



Public Comment # 38
County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Bos 11-15-21

Board Meeting Agenda on ADUs

Jennifer O'Connor <jenoasis@gmail.com>
To: edc.cob@edcgov.us

Sat, Nov 13, 2021 at 7:24 AM

Can an agreement be reached between El Dorado County and Georgetown Divide PUD to allow ADUs in Auburn Lake Trails?

Sincerely,
Jennifer O'Connor
3413 Sweetwater Trail
Cool, California



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Public comment for agenda item #38, file number 21-1698

Karen Mulvany <kmulvany@gmail.com>
To: edc.cob@edcgov.us
Cc: "C.J. Freeland" <cynthia.freeland@edcgov.us>

Mon, Nov 15, 2021 at 1:04 PM

Please see attached public comment for tomorrow's BOS meeting, agenda item #38, file number 21-1698

Thank you,

Karen Mulvany

 **2021 1115 ADU Ordinance Comments K Mulvany.pdf**
1018K

To: El Dorado County Board of Supervisors (edc.cob@edcgov.us),
CJ Freeland (cynthia.freeland@edcgov.us)
From: Karen Mulvany
Re: Updated ADU Ordinance Code (BOS meeting 11/16/2021,
agenda item #38, file number 21-1698)
Date: November 15, 2021

I am writing in as an advocate for people with developmental disabilities to provide public input on the County's proposed update to its ADU ordinance code. For people with disabilities, especially those who would have difficulty transitioning from the family home to a remote independent living site, ADUs are an especially valuable housing solution.

1. First, I would like to thank CJ Freeland and several others in the planning department who have taken input from me and others who represent the developmentally disabled population of this county and in the region. I am very grateful to find that the County's draft ordinance code includes several special recommendations that were requested to better meet the needs of disabled populations, notably:
 - a. Owner-occupancy exemptions for parcels with an ADU ("ADU parcels") for the following scenarios:
 - i. ADU parcels owned by a Special Needs Trust (SNT), which is needed because legally a SNT beneficiary is not an owner.
 - ii. ADU parcels owned by a community care facility (or a licensee of one)
 - b. Enabling distinctly numbered physical addresses for all types of ADUs and JADUs
 - i. Separate addresses are important for emergency responders, and mail and parcel delivery
 - ii. Separate addresses will also ensure that regional center services that are only available to individuals who live in a unit with a physical address different than their parents can be accessed when living in an ADU
 - iii. ***It would be helpful to add language to the ordinance code ensuring the right to a separate ADU or JADU address.***

These less restrictive provisions for ADUs in El Dorado County, coupled with its existing less restrictive provisions for ADUs up to 1600 square feet on larger parcels, will provide important living options for our most disadvantaged residents.

El Dorado County houses only 3% of its developmentally disabled regional center clients in a licensed community care facility (CCF), compared to 8% for the state as a whole. Consequently, facilitating development of more CCFs will reduce the county's IHSS expenditures, as CCF staff are entirely funded by state and federal sources, but are ineligible for IHSS, part of which is funded by the county.

Comments on the proposed ordinance and its compatibility with State law:

2. *Perpetual ADU owner Occupancy exemptions.* First, please correct the proposed owner occupancy exemptions in the ordinance code to ensure that ADUs permitted between 1/1/2020 and 12/31/2024 are permanently exempt.

- a. Section 65852.2 is documented online in the state’s Leginfo system in two versions: one for ADUs permitted between 1/1/2020 and 12/31/2024, and the other for ADUs permitted starting in 1/1/2025. See

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65852.2.&nodeTreePath=10.1.10.2&lawCode=GOV

The post-2024 Section 65852.2(a)(6)(A-B) states:

“(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), **a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.”**

- **There should be no requirement for a deed restriction mandating owner occupancy for parcels with an ADU that was or is permitted between 1/1/2020 and 12/31/2024.**

3. *New mandatory ADU reconveyance provisions.* AB 345, which was only recently chaptered into law in September 2021, now mandates that **local jurisdictions must allow an ADU to be sold separately from the principal dwelling under certain circumstances** (though the underlying parcel remains intact, subject to a tenancy in common agreement).

- a. Those circumstances include that the property is developed by a nonprofit, that it agrees to impose 45-year affordable housing restrictions on the parcel, and that it will restrict a sale of one of the dwellings to “qualified buyers” only, meaning low to moderate income buyers.

- b. See

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB345

4. *CC&R compliance requirements in County building permits.* State law (Civil Code Section 4751, pursuant to AB 670, which can be seen at

https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201920200AB670) now

broadly voids the enforcement of any provisions that prohibit or unreasonably restrict the construction or use of an ADU or Junior ADU on a lot zoned for single family residential use.

- a. However, section 7 of the El Dorado County building permit form at <https://www.edcgov.us/Government/building/Documents/Permit%20Application%20%28extra%20space%29%20%283%29.pdf> requires a permit applicant to verify that:

“The undersigned declares that he/she has read and understands the deed restrictions/CC&Rs applicable to the subject property, and that the improvement herein applied for does not violate any such restrictions. I also certify that I have submitted plans to the Architectural Control Committee (ACC) or to the local homeowners association, where required by said CC&Rs or deed restrictions, and have obtained approval for said improvement.”

- b. **Please request amendment of the County’s building permit form to exempt ADU applications from the current requirement to certify compliance with CC&Rs and deed restrictions.**
5. *ADU 30 day rental requirements incompatible with Lodging Facilities use.* ADUs now must be rented for a term of at least 30 days, per section 65852.2(e)(4). This would seemingly **prohibit ADU use as a guestroom in a Bed and Breakfast**, which is currently allowed in Ordinance code 130.40.170 “Lodging Facilities.”

Suggested ADU Provisions:

6. *Setbacks for wildfire safety.* There are several instances in the proposed ADU ordinance code where revised setback provisions for fire safety are mentioned, but not detailed. Consider whether, **in areas mapped by CalFire to be high fire risk or severe fire risk, the County should establish setbacks for new ADUs that extend the footprint of existing structures to comply with the existing setback standards associated with the principal dwelling, rather than the standard 4 foot setback for ADUs.**
 - a. Ignition risk via radiant heat is a function of the distance between one burning structure and another, and it would seem most appropriate in higher fire risk areas to ensure that homes are not unduly endangered by neighboring ADUs built in unusually close proximity.
7. *Pre-Approved ADU plans.* Some local jurisdictions have pre-approved select ADU plans which can dramatically speed the installation and final permitting of an ADU. Such options are especially valuable for families who unexpectedly find that they must quickly accommodate disadvantaged family members. Some factory built ADUs, such as Abodu (<https://abodu.com/>) are able to complete a turn-key installation in a matter of a few months if their units are pre-approved by a

local jurisdiction. It appears that such business models center on the pre-approved plan concept, as these units may not be available outside of pre-approved plan areas.

- A pre-approved plan model will reduce the load on planning staff, who are required to assess permit submissions within 60 days under state law.
- **The County may wish to conceptually plan to include pre-approved ADU plans and direct staff to return with an initial listing of proposed pre-approved ADU plans.**

8. *Phase Out Hardship Purposes for Section 130.40.190 Mobile/Manufactured Homes.* Relatively new provisions in state law prohibit restrictions disallowing mobile or manufactured homes to serve as ADUs. In essence, the county's legacy provisions for hardship homes have been supplanted by ADU codes which are intended to serve the same needs. Hardship homes are not preferred because such homes should be decommissioned in the absence of a qualifying family hardship, which is a wasteful approach to affordable housing. **Ideally, the county would phase out its hardship home ordinance code and guide families towards ADU options, which are plentiful.** This approach will also ensure that such dwellings are counted for RHNA purposes.

9. *Permit JADUs in detached larger ADUs.* As another less restrictive option to be implemented by El Dorado County, consider **enabling a Junior ADU to be formed within a 1200-1600 square foot detached ADU, instead of only within the primary dwelling.**

- a. This is arguably feasible anyway pursuant to section 65852.2(e)(1)(A)(i), which allows a junior ADU "within ...the existing space of ... an accessory structure," as well as section 65852.2(e)(1)(B), which states "The accessory dwelling unit may be combined with a Junior accessory dwelling unit described in subparagraph (A)."
- b. The statutes are confusing, but the county clearly has the power to implement a less restrictive ADU option pursuant to subsection (g). Combining an ADU and a Junior ADU in a single detached structure would preserve the appearance of the primary dwelling, and would be especially helpful for residential facilities that may need to provide housing for staff.

10. Consider **dropping the suggested requirement to locate the entrance of an attached ADU or JADU on a different building face than the entrance of the primary dwelling.**

- a. For the sake of first responders and ADU resident access to such services, the existence of a separate dwelling should be identifiable at the street.
- b. The options to locate an entrance in a junior ADU are likely to be limited, and a poor but feasible choice may dramatically impact the use of space in an already tight footprint.

Thank you for taking public comment.