



# City of Chula Vista

## Staff Report

**File#: 18-0084, Item#: 3.**

- A. ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHULA VISTA MUNICIPAL CODE, SECTION 19.58.022 (ACCESSORY SECOND DWELLING UNITS); CHAPTER 19.04 (DEFINITIONS); CHAPTER 19.20 (AGRICULTURAL ZONE); CHAPTER 19.22 (RESIDENTIAL ESTATES ZONE); CHAPTER 19.24 (SINGLE-FAMILY RESIDENCE ZONE); CHAPTER 19.26 (ONE- AND TWO-FAMILY RESIDENCE ZONE); CHAPTER 19.28 (APARTMENT RESIDENTIAL ZONE); AND CHAPTER 19.48 (PLANNED COMMUNITY ZONE) WITH REGARD TO ACCESSORY DWELLING UNITS (FIRST READING)
- B. ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHULA VISTA MUNICIPAL CODE CHAPTER 3.32 (RESIDENTIAL CONSTRUCTION TAX) TO EXEMPT ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS FROM THE RESIDENTIAL CONSTRUCTION TAX AND AMENDING CHAPTER 17.10 (PARKLANDS AND PUBLIC FACILITIES) TO WAIVE ASSESSMENT OF PARKLAND ACQUISITION AND DEVELOPMENT FEES FOR ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS (FIRST READING)

### RECOMMENDED ACTION

Council place the ordinances on first reading.

### SUMMARY

The item is an amendment to various sections of the Chula Vista Municipal Code (CVMC), related to Accessory Dwelling Units (ADUs), to comply with state law and its stated intent. In January 2017, the State of California enacted laws: Senate Bill 1069; Assembly Bill 2299; and Assembly Bill 2406, to address the statewide affordable housing demand. Generally, the bills require a ministerial approval process for ADUs and Junior Accessory Dwelling Units (JADUs) and other requirements described later in this report. These laws went into effect on January 1, 2017, and, arguably, had the effect of nullifying and voiding the City's existing Accessory Second Dwelling Unit (ASDU) ordinance. In January 2018, the state enacted two additional laws: Senate Bill 229; and Assembly Bill 494. These bills further define provisions to allow ADUs on lots with a proposed or existing primary residence, allowed limited or no parking requirement, and a limitation on utility connection requirements and fees. Staff reviewed the City's existing ASDU ordinance, which is still contained in the CVMC, and prepared a draft amendment to incorporate the new requirements, and to be in compliance with state law. Further, ADUs generally serve low- and moderate-income families, and the findings in Government Code Section 65852.150(b) as amended by Senate Bill 1069 indicate that ADUs are an essential component of California's housing supply that should not be subject to excessive local agency requirements, including fees. Therefore, Ordinance B would waive the Residential Construction Tax (RCT) and Parkland Acquisition and Development (PAD) Fees for ADU building permits.

### ENVIRONMENTAL REVIEW

### **Environmental Notice**

The Accessory Dwelling Unit Ordinance Amendments qualify for a Class 3 Categorical Exemption pursuant to Section 15303 (New Construction or Conversion of Small Structures) of the California Environmental Quality Act State Guidelines. In addition, the Accessory Dwelling Unit Ordinance Amendments qualify for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. The Fee Waiver Ordinance Amendment is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

### **Environmental Determination**

The City Council finds that the Accessory Dwelling Unit Ordinance Amendments are exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15303 - New Construction or Conversion of Small Structures and Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The City Council finds that the Fee Waiver Ordinance Amendment is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3), no further environmental review is required.

### **BOARD/COMMISSION RECOMMENDATION**

The San Diego County Airport Land Use Commission reviewed Ordinance A and determined that it is consistent with Airport Land Use Compatibility Plan (APLUCP) (Attachment 4), and on November 8, 2017 the City of Chula Vista Planning Commission recommended adoption of Ordinance A to the City Council (Attachment 2).

### **DISCUSSION**

The state determined that a substantial statewide shortage of affordable housing is prevalent. In 2016 state law established SB 1069; AB 2406; and AB 2299 that allows local governments to create an ordinance to regulate ADUs and JADUs in single-family and multifamily zones, and replaced the term "second unit" with "accessory dwelling unit." The intent is to create opportunities for residential property owners to build accessory dwelling units as affordable housing stock, and for jurisdictions to allow such units through a ministerial process; in January 2017 these bills became effective. In January 2018, the State enacted SB 229 and AB 494. These bills require jurisdictions to allow these units in single family and multi-family zones with proposed or existing primary residences, limited parking and utility connection requirements for ADUs. As a result, the City's Accessory Second Dwelling Unit (ASDU) ordinance is now null and void until the City adopts an ADU ordinance that complies with state law. Listed below are the key Chula Vista ASDU ordinance amendments that will comply with state law:

- Changes the nomenclature from Accessory Second Dwelling Units to Accessory Dwelling Units; and
- Allows ADUs on single-family and multi-family zoned lots developed with a proposed or an existing single-family dwelling; and
- Eliminates the minimum lot size requirement; and
- Permits a maximum ADU unit size of 1,200 square feet; not exceeding 50 percent of the primary

- dwelling, whichever is less; and
- Does not require garage replacement when a garage for the primary dwelling is converted to an ADU; and
- Allows replacement parking in any configuration including tandem parking; and
- Does not require parking for ADUs if located within ½ mile of public transit; and
- Allows for existing detached garages in the rear yard to be converted to an ADU and maintain the existing setback; and
- Requires ADUs above a detached garage to maintain a minimum five-foot rear and side yard setback from property lines; and
- Permits attached ADUs subject to the same development standards for the primary dwelling; and
- Allows for ADUs to be subject to design standards; and
- Allows the City to require owner-occupancy; and
- Allows for JADUs to be located within the existing dwelling (i.e. converted bedroom) not exceeding 500 square feet, with no parking requirement.

Additionally, the following code sections are amended to include provisions for ADUs and JADUs: Chapters 19.04 (Definitions), 19.20 (Agricultural Zone), 19.22 (Residential Estates Zone), 19.24 (Single-Family Residence Zone), 19.26 (One- and Two-Family Residence Zone), 19.28 (Apartment Residential Zone), and 19.48 (Planned Community Zone) will be amended to include ADUs and JADUs as accessory uses in the respective sections (Attachment 2).

In keeping with the findings and intent of the mentioned state legislation, namely, that ADUs represent an essential component of California's affordable housing stock; and that Chapters 3.32 (Residential Construction Tax) and 17.10 (Parklands and Public Facilities) originally allowed for waivers of the respective tax and fees for projects serving low- and moderate-income families, Ordinance B would amend Municipal Code Chapters 3.32 and 17.10 to allow for waiving the respective tax and fees for all ADU and JADU permits.

#### Public Outreach

On April 6, 2017 staff presented the draft Ordinance A to the Development Services Citizen Oversight Committee; following discussion and review, the Committee recommended adoption of Ordinance A.

#### **ANALYSIS**

Senate Bill 1069 established state law authorizing local jurisdictions to create an ordinance for:

- The provision of accessory dwelling units (ADUs) in single-family and multi-family residential zones; and
- Replace the term "second unit" with "accessory dwelling unit"; and
- Provide optional parking standards for ADUs under specific circumstances; and
- Require ministerial approval to create existing space within a single-family dwelling or accessory structure for ADUs; and
- Prohibit local agencies from requiring the installation of a new or separate utility connection between the ADU and the utility, or requiring a connection or capacity fee as they are not to be considered as a new residential use; and
- Various development standards.

Senate Bill 1069 also amended Government Code Section 65852.150 to include the finding that

---

**File#: 18-0084, Item#: 3.**

---

ADUs offer lower cost housing to meet the needs of existing and future residents, and that they represent an essential component of California's housing supply. Part (b) indicates that it is the intent of the state legislature that the provisions of a local agency ADU ordinance not be so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ADUs in authorized zones.

Assembly Bill 2299 established state law authorizing local jurisdictions to create an ordinance for similar provisions stated in SB 1069, and added a provision to reduce or eliminate parking requirements.

Assembly Bill 2406 established State law for the provision of Junior Accessory Dwelling Units (JADUs) within existing single-family residences. The provisions include:

- No parking requirement; and
- Limit the number of junior accessory dwelling units to one per single-family residential zoned lot with an existing single-family residence; and
- An owner-occupancy requirement; and
- Various development standards.

In January 2018 Senate Bill 229 and Assembly Bill 494 established state law that provides for ADUs to be located in single-family and multi-family zones with a proposed or existing primary residence, and additional provisions that limit ADU parking requirements, specifically requiring one parking space per bedroom or per unit, or eliminating parking requirements entirely.

SB 229 refined provisions previously established with SB 1069 and AB 2299 by allowing ADUs in zones that allow a single-family or multifamily use with a proposed or existing single-family dwelling.

AB 494 also refined the previous bills and is similar to SB 229, but added flexible setback requirements for existing garages, limited parking not to exceed a maximum of one space per ADU, and further defined accessory structure.

State law does allow ADUs and JADUs as rentable units separate from the primary residence, but the units cannot be sold separately. State law allows the City to require owner-occupancy for ADUs and the proposed Ordinance A does make this a requirement along with the recordation of an agreement with the County that stipulates the occupancy requirement.

## **CONCLUSION**

The proposed ordinances, if adopted, will be consistent with state law and will encourage the development of more ADUs and JADUs, thereby increasing the availability of affordable housing. If Ordinance A is not adopted, the provisions outlined in State law will remain in effect. If Ordinance B is not adopted, ADUs and JADUs will be assessed the Residential Construction Tax and Parkland Acquisition and Development Fees with waivers being addressed by City Council on a case-by-case basis.

## **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the 500-foot rule found in California Code of Regulations Title 2, section

---

**File#: 18-0084, Item#: 3.**

---

18702.2(a)(11), is not applicable to this decision for purposes of determining a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, *et seq.*). Staff is not independently aware, and has not been informed by any City Councilmember, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. The Ordinances support the Strong and Secure Neighborhoods goal as they seek to lower barriers to new affordable housing development.

### **CURRENT YEAR FISCAL IMPACT**

All staff costs associated with preparing the Ordinances is included in the adopted budget.

### **ONGOING FISCAL IMPACT**

As a planning document, the adoption of Ordinance A will have no direct fiscal impact to the City. However, as projects are implemented both a revenue stream and cost factors will be realized. As implementation of Ordinance A occurs, additional information regarding specific fiscal impacts of future individual projects will be evaluated.

Long-term implementation of Ordinance B will result in minor reductions in revenue to the Residential Construction Tax and Parkland Acquisition and Development funds. Due to the low-impact nature of ADUs relative to single- and multi-family dwellings, the fee amounts being waived do not represent a significant anticipated reduction of revenue to the aforementioned funds.

### **ATTACHMENTS**

1. Planning Commission Resolution MPA17-0008
2. Planning Commission Minutes
3. Airport Land Use Commission Letter

*Staff Contact: Michael Walker, Senior Planner, DSD Advance Planning Division*