


STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: August 28, 2023

TO: City Planning Commission

FROM: Fred Ramirez, Assistant Community Development Director - Planning 
Via: Scott Plambaeck, Planning Manager
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SUBJECT: Project No. 23-0007623, A Proposed Zone Text Amendment (ZTA) to Modify the Existing Development Standards for Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) in all Single-Family and Multi-Family Residential Zones, and on any Lots with Proposed or Existing Single-Family or Multifamily Uses to Ensure Consistency with Changes to Government Code Sections 65852.2 and 65852.22

RECOMMENDATION

Adopt a RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BURBANK RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 10, CHAPTER 1 (ZONING) OF THE BURBANK MUNICIPAL CODE TO UPDATE THE EXISTING DEVELOPMENT STANDARDS FOR ACCESSORY DWELING UNITS AND JUNIOR ACCESSORY DWELLING UNITS IN ALL SINGLE-FAMILY AND MULTI-FAMILY RESIDENTAL ZONES, AND ON ANY LOTS WITH PROPOSED OR EXISTING SINGLE-FAMILY OR MULTIFAMILY USES TO ENSURE CONSISTENCY WITH STATE LAW (Exhibit A)

BACKGROUND

On December 13, 2022, the City Council adopted an Urgency Ordinance (Exhibit C) that established interim Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) development standards that are consistent with recent amendments to State law (Senate Bill (SB) 897 and Assembly Bill (AB) 2221 (collectively, "State ADU/JADU Laws")). Consistent with state and local laws, the Urgency Ordinance was extended on

January 27, 2023, continuing the interim ADU/JADU development standards until December 12, 2023, in order to give the City additional time to study more permanent updates to the City's ADU/JADU development standards.

Senate Bill 897 and Assembly Bill 2221 amended California Government Code Sections 65852.2, 65852.22, and Health and Safety Code Section 17980.12, and added California Government Code Section 65852.23 (Exhibit D). Amongst other provisions, the recent amendments modified statewide regulations for ADU and JADU development standards and controls that include, but are not limited to: increasing the maximum height limits from 17 feet to 18 feet (or in some instances 20 feet) for certain ADUs, requiring that local ordinances only impose objective development standards on ADUs, limiting front yard setback requirements where construction of certain ADUs is otherwise infeasible, and other procedural requirements. These amendments to the State ADU/JADU Laws became effective on January 1, 2023.

The extension of the adopted Urgency Ordinance temporarily reconciled inconsistencies between the City's local ADU/JADU development standards, and the amended State ADU/JADU Laws. Before the extension of the Urgency Ordinance expires and leaves the City susceptible to legal challenges to the validity of the City's local ADU/JADU development standards, the Planning Commission and City Council should consider a more permanent Zone Text Amendment (ZTA) to preserve local control over ADU and JADU development within the City, and avoid the imposition of otherwise-applicable statewide development standards for local ADUs and JADUs.

DISCUSSION

The State has identified housing shortage as an issue of statewide significance. SB 897 and AB 2221 are examples of multiple approaches the California Legislature has taken to streamline the production of housing. The proposed ZTA would provide updated City procedures and development standards for ADUs and JADUs that are consistent with State law. The proposed ZTA seeks to protect the City from legal challenges to the validity of its ADU regulations by ensuring that the City's ADU/ JADU development standards are consistent with current state law. Furthermore, the proposed ADU/JADU regulations help maintain as much local control as permitted under state law in regulating these projects. Pursuant to California Government Code Section 65852.2, local ordinances that fail to meet the requirements of State ADU/JADU Laws may be considered null and void in their entirety, and the local jurisdiction will thereafter be limited to only applying state law standards without local refinements to all local ADU and JADU development projects.

Proposed Zone Text Amendment

The specifics of the amended Government Code Section 65852.2 and 65852.22, which are most applicable to the proposed ZTA, are noted below:

ADU Development Standard and Control Modifications (Government Code Section 65852.2)

Certain amendments to state law made by SB 897 and AB 2221 require modifications to the City's local ADU/JADU design and development standards (Burbank Municipal Code

Section 10-1-620.3). Among the most significant changes required to be made to the City's ADU regulations, which are proposed in the ZTA, include:

- Less restrictive height limits for detached ADUs that include:
 - A maximum height of 18 feet for a detached ADU on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half mile walking distance of a "major transit stop" or a "high-quality transit corridor," along with an additional two feet increase in height beyond the 18 feet to accommodate a roof pitch on the ADU to match the roof pitch of the primary dwelling unit. Pursuant to state law, a "major transit stop" means a site containing a rail or bus rapid transit station, a ferry terminal served by a bus or rail transit service, an intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods, or a major transit stop included in a regional transportation plan.¹ A "high quality transit corridor" is defined in state law as a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.² A map showing the properties within a 1/2 mile walking distance of high-quality transit corridors and major transit stops within the City is attached (Exhibit E). Furthermore, an additional two feet in height beyond the maximum 18 feet must be allowed to accommodate a roof pitch on the ADU that matches the roof pitch of the primary dwelling.
 - A maximum height of 18 feet for a detached ADU on a lot with an existing or proposed multifamily, multistory dwelling.

The City's current height requirements for detached ADUs limits height to 17 feet. The proposed ZTA maintains this general 17-foot height limitation for detached ADUs, and adds the exceptions described above.

- Permitted construction of ADUs in front yard setback areas if it is otherwise infeasible to build an 800 square foot ADU with 4-foot side and rear yard setbacks anywhere else on the lot.

The City's current zoning regulations prohibits any ADU or JADU construction in the front yard setback, except for ADU conversions of existing buildings that are already located in the front yard setback (which is also required by state law). The proposed ZTA will add the new front yard setback exception described above. However, in order to encourage the construction of ADUs in the rear of the lot and increase the likelihood that it is feasible to place an 800 square foot ADU in the rear lot (and thus disqualify an applicant from placing an ADU in the front yard setback), staff recommends adjusting the physical infeasibility determination by allowing a reduction in the minimum rear and side yard setback from 4-feet to 2-feet. In those instances, if an applicant cannot build an ADU while maintaining the required 4-foot rear and side yard setbacks, an applicant can request reduced

¹ Cal. Public Resources Code §21155.

² Id.

setbacks to no less than 2 feet to facilitate the construction of up to an 800 square foot ADU in the rear of the property. Furthermore, if it is still physically infeasible to place an 800 square foot ADU in the rear yard, an applicant will be limited to constructing an 800 square foot ADU in the front yard setback, which is less than the otherwise-permitted maximum square footage of 850 or 1,000 square feet.

To qualify for this exception, an applicant must provide exhibits demonstrating that the construction of an ADU in the rear yard is not physically feasible even with 2-foot side and/or rear setbacks. ADUs built in this manner must still comply with all other local development standards and will be required to be placed in a location that maximizes the width of actual setbacks.

- Prohibition on denying an ADU application due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures, unless such conditions present a threat to public health and safety.

The proposed ZTA confirms this prohibition in the context of legal nonconforming setbacks, and provides that such nonconforming setbacks must be corrected during an ADU conversion or addition only if they present a threat to public health and safety based on applicable Building and Fire Codes, as determined by the Building Official. The proposed ZTA also clarifies that such nonconforming setbacks must be corrected if they violate a previously recorded real property interest such as a recorded easement or fee dedication, which falls outside of the state law prohibition.

- State clarification that installation of fire sprinklers in an ADU cannot be required if fire sprinklers are not required for the primary dwelling unit, and clarification that construction of an ADU, by itself, does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

The proposed ZTA incorporates this clarification into the Code.

- Clarification that any demolition permit for a detached garage that is to be replaced with an ADU must be reviewed with the application for the ADU and issued at the same time as the permit to construct the ADU.

The proposed ZTA incorporates this clarification into the Code.

- Limiting City regulations of ADUs to the imposition of only objective development standards. State law defines “objective standards” as standards that involve no personal or subjective judgement by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.³

³ Government Code Section 65852.2(j)(7).

Since the City cannot enforce any subjective development standards, staff is recommending removing or modifying existing development standards that are otherwise subjective in nature, so that all ADU development standards within the City's Code are objective and enforceable.

JADU Development Standard and Control Modifications (Government Code Section 65852.22)

The state's ADU/JADU laws also require the following modifications to the City's JADU development standards (Burbank Municipal Code 10-1-620.3(P)):

- If a permitted JADU does not include a separate bathroom within the JADU, then the permitted JADU must include a separate entrance from the main entrance to the structure, with interior entry to the main living area of the primary dwelling.

Other Procedural Modifications

- State ADU/JADU Laws require the City to clarify that if the City denies an application for an ADU or JADU within the applicable ministerial review period, the City must return a full set of written comments to the applicant, listing items that are defective or deficient and describing how the application may be corrected. The proposed ZTA incorporates this requirement.
- State law provides that code compliant ADUs and JADUs must be allowed on any lot that includes a single family dwelling unit, and ADUs must also be allowed on lots containing multifamily dwelling units. The BMC currently allows ADUs and JADUs in residential zones. However, because of recent changes to state law allowing multifamily residential developments in certain nonresidential zones, as well as the existence of a small number of legal nonconforming single family residential dwellings in nonresidential zones, the proposed ZTA updates the use table for nonresidential zones to include ADUs and JADUs in certain areas.

Recommended Modification to Existing Development Standards (BMC Section 10-1-620.3)

Staff recommends the following additional modifications to the existing ADU development standards:

- ADU square footage is measured from exterior wall to exterior wall, unless the ADU shares a wall with the primary dwelling, in which case, it is measured from the midpoint within the shared wall to the exterior wall. The code does not currently specify how ADU square footage is measured.
- Any portion of a structure, including the area above a staircase, over 12 feet in interior height, shall count towards the total allowable square footage as if a second story were within the space. This means that any space with a ceiling or top of plate exceeding the maximum allowed one story height shall be considered as constituting two stories and shall be counted twice, consistent with R-1 (Single-Family Residential) development standards BMC Section 10-1-603(D)(3).

- An existing accessory structure may be converted to an ADU with a maximum overall square footage of the greater of (1) up to 850 square feet for one-bedroom or studio ADUs, or 1,000 square feet when the ADU provides two or more bedrooms; or (2) the square footage of the existing accessory structure. This clarification is consistent with state law.

Recommended Modifications to Parking (BMC Sections 10-1-620.3)

- Under the current BMC, when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the City may not require that those off-street parking spaces be replaced, which is consistent with state law.⁴ Staff proposes clarifying this requirement by providing that it only applies if the ADU footprint overlaps with the footprint of the demolished or converted structure, or if the demolished or converted structure otherwise impedes access to accommodate an ADU.
- Required onsite parking for an ADU or JADU can be tandem and in an existing driveway or within any existing setback area, unless specific findings are made that parking in setback areas or tandem parking is not feasible. Currently, the Code is silent on the development standards applicable to onsite parking. The proposed ZTA provides that when a designated parking area is provided and is not located in the driveway as tandem, the parking space must meet the minimum required parking space dimensions, turning radius, and backup distance as required in the Code.
- The Code is currently silent on whether an applicant may install a new curb cut and driveway to accommodate ADU parking. The proposed ZTA clarifies that a new curb cut and driveway may be installed on a property so long as a minimum vehicle parking stall dimension, 18'-0" deep and 8'-6" wide, can be provided and the driveway and curb cut satisfies certain development standards outlined in the Code. A new driveway may only be installed when no additional parking areas exist on a property that meet the minimum parking stall dimensions.

Findings for Adding a Use

In accordance with Burbank Municipal Code Section 10-1-1991, the following findings can be made in conjunction with the addition of ADUs and JADUs as permitted uses in certain nonresidential zones:

1. *The addition of the use will be in accord with the purposes of the zone in which it is proposed to be listed.*

The inclusion of ADUs and JADUs as permitted uses in the City's nonresidential zones pursuant to state-mandated ADU/JADU regulations, which includes all of

⁴ Government Code Section 65852.2

the City's commercial and industrial zones will allow the proposed residential land uses at an intensity and density as mandated by State ADU/JADU Laws. The proposed use would not adversely conflict with the intended purpose of the City's commercial zones (i.e., C-1, C-2, C-3, and C-4), which provide for the buying and selling of goods and services including the conducting of general commercial uses, and the development of retail centers for the shopping and personal needs of surrounding neighborhoods. Further, the proposed use would not adversely impact the intended uses of the City's industrial zones (i.e., M-1 and M-2) by allowing the continued focus promoting the development of fabrication, manufacturing, assembly and processing of materials that are already in processed form and/or the fabrication and assembly of goods and materials. It is anticipated that the future development of ADUs and JADUs in these zones are limited to very few parcels where previously legally established non-conforming residential structures already exist and the state prescribed requirements provide the potential to build a limited number of ADUs/JADUs per affected lot.

2. *The proposed use is compatible with and has the same basic characteristics as the other permitted uses.*

The City's nonresidential zones allow for a range of commercial and industrial uses as permitted and conditionally permitted uses. The by-right development of state-mandated ADUs/JADUs on nonresidential zoned lots with existing residential structures that provide for the development of one or more ADUs and JADUs would not adversely impact the basic characteristics of the general commercial, service commercial, retail, wholesale, warehouse, manufacturing, fabrication, and assembly of goods and materials that are the primary and ancillary uses allowed in these nonresidential zones. Furthermore, residential uses are already conditionally permitted uses in the City's commercial zones in the form of multifamily, mixed use developments (i.e., C-1 through C-4) and similarly multifamily residential can be considered as a allowable use via a discretionary review process (i.e., planned development) in the City's industrial zones (M-1 and M-2) and also considered as an allowed use per the permitted density under the City's General Plan pursuant to state-mandated requirements under Senate Bill 35 adopted in 2017 (California Government Code Section 65913.4) and Assembly Bill 2011 adopted in 2022 (California Government Code Sections 65400 and 65585).

3. *The proposed use can be expected to conform with the required conditions for the zone.*

The proposed ADU/JADU use shall comply with the applicable development standards as amended by the City to comply with state-mandated requirements for any proposed development of this type in the City's non-residential zones. In many instances the required setbacks, building height, and resulting floor area ratio resulting from the proposed ADUs/JADUs is more restrictive than the underlying development standards that would otherwise apply to new developments in the City's nonresidential, commercial and industrial zones.

4. *The proposed use will not be detrimental to the public health, safety or welfare.*

The proposed development of ADU/JADU uses in the City's nonresidential zones are not anticipated to result in a detrimental impact to public health, safety, or welfare. Any future development of these types of use in the nonresidential zones will require strict adherence to the latest City building, life and safety codes, which ensure that future habitants of these structures and surrounding land uses are protected from any potential impact to public health, safety, and welfare.

5. *The proposed use will not adversely affect the character of the zone.*

The development of ADU/JADU uses in the City's nonresidential zones will not adversely impact the character of the City's nonresidential zones, which include the City's commercial and industrial zones. The commercial zones will continue to provide for a range of retail, commercial, service commercial uses in one to multistory structures with ancillary and support facilities. The commercial zones will continue to facilitate the manufacturing, fabrication and warehousing uses that facilitate the processing and development of goods and materials in primary one to two story buildings with ancillary uses. The development of ADU/JADU uses in these zones is limited to few nonresidential zoned parcels with existing residential structures, which is a not a dominant land use and therefore the character of the zone will be preserved.

6. *The proposed use will not create more vehicular or other traffic than the volume normally created by any of the uses permitted.*

The development of ADU/JADU uses in the City's nonresidential zones will not create more vehicular or other traffic than normally created by the commercial industrial uses in the City's nonresidential zones since one or more ADUs and/or JADUs being built in these zones would provide for a handful of trips per affected site during peak morning and evening times as compared to the potential trip generation and traffic volumes from more commercial and industrial intensive uses with employees, customers and truck traffic coming to these zones during morning and evening peaks as well as during midday lunch activities, as is the case for commercial zones with shopping center developments that focus on retail, commercial and service commercial uses that include but are not limited to restaurant, dry cleaning, and coffee shop type uses.

7. *The proposed use will not create more odor, dust, dirt, smoke, noise, vibration, illumination, glare, unsightliness, or any other objectionable influence than the amount, if any, normally created by any of the permitted uses.*

The development of ADU/JADU uses in the City's nonresidential zones will not create more odor, dust, dirt, smoke, noise, vibration, illumination, glare,

unsightliness, or any other objectionable influence than the amount created by any other permitted use in the City's nonresidential zones. The proposed development of these one and/or two-story residential structures would result in structures that do not create more objectionable environmental and/or quality of life impacts than could result from the development of commercial uses and industrial uses currently allowed in the City's nonresidential zones. Furthermore, any future development would have to comply with the applicable development standards and building code requirements that address construction noise and dust mitigation and future operation of the residential use would continue to be subject to the City's ADU/JADU development standards and the City's nuisance abatement requirements for any violation of the Burbank Municipal Code.

8. *The proposed use will not create any greater hazard of fire or explosion than the hazards normally created by any of the permitted uses.*

The development of ADU/JADU uses in the City's nonresidential zones will not create any greater hazard of fire or explosion than hazards normally created by any of the permitted uses in the City's nonresidential zones. The development of ADUs/JADUs shall comply with the City's building and fire codes ensuring that the future residential structures protect the health and safety of future residents and surrounding land uses.

9. *The proposed use will not cause substantial injury to the values of property in the zone in which it is proposed to be listed or in any abutting zone.*

The development of ADU/JADU uses in the City's nonresidential zones will not cause substantial injury to the values of property in the zone in which it is proposed to be listed or in any abutting zone. These residential structures will be limited to ADUs and JADUs as prescribed in state and local ADU/JADU regulations, therefore it is not anticipated that this type of residential development, which is limited to a small number of nonresidential zoned parcels with existing residential structures will result in a majority land use diminishing the ability for continued operation of maintenance commercial and industrial land uses that exist, and may be developed over time in these nonresidential zones consistent with the intended purpose of abiding by the City's zoning regulations and applicable goals and policies of the City's General Plan.

Findings for Approval of a Zone Text Amendment

California Government Code Section 65860 requires that any zone text amendment be consistent with the objectives, policies, general land uses, and programs specified in the Burbank2035 General Plan and the provisions of Title 10, Chapter 1 (Zoning) of the Burbank Municipal Code.

Consistency with the Burbank2035 General Plan

In accordance with California Government Code Section 65860, the proposed Zone Text Amendment, associated Ordinance and Resolutions have been determined to be

consistent with the Burbank2035 General Plan and the provisions of Title 10, Chapter 1 (Zoning) of the Burbank Municipal Code, and are compatible with the objectives, policies, general land uses and programs specified therein, and more specifically, the Land Use Element and Housing Element as described below.

As noted in the attached Ordinance (Attachment A), the proposed ZTA is consistent with the following Burbank2035 General Plan goals and policies:

LAND USE ELEMENT GOAL 1 QUALITY OF LIFE

Burbank maintains a high quality of life by carefully balancing the needs of residents, businesses, and visitors.

- Policy 1.1 *Accommodate a mix of residential and non-residential land uses in appropriate locations that support the diverse needs of Burbank residents, businesses, and visitors. Provide opportunities for living, commerce, employment, recreation, education, culture, entertainment, civic engagement, and socializing.*

The proposed ZTA furthers this goal and policy by establishing development standards for ADUs and JADUs that further encourage the development of accessory dwelling units by modifying development standards that allow for a wide range of ADU and JADU developments in ways that benefit the health, safety, and welfare of City residents and visitors while being consistent with state ADU law. The proposed ZTA also furthers this goal and associated policy by establishing updated standards to accommodate ADU projects in nonresidential zones as long as a permitted single-family or multi-family dwelling currently exists or is proposed and approved on the subject lot. This will result in commercial zones and commercial corridors that may provide for new infill residential development.

LAND USE ELEMENT GOAL 3 COMMUNITY DESIGN AND CHARACTER

Burbank's well-designed neighborhoods and buildings and enhanced streets and public spaces contribute to a strong sense of place and "small town" feeling reflective of the past.

- Policy 3.4 *Avoid abrupt changes in density, intensity, scale, and height and provide gradual transitions between different development types.*
- Policy 3.7 *Ensure that lots and buildings appropriately interact with and address public streets.*

The proposed ZTA furthers this goal and associated policies by establishing updated design and development standards for ADU projects in residential zones and other applicable lots that provide new infill residential development. The standards included in the ZTA are intended to achieve a design and scale that is consistent with existing residential neighborhoods, with appropriate setbacks and

overall size of development that are consistent with state law, that produce properly scaled ADUs with objective design standards being applied. The ZTA includes modifications to height, setback, floor area, and objective design standards that ensure consistency with state law and compatibility with the character of the surrounding neighborhood to the furthest extent possible.

LAND USE ELEMENT GOAL 5 HOUSING

Burbank provides housing options for people and families with diverse needs and resources.

- Policy 5.1 *Provide for a variety of residential neighborhoods with varying densities and housing types.*
- Policy 5.3 *Provide more diverse housing opportunities, increase home ownership opportunities, and support affordable housing by encouraging alternative and innovative forms of housing.*
- Policy 5.4 *Allow residential units in traditionally non-residential areas, and support adaptive reuse of non-residential buildings for residential and live-work units in Downtown Burbank and other appropriate locations.*
- Policy 5.5 *Provide options for more people to live near work and public transit by allowing higher residential densities in employment centers such as Downtown Burbank and the Media District.*

The proposed ZTA furthers this goal and associated policies by establishing updated standards to accommodate ADU projects in nonresidential zones as long as a permitted single-family or multi-family dwelling currently exists or is proposed and approved on the subject lot. This will result in commercial zones and commercial corridors that may provide for new infill residential development. The standards included in the ZTA are intended to achieve a design and scale that is consistent with existing residential neighborhoods, with appropriate setbacks and overall size of development that produce properly scaled ADUs with objective design standards being applied. The ZTA includes modifications to height, setback, floor area, and objective design standards that ensure consistency with state law and compatibility with the character of the surrounding neighborhood to the furthest extent possible.

LAND USE ELEMENT GOAL 8 LOW DENSITY RESIDENTIAL LAND USE

Low Density Residential neighborhoods define Burbank's small town feeling and provide the basis for the quality of life that Burbank residents enjoy. The following policies apply to Low Density Residential land uses in Burbank.

- Policy 8.2: *Limit building to a size and scale that is consistent with the predominant neighborhood character and avoids overbuilding. New, remodeled, and expanded homes should respect existing neighborhood character.*
- Policy 8.5: *Ensure that second dwelling units, child day-care facilities, and group living facilities are allowed, as required by and consistent with state and federal laws. Regulate such uses to the extent allowed by law to prevent unintended effects on the neighborhood and to avoid a proliferation of such uses in one neighborhood.*

The proposed ZTA furthers this goal and associated policies by establishing updated design and development standards that are consistent with state law that limit ADUs and JADUs in terms floor area, heights, setbacks and objective design standards to the extent allowed by state law. The standards included in the ZTA are intended to achieve a design and scale that is consistent with existing residential neighborhoods, with appropriate setbacks and overall size of development that produce properly scaled ADUs with objective design standards being applied.

Further, the proposed ZTA fulfills some of the programs listed in the Burbank2035 General Plan 2021-2029 Housing Element, including:

- 2021-2029 HOUSING ELEMENT PROGRAM #6a. PROMOTE ACCESSORY DWELLING UNITS (ADUs)

The proposed ZTA furthers the above Housing Element program to promote Accessory Dwelling Units (ADU) by modifying ADU and JADU development standards such as height limits, front setback restrictions, and applying only objective development standard to be consistent with state law and to allow for a wider range of ADU and JADU development outcomes. The ZTA would allow homeowners and developers added flexibility in the design and placement of their ADUs, which would aid in increasing housing production and help the City's meet its Regional Housing Needs Assessment (RHNA) allocation for the current 6th planning cycle of our General Plan Housing Element, which calls for accommodating 8,772 new dwelling units at various levels of affordability by October 2029.

PUBLIC NOTICE AND PUBLIC OUTREACH

To ensure members of the public had the opportunity to learn more about the ZTA and provide feedback or suggestions to the City, staff conducted a community meeting on July 12, 2023. Notifications for the community meeting were distributed through a newspaper of general circulation, the City's social media, the City Calendar, and the

planning division website. In addition to the community meeting held on July 12th, staff also individually met with a few members from the public who were not able to attend the virtual community meeting but expressed a desire to discuss the project with staff. Some concerns that were expressed by the community were regarding housing affordability, parking congestion, and ADUs located in the front yard.

One member of the public recommended a strategy to address the issue of housing affordability through monitoring ADU rental revenue using data tracking to ensure affordable housing equity and investigating who was receiving the rental payments. The City does not collect such data for any other type of rental property. Additionally, staff clarified to members of the public that state law does not require on-site parking for ADUs if such ADU/JADU can meet one of the exceptions provided for under state law. Staff did inform members of the community that they could reach out to city staff in the Transportation Division to inquire about the process for the consideration of a neighborhood protection plan or permit parking for certain neighborhoods.

Other community members recommended creating incentives to encourage people to build new detached ADUs instead of converting existing garages to maintain parking or install hardscaping to provide parking for the ADU. One way to incentivize people to build new parking for ADUs is to allow additional square-footage for the ADU beyond the allowed maximum square footage, if additional onsite parking is voluntarily provided. In doing so, these incentives may help mitigate parking impacts to existing on-street parking. As a result, staff has proposed up to an additional 120 square feet to the maximum size of one ADU when the proposed development includes providing additional onsite parking, which would be subject to covenant or other deed restriction that ensures preservation of the new parking for the life of the project, as referenced in Exhibit A.

If the Planning Commission recommends approval of this ZTA, staff anticipates that the City Council will consider the proposed ZTA at a public hearing on October 17, 2023, and will be preparing the legal public notifications inviting both residents and members of the community to learn more about the proposed ZTA and provide comments at the public hearing.

Finally, in conformance with BMC Section 10-1-1994, staff provided public notice in a newspaper of general circulation in the City on August 9, 2023, for the proposed ZTA to be heard by the Planning Commission at their regular meeting of August 28, 2023.

ENVIRONMENTAL ASSESSMENT

Pursuant to Section 21080.17 of the California Public Resources Code (PRC), adoption of the Zone Text Amendment and Ordinance is exempt from the California Environmental Quality Act (CEQA). Under PRC Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (State ADU law). The ZTA implements California Government Code Sections 65852.2 and 65852.22 within the City of Burbank in a manner that is consistent

with the requirements of state ADU/JADU laws. As such, the proposed ZTA and Ordinance is exempt from CEQA.

INTERDEPARTMENTAL REVIEW

The proposed ZTA was distributed to other City Departments and other Divisions within the Community Development Department for review and feedback to ensure the proposed objective development standards are consistent with or compatible with other City development standards that affect development. Staff received comments from Public Works and Burbank Water & Power, which were incorporated into the proposed ZTA. Additionally, staff will be continuing to work with the City Attorney’s Office on the ordinance in anticipation of the City Council’s review. However, staff does not expect the purpose or intent of the ZTA to change significantly or alter any of the proposed development standards to the extent that there is a substantive difference from what is presented as part of this report.

FISCAL IMPACT

There is no significant fiscal impact to the City’s General Fund by adopting the proposed ZTA. Future ADUs and JADUs would be processed through the City’s planning and building plan check and permitting process, which includes the payment of associated City building permit and development fees. Proponents of future development would be required to pay the associated development impact fees as well as any required infrastructure connection and maintenance fees.

CONCLUSION

The changes outlined in the proposed ZTA are intended to resolve inconsistencies between the City’s local ADU/JADU development standards, and the amended state ADU/JADU laws. Without the adoption of the proposed ZTA, the City may be vulnerable to legal challenges of its ADU/ JADU regulations due to potential inconsistencies with current State ADU law. The proposed ZTA will facilitate ongoing responsible development of new housing units, which create new housing opportunities and building types to meet the city’s RHNA Allocation, while putting in place development standards as allowed by state law that help preserve and protect the character of existing residential neighborhoods and maintains as much local control as allowed under applicable regulations.

EXHIBITS

- EXHIBIT A.** Planning Commission Resolution with Draft City Ordinance
- EXHIBIT B.** Proposed Redline Changes to BMC
- EXHIBIT C.** Urgency Ordinance Nos. 22-3,987 and 23-3,988
- EXHIBIT D.** Senate Bill 897 and Assembly Bill 2221
- EXHIBIT E.** City Map of Properties located one-half mile of a High-Quality Transit Corridor or a Major Transit Stop