

Yes: 6 - Chair Howard
Commissioner Howe
Commissioner Harrison
Commissioner Olevson
Commissioner Rheume
Vice Chair Simons

No: 0

Absent: 1 - Commissioner Weiss

Principal Planner Caliva-Lepe stated that this action is final unless appealed or called up for review by the City Council within 15 calendar days.

3. [19-1076](#) Forward a Recommendation to the City Council to adopt an Urgency Interim Ordinance and to Introduce an Ordinance Amending Title 19 (Zoning) of the Sunnyvale Municipal Code related to new State Legislation on Accessory Dwelling Units and Find that the Action is Exempt from the California Environmental Quality Act

Principal Planner Amber Blizinski presented the staff report.

Senior Assistant City Attorney Rebecca Moon clarified a recent change to the proposed ordinance explaining that if the City has a compliant Accessory Dwelling Unit (ADU) ordinance then it is not subject to automatic permit approvals after 60 days.

Commissioner Harrison asked staff how the proposed ordinance is more restrictive than the State legislation. Principal Planner Blizinski and Senior Assistant City Attorney Moon responded that the ordinance proposes restricting ADUs to a maximum of 1,000 square feet, that the City is electing not to enact a portion of a State bill that may allow the separate sale of an ADU if built as an affordable unit under specific criteria, and that it is also preventing ADUs with building permit issuance on or after January 1, 2020 the ability to be used as short-term rentals. Commissioner Harrison confirmed with Principal Planner Blizinski that Junior Accessory Dwelling Units are not required to have fire-rated separation because they are not considered separate units under the Building and Fire Codes. She also confirmed with staff that the proposed ordinance tailors the State legislation to Sunnyvale and that it might require revision later.

Commissioner Rheume asked for clarification on ADU owner-occupancy

restrictions. Senior Assistant City Attorney Moon stated that there are no owner-occupancy restrictions for ADUs obtained before January 1, 2025 unless the State law changes.

Vice Chair Simons asked staff if it is possible to add basements to ADUs, how close an ADU can be to the main dwelling unit, and if the maximum 16-foot height requirement includes solar panel height. Principal Planner Blizinski stated that ADU basements are allowed if they meet Building Code requirements, that ADUs can be placed against the main dwelling unit if they are properly fire-rated, and that solar panels are currently and will continue to be excluded from overall height requirements.

Commissioner Olevson expressed his concern that projects that propose converting a single-family home garage into an ADU would not require any additional parking. Assistant Director Andrew Miner stated that replacement parking would also not be required in that instance. Principal Planner Blizinski confirmed that parking losses are more likely for single-family housing but Covenants, Conditions, and Restrictions (CC&Rs) agreements and permitting requirements make parking losses less likely for multi-family housing. Assistant Director Miner, Principal Planner Blizinski, and Assistant City Attorney Moon discussed the possibilities for establishing parking requirements through Commission decisions, CC&Rs, and permit conditions.

Commissioner Harrison asked staff if the State legislation overrides the Building Code and why building and planning requirements are sometimes different. Principal Planner Blizinski and Senior Assistant City Attorney Moon stated that proposed projects with little to no setback distances are possible if they meet the Building Code's fire safety requirements. Assistant Director Miner added that staff strive to develop zoning standards that mirror building standards but that sometimes one changes and they are no longer consistent.

Chair Howard asked staff if projects that propose building an ADU on top of a garage are exempt from second story advanced setback requirements. Principal Planner Blizinski replied that that allowance is not contained in any of the State's most recently passed legislation. She added that the City has proposed prohibiting detached two-story ADUs mainly because the required setback distance is so small but that ADUs are still allowed on the second level of a primary dwelling unit.

Chair Howard opened the Public Hearing.

Richard Mehlinger, Chair of the Bicycle and Pedestrian Advisory Commission speaking on his own behalf, complimented staff for simplifying the State legislation, stressed legalizing unpermitted ADUs, and expressed the importance of combating climate change by lowering vehicle use.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Howe moved and Commissioner Harrison seconded the motion for Alternative 1 – Find that the Action is Exempt from CEQA pursuant to Public Resource Code Section 15282(h) and does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3) and Adopt an Urgency Interim Ordinance (Attachment 2 to the report) and Introduce an Ordinance (Attachment 3 to the report) Amending Title 19 (Zoning) of the Sunnyvale Municipal Code related to new State Legislation on Accessory Dwelling Units.

Commissioner Howe specified that the motion should refer to the revised versions of Attachments 2 and 3 dated November 25, 2019.

Commissioner Howe congratulated staff on the report and noted the short length of time it took for staff to decipher the State legislation and improve upon it for Sunnyvale's benefit. He suggested that the Commission not add any amendments to the motion and keep it exactly as the staff recommendation.

Commissioner Harrison noted staff's amazing job on the staff report and the complicated nature of the requirements. She commented that it was interesting and encouraging for her to learn that there has been a significant increase in the number of ADU permits issued since the State passed major legislation in 2016.

Vice Chair Simons stated that he will support the motion.

Chair Howard also stated that he will support the motion and agreed with Mr. Mehlinger that society must transform transportation and the thinking on vehicle parking.

The motion carried by the following vote:

Yes: 6 - Chair Howard
Commissioner Howe
Commissioner Harrison
Commissioner Olevson
Commissioner Rheaume
Vice Chair Simons

No: 0

Absent: 1 - Commissioner Weiss

Assistant Director Miner stated that this recommendation will be forwarded to the City Council for consideration at the Tuesday, December 10, 2019 meeting.

Assistant Director Miner thanked the Commission for the compliments and acknowledged Principal Planner Blizinski and Senior Assistant City Attorney Moon for their hard work.