



City of Sunnyvale

Agenda Item

17-1106
Agenda Date: 1/8/2018

REPORT TO PLANNING COMMISSION

SUBJECT

Recommend that City Council adopt an ordinance to amend Sunnyvale Municipal Code Section 19.68.040 (Accessory dwelling units) and find that the action is exempt from environmental review pursuant to Public Resources Code 21080.17.

BACKGROUND

Government Code Section 65852.2, as amended in late 2016 by Senate Bill 1069 and Assembly Bill 2299, created a streamlined permitting process for accessory dwelling units (ADUs). The legislation requires local jurisdictions to consider ADUs as allowed uses within single-family residential zoning districts, subject to limited development standards. Additionally, the legislation required local jurisdictions to update existing ADU regulations for consistency with the new requirements by January 1, 2017. On December 13, 2016, the City of Sunnyvale became one of the first jurisdictions in California to amend its codes for ADUs to comply with this new law. (Sunnyvale Municipal Code Section 19.68.040).

Subsequently, the City considered further refinements to the ADU regulations as part of an action item in the 2015-2023 Housing Element of the Sunnyvale General Plan. In November 2017, the City Council adopted several additional amendments to Sunnyvale Municipal Code Section 19.68.040 as recommended by staff, following several months of public outreach. Those amendments further reduced the minimum lot size for newly built ADUs in the R-0 and R-1 zones, made the owner-occupancy requirement permanent, and made several other minor changes. Those amendments increased the number of single family lots in those zones where an ADU can potentially be developed.

Meanwhile, in late 2017, the state Legislature enacted two new bills, Senate Bill 229 and Assembly Bill 494, to clarify certain unclear and inconsistent provisions in the 2016 legislation. To ensure that the City's ADU ordinance is fully consistent with the 2017 amendments, staff has prepared a draft ordinance (Attachment 2) that makes several minor changes to Sunnyvale Municipal Code Section 19.68.040, as explained below.

EXISTING POLICY

Sunnyvale General Plan, Housing Element

- *Policy A.1* - Encourage diversity in the type, size, price and tenure of residential development in Sunnyvale, including single-family homes, townhomes, apartments, mixed-use housing, transit-oriented development and live-work housing.
- *Policy D.1* - Provide sites for development of housing that responds to diverse community needs in terms of density, tenure type, unit size, accessibility, location and cost.
- *Policy F.1* - Continue efforts to balance the need for additional housing with other community

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values, including preserving the character of established neighborhoods, high quality design, and promoting sense of identity in each neighborhood.

ENVIRONMENTAL REVIEW

The action being considered is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code, which provides that CEQA does not apply to the adoption of an Accessory Dwelling Unit ordinance to implement the provisions of Section 65852.2 of the Government Code.

DISCUSSION

Several provisions in the state's 2016 ADU legislation were poorly drafted and raised questions of interpretation due to unclear or ambiguous language. In response, the Legislature enacted a set of "clean-up" amendments in late 2017 (Senate Bill 229 and Assembly Bill 494). Although these changes are largely technical and non-substantive in nature, staff recommends making minor changes to wording of the City's ADU ordinance to ensure there are no potential inconsistencies with the state law.

The clarifications to the Sunnyvale Municipal Code include the following:

- ADUs created by converting existing space ("interior space conversions"), which the City must ministerially approve, will be allowed on any lot where a single-family home is permitted by right including R-0, R-1, R-1.5, R-1.7/PD, DSP and R-2 zoning districts. Staff originally felt that the 2016 legislation left room for interpretation as to the definition of a "single-family residential zone". Only R-0 and R-1 zoning districts are considered "single-family residential zones" in Sunnyvale's Zoning Code. However, the 2017 amendments clarify that interior space conversions must be allowed in "any zone for single-family use".
- Accessory structures that may be converted to an ADU include but are not limited to "a studio, pool house, or other similar structure".
- ADUs are allowed in conjunction with an existing or proposed single-family home.
- Parking may be provided as tandem parking in "a driveway" not just an "existing" driveway (i.e., a homeowner could meet parking requirements by constructing a new driveway for tandem parking).
- When an existing garage or portion of an existing garage is converted to an ADU, no setback is required.
- Parking in setback areas may be denied if found to be infeasible due to fire and life safety conditions.

This item will be considered by the City Council on February 6, 2018.

FISCAL IMPACT

The proposed amendments to the Sunnyvale Municipal Code related to development of Accessory Dwelling Units merely clarify existing law and would have no or negligible fiscal impacts to the City's General Fund.

PUBLIC CONTACT

Public contact regarding this item was made in the following ways:

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1. Posting the Agenda for Planning Commission on the City's official-notice bulletin board outside City Hall and by making the agenda and report available at the Sunnyvale Public Library and on the City's website;
2. Publication in the *Sun* newspaper, at least 10 days prior to the hearing; and
3. E-mail notification of the hearing dates sent to all interested parties and neighborhood associations.

ALTERNATIVES

Recommend that the City Council:

1. Make the finding that the action is exempt from CEQA pursuant to Public Resources Code Section 21080.17 and introduce an Ordinance (Attachment 2 to this report) to adopt the proposed amendments to Sunnyvale Municipal Code Section 19.68.040 (Accessory Dwelling Units).
2. Do not make the finding that the action is exempt from CEQA pursuant to Public Resources Code Section 21080.17 and do not adopt the proposed amendments to Sunnyvale Municipal Code Section 19.68.040 (Accessory Dwelling Units).

STAFF RECOMMENDATION

Recommend that the City Council:

Alternative 1: Make the finding that the action is exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080.17 and introduce an Ordinance (Attachment 2 to the report) to adopt the proposed amendments to Sunnyvale Municipal Code Section 19.68.040 (Accessory Dwelling Units).

The 2017 ADU clean-up bills require local governments to amend their ADU codes to comply with current State law (Government Code Section 65852.2). The proposed amendments to Sunnyvale Municipal Code Section 19.68.040 in Attachment 2 will ensure there are no potential inconsistencies with the amended state law.

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Reviewed by: Trudi Ryan, Director, Community Development
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Not Used (*Reserved for Report to Council*)
2. Draft Ordinance