

Planning Commission Staff Report

January 25, 2017
Item 6.a.

SUBJECT:	P16-1900
APPLICANT:	City of Pleasanton
PURPOSE:	Consider an amendment to the Pleasanton Municipal Code to comply with State legislation for accessory (second) dwelling units.
LOCATION:	Citywide
GENERAL PLAN/ SPECIFIC PLAN/ ZONING:	Various
EXHIBITS:	A. Draft Amendments to the Pleasanton Municipal Code B. Adopted California Government Code Sections 65582.1 – 66412.2

EXECUTIVE SUMMARY

On September 27, 2016, the State passed two new bills amending the Government Code pertaining to Accessory Dwelling Units or ADUs (Section 65852.2). The new bills require local jurisdictions to make it easier for property owners to create second dwelling units, referred to in the state statute as ADUs. These bills, Senate Bill (SB) 1069 and Assembly Bill (AB) 2299, went into effect January 1, 2017. Unless a local jurisdiction adopts an ADU ordinance consistent with the new provisions in the Government Code, the local jurisdiction must comply with the new state standards without modification. The Legislature also passed a bill, AB 2406, allowing local jurisdictions the option to adopt ordinances for Junior Accessory Dwelling Units (JADUs), which are no more than 500 square feet in area, are typically bedrooms in a single-family home, and must be entirely within an existing structure.

Consistent with State law, staff has drafted an amendment to the Pleasanton Municipal Code (PMC) to address ADUs and the addition of JADUs. Amendments to the PMC require review and recommendation from the Planning Commission to the City Council. Accordingly, the draft amendments are before the Planning Commission for its consideration and recommendation.

BACKGROUND

ADUs & JADUs

Accessory Dwelling Units/ADUs, also known as granny flats, in-law units, and second dwelling units, are often cited as a beneficial form of housing provided they are constructed legally and meet applicable standards. ADUs are conducive to: on-site independent living space for family members or aging relatives; a convenient place of residence for care givers; and a way for less-

abled and/or aging homeowners to stay in their neighborhoods and homes. Other benefits include providing a source of affordable housing, while maintaining the character of single-family neighborhoods, and providing a source of rental income to offset the cost of buying or owning a home.

Unlike a duplex, an ADU is subordinate to the single-family dwelling in both function and design. An ADU may be completely within an existing single-family home, but doesn't have to be; a Junior Accessory Dwelling Unit/JADU must be completely within the walls of an existing single-family dwelling (i.e. bedroom) and has an entrance into the unit from inside the main dwelling and an entrance to the outside from the JADU. ADUs and JADUs are incidental to the primary dwelling and cannot be subdivided or sold separately.

California Government Code Section 65852.2 (included in Exhibit B) provides for the development of ADUs and JADUs and establishes standards that local agencies can use in evaluating proposed accessory dwelling units.

DISCUSSION

SB 1069 and AB 2299 modify a jurisdiction's ability to regulate ADUs and AB 2406 allows jurisdictions the option to adopt JADU standards. As of January 1, 2017, unless a local jurisdiction adopts an ADU ordinance consistent with the new provisions in the Government Code, the local jurisdiction must comply with the new State standards without modification. By adopting ADU and JADU regulations for Pleasanton, the City is taking the opportunity to impose and/or offer flexibility to certain development review criteria. Specifically, parking, height, setbacks, floor area ratio (FAR), landscape, architectural review, and the maximum size of a unit are all permitted to be regulated by a local jurisdiction (see below for more detail).

State Regulations for ADUs

Below is a summary of the State's modified regulations and requirements contained in Government Code section 66582.2 for ADUs and the City's obligations for adhering to those regulations:

City Regulation Limitations

- The City must approve or deny ADUs through a ministerial process within 120 days of receiving a complete application for an ADU. Ministerial approvals of ADU applications are exempt from CEQA.
- An ADU is an accessory use for the purposes of calculating allowable density under the General Plan and zoning district. However, if the addition of an ADU would exceed the maximum floor area ratio allowed for the lot, then the ADU would not be permitted.
- The City can continue to require one of the units to be owner occupied and may prohibit short-term rentals (less than 30 days).
- The City cannot require ADUs to provide fire sprinklers if fire sprinklers are not already required/installed for the existing primary residence or converted structure.
- The City cannot impose requirements beyond those specified in State law.

Zoning and Development Standards

- It is within the City's purview to designate zoning districts for ADUs and not permit them in all zoning districts. Lots must be zoned to allow single-family or multi-family use.
- The City may regulate height, setbacks, landscaping, FAR, architectural review, maximum size of a unit, and impacts on properties listed in the California Register of Historic Places.
- An ADU within an existing dwelling unit cannot exceed 50% of the existing living area, with the maximum area of any ADU being limited to 1,200 square feet. The City can require a minimum square-footage for attached and detached ADUs, as long as it permits the construction of an efficiency unit as defined in the Health and Safety Code.
- Setbacks cannot be required when an existing garage is converted or when existing space (e.g., game room or office) above a garage is converted to an ADU. Rear and side yard setbacks of no more than five feet can be required when new space is added above a garage for an ADU, and setbacks only apply to the added space above the garage, not the existing garage. The ADU can be constructed wholly or partly above the garage.

Parking

- Parking requirements for an ADU shall not exceed one parking space per unit or per bedroom. These requirements may be satisfied by providing tandem parking or parking in setback areas unless determined to be infeasible based upon specific site characteristics, i.e., topography or fire and life safety conditions, or where off-street parking is not permitted anywhere else in the jurisdiction.
- Parking for an ADU cannot be required if the ADU is:
 - located within a ½ mile of public transit. (*Staff notes that the State statute does not define "public transit"; this topic is discussed later in the report*);
 - located within an architecturally and significant historic district;
 - located in part of an existing primary residence or an existing accessory structure;
 - located in an area requiring on-street parking permits but they are not offered to ADU occupants; or
 - located within one block of a car share vehicle.
- Replacement Parking: When a garage, carport, or covered parking is demolished or converted in conjunction with the construction of an ADU, replacement parking can be required if the converted or demolished parking space/area is required for the primary structure. The replacement space may be located in any configuration on the same lot as the ADU. The exact location of the space can be applied in a flexible manner, and should not burden the creation of ADUs. For example, configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

ADUs within Existing Structures

- The City must approve a building permit for an ADU on a residential lot with an existing single-family residence, notwithstanding other requirements of Government Code 65852.2, under the following circumstances:
 - The ADU is contained within the existing space of a single-family residence or accessory structure.
 - The ADU has independent exterior access from the existing residence.
 - The side and rear setbacks are sufficient for fire safety, as determined by the City.

Utility Fees and Connections

- ADUs shall not be considered new residential uses for the purposes of calculating connection fees or capacity charges.
- The applicant/property owner cannot be required to install a separate direct connection between the ADU and the utility for ADUs contained within an existing structure.
- ADUs not within an existing structure can be required to install a new or separate utility connection and be subject to a connection fee or capacity charge. Such fee or charge is required to be proportionate to the burden imposed by the ADU on the water or sewer system based upon either its size or number of plumbing fixtures.

State Regulations for JADUs

Below is a summary of the State's regulations and requirements contained in Government Code for JADUs and the City's obligations for adhering to those regulations when adopting an ordinance.

City Regulation Limitations

- The JADU must be located entirely within the existing structure of the single-family residence and have its own separate interior and exterior entrances.
- The property owner is required to occupy/reside in the single-family residence in which the JADU is created or occupy/reside in the JADU.
- A JADU is to be considered part of the single-family residence for the purposes of fire and life protections ordinances and regulations, such as sprinklers and smoke detectors. Life and protection ordinances that affect single-family residences are to be applied uniformly to all single-family residences, regardless of the presence of a JADU.
- The property owner must record a deed restriction stating that the JADU:
 - cannot be sold separately from the single-family residence; and
 - has size limitations and other requirements of the JADU ordinance.

Zoning and Development Standards

- A JADU cannot exceed 500 square feet in area.

- Only one JADU is allowed per residential lot zoned for single-family residences with a single-family residence already built on a lot.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or may have its own bath.

Parking

- The City cannot require on- or off-street parking for a JADU.

Utility Fees and Connections

- Additional water, sewer and power connection fees cannot be required.

The full text amendments to the Government Code section 66582.2 pertaining to ADUs and JADUs are attached as Exhibit B for reference.

Proposed Code Amendments

For the Commission's consideration, staff has incorporated the State's ADU and JADU regulations within the current "Second Unit" Chapter of the PMC as shown in Exhibit A, attached. Exhibit A also addresses additional PMC changes for the replacement of the term "second unit" with "accessory dwelling unit" and/or "junior accessory dwelling unit."

Planning Entitlements

Administrative Design Review is required for new ADUs that exceed 10 feet in height (either an accessory structure which exceeds 10 feet in height or an addition or modification to an existing home that exceeds 10 feet in height). Converting an existing accessory structure into an ADU that conforms to the PMC standards is reviewed and approved over-the-counter by the Planning Division. Similarly, interior changes to a home that convert space into an ADU or JADU that conform to the standards outlined in the PMC are also reviewed and approved over-the-counter by the Planning Division.

ADU Parking

Program 6.3 of the Housing Element recommends considering a reduction of the parking requirement for accessory dwelling units. Currently, the PMC parking regulations require one parking space to be provided on-site for the occupants of the ADU. On developed lots in existing neighborhoods, this parking requirement is frequently a constraint to the addition of an accessory dwelling unit. Prior to the new State legislation, parking for an ADU in Pleasanton was not allowed to be a tandem space or located in the front yard setback or a street-facing side yard setback, and these restrictions created challenges as property owners tried to add an additional parking space on a fully developed residential property.

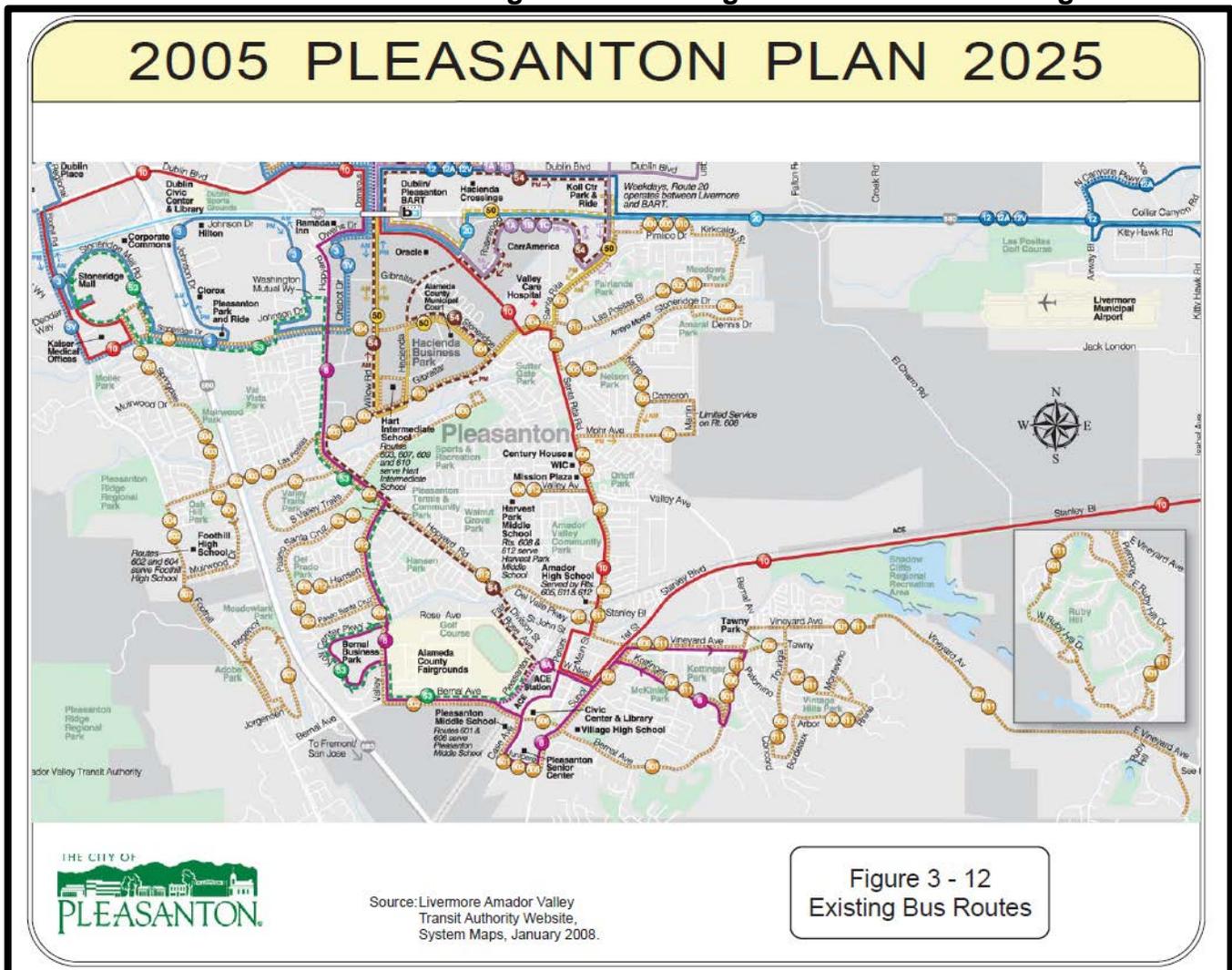
In 2013, staff initiated a PMC amendment to implement a Housing Element "second units" policy. During the 2013 amendment to the "second unit" section of the PMC, staff was concerned that although relaxation of the parking requirement may facilitate the development of ADUs in developed neighborhoods, it might also compromise neighborhood character through the proliferation of cars parked within the front yard setback area. At this time, the City is

required by the State to eliminate the parking requirement for those properties that meet one of the criteria in the proposed section of PMC 18.106.060.

As mentioned previously in this report, a local agency cannot require parking where the ADU is within one-half mile of public transit. Unfortunately, the State did not define “public transit.” Staff is recommending that Pleasanton use the General Plan Circulation Element to help define “public transit”.

The Circulation Element includes Figure 3-12 (see below), which shows public transit service in Pleasanton in 2009. There is a clear distinction between regional transit options and local transit options. Regional options include BART, ACE trains, and BART express bus service. The local transit option is essentially LAVTA, or “Wheels”, which services Pleasanton and the Tri-Valley. Because we’re evaluating transit options based on how well they would substantially reduce or eliminate the need for parking, staff is recommending that the parking relieve required as part of the ADU legislation be limited to the support offered by the regional options. The regional options also happen to be less impacted by route changes and budget, which can provide for more stability and few impacts to residential neighborhoods (*Staff will provide a Regional Transit Station/Stop Map at the Planning Commission meeting*).

General Plan Circulation Element: Figure 3-2 Existing and Buildout Traffic Signals



General Plan Conformance

The proposed amendments would be consistent with the General Plan and the following policies and implementation measures contained in the Land Use and Housing Elements:

Land Use Element – Goal 1: Create a land use pattern that promotes resource sustainability and environmental quality.

- Policy 2: Integrate land-use and transportation planning in order to ensure patterns that facilitate safe and convenient mobility of people and goods at a reasonable cost, and to increase travel alternatives to the single-occupant automobiles.
 - Program 2.3: Require transit-compatible development near BART stations, along transportation corridors, in business parks and the Downtown, and at other activity centers, where feasible.

Land Use Element – Goal 2: Achieve and maintain a complete well-rounded community of desirable neighborhoods, a strong employment base, and a variety of community facilities.

- Policy 9: Develop new housing in infill and peripheral areas which are adjacent to existing residential development, near transportation hubs or local-serving commercial areas.
 - Program 9.1: Zone vacant infill sites at densities to facilitate development, which includes affordable housing, while respecting the character of surrounding uses.

Housing Element – Goal 1: Attain a variety of housing sizes, types, densities, designs, and prices which meet the existing and projected needs of all economic segments of the community.

Housing Element – Goal 2: Provide residential densities capable of accommodating housing affordable to extremely low-, low- and very low-income households while taking into account the character and development pattern of the surrounding area.

- Policy 6: Actively promote the creation of second units on single-family residential lots and their maintenance as sources of housing affordable to moderate-, low-, and very low-income households.
 - Program 6.3: Conduct a review of the Second Unit Ordinance, including a survey of similar requirements in other Bay Area cities. Using this review, consider allowing second units without an Administrative Design Review process in new single-family developments, subject to performance standards, consider reducing the existing Second Unit Ordinance requirements, such as the parking and height limit requirements, to encourage the development of second units, consider other measures to promote the creation of second units, and adopt necessary changes as appropriate.

Housing Element – Goal 5: Produce and retain a sufficient number of housing units affordable to extremely low-, low- and very low-income households to address the City's responsibility for meeting the needs of Pleasanton's workforce, families, and residents, including those with special needs.

- Policy 9: Support the development of housing for persons with special needs.

Housing Element – Goal 11: Manage residential growth in an orderly fashion while enabling Pleasanton to meet its housing needs.

Housing Element – Goal 15: Adopt land use changes from non-residential to residential designations where appropriate.

- Policy 38: Strongly encourage residential infill in areas where public facilities are or can be made to be adequate to support such development.
 - Program 38.2: Encourage the development of second units and shared housing in R-1 zoning districts to increase the number of housing units while preserving the visual character within existing neighborhoods of single-family detached homes.

Regional Housing Needs Allocation (RHNA) & Growth Management

As part of the 2015 Housing Element, the City rezoned properties throughout the community to plan for anticipated housing demand (RHNA) for the 2015-2023 Housing Element planning period. Looking to the future, the State legislature has committed to allowing cities to use ADUs and JADUs as housing that will count toward RHNA planning. Finally, ADUs and JADUs would continue to be exempt from the City's Growth Management Ordinance, consistent with policy that was established with previous ADU regulations.

PUBLIC NOTICE

Notice of this code amendment has been published in The Valley Times and was noted in the Pleasanton Weekly as an upcoming agenda item for the January 25, 2017, Planning Commission meeting. At the time this report was prepared, staff had not received comments pertaining to these amendments.

ENVIRONMENTAL ASSESSMENT

Pursuant to California Public Resource Code Section 21080.17, the adoption of an ordinance regarding second units to implement the provisions of California Government Code Sections 65582.1 – 66412.2, is exempt from the California Environmental Quality Act (CEQA).

CONCLUSION

The proposed text amendments will facilitate the development of ADUs and bring the Pleasanton Municipal Code into compliance with State law. If adopted as proposed in Exhibit A, the Code amendments would allow Pleasanton residents more flexibility for developing ADUs.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt a resolution recommending approval of P16-1900 to the City Council with the proposed amendments shown in Exhibit A.

Primary Author: Natalie Amos, Associate Planner, 925-931-5613 or namos@cityofpleasantonca.gov.

Reviewed/Approved By:

Steve Otto, Senior Planner
Shweta Bonn, Acting Planning Manager
Gerry Beaudin, Community Development Director