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Planning Division

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## MEMORANDUM

To: Reid Miller, California Department of Housing and Community Development (HCD)

From: Brandy Forbes, Redondo Beach Community Development Director

Date: October 21, 2020

Subject: Response to HCD Comments on Redondo Beach Draft Accessory Dwelling Unit (ADU) Ordinances

Thank you for the comments you provided regarding the City of Redondo Beach's draft ordinances emailed to the City on October 12, 2020. Although the comments you provided were separated by ordinance (non-coastal zoning ordinance amendments and coastal zoning ordinance amendments), it seems that most all of the comments would pertain to both ordinances. This letter is a response to those comments, explaining how the City either revised the ordinance(s) or otherwise had addressed the comment in the prior draft that you reviewed. Below I have stated your comment in bullet format and then followed with the City's response in italics as to how the comment is addressed:

### Comments on Non-Coastal Zone Ordinance:

- On pg. 3, an ADU or JADU must still be allowed on a lot with a proposed or existing multifamily structure as per CA Government Code 65852.2(a)(1)(D)(ii). It is only under 65852.2(e)(1)(C)-(D) that development is limited to lots with existing multifamily structures (in which case 2 detached ADUs would be allowed instead of just one).

*The City has amended the definition of accessory dwelling unit in both draft ordinances to require approval of ADUs on lots with proposed or existing primary dwellings and existing multifamily dwellings. But please see comments below regarding subsection (c)(2) of the City's ordinances. We question whether the legislature intended to require local agencies to approve ADUs on lots with proposed or existing multifamily dwellings under the non-streamlined provisions of CA Government Code section 65852.2(a)-(d).*

- On pg. 4 under (a)(3)(a), taking action is generally limited to approval or denial within 60 days

*The City had added the language to both ordinances regarding corrections through plan check to help streamline the review. If the City were to only approve or deny, and the plans submitted don't meet the building code, this would require us to outright deny the project. Then the applicant would have to submit a new application and new application fees with their corrections. Allowing the City to provide corrections through plan check would streamline the process and allow the applicant to continue the review of revised plans under the same*

*application, reducing delay and expense. We are willing to revise the ordinances to remove this option, but we are concerned that this may delay the overall process and possibly deter applicants. The City requests that this language, or at least this process, be deemed acceptable by HCD. Alternatively, can you suggest language to address this issue based on your experience with ADU ordinances submitted to HCD by other local agencies?*

- On pg. 4/5, even if the ADU is reviewed at the same time as the single family dwelling, the ADU streamlining procedures must still be applied. The applicant cannot be forced to wait for the review of the ADU application until after the single family application is approved

*The City has revised this language to reflect your comment. This applies to both ordinances.*

- In (6) on pg. 5, existing ADUs can be expanded to 850 square feet for a one-bedroom or 1,000 square feet for more than one bedroom under CA Government Code 65852.2(a)-(d), and up to 800 square feet under (e)

*These sizes are addressed in the appropriate subsections of the ordinance. The non-streamlined (section 65852.2(a)-(d)) is shown on page 10 of the draft inland ordinance under 10-2.1506 (c)(5) and on page 15 of the draft coastal ordinance under 10-5.1506(c)(5). The streamlined (section 65852.2(e)) is shown on page 8 of the draft non-coastal ordinance under 10-2.1506(b)(3)f. and on page 13 of the draft coastal ordinance under 10-2.1506(b)(3)f. The section you are referencing is a broader reference to "this Section" (meaning 10-2.1506 or 10-5.1506 depending on the ordinance) since each type of streamlined has different size regulations and the non-streamlined has another set of size regulations. This reference captures whichever subsection that pertains.*

- On pg. 6, as long as subleases are for a period of longer than 30 days, I do not see a reason or justification for them to be limited

*The ordinances have been revised to state, "...or subleased for a period of less than 30 days." This applies to both ordinances.*

- On pg. 7-8, an ADU or JADU must be allowed on all lots with a proposed or existing primary residence. This cannot be limited by the fact that there is already an existing "guest dwelling", unless the guest dwelling also meets the definition of an ADU

*The references to "guest dwelling" have been removed from both ordinances, since guest dwellings per the City's ordinance do not have kitchen facilities (and thus do not meet definition of an ADU).*

- In (e) on pg. 9, just want to be clear that a lot with an existing multifamily structure is entitled to two detached ADUs under CA Government Code 65852.2(e)

*Both ordinances have been revised to clearly state that two detached ADUs are permitted in these circumstances.*

- In (e)(3) on pg. 10, requiring an entryway to be at least 10 ft from the property line cannot be a requirement if it prevents the development of an ADU. State law is very clear that required setbacks can be no greater than 4 feet in the rear and side yard.

*We have revised both ordinances to state, "The entrance to a detached accessory dwelling unit shall be located at least four (4) feet from any property line. Applicants are encouraged to locate the entrance at least ten (10) feet from any property line."*

Comments on Coastal Zone Ordinance:

- On pg. 6-8, I am a bit confused as to what constitutes a "second unit." If second unit is synonymous with "accessory dwelling unit," there are numerous requirements in this section that would not comply with State ADU law

*For reference, the City did adopt ADU ordinances in April 2019. The inland ordinance became effective 30 days after the adoption—so mid-May of last year. As for the coastal zoning ordinance, technically, the City adopts a Coastal Zoning ordinance amendment but it is not effective until the Coastal Commission officially certifies it. The ADU coastal ordinance the City adopted in April 2019 was not certified by the Coastal Commission because the new bills had already been adopted by the State and signed by the Governor by the time Coastal Commission was preparing to consider the City's ordinance. By then, the new State regulations made our ordinance null and void. However, the City's codification consultant didn't realize that the Coastal Commission hadn't certified the ordinance and proceeded to update the Municipal Code.*

*Accordingly, Section 3 of the coastal zoning ordinance merely acknowledges that the Coastal Commission-certified the code section that needs to be rescinded, whereas Sections 4 through 8 of the draft coastal ADU ordinance show the amendments of the code sections that had been codified but not certified. This way both are acknowledged and replaced with the new language.*

*This item only pertains to the draft coastal ordinance.*

- On pg. 9, same comment as in the on-coastal ordinance regarding ADUs on lots with proposed or existing multifamily structures. An ADU or JADU must still be allowed on a lot with a proposed or existing multifamily structure as per CA Government Code 65852.2(a)(1)(D)(ii). It is only under 65852.2(e)(1)(C)-(D) that development is limited to lots with existing multifamily structures (in which case 2 detached ADUs would be allowed instead of just one).

*As noted earlier, the City has amended the definition of accessory dwelling unit in the draft ordinances to include proposed or existing. These revisions were made to both ordinances.*

- On pg. 12, under (e), it cannot be a requirement that the exit of an ADU or JADU not face the front property line. It can be a preference, but it cannot prevent the approval of an application to build an ADU/JADU

*The ordinances have been revised to state, "The accessory dwelling unit or junior accessory dwelling unit has exterior access independent from the existing single-family dwelling. Applicants are encouraged to locate the exterior access so that it does not face the front property line." This applies to both ordinances.*

- On pg. 14, (c)(2) should be removed. ADUs must be allowed wherever residential development is allowed, including on lots containing multifamily structures.

*Subsection (c)(2) of both the inland and coastal ordinances pertain to non-streamlined ADU applications. Please explain why the City should approve non-streamlined applications for ADUs on lots with proposed or existing multifamily dwellings. Section 65852.2(a)(1)(D)(ii) provides that for non-streamlined applications, the local agency is required to allow an ADU on a lot that “includes a proposed or existing dwelling.” “Dwelling” appears to be singular. The legislature indicated that it knew how to distinguish between single-family and multifamily dwellings because it required agencies to allow ADUs on lots with “multifamily dwellings” in Subsection (e), the streamlined application section. If the legislature wanted local agencies to approve ADUs on lots with proposed or existing multifamily dwellings, it would have said so.*

*Section 65852.2(a)(6) further provides that “This subdivision establishes the maximum standards . . . to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling.” If the legislature intended that ADUs would be allowed on lots with proposed or existing multifamily ADUs, it would not have said “on a lot that includes a proposed or existing single-family dwelling.” It would have said “proposed or existing single-family dwelling or multifamily dwellings.”*

*Section 65852.2(a)(1)(D)(iii) states that an ADU must be allowed if it is “either attached to, or located within, the proposed or existing primary dwelling . . . or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.” The legislature here had three opportunities to provide that ADUs would be allowed within multifamily dwellings or on lots with multifamily dwellings, but declined to do so, indicating that an agency is not required to approve a non-streamlined application for an ADU if the lot contains a proposed or existing multifamily dwellings.*

*Finally, section 65852.2(a)(1)(D)(iv) provides that “If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.” If the legislature had intended that ADUs must be allowed to attach to multifamily dwellings for non-streamlined applications, it would have said “If there is an existing single-family dwelling or multifamily dwellings.” We realize that this subsection refers to attached ADUs rather than detached, but if the legislature wanted to require approval of ADUs, it could have required agencies to allow ADUs attached to multi-family dwellings.*

*In your first comment above that the City should allow ADUs on lots with proposed or existing multifamily dwellings, we do not understand the state law to require approval of ADUs on lots with proposed multifamily dwellings under either the streamlined or non-streamlined processes. In section 65852.2(e)(1)(C) and (D), the legislature requires local agencies to allow detached ADUs on lots with existing multifamily dwellings only. It does not require approval of ADUs on lots with proposed multifamily dwellings. It would be anomalous for the legislature to limit detached ADUs to lots with existing multifamily dwellings in the streamlined application section, where the legislature imposes the greater restrictions on local agency discretion, yet simultaneously require local agencies to approve ADUs on lots with both proposed and existing multifamily dwellings in the non-streamlined part of the state law, where the statute was clearly intended to grant broader discretion to the local agency.*

*In addition, section 65852.2(j)(9), which defines terms applicable to the entire state law, states that a “Proposed dwelling” means a dwelling that is the subject of a permit application. “A dwelling” appears to be singular. Accordingly, “a proposed dwelling” does not include multifamily dwellings.*

- On pg. 14, (c)(3) should be amended to allow JADUs and ADUs on the same lot. An ADU may be built on the same lot as a JADU, provided it is detached and of new construction

*Subsection (c)(3) of both the inland and coastal ordinances pertain to non-streamlined ADU applications. Please advise as to why the City's ordinances must allow ADUs on lots with an existing JADU. We acknowledge that section 65852.2(e)(1)(b) pertaining to streamlined applications requires an agency to allow a detached ADU even if the primary dwelling already contains a JADU. There is no parallel requirement, however, in the non-streamlined sections of 65852.2. Moreover, it is our understanding that the legislature intended to allow local agencies greater discretion in processing non-streamlined applications than streamlined applications. Requiring agencies to allow a detached ADU on a lot with an existing JADU for streamlined applications, but not non-streamlined applications, is consistent with this intent to grant local agencies greater discretion with respect to non-streamlined applications.*

- On Pg. 15, (e)(3), same comment as in the non-coastal zone, requiring an entryway to be at least 10 ft from the property line cannot be a requirement if it prevents the development of an ADU. State law is very clear that required setbacks can be no greater than 4 feet in the rear and side yard. (e)(4)-(5) are also potential constraints on ADU development. These may be preferences, but they cannot be requirements that would prevent the approval of an ADU application if they are not met.

*Both ordinances have been revised to state, "The entrance to a detached accessory dwelling unit shall be located at least four (4) feet from any property line. Applicants are encouraged to locate the entrance at least ten (10) feet from any property line."*

Please let me know if you have any questions regarding the responses or if you would like to discuss them further. Thank you for your consideration of our responses.