



**COMMUNITY DEVELOPMENT DEPARTMENT**

CITY HALL

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**CITY COUNCIL STAFF REPORT**

Meeting: December 19, 2017

Subject

Consider an ordinance to amend regulations in Title 19, Zoning of the Municipal Code with regard to Accessory Dwelling Units, including Chapter 19.08, Definitions, and Chapter 19.112, Accessory Dwelling Units in R-1, RHS, A and A-1 zones (Application No(s): MCA-2017-05; Applicant(s): City of Cupertino; Location: Citywide)

Recommended Action

That the City Council:

1. Find that the proposed actions are exempt from CEQA;
2. Conduct the first reading and adopt Ordinance No. 17-2170: "An Ordinance of the City Council of the City of Cupertino amending Chapter 19.08, Definitions and Chapter 19.112, Accessory Dwelling Units in R-1, RHS, A and A-1 Zones (Residential Zoning Districts) to conform to new state laws (See Attachment A.)"

Discussion

Background:

In late 2016, several changes were made to state law requiring that cities amend their local regulations in order to continue to implement local ordinances and regulations pertaining to Accessory Dwelling Units. The City completed those changes in December 2016. Additional changes were adopted by the City in May 2017, as a result of clarifications from the CA Department of Housing and Community Development (HCD) regarding the allowable size of Accessory Dwelling Units.

In October 2017, the Governor signed two bills - AB 494 (Bloom) and SB 229 (Wieckowski) (now codified in CA Government Code section 65852.2) - which necessitate further amendments to the City's Zoning Code. These changes must be made to ensure that local regulations may be applied in the review of any proposed Accessory Dwelling units.

*Planning Commission Review:*

On November 14, 2017, the Planning Commission recommended approval of the proposed ordinance on a 4-0-1(Sun absent) vote with Resolution No. 6842 (See Attachment B.) The Commission was concerned about the provisions in the ordinance related to parking. No changes are proposed to the parking requirements in the ordinance since these provisions already conform to state law requirements. One member of the public spoke in opposition to the new State Housing Bills package and the bills related to accessory dwelling units.

*Analysis:**Proposed Ordinance Updates:*

Upon a review of the changes to the CA Government Code, necessary amendments to the City's Zoning Code have been identified in Chapters 19.08 and 19.112. The proposed amendments have been indicated with strikethroughs and underlines in Attachment B.

*Accessory Dwelling Units*

Currently, the City's Accessory Dwelling Units (ADU) Ordinance permits ADU's to be constructed in single family residential (R-1,) Residential Hillside (RHS,) Agricultural (A,) and Agricultural-Residential (A-1,) zoning districts. However, as a result of AB 494 and SB 229, Government Code Section 65852.2 now permits internal conversions of space inside an existing single family home, or an accessory structure, in all zones for single family use, as ministerial acts (building permit,) as long as they provide independent exterior access from the existing residence and adequate setbacks for fire safety. Therefore, the Title of the Chapter and Section 19.112.020 has been updated to reflect this change.

The changes to state law also require an update to Table 19.112.030. If a detached ADU is proposed entirely within any existing accessory structure, the City no longer has the ability to require parking for it. The most efficient way to effect this change in the City's ordinance is by amending the column headings in Table 19.112.030.

*Clarification*

The City currently defines "single family use" in Chapter 19.08, Definitions, to mean the use of a parcel for only one dwelling unit. However, this broad definition could be applicable to townhomes and condominiums. This definition has been replaced with a new definition for "single family residence" which clarifies that row houses, townhomes, and any properties that have an ownership interest in shared common open space or recreational areas are not considered single family residences.

Environmental Review:

The City has analyzed the actions taken with this proposed Ordinance and determined that it is statutorily exempt from the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, “CEQA”) under Public Resources Code section 21080.17 (Application of Division to Ordinances Implementing Law Relating to Construction of Dwelling Units and Second Units) and CEQA Guidelines Section 15282(h) as the adoption of an ordinance by a city to implement the provisions of Government Code Section 65852.2.

Public Noticing and Outreach:

The following table is a brief summary of the noticing for this project:

Notice of Public Hearing and Legal Ad	Agenda
<ul style="list-style-type: none"><li>▪ Legal ad placed in newspaper (<i>at least 10 days prior to hearing</i>)</li><li>▪ Display ad placed in newspaper (<i>at least 10 days prior to hearing</i>)</li></ul>	<ul style="list-style-type: none"><li>▪ Posted on the City's official notice bulletin board (<i>five days prior to hearing</i>)</li><li>▪ Posted on the City of Cupertino's Web site (<i>five days prior to hearing</i>)</li></ul>

No comments have been received about the proposed amendments as of the date of production of this report.

Permit Streamlining Act:

Permit Streamlining Act does not apply to legislative acts, including the proposed Municipal Code Amendment.

Conclusion

It is recommended that the City Council take the recommended actions in order to allow the City to continue to apply local regulations in the review of Accessory Dwelling Unit applications. Should the City Council not act on this matter, the City will have to review Accessory Dwelling Unit application in accordance with state law.

Fiscal Impact

None.

Next Steps

Upon a final decision and the first reading of the ordinance by the City Council, the ordinance will need a second reading at a subsequent hearing. The ordinance will be effective 30 days after the second reading.

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Reviewed by: Benjamin Fu, Assistant Director of Community Development

Approved for Submission by: Aarti Shrivastava, Assistant City Manager  
David Brandt, City Manager

Attachments:

- A. Draft Ordinance No. 17-2170
- B. Planning Commission Resolution 6842 indicating changes with strikethroughs and underlines