



CITY COUNCIL STAFF REPORT

DATE: July 2, 2014

PUBLIC HEARING

SUBJECT: AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 93.23.14 OF, AND AMENDING OR REPEALING VARIOUS PROVISIONS OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE ESTABLISHMENT OF AN ACCESSORY SECOND UNIT PROGRAM IN THE CITY.

FROM: Department of Planning Services

SUMMARY

California State law requires all local jurisdictions to allow accessory second units. California's accessory second unit law sets standards that apply in the absence of a local ordinance, including a requirement that any application for proposed accessory second unit that meets such standards must be reviewed ministerially, without public hearing. The City can provide more lenient requirements subject to a public hearing and review process.

Staff has prepared a An Accessory Second Unit Ordinance, which is exempt from the requirements of CEQA, under Section 21080.17 of the Public Resources Code. The ordinance will provide the City with development and design guidelines for processing permits for Second Units. The proposed ordinance creates one comprehensive approach to accessory second units in the City and provides consistent development standards and processes for the review and approval of accessory second units consistent with state law. The proposed ordinance also eliminates the current and conflicting second unit provisions of the Zoning Code that have been adopted in a piecemeal fashion over the years.

Staff is recommending approval and adoption of the proposed Ordinance, as provided in Attachment A. Staff finds that the proposed ordinance would allow the City to ensure that second units that are built in the City comply with the goals and objectives of the General Plan, the Housing Element, and the standards of the Zoning Code for residential properties

RECOMMENDATION:

1. Open the public hearing and receive public testimony.

2. Waive the reading of the ordinance text in its entirety and read by title only; and
3. Introduce on first reading Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 93.23.14 OF, AND AMENDING OR REPEALING VARIOUS PROVISIONS OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO THE ESTABLISHMENT OF AN ACCESSORY SECOND UNIT PROGRAM IN THE CITY.

BACKGROUND INFORMATION

Accessory second units are important in meeting the State-mandated housing requirements given to cities through the Regional Housing Needs Assessment (RHNA) numbers. State law declare that second unit provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. State law further declares that homeowners who create second units benefit from added income and an increased sense of security.

The development of second units is regulated by State's Second Unit Law (Government Code Section 65852.2) which requires that the City process second unit applications ministerially, without a public hearing. The City must also process such applications in accordance with the generic development standards set forth in the Second Unit Law and summarized below. The purpose of the proposed amendment is to eliminate a series of inconsistent zoning code requirements relating to second units and establish the City's own development standards for accessory second units, taking into account land use and planning issues that are unique to the City and to ensure consistency with the City's General Plan, Housing Element, and zoning standards for residential properties.

The Planning Commission held a public hearing on June 11, 2014 and recommended changes to staff's original proposal including allowing accessory second unit to be up to 99% the size of the primary unit with a Conditional Use Permit.

ANALYSIS:

State Law

There has been a significant amount of State law in the past several decades regarding granny flats or second units or accessory apartments. Since 1982, State law has mandated that municipalities allow these uses either using state standards or adopting their own, in full compliance with State law.

Local governments may still set height, setback and lot coverage standards and set minimum unit sizes and establish parking requirements. Conditional Use Permits may not be required for units that meet state imposed minimums.

The second Unit Law provides the following:

1. The City is not required to amend or adopt a second unit ordinance. If the City decides to adopt an ordinance, the ordinance may do any of the following:

- Designate single and multi-family residential areas where second units may be permitted. The designation may be based on factors, including but not limited to, the adequacy of water and sewer services and the impact of second units on traffic flows
- Impose standards on second units that include, but are not limited to parking, height, setbacks, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.
- Provide that second units do not exceed the allowable density for the lot upon which the second unit is located and that second units are a residential use that is consistent with the existing general plan and zoning designation.
- Establish minimum and maximum unit size requirements for both attached and detached second units. However, minimum size requirements must permit at least an efficiency unit to be constructed in compliance with local development standards.
- Establish parking requirements that do not exceed one parking space per unit or per bedroom unless a finding is made that the additional parking is required and is directly related to the use of the second unit and consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional

2. The City's Ordinance may not be considered in the application of any local ordinance, policy, or program to limit residential growth.

3. The City's must also consider any second unit application ministerially without discretionary review or a public hearing if they meet requirements of the local ordinance.

4. The City may not totally preclude second units within single-family or multi-family zones unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare (i.e., the adequacy of water and sewer services and the impact of second units on traffic flow) that would result from allowing second units within single-family and multi-family zones justify the prohibition of second units.

5. The City cannot require that second units be occupied by persons related to the owner of the primary unit, caregivers, or dependents.

6. The ordinance can include income restrictions to ensure the creation of affordable housing.

7. Cities can charge a fee to cover costs, including the costs of adopting or amending any ordinance that provides for the creation of second units.

8. If the City has not adopted a second unit ordinance within 120 days after receiving the application, the City must process the application in accordance with the following development standards set forth in Second Unit law:

- The Second Unit is not intended for sale and may be rented.
- The lot is zoned for single-family or multi-family use.
- The lot contains an existing dwelling unit
- The second unit is attached to the existing dwelling unit and located within the living area of the existing dwelling unit or detached from the existing dwelling unit and located on the same lot as the existing dwelling unit.
- The increase in floor area for the creation of an attached second unit shall not exceed 30 percent of the existing living area.
- The total floor area of a detached second unit shall not exceed 1,200 square feet.
- Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located are met.
- Local building code requirements which apply to detached dwelling unit, as appropriate, are met.
- Approval by the local health officer where a private sewage disposal system is being used, if required.
- A second unit under these provisions is not considered to exceed the allowable density for the lot on which it is located, and is deemed a residential use which is consistent with the existing general plan and zoning designations of the lot.
- The applicant for a second unit permit may be required to be an owner-occupant.

9. The City may adopt less restrictive requirements for the creation of second units.

10. The City is required to submit a copy of its second unit ordinance to the Department of Housing and Community Development within 60 days after adoption.

Palm Springs Zoning Ordinance

The City's Zoning Ordinance currently has three separate sections relating to second units. Section 92.01.01.A.2 relates to servants quarters, guest houses, and accessory living quarters without kitchens, permitted as a matter of right; Section 92.23.14 relates to accessory apartment housing, subject to a conditional use permit; and Section 92.01.01.D.3 which relates to guest houses with kitchen capabilities, subject to a conditional use permit.

The following chart summarizes the current Code permitted uses:

Current Code						
	Zoning	Unit Size	Attach/Detach	Kitchen	By-right/ CUP	Lot Size
92.01.01.A.2	R-1AH-D	<1/50th lot area	detached	kitchen	by-right	
93.23.14*	SAA + GR5-8 & R2 No PD unless part of original	15% sq. ft. of primary & ≤ 640	attached		CUP	
92.01.01.D.3	SAA	≤ 1/50th lot		kitchen	CUP	15,000 sq. ft.

*no separate ownership
no more than 2 persons
no more than 1 per lot
no separate meter

Proposed Ordinance

As mentioned, the State has invalidated the CUP requirements for some accessory units. In order to create an ordinance that meets State law yet keeps components of existing code, the following proposal is made:

	By-right	CUP
Unit size	≤ 30% existing single family	≤ 99% existing single family
Parking	1 space per bedroom may be tandem &/or w/in setback	1 space per unit
Kitchen	Allowed	Allowed
Lot coverage	Max. 35%	Max. 35 %
	May be rented	May be rented
	Single family or multi-family developed w/ single family	Same
	One unit must be owner occupied	Same
	May be detached	Same
	May not be sold separately	Same

Requirements in all cases:

- Single-family home must have conforming parking
- One accessory unit per single-family lot
- No separate utility meter
- Must meet all setbacks, not eligible for AMM
- May not exceed 1 story nor height of existing single-family house
- No discretionary review in hillside areas unless for CUP if required

	State Law	Current Code (most restrictive)	Proposed Code	
			By-Right	CUP
Lot size	legal lot sq. ft.	15,000 single-family	legal lot	legal lot
Unit size	1200 sq. ft.	640 sq. ft.	same as state	Not to exceed existing unit
	30% of exist. unit	15% of exist. unit	state	up to 99% exist.
Lot Coverage	code	code 35%	Code	Code
Kitchen	allowed	allowed w/ CUP	allowed	allowed
Rental	ok	ok	ok ≥ 30 days	ok ≥ 30 days
Detached	yes	no	yes	yes
Parking	one per bedroom, allowed in setback or tandem	one	same as state	one per unit
Rental	yes	n/a	yes ≤ 30 days	yes ≤ 30 days
Own occ. require.	allowed	n/a	one unit own occ.	one unit, own occ.
Review	ministerial	discretionary	ministerial	discretionary

ENVIRONMENTAL ASSESSMENT

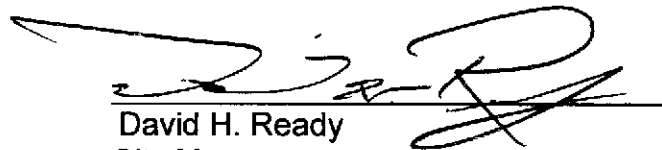
Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project is a Class III exemption and is categorically exempt per Section 15303(a) (New Single-Family Residence and Accessory Structure).

NOTIFICATION

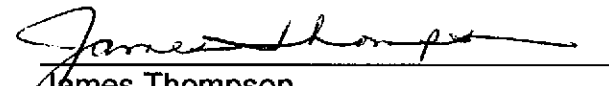
A public hearing notice was published. The Planning Department has not received correspondence regarding this issue.



M. Margo Wheeler, FAICP
Director of Planning Services



David H. Ready
City Manager



James Thompson
City Clerk

Attachments:

1. PC Minutes
2. Draft Ordinance – Materials to Follow

PLANNING COMMISSION MINUTES

AND

PROPOSED ORDINANCE

MATERIALS TO FOLLOW

**CITY OF PALM SPRINGS
PUBLIC HEARING NOTIFICATION**




Date: July 2, 2014
Subject: Case 5.1341 ZTA

AFFIDAVIT OF PUBLICATION

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was published in the Desert Sun on June 21, 201.

I declare under penalty of perjury that the foregoing is true and correct.




Kathie Hart, CMC
Chief Deputy City Clerk

AFFIDAVIT OF POSTING

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board, and in the Office of the City Clerk and on June 19, 2014.

I declare under penalty of perjury that the foregoing is true and correct.




Kathie Hart, CMC
Chief Deputy City Clerk

AFFIDAVIT OF MAILING

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was mailed to each and every person on the attached list on June 19, 2014, in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at Palm Springs, California.

(6 notices)

I declare under penalty of perjury that the foregoing is true and correct.



Kathie Hart, CMC
Chief Deputy City Clerk

NOTICE OF PUBLIC HEARING
CITY COUNCIL
CITY OF PALM SPRINGS

CASE 5.1341 ZTA
APPLICATION BY THE CITY OF PALM SPRINGS
FOR A ZONING TEXT AMENDMENT TO AMEND
PALM SPRINGS ZONING CODE (PSZC) 91.00.10 – DEFINITIONS,
92.00, 92.01, 92.02, 92.03 & 92.04 – PERMITTED, ACCESSORY & CONDITIONALLY
PERMITTED USES AND TO REPLACE 93.23.14 – ACCESSORY APARTMENT
HOUSING IN ITS ENTIRETY

NOTICE IS HEREBY GIVEN that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting of July 2, 2014. The City Council meeting begins at 6:00 p.m. in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

The purpose of the hearing is to consider Case 5.1341 ZTA, an application by the City of Palm Springs, to amend Palm Springs Zoning Code (PSZC) 91.00.10 – Definitions, 92.00, 92.01, 92.02, 92.03, and 92.04 – Permitted, Accessory and Conditionally Permitted Uses and to replace 93.23.14 – Accessory Apartment Housing in its entirety.

ENVIRONMENTAL DETERMINATION: The City of Palm Springs, in its capacity as the Lead Agency, under the California Environmental Quality Act (CEQA) has determined that the proposed zoning code text amendment is Categorically Exempt under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act since the proposed zone text amendment proposes only insignificant changes to the land use designations provisions.

REVIEW OF INFORMATION: The staff report and other supporting documents regarding this matter are available for public review at City Hall between the hours of 8:00 a.m. and 6:00 p.m., Monday through Thursday. Please contact the Office of the City Clerk at (760) 323-8204 if you would like to schedule an appointment to review these documents.

COMMENTS: Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (for mail or hand delivery) to:

James Thompson, City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior to, the public hearing. (Government Code Section 65009[b][2]).

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to M. Margo Wheeler, F.A.I.C.P., Director of Planning Services, at (760) 323-8245.

Si necesita ayuda con esta carta, por favor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger telefono (760) 323-8245.


James Thompson, City Clerk

Cindy Berardi

From: Joanne Bruggemans
Sent: Thursday, June 19, 2014 11:40 AM
To: Andreas Hills; Araby Commons; Araby Cove; Baristo; Canyon Corridor; Chino Canyon; Deepwell Estates; Demuth Park; Desert Park Estates; Desert Park Estates; El Mirador; El Rancho Vista Estates; Four Seasons; Historic Tennis Club; Indian Canyons; Los Compadres; Midtown; Mountain Gate; Movie Colony East; Old Las Palmas; Parkview Mobile Estates; Racquet Club Estates; Racquet Club South; Racquet Club West; Sonora Sunrise; Sunmor; Sunrise Park; Sunrise Vista Chino; Tahquitz River Estates; The Mesa; The Movie Colony; Twin Palms; Vista Las Palmas; Vista Norte; Warm Sands
Cc: Margo Wheeler; Terri Hintz; Cindy Berardi
Subject: Case 5.1341 ZTA - Amend PSZC 91.00.10 - Definitions, 92.00 through 92.04 - Permitted , Accessory & Conditional Uses
Attachments: CC PHN Case 5.1341 ZTA.pdf

Morning -

Please find the attached Public Hearing Notice of the City Council for July 2, 2014 of the proposed Zone Text Amendment.

Thank you,

Joanne

Joanne Bruggemans
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