



MEMORANDUM

TO: City Council

FROM: Brian Pedrotti, Community Development Director

BY: Andrew Perez, Planning Manager

SUBJECT: Public Hearing to Consider Introduction of an Ordinance Amending Title 16 of the Arroyo Grande Municipal Code Regarding Accessory Dwelling Units

DATE: March 12, 2024

SUMMARY OF ACTION:

Introduction and public hearing for a proposed Ordinance amending Title 16 of the Arroyo Grande Municipal Code ("AGMC") regarding the development of Accessory Dwelling Units (ADU). Introducing the Ordinance will allow for adoption of the Ordinance amendments at a future City Council meeting following this noticed public hearing.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

No financial impact is projected.

RECOMMENDATION:

- 1) Introduce an Ordinance amending Section 16.52.150 of the Arroyo Grande Municipal Code regarding the development of accessory dwelling units; and
- 2) Determine that the Ordinance amendment is statutorily exempt per Section 15282(h) of the CEQA Guidelines regarding projects involving the adoption of an ordinance regarding second units in a single-family or multi-family residential zone by a city to implement Government Code Section 65852.2.

BACKGROUND:

The State legislature has identified production of ADUs as an important strategy to increase housing statewide. In 2017, the State made significant changes to the manner by which local governments can regulate ADUs, primarily with respect to parking, types and sizes of ADUs, approval process and timelines, and utility fees. In response, the City adopted Ordinance 688 in October 2017, bringing local regulations consistent with 2017 State law at that time.

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While State legislators acknowledged that the ADU permitting process was significantly streamlined as a result of the 2017 legislation, some were concerned that local jurisdictions' regulations, such as unit size maximums and impact fees, continued to impede property owners from constructing ADUs. As a result, in October 2019, Governor Newsom signed new State housing bills that further amended Government Code sections 65852.2 and 65852.22 related to regulations for development of ADUs (and smaller "Junior" Accessory Dwelling Units). In response, the City Council adopted Ordinance 717 on [September 27, 2022](#). These amendments brought the ordinance into conformance with State law by eliminating lot size minimums for ADUs, reduced setbacks for ADUs in specific circumstances, and reduced parking requirements. Among the key amendments that the City adopted in the 2022 Ordinance, that were not a result of State legislation, were:

- Creation of objective design standards;
- Prohibition of front yard ADUs unless certain criteria are met; and
- Prohibition of rooftop decks on ADUs.

On January 1, 2023, and January 1, 2024, new State legislation became effective further restricting how cities can regulate ADUs prompting the need to update the Ordinance once again.

Planning Commission

The Planning Commission considered the proposed Ordinance at its meeting on [January 16, 2024](#). The Commission recommended the City Council adopt the proposed amendments with changes intended to make the regulations easier to comprehend for property owners interested in building ADUs, which in turn could spur the creation of more ADUs. The changes consist of increasing the height limit for a detached ADU from 16 feet to 18 feet, and increasing the unit size that triggers development impact fees from 750 square feet to 800 square feet. These changes are discussed in more detail below and are also provided in underline and strikethrough in Attachment 1.

ANALYSIS OF ISSUES:

While the proposed Ordinance includes several non-substantive formatting changes, the substantive changes to the City's regulations are limited to standards for height and setbacks to either comply with current legislation or simplify the development process to encourage the production of ADUs. There are also revisions to the design standards in the existing regulations, as these could be considered subjective in their current form, which is not permissible under State law. The Ordinance also establishes a new permit type for certain ADUs. The new permit type allows the City to impose certain development standards as authorized by the State. This permit is described in greater detail below.

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ADU Permit

State law requires agencies to approve certain types of ADUs with a building permit only. These types are described in Subsection (D)(1) of the Ordinance and include:

- ADUs created through the conversion of existing space within a single-family dwelling;
- Detached ADUs on a single-family lot with 4-foot side and rear yard setbacks and no larger than 800 square feet;
- ADUs created through the conversion of non-habitable spaces on multi-family lots;
- Up to two detached ADUs on a multi-family lot.

ADUs that need a building permit only are subject to the standards listed in Subsection (E) in the proposed ordinance.

To retain the ability to impose the City's specific, objective standards, the Ordinance establishes a new ADU permit, as defined in Subsection D.2 of the Ordinance. The ADU permit will be required when an ADU is proposed that does not meet the criteria of the four (4) ADUs types listed above. ADUs that are subject to the ADU permit will need to meet the standards listed in Subsection E and Subsection F of the Ordinance. These additional standards establish maximum size limits for ADUs, setbacks, parking requirements, and objective design standards. These are listed in Subsection F of the proposed Ordinance.

Maximum Height

Existing standards for ADUs limit the maximum height of units to either 16 feet or the height limit of the underlying zone. Units that exceed 16 feet are subject to other development standards of the underlying zone (floor-area ratio, lot coverage, setbacks, etc), whereas those that are 16 feet or less are exempt from those standards. There are three changes proposed to the height standards that are necessary to be consistent with State law.

- 1) A detached ADU may be up to 18 feet in height when created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade.
- 2) An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection may not exceed two stories.
- 3) A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop or high quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if

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necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

The first two scenarios provide extra height allowances for detached ADUs on multi-family properties and attached ADUs, respectively. The third scenario provides allowances for taller ADUs when the subject property is located within one-half mile of a major transit stop or high-quality transit corridor. As defined by Public Resources Code Section 21155, a high-quality transit corridor means “a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.” The bus system serving Arroyo Grande does not currently meet this definition; however, this language is included in the Ordinance to demonstrate compliance with State law.

The amendments presented to the Planning Commission did not propose to change the existing height limit of 16 feet for detached ADUs proposed on properties with an existing or proposed single family dwelling or on properties with a one-story multi-family structure. The Planning Commission’s recommendation includes increasing the height limit for detached ADUs on these properties to 18 feet to be consistent with the height limit afforded to ADUs constructed on properties with existing or proposed multi-family dwelling with more than one story above grade. This change has been incorporated into the proposed Ordinance.

Setbacks

During the adoption process of the existing regulations, the City Council directed staff to include the following language regarding a prohibition of ADUs in front yards: “ADUs shall comply with the front yard setback and be located on the rear portion of a parcel unless no feasible alternative exists. Feasibility is determined whether a by-right ADU can physically be constructed behind the primary dwelling due to the presence of maximum slope, other structures, existing easements, or drainage features.”

The current provisions regarding feasibility can be argued as being subjective, therefore staff recommends amending the front setback requirement to an objective standard. As proposed, the Ordinance requires ADUs that are subject to an ADU permit to comply with a 20-foot front setback. Consistent with State law, the front setback requirement would not apply to ADUs created through the conversion of an existing structure on single-family or multi-family lots. It would also not apply when up to two (2) detached units are proposed on a multi-family lot, or one detached unit of less than 800 square feet is proposed on a single-family lot.

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Existing regulations require 4-foot interior and rear setbacks for ADUs of less than 1,000 square feet, and units greater than 1,000 square feet are subject to the setback requirements of the underlying zone. As previously mentioned, the ADU ordinance should stand on its own and not rely on any other sections of the Municipal Code. Therefore, staff recommends amending the ordinance to make all ADUs, regardless of size, subject to 4-foot setbacks from rear and interior lot lines. During the development of the ordinance, staff reviewed the ADU permit applications submitted during 2023 to forecast the implications of this change. Of the 33 applications for building permits to construct an ADU, only two (2) of those units were subject to the setbacks of the underlying zoning district. This data suggests that reducing the setback for all ADUs would have minimal impact.

Objective Design Standards

The previous amendment to the ADU regulations included the addition of objective design standards. The existing standards have been refined to eliminate all subjectivity and new standards have been added in light of the fact that the Ordinance cannot refer to other sections of the Municipal Code. These new standards require an independent exterior entrance apart from the primary dwelling, and also prohibits windows and doors from having a direct line of sight to an adjacent residential property. It also requires that ADUs use the same colors and materials for the exterior walls, roof, windows, and doors as the primary residence. These standards will only apply to ADUs that require an ADU permit in addition to a building permit. Additionally, projects utilizing the City's pre-designed ADU plans and factory-built housing units would not be subject to these standards to encourage their use, which is consistent with the current regulations.

Floor-Area Ratio (FAR) and Lot Coverage Standards

In the existing regulations, ADUs are only subject to FAR and lot coverage standards if they exceed the standards for a by-right unit of 850 square feet for a studio or one-bedroom unit, 1,000 square feet for a unit with two or more bedrooms, or any size unit that exceeds 16 feet in height. The existing ADU Ordinance refers to the standards of the underlying zone which can be found in AGMC Section 16.32.050.

As previously mentioned, all standards related to the development of ADUs must be contained within the ordinance. Rather than include standards for each of the various zoning districts and lot sizes, the proposed Ordinance does not include standards for either FAR or lot coverage. State law already mandates that ADUs of 800 square feet or less are exempt from any development standards that would otherwise require that the size of an ADU is reduced to comply with those standards, such as FAR and lot coverage. In reviewing the 32 applications for ADUs that were submitted 2023, 30 of the units fell into the by-right category exempt from the FAR and lot coverage standards. Two applications proposed ADUs greater than 1,000 square feet, and due to the large size of those respective parcels, easily complied with the FAR and lot coverage maximums. The

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final application proposed an ADU above an existing garage which did not result in a failure to comply with the FAR nor increase in the existing lot coverage.

Protection of Historic Resources

Provisions for the protection of historic resources are included in the proposed Ordinance, but only for projects that are subject to an ADU permit. Subsection F.7 requires that ADUs on or within 500 feet of a property that is listed in the California Register of Historic Resources must be located so it is not visible from the public right of way. For reference, the City has only one property, the Paulding House located at 551 Crown Hill, on the California Register of Historic Resources.

Development Impact Fees

State law prohibits the City from imposing development impact fees (DIF) on any ADU less than 750 square feet that is constructed on a property with an existing residential unit. If an ADU is greater than 750 square feet, DIF can be charged proportionally in relation to the square footage of the ADU to the square footage of the primary dwelling unit. The Planning Commission recommends increasing the threshold that triggers the imposition of DIF from 750 square feet to 800 square feet to align with the size limit for building permit only ADUs, with the goal of simplifying the process for applicants. This revision suggested by the Planning Commission has been incorporated in the draft ordinance.

The financial impact of this change is difficult to estimate because the methodology of calculating DIF for ADUs is tied to the proportionality between the ADU and primary unit. For context, two (2) out of the 32 applications for ADUs submitted in 2023 exceeded 750 square feet.

While the Planning Commission's intent behind the recommended change was to spur additional ADU development, the fiscal impact of that recommendation is not within their purview. However, due to the limited amount of ADUs being charged DIFs, staff has included the recommendation in the proposed Ordinance. Should the City Council disagree with this recommendation, Subsections G.1.a & b of the Ordinance would need to be modified.

Next Steps

Introduction of the Ordinance will allow the City Council to schedule adoption at a subsequent meeting, and then become effective 30 days after adoption. As required under State law, the City's adopted ordinance must be sent up to the State.

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Introduce the Ordinance; or
2. Modify as appropriate and introduce the modified Ordinance; or

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3. Do not introduce the Ordinance and provide direction to staff on specific revisions;
or
4. Provide other direction to staff.

ADVANTAGES:

Updating the ADU Ordinance will bring it into conformity with State legislation. The redesigned format is also easier to comprehend and implement by staff and the public.

DISADVANTAGES:

As proposed, the Ordinance eliminates lot coverage and FAR maximums that would otherwise apply to development on eligible lots. The amendments also reduce the interior and rear setbacks for units greater than 1,000 square feet when compared to the current regulations.

ENVIRONMENTAL REVIEW:

In compliance with the California Environmental Quality Act (CEQA), the Community Development Department has determined that the project is statutorily exempt per Section 15282(h) of the CEQA Guidelines regarding projects involving the adoption of an ordinance regarding second units in a single-family or multi-family residential zone by a city to implement Government Code Section 65852.2.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2. A public hearing notice was published in the Tribune on March 1, 2024.

ATTACHMENTS:

1. Proposed Ordinance