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Planning Commission Staff Report

Meeting Date: January 17, 2023

Prepared By: Kristen Hunter, Associate Planner

PROJECT INFORMATION SUMMARY

Case File: Zone Change (ZC) 20-01

Request: Consideration of a request by the City of Placerville to amend Title 10 (Zoning) of the Placerville City Code to address required 2021-2029 Housing Element Implementation Program C-2: Accessory Dwelling Units (ADUs), to conform with new State regulations; to update, modify and add housing and other related definitions of terms.

BACKGROUND

Staff has completed a consistency review of the Zoning Ordinance relating to the 2019 State legislation, as well as the 2020, 2021, and 2022 updates to the legislation, on accessory dwelling units (ADUs) and has identified necessary text amendments to bring the City of Placerville's regulations into conformance with State Law¹. Additionally, Staff is proposing amendments to the Zoning Ordinance definitions section to update terms, modify others and also add terms related to housing, housing uses, and other related definitions for terms used within the Zoning Ordinance.

Accessory Dwelling Unit (ADU)

An ADU is a self-contained dwelling unit that is smaller than the main (primary) home on the same property. It contains a kitchen, bathroom, and a place to sleep. An ADU may be attached to the main house (attached ADU), a separate detached building (detached), or a converted existing space on the lot of the primary residence that is converted into an independent living unit (conversion, either attached or detached). Owner occupancy is not a requirement for creation of an ADU; however, the ADU may not be sold separate from the primary dwelling. In addition, renting of an ADU is restricted to terms 31 days or greater.

City of Placerville permit records for ADUs (previously known as 'Granny Flats,' 'Granny Units,' or 'Secondary Dwelling Units') date back to the 1980s, where ADUs of 640 square feet were

¹ Resolution of Intent (ROI) 19-04 was adopted December 10, 2019 to initiate amendments to City Municipal Code Title 10, Section 12: Accessory Dwelling Units (ADUs), and other applicable sections of the Zoning Ordinance that are necessary to be consistent with State statutes approved in 2019 through AB 86, AB 881, and SB 13.

permitted. Since the 1980s, a total of forty seven (47) permits have been issued. Of this, a total of thirty eight (38) have been issued since 2017, with an average floor area of approximately 580 square feet.

Junior Accessory Dwelling Unit (JADU)

A JADU is a specific type of conversion of an existing space located entirely within the existing footprint of the primary single-family residence. One JADU is permitted per single-family residential dwelling; however, parcels with multiple detached single-family dwellings are not eligible for JADUs. JADUs are limited to no more than 500 sf in size and may include separate sanitation facilities or may share sanitation facilities with the primary dwelling. Additionally, the main dwelling or the JADU must be owner occupied.

ADUs / JADUs – 2021-2029 Housing Element

The 2021-2029 Housing Element, adopted October 31, 2021 (City Council Resolution No. 9005), contains a Goal, a Policy, and an Implementation Program that addresses the development of rental housing and affordable housing. These are described below.

- Goal C: To facilitate the development of rental and for-sale housing affordable to extremely low-, low-, and moderate-income households.
- Policy C.3: The City will review the Zoning Ordinance, permit processes, and development impact fees to identify and remove potential constraints to the development of a range of housing for all income levels and needs.
- Implementation Program C-2 (Accessory Dwelling Units (ADUs): The City will amend its Zoning Ordinance to comply with all state law pertaining to ADUs and Junior Accessory Dwelling Units (JADUs). The City will continue to promote ADUs through handouts available at the Development Services and Finance permit counters, the City’s website, and utilizing an informational insert in property owner utility bills.

Objective:	Approve as many ADU proposals as are applied for, subject to compliance with City standards.
Responsibility:	Development Services Department Director, Planning Commission, and City Council.
Timing:	Provide information by May 2022; insert information in utility bills annually; ongoing. Amend the Zoning Ordinance by August 2021.
Funding:	General Fund.

PROJECT ANALYSIS

On October 9, 2019, the Governor signed into law several bills (including Senate Bill (SB) 13, Assembly Bill (AB) 68, AB 587, AB 670, AB 671, and AB 881) amending Government Code Sections 65852.150 and 65852.2, related to encouraging the production of ADUs and JADUs within California. This legislation became effective on January 1, 2020. In 2020, AB 3182 was enacted, further building upon State ADU Law. In 2021 and 2022, additional legislation was enacted (including AB 345 in 2021 and AB 2221, and SB 897 in 2022) to provide additional direction to local jurisdictions and continue encouragement of ADU development. Attachment B of this Staff Report contains the July 2022 update of the California Department of Housing and Community Development (HCD) Accessory Dwelling Unit Handbook.

The following is a summary of the proposed amendments to the City's existing ADU regulations that would bring them into compliance with State law. Amendments can be found in their entirety in Attachment A (Draft Ordinance). The proposed changes will repeal the existing Zoning Ordinance Section 10-4-12 (Accessory Dwelling Units (ADU))² and reenact a new Zoning Ordinance Section 10-4-12 entitled Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU).

Allowable Zoning Districts for ADUs

The City's current ADU regulations only allow ADUs in the RE (Estate Residential Zone) and R-1A, R-1, 6,000, R-1, 10,000 and R-1, 20,000 (Single-Family Residential Zones), the R-2, R-3, R-4 and R-5 (Multi-Family Residential Zones) and HO (Housing Opportunity Overlay) Zone classifications. State law requires local jurisdictions to permit accessory dwelling units in any single-family, multi-family, or mixed-use zoning district that allows for residential uses. Proposed changes would amend the residential and commercial zone classifications where applicable to allow ADUs in all residential or mixed-use districts consistent with this requirement.

ADUs in Multi-Family Structures

As mentioned, the City's current regulations do allow ADUs in multi-family zones. Changes to State law now mandate that local jurisdictions allow ADUs in existing multi-family structures and on lots containing multi-family structures as follows:

- Accessory dwelling units within the portions of an existing multi-family dwelling structure that are not used as livable space, provided that each unit complies with State building standards for dwellings. Such accessory dwelling units shall not be created within any portion of the habitable area of an existing dwelling unit in a multi-family structure. The term *habitable area* is defined under the 2022 California Building Code as, "A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable

² Attachment C of this Staff Report is the City's current ADU regulations.

spaces.” At least one unit, but no more than 25% of the existing building unit count in a multi-family building, shall be allowed.

- Up to two detached accessory dwelling units shall be permitted on a lot with an existing multi-family dwelling structure, provided that the height does not exceed 16’ and 4’ side and rear yard setbacks are maintained.

Proposed Regulations: City regulations will incorporate these state law mandates. Further, the height of the structure(s) shall not exceed the maximum height within the specified zone or two stories. These provisions would provide potential opportunities for owners of existing multi-family developments within the City that are at or near maximum zoning density currently to develop additional rentable units, expanding the City’s housing supply. Per state statute, ADUs and JADUs (further discussed herein) do not exceed the allowable density for the lot upon which the ADU or JADU is located.

Development Standards

State law stipulates many new development standards relating to the size of units, location, setbacks, heights, and exceptions. The major changes to the City’s existing ADU regulations necessary to conform to these requirements are summarized in Table 1 on page 5-6 of this Staff Report.

Table 1. Development Standards

State Law and Current City Regulations	Proposed Regulations
<p>Gross Floor Area: State law allows local jurisdictions to set maximum and minimum size requirements for ADUs, <u>but they must be at least as follows:</u></p> <ul style="list-style-type: none"> • Maximum: a studio or one-bedroom ADU of up to 850 square feet and a two-or-more bedroom ADU of up to 1,000 square feet involving a conversion ADU (interior conversion of existing habitable within a single-family dwelling, or conversion of a detached accessory structure or accessory building) or a conversion ADU in a multi-family building (interior conversion of existing non-habitable area of a multi-family structure). Maximum for attached ADU are no greater than 50 percent of the floor area of the existing primary residence (unit). • Minimum: Must allow efficiency units, as defined under Section 17958.1 of the Health and Safety Code and California Building Code Section 1207.4. An efficiency unit must contain a living room of not less than 220 square feet of floor area. An additional 100 square feet of floor area shall be required for each occupant of such unit in excess of two. The unit shall be provided with a separate closet. The unit shall be provided with a kitchen sink, cooking appliance, and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to the California Building Code shall be provided. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower. <p>The City’s current regulations allow a maximum size for a detached ADU to be no more than 50% of the square footage of the existing primary unit; however the minimum size shall not be less than 600 square feet, or more than 1,200 square feet.</p>	<p>City regulations would set a maximum size for a detached or conversion ADU at 1,200 square feet. An attached ADU maximum gross floor area would match the State’s to no greater than 50 percent of the floor area of the existing primary residence. Proposed City regulations would allow an on-site constructed home with a minimum size meeting the California Building Code.</p>
<p>Setbacks: State law mandates that local jurisdictions require no more than a 4’ side and rear minimum setback for all ADUs, not including conversions. Additionally, state law allows Cities to impose front-yard setbacks on ADUs so long as the setback yields to the extent that is necessary to construct an ADU of 800 square feet.</p>	<p>City regulations would incorporate this provision.</p>
<p>Reconstruction: State law mandates that a new ADU may be built in the same location and built to the same dimensions as an existing, legal, detached accessory structure, subject to all adopted building and fire codes for residential occupancy.</p>	<p>City regulations would incorporate this provision.</p>

State Law and Current City Regulations	Proposed Regulations
<p>Exceptions: State law mandates that limits on lot coverage, floor area ratio, and open space shall allow, at minimum, an 800 square foot detached or attached accessory dwelling unit 16’ high with 4’ side and rear yard setbacks, if the proposed accessory dwelling unit is in compliance with all other development standards.</p>	<p>City regulations would not place limits on lot coverage, floor area ratio or open space on the construction of an ADU, removing a potential constraint from construction. The detached ADU building height, side and rear yard setback provisions are part of the City’s proposed regulations.</p>
<p>Owner Occupancy: State law mandates that between January 1, 2020 and December 31, 2024, local jurisdictions may not require the property owner live on the property.</p> <p>Existing City regulations impose a covenant and agreement between the City and the property owner that is recorded. The covenant and agreement contains the following:</p> <ul style="list-style-type: none"> a) A statement that the property owner shall be an owner-occupant and shall reside either in the primary residential dwelling or the ADU; b) The ADU shall not be sold separately from the primary residential dwelling; and c) The ADU permit shall run with the land and the ADU permit is binding and enforceable on future property owners. 	<p>The covenant and agreement provisions are replaced with deed restrictions as part of the City’s proposed regulations to comply with State law owner occupancy between the dates of January 1, 2020 and December 31, 2024. Beginning January 1, 2025, the deed restriction provisions will require the property owner to reside either in the primary unit or the ADU.</p>
<p>ADU Tenancy and Use as Short-Term Rentals: State law requires that a local agency (city and county) require that a rental of an ADU that is created under these provisions be for a term longer than 30 days. Existing City regulations incorporate this tenancy provision.</p>	<p>City regulations would include under the deed restrictions provisions that the ADU shall not be rented for a term of 30 days or less. Penalty provisions are added also. Every person violating the tenancy provisions of the ADU regulations shall be guilty of a misdemeanor and punishable pursuant to subsection 1-4-5(A) of City Code of a fine not to exceed one thousand dollars (\$1,000) for any one offense (Note: Per City Code 1-4-5(C), a misdemeanor violation offense shall be deemed committed each day that the violation occurs or the obligation remains unperformed), and the person may be confined in the County jail for a period of not to exceed six months, or both. This provision is necessary to serve as a deterrent to a property owner to establish then to operate an ADU use as short-term rental lodging use instead of the intended purpose of an ADU as long-term permanent housing.</p>

Parking Requirements

The City's current regulations (City Code 10-4-4) require one parking space for an ADU, which may be covered or uncovered and can be located anywhere on the lot. Additionally, the one parking space shall not be required if any of the following conditions are met:

- The unit is located within one-half mile walking distance of public transit;
- The unit is located within an architecturally and historically significant historic district;
- The unit is part of the existing primary dwelling unit or an existing accessory structure;
- On-street parking permits are required but not offered to the occupant of the ADU; or
- There is a car-share vehicle parking space located within one block of the ADU.

State law continues to require these minimum parking requirements. However, the definition of public transit was revised under the law from a transit facility that has scheduled transit of no greater than every fifteen minutes to now a simple bus stop where the public may access a bus on fixed routes. Staff estimates that based on El Dorado Transit bus routes and stops within the City, more than one-half of the City's residential areas are within the one-half mile walking distance. To further assist in the production of ADUs within the City, staff proposes eliminating the one stall ADU parking requirement, a potential constraint to development of an ADU.

Proposed City regulations would amend the City Parking Regulations under City Code 10-4-4(E) to incorporate this provision. In addition, State law includes a provision that eliminates the requirement to replace the parking lost if an existing garage or carport is converted to an ADU. Proposed City regulations incorporate this provision.

Junior Accessory Dwelling Units (JADU)

The City's current regulations do not address JADUs. State law mandates that local jurisdictions allow JADUs within single-family homes as follows:

- Allowed up to a maximum size of 500 square feet;
- Shall have a separate entrance from the single-family home;
- Shall include an efficiency kitchen, which includes a cooking facility with appliances and a food preparation counter and storage cabinets;
- May, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the junior accessory dwelling unit shall share sanitation facilities with the single-family home;
- Shall not require any additional parking;
- May be allowed on the same lot as a property with a detached ADU, provided certain provisions are met; and
- Requires recordation of a deed restriction requiring owner occupancy of either the primary unit or the JADU.

The proposed City regulations to incorporate these provisions.

Impact Fees and Capital Improvement Charges

Beginning on January 1, 2020, per Government Code Section 65852.2, exempts accessory and junior accessory dwelling units with less than 750 square feet of floor area from the City's Park Development Impact and Traffic Impact Fees. Impact fees for any accessory dwelling unit (ADU) with 750 square feet or more of floor area "shall be charged proportionately in relation to the square footage of the primary dwelling unit."

Methodology for calculating impact and capital improvement water and sewer charges for ADUs 750 square feet or more is as follows:

$$\left(\frac{ADU \text{ sq. ft}}{\text{primary dwelling sq. ft.}} \right) \times (\text{impact fees}) = ADU \text{ fee}$$

A typical ADU within the City would be subject to the City's park development and traffic impact fees, and sewer and water charges for connection to the City systems. Example calculations are shown in the following tables: Traffic Impact Fee (TIM) (Table 2), Park Development Impact Fee (Park) (Table 3), Sewer Capital Improvement Charge (CIC) (Table 4), and Water Capital Improvement Charge (CIC) Calculation (Table 5).

Table 2. Traffic Impact Fee (TIM) Calculation

Proposed ADU Floor Area	800 sf
Primary Dwelling Unit Floor Area	1,200 sf
Primary Dwelling Unit TIM Fee	\$18,409 per residence equivalent (Resolution No. 9046, Effective 04/11/2022)
ADU TIM Fee Calculation	$(800 \text{ sf} \div 1,200 \text{ sf}) \times \$18,409 = \mathbf{\$12,272.67}$

Table 3. Park Development Impact Fee Calculation

Proposed ADU Floor Area	800 sf
Primary Dwelling Unit Floor Area	1,200 sf
Primary Dwelling Unit Park Development Fee	\$1,320 per residence equivalent (Resolution No. 7625, Effective 08/19/2008)
ADU Park Development Fee Calculation	$(800 \text{ sf} \div 1,200 \text{ sf}) \times \$1,320 = \mathbf{\$879.99}$

Table 4. Sewer Capital Improvement Charge (CIC) Calculation

Proposed ADU Floor Area	800 sf
Primary Dwelling Unit Floor Area	1,200 sf
Primary Dwelling Unit Sewer CIC Fee	\$7,350 per residence equivalent (Resolution No. 8355, Effective 11/05/2015)
ADU Sewer CIC Fee Calculation	$(800 \text{ sf} \div 1,200 \text{ sf}) \times \$7,350 = \mathbf{\$4,899.99}$

Table 5. Water Capital Improvement Charge (CIC) Calculation

Proposed ADU Floor Area	800 sf
Primary Dwelling Unit Floor Area	1,200 sf
Primary Dwelling Unit Water CIC Fee	\$21,046 per residence equivalent (Resolution No. 8414, Effective 07/25/2016)
ADU Water CIC Fee Calculation	$(800 \text{ sf} \div 1,200 \text{ sf}) \times \$21,046 = \mathbf{\$14,030.66}$

Please note that construction resulting in the addition of square footage to an ADU within a five (5) year period will be considered cumulative square footage and, if 750 square feet or greater, will result in applicable impact and improvement charges.

These provisions will be utilized by the City when processing ADU requests to determine impact fees.

Incentives for ADU Development

A component of AB 671 that was signed into law in 2019 requires cities and counties to develop a plan as part of the Housing Element that incentivizes and promotes the creation of ADUs at a rent affordable for very low, low-, or moderate-income households. The City's 2021 – 2029 Housing Element (Cycle 6) was adopted by City Council and describes incentives and promotions that the City will offer during the eight year Cycle 6 planning period. These are impact fee reductions tied with a recorded agreement that property owners restrict rental of the ADU at rent affordable to qualified households at the very low, low- or moderate-income levels, along with the development and offering free of charge prototype plans for ADUs. These measures are intended to bring down costs to encourage the construction of ADUs within the City.

Amnesty Program

Under State law, an owner of unpermitted ADUs built before January 1, 2020 that receives a notice to correct violations may request that the enforcement of the violations be delayed for five years if correcting the violation is not necessary to protect health and safety. The option for deferred enforcement of up to five years may incentivize the legalization of existing illegal ADUs by providing property owners with additional time to go through the permitting process without also incurring fines or other enforcement deadlines. Proposed City regulations incorporate these provisions.

City Code Definitions

City Code 10-1-4 contains definitions of words and phrases used in the Zoning Ordinance. Some of these words and phrases, consistent with their meanings set by statute, have been added to City Code over the years relative to ADUs. Proposed City changes would modify the definitions of these words and phrases for consistency with state statutes (e.g. *Dwelling Unit*, *Accessory Dwelling Unit*, *Attached Accessory Dwelling Unit* and *Passageway*).

Additional words and phrases used in the Zoning Ordinance and the ADU regulations relative to housing but are not defined under City Code are also proposed. These additions will serve to

clarify their context as they are used within City Code. These include *Accessory Structure, Bungalow Court, Complete Independent Living Facilities, Converted / Conversion, Duplex, Junior Accessory Dwelling Unit (JADU), Primary Dwelling Unit, Guest Quarters, Habitable Area, Manufactured Home, Nonconforming Zoning Condition, Public Transit, and Short-Term Rental.*

The phrase *Bungalow Court* has been added to describe several single parcel properties within the City under multi-family zone classifications, under one ownership or title, that have existing groupings of detached single unit residential structures.

The phrase *Guest Quarters* replaces the phrase *Guest House*. This phrase would also be changed where it exists within the City's single-family residential zone classifications (e.g. RE (City Code 10-5-4), R-1A (City Code 10-5-5), and R-1, 20,000 (City Code 10-5-6), R-1, 10,000 (City Code 10-5-7), and R-1, 6,000 (City Code 10-5-8) under Subsection 5: Zone Regulations of Title 10: Zoning of City Code. This change was made since the word "house" has been misinterpreted by the public to mean a separate home or dwelling unit complete with a kitchen, sleeping area and plumbing facilities. These were/are being rented as separate facilities without being permitted as a dwelling unit. The proposed *Guest Quarters* definition more clearly defines the use and its intent within City Code.

Miscellaneous Changes to the Zoning Ordinance

City Code 10-5-15 is the City's Commercial (C) zone classification. Subsection (B) of this code section lists permitted uses within the C Zone, including (B)6 that states, " 6. One sign not to exceed the allowable size established by Section 10-4-17 of this Title." Section 10-4-17 of City Code comprises the City's Sign Regulations that are applicable to parcels and uses within the C and other zone classifications. Proposed change would eliminate this phrase from City Code within the C Zone as it is not needed.

General Plan Consistency

This City-initiated Zoning Ordinance amendment request would fully implement the 2021-2029 Housing Element Implementation Program C-2: Accessory Dwelling Units (ADUs), by amending the Zoning Ordinance to comply with all state laws pertaining to ADUs and JADUs. The request therefore is consistent with Housing Element Goal C and Policy C.3 of Goal C, in that the changes would facilitate the development of ADUs within the City by eliminating the constraint.

Environmental Review: Action to modify City Code 10-4-1, 10-4-4, 10-4-12, 10-5-4, 10-5-5, 10-5-6, 10-5-7, 10-5-8 and 10-5-15 by ordinance for updates to the zoning text is exempt from the California Environmental Quality Act (CEQA) under 15282(h) of the CEQA Guidelines and per Public Resources Code section 21080.17, in that these code sections specifically exempt the adoption of an ordinance that provides for the creation of ADUs in zones that allow single-family or multifamily zone by the City in order to implement the provisions within Government Code section 65852.150 and section 65852.2.

CONCLUSION

Proposed text amendments are categorically exempt from CEQA. They were developed to comply with State legislation pertaining to Accessory Dwelling Units and Junior Accessory Dwelling Units. The proposed terms added and those that would be modified serve to clarify their context under City Code.

Following a recommendation from the Planning Commission at this public hearing, the proposed amendments and the Commission's recommendation will be presented to City Council at a duly noticed public hearing that has yet to be determined.

RECOMMENDED PLANNING COMMISSION ACTION

Staff recommends that the Planning Commission take the following action to approve ZC 20-01:

- I. Adopt as part of the public record the January 17, 2023 Staff Report for Zone Change 20-01;
- II. Recommend that the City Council:
 1. Find that the draft text amendments to Title 10 of City Code, under Zone Change 20-01, are statutorily exempt from the California Environmental Quality Act under 15282(h) of the CEQA Guidelines and per Public Resources Code section 21080.17, as the adoption of an ordinance regarding accessory dwelling units in a single-family or multifamily zone by a City to comply with Government Code section 65852.150 and section 65852.2 is exempt from environmental review.
 2. Recommend that the City Council approve ZC20-01, amending City Code 10-1-4: Definitions, 10-4-4: Parking and Loading; repeal and reenact 10-4-12: Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU), amend 10-5-4: RE, Estate Residential, 10-5-5: R-1A Single-Family Acre Residential Zone, 10-5-6: R-1, 20,000 Single-Family Residential Zone, 10-5-7: R-1, 10,000 Single-Family Residential Zone, 10-5-8: R-1, 6,000 Single-Family Residential Zone, 10-5-9: R-2, Low Density Multi-Family Residential Zone, 10-5-10: R-3, Medium Density Multi-Family Residential Zone, 10-5-11: R-4, Medium Density Multi-Family Residential Zone, 10-5-12: R-5, Medium Density Multi-Family Residential Zone, 10-5-13: BP, Business-Professional Zone, 10-5-14: CBD, Central Business District Zone, 10-5-15: C, Commercial Zone, 10-5-16: CC, Convenience Commercial Zone, 10-5-17: HWC, Highway Commercial Zone, 10-5-18: HC, Heavy Commercial Zone, 10-5-19: I, Industrial Zone, 10-5-20: PF, Public Facilities Zone, and 10-5-24: Housing Opportunity Zone (HO) of Title 10 as described in Attachment A of staff's January 17, 2023 Staff Report.

ATTACHMENTS

- Attachment A: [Draft Ordinance \(Strike out text for deletions and underline text from additions\)](#)
- Attachment B: [California Department of Housing and Community Development, Accessory Dwelling Unit Handbook \(July 2022 Update\)](#)
- Attachment C: [Current City Code ADU Regulations – City Code 10-4-12](#)