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Agenda Date: 1/15/2020

Agenda Placement: 7A

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

FROM: John McDowell for David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: John McDowell, SUPERVISING PLANNER - 299-1354

SUBJECT: 2020 Accessory Dwelling Unit Ordinance

RECOMMENDATION

2020 ACCESSORY DWELLING UNIT ORDINANCE / COUNTY OF NAPA / P17-00097-ORD

CEQA Status: 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 15061(b)(3), the common sense exemption, in that the County already permits junior accessory dwelling units and the proposed amendments merely modify the interior design of those units, which do not have the potential for causing a significant effect on the environment; and is also categorically 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.

Request: County-sponsored Zoning Ordinance amendment to update the accessory dwelling unit and junior accessory dwelling unit provisions of the Napa County Code, bringing them into conformance with recent changes in state law. The State Legislature adopted various Accessory Dwelling Unit bills, which broadly change state ADU laws and amend Government Code Section 65852.2. The amendments to the County Code are intended to conform to these changes.

Title of Ordinance: AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, 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), AS THEY RELATE TO SECOND UNITS AND JUNIOR ACCESSORY DWELLING UNITS; AMENDING THE CODE TO ALLOW JUNIOR ACCESSORY DWELLING UNITS IN THE AP ZONING DISTRICT; AMENDING SECTIONS 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) RELATING TO JUNIOR ACCESSORY DWELLING

UNITS.

Staff Recommendation: Recommend that the Board of Supervisors find that the proposed project is exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080.17, and adopt the proposed ordinance.

Staff Contact: John McDowell, (707) 299-1354 or john.mcdowell@countyofnapa.org

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission recommend that the Board of Supervisors:

1. Find that the proposed project is exempt from the California Environmental Quality Act pursuant to Public Resource Code Section 21080.17; and
2. Adopt the proposed ordinance.

Discussion:

In 2017, the Board of Supervisors adopted a comprehensive update to zoning regulations for secondary dwelling units to comply with changes in State Law enacted in 2016 aimed 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, AB 68, AB 881, SB 13, AB 587, AB 670, and AB 671, with the goals of reducing processing timelines, limiting owner-occupancy requirements, and further limiting local agencies' ability to regulate ADU and JADU development.

Proposed ordinance text changes attached to this report will bring County regulations into conformance with new legislation. Existing County Code is largely already in compliance with the new laws as the County has encouraged ADU development for many years and consequently elected not to impose many of the previously allowed 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.

It is requested that the Commission conduct a public hearing on the ordinance and forward a recommendation for approval to the Board of Supervisors. This item is tentatively scheduled for the February 4, 2020 Board of Supervisors once the Commission has completed review and made a recommendation.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

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 15061(b)(3), the common sense exemption, in that the County already permits junior accessory dwelling units and the proposed amendments merely modify the interior design of those units, which do not have the potential for causing a significant effect on the environment; and is also categorically 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

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 encouraged ADU development for many years and consequently elected not to impose many of the previously allowed local restrictions, such as owner-occupancy requirements. 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 into the standards for attached second units which 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 voted-protected 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 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 condominiums where short-term vacation rentals are permitted. The regulations are intended to expand opportunities for housing as opposed to expanding transient occupancy uses.

Setbacks – Reduced setback requirements is one of the more significant changes coming out of the latest changes to State law. Statute mandates four ft. 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 more 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 potentially enabled 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 in what they can charge for 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 between the two types of uses.

Code Enforcement

ADUs and JADUs are included in the County's program to monitor and enforcement 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.

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

Notice of the draft ordinance posted in the newspaper and emailed to those persons who have requested notification of pending items before the Planning Commission, to the CEQA notification list, and to stakeholders on December 26, 2019, and again on January 3, 2020. As of the posting of this report there have been no formal comments or correspondence received. Any comments received prior to the hearing will be provided to the Commission.

The ordinance is schedule for Board of Supervisors consideration on February 4, 2020. Public notice will be posted in the newspaper and emailed after the Planning Commission's hearing.

Decision Making Options:

As noted in the Executive Summary Section above, staff request that the Planning Commission recommend approval of the ordinance to the Board of Supervisors as proposed, which is described in Option 1 below. The Commission may also proposed revisions, or continue the item if more information is required or substantial changes are recommended.

Option 1 - Forward Recommendation of Approval of Proposed Ordinance (Staff Recommendation)

Disposition - This option would result in the Commission's recommendation for approval of the ordinance as currently proposed being forwarded to the Board of Supervisors. The Board will consider the ordinance after a duly noticed (10-day minimum) public notice period. If the Board chooses to adopt the ordinance, as proposed or amended, it will close the public hearing and direct that the final version of the ordinance return for a second and final reading of adoption. The ordinance will then become effective 30 days after final adoption.

Action Required - Follow proposed actions listed in Executive Summary.

Option 2 - Forward Recommendation of Revised Ordinance

Disposition - If minor amendments to proposed code language are recommended, the Commission may make a final recommendation with direction to Staff on the nature of changes to proposed language. Staff will incorporate proposed changes into a revised draft ordinance forwarded to the Board of Supervisors at a subsequent duly noticed public hearing where the Board will be asked to follow the same process outlined in Option 1 above.

Action Required - Follow the proposed actions listed in the Executive Summary and stipulate that the recommendation for approval is for the ordinance as amended. Provide specific direction to Staff on the nature of code language amendments.

Option 3 - Continuance Option

The Commission may continue to a future hearing date if substantial changes to the ordinance are necessary, or issues cannot be satisfactorily addressed at the initial hearing. If the Commission wishes to continue the item, it should be continued to the January 22, 2020 meeting so as not to impact the planned February 4, 2020 Board of Supervisors hearing date.

SUPPORTING DOCUMENTS

A . 2020 Draft Accessory Dwelling Unit Ordinance

Napa County Planning Commission: Approve

Reviewed By: John McDowell