

Memorandum

TO: COMMUNITY & ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Rosalynn Hughey

**SUBJECT: OUTREACH FOR ACCESSORY
DWELLING UNIT PROGRAM**

DATE: May 6, 2019

Approved

Date

RECOMMENDATION

Accept the staff report on the effectiveness of the new Accessory Dwelling Unit (Secondary Dwelling Unit) Ordinance, including program outreach, application data, and neighborhood impacts.

BACKGROUND

On November 29, 2016, City Council adopted a major update to the Accessory Dwelling Unit Ordinance, Section 20.30 of the Zoning Code, to facilitate construction of Accessory Dwelling Units (ADUs). The Ordinance changes included the following:

- Reduced minimum lot size from 6,000 square feet to 5,445 square feet
- Allowed ADUs on properties zoned R-2 Two Family Residence that contain a single family dwelling
- Increased the maximum ADU floor area up to 800 square feet
- Allowed the required parking space for the ADU to be in a driveway in the front setback
- Changed the design standards so that materials of an ADU had to be similar to the primary dwelling but not an exact match
- Allowed parking for a demolished or converted garage to be replaced with uncovered parking.

On June 26, 2018, the City Council approved a subsequent major update to the ADU Ordinance. This update included changes that enabled more properties to qualify for an ADU, allowed for larger ADUs, and other changes easing regulations. Specifically, the changes:

- Allowed ADUs in the RM Multiple Residence on lots with a single-family dwelling
- Enabled more properties in Planned Development Zones to qualify for an ADU
- Reduced minimum lot size from 5,445 square feet to 3,000 square feet
- Increased unit sizes relative to lot sizes, with a maximum size of 900 square feet on lots greater than 10,000 square feet

- Allowed two bedroom units on lots greater than 9,000 square feet
- Allowed two-story ADUs
- Reduced the side and rear setbacks for detached units to zero feet for one story and five feet for a second story, with the zero-foot setback subject to fire prevention requirements
- Facilitated garage conversions by allowing the replacement parking spaces to be on a driveway within the front or side setback
- Removed the requirement that the ADU roof pitch and materials must be similar to the primary dwelling, thus accommodating pre-fabricated units.
- Removed the prohibition on building an ADU on a lot where the house was developed with a one-car garage.

The ADU Ordinance has continued to be refined through the Zoning Ordinance quarterly update process. The most recent quarterly update, adopted by City Council on April 23, 2019, raised the maximum height of two-story ADUs to 24 feet and removed the average roof height requirement for both one- and two-story ADUs. This change was based on feedback from customers and staff that the previous height regulations limited construction of two-story units.

ANALYSIS

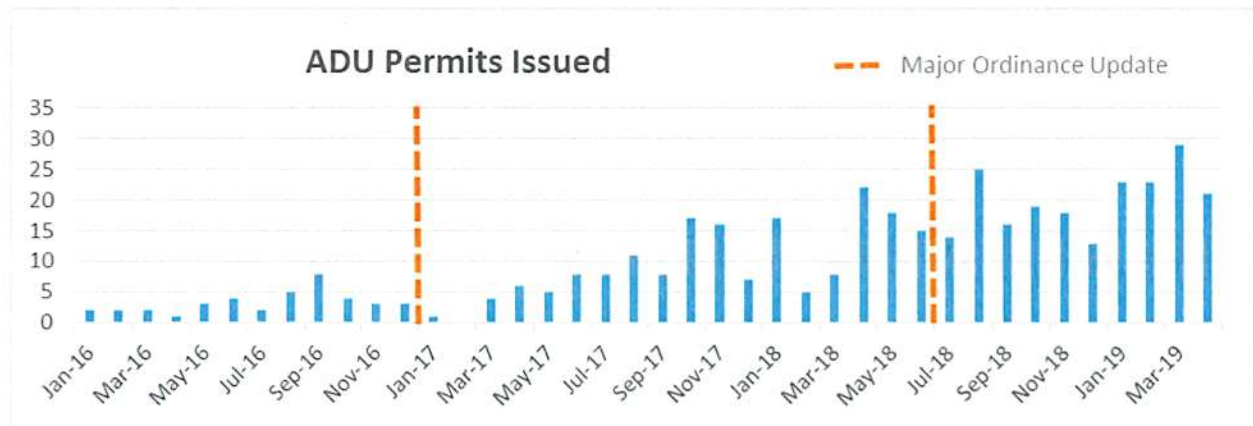
Permit Data

The City has seen a steady increase in ADU permits issued, as shown in Table 1. Between 2016 and 2018, there was nearly a 400 percent increase in the number of permits issued. In just the first four months of 2019, over half the number of permits have been issued that were issued in all of 2018. The increase in permits issued correlates with the Ordinance updates, as demonstrated in Table 2.

Table 1

Calendar Year	Permits Issued
2016	39
2017	91
2018	190
2019 (as of April 30)	104

Table 2



Motivations for building an ADU. While staff does not collect data on the reasons people are constructing ADUs, customers frequently volunteer information. Staff has compiled the following information on reasons homeowners are choosing to build ADUs:

- Parents building an ADU for their adult child, or for themselves so their adult child can move into the primary dwelling
- Building an ADU for a parent or other relative
- Initial rental income, with plans to later move into the ADU and rent the main house for additional income upon retirement
- Long-term rental income

Customers are not reporting that they are building ADUs for short-term rentals/Airbnb.

ADU Program Outreach

Interest in building an ADU in San José is strong. PBCE has promoted and continues to promote various ADU activities and educational events, including:

1. *Publicity for May-July 2018 ADU zoning code changes.* In concert with City Council's 2018 major update to the ADU ordinance, staff created an ADU webpage with a friendly URL, www.sanjoseca.gov/adus. The webpage highlights the benefits of ADUs; explains how the Council decision made it easier for more properties to qualify for an ADU; and helps viewers understand steps to applying for an ADU building permit. The URL is an element of ADU publicity efforts.
2. *ADU presentations at May Building Permits & Home Safety Open House.* More than 500 people attended the Building Division's annual event in 2018, and attendees showed keen interest in the ADU presentation. The May 30, 2019 event will again feature ADUs as a presentation topic, and publicity has begun. This includes publishing the event in council newsletters, Nextdoor and social media posts, City website information, flyer

distribution, a media announcement, Council proclamation, and more. At the event, PBCE staff answer questions about ADUs and review conceptual plans that attendees may bring.

3. *Planning Counter staff inform customers about ADUs.* Residents can bring project concepts and questions and get information at the Planning Counter, tailored to their specific project and ideas. At www.sanjoseca.gov/adus, the public is encouraged to take advantage of this no-charge service and to download the [Secondary Unit Review Worksheet](#) as a checklist for how their project proposal complies with development standards. Planning staff in the Permit Center speak to 25-30 customers per day about ADUs and report that ADUs are now the most popular question asked by customers.
4. *PBCE partnership with Housing Trust Silicon Valley (HTSV) events on ADUs.* HTSV (www.housingtrustsv.org) offers ADU resource fairs and workshops, rotating the location of these events throughout the South Bay and Peninsula. At the resource fairs, attendees can view an ADU micro-unit and speak with vendors. At the workshops, attendees benefit from a panel of experts who discuss financing ADU construction, modular ADU options, working with an architect to design an ADU, getting building permits, becoming an ADU landlord, and more. PBCE staff served as panelists at the February 2019 HTSV workshop held in San José, and regularly help HTSV publicize the workshops on social media and Nextdoor, regardless of location (events are open to residents of all cities). Most recently, staff promoted the May 4 HTSV event in Morgan Hill; attendance was estimated to be roughly 60% San José residents.
5. *ADU display for Development Services Permit Center is under design.* Staff identified the opportunity to repurpose an outdated urban village display structure as an ADU display, and are currently working on outfitting the display with a range of ADU information. Staff will publicize the display as an informational resource for residents interested in learning more about building an ADU.
6. *Multilingual materials.* Steps are underway to translate an updated “ADU Information & Worksheet” form into Spanish and Vietnamese. It is anticipated that the forms will be completed in June 2019.

Upcoming ADU Activities

Staff will continue to be involved in a variety of activities to promote ADUs and facilitate construction by proposing further Ordinance changes and streamlining the permitting process. These activities include:

1. *ADU Ordinance changes.* Staff is bringing forth additional refinements to the ADU Ordinance in June 2019 as part of the next Zoning Ordinance Quarterly Update. These changes, if adopted, would allow ADUs on single-family properties in “Cluster Permit” areas (a legacy permit type that was a precursor to Planned Development Zoning), and

would remove the requirement that detached ADUs are constructed in the rear yard to facilitate construction of ADUs on odd-shaped lots.

2. *“ADU Day” at Permit Center.* Staff is developing a plan to streamline ADU permitting through the creation of an “ADU Day” in the Permit Center. For one day a week, the Permit Center will dedicate staff to prioritize customers looking to construct an ADU. Staff is further exploring streamlining ADU approvals by creating a set of criteria for ADUs that can be approved Over-the-Counter in the Permit Center. For ADUs meeting the criteria, permits could be issued within an hour by staff in the Permit Center. Staff intends to launch “ADU Day” and the Over-the-Counter program in summer 2019.
3. *ADU Legislation.* Staff is tracking pending legislation that may require significant ordinance updates if passed, such as Assembly Bill 68 and Senate Bill 13. Drafts of these bills include:
 - Allowing ADUs on duplex and multifamily properties
 - Prohibiting the City from adopting any regulations that would result in requiring an ADU smaller 800 square feet
 - Requiring the City to approve all ADU permits within 60 days
 - Allowing an owner to request deferral of any enforcement action for an unpermitted ADU for up to ten years
 - Requiring further exceptions to parking requirements
4. *Amnesty Program.* Council has provided direction to staff to study an amnesty program that would legalize illegal non-conforming ADUs, as long as they are brought up to the standards included in the City’s ordinance. Staff will conduct research and bring options for a possible amnesty program to Council in October 2019.

COORDINATION

This memorandum has been coordinated with the City Attorney’s Office.

CEQA

Not a Project, File No. PP17-009. Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/

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For questions please contact Martina Davis, Supervising Planner, at (408) 535-7888.