

FROM PRESENTATION BY CATHERINE JURCA at Village Laguna General Meeting, Mon. Mar. 29, 2021

Staff have done a good job with the draft ordinance. But there are further opportunities to refine it that were not fully realized by the Planning Commission. Changes are needed to help ensure:

- ADUs are subject to local development standards where the State allows it;
- impacts on neighboring properties and neighborhood character are minimized;
- Laguna fully complies with State law;
- Laguna does not reduce the State's already very limited parking requirements.

There is no guarantee new ADUs will be affordable or that they will even serve as housing. Under State law ADUs and JADUs up to 1,000 square feet are not subject to design review. Laguna relies on design review to ensure compatibility and to balance the needs of applicants and neighbors. A property owner could build a new residence to the maximum floor area ratio, lot coverage, etc., and then, once the certificate of occupancy is issued, immediately get permits to add a new detached ADU. Thus ADU ordinances must be crafted as carefully as possible.

1) **Maximum Size.** State law allows local governments to impose a maximum of 850 square feet for a studio/one-bedroom or 1,000 square feet for a two-bedroom (ADU Gov. Code 65852.2(c)(2)(B)(1) and (2)). Laguna's draft ordinance *seems* to impose a maximum size of 850/1000 SF (25.17.040(C)(3)), but the Staff Report for the Planning Commission is ambiguous. It notes that "ADU and JADU projects that comply with the development standards will be subject to a ministerial process. Projects that deviate from these standards will require discretionary review" (March 3, 2021, p. 5). Planning staff have indicated via email that ADUs over 1,000 SF are possible; they just could not be approved ministerially. **Laguna's Ordinance should clearly prohibit ADUs over 850/1000 square feet, not use those sizes as a threshold that triggers discretionary review.**

2) **Local Development Standards.** Laguna's draft ordinance ignores that under state law, *only* proposed ADUs that are 800 square feet and under supersede local development standards such as FAR, lot coverage, and open space. Under state law, detached ADUs over 800 square feet are subject to the usual development standards; a larger detached ADU can be prohibited for failing to conform (65852.2(e)(B)(1)). Laguna's Ordinance proceeds as though *all* ADUs are exempt from local development standards such as FAR, lot coverage, and open space. **Laguna's Ordinance should correct this oversight**

and clarify that detached ADUs over 801 square feet must conform to local development standards.

3) **Controlling Design.** It is very difficult for cities to restrict ADU construction for units of 800 square feet or less, but Laguna can take steps as other cities have done to encourage the kind of ADUs they want. For example, the Ordinance can require that new detached ADUs be only one story. A property owner could *only* build a two-story ADU if that's the *only* way he or she could build a detached 800 square-foot ADU on the lot. Similarly, the Ordinance could prohibit anyone from adding an ADU by adding an additional story to the primary dwelling or from changing the front façade. Again, owners could *only* add a second story or change the front facade if that's the only way they could build an 800-square foot ADU. For properties on the California Register or the local historic register, exterior changes to create an ADU or JADU should not be visible from the street and should not alter character-defining features of the primary dwelling. **Laguna's Ordinance should do more to guide the construction of ADUs and JADUs that will have the least impact on neighbors and neighborhoods, in the absence of design review.**

4) **Rental Period.** Local governments must require rental terms "longer than 30 days" (65852.2(e)(4)). Laguna's draft Ordinance is out of compliance with the language of state law, because it prohibits rentals "for a period of less than 30 calendar days or less [sic]" (25.17.040(H)(10)). The point here is not that this mistake should be corrected but that in order to protect ADUs and JADUs that are needed as *housing* **Laguna's Ordinance should prohibit rentals of less than 180 days to prevent their use as vacation rentals.**

5) **Parking.** The State requires exemption from parking requirements for ADUs that are "located within one-half mile *walking* distance of public transit" (65852.2(d)(1)). The draft Laguna Ordinance submitted to the Planning Commission exempted parking for ADUS "located within one-half mile" of public transit. Given Laguna's topography, a property can be one-half mile from public transit as the crow flies, but far more than that in terms of walking distance. **Laguna's Ordinance should be revised so that the exemption applies only to properties within "one-half mile *walking* distance."**

6) **Parking:** Laguna Beach has a critical parking shortage, especially in the downtown. **Laguna's Ordinance should not exempt properties within one-half mile of the DSP from the parking requirements.**

7) **Patios, Balconies, Porches.** The Planning Commission suggested a limit on patios, balconies, and porches to 20% of the ADU or JADU. This is too large given that ADUs 800 square feet or less are exempt from development standards regarding lot coverage

and open space. **Laguna's Ordinance should limit patios, balconies, and porches to 5% of the total square footage or sixty square feet, whichever is less.**

8) **Elevated Decks.** The draft ordinance proposes that "elevated decks be subject to Chapter 25.50 (General Yard and Open Space Provisions), Section 25.50.040 (Design Review), or applicable Specific Plan area development standards, whichever is most restrictive" (25.17.040(F)(3)). But there is no design review for ADUs. Elevated decks create a lot of conflict among neighbors. **Laguna's Ordinance should ban elevated decks on ADUs.**

9) **Compatibility.** The draft ordinance requires "The architectural style, exterior materials and finish, color scheme, and roof design of an ADU shall be compatible with the primary dwelling building," but only if it is "visually prominent from any public or private roadways" (25.17.040(F)(1)). ADUs can be built up to 16 feet tall and four feet of the neighbors' property lines at the side and rear. "Visual prominence" is too subjective for ministerial approval and will likely fail to meet the state's requirements for objective criteria. **Laguna's Ordinance should require architectural compatibility. Alternatively, Laguna could preapprove specific prefabricated designs to ensure high quality, as Los Angeles has recently done.** (<https://www.latimes.com/entertainment-arts/story/2021-03-05/new-city-program-brings-high-design-concepts-to-granny-flat>)

10) **Prohibition of Sale of ADUs.** The draft Ordinance prohibits the sale of JADUs but not ADUs under 25.17.040(H)(3)(a). Under Gov. Code 65852.2(a)(1)(D)(i), **Laguna's Ordinance must prohibit the sale of ADUs,** unless it enacts by ordinance the very narrow exceptions included in 65852.26.

11) **Placement in Primary Dwelling.** Under Gov. Code 65852.2(e)(1)(A)(iv), JADUs are required to comply with Gov. Code 65852.22, which requires that a JADU be located within the primary dwelling (65852.22(a)(4)); the draft Ordinance indicates a JADU could be placed within the primary dwelling *or an ADU* (25.17.020). **Laguna's Ordinance needs to specify that JADUs must be located within the primary dwelling.**

12) **JADUs must include kitchen facilities.** Gov. Code 65852.22 requires that a JADU have an efficiency kitchen, "which shall include" "a cooking facility with appliances" and "a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit" 65852.22(a)(6)(A) and (B). **Laguna's Ordinance must add these kitchen provisions in its requirements for JADUs under 25.17.040(H)(6).**