



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 2/4/2020
Agenda Placement: 9E
Set Time: 9:35 AM PUBLIC HEARING
Estimated Report Time: 15 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: John McDowell, Supervising Planner - 299-1354
SUBJECT: 2020 Accessory Dwelling Unit Ordinance

RECOMMENDATION

First reading and intention to adopt an ordinance to conform County Zoning regulations with State Law as they pertain to Accessory Dwelling Units and Junior Accessory Dwelling Units amending Sections 18.08.332 (Junior Accessory Dwelling Unit), 18.08.550 (Second Unit), 18.08.551 (Second Unit, Interior), 18.104.180 (Junior Accessory Dwelling Unit and Second Unit) and 18.110.030 (Number of Parking Spaces Required); and amending the code to allow Junior Accessory Dwelling Units in the AP Zoning District; amending Section 18.28.030, 18.32.030, and 18.34.030 (Uses Permitted Upon Grant of a Use Permit) relating to Commercial Accessory Dwelling Units; and amending Section 13.15.010 (Minor Improvement) relation to Junior Accessory Dwelling Units.

ENVIRONMENTAL DETERMINATION: Pursuant to Public Resources Code section 21080.17, the adoption of this ordinance implementing Government Code section 65852.2 is exempt from the California Environmental Quality Act. The adoption of the ordinance implementing Government Code Section 65852.22 for junior accessory dwelling units is exempt under CEQA Guidelines Section 15303, conversion of small structures, in that it permits only one junior accessory dwelling unit on any parcel, which must include an existing bedroom within an existing single family home with only minor exterior alterations to allow access and limited utility service.

EXECUTIVE SUMMARY

In 2017, the Board of Supervisors adopted a comprehensive update of secondary dwelling unit zoning regulations to comply with significant changes in State Law enacted in 2016 directed at addressing Statewide shortages in housing availability. The 2016 legislation significantly limited local agencies' ability to restrict secondary dwelling unit development within residential districts. The legislation also introduced the terms "Accessory Dwelling Units" (ADUs) and "Junior Accessory Dwelling Units" (JADUs) into planning and zoning lexicon, which are now used interchangeably with the term "secondary dwelling unit." With the Statewide housing crisis continuing, last year the legislature enacted six new bills, Assembly Bill (AB) 68, AB 881, Senate Bill (SB) 13,

AB 587, AB 670, and AB 671, with the goals of reducing processing timelines, limiting owner-occupancy requirements, and further restricting local agencies' ability to regulate ADU and JADU development.

The proposed ordinance changes attached to this report will bring County regulations into conformance with the new State legislation. Existing County Code is largely already in compliance with the new laws as the County has encouraged ADU development for many years and has not historically imposed many of the local restrictions that have now been extinguished or significantly curtailed by the State. Since Code revisions were necessary, staff has also taken the opportunity to clarify existing code language to improve general functionality.

The Planning Commission held a public hearing on January 15, 2020, and has forwarded a recommendation that the Board adopt the ordinance. It is requested that the Board conduct a public hearing and by first reading vote an intention to adopt the ordinance.

PROCEDURAL REQUIREMENTS

1. Staff reports;
2. Open the Public Hearing and receive public comments;
3. Close the Public Hearing;
4. Clerk reads the Ordinance Title;
5. Motion, second, discussion and vote to waive the balance of the reading of the ordinance; and
6. Motion, second, discussion, and vote on intention to adopt the ordinance.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?

No

County Strategic Plan pillar addressed:

Collaborative and Engaged Community: Collaborate with local, state and federal partners to create opportunities for development of affordable and accessible housing.

Action Item 3B. Expand the Junior Accessory Dwelling Unit (JADU) loan program to include Accessory Dwelling Units and allow (JADUs) in the Agricultural Preserve.

ENVIRONMENTAL IMPACT

Pursuant to Public Resources Code section 21080.17, the adoption of this ordinance implementing Government Code section 65852.2 is exempt from the California Environmental Quality Act. The adoption of the ordinance implementing Government Code Section 65852.22 for junior accessory dwelling units is exempt under CEQA Guidelines Section 15303, conversion of small structures, in that it permits only one junior accessory dwelling unit on any parcel, which must include an existing bedroom within an existing single family home with only minor exterior alterations to allow access and limited utility service.

BACKGROUND AND DISCUSSION

In 2019, the State legislature enacted six bills specific to Accessory Dwelling Units (ADUs) with the goals of reducing processing timelines, limiting owner-occupancy requirements, and generally limiting local agencies' ability to regulate ADU development. The six bills were AB 68, AB 881, SB 13, AB 587, AB 670, and AB 671. All bills became effective on January 1, 2020. The attached draft 2020 ADU Ordinance will bring Napa County Zoning Code into compliance with the new legislation.

Notable changes to County Code are discussed below, and shown in tracked changes in the attached draft ordinance. In general, existing County Code is largely already in compliance with the new laws as the County has previously not historically imposed many of the secondary unit zoning restrictions that are now no longer permissible under State law. Since Code revisions were necessary, several existing code sections have been rewritten to improve general functionality, such as merging the standards for interior second units with the standards for attached second units, as the two codes sections are functionally similar.

Notable Ordinance Components

Junior Accessory Dwelling Units (JADUs) Added to Agricultural Preserve (AP) Zoning – Napa County Board of Supervisors 2019-2022 Strategic Plan Action Item 3.B directs that zoning should be updated to allow JADUs in the Agricultural Preserve (AP) zoning. JADUs are consistent with AP zoning, and the underlying Agricultural Resource (AR) General Plan designation because they consist solely of the conversion of interior space within a primary dwelling, and are consequently not an expansion of residential development.

ADUs in Multifamily Zones – The new legislation mandates that ADUs be allowed by right in zoning districts for multifamily development. For Napa County, this primarily applies to the Planned Development (PD) zoning district. This mandate poses some challenges because Napa County's PD district is not solely a residential zoning district instead allowing residential, commercial and institutional uses. The State's legislation requires that ADUs be permitted by right in residential areas, but not within non-residential areas. Therefore, the draft ordinance specifies that ADUs are only permissible in PD zoning on land designated for single family or multifamily uses, and not within non-residential areas such as resorts/hotels or short-term vacation rental condominiums developments. The regulations are intended to expand opportunities for housing as opposed to expanding transient occupancy uses.

Setbacks – Reduced setback requirements represent one of the more significant changes coming out of the latest changes to State law. Statute mandates four-foot side and rear yard setbacks, and allows conversion or replacement of structures with substandard setbacks to ADU use. Historically, ADUs have had to meet the same setbacks as primary dwellings, which generally has not been a substantive barrier to ADU development on most rural properties, which tend to have larger lots. However, in urbanized areas with smaller lots, setback requirements often pose a significant barrier to ADU development.

Imposition of the new reduced setback requirements is likely to result in some positive and negative effects. On the positive side, the frequency of setback issues in smaller lot situations is likely to be reduced and thus may potentially enable additional ADU development. Reduced setbacks will likely assist in rectifying code violation for some illegally established ADUs as well. On the negative side, the potential for neighbor issues likely increases since ADUs will now be permitted closer to side and rear property lines than current regulations.

Utility Impact Fees – Most ADU and JADU projects in unincorporated Napa County rely on private well and septic systems, and consequently are only subject to State mandated school impacts fees. There are however several areas of the County where ADUs and JADUs can be served by local municipal or community facility district water and sewer services. New legislation adds additional restrictions on local municipalities and community facility districts with regard to connection and impact fees. Since the County is not the entity that provides water and sewer services, these additional restrictions have no direct impact on the County. However, indirectly, limiting water and sewer fees will reduce development costs and possibly result in additional ADU/JADU development in

unincorporated areas receiving municipal utilities.

Milliken-Sarco-Tulocay (MST) Water Deficient Area – East of the City of Napa, unincorporated lands generally north of Napa State Hospital extending up to and around Silverado Country Club lie within a groundwater deficient area commonly referred to as the MST basin. Property sizes in this area vary greatly ranging from large agricultural lots to small rural residential lots as small as a quarter-acre. These properties rely primarily on private wells and septic systems, and although the zoning for most properties allows ADUs and JADUs, many properties are constrained by well and/or septic system requirements. Well and septic health and safety requirements have not been changed with the new legislation, but Staff is proposing a minor amendment to MST's groundwater conservation regulations (County Code Chapter 13.16) to enable JADUs to be treated in the same manner as a residential conversion or addition. This change will allow bedrooms within an existing residence to be converted to a JADU without triggering a discretionary MST groundwater permit.

Commercial Accessory Dwelling Units – For many years County Code has permitted deed-restricted affordable housing units on commercially-zoned properties in conjunction with a commercial use. County Code has defined these uses as “accessory dwelling units” which now results in some potential for confusion given that the term is in broad use to describe virtually all forms of secondary dwelling units on residential property. Therefore, with this ordinance update the term is being relabeled as “commercial accessory dwelling units” and the definition updated to make the distinction from ADU's and JADU's.

Code Enforcement

Short Term Rentals - As indicated in Code Sections 18.104.180.A.13 and D.6, neither ADUs nor JADUs may be used for short-term rentals. ADUs and JADUs are included in the County's program to monitor and enforce illegal short-term rentals. The County has contracted with Host Compliance, a consulting firm specializing in monitoring short-term rental websites and identifying the locations of illegal short term rentals.

Building Permit Delay - State legislation includes a provision where land owners can request a 5 year delay in obtaining a building permit for an illegally constructed second unit. Building Officials are obligated to grant the building permit delay provided that the illegal dwelling unit is found to be safe to occupy. The Code Enforcement Division and County Counsel are looking into the possibility of updating County Code Title 15 which pertains to the Building Official's requisites for issuance of building permits. If an amendment of Title 15 is necessary, it will move forward on a separate track from this ordinance.

Public Process & Planning Commission Recommendation

Prior to the Planning Commission's January 15, 2020 public hearing, notice was published twice in the newspaper and emailed twice to those persons who have requested notification of pending items before the Planning Commission and Board of Supervisors. No written correspondence was received for the Planning Commission's hearing, and no members of the public provided public testimony. At the conclusion of their hearing the Commission voted unanimously to forward a recommendation that the Board adopt the draft ordinance.

Staff reworded a sentence in the ordinance to clarify a potential ambiguity as directed by the Planning Commission.

A notice of the Board of Supervisors' hearing was published in the newspaper on January 28, 2020 and also emailed to the notification group. As of the publishing of this report, no written comments on the ordinance have been submitted.

SUPPORTING DOCUMENTS

A . Ordinance-tracked

B . Ordinance

CEO Recommendation: Approve

Reviewed By: Leigh Sharp