



City of Hidden Hills

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MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Roxanne Diaz, City Attorney

Date: July 27, 2020

Subject: Ordinance Amending Regulations Regarding the Establishment of Accessory Dwelling Units (Previously, Second Units) and Making Findings of Exemption Under the California Environmental Quality Act

Background

The City Council received a presentation on accessory dwelling units (“ADU”) and junior accessory dwelling units (“JADU”) and the restrictions placed on local agencies by recent housing legislation. The proposed ordinance will place the City in compliance with state law.

Discussion

California law related to ADUs was amended by a series of legislative bills in 2019 (Assembly Bill (AB) 881, AB 68, AB 587, AB 670 and Senate Bill (SB) 13), effective January 1, 2020. As revised, Government Code Section 65852.2 further limits local jurisdictions’ ability to regulate or limit ADUs in continuation of the State’s efforts to facilitate the production of housing. Effective January 1, 2020, cities were required to adopt an ordinance that complies with the new restrictions and includes specific standards. If an ordinance was not adopted, the process for approval defaults to State law.

As currently written, State law allows local agencies to adopt a local ordinance to designate areas where ADUs are permitted (and prohibited) and establish appropriate development standards (within the confines of some parameters set out in State law). Below are a few of the important limitations on local authority with respect to establishing zoning and development standards for ADUs:

- The determination about where ADUs may be permitted must be based on the adequacy of water / sewer service or the impact of ADUs on traffic flow and public safety;
- Setbacks must be established in accordance with specific provisions in State law;

- Maximum unit sizes must be established in accordance with specific provisions in State law;
- When a garage, carport, or covered parking structure is converted or demolished to construct an ADU, cities cannot require replacement of the lost off-street parking spaces;
- Cities cannot require minimum lot sizes for ADUs;
- Cities cannot require owner occupancy (except for JADUs); and
- Cities may establish development impact fees for ADUs in accordance with the limitations in State law.

Within the parameters described above, cities may establish development standards for ADUs so long as they are reasonable and do not unduly burden the development of ADUs.

In addition to the local regulations, State law expressly requires that certain ADUs and JADUs be approved through a building permit. The categories that must be approved by building permit generally include:

- ADUs/JADUs on single-family lots: One ADU or JADU, within the space of an existing or proposed single-family dwelling or accessory structure. If built in a converted accessory structure, the ADU may expand the existing space up to 150 square feet beyond the existing physical dimensions. Rear and side yard setbacks must be sufficient for fire and safety.
- Detached ADUs on single-family lots: One detached, newly constructed ADU per single-family lot, so long as the ADU maintains at least 4-foot rear and side yard setbacks, is no greater than 800 square feet in size, and no higher than 16 feet.
- Importantly, a detached ADU may be combined with a JADU that complies with the requirements described above, such that two additional units (one detached ADU and one attached JADU) are allowed per lot.

The proposed ordinance complies with the parameters of state law as well as includes development standards in the areas that the city still has some ability to regulate. For example, the ordinance provides that the ADU must incorporate the same architectural features, color, building material as the single-family residence on the site. The ordinance also provides that setbacks be measured from the edge of an existing, recorded easement for the purposes of recreational or equestrian trails. Last, because state law provides that a local agency to designate areas where ADUs are permitted and not permitted on the basis of the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety, the ordinance includes a map

where ADUs and JDUs are not permitted. This area depicts houses located on private roads or streets that are narrow and/or a shared driveway and as such, this reduces or restricts access for emergency vehicles. In drafting this ordinance, all previous provisions related to guest quarters as an allowed accessory use were deleted since there would be inconsistency between these provisions and those for ADUs.

Fiscal Impact

There is no fiscal impact associated with the proposed Ordinance.

Recommendation

It is recommended that the City Council introduce Ordinance No. 374 entitled “An Ordinance of the City of Hidden Hills Amending Chapter 2 (Zoning) of Title 5 (Land Use and Development) of the Municipal Code to Amend Regulations Regarding the Establishment of Accessory Dwelling Units (Previously, Second Units) and Making Findings of Exemption Under CEQA” and read the ordinance by title only and waive further reading of the ordinance.

Attachments

1. Ordinance No. 374

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HIDDEN HILLS AMENDING CHAPTER 2 (ZONING) OF TITLE 5 (LAND USE AND DEVELOPMENT) OF THE MUNICIPAL CODE TO AMEND REGULATIONS REGARDING THE ESTABLISHMENT OF ACCESSORY DWELLING UNITS (PREVIOUSLY, SECOND UNITS) AND MAKING FINDINGS OF EXEMPTION UNDER CEQA

THE HIDDEN HILLS CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Findings and Purpose.

- A. In the last few years, the California Legislature has amended Government Code Sections 65852.2 and 65852.22 to limit the standards cities may impose on new Accessory Dwelling Units (ADUs) and require city ordinances to incorporate State-mandated standards for certain types of ADUs. As amended, State law allows the City to designate areas where new ADUs may be permitted and to establish limited objective standards. ADUs must be allowed pursuant to a ministerial permit process or building permit process.
- B. Currently, the City regulates “second dwelling units,” which overlaps with the term “ADU” as defined under State law. The purpose of this Ordinance is to update the terminology used in the Municipal Code and amend the City’s ADU regulations to allow the construction of ADUs and Junior ADUs in the City in compliance with State law.

SECTION 2. Section 5-2A-3 (Definitions) of Article A (General Zoning Provisions; Definitions) of Chapter 2 (Zoning) of Title 5 (Land Use and Development) is hereby amended to remove the term and definition for “Second Unit” and to add a new term entitled “Accessory Dwelling Unit” below “Accessory Building” and above “Accessory Use” to read as follows:

“Accessory Dwelling Unit: An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary dwelling. An accessory dwelling unit includes the following: an efficiency unit, as defined in Health and Safety Code Section 17958.1, and a manufactured home, as defined in Health and Safety Code Section 18007.”

SECTION 3. Section 5-2A-3 (Definitions) of Article A (General Zoning Provisions; Definitions) of Chapter 2 (Zoning) of Title 5 (Land Use and Development) is

hereby amended to add a new term entitled “Junior Accessory Dwelling Unit” below “Garage, Private” and above “Kitchen” to read as follows:

“Junior Accessory Dwelling Unit: a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.”

SECTION 4. Subsection A.4 of Section 5-2C-1 (Permitted Uses) of Article C (RA-S Zone) of Chapter 2 (Zoning) of Title 5 (Land Use and Development) is hereby amended to read as follows with all other provisions of Section 5-2C-1 remaining in effect without amendment:

“4. An Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the proposed Accessory Dwelling Unit or Junior Accessory Dwelling Unit meets the following standards and requirements:

- (a) There is one existing or proposed legal single-family residence, and no other detached living quarters, on the lot where the Accessory Dwelling Unit is proposed to be constructed. The Accessory Dwelling Unit may be attached or detached from the primary residence. If the Accessory Dwelling Unit is detached, it must be located to the rear of the single-family residence on the site. Except as otherwise required by State law, only one Accessory Dwelling Unit is permitted on any property. As required by State law, Accessory Dwelling Units and Junior Accessory Dwelling Units are a residential use consistent with the existing general plan and zoning designation for the lot, and the addition of an Accessory Dwelling Unit or Junior Accessory Dwelling Unit shall not mean that the lot exceeds the allowable density for the lot upon which the unit is located.
- (b) The maximum size of an Accessory Dwelling Unit shall be 850 square feet for an Accessory Dwelling Unit with one bedroom or less, and 1,000 square feet for an Accessory Dwelling Unit with two or more bedrooms. Notwithstanding the foregoing, the maximum size of an attached Accessory Dwelling Unit that is proposed to be constructed on a lot with a pre-existing primary dwelling shall not exceed 50 percent of the primary dwelling, or the maximum sizes stated in this paragraph, whichever is smaller.
- (c) An Accessory Dwelling Unit must have a setback of at least four feet from the side and rear lot lines, except that all setbacks shall be measured from the edge of an existing, recorded easement for the purposes of recreational or equestrian trails. Notwithstanding the

foregoing, no setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an Accessory Dwelling Unit or to a portion of an Accessory Dwelling Unit.

- (d) A minimum of one off-street parking space must be provided for the Accessory Dwelling Unit in addition to the parking required for the primary single-family residence. This additional parking space may be provided through tandem parking and shall be restricted to parking within a garage on the property or in the rear yard setback on a paved surface so as not to be visible from the public on which the primary dwelling fronts. Notwithstanding the requirement in this subsection, when a required garage, carport, or covered parking structure for the main dwelling unit is converted or demolished in conjunction with the construction of an Accessory Dwelling Unit, replacement of parking spaces that are eliminated by the construction of the Accessory Dwelling Unit shall not be required as long as the Accessory Dwelling Unit remains in use as a legal Accessory Dwelling Unit.
- (e) Notwithstanding subsection (d), no additional parking is required for an Accessory Dwelling Unit that satisfies any of the following:
 - i. The Accessory Dwelling Unit is located within one-half mile walking distance of public transit.
 - ii. The Accessory Dwelling Unit is located within an architecturally and historically significant historic district.
 - iii. The Accessory Dwelling Unit is part of the proposed or existing primary residence or an accessory structure.
 - iv. When on-street parking permits are required but not offered to the occupant of the Accessory Dwelling Unit.
 - v. When there is a car share vehicle located within one block of the Accessory Dwelling Unit.
- (f) The Accessory Dwelling Unit shall be located on a lot that is served by a public sanitary sewer system, and separate utility meters shall be required to serve the Accessory Dwelling Unit if the Accessory Dwelling Unit is constructed at the same time as a new primary dwelling.
- (g) The Accessory Dwelling Unit may be owner-occupied or rented but shall not be sold, transferred or assigned separately from the primary single-family residence on the site.

- (h) The Accessory Dwelling Unit shall incorporate the same architectural features, building material, and color as the single-family residence on the site. These features shall include, but are not limited to, roofing material, roof design, fascia, exterior building finish, color, exterior doors and windows including, but not limited to, ratios of window dimensions (i.e. width to height) and window area to wall area, garage door and architectural enhancements.
- (i) If a separate entrance is provided for an attached Accessory Dwelling Unit, the entrance shall not be located on the front of the primary single-family residence or facing the street. On corner lots, the entrance shall not be located on the front of the primary single-family residence or facing the street on which the primary single-family residence fronts.
- (j) The Accessory Dwelling Unit shall comply with the standards for height, lot coverage, floor area ratio, open space, and lot width that apply to the single-family residence, except that no such standard may be applied to prevent at least an 800-square foot Accessory Dwelling Unit that is at least 16 feet in height with at least four-foot side and rear yard setbacks (as measured from the edge of any existing recorded easement for a recreational or equestrian trail).
- (k) .The Accessory Dwelling Unit shall comply with all applicable building code requirements, including but not limited to, the residential, electrical, mechanical, plumbing, fire, energy, and green building standards. Accessory Dwelling Units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- (l) Notwithstanding subsections (a) through (j), an Accessory Dwelling Unit, Junior Accessory Dwelling Unit, or both if required by State law, shall be allowed with only a building permit if the proposed unit(s) meet the requirements of subsection (k) herein, and Government Code Section 65852.2(e)(1), as the same may be amended from time to time, which currently requires the City to ministerially approve a building permit within a residential or mixed-use zone to create any of the following:
 - 1. One Accessory Dwelling Unit or Junior Accessory Dwelling Unit per lot with a proposed or existing single-family dwelling if all of the following apply:
 - a. The Accessory Dwelling Unit or Junior Accessory Dwelling Unit is within the proposed space of a single-family dwelling or existing space of either an existing single-family

dwelling or existing accessory structure, and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure.

b. The space has exterior access from the proposed or existing single-family dwelling.

c. The side and rear setbacks are sufficient for fire and safety.

2. One detached, new construction Accessory Dwelling Unit that does not exceed 800 square feet in size, 16 feet in height, and has at least four-foot side and rear yard setbacks on a lot with a proposed or existing single-family dwelling. A new detached Accessory Dwelling Unit in this subsection may be combined with a Junior Accessory Dwelling Unit described in paragraph 1 above.

3. Not more than two detached Accessory Dwelling Units located on a lot that has an existing multifamily dwelling, subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

4. All setbacks shall be measured from the edge of any existing recorded easement for the purpose of recreational or equestrian trails.

(m) In accordance with the standards set forth in Government Code Section 65852.22, Junior Accessory Dwelling Units approved pursuant to subsection (l) herein shall comply with the following requirements, unless State law is amended to set forth different standards in which case State law standards will govern:

1. A Junior Accessory Dwelling Unit shall be a minimum of 220 square feet and a maximum of 500 square feet of gross floor area. The gross floor area of a shared sanitation facility shall not be included in the maximum gross floor area of a Junior Accessory Dwelling Unit.

2. A Junior Accessory Dwelling Unit must be contained entirely within the walls of the existing or proposed single-family dwelling.

3. A separate exterior entry from the main entrance to the single-family dwelling shall be provided to serve a Junior Accessory Dwelling Unit.

4. A Junior Accessory Dwelling Unit may include separate sanitation facilities, or may share sanitation facilities with the single-family dwelling in which case the Junior Accessory Dwelling Unit shall have an interior door to allow access to the facilities in the single-family dwelling.

5. A Junior Accessory Dwelling Unit shall include an efficiency kitchen, which shall include all of the following:

a. a cooking facility with appliances.

b. a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior Accessory Dwelling Unit.

6. If the property contains a Junior Accessory Dwelling Unit, one of the residential dwellings on the lot shall be occupied as the primary residence of the owner of the lot and shall not be rented or leased as long as the Junior Accessory Dwelling Unit exists, unless state law is amended to prohibit owner occupancy requirements for Junior Accessory Dwelling Units.

7. No additional parking is required for a Junior Accessory Dwelling Unit.

(n) A permanent foundation or permanent chassis shall be required for all Accessory Dwelling Units.

(o) The rental term for any Accessory Dwelling Unit or Junior Accessory Dwelling Unit approved by the City shall exceed 30 days; short-term rentals shall be prohibited.

(p) The owner of record shall record a covenant in a form satisfactory to the City Attorney within 30 days following the issuance of a building permit for the Accessory Dwelling Unit or Junior Accessory Dwelling Unit, which shall include the following requirements and any other provisions required by State law: (a) the Accessory Dwelling Unit (or Junior Accessory Dwelling Unit) may not be sold, transferred or assigned separately from the primary residence; (b) the Accessory Dwelling Unit (or Junior Accessory Dwelling Unit) may not be rented for a period of less than 30 days; (c) if the property contains a Junior Accessory Dwelling Unit, the Junior Accessory Dwelling Unit shall be a legal unit and may be used as habitable space, only so long as either the main dwelling unit, or the Junior Accessory Dwelling Unit, is occupied by the owner of record of the property, unless state law is

amended to prohibit local agencies from requiring owner-occupancy, and (d) such restrictions shall run with the land and be binding upon all future owners, and lack of compliance may result in legal action against the property owner to compel compliance with this Code. The covenant shall be recorded in the official records of the County of Los Angeles, and a copy of the covenant shall be filed with the office of the City Clerk.

- (q) An Accessory Dwelling Unit that satisfies the requirements of this section shall be exempt from Site Plan Review.
- (r) Accessory Dwelling Units are prohibited on lots located within non-designated areas, identified in Exhibit A to the ordinance codifying this section, because such lots are located on private roads and/or shared driveways that are narrow, substandard and/or the condition of the road/shared driveway reduces or restricts access for emergency vehicles.”

SECTION 5. Subsection B of Section 5-2C-1 (Permitted Uses) of Article C (RA-S Zone) of Chapter 2 (Zoning) of Title 5 (Land Use and Development) is hereby amended to read as follows with all other provisions of Section 5-2C-1 remaining in effect without amendment:

“B. Accessory Uses: The following additional accessory uses are permitted if they do not alter the character of the premises as a single-family residence:

- 1. Recreational facilities such as, but not limited to, tennis, paddle tennis, handball courts, swimming pools and spas and including the equipment thereto, for use by members of a single-family residence and their guests in accordance with the provisions of this Title.”

SECTION 6. Subsection A of Section 5-2D-1 (Permitted Uses) of Article D (RA-S-2 Zone) of Chapter 2 (Zoning) of Title 5 (Land Use and Development) is hereby amended to read as follows with all other provisions of Section 5-2D-1 remaining the same without amendment:

“A. *Uses in RA-S Zone:* Any use, including any accessory use, permitted in the RA-S Zone.”

SECTION 7. Subsection B of Section 5-2D-1 (Permitted Uses) of Article D (RA-S-2 Zone) of Chapter 2 (Zoning) of Title 5 (Land Use and Development) is hereby amended to read as follows with all other provisions of Section 5-2D-1 remaining the same without amendment:

“B. Additional Accessory Uses: The following additional accessory uses are permitted if they do not alter the character of the premises as a single-family residence:

1. To permit an orderly market program for subdivisions comprising more than ten parcels, one demonstration estate at any one time to be located within the subdivision; provided, such demonstration estate is maintained only for such period as the original sales of residences within the subdivision is being undertaken by one or more of the subdividers. Such use shall also permit one sign of shape, design and size, consistent with existing City sign regulations identifying the demonstration estate. The subdivider shall be identified only by surname on such sign. No real estate firm or realtor's name (other than the property owner) may be displayed on the demonstration estate sign or on any other building or within the area of the subdivision. When the use of such residence as a demonstration estate ceases, such residence shall be used only for uses permitted under the RA-S or RA-S-2 Zone. Any use of demonstration estate other than as specified herein shall be deemed a zoning violation.”

SECTION 8. Subsection A.4 of Section 5-2E-1 (Permitted Uses) of Article E (R-1 Zone) of Chapter 2 (Zoning) of Title 5 (Land Use and Development) is hereby amended to read as follows with all other provisions of Section 5-2E-1 remaining the same without amendment:

“4. An Accessory Dwelling Unit or Junior Accessory Dwelling Unit that complies with the requirements of Subsection A.4 of Section 5-2C-1 of this Code.”

SECTION 9. CEQA Finding. The City Council hereby finds that this Ordinance implements the provisions of Government Code Section 65852.2 and is therefore exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080.17 and California Code of Regulations, Title 14, Chapter 3, Section 15282(h).

SECTION 10. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or any part hereof, or exhibit hereto, is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part thereof or exhibit thereto. The City Council of the City of Hidden Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid.

SECTION 11. Certification and Posting. The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance to be posted in the manner prescribed by law.

PASSED, APPROVED and ADOPTED this _____ day of August 2020.

Bret Katz, Mayor

ATTEST:

Deana L. Graybill, CMC, City Clerk

EXHIBIT A
NON-DESIGNATED AREAS FOR ADUs

CITY OF HIDDEN HILLS

