



City of Rohnert Park Planning Commission Report

DATE: February 9, 2017

ITEM NO: 8.3

SUBJECT: PLMC17-0001 Amend Rohnert Park Municipal Code Title 17 Zoning to bring into compliance with recent amendments to state law concerning accessory dwelling units.

LOCATION: NA

REQUEST: Approve Resolution 2017-07 Recommending City Council Amend Chapters 17.07.020 – Footnotes, 17.04.030 – Definitions, 17.06.030 – Permitted Uses, 17.10.060 – Accessory Structures, and 17.16.040 – Parking Exemptions

APPLICANT: City of Rohnert Park

Subject

Amend Municipal Code Title 17 - Zoning to bring into compliance with recent amendments to state law concerning Accessory Dwelling Units (ADUs).

Background

ADUs, also called secondary dwelling units, in-law apartments, or granny units, are an important housing resource for communities in California. ADUs are usually created through the conversion of existing living space in a single-family home to a separate dwelling unit, the addition of space to an existing home (for example, an apartment over a garage) or a detached structure in the rear yard. Over the last two decades, California has adopted a number of laws that encourage ADUs and limit the requirements that may be imposed by cities. ADUs are an effective way to increase housing options without significantly changing neighborhood character. They can effectively provide affordable housing for renters, a source of income for homeowners, and a housing resource for extended families, seniors, college students, and others.

On September 27 and 28, 2016, Governor Brown signed two pieces of legislation into law that require California cities and counties to substantially revise their ADU regulations. The specific provisions of the legislation are described below:

SB 1069, was signed by the Governor on September 27, 2016. The bill requires that:

- o Municipal code references to “secondary dwelling unit” be replaced with the term “accessory dwelling unit.”
- o ADUs up to 1,200 square feet or up to 50 percent of the living area in an existing dwelling may be permitted.
- o Cities cannot require more than one parking space per bedroom.
- o Cities must allow off-street parking requirements to be met through tandem parking or within required setback areas (as well as through covered parking or driveways).
- o Cities must waive parking requirements for ADUs that are entirely contained within existing structures, or that are within one-half mile of public transit, one block of a car-share vehicle, or in a historic district.
- o Fire sprinklers can only be required for the ADU if they would be required for an equivalent addition to the primary residence.
- o Additional streamlined requirements (relating to setbacks and other development standards) apply to ADUs that are contained entirely within existing structures.
- o Local agencies may not collect water and sewer connection fees for ADUs that do not add habitable floor space, and must structure fees for other types of ADUs so they are proportional to the impacts on service demand.

AB 2299, signed by the Governor on September 27, 2016, features many of the same provisions as SB 1069, including prohibitions on requiring additional parking for ADUs in certain circumstances.

As of January 1, 2017, Rohnert Park’s second dwelling unit ordinance was void to the extent it did not comply with the new state law. In the interim, any applications for accessory or second dwelling units default to the standards found in Gov. Code §65852.

Proposal

The most significant proposed change is an almost total rewrite of the Zoning Ordinance footnote section regulating ‘second residential units’. Chapter 17.07.020.X Footnotes: Second Residential Unit is to be retitled to “Accessory Dwelling Unit” and substantially revised to reflect mandated changes to state law regarding ADUs.

The new state laws, in addition to a change in terminology, removes several provisions and makes multiple modifications. The most substantial changes required by SB 1069 relate to off-street parking. Currently, one off-street parking space is required per bedroom for an ADU. This continues to be the case under the proposed revisions, but off-street parking cannot be required for units meeting any of the following criteria:

- The unit is within one-half mile of public transit
- The unit is within a designated historic district
- The unit is entirely within the principal residence and results in no net increase in habitable floor area on the property
- The unit is in an area where on-street permit parking is required, but such permits are not available to the tenant
- The unit is within one block of a car-share vehicle

For the most part, ADUs will continue to be subject to the same height, setback, and lot coverage requirements that apply to single-family homes in the same zoning district. The requirement that the unit is architecturally compatible with the principal residence also is carried forward. A significant change in the state law limits the ability of local agencies to collect water and sewer connection fees for new ADUs. The high cost of connection fees is a major obstacle to ADU construction, and this change is expected to lower costs of new ADUs significantly.

Other notable changes are the removal on the limitation of one second dwelling unit per legal parcel, and the elimination of the requirement that the property owner maintain residence in the primary unit. The existing RPMC ordinance requires that such units be set aside and deed restricted as affordable housing. Such a requirement is now inconsistent with state law. Some jurisdictions have instead created a voluntary incentive to have the accessory dwelling unit set aside as affordable housing. This proposal would allow applicants increased square footage for their accessory dwelling unit in exchange for a deed restriction restricting the use of the ADU to affordable housing for a set number of years.

Other sections of Title 17 (Zoning) are proposed to be amended for internal consistency with the changes related to ADUs.

In the “Definitions” section of Title 17, a definition has been added for Accessory Dwelling Unit, and the definition for Second Dwelling Unit removed. In other sections of Title 17, the term “Second Dwelling Unit” has been replaced with “Accessory Dwelling Unit”.

Staff Analysis

Though the City does not have precise numbers, it seems reasonably clear that there are currently relatively few ADUs in Rohnert Park. The City has a larger than average portion of its housing units in multifamily housing developments, and many of the single-family homes are built on small lots leaving little room for an ADU.

However, the streamlining of regulations pertaining to ADUs, combined with increased housing prices across the Bay Area is likely to lead to increased numbers of ADUs in the future. With the affordable housing incentive included in the proposed amendments it is likely that at least some of these future ADUs will assist in maintaining the affordable housing stock in Rohnert Park.

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

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. Consistent with existing and proposed state law, the proposed regulations explicitly would exclude ADUs from density calculations for determinations of General Plan consistency. The proposed regulations would expand opportunities for ADU development, and will assist the City in meeting its regional housing needs.

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.

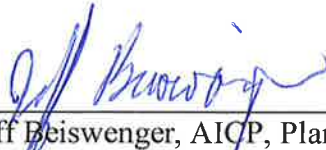
Staff Recommendation

Based on the analysis and findings of this report and the attached resolution, Staff recommends that the Planning Commission, by motion, adopt Resolution No. 2017-07 to recommend to the City Council of these text amendments to Chapter 17 of the Rohnert Park Municipal Code.

Attachments:

- Planning Commission Resolution No. 2017-07
- Exhibit A – RPMC Chapter 17.07.020 – Footnotes
- Exhibit B – RPMC Chapter 17.04.030 – Definitions
- Exhibit C – RPMC Chapter 17.06.030 – Permitted Uses
- Exhibit D – RPMC Chapter 17.10.060 – Accessory Structures
- Exhibit E – RPMC Chapter 17.16.040 – Parking Exemptions


APPROVALS:



Jeff Beiswenger, AICP, Planning Manager

2/3/17

Date



Zach Tusinger, Planner I

2/3/17

Date

RESOLUTION NO. 2017-07

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 BRING THE ORDINANCE CONCERNING ACCESSORY DWELLING UNITS INTO COMPLIANCE WITH STATE LAW

WHEREAS, the applicant, the City of Rohnert Park, filed Planning Application No. PLMC2017-0001 proposing to amend the Rohnert Park Municipal Code (“RPMC”) by amending Sections 17.07.020 – Footnotes, 17.04.030 – Definitions, 17.06.030 – Permitted Uses, 17.10.060 – Accessory Structures, 17.16.0404 – Parking Exemptions;

WHEREAS, the proposed amendments are in response to SB 1069 and AB 2299 which modified Cal. Gov. Code §65852

WHEREAS, the modifications to state law are intended to remove obstacle to the creation of ADUs by requiring modification to municipal regulations to streamline the permitting process and reduce the overall cost of ADUs.

WHEREAS, the proposed amendments to Title 1 Zoning will incorporate revisions will bring the Rohnert Park Municipal Code into compliance with state law concerning Accessory Dwelling Units;

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

WHEREAS, on February 9, 2017 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. PLMC2017-0001 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, 17.04.030 – Definitions, 17.06.030 – Permitted Uses, 17.10.060 – Accessory Structures, 17.16.0404 – Parking Exemptions of the Rohnert Park Municipal Code for the purpose of coming into compliance with recently amended state law;

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, 17.04.030 – Definitions, 17.06.030 – Permitted Uses, 17.10.060 – Accessory Structures, 17.16.0404 – Parking Exemptions 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. Size limitations will remain on ADUs unless proximate to transit or car sharing. This will help to insure the new investment comes into neighborhoods. This reduces the need to build new housing by better utilizing existing housing stock.

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 Findings stated hereinabove and adopt this amendment to the RPMC to amend Sections 17.07.020 – Footnotes, 17.04.030 – Definitions, 17.06.030 – Permitted Uses, 17.10.060 – Accessory Structures, 17.16.0404 – Parking Exemptions, in the form provided in **Exhibit A**.

DULY AND REGULARLY ADOPTED on this 9th day of February 2017 by the City of Rohnert Park Planning Commission by the following vote:

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

ADAMS _____ BLANQUIE _____ BORBA _____ GIUDICE _____ HAYDON _____

Susan Haydon, Chairperson, Rohnert Park Planning Commission

Attest: _____
Susan Azevedo, Recording Secretary

17.07.020 - Footnotes.

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

- X. ~~SECOND ACCESSORY RESIDENTIAL DWELLING~~ UNIT (a.k.a. ADU, in-law, secondary, or granny units).
1. An ~~second residential unit~~ADU shall be allowed with a certificate of zoning compliance on any residential lot ~~of at least four thousand square feet in size which contains a single-family residence and~~ subject to the following provisions.
 2. The ~~second unit~~ADU shall be architecturally compatible with the main unit, and the development of the ~~second ADU unit~~ will maintain the appearance of a single-family residence. The ~~second unit~~ADU shall comply with the city's adopted design guidelines for residential development.
 3. ~~There shall not be more than one second unit per legal parcel.~~
 34. The total floor area of an ADU ~~second unit~~ shall not be more than fifty percent of the floor area of the existing or proposed main unit, nor shall the total floor area of the ~~second unit~~ADU exceed seven hundred square feet in any event nor contain more than one bedroom.
 5. ~~The property owner shall maintain residence in the primary unit.~~
 64. There shall be no subdivision of land separating the units, and neither unit may be sold independently of the other.
 75. One additional standard size off-street parking space shall be provided for detached ADUs in addition to the off-street parking requirements required for ~~a single-family~~the primary residence dwelling. ~~Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing base district standards or planned development standards applicable to existing dwellings.~~
 - a. The Required additional parking spaces may be uncovered and may be provided as tandem parking on an existing driveway.
 - b. Parking is allowed in rear and side setback areas. No parking is allowed in front setback areas.
 - c. 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.
 6. Notwithstanding Paragraph 5 of this section, No additional parking shall be required for an ADU in any of the following instances:
 - a. The ADU is located within one-half mile of a bus stop or train station.
 - b. The ADU is located within an architecturally and historically significant historic district.
 - c. The ADU is part of the existing primary residence or an existing accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the ADU.
 - e. When there is a car-share vehicle located within one block of the ADU.
 - f. The ADU is constructed within an existing structure.
 78. Detached ~~second ADU units~~ 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 Second Accessory Dwelling Unit. ~~Second ADU units~~ 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.

~~89.~~ The total lot coverage, including the ~~ADU~~~~second-unit~~, shall not exceed fifty percent.

~~10.—Useable outdoor yard areas are to be provided for both units.~~

~~191.~~ Either the ~~second-ADU~~unit or the main unit shall be permitted to face the rear of the other structure, and the ~~second-ADU~~unit 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. A ~~second residential n ADU~~unit 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.

~~1102.~~ There shall be adequate water and sewer service available to serve the ~~second-unit~~~~ADU~~, as determined by the city engineer.

~~11. ADUs are not required to install new or separate utility connections and are not subject to separate utility connection fees or capacity charges.~~

~~1123.~~ Before obtaining an occupancy permit for an ~~an ADU-second-residential-unit~~, the property owner shall file with the county recorder a declaration of restrictions (i.e., deed restriction) relative to the ~~second-ADU~~unit stating that:

a. The ~~second-ADU~~unit shall not be sold separately and shall be maintained in accordance with the ~~second-unit requirements~~~~ADU requirements~~ of the ~~Rohnert Park municipal code~~~~RPMC~~.

b. The ~~second-ADU~~unit is restricted to the approved size, unless modified by future city approvals.

~~c.—The second unit shall remain affordable to lower income or very low income households as defined by the California Department of Housing and Community Development.~~

d. The zoning compliance for the ~~second-ADU~~unit shall be in effect only so long as the primary unit is occupied by the owner of record as their principal residence. Should the ~~second ADU~~unit no longer be in compliance with this requirement, the ~~second-ADU~~unit shall be altered so as to prevent its use as an ~~an ADU-second-unit~~ (i.e., removal of cooking facilities).

e. The above declarations are binding upon any successor in ownership of the property.

~~13. Notwithstanding paragraph 4, the City shall issue a certificate of zoning compliance for an ADU with a floor area of one thousand square feet or 50% of the floor area of the existing or proposed primary dwelling unit, whichever is less, where the following conditions are met: (1) The property owner of said ADU records with the County Recorder's Office a deed restriction restricting the use of the ADU to affordable housing, which deed restriction's form and content shall be subject to approval by the City prior to recordation, (2) the City shall determine the maximum affordable rent levels for the affordable housing ADU by adhering to the California Department of Housing and Community Development's annual publication of State Income Limits, (3) The deed restriction shall be effective for a period of no less than 10 years. After termination of the deed restriction, the property owner shall be required to reapply to the City for a certificate of zoning compliance for the ADU.~~

~~14. Fire sprinklers are only required in ADUs where they would also be required under the RPMC for the primary or main unit.~~

17.04.030 - Definitions of words and terms.

"Accessory dwelling unit" (ADU) means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An ADU shall be in compliance with Section 17.07.020 of this title. An ADU also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Second dwelling or residential unit" ~~See "Accessory dwelling unit". means an attached or a detached dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following: (1) an efficiency unit as defined in Section 17958.1 of the Health and Safety Code; and (2) a manufactured home as defined in Section 18007 of the Health and Safety Code. A second unit shall be in compliance with Section 17.07.020 of this title.~~

17.06.030 - Permitted uses.

The following is a list of land uses and the residential districts within which they are permitted as follows:

P = permitted

C = conditionally-permitted by planning commission

A = administrative permit

Z = certificate of zoning compliance

T = temporary conditional permit

I = uses allowed as incidental to a primary use

Land uses that are not specifically listed are not permitted unless determined, by the planning and community development director, to be substantially similar to a listed use. If the listed land use is followed by a number or a section reference in parenthesis, that number or reference directs the reader to the corresponding land use footnote or special provision which follow this chapter.

Land Use Category	R-R/R-E Districts	R-L Districts	R-M District	R-H Districts
Accessory Dwelling Unit (X)	Z	Z	Z	Z
Affordable Housing Density Bonus (H)	A	A	A	A
Agricultural Uses				
• Pasturing and Grazing (small scale)	P			
• Other	C			
Bed & Breakfast Inn (D)	C			C
Community Center	C	C	C	C
Communication Facilities (F)	C/A	C/A	C/A	C/A
Day Care Center	C	C	C	C
Day Care Home, Family (G)				
• Small (8 or fewer children)	P	P	P	P
• Large (9 or more children)	C	C	C	C

• Elementary and Secondary	C	C	C	C
• High School	C	C	C	C
• Vocational/Trade Schools	C			C
Public Facility-Non-city owned or proposed (see also Public Utility)	C	C	C	C
Public Facility-City owned or proposed (subject to Planning Commission review on referral from City Council)	P	P	P	P
Rooming or Boarding House				
• Single Room Occupancy Living Unit Facility (Z)	A			A
• Fraternity/Sorority				C
Recovery Facility				
• Small (6 or less persons)	P	P	P	P
• Large (7 or more persons)				C
Religious Assembly	C	C	C	C
Residential Care Facility (Congregate Care/Assisted Living)				
• Small (6 or less persons)	P	P	P	P
• Large (7 or more persons)	C	C	C	C
Second Residential Unit (e.g., in-law units) (X)	Z	Z	Z	Z
Single Family Dwellings	P	P	P	C
• Accessory Uses/Structures				
• Antenna, Vertical/Satellite Dish (F)	P/C	P/C	P/C	P/C

17.10.060 - Accessory structures.

- A. Detached/attached. Detached accessory structures (i.e. structures separated from the main structure by five feet or more) shall be located behind the front elevation of the main structure and shall cover no more than ten percent of the rear yard area (**unless an Accessory Dwelling Unit**), with total lot coverage for all structures on-site not to exceed that listed in Section 17.10.020 for the applicable zoning district. In the event an accessory building is attached to the main building or less than five feet from the main structure, it shall be considered structurally a part of the main building and shall comply in all respects with the development standards applicable to the main building.
- B. Setbacks for accessory structures. The minimum side and rear yard setback for carports is five feet and for all other accessory structures the setback is three feet.
- C. Accessory building as an **Accessory Dwelling Unit (ADU) ~~second-unit~~**. If the accessory building is an **~~second-unit~~ ADU**, a ten foot rear yard setback and five foot side yard setbacks must be provided. In the case of a corner lot adjacent to a reversed frontage lot, accessory buildings shall not project beyond the front yard required or existing on the adjacent reversed frontage lot.
- D. Building permits requirements. Building permits are not required for detached accessory structures that are one hundred twenty-eight square feet or less in size, that are no greater than twelve feet in height, that are not habitable, and that do not require utilities. Accessory structures shall not include kitchens, unless part of an approved **accessory dwelling unit ~~second-unit~~**.

17.16.040 - Parking exemptions.

- A. A reduction of up to twenty-five percent of the spaces required for a combination of uses may be allowed where findings are made indicating that the uses share a common parking area and the demand for parking occurs over different time periods, thereby making the full requirement unnecessary.
- B. Parking space reductions of up to ten percent may be permitted by the planning and community development director or designee, if a rideshare, transit incentive program, or other transportation system management program is provided. Further parking space reductions up to a maximum of twenty-five percent may be permitted if approved by the planning commission through a conditional use permit process.
- C. The planning and community development director may grant exemptions to the off-street covered parking requirements for a single-family residential property subject to the granting of an administrative permit, in accord with the provisions of Section 17.25 Article V if the following findings can be made:
 - 1. The principal use of the lot is an existing single-family residence without an ~~second residential~~ accessory dwelling unit;
 - 2. Such space shall be replaced with one non-tandem parking space per lot, other than those existing in the driveway;
 - 3. Such replacement space may be located in the required front yard or street side yard if the planning and community development director finds that in so doing there is neither an appreciable impairment of pedestrian safety nor any reduction in the attractiveness of the neighborhood. In no case shall the replacement space cause more than fifty percent of the lot's front yard to be devoted to parking;
 - 4. Such replacement space shall not be rented;
 - 5. Such replacement space shall be paved with an approved, all-weather surface;
 - 6. The provision and maintenance of such replacement space shall be the continuing obligation of the property owner;
 - 7. No more than one additional bedroom shall be created by a garage conversion and a garage shall not be converted into an ~~second residential~~ accessory dwelling unit;
 - 8. The garage door shall remain in place and look functional; and
 - 9. The lot must be a minimum width of fifty feet and there must be room for at least one on-street parking space on the curb in front of the lot.
- D. If an existing parking lot does not provide adequate parking spaces for the disabled and cannot otherwise be reconfigured to achieve the city's required inventory of parking spaces, the planning and community development director may approve a reduction in the number of parking spaces by up to a maximum of three parking spaces or a total of ten percent, whichever is less, in order to accommodate required disabled parking.