

RESOLUTION NO. 21-019

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF CODE AMENDMENT (CODE 14672-2020) AMENDING SECTION .5809-26 OF THE CITY OF POMONA ZONING ORDINANCE PERTAINING TO ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT REGULATIONS.

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (“2019 ADU Laws”) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs); and

WHEREAS, the City adopted Ordinance No. 4278 and Ordinance No. 4281, respectively, in order to ensure the City’s ADU regulations were fully compliant with the 2019 ADU Laws; and

WHEREAS, in September of 2020, the California Legislature approved, and the Governor signed into law, Assembly Bill 3182 (“AB 3182”); and

WHEREAS, among other things, AB 3182 clarifies that if a City does not act on a complete ADU application within 60 days (subject to limited exceptions), the application is deemed approved; and

WHEREAS, consistent with the 2019 ADU Laws, the City currently allows construction of one ADU or JADU (with only a building permit) when the ADU or JADU is on a lot with a proposed or existing single-family dwelling and located within the space of a single-family dwelling or within the space of an existing accessory structure. Following AB 3182, the City must now allow (with only a building permit) construction of both an ADU and JADU in such circumstances; and

WHEREAS, in December of 2020, the California Department of Housing and Community Development (“HCD”) released an update to its publication titled “Accessory Dwelling Unit Handbook (‘Handbook’).” The updated publication provides a summary of the state regulations as well additional policy interpretations not identified in the 2019 ADU Laws; and

WHEREAS, in light of AB 3182 and based on the policy interpretations provided in the Handbook, City staff has determined it necessary to update the City’s existing ADU regulations to maintain compliance with State law;

WHEREAS, the City desires to maintain full compliance with State law; and

WHEREAS, the 2019 ADU Laws do not provide standards specific to ADUs located in hillside areas; and

WHEREAS, the City's existing ADU regulations do not provide standards specific to ADUs located in hillside areas; and

WHEREAS, due to topography in hillside areas, certain existing ADU regulations may impose negative impacts to the public health, safety, and welfare properties located in hillside areas; and

WHEREAS, the City desires to limit the impact of certain ADU regulations in hillside areas; and

WHEREAS, in addition to the foregoing, this ordinance includes other minor staff-initiated amendments that will add clarity to the City's ADU regulations for the benefit of staff and the general public; and

WHEREAS, the City of Pomona has duly initiated Code Amendment (CODE 14672-2020);

WHEREAS, the Planning Commission of the City of Pomona, after giving notices thereof as required by law, held a public hearing on June 23, 2021 concerning Code Amendment (CODE 14672-2020) and carefully considered all pertinent testimony and the staff report offered in the case as present;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Pomona as follows:

SECTION 1. The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. The Planning Commission, exercising independent judgment, finds and determines that this ordinance is statutorily exempt from the provisions of the California Environmental Quality Act ("CEQA"). Under California Public Resources Code section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law (and which also regulates JADUs, as defined by section 65852.22). Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law. In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the

ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot. Moreover, the City Council finds that none of the “exceptions” to the use of the Class 3 exemption, set forth in State CEQA Guidelines section 15300.2, apply here. Specifically, the Planning Commission finds that the ordinance will:

1. Location. Not result in the construction of ADUs or JADUs within a particularly sensitive environment because these accessory structures will necessarily be built on a lot already developed with a primary dwelling.
2. Cumulative Impact. Not result in a potentially significant cumulative impact. Properties would generally be limited to one ADU and one JADU per lot. Based on historical ADU development, it is not foreseeable that the proposed ordinance would result in a succession of projects of the same type and in the same place. The ordinance will restrict ADUs to areas zoned and designated for such development, and places further restrictions on the allowable size and scale to ensure that any ADU is consistent with surrounding development.
3. Significant Effect. Not result in a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. As indicated in the City’s General Plan, the City is nearly built out, with only 4% still designated as vacant and largely urbanized. The ordinance will restrict ADUs and JADUs to areas zoned to permit single-unit and multi-unit residential development that are not located within sensitive resource areas. Because of this ADUs and JADUs will be constructed in areas that are generally fully developed and intended for residential development which is not unusual. The City’s standards are intended to offer significant protections against out-of-scale new development. As such, the effect of the proposed provisions would be to provide further environmental protections and would not have a significant effect on the environment.
4. Scenic Highway. Not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway because there are no designated state scenic highways located within the City of Pomona according to the City’s General Plan.
5. Hazardous Waste Site. Not be located on a hazardous waste site included on any list compiled pursuant to § 65962.5 of the Government Code as the ordinance requires that the site already contain a single-family residence or would allow a new single-family

residence to be constructed simultaneously and this condition would have been verified upon construction of the home.

6. Historic Resources. Not result in a substantial adverse change in the significance of a historical resource as any ADU will need to either comply with standards that protect historic properties or be further subject to historic review and approval by the City of Pomona Historic Preservation Committee.; and

SECTION 3. Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds that the proposed Code Amendment is in the public interest and in the interest of the furtherance of the public health, safety, and welfare and is, as a matter of law, consistent with the Pomona General Plan pursuant to Government Code Section 65852.2(a)(1)(c).

SECTION 4. For the reasons set forth above, the Planning Commission of the City of Pomona hereby recommends that the City Council approve Code Amendment (CODE 14672-2020), attached hereto as Exhibit “A.”

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND ADOPTED THIS 23RD DAY OF JUNE, 2021

ALFREDO CAMACHO
PLANNING COMMISSION CHAIRPERSON

ATTEST:

ANITA D. GUTIERREZ, AICP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

MARCO A. MARTINEZ
DEPUTY CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF POMONA)

AYES:
NOES:
ABSTAIN:
ABSENT:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.

EXHIBIT “A”

Code Amendment (CODE 14672-2020)