



DATE: August 5, 2020

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE ZONING ORDINANCE AND IMPLEMENTING DOCUMENT OF THE LOCAL COASTAL PROGRAM FOR ACCESSORY DWELLING UNIT ORDINANCE REVISIONS**

SYNOPSIS

Staff recommends that the City Council introduce an ordinance amending Article 30, Section 3006 of the Zoning Ordinance (ZA20-00001) and adopt a resolution establishing the amended text as part of the implementing document of the Local Coastal Program (LCPA20-00001) to incorporate the recent amendments to state Accessory Dwelling Unit (ADU) regulations and ensure that the City's ADU ordinance remains in full compliance with state law.

BACKGROUND

The State Legislature enacted ADU legislation in 2017 and 2018 amending Government Code Section 65852.2 with the intent to reduce regulatory barriers and costs, streamline approval, and expand the potential capacity for ADUs in response to California's housing shortage. The City Council adopted revised ADU regulations on September 9, 2017, and May 9, 2018, that brought the City's ADU standards into compliance with state law. The revisions amended Article 30, Section 3006 of the Zoning Ordinance and established the amended text as part of the implementing document of the Local Coastal Program.

In 2019, a series of bills were introduced to further streamline and promote the construction of ADUs in response to California's housing shortage. Although the previous legislation significantly streamlined the ADU permitting process, the authors of these bills found ambiguities in the ADU statutes that can slow or block the construction of ADUs. The most recent amendments to state law are primarily intended to address these ambiguities. On October 9, 2019, the Governor signed six ADU related bills into law, three of which (SB 13, AB 68, and AB 881) require amendment of the City's existing ADU ordinance.

PROJECT DESCRIPTION

As with the previous statute, the 2020 legislation includes several mandated components that must be incorporated into the Zoning Ordinance to bring it into compliance with state law. The new legislation reduces a local jurisdiction's ability to restrict or prohibit ADUs based on lot size, unit size, and setbacks. The legislation introduces a provision for a "by-right" ADU with reduced setbacks and exemptions from certain development standards. In addition, a jurisdiction must allow junior accessory dwelling units (JADUs) in combination with the construction of a new detached ADU as well as permitting ADUs in existing multi-family developments under specific conditions.

The following provisions represent the key changes to state law that must be incorporated into the City's ADU ordinance. Due to the number of changes, Section 3006 of Article 30 has been completely rewritten. A copy of the draft text amendments is attached to the City Council Ordinance (Attachment 1 – Exhibit A). Additional analysis is provided in the Planning Commission staff report (Attachment 3).

SB 13 (Wieckowski), AB 68 (Ting), AB 881 (Bloom) (Govt Code Sections 65852.2 and 65852.22)

- a. An 850 square-foot ADU, or 1,000 square-foot ADU with more than one bedroom, (attached or detached) with a maximum height of 16 feet and four-foot side and rear setbacks shall be permitted in any circumstance. No lot coverage shall apply.

Also known as the "by-right" provision, this provision expressly prohibits a jurisdiction from denying or prohibiting ADUs less than 800 square-feet if they meet the basic criteria. As clarification, the law also specifies that a local agency shall not adopt an ordinance that prohibits an ADU that is less than 850 square-feet, or a 1,000 square-foot ADU with more than one bedroom, (attached or detached). Staff believes it would be easier to administer if both provisions utilize the same 850 square-feet minimum which is reflected in the draft Ordinance.

- b. A junior accessory dwelling unit (JADU) shall be allowed within the space of an existing/proposed primary dwelling in accordance with Govt. Code 65852.22.

JADUs were previously optional and not mandated by state law and were not included in previous provisions of the Zoning Ordinance.

- c. JADU and ADU Combination: A JADU may be established in the primary dwelling in combination with a new construction detached ADU.

This provision allows a property to potentially have three dwelling units, although the appearance would be two buildings: one primary unit with an indistinguishable JADU and a separate ADU that is limited to 850 square-feet in size.

d. Multi-Family Provisions (Only applies to existing multi-family developments)

- An existing multi-family dwelling shall allow the construction of at least one ADU or up to 25 percent of the existing units in non-livable space, including, but not limited to, storage rooms, passageways, attics, basements, or closets.
 - Not more than two detached ADUs may be allowed, either 850 square-feet, or 1,000 square-feet with more than one bedroom, with a maximum height of 16 feet and four-foot side and rear setbacks.
- e. An existing structure proposed to be converted to an ADU may be completely reconstructed in the same footprint and dimensions as the existing structure.
- f. New or separate utility connections shall not be required for an ADU created within an existing structure. The City may require a new or separate utility connection, including submeters, for new attached or detached ADUs that are not in an existing structure.
- g. No replacement parking for a primary dwelling shall be required if a garage is converted into an ADU.
- h. Rental of an ADU or JADU shall be for a term longer than 30 days per state law. No STRs are allowed.
- i. Building permit review of an ADU shall occur within 60 days of submittal.
- j. An adopted ordinance must be sent to the Department of Housing and Community (HCD) within 60 days of approval to determine compliance with state law.

In addition to the bills described above, three other ADU related bills were signed into law and became effective on January 1, 2020. However, these bills will not be codified in the ADU ordinance. This additional legislation includes the following bills:

- a. AB 587 (Friedman): An ADU may be sold or conveyed separately from the primary residence to a qualified buyer for a property that was developed by a qualified nonprofit corporation (Govt Code Sec. 65852.26).
- b. AB 670 (Friedman): Voids Covenant, Conditions & Restrictions (CC&Rs) that prohibit or unreasonably restricts the construction of ADUs or JADUs (Sec. 4751 of the Civil Code).
- c. AB 671 (Friedman): Requires housing elements to include a plan that incentivizes and promotes the creation of ADUs that can be offered at affordable rent for very low, low, or moderate-income households (Govt Code Sec. 65583 and Sec. 50504.5 of the Health and Safety Code).

ANALYSIS

The recent revisions to ADU law reiterate the California State Legislature's commitment to streamlining review and reducing regulatory barriers to the construction of ADUs. The City has recognized the importance of ADUs as both a source of affordable housing as well as supplemental income for homeowners and has previously taken steps to streamline the approval process for Oceanside homeowners.

These efforts include a dedicated webpage (oceansideadu.com), a fact sheet, reduction and waiver of permitting fees, a dedicated ADU fee schedule, and an informational workshop hosted last November in partnership with the ADU Coalition of San Diego and AARP. Following these efforts, the City has seen a substantial increase in the number of ADU building permit applications, with over 150 applications submitted since 2017.

The proposed revisions to Zoning Ordinance Section 3006 would bring the ADU ordinance into full compliance with state law and would further ease regulatory barriers to the establishment of ADUs in both single-family and multi-family zone districts. The proposed ordinance continues to protect existing neighborhoods by including design requirements and the provision that neither the primary dwelling nor the ADU shall be used as short-term rentals.

FISCAL IMPACT

State law mandates that ADUs shall not be considered new residential construction for the purposes of calculating utility connection fees or capacity charges. All impact fees must be charged in accordance with the Fee Mitigation Act (Government Code Section 66000), which requires fees to be proportional to the actual impact on services. With the exception of proportionate water system buy-in fees and school fees, the City would not assess impact fees for the construction of ADUs.

Fees assessed on ADUs would be significantly less than those applicable to new single-family dwellings. This may result in loss of revenue from fees that would otherwise be collected from the construction of a new home. It is anticipated that the City will realize income from increased property tax revenues generated by the construction of attached or detached ADUs.

COMMISSION/COMMITTEE REPORT

On April 20, 2020, the Planning Commission conducted a public hearing on the proposed amendments, and after due consideration, adopted a resolution by a 7-0 vote forwarding the amendments to City Council with a unanimous recommendation of approval.

ENVIRONMENTAL DETERMINATION

The proposed text amendments are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Article 18, Section 15282(h) as they involve the adoption of an ordinance regarding second units in a single-family or multi-

family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code.

CITY ATTORNEY'S ANALYSIS

The City Council is authorized to hold a public hearing in this matter. Consideration of the matter should be based on the testimony and evidence presented at the hearing. After conducting the public hearing, the Council shall affirm, modify or deny the project. The supporting document(s) has been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff recommends that the City Council introduce an ordinance amending Article 30, Section 3006 of the Zoning Ordinance (ZA20-00001) and adopt a resolution establishing the amended text as part of the implementing document of the Local Coastal Program (LCPA20-00001) to incorporate the recent amendments to state Accessory Dwelling Unit (ADU) regulations and ensure that the City's ADU ordinance remains in full compliance with state law.

PREPARED BY:



Rob Dmohowski
Associate Planner

SUBMITTED BY:



Deanna Lorson
City Manager

REVIEWED BY:

Jonathan Borrego, Deputy City Manager
Jeff Hunt, City Planner



Attachments:

1. City Council Ordinance (ZA20-00001)
2. City Council Resolution (LCPA20-00001)
3. Planning Commission staff report dated April 20, 2020

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING ARTICLE 30, SECTION 3006 OF THE ZONING ORDINANCE TO ESTABLISH REVISED ACCESSORY DWELLING UNIT REGULATIONS CONFORMING TO THE PROVISIONS OF GOVERNMENT CODE SECTIONS 65852.2. and 65852.22

(ZA20-00001)

WHEREAS, the Planning Division has prepared text amendments to the City's Accessory Dwelling Unit regulations conforming to the provisions of Government Code Section 65852.2 and 65852.22; and

WHEREAS, on April 20, 2020, the Planning Commission conducted a duly-noticed public hearing as prescribed by law and recommended City Council approval of said zoning ordinance text amendments by unanimous vote; and

WHEREAS, said changes require amendment of the implementing document of the City's Local Coastal Program, which must be certified by the California Coastal Commission prior to becoming effective; and

WHEREAS, based upon such evidence, testimony and staff reports, this Council finds that Zone Amendment ZA20-00001 conforms to the General Plan and Local Coastal Program of the City of Oceanside; and

WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of Oceanside for this project pursuant to the California Environmental Quality Act of the 1970 and State Guidelines;

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

SECTION 1. Zone Amendment (ZA20-00001), amending Article 30, Section 3006 of the Zoning Ordinance and establishing the amended text as part of the implementing document of the City's Local Coastal Program, as specified in Exhibit A, is hereby adopted.

EXHIBIT A

3006 Accessory Dwelling Units

The purpose of this section is to provide regulations for the establishment of accessory dwelling units (ADU) and junior accessory dwelling units (JADU) in areas zoned to allow single-family or multifamily use pursuant to Government Code Section 65852.2 et seq. and the goals and policies of the City's Housing Element. ADUs provide an important source of affordable housing in existing residential neighborhoods where adequate public facilities and services are available.

Consistent with state law, an ADU or JADU which conforms to the requirements of this subsection shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. An ADU or JADU shall not be considered development for the purposes of the imposition of development impact fees.

A. Permitted Unit Type and Definition.

1. Accessory Dwelling Unit (ADU): An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and shall be located on the same parcel as the primary dwelling or multi-family development. An ADU also includes an efficiency unit and manufactured home. An ADU may serve as a rental unit for more than 30 days or be occupied by a person or persons including, but not limited to family members, guests, or caretakers.
2. Junior Accessory Dwelling Unit (JADU): A residential dwelling unit, as defined in Government Code Section 65852.22, that is no more than 500 square feet in size and contained entirely within an existing or proposed single-family structure. A JADU shall include an efficiency kitchen, and may include separate sanitation facilities or share sanitation facilities with the existing dwelling. A JADU may serve as a rental unit for more than 30 days. Owner-occupancy of either primary dwelling or JADU is required by state law.
3. Efficiency Unit: An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code may be permitted for occupancy by no more than two persons. The efficiency unit shall have a minimum floor area of 150 square-feet and shall have a bathroom facility and a partial kitchen.

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4. **Manufactured Home:** A manufactured home, as defined in Section 18007 of the Health and Safety Code, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the travelling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The unit shall comply with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401).
5. **Prohibited Units:** Mobile homes, as defined in Section 18008 of the Health and Safety Code, recreational vehicles, trailers, or similar units, shall not be allowed as ADUs.

B. Where Permitted.

1. ADUs are permitted in all zone districts allowing single-family or multifamily use on lots developed with existing or proposed dwellings.
2. An ADU may be established in the following methods:
 - a. Attached to, or located within, an existing or proposed primary dwelling.
 - b. A new detached structure, or located within or attached to an accessory structure, including detached garages or similar structures.
 - c. Conversion of existing attached or detached accessory structures, including garages, storage areas, or similar structures.
 - d. Reconstruction of an existing structure or living area that is proposed to be converted to an ADU, or a portion thereof, in the same location and to the same dimensions and setbacks as the existing structure.
3. A Junior ADU (JADU) may be established within the space of the primary dwelling, including an attached garage or accessory structure.
4. A JADU may be established within the space of the primary dwelling in combination with the construction of one

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detached, new construction ADU not exceeding 850 square-feet and a height of 16 feet with four-foot side and rear setbacks.

5. The existing unit may be considered the ADU, and a new primary dwelling unit built, if all applicable zoning requirements are met.
6. ADUs shall be permitted on lots developed with existing multi-family dwellings subject to the following provisions:
 - a. The property shall be developed with an existing multi-family structure(s).
 - b. A minimum of one ADU may be constructed, or up to 25 percent of the existing unit count, within non-livable space, including, but not limited to, storage rooms, passageways, attics, basements, or closets.
 - c. The construction of two detached ADUs with a maximum size of 850 square feet, or 1,000 square feet with more than one bedroom, shall be permitted in addition to ADUs created within non-livable space, subject to a maximum height of 16 feet, and four-foot side and rear setbacks.
 - d. Existing livable space of multi-family dwelling units shall not be converted to ADUs.

C. Permit Requirements:

1. The City shall ministerially review and act on a building permit application for an ADU or JADU within 60 days after receiving the application. An ADU or JADU proposed with a permit application for a new primary dwelling shall not be approved until the primary dwelling receives approval. A certificate of occupancy for an ADU or JADU shall not be issued before occupancy is granted for the primary dwelling.
2. ADUs and JADUs shall comply with all applicable Building Code requirements.
3. The City shall not require the correction of nonconforming zoning conditions as a condition for ministerial approval.
4. ADUs and JADUs within the coastal zone shall be subject to applicable requirements of the Local Coastal Program except for that no public hearing shall be required.

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D. Development Standards.

1. ADU Type, Location & Size.

- a. Attached Unit: An ADU attached to an existing primary dwelling shall have a minimum size of 150 square feet and shall not exceed 50 percent of the total existing or proposed living area of the primary dwelling, except as provided by the By-Right Provision in Section 3006.D.1.d.
- b. Detached Unit: An ADU structurally independent and detached from the existing primary dwelling shall have a minimum size of 150 square feet and shall not exceed 1,200 square feet.
- c. Conversion of Existing Structure: An ADU constructed within the footprint of an existing dwelling or attached or detached structure shall not be subject to a maximum square-footage of living area.
- d. By-Right Provision: An attached or detached ADU with a maximum size of 850 square-feet or 1,000 square-foot with more than one bedroom shall be permitted in any circumstance subject to a maximum height of 16 feet, four foot side and rear setbacks, and compliance with all building codes. No minimum lot size or lot coverage requirement shall apply.
- e. ADUs shall have independent exterior access from the primary dwelling. No passageway to the primary dwelling shall be required.
- f. ADUs shall not be required to provide fire sprinklers if they are not required for the primary residence.

2. JADU Location and Size.

- a. A JADU shall be constructed entirely within an existing or proposed primary dwelling and shall not exceed 500 square-feet.
- b. JADUs shall have an independent exterior entrance from the primary dwelling, but may also include shared access between the two units.

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3. Required Setbacks.

- a. An attached or detached ADU not exceeding 850 square feet or 1,000 square feet with more than one bedroom, and a height no greater than 16 feet shall provide a setback of no more than four feet from the side and rear property lines. ADUs exceeding the maximum square footage or height specified in this provision shall be subject to compliance with setbacks of the underlying zoning district.
- b. Cornices and eaves may project into the required yards by no more than one foot.
- c. All ADUs shall meet the front yard setback.
- d. When an ADU is created within an existing structure, the side and rear setbacks must be sufficient for fire safety as determined by the Fire Department.
- e. No setback shall be required for an existing garage or accessory structure converted, or portion thereof, to an ADU and no setback shall be required for a new structure constructed in the same location and same dimensions as an existing structure.
- f. An ADU constructed above an existing garage or dwelling unit, exceeding 16-feet in height, shall meet the side and rear setbacks of the underlying zoning district.
- g. Roof top decks shall be permitted in accordance with Article 30, Section 3018.
- h. Staircases serving an ADU shall provide a setback of no less than four feet from the side and rear property lines subject to approval by the Fire Department.
- i. Within the coastal zone, an existing garage or accessory structure converted to an ADU unit or an ADU above a garage shall be consistent with all habitat preserve buffers and geological stability setbacks in the certified Local Coastal Program.

4. Height and Maximum Lot Coverage.

- a. ADUs exceeding 850 square feet or 1,000 square feet with more than one bedroom, and/or a height of 16feet shall comply with the height and maximum lot coverage of the underlying zoning district.

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5. Parking.

- a. One additional off-street parking space shall be required per unit; with exceptions per Section 3006.D.5.g.
- b. No parking space shall be required for an ADU or JADU established within an existing or proposed structure.
- c. Parking spaces shall be a minimum dimension of 9 foot by 18 foot except as specified below.
- d. Parking spaces may be located in any configuration on the same lot as the ADU, including, but not limited to, as covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts.
- e. Required off-street parking shall be permitted in front, side, and rear setback areas subject to the following:
 - i. Parking may be located on an existing driveway but shall not block sidewalk access or encroach into the public right-of-way.
 - ii. Parking spaces within a side yard must have a minimum clear space width of 10-feet. Vehicles shall not block exterior windows or doors of a dwelling or access to utility boxes or meters.
 - iii. Vehicles must be parked on an acceptable surface of concrete, asphalt, gravel, brick, permeable paver or other stable, dust-free surface.
 - iv. No more than 50% of a front yard shall be dedicated to vehicle parking.
 - v. No parking shall be allowed in front yard landscaping areas.
 - vi. Access to on-site parking spaces shall be provided via an approved driveway location only.
- f. When a garage, carport, or covered parking structure that provides the required spaces for the primary dwelling is demolished or converted in conjunction with the construction of an ADU, no replacement parking shall be required.

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- g. Parking Exemption: A parking space for an ADU shall not be required in any of the following instances:
 - i. The ADU is located within one-half mile walking distance of public transit.
 - ii. The ADU is located within an architecturally and historically significant historic district.
 - iii. The ADU is part of the existing or proposed primary residence or an existing accessory structure.
 - iv. When on-street parking permits are required but not offered to the occupant of the ADU.
 - v. When there is a car share vehicle located within one block of the ADU.
- 5. Design. ADUs shall be architecturally compatible with the primary dwelling in terms of design, building and roofing materials, colors, and exterior finishes. The ADU may have a flat or pitched roof.
- 6. Impact Fees & Utilities.
 - a. The City shall not impose any impact fees upon the development of an ADU or JADU.
 - b. ADUs and JADUs shall comply with water and sewer requirements as determined by the Water Utilities Department. ADUs shall not be considered a new residential use for the purposes of calculating new utility connection fees or capacity charges for water and sewer service.
 - c. The City shall not require a new or separate utility connection or impose a related connection fee or capacity charge for ADUs or JADUs that are contained within an existing residence or accessory structure.
 - d. For new attached and detached ADUs, the City may require a new or separate utility connection. The fee must be proportionate to the burden of the unit upon the water or sewer system and shall not exceed the reasonable cost of providing the service.
 - e. Where a private sewage disposal system is being used by

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the ADU, approval by the local health officer may be required.

E. Conditions.

1. An ADU/JADU shall not be sold or otherwise conveyed separate from the primary residence.
2. An ADU/JADU may serve as a rental unit or be occupied by family members, guests, or in-home health care providers, and others at no cost.
3. Neither the ADU/JADU nor the primary dwelling unit shall be rented for a term of less than 31 days. ADUs on multi-family properties shall be subject to this provision, except the restriction shall not apply to existing multi-family units.
4. Owner-occupancy shall be required for a property developed with a JADU. The owner may reside in either the primary dwelling or the JADU.
5. The property owner shall record a covenant, approved as to form by the City Attorney, declaring compliance with each and every condition referenced in this section.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING THE IMPLEMENTING DOCUMENT OF THE LOCAL COASTAL PROGRAM TO ESTABLISH ACCESSORY DWELLING UNIT REGULATIONS CONFORMING TO THE PROVISIONS OF GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22 REQUESTING CALIFORNIA COASTAL COMMISSION CERTIFICATION OF SAID AMENDMENT

(City of Oceanside –Applicant)

(LCPA20-00001)

WHEREAS, the California Coastal Act (Public Resources Code §30000, et seq.) (the "Coastal Act") requires that the City adopt a Local Coastal Program (LCP) which meets the requirements of the Coastal Act at the local level and implements its provisions and policies;

WHEREAS, on January 25, 1985, the California Coastal Commission ("Commission") approved with suggested modifications, the City's Land Use Plan ("LUP") and, pursuant to Public Resources Code §30512.2, found the City's LUP to be consistent with the policies and requirements of Chapter 3 of the Coastal Act and to meet the basic stated goals specified in Public Resources Code §30001.5;

WHEREAS, the Planning Division has prepared text amendments to Article 30, Section 3006 of the Zoning Ordinance to establish revised Accessory Dwelling Unit regulations conforming to the provisions of Government Code Sections 65852.2 and 65852.22 to establish the amended text of Article 30, Section 3006 as part of the implementing documents of the Local Coastal Program; and

WHEREAS, on April 20, 2020, the Planning Commission conducted a duly-advertised public hearing as prescribed by law and recommended City Council approval of said recommendations by a unanimous vote; and

WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and the State Guidelines thereto amended to date and is hereby approved by the City Council in

1 conjunction with its recommendations on the application; and

2 WHEREAS, the City Council finds that the Local Coastal Program Amendment
3 (LCPA20-00001) conforms with and is adequate to carry out the land use plan of the Local
4 Coastal Program.

5 NOW, THEREFORE, the Oceanside City Council of the City of Oceanside DOES
6 RESOLVE as follows:

- 7
- 8 1. Pursuant to Public Resources Code §30510(a), the Oceanside City Council hereby
9 certifies that the Local Coastal Program Amendment (LCPA20-00001) is intended to be
10 carried out in a manner fully in conformity with the Coastal Act and said LCPA is
11 hereby adopted.
 - 12 2. Pursuant to the California Environmental Quality Act of 1970, and the State Guidelines
13 thereto amended to date, a Notice of Exemption has been issued for the project by the
14 Resource Officer for the City of Oceanside.
 - 15 3. Pursuant to Coastal Commission Local Coastal Program Regulations §13551(b), this
16 amendment shall take effect upon Coastal Commission approval.
 - 17 4. Notice is hereby given that the time within which judicial review must be sought on the
18 decision is governed by Public Resources Code §30801.

19 PASSED AND ADOPTED by the Oceanside City Council on this 5th day of August,
20 2020, by the following vote:

21 AYES:

22 NAYS:

23 ABSENT:

24 ABSTAIN:

25
26 _____
27 Mayor of the City of Oceanside

28 ATTEST:

APPROVED AS TO FORM:

City Clerk



City Attorney



DATE: April 20, 2020 ATTACHMENT 3

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF ZONE AMENDMENT (ZA20-00001) AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA20-00001) AMENDING ARTICLE 30, SECTION 3006 OF THE ZONING ORDINANCE AND ESTABLISHING THE AMENDED TEXT AS PART OF THE IMPLEMENTING DOCUMENT OF THE LOCAL COASTAL PROGRAM – ACCESSORY DWELLING UNIT ORDINANCE REVISIONS 2020 – APPLICANT: CITY OF OCEANSIDE**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Statutory Exemption per California Environmental Quality Act (CEQA), Article 18, Section 15282(h) – adoption of accessory units ordinance; and
- (2) Adopt Planning Commission Resolution No. 2020-P13 recommending City Council approval of Zone Amendment (ZA20-00001) and Local Coastal Plan Amendment (LCPA20-00001) with findings of approval attached herein.

SUMMARY

The State legislature enacted amendments to California law, effective January 1, 2020, regarding the regulation of accessory dwelling units (ADU) and junior accessory dwelling units (JADU) as provided in Government Code Sections 65852.2 and 65852.22. In response to the state housing shortage, the amendments are intended to further reduce barriers and facilitate the development of ADUs and JADUs.

Staff recommends zoning amendments to Article 30, Section 3006 of the Zoning Ordinance and the implementing document of the Local Coastal Program to incorporate the recent amendments to state ADU regulations and ensure that the City's ADU ordinance is in full compliance with state law.

BACKGROUND

The State legislature enacted ADU legislation (SB 1069 and AB 2299) on January 1, 2017 and subsequent amendments (SB 229 and AB 494) on January 1, 2018 with the intent to reduce regulatory barriers and costs, streamline approval, and expand the potential capacity for ADUs in response to California's housing shortage. The legislation amended Government Code Sections 65852.150 and 65852.2 and provided that any existing ADU ordinance that does not conform to the requirements of Section 65852.2 would be null and void until rendered compliant with state law.

In response to state mandates, the City Council adopted revised ADU regulations on September 9, 2017 and May 9, 2018 that brought the City's ADU standards into compliance with the provisions of Government Code Section 65852.2, including optional provisions intended to protect existing neighborhoods. The revisions amended Article 30, Section 3006 of the Zoning Ordinance and established the amended text as part of the implementing document of the Local Coastal Program.

Recognizing the importance of ADUs as part of the City's housing inventory, the Development Services Department has taken several steps to streamline the permit review process and provide guidance to homeowners interested in building an ADU. These efforts include a dedicated webpage (oceansideadu.com), a fact sheet, reduction and waiver of permitting fees, a dedicated ADU fee schedule, and a workshop hosted last November in partnership with the ADU Coalition of San Diego and AARP. Following these efforts, the City has seen a substantial increase in the number of ADU building permit applications, with over 150 applications submitted since 2017.

PROJECT DESCRIPTION

In 2019, a series of bills were introduced to further streamline and promote the construction of ADUs in response to California's housing shortage. Although the previous legislation significantly streamlined the ADU permitting process, the authors of these bills found ambiguities in the ADU statutes that can slow or block the construction of ADUs. The most recent amendments to state law are primarily intended to address these ambiguities. On October 9, 2019, the Governor signed six ADU related bills into law, three of which (SB 13, AB 68, and AB 881) require amendment of the City's existing ADU Ordinance.

As with the previous statute, the 2020 legislation includes several mandated components that must be incorporated into the Zoning Ordinance to bring it into compliance with state law. Unlike previous mandates, the new legislation reduces a local jurisdiction's ability to restrict or prohibit ADUs based on lot size, unit size, and setbacks. The legislation introduces a provision for a "by-right" ADU that specifies a local agency may adopt an ordinance that allows an ADU that is no larger than 850 square-feet, or 1,000 square feet if more than one bedroom, subject to four-foot side and rear setbacks and a height limit of 16 feet. In addition, ADUs are now permitted in existing multi-family developments under specific conditions.

The following provisions represent the key changes to state law that must be incorporated into the City's ADU ordinance. Due to the number of changes, Section 3006 of Article 30 has been completely rewritten. The proposed ordinance revisions are provided in Attachment 2.

**SB 13 (Wieckowski), AB 68 (Ting), AB 881 (Bloom)
(Govt Code Sections 65852.2 and 65852.22)**

- a. An 850 square-foot ADU, or 1,000 square-foot ADU with more than one bedroom, (attached or detached) with a maximum height of 16 feet and four foot side and rear setbacks shall be permitted in any circumstance subject to compliance with building codes and fire safety. No lot coverage shall apply.

Also known as the "by-right" provision, this provision expressly prohibits a jurisdiction from denying or prohibiting ADUs if they meet the basic criteria. The proposed ordinance would require ADUs exceeding 850 square-feet, or 1,000 square-feet with more than one bedroom, and/or 16 feet in height to comply with the lot coverage, setbacks, and height of the base zone district.

- b. A junior accessory dwelling unit (JADU) shall be allowed within the space of an existing/proposed primary dwelling in accordance with Govt. Code 65852.22. JADUs shall not exceed 500 square-feet and may include a shared or separate bathroom with the primary dwelling.

JADUs were previously optional and not mandated by state law and were not included in previous provisions of the Zoning Ordinance.

- c. JADU and ADU Combination: A JADU may be established in the primary dwelling in combination with a new construction detached ADU. This provision shall not qualify for attached ADUs or the conversion of existing detached structures. State law requires the property owner to live on the premises.

State law previously limited a property to one ADU. This provision allows a property to potentially have three dwelling units, although the appearance would be two buildings: one primary unit with an indistinguishable JADU and a separate ADU that is limited to 850 square-feet in size.

- d. A unit size of an attached ADU shall be no less than 150 square-feet and no larger than 50% of the square-footage of the primary dwelling.

The unit size cap of 1,200 square-feet no longer applies for attached units. Detached units shall continue to have a maximum size of 1,200 square-feet.

- e. Multi-Family Provisions (Only applies to existing multi-family developments)

- An existing multi-family dwelling shall allow the construction of at least one ADU or up to 25 percent of the existing units in non-livable space, including,

but not limited to, storage rooms, passageways, attics, basements, or closets. The existing livable space of a unit shall not be converted into an ADU. In addition;

- Not more than two detached ADUs, either 850 square-feet, or 1,000 square-feet with more than one bedroom, with a maximum height of 16 feet and four foot side and rear setbacks, shall be permitted in addition to the above-referenced provision.
- f. An existing structure proposed to be converted to an ADU may be completely reconstructed in the same footprint and dimensions as the existing structure.

State law previously only allowed the conversion of an existing structure with nonconforming setbacks or the construction of a second story addition above an existing accessory structure with setbacks no greater than five feet.

- g. No replacement parking for a primary dwelling shall be required if a garage is converted into an ADU.

State law previously allowed onsite replacement parking in any configuration, including within setback areas.

- h. The parking waiver for an ADU built within one-half mile of public transit is now defined as "walking distance" rather than "as the crow flies." Public transit continues to be defined as a bus stop or train station and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

- i. Rental of an ADU or JADU shall be for a term longer than 30 days per state law. No STRs are allowed.

The proposed ordinance continues to prohibit short term rental of both the primary dwelling and the ADU.

- j. Building permit review of an ADU shall occur within 60 days of submittal. An ADU submitted concurrently with a new primary dwelling shall not be subject to this provision and shall not be approved until approval of the primary dwelling.

- k. The City shall not impose any impact fees for an ADU that is less than 750 square-feet. Any impact fees for larger units shall be proportional in relation to the square-footage of the primary dwelling.

- l. The City shall submit a copy of an adopted ordinance to the Department of Housing and Community (HCD) within 60 days of approval. HCD may submit written findings to the City as to whether the ordinance complies with state law.

In addition to the bills described above, three other ADU related bills were signed into law on October 9, 2019 and became effective on January 1, 2020. While these new state

provisions will not be included in the ADU ordinance, they are fully enforceable under state law. This additional legislation includes the following bills:

- a. AB 587 (Friedman): A local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer for a property that was developed by a qualified nonprofit corporation (Govt Code Sec. 65852.26).
- b. AB 670 (Friedman): Voids CC&Rs that prohibit or unreasonably restrict the construction of ADUs or JADUs (Section 4751 of the Civil Code).
- c. AB 671 (Friedman): Requires a local agency to include a plan in its housing element that incentivizes and promotes the creation of ADUs that can be offered at affordable rent for very low, low-, or moderate-income households (Govt Code Sec. 65583 and Section 50504.5 of the Health and Safety Code).

ANALYSIS

The recent revisions to ADU law reiterate the California State Legislature's commitment to streamlining review and reducing regulatory barriers associated with the construction of ADUs. The City has recognized the importance of ADUs as both a source of affordable housing as well as supplemental income for homeowners and has previously taken steps to streamline the approval process for Oceanside homeowners. The proposed revisions to Zoning Ordinance Section 3006 would bring the ADU ordinance into full compliance with state law and would further ease regulatory barriers to the establishment of ADUs in both single-family and multi-family zone districts.

The proposed ordinance continues to protect existing neighborhoods by including design requirements and the provision that neither the primary dwelling nor the ADU shall be used as short-term rentals.

ENVIRONMENTAL DETERMINATION

The proposed text amendments are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Article 18, Section 15282(h) as they involve the adoption of an ordinance regarding second units in a single-family or multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code.

SUMMARY

The State legislature enacted amendments to California law, effective January 1, 2020, regarding the creation of accessory dwelling units (ADU) and junior accessory dwelling units

(JADU) as provided in Government Code Sections 65852.2 and 65852.22. The revisions are intended to further reduce barriers and facilitate the development of ADUs and JADUs.

Staff recommends zoning amendments to Article 30, Section 3006 of the Zoning Ordinance and the implementing document of the Local Coastal Program to incorporate the recent revisions to ADU regulations and ensure that the City's ADU ordinance is in full compliance with state law.

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Statutory Exemption per California Environmental Quality Act (CEQA), Article 18, Section 15282(h) – adoption of an accessory dwelling unit ordinance; and
- (2) Adopt Planning Commission Resolution No. 2020-P13 recommending approval of Zone Amendment (ZA20-00001) and Local Coastal Program Amendment (LCPA20-00001) with findings of approval attached herein.

PREPARED BY:



Rob Dmohowski
Associate Planner

SUBMITTED BY:



Jeff Hunt
City Planner

JH/RD/fil

Attachments:

1. Planning Commission Resolution No. 2020-P13
2. Draft Text Amendments to Article 30, Section 3006 (Online)
3. Previously Adopted ADU Ordinance (Online)
4. Government Code Section 65852.2 (revised 1/1/2020) (Online)
5. Notice of Exemption (Online)

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**PLANNING COMMISSION
RESOLUTION NO. 2020-P13**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA RECOMMENDING APPROVAL OF A ZONING TEXT AMENDMENT AND A LOCAL COASTAL PROGRAM AMENDMENT TO AMEND ARTICLE 30, SECTION 3006 OF THE ZONING ORDINANCE, AND ESTABLISH THE AMENDED TEXT AS PART OF THE IMPLEMENTING DOCUMENT OF THE LOCAL COASTAL PROGRAM

APPLICATION NO: ZA20-00001 & LCPA20-00001

APPLICANT: City of Oceanside

LOCATION: Citywide

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, the State of California enacted SB 13, AB 68, and AB 881 on January 1, 2020 amending the Accessory Dwelling Unit regulations specified in Government Code Sections 65852 and 65852.22;

WHEREAS, the City's General Plan Land Use Element includes a policy that the City shall strive to maintain a reasonable balance between rental and ownership housing opportunities, between senior and family housing, and encourage a variety of individual choices of tenure, type, and location of housing throughout Oceanside;

WHEREAS, the City's General Plan Housing Element includes a housing program for Accessory Dwelling Units that states the City will continue to encourage accessory dwelling units as a source of affordable housing opportunities, as mandated by State law, and process zoning amendments to ensure compliance with State law;

WHEREAS, the City's Local Coastal Program includes a Land Use Plan (LUP) and an Implementation Program (IP) inclusive of zoning ordinances;

WHEREAS, amendments to Article 30, Section 3006 of the Zoning Ordinance are necessary to update requirements for the establishment of Accessory Dwelling Units and Junior Accessory Dwelling Units in conformance with Government Code Sections 65852.2. and 65852.22;

WHEREAS, the introduction of the revised Article 30, Section 3006 as part of the Implementation Program (I) is necessary to establish requirements for the development of

1 Accessory Dwelling Units and Junior Accessory Dwelling Units in the City's Local Coastal
2 Program, in conformance with Government Code Section 65852.2. and 65852.22;

3 WHEREAS, there was filed with this Commission a verified petition on the forms
4 prescribed by the Commission requesting a Zone Amendment and Local Coastal Program
5 Amendment, under the provisions of Article 45 of the Zoning Ordinance of the City of Oceanside
6 to permit the following:

7 Zoning Ordinance text amendments as shown in the attached Exhibit "A;"

8 WHEREAS, the Planning Commission, after giving the required notice, did on the 20th day
9 of April, 2020 conduct a duly advertised public hearing as prescribed by law to consider said
10 application;

11 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State
12 Guidelines thereto; the zoning text amendment was found to be statutorily exempt from
13 environmental review pursuant to Article 18, Statutory Exemptions, Section 15282(h) pertaining to
14 adoption of an accessory dwelling unit ordinance, of the California Environmental Quality Act
15 (CEQA) Guidelines;

16 WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of
17 Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and State
18 Guidelines;

19 WHEREAS, studies and investigations made by this Commission and on its behalf reveal
20 the following facts:

21 **FINDINGS:**

- 22 1. The Zoning Text Amendment as proposed, conforms to the General Plan of the City, in
23 that it facilitates the construction of Accessory Dwelling Units as a source of affordable
24 housing consistent with goals and policies of the Housing Element, contributes to a
25 reasonable balance between rental and ownership housing opportunities, and encourages
26 a variety of individual choices of tenure, type, and location of housing throughout
27 Oceanside.
- 28 2. The granting of the Zoning Text Amendment is consistent with the purpose of the Zoning
29 Ordinance, in that said amendment will allow Accessory Dwelling Units subject to
30 compliance with residential development regulations including height, lot coverage,
31 setbacks, and parking, unless specifically modified by State law.

1 3. The Zoning Text Amendment conforms to the Local Coastal Program, in that it does not
2 impact public coastal access, water or marine resources, sensitive habitat, visual
3 resources, visitor serving uses or public facilities.

4 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
5 recommend approval of Zone Amendment (ZA20-00001) and Local Coastal Program Amendment
6 (LCPA20-00001) as represented in the attached Exhibit "A".

7 PASSED AND ADOPTED Resolution No. 2020-P13 on April 20, 2020 by the following
8 vote, to wit:

9 AYES:

10 NAYS:

11 ABSENT:

12 ABSTAIN:

13
14 _____
15 Kyle Krahel, Chairperson
16 Oceanside Planning Commission

17 ATTEST:

18
19 _____
20 Jeff Hunt, Secretary

21 I, JEFF HUNT, Secretary of the Oceanside Planning Commission, hereby certify that this is a
22 true and correct copy of Resolution No. 2020-P13.

23 Dated: April 20, 2020
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