

TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: February 20, 2020
FROM: Ben Berto, Director of Planning and Building Services
SUBJECT: Accessory Dwelling Unit/Junior Accessory Dwelling Units
CEQA STATUS: Statutorily exempt pursuant to Public Resources Code §21080.17

BACKGROUND

The 2019 State laws governing ADU's and JADU's relaxed regulations pertaining to ADUs/JADU's, further curbed the ability of local jurisdictions to regulate ADUs/JADUs, and included a 'poison pill' so if any aspect of the local ADU/JADU regulations is inconsistent with any aspect of the State law, the entire local ordinance would be null and void.

The Town Council has adopted an ADU ordinance that complies with the State's new ADU/JADU statutes and incorporates local regulations to the extent allowed by those statutes. The Town's new regulations include provisions governing structural height, property line and creek setbacks, landscape, and architectural review.

The Planning Commission and Town Council expressed many concerns with the new State regulations. At the Commission's January 16 meeting, ADU/JADU-related issues were discussed, and the item was continued for further review.

DISCUSSION

A number of ADU/JADU-related comments and concerns were expressed by the Planning Commission at your January 16 meeting. The staff report covered a broad range of ADU/JADU topics, and Commission consensus did not emerge on some of those topics. In the following, staff addresses those subjects for which there appeared to be general consensus, and responds to more individual Commission topics.

Fire Safety and Emergency Access and Evacuation

There was general Commission consensus that fire-related public safety concerns were the most prominent issue raised by the State's new ADU/JADU statutes. In summary, the new State regulations allow up to three dwelling units on each residential property, allow the conversion of any garage into an ADU - which in effect relocates vehicular parking from private property onto public streets - and allow for the legalization of pre-existing, unpermitted ADU's/JADU's, with extended timeframes for compliance with any code violations.

Against this regulatory backdrop is the fact that virtually all of Fairfax is high fire hazard, regardless of what fire hazard indices - Marin Wildland-Urban Interface (WUI), State Fire Hazard Severity, or Ca PUC Fire Threat - is used (see attached map). Fairfax also has a number of factors impacting wildfire-related hazards, including:

- Steep topography
- Extended evacuation and emergency response times
- Extensive vegetation
- Low water pressure in some areas
- Street issues including narrow width, tight turn radiuses, dead-ends
- Inadequate emergency vehicle turnouts and turnarounds
- On-street parking

Staff has continued discussions with Jason Weber, the Marin County/ Ross Valley Fire Department Fire Chief, about Town concerns with the current ADU/JADU regulatory context and its adverse effects on fire safety in Fairfax. We discussed how information such as the above could be objectively organized and presented to support efforts to avoid worsening potential fire hazards due to Fairfax's ADU's and JADU's.

Chief Weber mentioned that the County is applying for a grant that if successful, will study issues relating to emergency evacuation in Marin. He also noted that, regardless of whether or not the grant application is successful, if Marin's upcoming Measure C fire safety bond passes, this study will occur.

We agreed to schedule a future meeting with fire professionals to discuss options for addressing fire hazards.

Recommendation: Provide staff with comments on fire-related ADU/JADU topics. Staff also recommends that Commissioner Swift, with her background in local fire safety efforts, be asked to serve as the Commission's representative in fire group meetings.

Short-term Rentals

The Town Council, at their February 5 meeting, directed staff to consider short-term residential rentals. Staff anticipates that this will be agendaized for discussion at the March 19 Planning Commission meeting.

Objective Development Standards

- Vegetative management. Staff intends to explore vegetative management and other landscape options in pending discussions with Fire.
- Window sill height. Section 17.048.110 f.(8)C. described current ordinance requirements for sill height as follows:

"All second story windows facing the side or rear of a property adjoining the side or rear of an adjacent property and located 30 feet or less from the property line shall have a

minimum lower sill height of at least 6 feet above the finished floor.”

Recommendation: Direct staff on desired work on objective development standards, including any recommended changes to window sill height provisions.

Uncovered Parking

Current Town ADU/JADU parking regulations (as required by the State ADU/JADU statutes), set forth in Section 17.048.110 f.(7)C.:

“No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.”

Replacing on-site parking with housing may work in a catch-all on street parking environment such as San Francisco, where wide streets, no wildland fire threat, and numerous alternatives to automobiles for transportation are available. Fairfax does not have this environment, and this one-size-fits-all approach to create additional housing while pushing vehicles onto the street adds to an already hazardous fire situation in our community.

The Planning Commission on January 16 was interested in modifying the Town’s residential parking regulations to preserve onsite parking where possible.

Currently, the Town’s parking regulations are set forth in the Zoning Ordinance as follows:

Section 17.052.010(D) states: *“At least one of the off-street parking spaces for a residential unit must be covered, except as set forth in §17.052.020.”*

§17.052.020 Exceptions

“(C) On lots which have a slope greater than 15 percent on the general plan slope map or on a topographic map prepared by a licensed land surveyor and which are downslope lots, uncovered parking decks which have a finished elevation equal to or less than the elevation of the town right-of-way may be constructed in the front yard setback. Decks of this type may exceed the height requirement for accessory buildings.

(D) Lots which have a slope greater than 15 percent on the general plan slope map or on a topographic map prepared by a licensed land surveyor, and which are downslope lots, are exempted from the covered parking requirement set forth in § 17.052.010(D).”

Recommendation. Direct staff to work on amending the Towns’ parking regulations to require that all required residential parking be uncovered, thereby protecting it from

future conversion to an ADU.

Other Parking

Parking is closely tied to the issues of fire safety and emergency evacuation. Most of the Town's streets are on hillside areas and are narrow, winding, already significantly constrained in terms of available on-street parking spots, and many are dead-end with inadequate fire pullouts and turn-arounds. All of the hillside streets are in high fire risk zones.

Putting more automobiles (parked and otherwise) on streets will adversely impact fire safety, emergency vehicle access, and emergency evacuation. The State's latest ADU/JADU statutes will make these problems worse by allowing the conversion of garages to ADU's, regardless of the distance from transit. The already extant statutory waiver from off-street parking requirements for ADU sites located within ½ mile of public transit, would, if widely implemented, also put more parked automobiles on the streets. Most residents coming in for ADU approvals to date have had onsite parking. Staff will continue to track the removal or provision of onsite parking.

Amendments to the ADU/JADU statutes to exempt high fire risk areas from (at least some) statutory mandates may ultimately be the only way to comprehensively address the public safety fire hazard problem they create. Given the State's ongoing housing crisis and the legislature's reflexive housing promotion, such efforts appear unlikely in the near future.

As noted in the January Commission meeting, there are some options available to the Town to address at least some of the potential on-street parking impacts created by the ADU/JADU statutes.

Options:

- Parking permit program. The number of vehicles allowed to park on Town streets in the hilly high fire hazard areas can be limited by a parking permit program. Keep in mind that the latest State ADU/JADU regulations require issuance of parking permits to such units, or the permit program will not apply to vehicles associated with such units. Further, implementing and managing such a program will be very resource intensive and highly controversial. Staff therefore does not recommend pursuing such a program at this time.
- Designated parking area. The Town could designate areas where vehicles are allowed to park. The simplest way to do so is with white pavement markings or painted chevrons (e.g., parking boxes) demarcating areas where vehicles are allowed to park. Implementing and managing such a program would be very resource intensive and highly controversial, involving lots of public outreach, neighborhood meetings.

Recommendation. With Commission direction affirming investigation of designated

parking, staff will take up this topic with the fire group.

Organization of ADU/JADU Chapter

It was pointed out by the Planning Commission at their November meeting that the (then proposed) ADU/JADU ordinance organization (subsections etc.) was challenging and made it difficult to compare the then current ADU/JADU ordinance. The Town Attorney pointed out that the reorganization of the ADU/JADU chapter could be taken up at a future date.

Recommendation Once questions are resolved of what substantive changes should be made to the new ordinance, more detailed analysis of the layout and possible changes could be taken up.

Other issues

- Accessory structure inventory. Staff is investigating the logistical challenges with surveying existing accessory structures in Town.
- Endangered species. The Town Attorney has opined that because the State statutes specify a categorical exception to the California Environmental Quality Act, it is unlikely that a Federal environmental regulation-based challenge would be successful. Staff intends to explore whether if a property proposed for a new ADU is an identified spotted owl site, appropriate mitigations could be applied.

RECOMMENDATION

1. Conduct the public hearing.
2. Provide staff with direction on ADU/JADU recommendations.

ATTACHMENTS

Attachment A – State High Fire Hazard Area map

Attachment B – Fairfax Wildland-Urban Interface (WUI) zone map

Attachment C - Exhibit A ADU Ordinance amending T.C. Chapter 17.038