



# MINUTES

## Regular Meeting of the Planning Commission

**MONDAY, AUGUST 17, 2020**

City Council Chambers – Teleconference and Electronic Means  
1 Civic Center Drive, San Marcos, CA 92069

### **CALL TO ORDER**

At 6:33 p.m. Planning Commission Chair Flodine called the meeting to order.

### **Chair Flodine made the following statement:**

Pursuant to Governor Newsom's Executive Order N-29-20 dated March 17, 2020, and Executive Order N 33-20 dated March 19, 2020, issued with respect to COVID-19 pandemic, this Planning Commission meeting will be conducted utilizing teleconferencing and electronic mean. In the interest of reducing the spread of COVID-19, members of the public may only call in to hear the meeting and may not be present in the Council Chamber.

To submit a public comment at this Planning Commission meeting, please email [Ghenderson@san-marcos.net](mailto:Ghenderson@san-marcos.net) and write "Public Comment" in the subject line. In the body of the email, include the item number and/or title of the item as well as your comments. Email comments on matters not on the agenda must be submitted prior to the time the Chair calls the Oral Communications item. Email comments on any agenda item must be submitted prior to the time the Chair closes public comments on the agenda item. Please be advised that all emailed comments are subject to the same rules as would otherwise apply to speaker comments at any Planning Commission meeting, and that electronic comments on agenda items for this meeting may only be submitted by email. Comments via text message and/or social media (Facebook, Twitter, Instagram, etc.) will not be accepted.

The Planning Secretary will read all email comments, provided that the reading will not exceed three (3) minutes, or such other time as the Commissioners may provide, consistent with its ability to set time parameters for public comment at a Planning Commission meeting. If persons submitting their comments do not want their comment read out loud at the meeting (not to exceed three minutes), they should not "Do Not Read Out Loud at Meeting" at the top of the email. All emailed comments that were received by 4:00 p.m. today were provided to the Planning Commission members and included as "Supplemental Information" on the City's website prior to the meeting. Those comments received after 4:00 p.m. and prior to close of public comment on the applicable agenda item will be added to the record and will be shared with the Planning Commission members at the meeting.

Any presentations or materials provided by planning staff or applicants to be shared during this Planning Commission Meeting are available on the City's website.

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[www.san-marcos.net](http://www.san-marcos.net)



### **PLEDGE OF ALLEGIANCE**

Commissioner Musgrove led the Pledge of Allegiance to the Flag.

### **ROLL CALL**

The Secretary called the roll:

PRESENT BY TELECONFERENCE: COMMISSIONERS: NUTTALL, MATTHEWS, NORRIS, FLODINE, OLEKSY, MUSGROVE, CARROLL

ALTERNATE COMMISSIONERS IN AUDIENCE BY TELECONFERENCE: CRAIN

ABSENT: NONE

Also present were: Planning Manager Joe Farace; Principal Planner Saima Qureshy; Deputy City Attorney Punam Prahalad; Deputy City Attorney Julie Inman; Senior Office Specialist Gina Jackson

### **ORAL AND WRITTEN COMMUNICATIONS**

None were received by email or telephone prior to 4:00 p.m.

### **CONSENT CALENDAR**

#### **1. Approval of Minutes, 07/06/2020**

#### **Action:**

COMMISSIONER MUSGROVE MOVED TO APPROVE CONSENT CALENDAR ITEM #1 AS PRESENTED; SECONDED BY COMMISSIONER MATTHEWS. MOTION CARRIED BY THE FOLLOWING VOTE.

AYES:	COMMISSIONERS: NUTTALL, MATTHEWS, NORRIS, FLODINE, OLEKSY, MUSGROVE, CARROLL
NOES:	COMMISSIONERS: NONE
ABSENT:	COMMISSIONERS: NONE
ABSTAIN:	COMMISSIONERS: NONE

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## **PUBLIC HEARING**

### **2. Project No.:** TA20-0001/EX20-055

**Applicant:** City of San Marcos

**Request:** A request to modify Title 20 (Chapters 20.410 and 20.600) of the San Marcos Municipal Code to conform with the requirements of the 2019/2020 State Housing legislation relating to accessory dwelling units.

**Environmental Determination:** The project is categorically exempt from the California Environmental Quality Act (CEQA), Section 15378 of the CEQA Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. Even if the proposed Ordinance were to be considered a project to CEQA, it would be exempt from CEQA pursuant to Section 15061(b) (3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the proposed Ordinance would have a significant effect on the environment.

**Location of Property:** City-wide

**Assessor's Parcel No.:** N/A

**Joe Farace, Planning Manager:** Presented staff report and PowerPoint presentation. The request is for a recommendation to City Council to adopt an Ordinance amending current regulations for Accessory Dwelling Units (ADU). An ADU is a separate independent dwelling that is independent from the main dwelling and has a separate entrance. An ADU has a separate kitchen from the main dwelling, sleeping quarters and in most cases a separate bathroom. There are three types of ADUs; a junior ADU, attached ADU and detached ADU. In terms of junior ADUs, a junior ADU is a conversion of an existing living area that is located in the existing Single Family dwelling. It must have an efficient kitchen separate from the main dwelling; it may have a shared or separate bathroom from the main dwelling. This is an exception to the rule that I mentioned earlier. It could also include an expansion up to 150 square feet to accommodate access or separate entry. Junior ADUs were allowed under State law but they were not required to be part of a local jurisdictions ordinance if they didn't want to have Junior ADUs a part of that. They are now a requirement per State law. Next, an attached ADU is attached to the main dwelling. It can consist of new construction or conversion of an existing living area, with kitchen, bathroom and sleeping area from the main living area, and it supplies a separate entry from the main dwelling. A detached ADU is not attached to the main dwelling. It may be free standing attached to the detached garage or other accessory structure. It could consist of new construction or conversion of a rebuilt accessory structure or garage on the property. It will have a separate kitchen, bathroom and sleeping quarters from the main dwelling. As many of the Commissioners might know, throughout the past few years the State has progressively updated housing legislation in order to address statewide housing shortage. This legislation has taken multiple forms in order to create more housing and current changes to accessory dwelling units. On January 1, 2017 there was new regulations that went into effect, in which some of the bigger changes was to reduce parking and further facilitate conversion of structures. That ordinance did come before the Planning Commission and adopted by the City Council in July of 2017. This time around, a number of bills came through the legislator. Five of

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the new bills, which were effective in January of 2020, specifically addressed accessory dwelling units. Three of the bills had similar overlapping language. It's important to know the legislation voids all inconsistent city ordinances effective January 01, 2020 and defaults to the state law. In other words if you were to do nothing tonight, when those ADU applications come in, we'll apply the new legislation to those ADUs. There are notable changes to the ADU standards that I'll go over. There's a broader location criteria, changes to the number of ADUs on sight, reduced setback requirements, and parking requirements, as well as occupancy changes. In terms of ADU locations, the way the law reads states ADUs must be allowed in all zoning districts that allow residential uses including; Multifamily Zones, Single-family Residential Zones, Mixed-Use Zones and Specific Plan Areas. Properties that allow single-family uses can now allow one ADU and or one Junior ADU. In addition to the primary dwelling you can have an ADU, Junior ADU and the primary dwelling on the property. Properties that allow multi-family uses can allow two detached ADUs and within portions of the multi-family structure. These can be non-living areas or storage areas which can be converted to ADUs on site. ADU size; for a junior ADU up to 500 square feet is permitted and currently not allowed in the ordinance and now they will be allowed. For attached ADUs, 50 percent of the primary dwelling and limited to 850 square feet maximum except the unit could be no less than 800 square feet. The existing ordinance limits ADU to 30 percent of primary dwelling. Detached ADUs on less than 1-acre property are limited to 850 square feet for 1 bedroom and 1,000 square feet for a 2 bedroom. For properties greater than 1 acre, you can have 1,000 square foot ADU. Regarding setbacks, the State Legislation requires 4 foot side and rear setback. Currently our ordinance allows a 5 foot setback. The existing structure may be converted to an ADU even if the existing setbacks are less than 4 feet. Structures may be demolished and rebuilt within the same footprint and still qualify within the previous setback. In addition, as I noted, the structure may be expanded by up to 150 square feet to accommodate access. No ADU parking or replacement parking for main dwellings required for converted garage. In our ordinance, any pre-existing driveway parking must be maintained. There is also no parking requirement for a junior ADU, for accessory structure converted to an ADU, and State Legislation spells out specific situations including within ½ mile of public transit. We do require one parking space for new construction ADU, but that parking may be uncovered and may be tandem in the driveway. Another notable change is that there is no owner occupancy required for ADU applications received after January 1, 2020 and before January 1, 2025. What this means is that a property owner can rent out the ADU and the primary dwelling on site. Owner occupancy is required for Junior ADUs and short-term rentals are not allowed in ADUs. Other notable changes; the 16 foot height limit for detached ADUs, current ordinance is 15 feet. No impact fees for ADUs less than 750 square feet and impact fees for larger ADUs remain proportional to the main dwelling. Time for staff to review the ADU applications is now 60 days for approvals; it used to be 120 days. HOAs and CC&Rs prohibitions on ADUs are void per AB 670. State law does require that the ADU ordinance be sent to HCD within 60 days after local adoption. HCD agreed to review the City Ordinance pre-adoption to make sure we are in compliance with State Law. HCD did review the new ordinance to make sure we didn't run into any issues and provided some comments. Those comments are in the ordinance. A few of those comments are clarification regarding ADUs on Multi-family residential properties, ADUs in front setback when other locations not feasible and the City cannot regulate "privacy" with regards to adjoining properties. They had indicated existing ordinance language was discretionary in nature. The HCD comments are included in the packet. Staff's recommendation to City Council is to adopt the Categorical Exemption pursuant to the California Environmental Quality Act (CEQA) Section 15061(b)(3) and adopt Text Amendment TA20-0001 with Resolution PC20-4854. That concludes staff presentation and in addition to having Punam Prahalad

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here from our City Attorney's office, we have Julie Inman from our City Attorney's office. Julie worked with staff to draft the ordinance before you tonight.

**Planning Commissioner discussions included:** Would like clarification on the definition of a short-term rental; parking for single-family residences that may have an oversize driveway, would this still apply that this space cannot be used for an ADU if it's taking away existing parking; since this is a revision to an existing ordinance, have we gone through all of our ordinances to make sure we don't have a conflict sometime down the road; staff did a fantastic job of taking 38 pages of text and making it into 19 easy to follow slides; concerns with impact to the schools and if there is a fee for the schools; concerns with the increase in utilities when ADUs are added and if that is worked out during the permit process; concerns with added traffic and is a traffic study is required; kudos to staff for putting this together.

**Joe Farace, Planning Manager:** The ordinance indicates 31 days for a short-term rental. The way the ordinance reads right now depending on certain situations such as converting a garage, we are asking for those driveway spaces to be retained or the ADU that may exist in addition to a single-family dwelling. For a new ADU, they do have to provide an additional parking space. I'll have Julie Inman answer the question about conflicts with existing ordinances, however on the Planning side in terms of the ordinance we reviewed the ordinances to make sure there was no conflicting provisions in parts of the code to make sure they were consistent. An applicant for an ADU must acquire a building permit and therefore would be subject to school fees if required by the school district and also must obtain required will-service letters from service providers. No traffic studies are required in that the state requires that ADUs must be processed ministerially by local jurisdictions. Long-term traffic implications which may arise due to an increase in ADUs can be looked at as part of future traffic models for the vicinity and region.

**Julie Inman, Deputy City Attorney:** I would like to concur with what Joe just said; we reviewed and confirmed that there was not a conflict with any of our ordinances.

### **PUBLIC COMMENTS**

**Marlene Walder, resident:** (per email submitted) Do ADU and Junior ADUs count for the numbers in our requirements for affordable apartments and housing in San Marcos? If so, what percentage of the goal do you think these will become in the coming year?

**Joe Farace, Planning Manager:** ADUs and Junior ADUs are reflected in our RHNA housing numbers but do not currently account for affordable units in the City. As part of the ADU legislation that went into effect in January, AB 671 requires a local agency to update their Housing Element to develop programs to offer ADUs at affordable rent.

### **CLOSE PUBLIC HEARING**

**Planning Commissioner discussions included:**

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Commissioners had no additional discussions

**Action:**

COMMISSIONER MATTHEWS MOVED TO RECOMMEND TO CITY COUNCIL PC20-4854, TA20-0001/EX20-055; SECONDED BY COMMISSIONER MUSGROVE. MOTION CARRIED BY THE FOLLOWING VOTE.

AYES:	COMMISSIONERS: NUTTALL, MATTHEWS, NORRIS, FLODINE, OLEKSY, MUSGROVE, CARROLL
NOES:	COMMISSIONERS: NONE
ABSENT:	COMMISSIONERS: NONE
ABSTAIN:	COMMISSIONERS: NONE

**PLANNING MANAGER COMMENTS**

On July 14, 2020, City Council heard the Eden Park item with changes to the traffic signal installation. If you recall staff brought a recommendation to Planning Commission for a set amount of time and renew the time for installation of a traffic signal for when it would take place versus being triggered with the occupancy of Phase 1B. City Council heard this item and brought up many of the same issues the Planning Commission brought up. Specifically under the current climate and dealing with COVID, having a set time frame for putting the traffic signal up did not make sense at this time. They went ahead and concurred with the Planning Commission recommendation to revise the condition back to the original form with installation of the traffic signal with Phase 1B. No Planning Commission meeting is scheduled in early September due to the Labor Day holiday. The next Planning Commission meeting is September 21, 2020. Not sure if we will have a meeting for this day and may carry over to October. And this concludes my comments.

**PLANNING COMMISSIONERS COMMENTS**

No additional comments were made.

**ADJOURNMENT**

At 7:18 p.m. Chair Flodine adjourned the meeting.

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ERIC FLODINE, CHAIRMAN  
CITY OF SAN MARCOS PLANNING COMMISSION

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ATTEST:

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GINA JACKSON, SENIOR OFFICE SPECIALIST  
CITY OF SAN MARCOS PLANNING COMMISSION

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