PUBLIC HEARING

Agenda Item # 4

AGENDA REPORT SUMMARY

Meeting Date: May 9, 2017

Subject: Accessory Dwelling Units

Prepared by: David Kornfield, Planning Services Manager—Advance Planning
Reviewed by: Jon Biggs, Community Development Director
Approved by: Chris Jordan, City Manager

Attachments:
1. Ordinance No. 2017-432
2. Planning and Transportation Commission Memorandum dated April 6, 2017
3. Planning and Transportation Commission Minutes dated April 6, 2017

Initiated by:
Staff

Fiscal Impact:
None

Environmental Review:
The code amendment is exempt from environmental review in accordance with Section 15601 of the CEQA Guidelines since a code amendment does not cause a significant effect on the environment. Accessory dwelling units subsequently developed under the code are ministerial, single-family uses, which are statutorily exempt in accordance with Section 15268 of the CEQA Guidelines.

Policy Questions for Council Consideration:
- Should the Council reduce the minimum lot size for accessory dwelling units to 10,000 square feet and maintain the administrative Design Review Commission review of accessory dwelling units?

Summary:
- State law requires that local jurisdictions allow accessory dwelling units by the conversion of existing area in principal and accessory single-family structures regardless of lot size.
- State law allows lot size standards for accessory dwelling units that add onto principal single-family dwellings and add onto or create new accessory structures.
- State law requires non-discretionary, i.e., ministerial, review of accessory dwelling units. Cities may apply objective written standards in their ministerial review.

Staff Recommendation:
Move to introduce and waive further reading of Ordinance No. 2017-432 amending the accessory dwelling unit regulations.

Subject: Accessory Dwelling Units

Purpose

The purpose of amending the accessory dwelling unit (ADU) regulations is to comply with recent changes to state law and to implement Housing Element Program No. 4.2.1 and Program No. 4.2.2 regarding facilitating the development of ADUs and the consideration of reducing the minimum lot size requirements for such units.

Background

Accessory dwelling units, also known as second living units, or granny units, 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. Accessory dwelling units are independent living units within principal living units or detached dwellings in accessory structures that maximize and integrate housing choices within existing neighborhoods.

In response to housing production not keeping up with demand, and the lack of housing affecting affordability, the California Legislature recently adopted several changes to housing law for accessory dwelling units to streamline the approval process and to expand the capacity of communities to accommodate ADUs. The State Department of Housing and Community Development prepared a memorandum on the new accessory dwelling unit law, which is contained in Attachment B of Attachment 2.

Since the mid 1990s the City has used a lot size threshold to limit the development of accessory dwelling units, currently 13,000 for ADUs inside principal, single-family dwellings and 15,000 square feet for detached ADUs. The City has also used its Commission-level review process to administratively review accessory dwelling units to provide a public notification for such projects. The City has also used its ADU regulations to produce affordable housing units at the low and very-low income level and has achieved approximately 50 such units since the 1990s.

At its March 15, 2017 meeting the Design Review Commission provided study session input to the proposed regulations, which is summarized in the memorandum to the Planning and Transportation Commission (see Attachment 2). At its April 6, 2017 meeting the Planning and Transportation Commission held a public hearing and recommended approval of the ordinance as proposed by staff with two directives:

1. Evaluate if the City can legally require a greater minimum tenancy of 30 days; and

2. Maintain the Design Review Commission administrative review for ADUs when they are in new or existing detached structures, and/or converted accessory structures.

Attachment No. 2 provides more background and discussion and Attachment No. 3 contains the Planning and Transportation Commission meeting Minutes.

Subject: Accessory Dwelling Units

Discussion/Analysis

The proposed regulations reduce the required lot size for accessory dwelling units (ADUs) to 10,000 square feet when additional building area is required for such units. Under State law, however, ADUs are permitted in any existing principal or accessory single-family structure regardless of lot size. Lowering the lot size standard for ADUs that require additions will significantly increase the number of potential properties that qualify for ADUs from 2,574 parcels to 7,371 parcels, which is consistent with the intent of State law to facilitate the development of ADUs.

The proposed regulations remove the discretionary findings for ADUs in accordance with State law allowing only objective standards.

The proposed regulations restrict the rental of ADUs to a minimum of 30 days to address the concerns of shorter term transient rentals. Longer term rentals should help provide a more desirable housing type that may benefit the community with more stable residents that are more vested in maintaining the neighborhood character. The Planning and Transportation Commission suggested requiring a longer tenancy than 30 days; however, the City Attorney advises a minimum of 30 days for consistency with other State laws.

The proposed regulations remove the affordability requirements for ADUs. Per the State Department of Housing and Community Development, ADUs are inherently affordable and per the State planning law Cities cannot impose regulations beyond what is allowed in the statute. Accordingly, the proposed regulations also remove the two-person occupancy limit.

Per State law, the proposed regulations allow for ADUs in garage conversions and above garages with a minimum setback of five (5) feet. Staff recommended and the Commissions agreed with the added provision requiring a minimum 17.5-foot setback for any second story window facing the side property line and a minimum setback of 25 feet for any second story window facing the rear for an ADU above a garage to maintain a reasonable degree of privacy consistent with the normal standards for second story additions. Additionally, with garage conversions, the proposed regulations require the replacement of the parking for the principal dwelling unit.

Per State law, the proposed regulations eliminate the required parking for ADUs when converting existing structures within one-half mile of a transit stop. Additionally, the proposed regulations reduce the parking requirement for ADUs to one uncovered onsite parking space in the front yard as tandem in the driveway or in a new paved parking area. The State law allows requiring up to one uncovered parking space per ADU bedroom; however, the typical onsite parking for the principal dwelling (e.g., two-car garage and driveway) has also satisfied the parking requirement for the accessory dwellings. State law prohibits the City from requiring covered parking spaces for ADUs.

The proposed regulations maintain the 800-square-foot size limit consistent with the City's longstanding regulations to help limit the impacts of ADUs. The proposed regulations maintain the

owner-occupancy deed restriction requirement for the property, which helps maintain accountability and minimize impacts. Moreover, the proposed regulations maintain the requirement for architectural compatibility with the principal dwelling, screening the ADU entry and internal access with the principal dwelling to help maintain a single-family appearance in the neighborhood.

It is important to note that ADUs must also conform to the overall zoning requirements including but not limited to floor area and lot coverage limits, and height and daylight plane. Such overall zoning limits help reduce the impacts of ADUs and limit their development potential. Per State law, ADUs must conform to setback limits except in the case of ADUs located above garages where minimum five-foot setbacks must be allowed.

Should Council concur with the Planning and Transportation Commission, staff will continue the practice of referring ADUs to the Design Review Commission for administrative review except in the cases where ADUs are in existing converted principal dwellings in which case staff would administratively review such developments. The administrative review, either at the Commission level or at the staff level is to only apply the development standards outlined in the ADU ordinance as the City is limited to ministerial review of ADUs by State law.

Options

1) Adopt the ADU regulations as recommended by Planning and Transportation Commission.

Advantages: The lower lot size threshold of 10,000 square feet increases the ADU potential and meets the intent of the State law.

Disadvantages: May increase the number of ADUs and perceived parking and density impacts.

2) Adopt ADU regulations with a higher lot size threshold such as 12,000 square feet.

Advantages: May reduce the overall number of ADUs in the community and may address perceived parking impacts.

Disadvantages: May reduce the potential number of ADUs and differ from the intent of State law to facilitate ADUs.

Recommendation

The staff recommends Option 1.

ORDINANCE NO. 2017-432

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING THE REGULATIONS FOR ACCESSORY DWELLING UNITS (SECOND LIVING UNITS)

WHEREAS, the State Legislature has found that accessory dwelling units are a necessary and valuable form of housing in California; and

WHEREAS, accessory dwelling units help diversify the City's housing stock and help provide rental units that are affordable; and

WHEREAS, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting neighborhood character; and

WHEREAS, accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others within existing neighborhoods; and

WHEREAS, it is the intent of this ordinance to allow and promote the development of accessory dwelling units; and

WHEREAS, this Ordinance implements Program 4.2.1 and Program 4.2.2 of the City's 2015-2023 Housing Element by facilitating the development of new accessory dwelling units; and

WHEREAS, this Ordinance is in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare and is in conformance with the adopted General Plan of the City since it implements Housing Element Programs 4.2.1 and 4.2.2; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061 and Section 15268 of the California Environmental Quality Act Guidelines, as amended.

NOW THEREFORE, the City Council of the City of Los Altos hereby ordains as follows:

SECTION 1. AMENDMENT OF CODE: Adding and amending the following definitions to Chapter 14.02.070 of the Municipal Code:

> "Accessory dwelling unit" means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provision for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling unit is situated. Accessory dwelling units also include efficiency units as defined by Section 17958.1 of the Health and Safety Code.
>
> "Manufactured home" is as defined in Section 18007 of the Health and Safety Code.
>
> "Passageway" means a pathway that is unobstructed, clear to the sky, and extends from a street to one entrance of the accessory dwelling unit.

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"Second living unit" means a second dwelling on a single-family residential lot; refer to the definition of "accessory dwelling unit."

SECTION 2. AMENDMENT OF CODE: Renaming the Permitted Uses sections of the single-family zoning districts in the Municipal Code as follows:

14.06.020 – Permitted uses (R1-10)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

14.08.020 – Permitted uses (R1-H)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

14.10.020 – Permitted uses (R1-20)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

14.12.020 – Permitted uses (R1-40)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

SECTION 3. AMENDMENT OF CODE: Amending Chapter 14.14 of the Municipal Code regarding Accessory Dwelling Units in R1 Districts as follows:

Chapter 14.14 - ~~SECOND LIVING~~ ACCESSORY DWELLING UNITS IN R1 DISTRICTS

14.14.010 – Purpose.

A. The Legislature found that accessory dwelling units are a valuable form of housing in California.

B. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others within existing neighborhoods.

C. Homeowners who create accessory dwellings units benefit from added income, and an increased sense of security.

D. Allowing accessory dwelling units in single-family districts provides additional rental housing stock in California.

E. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

F. Accessory dwelling units are, therefore, an essential component of California's housing supply.

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G. It is the intent of this ordinance to allow and promote the development accessory dwelling units.

14.14.020 ~~14.14.010~~ - Permitted uses.

In accordance with the provisions of this chapter ~~and upon the granting of design review as provided in Chapter 14.76,~~ one ~~second living~~ accessory dwelling unit may be permitted on a lot or parcel within a single-family residential zoning district that has a minimum of ~~the greater of: (1) one hundred fifty (150) percent of the lot area required in the residential zoning district in which the second living unit is proposed to be located; or (2) fifteen thousand (15,000) square feet of lot area~~ 10,000 square feet except as specified herein. ~~A second living~~ An accessory dwelling unit may be established through:

A. The conversion of existing floor space in a conforming, principal single-family structure regardless of lot size; ~~in which case the figures of one hundred fifty (150) percent and fifteen thousand (15,000) square feet set forth above shall be reduced to one hundred thirty (130) percent and thirteen thousand (13,000) square feet respectively in the R1-10 zoning district, and reduced to one hundred (100) percent of the minimum required lot area in the R1-20, R1-H, and R1-40 zoning districts~~;

B. An integral addition to a principal single-family structure; ~~in which case the figures of one hundred fifty (150) percent and fifteen thousand (15,000) square feet set forth above shall be reduced to one hundred thirty (130) percent and thirteen thousand (13,000) square feet respectively in the R1-10 zoning district, and reduced to one hundred (100) percent of the minimum required lot area in the R1-20, R1-H, and R1-40 zoning districts;~~

C. The conversion of an existing accessory structure provided its location on the property is in conformance with present setback regulations and has side and rear setbacks that are sufficient for fire safety; or

D. The construction of a new accessory structure.

E. Accessory dwelling units do not exceed the allowable density for the lot upon which it is located, and that such units are a residential use consistent with the general plan and zoning designation for the lot.

F. Accessory dwelling units may not be sold separately from the primary residence and may be rented.

14.14.030 - ~~Required findings for approval.~~ (Reserved)

~~In addition to the findings required by Chapter 14.76, the following findings shall be made prior to approval of a second living unit:~~

~~A. That public benefit will result because the proposed second living unit will be maintained as affordable for a lower- or very low-income household;~~

~~B. That appropriate administrative measures, including disclosure of the maximum rent allowed and the income level of the occupant(s), have been required which will ensure that if~~

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~~the second living unit is rented or leased, it will be at a rate which is affordable to a person or persons of lower- or very low-income levels as required by Section 14.14.040, and that the income level of the resident(s) of the second living unit meets the appropriate limits for a lower- or very low-income household as determined by the city based on state and federal guidelines;~~

~~C. That required parking areas are located on the site;~~

~~D. That the parcel size is adequate in size to maintain a second unit and related parking in terms of its status as an accessory use both visually and functionally;~~

~~E. That when a property has frontage on more than one street, the access for the main residence and second living unit has been combined in such a way as to reduce the prominence and visibility of the second living unit parking to the surrounding neighborhood; provided, however, that on a corner lot, the appropriateness of combining the access of the main residence and the second living unit shall be determined on a case-by-case basis;~~

~~F. Appropriate conditions have been applied as necessary to ensure that the second living unit will not adversely impact neighboring property owners due to:~~

~~1. Inappropriate location, amount, and/or design of on-site parking;~~

~~2. Inappropriate location with respect to the character of the existing neighborhood;~~

~~3. Excessive noise potential, particularly when neighboring homes are in close proximity;~~

~~4. An excessive number of second living units in the vicinity;~~

~~5. Insufficient screening of the unit; and~~

~~6. Lack of compliance with the floor area ratio, setback, lot coverage, and other development standards of the R1 zoning districts.~~

14.14.040 - Unit size and ~~occupancy~~ residency requirements.

A. The maximum size of ~~a second living~~ an accessory dwelling unit, not including ~~basements or~~ any covered parking, shall be eight hundred (800) square feet. ~~However, a second living~~ accessory dwelling ~~unit of greater than the maximum size, may be considered only within a residential or accessory structure which existed prior to March 1, 1995, and subject to the required findings in Section 14.14.030~~. The maximum size of an accessory dwelling unit shall not exceed 50 percent of the existing living area of a principal living unit.

B. ~~No more than two persons shall reside in a second living unit.~~ Accessory dwelling units may not be rented for terms of less than 30 days.

C. Either the principal living unit or the ~~second living~~ accessory dwelling unit shall be the principal residence of at least fifty (50) percent of record owners of the property.

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~~D. If the property owner resides in the second living unit, then the primary residence can be rented at market rate, but shall have no effect on the affordability requirement for the second living unit for future occupancies.~~

~~E. If rented or leased, second living units with a size of greater than six hundred forty (640) square feet shall be affordable to a person or persons of very low-income levels, and the income level of the person(s) renting the second living unit shall not be greater than the limits for a very low-income household as determined by the city based on state and federal guidelines.~~

~~F. If rented or leased, second living units with a size of not more than six hundred forty (640) square feet shall be affordable to a person or persons of low-income levels, and the income level of the resident(s) of the second living unit shall not be greater than the limits for a lower-income household as determined by the city based on state and federal guidelines.~~

~~G. The resident income limits in subsections E and F of this section shall not apply if the second living unit is occupied by an immediate family member.~~

14.14.050 - Development and design standards.

A. ~~A second living~~ An accessory dwelling unit shall meet all the current development standards of the residential zoning district in which the ~~second living~~ accessory dwelling unit is located, except as may be modified by the criteria set forth in this chapter.

B. ~~A second living unit shall be clearly subordinate to the principal living unit by size and location.~~ No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

C. The exterior appearance of ~~a second living~~ an accessory dwelling unit shall be compatible with the principal living unit.

D. Entrances to ~~a second living~~ an accessory dwelling unit shall be screened from street view.

E. ~~A second living unit~~ Accessory dwelling units shall not be allowed in mobile housing units, including, but not limited to, mobile homes, trailers, and motor homes. Accessory dwelling units shall be allowed in manufactured homes.

F. Accessory dwelling ~~Second living~~ units that are constructed by the conversion of existing floor space in a single-family structure or by an integral addition to a single-family structure shall include a common wall with, and internal access to, the main residence to the degree determined appropriate by the City.

G. Notwithstanding the setback requirements in the R1 Districts, no setback shall be required for an existing garage that is converted into an accessory dwelling unit. A setback of five feet shall be required from the side and rear property line for an accessory dwelling unit constructed above a garage; and in such cases, no second story window shall be located within 17.5 feet of the side property line and/or 25 feet from the rear property line.

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H. In existing principal dwellings and existing accessory structures, new or separate utilities may be allowed but not subject to connection or capacity fees.

I. In new structures separate utilities may be permitted subject to connection and capacity fees.

J. Notwithstanding Title 12 (Buildings and Construction) of the Municipal Code, fire sprinklers shall not be required in accessory dwelling units if they are not required in the principal residence.

14.14.060 - Parking requirements.

~~(As provided in Chapter 14.74 of this title.)~~ Notwithstanding Chapter 14.74 of this title, accessory dwelling units shall meet the following parking standards:

1. No parking is required if the accessory dwelling unit complies with any of the following:

    a. Located within ½ mile of public transit stop;
    b. Located within an historic district;
    c. The accessory dwelling unit is part of an existing principal residence or an existing accessory structure;
    d. In an area requiring on-street parking permits but they are not offered to accessory dwelling unit occupants; or
    e. Within one block of car-share vehicle pick-up and drop-off location.

2. One (1) off-street parking space shall be required per accessory dwelling unit and the parking may be provided as tandem parking on an existing driveway or in a paved parking space within the front yard.

3. When an existing garage or carport required for the principle living unit is removed or converted into an accessory dwelling unit, the required covered parking shall be replaced in conformance with the district requirements.

14.14.070 - Required conditions.

~~A. At the time the initial rental contract or lease is executed, the owner shall furnish the tenant(s) with a written disclosure of the maximum rent allowed in order for the unit to meet the requirements of the use permit and this chapter. The maximum rent disclosure shall be signed by the tenant(s) and a copy retained by the property owner.~~

~~B. At the time the initial rental contract or lease is executed with a tenant, the tenant(s) shall execute an affidavit certifying that their household income level currently meets the requirements of the use permit and this article. The affidavit shall be signed by the tenant(s) and a copy retained by the property owner.~~

~~C. Upon request, the property owner shall furnish a copy of the signed rent disclosure, rental contract/lease and tenant affidavit to the city.~~

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~~D.~~ A. The property owner shall ensure that the property and improvements thereon are maintained in a commonly acceptable manner as determined by the planning ~~department~~ division.

~~E.~~ B. The property owner shall ensure that unreasonable noise disturbances do not occur.

~~F~~ C. A deed restriction shall be recorded setting forth the occupancy requirement~~s that not more than two persons shall reside in the second living unit and~~ that the principal residence of the property owner shall be maintained on the property.

~~G. The affordability of the second living unit shall be maintained at all times.~~

SECTION 4. AMENDMENT OF CODE: Amending Chapter 14.74 of the Municipal Code regarding R1 Parking Requirements as follows:

14.74.010 – R-1 District requirements.

A. Not less than two parking spaces, one of which shall be covered, shall be required for the single-family dwelling ~~each living unit, including second living units developed under the provisions of Chapter 14.14 of this title~~.

SECTION 5. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 6. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 7. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on May 9, 2017 and was thereafter, at a regular meeting held on ____, 2017 passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Mary Prochnow, MAYOR

Attest:

_____
Jon Maginot, CMC, CITY CLERK

ATTACHMENT 1

DATE: April 6, 2017

AGENDA ITEM # 3

TO: Planning and Transportation Commission

FROM: David Kornfield, Planning Services Manager—Advance Planning

SUBJECT: Accessory Dwelling Unit Regulations

RECOMMENDATION:

Recommend to the City Council approval of changes to the accessory dwelling unit regulations per Attachment C

BACKGROUND

Accessory dwelling units, also known as second living units, or granny units, 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. Accessory dwelling units are independent living units within principal living units or detached dwellings in accessory structures that maximize and integrate housing choices within existing neighborhoods.

In accordance with Municipal Code Chapter 14.14 accessory dwelling units (second living units) are currently limited to larger single-family properties with a minimum of 15,000 square feet for detached units and a minimum of 13,000 square feet for integral units. The City's regulations mainly: limit accessory dwelling units to low and very-low income households when rented; limit occupancy to no more than two persons; require the property owner to keep the property as their primary residence; and provide certain design and parking requirements.

Historically, the City used its discretionary use permit process to regulate non-conforming accessory dwelling units and to consider new accessory dwelling units. In the mid-1990s the City changed its regulations to require affordability restrictions of such units. In 2003 the City removed the use permit requirement but resolved to use the then Architectural and Site Control Committee (now Design Review Commission) in an administrative process to allow for a neighborhood notice of such units. Since the 1990s the City has achieved approximately 50 affordable accessory dwelling units; additionally, the City has scores of non-conforming second living units that predate the City, which were permitted under the former use permit process.

In response to housing production not keeping up with demand, and the lack of housing affecting affordability, the California Legislature recently adopted several changes to the laws related to accessory dwelling units. The intent of such changes is to streamline the approval process and to expand the capacity of communities to accommodate accessory dwelling units. The purpose of this memorandum is to review the staff-recommended changes to the City's accessory dwelling unit

regulations to comply with state law and provide the Planning and Transportation Commission with the information it needs to make a recommendation to the City Council. In addition to considering changes to meet state laws, this effort will consider allowing accessory dwelling units on smaller properties in accordance with the City's Housing Element Program 4.2.2.

For additional background, staff attached an Accessory Dwelling Unit Memorandum from the California Department of Housing and Community Development, which is a primer on such units. Staff referred the draft Accessory Dwelling Unit regulations to the Design Review Commission for input. At its March 15, 2017 study session meeting the Design Review Commission generally supported the changes and offered the following suggestions:

- Provide incentives to provide covered parking spaces for accessory dwelling units that are not required to provide such parking under State law to encourage better parking solutions (i.e., not tandem in the driveway);
- Reduce the minimum required lot size gradually to gauge the effect of allowing such units on smaller lots;
- Limit the number of accessory structures allowed on a property to reduce impacts; and
- Maintain the Commission-level review for accessory dwelling units.

The Design Review Commission minutes are attached for reference.

DISCUSSION

Changes to Code

To implement the changes needed to conform with state law, staff's revisions include amendments to several sections of the zoning code including Definitions, Permitted Uses, Accessory Dwelling Units in R1 Districts, and R1 District Parking requirements. The changes include adding and modifying the following definitions to:

1. Define the preferred term "accessory dwelling unit";
2. Define "manufactured home" since accessory dwellings are permitted in this housing type;
3. Define the term "passageway" as used in state law; and
4. Create a reference from "second living unit" to "accessory dwelling unit" for consistency with language used by the state.

The permitted use section of each R1 district are changed to reflect the new term accessory dwelling unit. The specific regulations for regulating accessory living units in the single-family districts, Municipal Code Chapter 14.14, are modified to:

a. Change the title to reflect the preferred term accessory dwelling unit;
b. Add purpose statements reflecting the importance of the land use;
c. Reduce the required lot size to 10,000 square feet to increase the number of properties that may have accessory dwelling units;
d. Add a state mandated reference to appropriate side and rear setbacks for fire safety;
e. Add clarifying language that accessory dwellings do not affect the permitted density or general plan designation in accordance with state law;

f. Add clarifying language that accessory dwelling units may not be sold separately and may be rented in accordance with state law;
g. Remove subjective findings to comply with the state mandated ministerial permit process;
h. Clarify the unit size and residency requirements to:
    I. Maintain the 800 square foot size limit and added a provision that accessory dwellings cannot exceed 50 percent of the living area of the principal living unit as specified in state law;
    II. Added provision limiting the rental of such units to at least 30 days or greater to reduce the transitory impacts of short-term rentals;
    III. Maintain the owner residency requirement to help provide accountability; and
    IV. Remove the affordable rental limitations in accordance with state law recognizing that the state considers accessory dwelling units as inherently affordable;
i. Modify the development and design standards to:
    I. Maintain conformance with the development standards of the applicable zoning district;
    II. Prohibit a requirement for passageways in accordance with state law;
    III. Maintain the architectural compatibility and screened entry standards for accessory dwellings;
    IV. Allow accessory dwellings in manufactured homes according to state law;
    V. Maintain internal access requirements for integral units to allow flexibility of use;
    VI. Clarify the lesser setbacks allowed by state law when converting garages or adding accessory units over garages;
    VII. Require minimum setbacks to the side and rear property lines for state-mandated accessory dwelling units located above garages; and
    VIII. Clarify how utilities and fire sprinklers may be allowed in accordance with state law;
j. Modify the parking requirements in accordance with state law to:
    I. Remove the parking requirements for accessory dwellings when they are part of existing principal or existing accessory structures or within a certain distance to transit or car-share or historic districts;
    II. Reduce the general parking requirement to one parking space per accessory dwelling; and
    III. Require replacement of covered parking when the required parking for the principal living unit is displaced by the accessory dwelling;
k. Change the required conditions to:
    I. Remove the property owner affordability documentation in accordance with state law; and
    II. Modify the deed restriction to remove the two-person occupancy limit in accordance with state law; and
l. Modify the R1 District parking requirements to rely on the accessory dwelling unit language as dictated by state law.

Housing Element Implementation

In accordance with Housing Element Program 4.2.2, staff studied the feasibility of reducing the minimum lot sizes for accessory dwelling units. The intent of this program is to consider qualifying more properties as a means of providing more affordable housing in the community. This program is consistent with the state's recently adopted intent of facilitating accessory dwellings. Per the state's recent Accessory Dwelling Unit Memorandum, designating areas where accessory dwelling units are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow

and public safety; and utilizing approaches such as restrictive overlays, limiting such units to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements may unreasonably restrict the ability of homeowners to create accessory dwelling units, contrary to the intent of the State Legislature (see Attachment B, page 8).

The City's existing minimum lot size requirement was adopted to limit the number of accessory dwellings in the City to help reduce the impacts of secondary households on surrounding properties, to limit the density increases in the single-family districts and to reduce the potential parking impacts. While these are laudable goals, such limits significantly restrict the overall potential of accessory dwelling units as discussed below.

The City has 9,438 single-family parcels. Under the existing lot size limits for accessory dwelling units there are 2,574 parcels at or over 13,000 square feet, which limits integral accessory units. There are 1,500 parcels at or over 15,000 square feet, which limits detached accessory dwelling units. Considering the intent of the state regulations to facilitate accessory dwellings, staff recommends lowering the minimum lot size threshold to 10,000 square feet, which would increase the number of eligible lots to 7,371. Staff selected the 10,000-square-foot threshold since it is the minimum conforming lot size for the primary R1-10 zoning district.

The Design Review Commission suggested a higher lot size threshold such as 12,000 square feet to produce a gradual change in the regulations to phase in the reduced lot size threshold. Staff points out that using a 12,000-square-foot threshold only adds 782 properties over the existing threshold of 13,000 square feet for integral accessory dwelling units and 1,856 parcels over the threshold of 15,000 square feet for detached accessory dwelling units.

The staff-recommended 10,000-square-foot minimum lot standard will roughly triple the amount of properties that qualify for accessory dwelling units. However, staff expects that accessory dwelling units will continue to appeal to a minority of the property owners since accessory dwelling units must conform to the overall floor area and lot coverage standards for the property and due to the continued development trend to maximize development potential of single-family houses.

Review Process

As previously mentioned, historically the City has used a public review process to consider accessory dwelling units. Technically, the City does not use this process for design review, but rather to administratively review conformance with the development and design standards for such units. With the Legislative intent of the new state law to facilitate such units, staff recommends shifting to our staff-level administrative process unless the overall project requires Commission level review such as with two-story construction or variances. Staff has rarely received complaints about legitimate accessory dwelling units and the public review process is perceived by many property owners and the State as an impediment to developing such units.

Incentives to Provide Parking

The Design Review Commission suggested considering incentives to provide parking solutions for accessory dwelling units when it is not technically required. Under the new state law, no parking is required for accessory dwelling units when existing principal residences or existing accessory structures are converted to accessory dwelling units; additionally, only one parking space is required otherwise, which may be provided as tandem in the driveway or in the front yard.

One idea could be to provide a floor area bonus to the principle residence (e.g., 200 square feet) for accessory dwelling units that provide covered parking. Under the existing regulations the intent was provide an appropriate location for the parking to minimize impacts. In practice, and considering the defunct requirement to have one covered and one uncovered space, accessory dwelling unit parking was typically comingled with the parking for the principle residence such that the existing two-car garage provided the covered parking for the principle and accessory dwelling and the driveway provided two tandem uncovered spaces for each dwelling.

Granting a floor area bonus to provide a covered parking space for an accessory dwelling unit raises questions about the use of existing covered parking areas and potentially new covered parking areas. While the City generally requires providing covered parking, there are no provisions to require its actual use and it is difficult to enforce. Also, providing extra covered parking might be a design issue when properties add carports or single car garages to implement the bonus but in effect are adding a third covered space which might be inconsistent with the neighborhood character or an element that is disassociated with the use of the accessory dwelling unit.

Staff welcomes any ideas the Commission might have on providing incentives for covered parking as parking for accessory dwelling units may be an important community concern.

Attachments:

A. Draft Design Review Commission Meeting Minutes, dated March 15, 2017
B. Accessory Dwelling Unit Memorandum from the California Department of Housing and Community Development
C. Draft Code Amendment for Accessory Dwelling Units

ATTACHMENT A

MINUTES OF A STUDY SESSION OF THE DESIGN REVIEW COMMISSION OF THE CITY OF LOS ALTOS, HELD ON WEDNESDAY, MARCH 15, 2017 BEGINNING AT 6:00 P.M. AT LOS ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD, LOS ALTOS, CALIFORNIA

ESTABLISH QUORUM

PRESENT:	Chair Moison, Vice-Chair Glew and Commissioners Kirik, and Zoufonoun
ABSENT:	Commissioner Harding
STAFF:	Advance Planning Services Manager Kornfield and Current Planning Services Manager Dahl

ITEMS FOR CONSIDERATION/ACTION

1. **Accessory Dwelling Unit (Second Living Unit) Regulations**
   Potential code amendments to Chapter 14.14 of the Zoning Code pertaining to Second Living Units.
   Project Manager: Kornfield

Advance Planning Services Manager Kornfield presented the staff report and answered questions from the Commission.

Public Comment
None.

The Commission discussed the Accessory Dwelling Unit (Second Living Unit) Regulations and offered the following comments:

- Vice-Chair Glew:
  - Incentive good parking design (i.e. bonus of square footage); and
  - Reduce minimum lot size requirements gradually, not all at once (phase it in).

- Chair Moison:
  - Accessory Dwelling Units review should stay with the Design Review Commission for a 12-month trial run and see how it goes.

- Commissioner Kirik:
  - Parking is the primary issue and we must be sensitive to this;
  - Consider limiting the number of accessory structures on a property;
  - Supports an administrative approval process;
  - Encourage better parking (i.e. not tandem in the driveway); and
  - Consider a minimum lot size of 12,000 square feet, instead of 10,000 square feet for detached dwelling units and 10,000 square feet for attached dwelling units.

- Commissioner Zoufonoun:
  - No additional comments.

ADJOURNMENT

Chair Moison adjourned the meeting at 6:55 P.M.

_____

Zachary Dahl, AICP
Planning Services Manager – Current Planning

ATTACHMENT B

Draft Code Amendment for Accessory Dwelling Units

14.02.070 – Definitions.

"Accessory dwelling unit" means an attached or detached residential dwelling unit which proves complete independent living facilities for one or more persons. It shall include permanent provision for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling unit is situated. Accessory dwelling units also include efficiency units as defined by Section 17958.1 of the Health and Safety Code.

"Manufactured home" is as defined in Section 18007 of the Health and Safety Code.

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

"Second living unit" means a second dwelling on a single-family residential lot; refer to the definition of "accessory dwelling unit. "

***

14.06.020 – Permitted uses (R1-10)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

14.08.020 – Permitted uses (R1-H)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

14.10.020 – Permitted uses (R1-20)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

14.12.020 – Permitted uses (R1-40)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

***

Chapter 14.14 - ~~SECOND LIVING~~ ACCESSORY DWELLING UNITS IN R1 DISTRICTS

14.14.010 – Purpose.

A. The Legislature found that accessory dwelling units are a valuable form of housing in California.

B. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others within existing neighborhoods.

C. Homeowners who create accessory dwellings units benefit from added income, and an increased sense of security.

D. Allowing accessory dwelling units in single-family districts provides additional rental housing stock in California.

E. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

F. Accessory dwelling units are, therefore, an essential component of California's housing supply.

G. It is the intent of this ordinance to allow and promote the development accessory dwelling units.

14.14.020 ~~14.14.010~~ - Permitted uses.

In accordance with the provisions of this chapter ~~and upon the granting of design review as provided in Chapter 14.76,~~ one ~~second living~~ accessory dwelling unit may be permitted on a lot or parcel within a single-family residential zoning district that has a minimum of ~~the greater of: (1) one hundred fifty (150) percent of the lot area required in the residential zoning district in which the second living unit is proposed to be located; or (2) fifteen thousand (15,000) square feet of lot area~~ 10,000 square feet. ~~A second~~ living An accessory dwelling unit may be established through:

A. The conversion of existing floor space in a single-family structure; ~~in which case the figures of one hundred fifty (150) percent and fifteen thousand (15,000) square feet set forth above shall be reduced to one hundred thirty (130) percent and thirteen thousand (13,000) square feet respectively in the R1-10 zoning district, and reduced to one hundred (100) percent of the minimum required lot area in the R1-20, R1-H, and R1-40 zoning districts~~;

B. An integral addition to a single-family structure; ~~in which case the figures of one hundred fifty (150) percent and fifteen thousand (15,000) square feet set forth above shall be reduced to one hundred thirty (130) percent and thirteen thousand (13,000) square feet respectively in the R1-10 zoning district, and reduced to one hundred (100) percent of the minimum required lot area in the R1-20, R1-H, and R1-40 zoning districts;~~

C. The conversion of an existing accessory structure provided its location on the property is in conformance with present setback regulations and has side and rear setbacks that are sufficient for fire safety; or

D. The construction of a new accessory structure.

E. Accessory dwelling units do not exceed the allowable density for the lot upon which it is located, and that such units are a residential use consistent with the general plan and zoning designation for the lot.

F. Accessory dwelling units may not be sold separately from the primary residence and may be rented.

14.14.030 - ~~Required findings for approval.~~ (Reserved)

~~In addition to the findings required by Chapter 14.76, the following findings shall be made prior to approval of a second living unit:~~

~~A. That public benefit will result because the proposed second living unit will be maintained as affordable for a lower- or very low-income household;~~

~~B. That appropriate administrative measures, including disclosure of the maximum rent allowed and the income level of the occupant(s), have been required which will ensure that if the second living unit is~~

~~rented or leased, it will be at a rate which is affordable to a person or persons of lower- or very low-income levels as required by Section 14.14.040, and that the income level of the resident(s) of the second living unit meets the appropriate limits for a lower- or very low-income household as determined by the city based on state and federal guidelines;~~

~~C. That required parking areas are located on the site;~~

~~D. That the parcel size is adequate in size to maintain a second unit and related parking in terms of its status as an accessory use both visually and functionally;~~

~~E. That when a property has frontage on more than one street, the access for the main residence and second living unit has been combined in such a way as to reduce the prominence and visibility of the second living unit parking to the surrounding neighborhood; provided, however, that on a corner lot, the appropriateness of combining the access of the main residence and the second living unit shall be determined on a case-by-case basis;~~

~~F. Appropriate conditions have been applied as necessary to ensure that the second living unit will not adversely impact neighboring property owners due to:~~

~~1. Inappropriate location, amount, and/or design of on-site parking;~~

~~2. Inappropriate location with respect to the character of the existing neighborhood;~~

~~3. Excessive noise potential, particularly when neighboring homes are in close proximity;~~

~~4. An excessive number of second living units in the vicinity;~~

~~5. Insufficient screening of the unit; and~~

~~6. Lack of compliance with the floor area ratio, setback, lot coverage, and other development standards of the R1 zoning districts.~~

14.14.040 - Unit size and ~~occupancy~~ residency requirements.

A. The maximum size of ~~a second living~~ an accessory dwelling unit, not including ~~basements or~~ any covered parking, shall be eight hundred (800) square feet. ~~However, a second living~~ accessory dwelling ~~unit of greater than the maximum size, may be considered only within a residential or accessory structure which existed prior to March 1, 1995, and subject to the required findings in Section 14.14.030~~. The maximum size of an accessory dwelling unit shall not exceed 50 percent of the existing living area of a principal living unit.

~~B. No more than two persons shall reside in a second living unit.~~ Accessory dwelling units may not be rented for terms of less than 30 days.

C. Either the principal living unit or the ~~second living~~ accessory dwelling unit shall be the principal residence of at least fifty (50) percent of record owners of the property.

~~D. If the property owner resides in the second living unit, then the primary residence can be rented at market rate, but shall have no effect on the affordability requirement for the second living unit for future occupancies.~~

~~E. If rented or leased, second living units with a size of greater than six hundred forty (640) square feet shall be affordable to a person or persons of very low-income levels, and the income level of the person(s) renting the second living unit shall not be greater than the limits for a very low-income household as determined by the city based on state and federal guidelines.~~

~~F. If rented or leased, second living units with a size of not more than six hundred forty (640) square feet shall be affordable to a person or persons of low-income levels, and the income level of the resident(s) of the second living unit shall not be greater than the limits for a lower-income household as determined by the city based on state and federal guidelines.~~

~~G. The resident income limits in subsections E and F of this section shall not apply if the second living unit is occupied by an immediate family member.~~

14.14.050 - Development and design standards.

A. ~~A second living~~ An accessory dwelling unit shall meet all the current development standards of the residential zoning district in which the ~~second living~~ accessory dwelling unit is located, except as may be modified by the criteria set forth in this chapter.

~~B. A second living unit shall be clearly subordinate to the principal living unit by size and location.~~ No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

C. The exterior appearance of ~~a second living~~ an accessory dwelling unit shall be compatible with the principal living unit.

D. Entrances to ~~a second living~~ an accessory dwelling unit shall be screened from street view.

E. ~~A second living unit~~ Accessory dwelling units shall not be allowed in mobile housing units, including, but not limited to, mobile homes, trailers, and motor homes. Accessory dwelling units shall be allowed in manufactured homes.

F. Accessory dwelling ~~Second living~~ units that are constructed by the conversion of existing floor space in a single-family structure or by an integral addition to a single-family structure shall include a common wall with, and internal access to, the main residence to the degree determined appropriate by the city.

G. Notwithstanding the setback requirements in the R1 Districts, no setback shall be required for an existing garage that is converted into an accessory dwelling unit. A setback of five feet shall be required from the side and rear property line for an accessory dwelling unit constructed above a garage; and in such cases, no second story window shall be located within 17.5 feet of the side property line and/or 25 feet from the rear property line.

H. In existing principal dwellings and existing accessory structures, new or separate utilities may be allowed but not subject to connection or capacity fees.

I. In new structures separate utilities may be permitted subject to connection and capacity fees.

J. Notwithstanding Title 12 (Buildings and Construction) of the Municipal Code, fire sprinklers shall not be required in accessory dwelling units if they are not required in the principal residence.

14.14.060 - Parking requirements.

~~(As provided in Chapter 14.74 of this title.)~~ Notwithstanding Chapter 14.74 of this title, accessory dwelling units shall meet the following parking standards:

1. No parking is required if the accessory dwelling unit complies with any of the following:
    a. Located within ½ mile of public transit stop;
    b. Located within an historic district;
    c. The accessory dwelling unit is part of an existing principal residence or an existing accessory structure;
    d. In an area requiring on-street parking permits but they are not offered to accessory dwelling unit occupants; or
    e. Within one block of car-share vehicle pick-up and drop-off location.
2. One (1) off-street parking space shall be required per accessory dwelling unit and the parking may be provided as tandem parking on an existing driveway or in a paved parking space within the front yard.
3. When an existing garage or carport required for the principle living unit is removed or converted into an accessory dwelling unit, the required covered parking shall be replaced in conformance with the district requirements.

14.14.070 - Required conditions.

~~A. At the time the initial rental contract or lease is executed, the owner shall furnish the tenant(s) with a written disclosure of the maximum rent allowed in order for the unit to meet the requirements of the use permit and this chapter. The maximum rent disclosure shall be signed by the tenant(s) and a copy retained by the property owner.~~

~~B. At the time the initial rental contract or lease is executed with a tenant, the tenant(s) shall execute an affidavit certifying that their household income level currently meets the requirements of the use permit and this article. The affidavit shall be signed by the tenant(s) and a copy retained by the property owner.~~

~~C. Upon request, the property owner shall furnish a copy of the signed rent disclosure, rental contract/lease and tenant affidavit to the city.~~

~~D.~~ A. The property owner shall ensure that the property and improvements thereon are maintained in a commonly acceptable manner as determined by the planning ~~department~~ division.

~~E.~~ B. The property owner shall ensure that unreasonable noise disturbances do not occur.

~~F~~ C. A deed restriction shall be recorded setting forth the occupancy requirements ~~that not more than two persons shall reside in the second living unit and~~ that the principal residence of the property owner shall be maintained on the property.

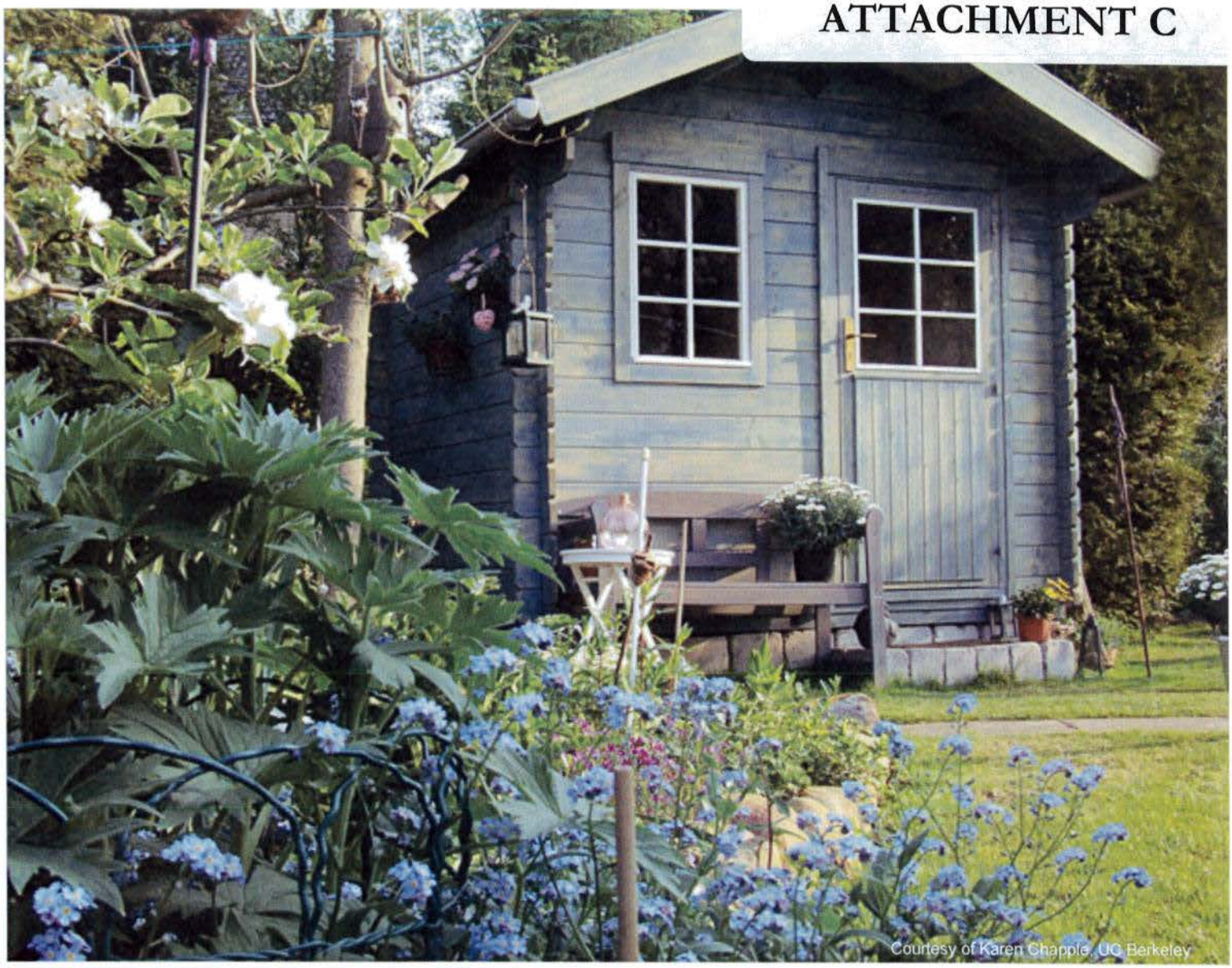
~~G. The affordability of the second living unit shall be maintained at all times.~~

***

14.74.010 – R-1 District requirements.

A. Not less than two parking spaces, one of which shall be covered, shall be required for the single-family dwelling ~~each living unit, including second living units developed under the provisions of Chapter 14.14 of this title~~.

ATTACHMENT C



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 units 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 4 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 4). 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?

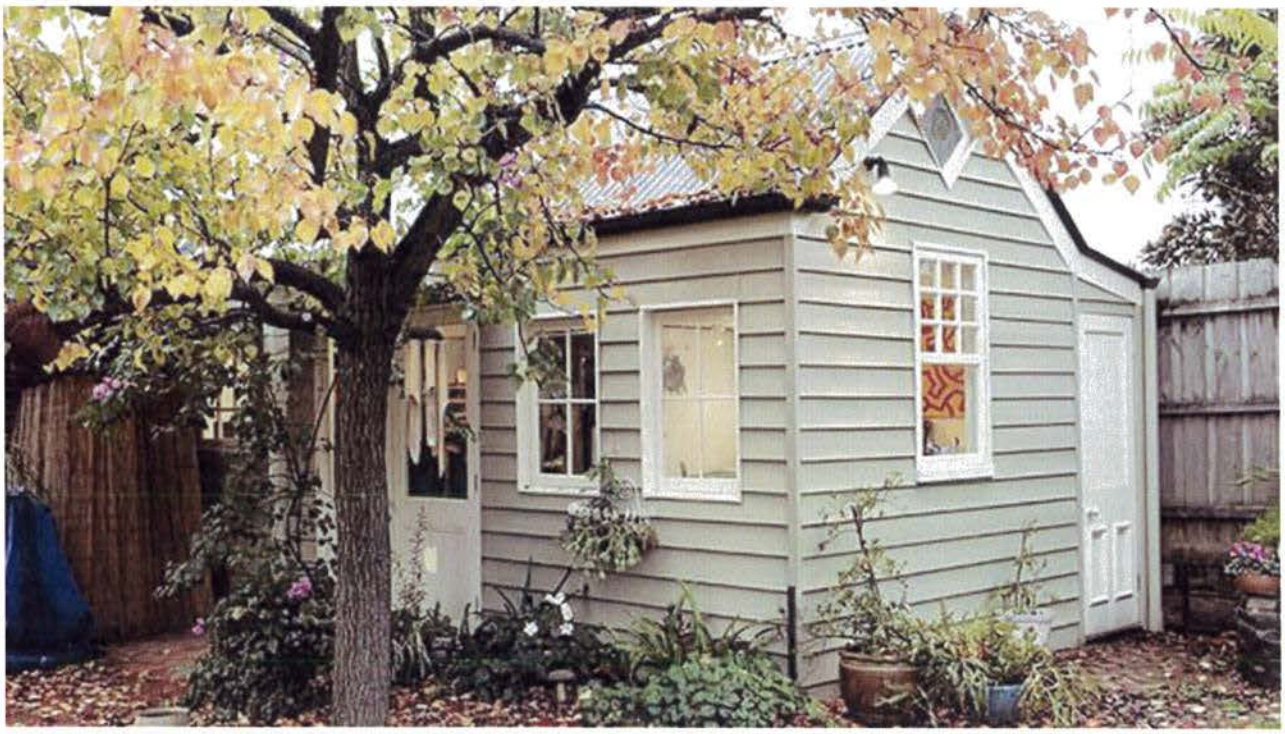
No, JADUs shall not be considered a separate or new dwelling unit for the purposes of fees and as a result should not be charged a fee for providing water, sewer or power, including a connection fee. These requirements apply to all providers of water, sewer and power, including non-municipal providers.

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 (c)~~ 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 WWWW 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 XXX3XXXXX, 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 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 dies 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 what 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).

MINUTES OF A REGULAR MEETING OF THE PLANNING AND TRANSPORTATION COMMISSION OF THE CITY OF LOS ALTOS, HELD ON THURSDAY, APRIL 6, 2017 BEGINNING AT 7:00 P.M. AT LOS ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD, LOS ALTOS, CALIFORNIA

ESTABLISH QUORUM

PRESENT: Vice Chair Meadows, and Commissioners Bressack, Bodner McTighe, Oreizy, Samek and Enander

STAFF: Community Development Director Biggs and Advance Planning Services Manager Kornfield

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Resident Wes Brinsfield, representing the Bicycle and Pedestrian Advisory Commission, stated that he was available to answer questions. Resident Roberta Phillips spoke regarding future agenda items, protecting residents, and the need for impartial consideration of zoning amendments.

ITEMS FOR CONSIDERATION/ACTION

SPECIAL ITEM

1. Commission Reorganization
Election of Chair and Vice Chair

Action: Upon motion by Commissioner Bressack, seconded by Commissioner Bodner, the Commission unanimously elected Vice Chair Meadows as Chair.

Action: Upon motion by Commissioner Bodner, seconded by Commissioner Oreizy, the Commission unanimously elected Commissioner Bressack as Vice Chair.

CONSENT CALENDAR

2. Planning and Transportation Commission Minutes
Approve minutes of the regular meeting of March 16, 2017.

Action: Upon motion by Vice Chair Bressack, seconded by Commissioner McTighe, the Commission approved the minutes of the March 16, 2016 Regular Meeting as amended to clarify the direction on the CT District amendments. The motion was approved by the following vote: AYES: McTighe, Bressack, Bodner, Meadows, Oreizy and Samek; NOES: None; ABSTAIN: Enander; ABSENT: None. (6-0-1 vote)

PUBLIC HEARING

3. Accessory Dwelling Unit (Second Living Unit) Regulations
Zoning Code amendment to the Los Altos Municipal Code pertaining to Accessory Dwelling Units (Second Living Units) for changes necessary to comply with state law, and to consider reducing the minimum lot size required for such units. *Project Manager: Kornfield*

Advance Planning Services Manager Kornfield presented the staff report.

Public Comment
Residents Mary Skougaard, Cheryl Reicker, Pat Marriott, Jim Wing, Les Poltrack, Autumn Hancock, Roberta Phillips, Sue Russell, and Suzanne Ambiel spoke in support of the accessory dwelling unit (Second Living Unit) Regulations; although some residents recommended maintaining a larger lot size threshold to minimize parking and density impacts.

Resident Gina Greenen spoke in opposition to the proposed ordinance raising concerns about density and parking impacts.

Discussion
The Commission discussed the proposed changes to the accessory dwelling unit (second living unit) Regulations.

Action: Upon motion by Vice Chair Bressack, seconded by Commissioner McTighe, the Commission recommended approval of the Accessory Dwelling Unit (Second Living Unit) Regulations as recommended by staff to the City Council with the following recommendations:

- Evaluate if laws allow for longer minimum terms than the 30 days proposed to residency; and
- Maintain Design Review Commission review for detached accessory dwelling units, accessory structures converted into accessory dwelling units, and new accessory structures.

Commissioner Enander offered a friendly amendment to limit detached accessory dwelling units to lots of 12,000 square feet or greater, which was not accepted by Vice-Chair Bressack.

Commissioner Bodner offered a friendly amendment to increase the parking waiver to accessory dwelling units within one mile of transit stops, which failed to receive a second by Vice-Chair Bressack.

Commissioner McTighe offered a friendly amendment to allow accessory dwelling units as integral to principal residences with no lot size minimum, which failed to receive a second by Vice-Chair Bressack.

The primary motion was approved by the following vote: AYES: McTighe, Bressack, Bodner, Meadows, Oreizy and Samek; NOES: Enander; ABSTAIN: None; ABSENT: None. (6-1 vote)

Commissioner Enander opposed the primary motion because she believed that detached accessory dwelling units should be on lots larger than 10,000 square feet to provide an appropriate amount of open space.

DISCUSSION

4. Discussion of Commission Jurisdiction over Transportation

Project Manager: Biggs

Community Development Director Biggs presented the staff report.

Public Comment
Residents Wes Brinsfield (BPAC member), Jim Wing, and Nadim Maluf (BPAC member) spoke about the Commission's role and jurisdiction over transportation issues.

The Commission discussed their jurisdiction over transportation issues and queried what the issue or problem was. They noted they were open to any process that will allow appropriate action to be taken.

COMMISSIONERS' REPORTS AND COMMENTS

Commissioner McTighe reported on the March 28, 2017 City Council meeting in which the Council discussed the Eichler Historic District, speed limits, the stop sign policy and the implementation of the 2011 traffic calming before increasing speed limits.

POTENTIAL FUTURE AGENDA ITEMS

The Commission agreed to put the review of the Arts Master Plan with the Planning and Transportation Commission on a future agenda.

ADJOURNMENT

Chair Meadows adjourned the meeting at 10:07 P.M.

David Kornfield
Advance Planning Services Manager