



## Staff Report

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File #: REPORT 22-0767, Version: 1

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### Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of November 29, 2022

#### **CONTINUANCE REQUEST FOR AN URGENCY ORDINANCE TO AMEND THE HERMOSA BEACH MUNICIPAL CODE SECTION 17.04.040 AND CHAPTER 17.21 REGARDING ADUs AND JADUs**

(Interim Community Development Director Corrie Kates)

#### **Recommended Action:**

Staff recommends City Council continue this request to approve an urgency ordinance thereby amending section 17.04.040 and Chapter 17.21 of the Hermosa Beach Municipal Code regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) to its December 13, 2022 regular meeting.

#### **Executive Summary:**

At its November 15, 2022 meeting, Planning Commission approved Resolution 22-18 recommending City Council approve an urgency ordinance amending section 17.04.040 and Chapter 17.21 of the Hermosa Beach Municipal Code regarding ADUs and JADUs. The proposed ordinance amends the City's local regulatory scheme for the construction of ADUs and JADUs to comply with recently amended provisions of Government Code sections 65852.2 and 65852.22. Staff proposes to return to City Council at its December 13, 2022 meeting with the proposed Ordinance and urgency Ordinance including changes to the Hermosa Beach Municipal Code.

Failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) by January 1, 2023, renders the City's ADU ordinance null and void, thereby limiting the City to the application of the few default state standards provided in Government Code sections 65852.2 and 65852.22. The approval of ADUs and JADUs based solely on these default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.

#### **Background:**

In recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs. In 2022, the California Legislature approved, and the Governor signed into law, a new bill (SB 897) that further amends

Government Code sections 65852.2 and 65852.22 (“New Amendments”). Among other things, the new amendments:

- Require the City to allow certain ADUs to be higher-up to 18 or 25 feet, depending on the situation;
- Require the City’s front setback to yield for certain ADUs;
- Require the City to justify a denial with a full set of detailed comments describing the deficiencies in the application and explaining how to remedy them; and
- Remove the automatic repeal in 2025 (now the ADU statute is permanent).

SB 897 takes effect January 1, 2023. If the City’s ADU ordinance does not comply with requirements of SB 897 by that date, the City’s entire existing ADU ordinance becomes null and void as a matter of law, and the City will have to allow ADUs with no local regulation except for the few requirements in the state ADU law itself.

### **Discussion:**

The proposed ordinance would amend the City’s local regulatory scheme for the construction of ADUs and JADUs to comply with recently amended provisions of Government Code sections 65852.2 and 65852.22.

Failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) by January 1, 2023, renders the City’s ADU ordinance null and void, thereby limiting the City to the application of the few default state standards provided in Government Code sections 65852.2 and 65852.22. The approval of ADUs and JADUs based solely on these default statutory standards, without local regulations governing height, setback, landscape, and architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance in accordance with Government Code section 36937, subdivision (b). Due to the timing necessary for Planning Commission review and then City Council review, possible adoption and effective date, adoption by regular ordinance cannot be accomplished prior to January 1, 2023.

The City’s existing ADU and JADU regulations were found in multiple areas of the City’s zoning code which could have led to confusion. Further, due to the multitude of housing issues and continued State involvement in these arenas, it is advisable to be clear that these State required ADU, and JADU regulations are applicable to just ADUs and JADUs. Thus, the proposed amendments would delete substantive provisions (definitions) related to ADUs and JADUs in other parts of the code and place them all in Chapter 17.21 of the Hermosa Beach Municipal Code.

### **Environmental Determination:**

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 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.

**General Plan Consistency:**

This report and associated recommendation have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

*Land Use Element*

**Goal 2. Neighborhoods provide for diverse needs of residents of all ages and abilities, and are organized to support healthy and active lifestyles.**

Policies:

- **2.3 Balanced neighborhoods.** Promote a diverse range of housing unit types and sizes, within the allowed densities.
- **2.5 Neighborhood preservation.** Preserve and enhance the quality of residential neighborhoods by avoiding or abating the intrusion of disruptive, nonconforming buildings and uses.
- **2.6 Diversity of building types and styles.** Encourage a diversity of building types and styles in areas designated for multi-family housing ranging from duplex/triplex/fourplex to courtyard housing to multi-family housing projects.

**Fiscal Impact:**

There is no fiscal impact associated with the recommended action.

**Attachments:**

None

**Respectfully Submitted by:** Corrie Kates, Interim Community Development Director

**Legal Review:** Patrick Donegan, Assistant City Attorney

**Approved:** Suja Lowenthal, City Manager