

REPORT TO CITY COUNCIL

DATE: MAY 27, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: RAMIRO ADEVA, COMMUNITY DEVELOPMENT DIRECTOR
DOUG HOOPER, PLANNING DIRECTOR

SUBJECT: ADOPTION OF INTERIM ORDINANCE NO. 20-449U OF THE CITY OF AGOURA HILLS, EXTENDING INTERIM ORDINANCE NO. 20-448U, PROHIBITING NEW ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS EXCEPT THOSE THAT SATISFY SPECIFIED STANDARDS, DECLARING THE URGENCY THEREOF, AND FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. ZOA-01732-2020) (CITY OF AGOURA HILLS, APPLICANT)

Staff is requesting the City Council read by title only and adopt Interim Ordinance No. 20-449U ("Interim Ordinance"). The City is the applicant for this Interim Ordinance (Case No. ZOA-01732-2020), which extends Interim Ordinance No. 20-448U and prohibits new accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs") except for those that comply with the development standards established in the Interim Ordinance. The Interim Ordinance (attached Exhibit A) may be adopted at this meeting with a four-fifths (4/5) vote of the City Council pursuant to Government Code Section 65858.

On April 22, 2020, the City Council held a noticed public hearing and adopted Interim Ordinance No. 20-448U, prohibiting ADUs and JADUs, except those that meet the specific standards set forth therein. Interim Ordinance No. 20-448U was effective immediately upon its adoption and remains in effect for a period of 45 days, until June 6, 2020, pursuant to Government Code Section 65858(b).

Government Code Section 65858(b) allows the City, after notice and a public hearing, to extend an interim ordinance for a period of an additional 22 months and 15 days, where the original Interim Ordinance was adopted after a duly noticed public hearing. The proposed Interim Ordinance is being considered by the City Council within the 45-day term of the Interim Ordinance that was adopted by the City Council on April 22, 2020. The request for an extension of the Interim Ordinance is to provide staff sufficient time to further analyze the new State law and prepare the City's development standards regarding ADUs and JADUs. Staff is requesting the City Council consider extending the Interim Ordinance for up to 22 months and 15 days, expiring on April 21, 2022, or until new permanent zoning regulations for ADUs and JADUs are adopted and take effect.

Government Code Section 65858(d) requires the legislative body (City Council) to issue a report describing the measures the City has taken to alleviate the condition which led to the adoption of the Interim Ordinance on April 22, 2020. The measures described below, within this staff report, are intended to serve this requirement.

Adoption of the Interim Ordinance initially addressed public safety concerns regarding development within the Very High Fire Hazard Severity Zone (“VHFHSZ”) of Agoura Hills. Specifically, the Interim Ordinance restricted new ADUs and JADUs on residential zoned properties located within the VHFHSZ designated for Agoura Hills by the Office of State Fire Marshall to either one (1) ADU or one (1) JADU per property.

The Interim Ordinance also addressed development intensification and public safety concerns within residential zones by adopting maximum sizes of 850 square feet for studio and one-bedroom ADUs and 1,000 square feet for ADUs with more than one bedroom.

The proposed Interim Ordinance incorporates by reference and re-adopts the development standards adopted on April 22, 2020. It is staff’s intent that the proposed Interim Ordinance will become the basis for a comprehensive update to the City’s ADU standards. Given the recent interest in building ADUs, staff proposes that the City Council adopt the Interim Ordinance as an interim measure, so that the City can study the appropriate standards for ADUs, in order to further address fire, traffic, and public safety concerns associated with the intensification of development in residential zones. Adoption and implementation of the proposed Interim Ordinance will give staff time to formulate a long-term set of City development standards that facilitate the construction of new ADUs in a manner that helps mitigate the potential impact to the residential character of the surrounding neighborhood, provides the City Council a preview of what the State has required for ADUs, and gives the City time to do more research on whether modifications to the zoning ordinance may be necessary to protect the public safety, health, and welfare.

Staff is in the process of drafting proposed permanent regulations, which must be studied and revised, and considered by both the Planning Commission and City Council at noticed public hearings, with input by residents at those public hearings. Property owners are likely to submit applications for new ADUs and JADUs regardless of whether the City has new regulations for such uses. Without extending interim regulations, such ADU and JADU applications would cause confusion for property owners and residents regarding applicability of provisions in the City’s current regulations. Without local refinements to development standards, the implementation of the ADU and JADUs, statutes may threaten the public safety, health, and welfare. Specifically, the extension of Interim Ordinance No. 20-448U will facilitate the City’s study of the appropriate standards for ADUs and JADUs to address fire, traffic, and public safety concerns associated with the intensification of development in residential and mixed-use zones, especially in the Very High fire Hazard Severity Zone areas. Unless the City Council extends the Interim Ordinance, the City would be required to either approve new ADUs in locations and under standards that may have negative impacts on the surrounding community, or adopt

permanent standards for the entire City without the benefit of a complete inquiry and study of the potential effects.

The public interest, convenience, health, safety, welfare and necessity described above require the extension of Interim Ordinance No. 20-448U, as an urgency measure to continue the interim development controls for ADUs and JADUs until completion of studies and subsequent implementation of any recommended and appropriate revisions to the zoning ordinance. Staff requests the City Council find that it would be in the best interest of the City to extend Interim Ordinance No. 20-448U for an additional 22 months and 15 days, with the goal for staff to complete the permanent regulations for ADUs and JADUs in FY 2020-2021.

The Interim Ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17, and Title 14, Section 15282(h) of the California Code of Regulations, which applies to "the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code."

RECOMMENDATION

Staff respectfully recommends the City Council: 1) read by title only, waive further reading, and adopt Interim Ordinance No 20-448U, prohibiting new accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs") unless they comply with specific standards, to allow the City Council time to study and enact permanent development standards for such uses in response to new state law, and making a finding of exemption under the California Environmental Quality Act.; and 2) find, pursuant to Government Code Section 65858(d), the staff report describes the measures taken by the City to alleviate the condition which led to the adoption of Interim Ordinance No. 20-448U on April 22, 2020.

Attachment: Exhibit A - Interim Ordinance No. 20-449U

Exhibit A
Interim Ordinance No. 20-449U

ORDINANCE NO. 20-449U

**AN INTERIM ORDINANCE OF THE CITY OF AGOURA HILLS,
CALIFORNIA, EXTENDING INTERIM ORDINANCE NO. 20-448U,
PROHIBITING NEW ACCESSORY DWELLING UNITS AND
JUNIOR ACCESSORY DWELLING UNITS EXCEPT THOSE THAT
SATISFY SPECIFIED STANDARDS, DECLARING THE
URGENCY THEREOF, AND FINDING THE ORDINANCE TO BE
EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY
ACT**

**THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS
FOLLOWS:**

Section 1. Findings and Intent.

A. Effective January 1, 2020, Senate Bill 13 ("SB 13"), Assembly Bill 68 ("AB 68") and Assembly Bill 881 ("AB 881") amended Government Code Sections 65852.2 and 65852.22 to further limit the standards cities may impose on accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs"). As amended, Government Code Section 65852.2 allows the City to designate areas where new ADUs may be permitted and to establish objective standards related to parking, height, setback, landscaping, architectural review, and maximum size of units.

B. On April 22, 2020, the City Council held a duly noticed public hearing and adopted Interim Ordinance No. 20-448U, prohibiting ADUs and JADUs, except those that meet the specific standards set forth therein. Interim Ordinance No. 20-448U was effective immediately upon its adoption and remains in effect for a period of 45 days, until June 6, 2020, pursuant to Government Code section 65858(b).

C. Government Code Section 65858(b) allows the City, after notice and a public hearing, to extend an interim ordinance for a period of an additional 22 months and 15 days, where the original Interim Ordinance was adopted after a duly noticed public hearing.

D. On May 27, 2020, 10 days prior to the expiration of Interim Ordinance No. 20-448U, the City issued a report as described in California Government Code section 65858(d), explaining the steps the City is taking to alleviate the concerns that were the basis for the adoption of the Interim Ordinance.

E. City staff is in the process of drafting proposed permanent regulations, which must be studied and revised by staff and considered by both the Planning Commission and City Council at duly noticed public hearings with input by residents at those public hearings. The City Council finds that property owners are likely to submit applications for new ADUs and JADUs, regardless of whether the City has new regulations for such uses. Without interim regulations, such ADU and JADU applications

would cause confusion for property owners and residents regarding applicability of provisions in the City's current regulations. Without local refinements to development standards, the implementation of the ADU and JADU statutes may threaten the public safety, health, and welfare. Specifically, the extension of Interim Ordinance No. 20-448U facilitates the City's study of the appropriate standards for ADUs and JADUs to address fire, traffic, and public safety concerns associated with the intensification of development in residential and mixed-use zones, especially in the Very High Fire Hazard Severity Zone areas. Unless the City Council extends the Interim Ordinance, the City would be required to either approve new ADUs in locations and under standards that may have negative impacts on the surrounding community, or adopt permanent standards for the entire City without the benefit of a complete inquiry and study of the potential effects. Thus, the City Council finds that this extension of Interim Ordinance No. 20-448U is necessary to provide adequate time, resources, and policy guidance to update the City's permanent ADU and JADU regulations.

F. The City Council considered this matter at a duly noticed public hearing on May 27, 2020, and for the reasons set forth herein, finds that it would be in the best interest of the City to extend Interim Ordinance No. 20-448U for an additional 22 months and 15 days, pursuant to Government Code Section 65858(b).

G. The City Council finds that the public interest, convenience, health, safety, welfare, and necessity described herein require the extension of Interim Ordinance No. 20-448U as an urgency measure to continue the interim development controls for ADUs and JADUs until completion of studies and subsequent implementation of any recommended and appropriate revisions to the zoning ordinance.

Section 2. Imposition of Interim Development Standards.

A. The City Council incorporates by reference and re-adopts the recitals made in Ordinance No. 20-448U as if fully set forth herein.

B. In accordance with Government Code Section 65858, and pursuant to the findings stated herein, the City Council hereby: 1) declares that the findings and determinations set forth above are true and correct; 2) finds that there exists a current and immediate threat to the public safety, health, and welfare; 3) finds that this Interim Ordinance is necessary for the immediate preservation of the public health, safety, and welfare, as set forth herein; and 4) declares and imposes interim development standards for the immediate preservation of the public safety, health, and welfare as set forth below.

C. Expiration. Interim Ordinance No. 20-448U shall expire, and its standards and requirements shall terminate on April 21, 2022 (22 months and 15 days from the original date of expiration of June 6, 2020), or until new permanent zoning regulations for ADUs and JADUs are adopted and take effect.

D. Applicability. The City shall not approve an application for a new ADU or JADU unless it satisfies all of the applicable standards below. An application for a new ADU or JADU that satisfies each of the applicable standards below shall be approved by the City following a ministerial review for compliance. Any interim standards specified herein shall supersede any conflicting development standards as set forth in the Municipal Code including the provisions of Section 9283.

E. Definitions. Definitions set forth in Section 9120 of the Municipal Code shall apply to this Interim Ordinance. Additionally, for the purposes of this Interim Ordinance, the term "Junior accessory dwelling unit" ("JADU") shall mean a unit that is no more than 500 square feet in size and contained entirely within a single-family residence, excluding an attached garage. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

F. Building Permit Only Process.

i. An applicant for a new ADU or JADU shall be subject to a building permit only process if the ADU or JADU complies with the requirements of Government Code Section 65852.2(e). A JADU shall comply with the requirements of Government Code Section 65852.22. Under the "building permit only" process, applicants do not need to also obtain zoning clearance from the Planning Director. If the requirements of Government Code Section 65852.2(e) are met, the applicable fees required by subsection "x" of Section 2(H)(4) of this ordinance are paid and the fire zone restriction specified in Section 2(G) of this ordinance is met, then the building permit shall be issued.

ii. For each new ADU approved through the building permit only process, the property owner shall record a covenant in accordance with Section 2(F)(iii) of this ordinance.

iii. For each new JADU approved through the building permit only process, the property owner shall record a City Attorney-approved declaration of restrictions that specifies the size and attributes of the JADU, and that places the following restrictions on the property, the property owner, and all successors in interest: (a) the JADU shall be rented only for terms longer than 30 consecutive days; (b) the JADU shall not be sold or conveyed separately from the primary residence; (c) the property owner (other than a governmental entity, land trust or housing organization) shall reside in either the JADU or in the remaining portion of the single-family residence; (d) the JADU and the property shall be maintained in accordance with all applicable laws; and (e) any violation will be subject to penalties as provided in the Municipal Code.

G. Very High Fire Hazard Severity Zone. No ADU or JADU shall be permitted on properties located within the Very High Fire Hazard Severity Zone designated for Agoura Hills by the Office of State Fire Marshall unless all of the following requirements are met:

i. No more than one (1) ADU or one (1) JADU is allowed on properties located in the City's Very High Fire Hazard Severity Zone.

ii. All new ADUs or JADUs proposed within the City's Very High Fire Severity Zone shall comply with any applicable brush clearance requirements. Unless otherwise required by applicable City building and fire codes, in any residential zone where new ADUs or JADUs are allowed, if fire sprinklers are required for the primary dwelling unit then fire sprinklers are also required for new ADUs or JADUs.

iii. Except for an ADU approved pursuant to the "building permit only process" described in section 2(F) of this ordinance, the ADU shall comply with all applicable requirements stated in Section 2(H) of this ordinance.

H. Development Standards for ADUs Seeking a Zoning Clearance and Building Permit.

1. Zoning Clearance / Building Permit Requirements. Before constructing or establishing an ADU under the City's local development standards, an applicant shall obtain a zoning clearance from the Planning Director and obtain a building permit. An application for a zoning clearance for an ADU that satisfies the requirements of this section shall be ministerially approved by the Planning Director (or the Director's designee) in accordance with the procedures and timelines outlined in Government Code Section 65852.2.

2. Permitted ADU Locations. ADUs are permitted in the RV (Residential-Very Low Density), RL (Residential-Low Density), RS (Residential-Single-Family), RM (Residential-Medium Density), and RH (Residential-High Density) zones. An ADU shall be located on the same lot as a detached or multi-family residential building.

3. ADU Covenant. The property owner shall record a City Attorney-approved declaration of restrictions placing the following restrictions on the property, the property owner, and all successors in interest: (a) the ADU may be rented only for terms longer than 30 consecutive days; (b) the ADU shall not be sold or conveyed separately from the primary residence; (c) the ADU and the property shall be maintained in accordance with all applicable laws; and (d) any violation will be subject to penalties as provided in the Municipal Code.

4. General ADU Development Standards.

i. Lot Size. All new accessory dwelling units are exempt from compliance with the minimum lot size requirements.

- ii. Lot Coverage. All new accessory dwelling units shall conform to the lot coverage requirements for the zoning district in which the ADU is located, except where the application of the lot coverage requirements would not permit construction of an 800 square-foot ADU that is 16 feet in height and located at least four (4) feet from the rear property line and four (4) feet from the side property line.
- iii. Size. The maximum total floor area of any new ADU shall not exceed the following:
 - (a) New detached ADU: 850 square feet for a studio or one-bedroom unit; or 1,000 square feet for an ADU with more than one bedroom.
 - (b) New attached ADU: 850 square feet for a studio or one-bedroom unit; or 1,000 square feet for an ADU with more than one bedroom; or 50% of the primary residence's living area, whichever is less.
 - (c) A covered balcony, porch or patio provided with an ADU shall count towards the total ADU square-footage allowance.
- iv. Height. The maximum height of any new ADU shall not exceed the following:
 - (a) New detached ADU: A new detached ADU shall not exceed a height of 16 feet measured from any grade elevation around the perimeter of the ADU.
 - (b) New attached ADU: A new attached ADU shall not exceed the height limit applicable to the primary residence or the actual height of the primary residence, whichever is less. An ADU not to exceed 16 feet in height shall be allowed if the actual height of the primary residence is less than 16 feet.
- v. Setbacks. An ADU shall comply with all front yard setback requirements applicable to the lot's primary residence. Unless otherwise provided in this Section, any new attached or detached ADUs shall have a minimum setback of four (4) feet from the rear property line and four (4) feet from the side property line.
 - (a) Notwithstanding these provisions, in the Old Agoura Design Overlay District, a detached accessory dwelling unit may be erected in the minimum front yard provided it does not exceed more than twenty-five (25) percent of the minimum front yard.

(b) Notwithstanding the above, no setback shall be required for an ADU that is within an existing structure or constructed in the same location and within the same dimensions as an existing legally permitted structure.

(c) A detached ADU must maintain a 10-foot separation from any main building on the lot.

vi. Design and Features.

(a) The ADU's exterior building materials and colors shall match those of the single-family residence.

(b) If an automatic sprinkler system is required for the primary residence, the ADU shall also have an automatic sprinkler system.

vii. Parking Requirements. One (1) off-street parking space shall be provided for an ADU, in addition to the parking required for the primary residence. The required parking space for the ADU may be provided as tandem parking on an existing driveway.

viii. Parking Exemption. Notwithstanding subsection (vii) above, no additional parking space is required for an ADU that satisfies any of the following:

(a) The ADU is located within one-half (1/2) mile walking distance of "public transit" within the meaning of Government Code Section 65852.2;

(b) The ADU is located within an architecturally and historically significant district;

(c) The ADU is part of the existing or proposed primary residence or built in an existing accessory structure;

(d) The ADU is located in an area where on-street parking permits are required but not offered to an ADU occupant;

(e) The ADU is located within one (1) block of a city-approved and dedicated parking space for a car share vehicle.

ix. Replacement Parking. When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction

of an ADU or is converted into an ADU, replacement parking for the main dwelling unit shall not be required.

x. Fees and Utility Connections.

- (a) The property owner shall pay all sewer, water, school district, and other applicable fees, including development impact fees as permitted under Government Code Section 65852.2(f)(3).
- (b) The property shall install a new or separate utility connection between the ADU and the utility, and pay all applicable connection fees or capacity charges for utilities, including water and sewer service, unless the ADU is specifically exempt from such fees under Government Code Section 65852.2(f).
- (c) If the ADU will use a private sewage disposal system, the property owner shall obtain approval by the local health officer prior to submitting an application with the City.

Section 3. CEQA.

The City Council determines that the adoption of this Interim Ordinance, extending Interim Ordinance No. 20-448U, is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17, and Title 14, Section 15282(h) of the California Code of Regulations which applies to "the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code."

SECTION 4. Severability Clause.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstances, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsections, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 5. Effective Date.

This Ordinance shall take effect immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council pursuant to California Government Code Section 65858.

SECTION 6. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause its publication in accordance with applicable law. The City Clerk shall submit a copy of this Ordinance to the California Department of Housing and Community Development within 60 days after its adoption.

PASSED, APPROVED, AND ADOPTED this 27th day of May, 2020, by the following vote to wit:

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney