



STAFF REPORT
12/11/2019

TO: Honorable Mayor and City Council Members

FROM: Luis Lopez, Development Services Director

SUBJECT: Urgency Ordinance, Ordinance No. 1150 of the City of Coachella City Council amending Title 17 (Zoning) of the Coachella Municipal Code relating to Accessory Dwelling Units, and Junior Accessory Dwelling Units, and determining the Ordinance to be Exempt from Environmental Review pursuant to CEQA Guidelines (4/5ths Vote Required).

STAFF RECOMMENDATION:

Staff recommends that the City Council adopt an urgency ordinance of the City Council of the City of Coachella Amending Chapter 17.60 of the Coachella Municipal Code relating to Accessory Dwelling Units and Junior Accessory Dwelling Units and Determining the Ordinance to be exempt from environmental review, pursuant to California Environmental Quality Act (CEQA) Guidelines.

EXECUTIVE SUMMARY:

The proposed ordinance amends Chapter 17.60 of the Coachella Municipal Code to impose new limits on local authority to regulate Accessory Dwelling Units and Junior Accessory Dwelling Units in compliance with the provisions of Government Code sections 65852.2 and 65852.22 as amended by recently approved legislation that will take effect on January 1, 2020. The urgency ordinance will function as an interim solution to allow property owners to construct ADU's and JADU's consistent with State laws, while preserving the City's ability to regulate aesthetics, height limits, landscaping, and setback regulations. A follow-up ordinance will be required in order to make conforming amendments to various sections of the City's Zoning Code (i.e., setbacks, height regulations, parking regulations, and driveway restrictions in various residential and agricultural zones), in order to have internally consistent standards that comply with State laws, and to avoid confusion of interpretation of standards. Currently the city defines ADU's as "secondary dwelling units" and the related standards are outdated. The urgency ordinance will override current standards, until the follow-up ordinance is reviewed and adopted.

BACKGROUND:

In 2019, the California Legislature approved, and the Governor signed into law a number of bills ("New ADU Laws") that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs. The New ADU

Laws take effect January 1, 2020, and if the City's ADU ordinance does not comply with the New ADU Laws, the City's ordinance becomes null and void on that date as a matter of law.

DISCUSSION/ANALYSIS:

The proposed ordinance amends the City's local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22.

Failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 renders the City's ordinance regulating ADUs and JADUs null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs. The approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.

Currently the City's Zoning Code includes several development standards that are in conflict with the new ADU laws. For example, the Code requires a 2-car garage (covered parking) for all single family homes. The new regulations will restrict the City's ability to retain the required covered the main dwelling when a JADU is proposed as a "garage conversion". Similarly, the City's regulations for dwelling unit size and setback regulations for ADU 's are more restrictive than new ADU laws. Therefore, the urgency ordinance will function as an interim solution to allow property owners to construct ADU's and JADU's consistent with State laws, while preserving the City's ability to regulate certain aesthetic regulations, height limits, and setback regulations. A "clean up" ordinance will follow wherein the urgency ordinance is deleted, and new text is added to the various residential and agricultural districts and parking and related regulations in various sections of the Zoning Code, in order to fully comply with State laws.

The attached draft ordinance includes changes to Chapter 17.60 of the Coachella Municipal Code substantially in the form attached. The ADU code amendments are proposed for adoption by urgency ordinance, in accordance with Government Code section 36937, subdivision (b).

ENVIRONMENTAL REVIEW:

Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the

construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and JADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot. Moreover, the City Council finds that none of the “exceptions” to the use of the Class 3 exemption, set forth in State CEQA Guidelines section 15300.2, apply here. Specifically, the City Council finds that the ordinance will:

- 1) Not result in the construction of ADUs or JADUs within a particularly sensitive environment because these accessory structures will necessarily be built on a lot already developed with a primary dwelling;
- 2) Not result in a potentially significant cumulative impact. Individual property owners that elect to build an ADU or JADU, must secure building permits and hire contractors to do construction work. It is expected that a minority of existing homes in any given neighborhood would elect to construct an ADU or JADU. Similarly, the City’s utility capacity will not be aggravated due to the limited number of new plumbing fixtures proposed for ADU’s and JADU’s.
- 3) Not result in a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. All ADU’s and JADU’s will be incidental to an existing residential property, which are not known in the City to cause environmental effects due to unusual circumstances.
- 4) Not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. There are no existing scenic highways, nor any historic residential structures that are listed on any Federal, State, or Local Register of Historic Places in the City of Coachella.
- 5) Not be located on a hazardous waste site included on any list compiled pursuant to §65962.5 of the Government Code. All proposed ADU’s and JADU’s must be on the site of an existing primary residence, which are uses that are not known to have any hazardous waste characteristics.
- (6) Not result in a substantial adverse change in the significance of a historical resource. The permitting of ADU’s and JADU’s will occur on developed sites having a primary residence and will not affect any known historical resources. Additionally, the City of Coachella does not have any historical residential structures.

PUBLIC NOTICING:

In accordance with the requirements of Government Code section 65090, this item was noticed in a newspaper of general circulation on December 1, 2019. In addition, on December 5, 2019 copies of the Agenda were posted at City Hall.

FISCAL IMPACT:

There are no fiscal impacts associated with passing of the urgency ordinance for ADU's and JADU's as it merely sets forth a regulatory scheme for regulating the issuance of building permits for future projects.

Attachment: Draft Urgency Ordinance No. 1150 w/ Exhibit A