



City of Rohnert Park Planning Commission Report

DATE: January 25, 2018

ITEM NO: 9.5

SUBJECT: PLMC18-0001 Amend Rohnert Park Municipal Code Title 17 Zoning to require owner occupancy as part of all accessory dwelling unit approvals.

LOCATION: NA

REQUEST: Approve Resolution 2018-09 Recommending City Council Amend Chapter 17.07.020 – Footnotes

APPLICANT: City of Rohnert Park

Subject

Amend Municipal Code Title 17 - Zoning to require owner occupancy as part of all new approvals for accessory dwelling units (ADUs), including internal conversions as allowed by recent amendments to state law.

Background

In 2016, major changes to state law affecting the ways that cities can regulate and approve ADUs were approved and went into effect in 2017. The City of Rohnert Park subsequently amended its ordinances to reflect those changes and to come into compliance with the new laws. The changes streamlined the approval process for ADUs, eliminated many of the requirements that jurisdictions previously were able to propose, and provided for the creation of various types of ADUs including detached and attached ADUs and internal conversions. Internal conversions are ADUs created within the existing space of a single-family dwelling. The new state laws generally allowed jurisdictions to require the owner of the property to live within the either the primary or accessory unit. However, internal conversions were exempted from the applicability of this requirement. Assembly Bill 494 was subsequently approved in 2017, going into effect in 2018. The bill made minor changes to the ways in which jurisdictions can regulate ADUs, among which is a provision authorizing a city to require owner occupancy for either the primary or accessory unit created through an internal conversion process..

Proposal

The proposed changes to the municipal code reflect recently enacted changes to state law that now allow cities to require owner occupancy for either the primary or the resulting accessory dwelling unit, inclusive of internal conversions as well as ADUs created through additions or in detached accessory structures. Prior state law did not expressly authorize cities to impose owner occupancy requirements on internal conversions where an ADU is created within the existing space of a single-family residence.

The current City ADU ordinance requires that all non-internal ADUs have a deed restriction recorded prior to the granting of a certificate of occupancy. The deed restriction is required to state that: 1) the ADU shall not be sold separately, 2) the ADU is restricted to the approved size, 3) the owner of record must live on the property, and 4) the declaration is binding on all future owners of the property. The proposed changes would extend these requirements to internal conversions.

Staff Analysis

Without an owner occupancy requirement for internal conversions, any single family home could effectively be purchased by a speculator, and converted into two units, both for rent. Such a situation has serious implications for the character of single-family residential neighborhoods. One of the key motivations for allowing ADUs, particularly internal conversions, is (in addition to increasing the housing supply) to allow homeowners a way to supplement their incomes. If neither unit is owner occupied this is not the case. Rather, without the owner occupancy requirement there are strong financial incentives for companies or landlords to acquire multiple single-family homes and go through the internal conversion process which is easier and less costly than building a separate ADU from scratch.

Staff believes that requiring owner occupancy as part of the approval for ADUs is key to maintaining neighborhood character and to prevent speculation in Rohnert Park's single-family residential neighborhoods.

Environmental Determination

No CEQA analysis is required for this project. Pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), "the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code" relating to "granny" housing and "second unit ordinances" are exempt from the requirements of CEQA. Similarly, the ministerial approval of ADUs would not be a "project" for CEQA purposes, and environmental review would not be required prior to approving individual applications.

General Plan Consistency

The proposed amendments would be consistent with the goals, policies and implementation measures contained in the General Plan, Land Use and Housing Elements: The proposed changes to regulations would retain the fundamental character and land use mix in residential areas, while adapting existing structures to reflect changing demographics and housing needs. ADUs exemplify principles of sustainability in that they use existing resources more efficiently, while expanding housing opportunities for low and moderate income households.

Findings

The recommended findings to approve the amendment to the Zoning Ordinance are included in the attached resolution.

Public Notification

Since this is a change to the Municipal Code a public hearing is required before the Planning Commission and the City Council. This item has been duly noticed by publication in the Community Voice for amendments to the Municipal Code.


Staff Recommendation

Based on the analysis and findings of this report and the attached resolution, Staff recommends that the Planning Commission, by motion, adopt Resolution No. 2018-09 to recommend to the City Council these text amendments to Title 17 of the Rohnert Park Municipal Code.

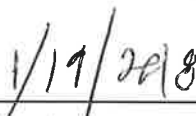
Attachments:

Planning Commission Resolution No. 2018-09
Exhibit A – RPMC Section 17.07.020 – Footnotes

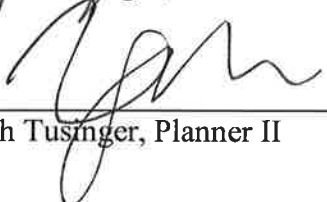
APPROVALS:



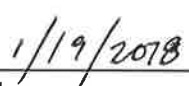
Jeff Beiswenger, AICP, Planning Manager



Date



Zach Tusinger, Planner II



Date

RESOLUTION NO. 2018-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ROHNERT PARK, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL AMENDMENTS TO MUNICIPAL CODE TITLE 17, ZONING TO REQUIRE OWNER OCCUPANCY FOR INTERNAL ACCESSORY DWELLING UNIT CONVERSIONS

WHEREAS, the applicant, the City of Rohnert Park, filed Planning Application No. PLMC18-0001 proposing to amend the Rohnert Park Municipal Code (“RPMC”) by amending Sections 17.07.020 – Footnotes;

WHEREAS, the proposed amendments are in response to Assembly Bill No. 494 and Senate Bill No. 229 which modified Cal. Gov. Code §65852;

WHEREAS, the modifications to state law now allow jurisdictions to require owner occupancy for properties with internal ADU conversions;

WHEREAS, the proposed changes to Title 17 Zoning are attached hereto as Exhibit A;

WHEREAS, on January 25, 2018 the Planning Commission held a public hearing at which time interested persons had an opportunity testify either in support of or opposition to the proposal;

WHEREAS, pursuant to California State Law and the Rohnert Park Municipal Code, a public notice was published in the Community Voice for a minimum of 10 days prior to the first public hearing; and

WHEREAS; the Planning Commission has reviewed and considered the information contained in Planning Application No. PLMC18-0001 for the proposed amendments to Title 17 Zoning of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Rohnert Park makes the following findings, determinations and recommendations with respect to the proposed amendments to Sections 17.07.020 – Footnotes:

Section 1. The above recitations are true and correct.

Section 2. Findings. The Planning Commission hereby makes the following findings concerning Sections 17.07.020 – Footnotes of the Municipal Code:

1. *That the proposed amendments to the Municipal Code are consistent with the General Plan 2020.*

Criteria Satisfied. The proposed amendments to the Municipal Code are consistent with the General Plan 2020 Goals of maintaining a compact urban form, and providing a range of housing types and prices. Specifically, Goal LU-A (compact urban form) is promoted by a more efficient utilization of land, housing stock, and

infrastructure. Goal CD-H (variety of housing types and sizes) is promoted by allowing smaller units in well-established neighborhoods. Goal HO-2 (diversity of housing types) is promoted by the allowance for smaller residences. Goal HO-3 (affordable housing) is encouraged by allowing smaller accessory units and the incentive for affordable housing.

2. *That the proposed amendment to the Zoning Ordinance will be beneficial to the public health, safety or welfare.*

Criteria Satisfied. The proposed amendments to the Municipal Code will provide for the health, safety and welfare of individuals living in Rohnert Park by providing increased housing options, while also expanding affordable housing opportunities.

Section 3. Environmental Clearance

No CEQA analysis is required for this project pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), “the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code” relating to “granny” housing and “second unit ordinances” are exempt from the requirements of CEQA.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission does hereby recommend that the City Council adopt the Findings stated hereinabove and adopt this Amendment to the RPMC to amend Section 17.07.020 – Footnotes in the form provided in **Exhibit A.**

DULY AND REGULARLY ADOPTED on this 25th day of January 2018 by the City of Rohnert Park Planning Commission by the following vote:

AYES: _____ NOES: _____ ABSENT: _____ ABSTAIN: _____

ADAMS _____ BLANQUIE _____ BORBA _____ GIUDICE _____ HAYDON _____

Chairperson, Rohnert Park Planning Commission

Attest: _____
Susan Azevedo, Recording Secretary

Exhibit A

17.07.020 - Footnotes.

The following standards apply to the land use indicated by corresponding number in the zoning district use charts:

X. ACCESSORY DWELLING UNIT (a.k.a. ADU, in-law, secondary, or granny units).

1. An ADU shall be allowed with a certificate of zoning compliance on any residential lot subject to the following provisions.

2. The following standards shall apply to detached ADUs and additions to primary dwelling units:

The ADU shall be architecturally compatible with the main unit, and the development of the ADU will maintain the appearance of a single-family residence. The ADU shall comply with the city's adopted design guidelines for residential development.

- a. The increased floor area of an attached ADU shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet. The total area of floor-space for a detached ADU shall not exceed 1,200 square feet.
- b. There shall be no subdivision of land separating the units, and neither unit may be sold independently of the other.
- c. No passageway shall be required in conjunction with the construction of an ADU.
- d. One additional standard size off-street parking space shall be provided for detached ADUs in addition to the off-street parking requirements required for the primary residence.
 - i. The required additional parking space may be uncovered and may be provided as tandem parking on an existing driveway.
 - ii. Parking is allowed in rear and side setback areas. No parking is allowed in front setback areas.
 - iii. When a garage or covered parking structure is demolished in conjunction with the construction of an ADU, the replacement parking spaces may be located in any configuration on the same lot as the ADU, including but not limited to covered spaces, uncovered spaces, or tandem spaces.
- e. Notwithstanding Paragraph 6 of this section, No additional parking shall be required for an ADU in any of the following instances:
 - i. The ADU is located within one-half mile of a bus stop or train station.
 - ii. The ADU is located within an architecturally and historically significant historic district.
 - iii. The ADU is part of the existing primary residence or an existing accessory structure.
 - iv. When on-street parking permits are required but not offered to the occupant of the ADU.
 - v. When there is a car-share vehicle located within one block of the ADU.
 - vi. The ADU is constructed within an existing structure.
- f. Detached ADUs shall meet the height and setback requirements for accessory structures as stipulated in the applicable zoning district. See Section 17.10.060.C, Accessory Building as an Accessory Dwelling Unit. ADUs that are part of the main dwelling structure shall meet the height and setback requirements for main dwellings. See Section 17.10.020, Development Standards Table, for development standards relating to main dwellings.
- g. The total lot coverage, including the ADU, shall not exceed fifty percent.

- h. Either the ADU or the main unit shall be permitted to face the rear of the other structure, and the ADU shall be permitted closer than ten feet but no less than five feet from the main building where it can be shown that the site design will be improved. An ADU located above the first floor of an accessory structure (e.g., above a garage) shall be designed so as to minimize privacy impacts on neighboring properties, through the use of opaque glass or clerestory windows where such windows face neighboring properties.
- 3. No setback shall be required for an existing garage that is converted to an ADU, and a setback of no more than five feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage.
- 4. There shall be adequate water and sewer service available to serve the ADU, as determined by the city engineer.
- 5. The application for an ADU shall be considered ministerial without discretionary review or a hearing within 120 days after receiving the application.
- 6. Before obtaining an occupancy permit for an ADU, the property owner shall file with the county recorder a declaration of restrictions (i.e., deed restriction) relative to the ADU stating that:
 - a. The ADU shall not be sold separately and shall be maintained in accordance with the ADU requirements of the RPMC.
 - b. The ADU is restricted to the approved size, unless modified by future city approvals.
 - c. The zoning compliance for the ADU shall be in effect only so long as the accessory or primary unit is occupied by the owner of record as their principal residence. Should the ADU no longer be in compliance with this requirement, the ADU shall be altered so as to prevent its use as an ADU (i.e., removal of cooking facilities).
 - d. The above declarations are binding upon any successor in ownership of the property.
- 7. Notwithstanding Paragraphs 1 through 6-5 of this section, the application for an ADU that is contained within the existing space of a single-family residence or existing accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety, the city shall ministerially approve a building permit to create one ADU per single-family lot.
- 8. Fire sprinklers are only required in ADUs where they would also be required under the RPMC for the primary or main unit.
- 9. An ADU shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for that lot. The ADU shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- 10. ADUs shall not be considered new residential uses for the purpose of calculating connection fees or capacity charges for utilities, including water and sewer service.
 - a. For an ADU described in Paragraph 7, the applicant shall not be required to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge.
 - b. For an ADU that is not described in Paragraph 7, a new or separate utility connection directly between the ADU and the utility may be required. The connection may be subject to a connection or fee or capacity charge proportionate to the burden of the proposed ADU, and shall not exceed the reasonable cost of providing this service.

