



CITY OF

NEWPORT BEACH

City Council Staff Report

January 22, 2019
Agenda Item No. 13

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Accessory Dwelling Unit Ordinance Update – Amending the Zoning Code (Title 20) and Local Coastal Program (Title 21) (PA2018-099)

ABSTRACT:

Proposed amendments to the City's Zoning Code and Local Coastal Program (LCP) regarding Accessory Dwelling Units (ADU) regulations are needed to conform with new state requirements that went into effect on January 1, 2018. The amendments update regulations permitting the development of ADUs in conjunction with single-family residences in all residential zoning districts, including two-unit and multiple residential zoning districts. The amendments also incorporate modifications consistent with California Coastal Commission's (CCC) October 12, 2018, approval.

RECOMMENDATION:

- a) Conduct a public hearing;
- b) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA;
- c) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2018-14, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 20 of the Newport Beach Municipal Code and Adopting Zoning Code Amendment No. CA2018-003 to Implement Revisions to State Law Relating to Accessory Dwelling Units (PA2018-099)*, and pass to second reading on February 12, 2019;
- d) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2019-1, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 21 of the Newport Beach Municipal Code and Adopting Local Coastal Program Amendment No. LC2017-003, as Modified by the California Coastal Commission (Accepting Their Suggested Modifications), Implementing New State Law Requirements Relating to Accessory Dwelling Units (PA2018-099)*, and pass to second reading on February 12, 2019; and

- e) Adopt Resolution No. 2019-8, *A Resolution of the City Council of the City of Newport Beach, California, Amending the Coastal Land Use Plan of the Local Coastal Program Adding Policy 2.7-5 Related to Accessory Dwelling Units (PA2018-099).*

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

BACKGROUND:

In 2016, the State Legislature passed Assembly Bill 2299 (Bloom) and Senate Bill 1069 (Wieckowski) amending California Government Code Section 65852.2 related to ADUs, which took effect on January 1, 2017. The intent of the bills was to reduce barriers to the development of ADUs, which are considered to be an affordable-by-design type of in-fill housing. As a result, cities can no longer prohibit ADUs and cities with ordinances not in compliance with State law must use the State's more lenient ADU standards.

In late 2017, the State Legislature passed Assembly Bill 494 (Bloom) and Senate Bill 229 (Wieckowski) further amending California Government Code Section 65852.2 related to ADUs, which took effect on January 1, 2018. The intent of these bills was to clarify the various provisions of the 2016 law to promote the development of ADUs. Specifically, these revisions required changes to the City adopted regulations to expand the districts where ADUs can be developed to include all zoning districts that allow single-family uses, as opposed to single-family zoning districts only. These revisions also limit the maximum number of parking spaces that can be required for a new ADU to one space.

DISCUSSION:

Required Amendments

In order to bring the City's Municipal Code regulations pertaining to the development of ADUs in compliance with State law, amendments to both the Zoning Code (Title 20) and Implementation Plan of the Local Coastal Program (Title 21) are required. In addition, a new policy (2.7-5) is required to be added to the Coastal Land Use Plan of the Local Coastal Program.

Zoning Code Amendment (Title 20)

The City comprehensively updated its Zoning Code regulations permitting the development of ADUs with the adoption of Ordinance No. 2017-011 (Attachment D) by the City Council on August 8, 2017. This ordinance became non-compliant with subsequent changes in State law that went into effect in 2018; therefore, the proposed Zoning Code Amendment No. CA2018-003 (Ordinance 2018-14, Attachment A) is required to bring the City's Zoning Code regulations into compliance.

The City Council previously considered the proposed amendment on September 11, 2018, and unanimously voted 7-0 to introduce the ordinance; however, minor revisions have since been made to make parking regulations within the Zoning Code consistent with the Coastal Commission modifications to the LCP regulations discussed below. Therefore, the City Council will need to re-introduce the ordinance.

Local Coastal Program Amendment – Implementation Plan (Title 21)

Similar to the Zoning Code, the Implementation Plan of the Local Coastal Program, needs to be amended to regulate ADUs consistent with State law. The LCP regulates properties in the Coastal Zone and any amendments to the LCP must also be reviewed and approved by the CCC. On July 25, 2017, the City Council adopted Resolution No. 2017-51 (Attachment E) authorizing staff to submit LCP Amendment No. LC2017-003 to the CCC for review and approval.

On October 12, 2018, the CCC approved LCP Amendment No. LC2017-003 (LCP-5-NPB-17-0084-1) with suggested modifications to incorporate revisions to State law that went into effect in 2018 (Attachment F). The modifications were consistent with the proposed language in Zoning Code Amendment No. CA2018-003, with the exception of two additional changes pertaining to parking. An analysis of these two changes is included as Attachment No. G and are supported by staff. For LCP Amendment No. LC2017-003 to become effective, the City Council must accept the suggested modifications certified by the California Coastal Commission and introduce and adopt Ordinance No. 2019-1 (Attachment B).

Local Coastal Program Amendment - Coastal Land Use Plan Policy Addition

LCP Amendment No. LC2017-003 also includes an amendment to the Coastal Land Use Plan of the LCP to include the addition of Policy 2.7-5 (Attachment C). The policy was added at the request of California Coastal Commission staff to provide a policy basis for the proposed implementing regulations in the Implementation Plan of the LCP. The policy reads as follows:

2.7-5. *Administer the provisions of Government Code Section 65852.2 relative to the development of accessory dwelling units to increase the supply of lower-cost housing in the coastal zone and meet the needs of existing and future residents, while respecting the architectural character of existing neighborhoods and in a manner consistent with the LCP and any applicable policies from Chapter 3 of the Coastal Act.*

Proposed Regulations

Through the adoption of an ordinance, cities have the limited ability to regulate certain aspects of ADUs, such as location, lot size, unit size, parking, and aesthetics, depending on circumstances. The proposed ordinances include additional regulations to protect neighborhood character and minimize impacts, including the following: 1) establishing a minimum lot size of 5,000 square feet or greater; 2) establishing a maximum unit size of 750 square feet for new construction ADUs; and 3) establishing height and design standards to minimize the appearance of two units on a lot. Attachment H includes a summary of the proposed ADU regulations.

Planning Commission Action

The Planning Commission considered the proposed amendments on August 9, 2018. At the conclusion of the hearing, the Planning Commission unanimously voted 7-0 to recommend approval of the proposed amendments to the City Council (Attachment I – Hearing Minutes).

General Plan Consistency

The law states that ADUs shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed a residential use that is consistent with the existing general plan and zoning district for the lot. Therefore, no amendments to the General Plan are required.

Alternatives

The City Council may recommend revisions to the draft ordinances, such as changing where ADUs are allowed, minimum lot size, maximum unit sizes, design standards, etc., provided the revisions are consistent with State law limitations and are not arbitrary, excessive, burdensome, or unreasonably restricting the creation of ADUs. However, any further changes will require resubmittal of such changes to the Coastal Commission for review and approval, resulting in additional delays to achieving compliance with State law.

ENVIRONMENTAL REVIEW:

The project is exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states that the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code” are exempt from the requirements of CEQA. Similarly, the ministerial approval of ADUs would not be a project for CEQA purposes, and environmental review would not be required prior to approving individual applications.

NOTICING:

Notice of this amendment was published in the Daily Pilot as an eighth page advertisement, consistent with the provisions of the Municipal Code. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website. Additionally, notice was sent to all persons and agencies on the Notice of the Availability mailing list.

ATTACHMENTS:

- Attachment A – Draft Ordinance (Zoning Code Amendment- Title 20)
- Attachment B – Draft Ordinance (Local Coastal Program Amendment- Title 21)
- Attachment C – Draft Resolution (Local Coastal Program Amendment- CLUP Policy)
- Attachment D – City Council Ordinance No. 2017-011 (Current ADU Regulations)
- Attachment E – City Council Resolution No. 2017-51 (LC2017-003 Authorization)
- Attachment F – October 12, 2018, Coastal Commission Approval and Modifications
- Attachment G – Analysis of Coastal Commission Suggested Parking Modifications
- Attachment H – Summary of Proposed ADU Regulations
- Attachment I – August 9, 2018, Planning Commission Hearing Minutes City Council