



CITY OF GLENDALE, CALIFORNIA REPORT TO THE PLANNING COMMISSION

AGENDA ITEM

Report: Amendments to Title 30 of the Glendale Municipal Code, 1995, (Zoning Code Amendment) and the Downtown Specific Plan (General Plan Amendment), relating generally to standards for accessory dwelling units and junior accessory dwelling units.

Action: Motions to recommend to the City Council approval of Zoning Code Amendment Case No. PZC-0013-2024 and General Plan Amendment Case No. PGPA-003908-2024, along with Findings

Location: Citywide

Case Number PZC-0013-2024 & PGPA-003908-2024

Applicant: City of Glendale

Approved for	October 16, 2024
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ADMINISTRATIVE ACTION

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SUMMARY

Zoning standards for accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”) were first established in 2017 and have since been amended several times to bring them into compliance with constantly evolving State law which requires cities to ministerially approve ADUs and JADUs subject to very limited standards. Following a comprehensive review of the City’s ADU/JADU standards, the California Department of Housing and

Community Development (“HCD”) alleges that several standards are not in compliance with State law. Staff disagrees that many such standards are out of compliance but in some cases amendments to the ADU/JADU zoning standards are recommended, and in other cases staff recommends that the Council adopt findings regarding the City’s compliance with State law. This report discusses proposed amendments to Title 30 of the Glendale Municipal Code (“GMC”), 1995, and the Downtown Specific Plan (“DSP”), specifically as it relates to requirements for ADUs and JADUs, as directed by City Council on August 20, 2024. Staff has summarized the areas identified by HCD and provided options for amendments to the Zoning Code and DSP based on City Council direction. Additional amendments to the ADU standards are proposed that reflect SB 1211, recent legislation that was approved by the Governor on September 19, 2024 and effective on January 1, 2025, that expands the number of ADUs permitted on multi-family properties. The proposed amendments also include miscellaneous code clean-ups related to minor grammar and formatting, which do not change the substance or meaning of the text in any way. These zoning code amendments are being presented to the Planning Commission for review and recommendation to the City Council.

ENVIRONMENTAL DETERMINATION

Pursuant to the California Environmental Quality Act (CEQA), staff has determined, and will recommend that the Planning Commission and the City Council find, that these proposed amendments contained in the subject Ordinance is exempt from further review pursuant to Public Resources Code Section 21080.17 and California Code of Regulations, Title 14, Chapter 3, Section 15282(h) because the subject Ordinance implements the provisions of former Government Code Sections 65852.2 and 65852.22 (now codified in Article 2 [commencing with Section 66314] and Article 3 [commencing with Section 66333] of Chapter 13 of Division 1 of Title 7 of, the Government Code), second units in a single-family or multifamily residential zone. Moreover, the subject Ordinance is exempt from further environmental review under CEQA pursuant to Title 14 of the California Code of Regulations Section 15060(c)(1), as it implements provisions of former Government Code Sections 65852.2 and 65852.22 (now codified in Article 2 [commencing with Section 66314] and Article 3 [commencing with Section 66333] of Chapter 13 of Division 1 of Title 7 of, the Government Code), which require ministerial review and approval of accessory dwelling units and junior accessory dwelling units and therefore, does not involve the exercise of discretionary powers by the City.

RECOMMENDATION

The Community Development Department staff recommends that the Planning Commission review the proposed amendments to Title 30 of the GMC and the DSP specifically as they relate to standards for accessory dwelling units and junior accessory dwelling units, and miscellaneous zoning code clean-ups, and recommend adoption of these amendment to the City Council.

BACKGROUND/ANALYSIS

The City of Glendale first established zoning standards for ADUs in 2017 as a result of State legislation (AB 2299 and SB 1069) that required local agencies to ministerially approve ADUs. Since then, and in response to changing legislation from the State, the City has adopted a series of ordinances regarding zoning requirements for ADUs and JADUs on residential properties. The most recent update to the ordinance (Ordinance No. 5997) was adopted by City Council on November 15, 2022, and is codified in GMC Section 30.34.080 (“ADU/JADU Ordinance”).

In a letter dated December 7, 2023, after reviewing the City’s ADU/JADU Ordinance, HCD identified 16 general areas they contend conflict with State law. The City responded to HCD in a letter dated January 31, 2024, and addressed each of the 16 areas, analyzing reasons its ADU/JADU Ordinance complies with State law in all 16 areas, but committing nevertheless, to bring forth certain clarifying and other amendments to City Council for consideration. Since then, a series of written communications were exchanged with HCD regarding the ADU/JADU Ordinance, including a Notice of Violation issued by HCD on June 19, 2024 that requires the City to either amend its ADU/JADU Ordinance to satisfy HCD’s findings of non-compliance, or adopt its own findings to explain reasons its Ordinance complies with State law.¹ The City responded to the June letter by reiterating its position that its ADU/JADU Ordinance complies with State law, but ultimately, the City committed to a timeline for potential adoption of various amendments (or findings, as the case may be) to the Ordinance by early November of 2024. On August 20, 2024, the City Council adopted a series of motions to initiate amendments to the ADU/JADU Ordinance based on the topics associated with the 16 areas HCD initially identified in their December 7, 2023, letter, as described below.

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| 1. Dwelling Unit Size | 10. Unit Mix – Number of ADUs Allowed |
| 2. Where JADUs are Permitted* | 11. Architectural Compatibility |
| 3. ADUs in Proposed Multi-Family Development | 12. ADUs Above a Detached Garage* |
| 4. Size Limits on Attached ADUs | 13. ADUs in Proposed Multi-Family Development (Similar to #3) |
| 5. JADUs and Development Standards | 14. Parking |
| 6. Accessory Living Quarters* | 15. Covenant and Agreement Requirements |
| 7. Street-Front and Street-Side Setback | 16. JADUs and Owner Occupancy |
| 8. JADUs and Short-Term Rentals | |
| 9. JADUs and Separate Sales | |

¹ Government Code Section 66326(b)(2) provides that if HCD finds a city’s ordinance does not comply with State law, a city must either amend its ordinance to make changes HCD claims are necessary to achieve compliance, or “[a]dopt the ordinance without changes. The [city must] include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with [State law] despite the findings of [HCD].”

For a majority of these items, staff agrees that clarifying amendments to the City's Zoning Code are prudent and has included recommended amendments with the draft ordinances to address them. These 16 topics are also discussed in a matrix included as Exhibit 5 to this report. Also, some of these topics are related to what is commonly referred to as a "mandatory ADU", which is an ADU that must be allowed, regardless of compliance with other zoning development standards (e.g., FAR, Lot Coverage, Landscaping, etc.) as long as it is limited to 800 square-feet (SF) in size for single-family properties and 1,000 SF for multi-family properties, located at least four feet away from an interior setback and complies with the specified height requirements that range from 16 to 25 feet depending on location on-site and proximity to major transit. Gov't Code Section 66321(b)(3); GMC Section 30.34.080(E)(2). If the City disagrees with HCD's claims and determines no amendments are necessary, Government Code Section 66326 requires the City to adopt findings explaining why its ordinance complies with State law. A draft resolution is included as Exhibit 3 to this report and includes the findings required by Government Code Section 66326.

The following paragraphs summarize the recently approved SB 1211 and how it impacts Glendale's ADU/JADU Ordinance and each of the 16 HCD-identified areas and staff's recommended course of action (whether to amend or adopt findings of compliance). For those items noted with an asterisk (*), staff is bringing forth alternatives for Planning Commission's consideration, based on Council direction during the August 20, 2024 hearing. These items were discussed at length, and there was not a consensus of at least four council members, and so staff is presenting alternatives in the draft ordinances for Planning Commission's consideration and recommendation. The draft ordinances are included as Exhibits 1 and 2 to this report, and the alternatives are illustrated using **bold italic underline** and **~~bold italic underline strikeout~~**, as applicable. These alternatives are presented in the draft ordinance and also detailed below with each topic.

SB 1211

On September 19, 2024, Governor Newsom approved SB 1211 which amends existing legislation related to ADUs, as detailed below, and goes into effect on January 1, 2025. This law was approved after the amendments to the ADU/JADU Ordinance were initiated by the Council on August 20, 2024, and staff is incorporating these amendments into the draft ordinance in order to be in compliance with the new laws effective at the beginning of next year.

- *Livable Space* - A new definition for "livable space" is added for the purposes of an ADU and includes the space in a dwelling intended for human habitation, including living, sleeping, eating, cooking or sanitation. An amendment to GMC Section 30.34.080(C) is proposed to add this definition.

- *Replacement Parking* – Current law prohibits local agencies from requiring the replacement of parking when a garage, carport, or covered parking structure is demolished in conjunction with the development of an ADU. SB 1211 further expands the applicable parking exception to also include the removal of an uncovered parking space for the development of an ADU. An amendment to GMC Section 30.34.080(H)(5) is proposed to include this new exception.
- *Detached ADUs on Multi-Family Properties* – Current law allows no more than two (2) detached ADUs on a property developed with a multi-family dwelling. SB 1211 increases the number of ADUs allowed on an existing property developed with a multi-family dwelling from no more than two (2) detached ADUs to no more than eight (8) detached ADUs, provided that the number of ADUs does not exceed the number of existing dwelling units on the lot. As an example, an existing multi-family property developed with five (5) units is only entitled to no more than five (5) detached ADUs. The law also stipulates that this would only apply for a property with existing multi-family dwelling units, and properties proposed to be developed with multi-family dwelling units would still be subject to the maximum of two (2) detached ADUs. An amendment to GMC Section 30.34.080(F)(2)(b) is proposed to include these changes.
- *Mandatory ADUs and Objective Design Standards* – SB 1211 also adds language clarifying that a local agency shall not impose any objective development or design standards for mandatory ADUs, aside from the four-foot interior setback requirement and the specified height requirements that range from 16 to 25 feet depending on location on-site and proximity to major transit, as specified in Government Code Section 66323 (a). The proposed amendments to GMC Section 30.34.080 include the creation of objective design standards, as directed by the Council at the August 20, 2024 hearing, and clarifying language has been included in the ADU/JADU Ordinance that exempts mandatory ADUs from the requirements.

Dwelling Unit Size

HCD references GMC Section 30.11.050 and claims that Glendale's minimum dwelling unit sizes for ADUs and JADUs are more restrictive than the State's required minimums. This is a misunderstanding; the standards for minimum dwelling unit sizes in GMC Section 30.11.050 are specifically for standard dwelling units in multi-family zones and under no circumstances apply to ADUs or JADUs, which are defined separately with separate standards. In response to this claim, staff is proposing amendments to the referenced section to clarify that the dwelling unit sizes in GMC Section 30.11.050 do not include ADUs or JADUs, which are defined and governed separately in GMC Section 30.34.080. An additional amendment to the definition of dwelling unit in GMC Section 30.70.050 is proposed to add a clarifying statement the ADUs and JADUs are defined separately.

Where JADUs are Permitted*

Government Code Section 66333 restricts JADUs to lots in single-family residential zones with either an existing or proposed single-family dwelling unit. HCD claims that the City's ADU/JADU Ordinance violates State law because JADUs are also permitted in the multi-family, commercial, mixed-use, special purpose, and transit-oriented development zones. The definition of a JADU and the standards specified in GMC Section 30.34.080 are clear that JADUs are restricted to single-family properties, meaning there is only one dwelling unit on the site, regardless of zone. This was done intentionally in order to be fair and equitable to the many single-family use properties located throughout different zones of the City. The City acknowledges that State Law restricts JADUs to single-family residential zones, but in adopting regulations, the City did not interpret this provision as a prohibition on allowing JADUs on single-family use properties in other zones. Implementing this change will require amendments to the land use charts in the zoning code and DSP to omit references to JADUs. Moving forward, those properties that are developed with a single-family use outside of a single-family zone would no longer be eligible to construct a JADU and would be restricted to one ADU.

Council Direction

Government Code Section 66333 allows a local agency to allow the creation of junior accessory dwelling units in single-family residential zones, but nowhere else. Accordingly, staff is recommending to amend the land use charts in Title 30 and the DSP to address HCD's claim, and no longer allow JADUs on properties developed with a single-family residence outside of a single-family zone. During the August 20, 2024 hearing, two Councilmembers were in favor of amending Title 30 and the DSP to address HCD's claim. Three Councilmembers were in favor of not amending the ADU/JADU Ordinance and directed staff to draft the necessary findings in accordance with Government Code Section 66326 to keep this provision as-is (Exhibit 3).

Based on council direction, staff is providing alternatives in the draft ordinances with the changes to the land use tables in Title 30 and the DSP illustrated using **bold italic underline** and **~~bold italic underline strikeout~~**. The amendments to the land use table in Chapter 30.11 (Residential Districts) create a new category for JADUs on a lot with a single-family residence and permits them in the three single-family zones (ROS, R1R, and R1) only. The land use tables for the other chapters of Title 30 and the DSP omit the reference to JADUs in their entirety. Additionally, an amendment will be necessary to the land use table in the DSP to omit the reference to JADUs on multi-family properties. This is an error that will need to be corrected, regardless of council's decision to either change the code or make the required findings as JADUs are not permitted on multi-family properties under any circumstances.

ADUs in Proposed Multi-Family Development

This topic appears twice in HCD's December 2023 letter and pertains to GMC Sections 30.34.080(D)(1) and 30.34.080(F)(4), which appears to prohibit (or rather, exclude the allowance of) ADUs in proposed multi-family developments, where State law allows ADUs in proposed multi-family developments. This was an oversight and the City never intended to exclude proposed multi-family developments from constructing ADUs. The City has always allowed and will continue to allow a proposed multi-family development to construct ADUs as part of the development in accordance with applicable standards. Staff is proposing amendments to both referenced code sections to clarify that ADUs are allowed in proposed multi-family development, which will be consistent with current practice.

Size Limits on Attached ADUs

The development standards in GMC Section 30.34.080(D)(7) include restrictions on the size of ADUs that are proposed to be attached to existing single-family residences, where the attached ADU cannot exceed 50% of the existing square-footage of the house. HCD claims that this provision violates State law because it would preclude an owner from developing a "mandatory ADU" which is restricted to a maximum size of 800 SF. Currently, the City abides by the requirement of State Law to allow an exception to the development standards when they would preclude the construction of a "mandatory ADU". Staff is proposing amendments to the referenced code section to clarify that the 50% restriction does not apply to the "mandatory ADUs", which will be consistent with our current practice.

JADUs and Development Standards

HCD cites GMC Section 30.34.080(D)(3) and claims that the City is in violation of State Law because the proper exception for JADUs is not specified in the ordinance as it relates to JADUs and the underlying zoning development standards. However, this is incorrect, because the GMC states that ADUs and JADUs are subject to the underlying zoning development standards applicable to the primary dwelling, except as set forth in the section. Staff is proposing amendments to the referenced code section to include a clarifying statement that specifically cites the code section for the mandatory ADUs and JADUs not subject to underlying zoning development standards.

Accessory Living Quarters*

GMC Section 30.34.080(D)(9) establishes restrictions on single-family properties and allows either an ADU or accessory living quarters, but not both. An accessory living quarter can include any building with an "R" Occupancy per the California Building Code. Common examples include a guest house, pool house, recreation room, workshop, and rumpus room. In their letter, HCD cites Government Code Section 66314(d)(3) which provides a choice of the type of ADU created and includes attached or located within the primary dwelling (including attached garages, storage areas or similar uses), or an accessory structure. HCD claims that

because there is no language in State Law requiring existing accessory living quarters to be converted to an ADU, that the City's restriction is in violation. Staff contends that since there is no language in State law specifically prohibiting a local agency from requiring a property with existing accessory living quarters from either converting it or demolishing it to build an ADU, that there is no violation of State law. Additionally, the intent of this restriction was to minimize a proliferation of detached accessory buildings on lots which further reduces landscaping and open space, and contributes to additional lot coverage and FAR, and to encourage applicants to convert accessory living quarters to ADUs which contributes to independent living facilities to support renters.

Council Direction

During the August 20, 2024 hearing, two Councilmembers were in favor of amending Title 30 and the DSP to address HCD's claim regarding accessory living quarters. Three Councilmembers were in favor of not amending the ADU/JADU Ordinance and directed staff to draft the necessary findings in accordance with Government Code Section 66326 to continue to prohibit both an ADU and accessory living quarters on a property (Exhibit 3). Based on council direction, staff is providing an alternative in the draft ordinance to amend the referenced section, with the changes illustrated using ~~***bold italic underline*** ***strikeout***~~. If this change is implemented, accessory living quarters would continue to be regulated through the zoning development standards including setbacks, height, floor area, lot coverage, landscaping and design review. Moving forward, property owners would be able to maintain their accessory living quarters *and* build an ADU.

Street-Front and Street-Side Setback

Regardless of the city's street-front and street-side setback requirements, if construction of a "mandatory ADU" would be prohibited by such requirements, the City must allow such "mandatory ADU" in the street-front and street-side setback areas so long as the 4'-0" interior setbacks are provided. The City's current language in GMC Section 30.34.080(D)(10) already allows this for single-family properties in accordance with State Law. Staff oversight in drafting the ordinance originally excluded the multi-family ADUs in the language, however, our practice is to allow them in accordance with State Law. Staff is proposing amendments to the referenced section to include clarifying language that includes multi-family properties.

JADUs and Short-Term Rentals

The City has established a minimum rental term of over 30 days for ADUs and JADUs in the Zoning Code. GMC Section 30.34.080(D)(11) ("Any rental of an accessory dwelling unit and/or junior accessory dwelling unit created pursuant to this section shall be for a term longer than 30 days.") In other words, ADUs and JADUs cannot be used as home-sharing short-term rentals. HCD claims that the City is in violation of State law as it relates to JADUs because there are no restrictions on the rental terms established in State law for JADUs. Government

Code Section 66315 establishes a minimum rental term of over 30 days for ADUs and is silent on JADUs. Staff disagrees that just because State law does not specify a minimum rental term for JADUs, that does not mean the City cannot impose one. Having said that, the Council did not direct staff to prepare the required findings to contend HCD's claim, and staff is proposing an amendment to the referenced section to remove the restriction on JADU rental terms, which would allow JADU owners to rent their property on a short-term basis (subject to JADU owner-occupancy requirements and the City's home-sharing regulations).

JADUs and Separate Sales

Starting January 1, 2024, cities have the option to allow the separate sale of ADUs from the primary dwelling, but the separate sale of JADUs is prohibited. HCD claims that the City should clarify that prohibition for JADUs. Staff disagrees that a clarification in the City's ADU/JADU Ordinance is necessary because the current Ordinance language already references the applicable sections of the Government Code. However, since this amendment would not be substantive, staff is proposing an amendment to GMC Section 30.34.080(D)(11) to clarify that a JADU may not be sold separately under any circumstances.

Unit Mix – Number of ADUs Allowed

HCD claims that the provisions of Government Code Section 66323(a)(1) thru (4) require the City to allow a maximum of three units to be permitted on single-family properties consisting of one converted ADU, one detached new construction ADU, and one JADU. On multi-family properties, HCD claims that State law allow owners to combine the right to build two detached ADUs and multiple ADUs by converting existing non-livable space. The City does not agree that the intent of the referenced sections of State Law is to allow up to three accessory units on single-family properties, and multiple accessory units on multi-family properties by combining new construction and conversions.

The City Attorney's Office researched the legislative history of AB 68 and AB 881 (the bills that amended State ADU law to allow these combinations in 2019), and both contain reports evidencing that the legislature intended to allow a maximum of one ADU and one JADU in single-family developments. For example, with respect to AB 68, the April 3, 2019 report titled "Assembly Committee on Housing and Community Development", on page 4 under the heading "Relaxing ADU Standards", states: "[t]his bill makes major changes to the ADU statute to facilitate the development of more ADUs ... , including the following: Increases the number of ADUs allowed to be constructed per lot by potentially allowing two ADUs on lots with single-family homes, and multiple ADUs on lots with multi-family dwellings." Similar language is contained in the September 9, 2019 report titled "Concurrence in Senate Amendments", at page 2 ("This bill ... [i]ncreases the number of ADUs allowed to be constructed per lot by potentially allowing two ADUs on lots with single-family homes, and multiple ADUs on lots with multi-family dwellings.") Moreover, with respect to AB 881, the Senate Floor Analysis dated

September 1, 2019 contains a table on page 5 that delineates that each lot may only have one JADU and one ADU.

HCD argues that the word "any" contained in Government Code Section 66323(a)(1-2) means that a property owner could construct any and all (a phrase that is missing from State law) of what follows. This is a strained and illogical reading of this section that contradicts the overall ADU/JADU statutory scheme. Section 66323's language requires a local agency to ministerially approve an application "to create any of the following" and then delineates what is clearly two different and distinct alternate scenarios: 1) a "converted" ADU and a JADU meeting certain specifications; or 2) a detached new construction ADU and a JADU. The legislature was clear that each type of ADU (converted or new construction) could also combine with a JADU (and only one JADU with each type of ADU). Under HCD's reading of the statute, requiring the allowance of any and all of the listed types of ADUs/JADUs on one lot, an applicant could create each of the two kinds of ADUs *and* a JADU for each ADU (resulting in 2 ADUs and 2 JADUs). However, a lot cannot have more than one JADU pursuant to Government Code Section 66333. Accordingly, HCD's construction of the statutory language is not in harmony with Section 66333, and thus violates the rules of statutory construction. See *Skidgel v. California Unemployment Ins. Appeals Bd.*, 12 Cal. 5th 1, 14 (20 21) (holding court must "construe the words in question in context, keeping in mind the statutes' nature and obvious purposes. . . [and] harmonize the various parts of the enactments by considering them in the context of the statutory [framework] as a whole"). The same statutory construction should thus apply to section 66323(a)(3-4), in that an applicant must choose either two detached ADUs or conversion of non-livable existing space up to 25% of the existing units. Accordingly, the City's position is that this section of its ADU/JADU Ordinance is in compliance with State law. During the August 20, 2024 hearing, Council directed staff to keep the language in Title 30 as-is and draft the necessary findings in accordance with Government Code § 66326 explaining why the City is in compliance with State law (Exhibit 3).

Architectural Compatibility

As it relates to design, State law allows local agencies to establish objective standards for ADUs. The current zoning standards in GMC 30.34.080 establish an "architectural compatibility" requirement for ADUs which means the proposal must use matching or complementary building materials unless compliance would preclude the development of a "mandatory ADU". HCD claims that the "architectural compatibility" requirement is subjective and therefore the city is in violation of State law. Accordingly, staff is proposing amendments to the ADU/JADU Ordinance to include objective design standards, similar to those that were created for SB 9 units, but focusing on façades directly facing the public realm and second-story additions. The proposed objective design standards will address massing and overall design and detailing and will include specific requirements for roof form and pitch, breaks in

building volume, exterior wall cladding, roof cladding, entryways, windows, doors, balconies, stairs, landings, equipment location and lighting locations.

As noted above, SB 1211, which was approved by the Governor after the Council initiated amendments to the code, goes into effect on January 1, 2025. One of the changes to the existing legislation governing ADUs and JADUs involves the applicability of objective design standards. Under this new law, the City is prohibited from imposing objective development or design standards on mandatory ADUs, which are limited to 800 SF in size for single-family properties and 1,000 SF for multi-family properties, located at least four feet away from an interior setback and complies with specified height requirements which range from 16 to 25 feet. Mandatory ADUs can also include a second-story attached to a primary residence and ADUs above a detached garage, so long as they meet the size, setback, and height criteria noted. Accordingly, any objective design standards that are adopted would only be applicable to non-mandatory ADUs.

ADUs Above a Detached Garage*

Currently, the zoning requirements prohibit ADUs to be built on top of existing detached garages or carports. This was allowed for the first few years of Glendale's ADU/JADU Ordinance, however, in 2020 the Council amended the Ordinance to prohibit this type of ADU from being constructed. This change was in response to an increase in the number of complaints from residents regarding privacy issues. Government Code Section 66314(d)(3) allows ADUs to be attached to detached garages and HCD is asserting that the term "attached" would include an ADU built on top of an existing detached garage. The City maintains that neither the language nor intent of State law supports this claim. The referenced Government Code section mandates that the City allow an ADU to be attached to or located within the space of the primary dwelling (including attached garages and other areas that are attached), or mandates that the City allow an ADU to be converted from an accessory structure, or that the ADU be detached from the primary dwelling, including detached garages. The City allows all of these scenarios and staff contends that we are therefore in compliance and recommending that no amendments to the current ADU/JADU Ordinance be proposed.

Council Direction

During the August 20, 2024 hearing, three Councilmembers were in favor of amending Title 30 and the DSP to address HCD's claim regarding ADUs above a detached garage. Two Councilmembers were in favor of not amending the ADU/JADU Ordinance and directed staff to draft the necessary findings in accordance with Government Code Section 66326 to continue to prohibit an ADU above a detached garage or carport (Exhibit 3). Based on council direction, staff is providing an alternative in the draft ordinance to amend the referenced section, with the changes illustrated using **~~bold italic underline strikeout~~**. If this change is implemented, property owners would be able to construct ADUs on top of their detached garages and/or

carports subject to the four-foot interior setback requirement, and 25-foot maximum height limit. A non-mandatory ADU would also be subject to the objective design standards proposed with these amendments which are intended to minimize privacy concerns by prohibiting balconies directly facing abutting properties and restricting the sill height on windows oriented towards abutting properties. As noted above, SB 1211 prohibits the City from imposing these same objective design standards on mandatory ADUs.

Parking

HCD identified one of the required parking exceptions for ADUs that is specified in State law and missing from the City's ADU/JADU Ordinance. The exception would not require parking to be provided for the ADU when submitted with a permit application to build a new single-family dwelling or new multi-family dwelling, so long as the ADU satisfies other criteria in the subsection. This was an oversight by the City to not include this exception and staff is proposing an amendment to GMC Section 30.34.080(H)(4)(h) to include this.

Covenant and Agreement

Currently, all property owners developing an ADU and/or JADU on their property are required to enter into a covenant and agreement with the City regarding prohibition of individual sales, compliance with required parking, owner-occupancy restrictions on JADUs, short term rental prohibitions, that the permit runs with the land, and provisions for when the ADU and/or JADU must be removed. HCD contends that because State law does not require deed restrictions for ADUs, the City's requirement for the Covenant and Agreement is in violation of State law. The City disagrees that simply because State law does not require a deed restriction for ADUs, it prohibits the City from requiring one. However, the main reason for the ADU covenant in the first place was to ensure current and future owners would have notice of the owner-occupancy requirement for a property with an ADU, but this requirement was eliminated by State law effective January 2020. Accordingly, since the main purpose of the Covenant (notice of owner-occupancy requirement) has been eliminated, at Council direction staff is proposing amendments to GMC Section 30.34.080(I) to remove the requirement to enter into and record a covenant as a condition of approval of an ADU building permit application. In accordance with Government Code Section 66333(c), the covenant and agreement requirement will still be applicable to JADUs which continue to have an owner-occupancy requirement.

JADUs and Owner Occupancy

Pursuant to State law, the owner of a property with a JADU is required to live in either the JADU or the remaining portion of the residence. Government Code § 66333(b). The City's ADU/JADU Ordinance, however, provides that if the owner does not live on-site, the property can only be rented as a whole (meaning that, though the owner does not have to live at the

property, the residential dwelling and JADU cannot be rented separately to different renters). The City's ADU/JADU Ordinance is more permissive than State law, which, again, requires owner-occupancy for properties with an existing JADU. The City's position has been that a more permissive standard is allowed under State law. However, the plain language of Section 66333(b) requires owner-occupancy of properties with a JADU, and thus, staff is proposing amending GMC Section 30.34.080(I) to make this change to be consistent with State law, requiring an owner of a property with a JADU to live at the property.

Additional Amendments and Miscellaneous Clean-Ups

Staff is also proposing amendments to GMC Section 30.34.080 to include additional definitions, provide an 800 SF credit for ADUs, omit certain references to height and parking standards for underlying zones, and include a clarifying statement about compliance with state law. The proposed amendments also include miscellaneous code clean-ups related to minor grammar and formatting, which do not change the substance or meaning of the text in any way.

- The following terms and definitions are proposed to be added to GMC Section 30.34.080(C) in order for the ADU/JADU Ordinance to be consistent with State law: livable space (from SB 1211 as noted above), nonconforming zoning condition, objective standards, passageway, proposed dwelling, and tandem parking.
- Current practice provides property owners with non-mandatory ADUs a credit towards lot coverage, landscaping, and floor area up to 800 SF to allow options for future development. Staff is proposing an amendment to GMC Section 30.34.080(D)(3) to codify this practice.
- The proposed amendments also include omitting references to ADU and JADU compliance with height and parking development standards for the underlying zone of the property. The provisions of the underlying zone do not apply for height and parking since Government Code Section 66321(b)(4) establishes standards for all mandatory and non-mandatory ADUs that supersedes any city requirements. The specified height requirements for all ADU and JADU projects ranges from 16 to 25 feet and will be depending on the location on-site (attached vs. detached) and proximity to major transit. As it relates to parking, the City's underlying zoning standards are superseded by Government Code Section 66314(d)(10) which establishes the maximum parking requirements a city can impose on ADUs, and Government Code Section 66322 which establishes six instances where a city cannot impose any parking standards for an ADU. The City's ADU/JADU Ordinance does address these requirements under state law, and our current practice is consistent with these requirements as well. The current references to height and parking in the context of the underlying zoning development

standards that are found in portions of the ordinance conflict with this requirement and should be omitted for consistency with State law and the City's current practice.

- Staff is also proposing an amendment to the general provisions section of the ADU/JADU Ordinance (GMC Section 30.34.080(D)) to include a clarifying statement regarding compliance with the ADU and JADU permitting and processing requirements, mandates, timelines, deadlines, restrictions, prohibitions and limitations that are in State law.

EXHIBITS

1. Draft Ordinance Amending Title 30
2. Draft Ordinance Amending the DSP
3. Draft Resolution Making Findings Per California Government Code Section 66326
4. City Council Motions, adopted August 20, 2024
5. ADU/JADU Matrix Regarding HCD Claims and City Responses