



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: May 31, 2023

TO: Planning Commissioners

FROM: Tait Galloway, Deputy Director, Planning Department

SUBJECT: Item 1 – Housing Action Package 2.0

The Planning Department has amended the draft ordinance for the Housing Action Package 2.0 (HAP 2.0) submitted as Item 1 on the June 1, 2023, Planning Commission agenda. These changes affect the Missing Middle Homes Regulations implementing Senate Bill 10 (SB 10) and were made in coordination with the City Attorney's Office.

ADUs and JADUs

California Government Code Section 65913.5 which codifies SB 10 specifies that “the creation of up to two accessory dwelling units and two junior accessory dwelling units per parcel pursuant to Sections 65852.2 and 65852.22 of the Government Code shall not count towards the total number of units in a residential project...”. The Draft HAP 2.0 Code Amendments proposed to adjust the total number of allowed primary dwelling units based on the inclusion of accessory dwelling units; however, upon review by the City Attorney's Office, it was determined that this could inadvertently limit a development's by-right ability to develop accessory dwelling units and be inconsistent with state law. Therefore, staff proposes to amend the Missing Middle Homes Regulations to allow the total number of primary dwelling units on a parcel based on the zone and lot size and allow for additional ADUs and JADUs regardless of the number of primary dwelling units, up to the amount allowed and required by state law. The homeownership regulations would still require new development to be designed in a manner that would facilitate any future subdivision without any additional future physical improvements, meaning that any ADUs or JADUs included would be required to be laid out in a manner that facilitates conveyance with one (or two) of the primary dwelling units.

Deed Restriction

The Draft HAP 2.0 Code Amendments also included a requirement for all ADUs and JADUs utilizing the Missing Middle Homes Regulations to be deed-restricted for low and very low-income households. This could place a restriction on the by-right development of ADUs and JADUs and potentially conflict with state law. Therefore, staff proposes to amend the Missing Middle Homes Regulations to no longer require a deed restriction for ADUs and JADUs to ensure consistency with state law. Please refer to the original staff report for other applicable proposed regulations to address the need for affordable homes as part of implementation of the Missing Middle Housing Regulations.

To assist in your review, Section 143.1510 of the Draft HAP 2.0 Code Amendments has been provided below with amended sections highlighted.

§143.1510 **Supplemental Development Regulations**

An applicant seeking to utilize the provisions of this Division shall comply with all of the regulations in this Section.

(a) The development regulations of the RM-1-1 base zone shall apply, except for the following regulations specified in this section.

(b) Density Regulations. The maximum number of dwelling units on the premises shall not exceed the following:

(1) Development on a premises within a RM and Planned District Zone that permits multiple dwelling unit development, no more than 10 total dwelling units shall be permitted. unless the development includes ADUs or JADUs allowed under Section 143.1510 (n), in which case the dwelling unit limit in 143.1510 (n)(1)(c) would apply.

(2) Development on a premises within a RS, RX, RT and Planned District Zones that permits single dwelling unit development, no more than one dwelling unit for every 1,000 square feet of lot area or 10 dwelling units, whichever is less, shall be permitted. unless the development includes ADUs or JADUs allowed under Section 143.1510 (n), in which case the dwelling unit limit in 143.1510 (n)(1)(c) shall apply.

(c) through (n) no change

(o) Accessory Dwelling Unit and Junior Accessory Dwelling Unit

Regulations. This Division may be utilized in conjunction with Accessory Dwelling Unit and Junior Accessory Dwelling Unit development

consistent with the following regulations:

(1) An applicant may construct no more than two attached or detached Accessory Dwelling Units and no more than two Junior Accessory Dwelling Units in addition to the dwelling units permitted in accordance with this Division.

(A) Under no circumstances shall the total number of dwelling units on the premises, inclusive of Accessory Dwelling Units and Junior Accessory Dwelling Units, exceed 10 dwelling units.

(BA) The Accessory Dwelling Units shall comply with the regulations in Section 141.0302, except that no more than two Accessory Dwelling Units shall be permitted on the premises in a Multiple Dwelling Unit Zone, and no more than one Accessory Dwelling Unit shall be permitted on a premises in a Single Dwelling Unit Zone.

(CB) The Junior Accessory Dwelling Units shall comply with the regulations in Section 141.0302(d), except that no more than two Junior Dwelling Units shall be permitted on the premises in a Multiple Dwelling Unit Zone, and no more than one Junior Accessory Dwelling Unit shall be permitted

on a premises in a Single Dwelling Unit Zone.

(DC) Development constructed pursuant to this Division may not include bonus Accessory Dwelling Units allowed in section 141.0302(c)(2)(G).

(E) Any Accessory Dwelling Units or Junior Accessory Dwelling Units constructed under this section shall be deed restricted for very low income or low income households for a period of at least 55 years.

(p) through (r) no change

These amendments have been included in Attachment 1, which represents the most current version of the Draft HAP 2.0 Code Amendments.

Sincerely,



Tait Galloway
Deputy Director, Planning Department

Attachments: 1. Revised Draft HAP 2.0 Code Amendments
 2. Draft Missing Middle Homes Applicable Areas Map

cc: Chris Avila-Ackerman, Policy Advisor, Office of the Mayor
 Heidi Vonblum, Director, Planning Department
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