



REPORT to the MAYOR and MEMBERS of the CITY COUNCIL
From the CITY MANAGER

DATE: February 28, 2023

SUBJECT: FIRST READING AND CONSIDERATION OF ORDINANCES TO AMEND TITLE 24 (ZONING) OF THE LA MESA MUNICIPAL CODE TO UPDATE 1) EXISTING REGULATIONS FOR ACCESSORY DWELLING UNITS (ADU) AND 2) EXISTING REGULATIONS FOR JUNIOR ACCESSORY DWELLING UNITS (JADU) IN COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2, 65852.22, 65852.23, AND 65852.26, AS THOSE SECTIONS WERE AMENDED BY AB 345, AB 2221, AND SB 897 (PROJECT 2022-2565)

ISSUING DEPARTMENT: COMMUNITY DEVELOPMENT

SUMMARY:

Issues:

Should Title 24 of the La Mesa Municipal Code be amended to update 1) existing regulations for Accessory Dwelling Units (ADU) and 2) existing regulations for Junior Accessory Dwelling Units (JADU) consistent with recent changes in State law?

Recommendation:

Introduce for first reading ordinances to amend La Mesa Municipal Code Title 24 (Zoning) to update 1) existing regulations for Accessory Dwelling Units (ADU) (Attachment A), and 2) existing regulations for Junior Accessory Dwelling Units (JADU) (Attachment B), in compliance with California Government Code Sections 65852.2, 65852.22, 65852.23, and 65852.26 and Health and Safety Code Section 17980.12, as those Sections were amended by AB 345, AB 2221, and SB 897.

Fiscal Impact:

There would be no impact to the General Fund related to this project. City of La Mesa policy is to recover 100% of the cost of staff time through application processing fees.

City's Strategic Goals:

- Revitalize neighborhoods and corridors
- Ensure safe and affordable homes for La Mesa's current and future residents

Environmental Review:

This project is exempt from environmental review pursuant to Public Resources Code Section 21080.17.

BACKGROUND:

State law:

In recent years, the State of California has adopted a series of housing bills amending regulations pertaining to the development of accessory dwelling units. These bills have continued the State's efforts to address barriers to the development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) by building upon changes made to ADU and JADU law since 2016. The collective goal of these State bills, which were passed every year since 2019, is to accelerate housing development to address local housing needs.

In 2021, the State Legislature approved, and the Governor signed into law, Assembly Bill 345 (AB 345). Taking effect on January 1, 2022, AB 345 expanded upon the previously adopted Assembly Bill 587 which created limited exceptions to allow ADUs to be conveyed separately from the primary dwelling if certain conditions are met.

In 2022, the State Legislature approved, and the Governor signed into law, Assembly Bill 2221 (AB 2221) and Senate Bill 897 (SB 897). Both bills took effect on January 1, 2023. Collectively, the bills further amend the state ADU and JADU statutes to impose additional limitations on local regulation of ADUs and JADUs. The bills contain various amendments related to height limits, setbacks, application review, denial procedures, unpermitted structures, and JADU configurations.

A copy of AB 345, AB 2221, and SB 897 are attached hereto as **Attachment C**. This Attachment sets forth the Legislature's findings, declarations, and intent relative to accessory dwelling units.

DISCUSSION:

The draft ordinances amending Title 24 (Zoning) of the La Mesa Municipal Code to update existing regulations for ADUs (**Attachment A**) and JADUs (**Attachment B**) are provided with additions shown as underlined and deletions shown as ~~strikethrough~~. The following discussion highlights the major changes to the ADU and JADU regulations.

1. **SB 897 and AB 2221 compliance:** The bills contain various updates aimed at removing local zoning barriers that could restrict or lengthen the permit timelines for ADU and JADU development. Several provisions within SB 897 and AB 2221 have already been implemented at the City of La Mesa. Consequently, some provisions only require the continuation of current permitting practices and do not necessitate Code text changes. A table detailing the specific State updates to ADU and JADU laws and how the City would attain compliance is attached hereto as **Attachment D**.
2. **AB 345 compliance:** This bill expands AB 587 which allowed the conveyance of ADUs when constructed by a qualified nonprofit corporation and sold to a qualified buyer. Minor amendments are included in the draft ADU ordinance to keep the language consistent with AB 345. Specifically, new provisions are added in Section 24.05.020.8.i.iii (4) specifying the contents of a recorded tenancy in common agreement.
3. **Rearrangement and formatting changes:** As noted previously, the State Legislature enacted updates to ADU and JADU statutes in the past four consecutive years, which has resulted in a growing list of regulations that were added to the Zoning Ordinance. The draft ADU ordinance includes staff-initiated revisions intended to augment clarity for the benefit of staff and the general public. These revisions are limited to categorizing the regulations under new subheadings and rearranging the order of regulations. The changes incorporate feedback from customers over the past several years. Overall, these changes are aimed at improving the current ordinance's user readability and implementation efficiency.
4. **Consistency with State statutes:** The draft ADU and JADU ordinances include revisions to increase consistency with State ADU and JADU laws. Using lessons learned over the past several years of implementation, amendments are proposed which are intended to remove potentially ambiguous language. The proposed amendments are summarized below:

- A. Updating language to ensure ADU laws are applied broadly to existing and proposed single-family and multi-family dwellings. For example, in Section 24.05.020.8.a.i., a reference to “single-family residence” is replaced with “dwelling.”
 - B. Creating a new subheading for certain categories of ADU development which are exempt from local zoning regulations and must be ministerially approved with a building permit only pursuant to California Government Code section 65852.2(e). Previously, these provisions were dispersed throughout the ordinance and incorporated into other regulations. By separating these provisions into a new subcategory and replicating language from the State statutes, the draft ordinance distinguishes the types of ADU development that are exempt from local zoning authority.
 - C. Minor revisions to update the JADU ordinance to be consistent with the State’s adopted wording contained within Government Code Section 65852.22.
5. **ADU Height Limitations:** The City’s current regulations limit new ADUs to two different height limits depending on compliance with City setbacks. ADUs that comply with typical City setbacks are limited to the same height limit applicable to residential structures. For the portion of an ADU that utilizes the reduced rear and side-yard setback provided by State law, the City’s regulations limit height to a maximum of 16 feet and one story. The changes in State law would require the City to allow a height of 18 feet within one-half mile of transit stations, which comprises a significant portion of the City (there are no high-quality transit corridors in La Mesa). This would create three different height limits for ADUs depending on their location within the City and on the lot.

The existing regulations with two height limits have caused confusion for property owners, building professionals, and staff, and has limited the ability of some properties to develop ADUs. Adding a third tier to the applicable height limits would create additional complication. To provide a clear and consistent regulatory framework for the development of ADUs, staff recommends that the draft ADU ordinance (**Attachment A**) utilize the height applicable to the underlying zoning district of 20 feet for single-family zones or 30 feet for multifamily zones for all ADU construction. For many properties in the City, this would increase the height limit for an ADU from 18 feet as provided by State law to 20 feet as provided by City single-family zoning. This streamlined strategy with one height limit applicable to a property would provide customer service benefits and process efficiency, and be consistent with General Plan policies to reduce constraints to housing production and affordability with minimal change to impacts on adjacent properties.

For reference only, a color-coded, marked-up version of the draft ordinances is attached to clearly display the new, deleted, and moved text (**Attachment E**). A clean version of the final proposed text is also attached for reference purposes (**Attachment F**).

General Plan Consistency:

Section 24.03.020 of the La Mesa Municipal Code provides that any proposed amendment to the zoning ordinance shall be evaluated for consistency with the General Plan. The project supports the General Plan goals, objectives, and policies listed below:

- Goal LU-4: An equitable community that meets the needs of all residents.
- Objective LU-4.1: Adequate and affordable housing available for all segments of the community.
- Policy LU-4.1: Opportunities for affordable housing should exist in all residential areas to support the policies and programs for the City's Housing Element.
- Goal HE-2: Availability of a wide range of housing by location, type of unit, and price to meet the existing and future needs of La Mesa residents.
- Objective HE-2.1: Provide a variety of residential development opportunities in the City.
- Policy HE-2.1.1: Provide a variety of residential development opportunities in the City, including single-family homes, townhomes, apartments, condominiums, and residential mixed use to fulfill regional housing needs.
- Policy HE-2.1.2: Encourage the production of housing for all segments of the La Mesa population, including those with special needs and extremely low incomes.
- Policy HE-2.1.4: Encourage housing constructed expressly for lower and moderate-income households not be concentrated in any single neighborhood in the City.
- Goal HE-3: Housing for lower income households, including ownership and rental opportunities for moderate-income households.
- Objective HE-3.2: Assist in creating ownership and rental opportunities for moderate income households.
- Policy HE-3.1.1: Facilitate the development of lower and moderate-income housing by offering developers incentives such as: 1) density bonuses; 2) City participation in on and off-site public improvements; and 3) flexibility in zoning and development standards.
- Goal HE-4: A City that mitigates potential governmental constraints to housing production and affordability.
- Objective HE-4.1: Remove constraints to housing production and affordability.
- Policy HE-4.1.3: Review and adjust as appropriate residential development standards, regulations, ordinances, and processing procedures that are determined to constrain housing development, particularly housing for lower and moderate-income households and for persons with special needs.

RHNA

Constructed ADUs and JADUs are counted as moderate-income dwelling units toward the City's Regional Housing Needs Allocation (RHNA).

Planning Commission:

On December 21, 2022, the Planning Commission held a noticed public hearing to consider the proposed Zoning Ordinance amendments for ADUs and JADUs in conformance with recent State law updates. The Planning Commission supported the amendments as presented by staff, with the exception of height limits. The Planning Commission expressed a preference for copying verbatim the different ADU height limitations prescribed within State law, which would result in height limits of 16, 18, 20, or 30 feet depending on location within the City and on the property. The Planning Commission adopted Resolution No. PC-2022-12 (**Attachment G**) recommending City Council adoption of the amendments. It should be noted that the staff recommendation and attached draft ordinances reflect the initial staff recommendation to utilize the height limit of the underlying zone (20 feet for single-family zones, 30 feet for multifamily zones) for the reasons identified previously in this report. This change is not considered significant and is not subject to review by the Planning Commission as contemplated by LMMC Section 24.03.080.

Public Notice

Notification of the February 28, 2023, City Council public hearing to consider this matter was published in the San Diego Daily Transcript on February 17, 2023.

Environmental Review

Section 15282(h) of the CEQA Guidelines provides that CEQA does not apply to the adoption of an ordinance regarding second units by a city to implement the provisions of Section 65852.2 of the Government Code as set forth in section 21080.17 of the California Public Resources Code.

CONCLUSION:

Staff recommends that the City Council find that the proposed amendments are consistent with the General Plan, and introduce for first reading ordinances to amend La Mesa Municipal Code Title 24 (Zoning) to update 1) existing regulations for Accessory Dwelling Units (ADU) (**Attachment A**), and 2) existing regulations for Junior Accessory Dwelling Units (JADU) (**Attachment B**), in compliance with California Government Code Sections 65852.2, 65852.22, 65852.23, and 65852.26 and Health and Safety

Code Section 17980.12, as those Sections were amended by AB 345, AB 2221, and SB 897.

Reviewed by:



Greg Humora
City Manager

Respectfully submitted by:



Kerry Kuslak
Director of Community Development

Attachments:

- A. Draft Accessory Dwelling Unit (ADU) Ordinance
- B. Draft Junior Accessory Dwelling Unit (JADU) Ordinance
- C. Enacted State of California Legislative Bills
 - (1) Assembly Bill 345
 - (2) Assembly Bill 2221
 - (3) Senate Bill 897
- D. SB 897 and AB 2221 Compliance Tables
- E. Color-coded, marked up version of draft ADU and JADU regulations
- F. Clean version of draft ADU and JADU regulations
- G. Planning Commission Resolution No. PC-2022-12