



# CITY COUNCIL STAFF REPORT



**March 28, 2023**

## **ITEM TITLE**

Accessory Dwelling Units: Amend the Chula Vista Municipal Code on Accessory Dwelling Units and Junior Accessory Dwelling Units to Align with State Law and Clarify Development Regulations

**Report Number:** 23-0073

**Location:** No specific geographic location

**Department:** Development Services

**Environmental Notice:** The Project qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines.

## **Recommended Action**

Place an ordinance on first reading amending Chula Vista Municipal Code Sections 19.58.022 (Accessory Dwelling Units) and 19.58.023 (Junior Accessory Dwelling Units) to align with State law and clarify development standards. **(First Reading)**

## **SUMMARY**

This item proposes amendments to the Chula Vista Municipal Code ("CVMC") modifying development standards for both Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs"). The proposed changes reflect both text clarifications from previously adopted standards, as well as amendments to the regulations complying with Senate Bill ("SB") 897 and Assembly Bill ("AB") 2221, which became effective January 1, 2023.

## **ENVIRONMENTAL REVIEW**

The Director of Development Services reviewed the proposed legislative action for compliance with the California Environmental Quality Act ("CEQA") and determined that the action qualifies for the "common sense" exemption under State CEQA Guidelines Section 15061(b)(3). The action involves updates and modifications to the CVMC related to state law compliance and clarification of previously adopted text, regarding ADUs and JADUs. The action of updating and modifying the CVMC with these changes will not result in a material intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC that are being updated. Based on an

analysis of the nature and type of these changes to the CVMC, there is a certainty that there is no possibility that the amendments may have a significant effect on the environment.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

**Planning Commission:** On February 22, 2023, the Planning Commission voted 4-0 to adopt Resolution No. 2023-08 (Attachment 1), recommending that the City Council adopt an Ordinance approving the proposed ADU and JADU amendments.

**Development Oversight Committee:** The Development Oversight Committee is comprised of developers, business owners, community organizations, engineers, architects, and contractors. The Development Oversight Committee was provided the proposed municipal code amendments at their meeting on January 11, 2023, and recommended approval of the proposed amendments.

## **DISCUSSION**

### Background

On January 1, 2023, the State of California enacted several new laws relating to ADUs and JADUs, namely SB 897 and AB 2221. These laws contain modifications to ADU and JADU standards which local municipalities must incorporate into their respective ADU and JADU ordinances.

In addition, local municipalities must comply with the ADU and JADU standards contained in the California Government Code, or, otherwise be governed by the state law instead of any local ordinances passed. Specifically, Government Code Section 65852.2(a)(4) states:

*If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.*

The proposed amendments will incorporate new and modified ADU and JADU regulations and amendments in CVMC Chapter 19.58 (Uses). Adopting the amendments will bring the City's regulations into compliance with SB 897 and AB 2221. The new standards have been incorporated in the proposed ordinance amendments provided in Attachment 2.

A short summary of the new standards is provided below:

### **ADUs**

#### **Height**

##### Detached ADUs

- Allows detached ADUs to be developed up to 18 feet high on a lot with an existing or proposed single-family or multifamily dwelling if it is located within a half-mile of transit or high-quality transit corridor. The maximum height can also be increased to 20 feet, only if it is necessary to match the roof pitch of the main house.

A transit map has been included as Attachment 3, indicating a half-mile radius around all bus stops within the City. The shaded areas are where the new regulations will apply.

- Allows detached ADUs to be developed up to 18 feet high on a lot with an existing or proposed multi-story multifamily dwelling, regardless of proximity to public transit.

#### Attached ADU

- Allows attached ADUs, for either a primary single-family or multifamily dwelling, to be developed up to 25 feet high, or as high the underlying zoning designation allows, whichever is lower. The ADU shall also be no greater than two stories in height.

#### **Front Yard Setbacks**

- A front yard setback alone cannot prohibit the construction of a minimum 800 square foot ADU, so long as it complies with the four-foot side and rear yard setback requirements.

#### **JADUs**

- Enclosed, non-habitable rooms and uses within a residence, such as attached garages, are now considered part of the proposed or existing single-family residence and are eligible to be used as a JADU.
- In instances where a JADU shares a bathroom with the primary dwelling, the JADU is required to have an interior entry to the primary dwelling's "main living area," independent of any exterior entrances to the JADU and primary dwelling.

#### **Adjustments to Application Review Procedures**

- If an ADU application is denied, the City must provide the applicant with a "full set of comments" listing the specific items that are defective or deficient. The comments must also describe how the application can be remedied by the applicant.
- A demolition permit for a detached garage that is to be replaced with an ADU, must be reviewed with the ADU application and issued at the same time as the ADU permit.
- A building permit application for an ADU cannot be denied solely because corrections are needed to address nonconforming zoning conditions, building code violations, or unpermitted structures elsewhere on the lot. So long as the conditions/violations/structures do not present a threat to public health and safety and are not affected by the construction of the ADU, they cannot be the basis of an ADU's denial.

#### **Definition of "Objective"**

A new definition has been added defining "objective standards":

*"Objective standards" are those that involves no personal or subjective judgment by a public official and that is uniformly verifiable by reference to an external and uniform benchmark or criterion*

*available and which is knowable by both the development applicant or proponent and the public official prior to submittal.*

### **Additional Text Clarifications**

Additional proposed amendments to the ADUs and JADUs regulations aim to provide 1) clarity for how many ADUs are allowed to be located within single-family or multi-family properties; and 2) a definition for “multifamily” for the purpose of constructing an ADU. The latter pertains to situations where a legal nonconforming structure located on a property conflicts with the underlying zoning of the parcel (e.g., a property with an existing duplex within a single-family zone).

### **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the 500-foot rule found in California Code of Regulations Title 2, section 18702.2(a)(11), is not applicable to this decision for purposes of determining a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

### **CURRENT-YEAR FISCAL IMPACT**

There is no current-year fiscal impact to the General Fund or the Development Services Fund as a result of this action.

### **ONGOING FISCAL IMPACT**

There is no ongoing fiscal impact to the General Fund or Development Services Fund as a result of this action.

### **ATTACHMENTS**

Attachment 1: Planning Commission Resolution No. 2023-08

Attachment 2: Draft Municipal Code Amendments

Attachment 3: Transit Stop Locations Map

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