019 – Planning Commission – Hearing Item

Overview of Draft Accessory Dwelling Unit Ordinance

The following table highlights some of the regulations of the draft Ordinance:

Development Standard	Requirement
No. of ADUs allowed	1 per lot
No. of Rooms*	4 (< 800 sf)
	6 (≥ 800 sf)
	*May include living room, den, office, bedroom; does not include kitchens
Building Height	35-feet, 2-stories,
	In no case taller than Primary dwelling

Parking	None, unless converting existing garage/car port
Owner Occupancy	Required, exemption avail.
Rental Terms	30 days or more
Unit Size	Lots < 7,200 sf
Attached	800 sf or 50% of Primary dwelling Whichever is less
Detached	800 sf
	Lots ≥ 7,200 sf
Attached	1,200 sf or 50% of Primary dwelling Whichever is less
Detached	1,200 sf

The draft ADU Ordinance was prepared based on staff research on the matter as well as input from the public, Planning Commission, and Historic Preservation Commission. The draft Ordinance complies with State law, while including local regulations to ensure that ADUs are, among other things, compatible with surrounding development and appropriately relate to the primary dwelling in terms of size, location on the lot, and appearance, to the extent possible under the constraints of State law. As such, staff is recommending that the City’s existing second-unit ordinance be repealed and that a new ordinance regulating ADUs be adopted in accordance with State law.

COUNCIL PRIORITIES & GOALS:

This item supports the 2019-2020 City Council Priority 2: Economic Development – Goal J: Encourage the development and maintenance of quality housing opportunities for all. Specifically, adoption of the proposed ordinance will accomplish Step 3 of Goal J, “Adopt an accessory dwelling unit ordinance by December 2019.”

ALTERNATIVE

If the City Council does not wish to allow relief from the owner-occupancy requirement through a discretionary review, such as a Conditional Use Permit, which would allow property owners that do not live on-site to develop an ADU on their property. The Council may limit of the use of discretionary review to specific development standards, which would exclude the owner-occupancy standard. Draft language is provided below for Council’s consideration, if there is desire to pursue this option:

Conditional Use Permit. An Accessory Dwelling Unit that deviates from the following standards in this section may be approved through a Conditional Use Permit under Section .580: number of rooms (**Error! Reference source not found.**), unit size (**Error! Reference source not found.**), location restriction (**Error! Reference source not found.**), roof eaves (**Error! Reference source not found.**), and architecture (**Error! Reference source not found.**).

Prepared by:

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Senior Planner

ATTACHMENTS:

Attachment No. 1 – Draft Ordinance No. 4269

Attachment No. 2 – Proof of Publication of Public Hearing Notice

Attachment No. 3 – Planning Commission Staff Report dated August 14, 2019 with Attachments