



City of Rolling Hills

INCORPORATED JANUARY 24, 1957

Agenda Item No.: 10.A
Mtg. Date: 08/08/2022

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: JOHN SIGNO, DIRECTOR OF PLANNING & COMMUNITY SERVICES

THRU: ELAINE JENG P.E., CITY MANAGER

SUBJECT: PUBLIC HEARING FOR INTRODUCTION AND FIRST READING OF ORDINANCE NO. 376 AMENDING CHAPTER 17.28 OF THE MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND FINDING THE ACTION TO BE EXEMPT FROM CEQA

DATE: August 08, 2022

BACKGROUND:

On June 21, 2022, this item was recommended for approval by the Planning Commission. On June 24, 2022, the City received comments from the California Housing and Community Development Department (HCD) regarding its existing accessory dwelling unit (ADU) Ordinance. Staff responded to HCD that the City is in the process of amending the ADU Ordinance to be in compliance with State law, and many of the issues discussed in the letter have been addressed. However, there were a few issues mentioned by HCD that were not addressed. As such, the Ordinance was further refined to meet the concerns raised by HCD and brought back to the Planning Commission at a public hearing on July 19, 2022. At that meeting, the Planning Commission recommended to the City Council adoption of Ordinance No. 376.

Recent ADU Laws:

In 2019 the Governor signed into law several bills that imposed substantial new limits on local authority to regulate accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs") under Government Code sections 65852.2 and 65852.22 (collectively, the "2019 ADU Laws"). The 2019 ADU Laws went into effect on January 1, 2020. Shortly thereafter, the City Council adopted Ordinance Nos. 364U and 364, which updated the City's ADU and JADU regulations (contained in Chapter 17.28 of the Rolling Hills Municipal Code) to comply with the 2019 ADU Laws. The Legislature has continued amending the state's ADU and JADU statutes on an annual basis.

In September 2020, the Governor signed into law Assembly Bill 3182 which, among other

things, amended Government Code section 65852.2 to: (1) expand the scenarios under which the City must allow certain ADUs and JADUs with only a building permit; and (2) provide that if City does not act on a complete ADU application within 60 days (subject to limited exceptions), the application is deemed approved. Thereafter, in September 2021, the Governor signed into law Assembly Bill 345, which requires cities to allow the separate sale or conveyance of certain ADUs that satisfy the conditions set forth in Government Code section 65852.26. Such conditions include, among other things, that the ADU or the primary dwelling was constructed by a qualified nonprofit and the ADU is sold to a qualified low-income buyer.

The California Department of Housing and Community Development (“HCD”) recently issued clarifying guidance with respect to local implementation of the 2019 ADU Laws, AB 3182, and AB 345. Relatedly, as part of the City’s Housing Element update process, HCD reviewed the City’s current ADU ordinance and determined that certain aspects need to be updated to comply with changes in state law. The proposed ordinance (“Ordinance”) updates the City’s ADU and JADU regulations to comply with AB 3182 and AB 345, align with HCD’s guidance, and further increase clarity for the benefit of staff and the general public.

DISCUSSION:

The Ordinance’s amendments to Rolling Hills Municipal Code (“RHMC”) Chapter 17.28 include, but are not limited to, the following:

- Replaced minimum counter (15 sq. ft.) and storage cabinet (30 sq. ft.) size requirements for JADU kitchens with language requiring counters and storage cabinets to be of a reasonable size in relation to the size of the JADU (RHMC Section 17.28.030(D)).
- Replaced language that allowed one converted ADU or one JADU on a single-family residential lot with language that allows one ADU and one JADU if specified conditions are met (RHMC Section 17.28.040(A)(1)).
- Clarified that the fee for processing ADU applications is not an impact fee (RHMC Section 17.28.040(B)).
- Revised the City’s prohibition on separate sale or conveyance to provide that no ADU or JADU may be sold or otherwise conveyed separately from the lot and primary dwelling except as provided in Government Code section 65852.26 (RHMC Section 17.28.050(D)).
- Clarified that all ADUs and JADUs must comply with all local building code requirements (RHMC Section 17.28.050(G)).
- Replaced language limiting an ADU to two bedrooms with language clarifying that there is no limit on the number of bedrooms (RHMC Section 17.28.060(A)(1)).
- Revised the architectural requirements, impact and utility fee provisions to align with HCD’s guidance on the same (RHMC Sections 17.28.060(I) and 17.28.070).
- Additional minor amendments to augment clarity for staff and the general public.

HCD discussed seven bullet items in its letter to the City (Attachment 5). The Planning Commission addressed five of the items when it recommended approval of the ordinance amendment to the City Council on June 21, 2022. The revised ordinance amendment (Attachment 3) reviewed by the Planning Commission on July 19, 2022, addresses the two remaining items as follows:

- HCD’s Comment: Section 17.28.060 (C)(1) – Front Property Line – The Ordinance states, “No part of any ADU... may be located within 30 feet of the front property line.” The City should be aware that this 30-foot front set back requirement must not prevent the creation of at least an 800 square foot ADU that is at least 16 feet in height with a four-foot side and rear yard setback to be constructed in compliance with all other local

development standards per Government Code section 65852.2, subdivision (c)(1)(C). While not required, HCD recommends including such language.

- Response: Section 17.28.060 (C)(1) has been revised so that an ADU may encroach into the required front yard setback as necessary to enable the construction of an eight hundred square foot unit that is no greater than sixteen feet in height.
- HCD's Comment: Section 17.28.070 (B)(2) – Utility Fees – The Ordinance states that “All ADUs and JADUs not covered by Section 17.28.070.B.1 above require a new, separate utility connection directly between the ADU or JADU and the utility.” However, all JADUs are created out of converted space within a single-family home and would therefore be covered by Section 17.28.070 (B)(1). To promote internal consistency, the City should remove the references to JADUs in Section 17.28.070 (B)(2).
 - Response: The revised ordinance amendment removes reference to JADUs from the Utility Fees section.

For reference, the redline (Attachment 4) compares this Ordinance’s amended ADU regulations against the City’s current regulations. The highlighted text shows what was revised by the Planning Commission on July 19, 2022.

Staff responded to HCD on July 23, 2022, to indicate their concerns will be addressed with this Ordinance Amendment (Attachment 6).

ENVIRONMENTAL IMPACT:

Under California Public Resources Code section 21080.17, the California Environmental Quality Act (“CEQA”) does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California’s ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed Ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State’s ADU law.

FISCAL IMPACT:

The ordinance amendment brings the Municipal Code into compliance with State law which protects the City from legal challenges.

RECOMMENDATION:

1. Open the public hearing, receive public testimony, close the public hearing; and
2. Introduce for first reading by title only Ordinance No. 376 which:
 - a. Amends RHMC Chapter 17.28 regarding ADUs and JADUs; and
 - b. Finds that the adoption of the Ordinance is statutorily exempt from review under CEQA pursuant to Public Resources Code Section 21080.17.

ATTACHMENTS:

[Attachment 1 - Resolution No. 2022-09.pdf](#)

[Attachment 2 - Ordinance No. 376.pdf](#)

[Attachment 3 - Chapter 17.28_ Exhibit A.pdf](#)

[Attachment 4 - Chapter 17.28 \(REDLINE\).pdf](#)

[Attachment 5 - Letter from HCD dated 6-24-22.pdf](#)

[Attachment 6 - Letter_HCD_ADU_Ordinance_072322.pdf](#)