



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

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**NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo**

MEETING DATE: March 26, 2019

TO: Board of Supervisors

FROM: Nevada County Planning Department

SUBJECT: A public hearing, continued from September 25, 2018, to consider an Ordinance amending Chapter II of the Nevada County Land Use and Development Code Section L-II 3.19.1 to incentivize the development and long-term residential use of Accessory Dwelling Units (ADUs) by: 1) prohibiting short-term rental of ADUs with exceptions for agritourism, the Soda Springs Rural Center and the Town of Truckee Sphere of Influence; 2) removing owner occupancy requirements; 3) providing a road and sewer maintenance fee deferral projects for ADUs when certain criteria are met; and 4) removing restrictions on ADUs on parcels with Employee Housing, including amending Chapter II of the Nevada County Land Use and Development Code Section L-II for consistency with the removal of this restriction. The Project also provides clarification regarding septic and water requirements for an ADU and allows for the development of an attached ADU on parcels less than one acre (ORD18-1).

RECOMMENDATION: Staff recommends that the Board of Supervisors take the following actions:

- I. Find the project is statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code 21080.17 and Sections 15061(b)(3), and 15282(h) of the California Environmental Quality Act (CEQA) Guidelines.
- II. Introduce, waive further reading and adopt the attached Ordinance (ORD18-1) amending Section 3.10 and Sections L-II 3.19.1 making the findings provided in the attached Ordinance (*Attachment 1*).

III. Close Board Order BO17-02.

FUNDING: No budget amendments are required.

ATTACHMENTS:

1. Draft Planning Ordinance- ORD18-1
 2. “Track Changes” version of Exhibit A of the Draft Planning Ordinance
 3. September 25, 2018 BOS Staff Report with Attachments Removed
 4. Mountain Housing Council of Tahoe Truckee: “Draft Policy Reconnedmantions (sic) Accessory Dwelling Units as of Jan 2019”
 5. Mountain Housing Council of Tahoe Truckee: “Tiny Homes on Wheels Allowed as Accessory Dwelling Units Issue and Policy Summary”
 6. SB2406: Junior Accessory Dwelling Units (JADU)
 7. Sample JADU Ordinance
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BACKGROUND:

On September 25, 2018, the Nevada County Board of Supervisors considered the Nevada County Planning Commission’s August 9, 2018 5-0 vote recommending to adopt revisions to the County’s ADU Ordinance based on the direction from the Board of Supervisors on September 12, 2017 (Board Order BO17-02). The September 25, 2018 Board Staff Report (with attachments removed) is provided in Attachment 3 for reference. On September 25, 2018, the Board of Supervisors continued the consideration of the proposed changes to the ADU ordinance in light of a pending report, being prepared by the Mountain Housing Council (MHC), intending to analyze the impacts of short-term rentals of ADUs in the Truckee/North Tahoe area. In addition, the Board of Supervisors held further discussion on their annual workshop in January 2019 following a presentation on ADUs and Housing by County staff and representatives of the MHC.

MOUNTAIN HOUSING COUNCIL REPORT AND RECOMMENDATIONS:

The Mountain Housing Council of Tahoe Truckee has been conducting research and compiling references and resources specific to ADUs. At the September 2018 Board meeting, a representative anticipated that their report would be completed by January 2019 and would focus on short term rentals and the impact of using ADUs for short term rentals in the North Tahoe/Truckee Region. The Board expressed interest in this report as it might apply to the ordinance that was being considered by the Board at that time. In late January 2019, following the Board Workshop, the Planning Department received portions of the MHC’s research including draft policy recommendations for ADUs as of January 2019 (Attachment 4). This document is in draft form and essentially calls for jurisdictions to update their ADU ordinances for compliance with recent state laws (SB1069, AB2299 and AB2406). The County through the adoption of Ordinance 2441 (September 12, 2017), amended its ADU regulations for compliance with SB1069 and AB2299. AB2406 developed provisions to allow “junior” ADUs as an option for

jurisdictions to address local housing needs. While incomplete, the MHC report does not address short term rental of ADUs, but does recommend that jurisdiction in the North Tahoe Truckee region consider allowing Junior ADUs (JADU) and tiny homes on wheels as a way to address housing issues in that region. These two recommendations are discussed below.

Tiny Homes on Wheels

A tiny home is considered in general terms to be defined as a home under 400 square feet on either wheels or a foundation. The County's current regulations would allow a home at or slightly less than 400 square feet so long as it is on a permanent foundation and can meet all California Building Code requirements for the structure to be occupied as a dwelling unit. If the tiny home is placed on wheels, it would be essentially considered a recreational vehicle for terms of the County's regulations and would not be allowed to be permanent housing unless it was located within an established mobile home park. Allowing tiny homes on wheels would essentially allow mobile homes on parcels throughout the County, which has been a significant code compliance issue and is not allowed on a permanent basis by the County codes and regulations. Consideration of an ordinance allowing tiny homes on wheels as recommended by the MHC (Attachment 5), would require a comprehensive review of the County's codes and regulations, including building standards and a public process to ensure compatibility with the General Plan and neighborhoods. Should the Board elect to pursue such an amendment, specific direction to staff could be provided and a recommendation from the Planning Commission regarding any proposed amendments would be required.

Junior ADUs

Like tiny homes on wheels, the MHC recommends that JADUs be considered by jurisdictions in the North Tahoe Truckee region to help address housing needs in that area. AB2406 developed criteria that can be considered by jurisdictions for providing additional housing opportunities within their boundaries. Allowing for JADUs is strictly an option at this time and is not a state mandated requirement. A Junior ADU is defined by state law as: "a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure." There is specific criteria that must be met to qualify as a JADU, such as but not limited to: providing both internal and external access to the unit; converting the existing dwelling; including an efficiency kitchen in the unit; requiring deed restricted owner occupancy of the principal residence; and other specific requirements (See Attachment 6 and 7). In addition to ADUs, current County codes allow for attached duets and duplexes as a by-right or allowed use in the residential zoning districts (RA/R1). Duetts and duplexes do not have size limitations nor do they require owner occupancy of either unit. Should the Board elect to adopt the attached ordinance, which removes the County's owner occupancy requirements from ADUs; JADUs have the potential to be more restrictive as they do require owner occupancy of the primary unit. Much like tiny homes on wheels above, to allow JADUs as recommended by the MHC, it would require a

comprehensive review of the County's codes and regulations, including building standards and a public process to ensure compatibility with the General Plan and neighborhoods. Should the Board elect to pursue such an amendment, specific direction to staff may be provided and a recommendation from the Planning Commission regarding any proposed amendments would be required.

PROPOSED ORDINANCE AMENDMENT:

The proposed project is a Zoning Text Amendment proposing to amend the County's Accessory Dwelling Unit (ADU) Ordinance (Land Use and Development Code Section L-II 3.19.1) to encourage the development of accessory dwelling units as one of County's strategies towards addressing the statewide affordable housing crisis. It has been amended from the Board of Supervisors original direction by the Planning Commission on August 9, 2017 and by discussion and direction from the Board of Supervisors on September 25, 2018 and from the January 2019 Board Workshop.

As shown in Attachment 1 (Draft Ordinance) and Attachment 2 (Track Changes) the proposed draft ordinance provides for the following:

1. Prohibit ADUs to be used as short-term rentals (as defined as less than 30 consecutive calendar days) but provides for exceptions to allow short-term rental of ADUs on properties that: a) qualify for agritourism activities as verified by the Agricultural Commissioner; b) properties in the Soda Springs Rural Center; and c) requires the rental of ADUs in the Truckee SOI to adhere to the rental standards of the Town of Truckee Zoning Ordinance as it applies to ADUs.
2. Adds a deed restriction requirement for ADUs to ensure rental provisions of the ordinance are adhered to.
3. Allow both the ADU and primary unit to be rentals, by eliminating all together the County's existing standard requiring one of the units to be owner occupied.
4. Removes the prohibition of ADUs on properties with employee housing and amends the County's Employee Housing Ordinance for consistency.
5. Allow for the deferral of permit and road/sewer mitigation fees if the accessory dwelling unit is deed restricted for very-low or low income individuals or under 800-square feet in size.
6. Remove the requirement that accessory second dwelling units must be attached units on properties under 1-acre in size, consistent with recent state legislation.
7. Further clarify the water and sewage disposal (septic) requirements for ADUs.
8. Clarifies that ADUs are not required to pay recreation mitigation fees.

ENVIRONMENTAL REVIEW:

The proposed Zoning Ordinance amendments are statutorily exempt pursuant to Sections 15061(b)(3), 15268, and 15282(h) of the California Environmental Quality Act (CEQA)

Guidelines. The text changes are covered by the general rule (15061(b)(3)) that CEQA applies only to projects, and exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. The proposed ADU ordinance would not allow any new uses and would not change the amount of potential development that is allowed under current regulations. Additionally, CEQA Guidelines Also, Section 15282(h) is an appropriate exemption from CEQA review for the adoption of an ordinance regarding accessory dwelling units to implement the provisions of Section 65852.2, which is the primary purpose of this project.

SUMMARY:

The proposed project is an amendment to the County's Accessory Dwelling Unit Ordinance to promote and incentivize the development of ADUs as a way to provide more rental housing opportunities in Nevada County. The ordinance has been modified from the September 25, 2018 draft based on direction from the Board of Supervisors. Specifically the ordinance promotes development of ADUs by providing incentives or removing restrictions including:

- Generally restricting the use of an ADU for short term rentals, with a few exceptions;
- Removing the existing owner occupancy requirement for either the primary dwelling or ADU as a way to increase the County's rental housing stock;
- Allowing detached ADUs on parcels under 1-acre consistent with state law;
- Clarifying septic disposal requirements for an ADU;
- Establishing a road and sewer mitigation fee deferral allowance for ADUs under certain circumstances; and
- Allowing ADUs on properties with established resource based employee housing.

In addition to making these amendments, staff has reviewed the information provided by the MHC as it relates to ADUs and as outlined above has determined that it will require further direction from the Board of Supervisors to pursue additional ordinance amendments to implement the recommendations outlined in the MHC's draft report.

RECOMMENDATION: Staff recommends that the Board of Supervisors take the following actions:

- I. Find the project is statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code 21080.17 and Sections 15061(b)(3), and 15282(h) of the California Environmental Quality Act (CEQA) Guidelines.
- II. Introduce, waive further reading and adopt the attached Ordinance (ORD18-1) amending Section 3.10 and Sections L-II 3.19.1 making the findings provided in the attached Ordinance (*Attachment I*).

III. Close Board Order BO17-02.

Item Initiated by: Tyler Barrington, Principal Planner

Approved by: Brian Foss, Director of Planning