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Orinda approves revised accessory dwelling unit law

By Sora O'Doherty

The city of Orinda is ready to adopt a revised ordinance on accessory dwelling units (ADUs) prepared by staff in response to changes in the law at the state level. According to Planning Director Drummond Buckley, the state shows no signs of letting up in its push to somehow accommodate more housing in California and to limit the discretion of the cities to restrict building. The new law is scheduled to be adopted upon its second reading on May 19.

Orinda has chosen to avail of its right to limit ADUs to 16 feet in height with the exceptions that an ADU that is built over a garage or is attached to a residence and within the required set-back for the zone in which it is located can rise to 27 feet. In accordance with state law, an ADU that is limited to 16 feet can now be as close as 4 feet to the side and rear lot lines. Beyond that, things have gotten somewhat more complex, with several different categories of ADU. A junior ADU (JADU) is very small, only a maximum of 500 square feet, and is wholly within an existing residence. Residents of Orinda are now allowed to have one ADU and one JADU on their property.

A streamlined ADU, which includes JADUs, applies to wholly contained units within the existing residence as well as smaller detached ADUs to a maximum of 800 square feet. Streamlined ADUs and JADUs within the allowable size are never subject to design review. A standard ADU is now limited to 850 square feet for a one-bedroom unit and 1,000 square feet for a two-bedroom unit. Standard ADUs no longer trigger the maximum FAR (floor area ratio) and design review is not required under any circumstances.

When Council Member Nick Kosla asked about the difference between variance and an exception, Buckley said that a variance is type of permit for something that does not comply with local rules, and Orinda has something like a "variance light permit," called an exception. Variances do not apply to uses, but only to development standards, and exceptions are even more limited.

Deputy city attorney Sara Clark explained that variances usually accommodate unusual circumstances, for example, a lot shaped like a pie or steeply sloped in one area. A variance provides very limited discretion, has to comply with state regulations and can't be used, for example, to ask for a variance of 300 square feet to build an ADU of 1,500 square feet. Kosla asked if the city could set conditions for approving a variance and Buckley said that they can.

Council Member Inga Miller complimented staff on their really thoughtful proposals. She said she thinks that the 27 feet allowed for an over-the-garage unit is a nice thing for the city to adopt, while not obligated to do so.

Vice Mayor Amy Worth thanked the planning and legal staffs for their work on "very complex issues as we weave our way through the state requirements." The ordinance, she said, "enables members of our community to have the opportunity to provide ADUs for their families." There are "more and more multi-generational families, people who would need care in their homes," or otherwise have need of an ADU. Worth supported the ordinance, and praised the incredible care that went into crafting it. However, she also urged that staff return to the council as soon as possible with an ordinance on accessory structures. In the interests of preserving aesthetics and privacy, she said that both ordinances should be consistent. Mayor Darlene Gee agreed.

There was no public comment on the ordinance.

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