



**PLANNING COMMISSION
MEETING AGENDA
December 4, 2019**

PLANNING COMMISSION

**Chairman Tim Breunig
Vice-Chairman Paul Senft
Commissioner Maureen Auer
Commissioner Jeff Holoubek
Commissioner Bynette Mote**

CITY STAFF

**Senior Principal Planner Janice Etter
Principal Planner Andrew Mellon
Associate Planner Nathan Castillo
City Attorney Todd Leishman**

39707 Big Bear Boulevard, Big Bear Lake, California 92315



INFORMATION FOR THE PUBLIC

The Planning Commission meets regularly on the first and third Wednesdays of the month at 1:15 p.m. in Hofert Hall at the Civic Center located at 39707 Big Bear Boulevard.

Procedure to Address the Planning Commission

The Planning Commission encourages free expression of all points of view. To allow all persons to speak, given the length of the agenda, please keep your remarks brief. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. To encourage all views and promote courtesy to others, the audience should refrain from clapping, booing or shouts of approval or disagreement.

Public Forum

The public may address the Planning Commission by completing a speaker card and submitting it to the Commission Secretary. The speaker cards are located on the table at the back of the Commission Chambers. During the "Public Forum" your name will be called. Please step to the microphone and give your name and city of residence for the record before proceeding. All remarks shall be addressed to the Commission as a body only. No person other than a member of the Commission and the person having the floor shall enter into any discussion without the permission of the Commission Chairman. Public comment is permitted only on items not on the agenda that are within the subject matter jurisdiction of the City. There is a three minute maximum time limit when addressing a respective board.

Discussion/Action Items

Speakers shall follow the same requirements as under the Public Forum, however, cards submitted after the Commission begins to discuss an item will be subject to the Presiding Officer seeking consensus from the Commission to consider hearing from the speaker, and if permitted, the speaker will have one minute to provide his or her comments.

Public Hearings

A speaker card must be completed and speakers must follow the three minute maximum time limit. Project applicants will be given ten minutes to present their item to the Commission and/or address questions brought before the Commission from members of the public. The Presiding Officer may entertain a motion to extend the applicant's time if needed. Speaker cards submitted after the close of the public hearing are subject to the guidelines as stated above.

Any handouts for the respective Commission shall be given to the Commission Secretary for distribution.

PLEASE NOTE: Agenda related writings or documents provided to the Planning Commission are available for public inspection at www.citybigbearlake.com and at the public Planning Department counter in the City Hall lobby located at 39707 Big Bear Boulevard during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

The City of Big Bear Lake wishes to make all of its public meetings accessible to the public. If you need special assistance to participate in a meeting, please contact the City Clerk's office. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to public meetings.



PLANNING COMMISSION MEETING AGENDA

December 4, 2019

TIME: 1:15 p.m.

Next Resolution PC2019-16

PLACE: Hofert Hall
City of Big Bear Lake
39707 Big Bear Boulevard
Big Bear Lake, California

CALL TO ORDER

FLAG SALUTE

ROLL CALL AUER, BREUNIG, HOLOUBEK, MOTE, SENFT

INTRODUCTION OF STAFF

AGENDA APPROVAL

PRESENTATIONS / ANNOUNCEMENTS / INFORMATIONAL ITEMS

PUBLIC FORUM

1. CONSENT CALENDAR

- 1.1 Approval of the minutes of the Planning Commission meeting of October 16, 2019.
- 1.2 Approval of the minutes of the Planning Commission meeting of November 6, 2019.

2. PUBLIC HEARING ITEMS

- 2.1 Development Code Amendment 2019-135/DCA Planner: Janice Etter

Location: All residential zones designated Residential-Low (R-L), Single-Family Residential (R-1), Multiple-Family Residential (R-3), and the residential land use designation in the Village Specific Plan (VSP-R).

APN: N/A

Applicant: City of Big Bear Lake

Consideration of a recommendation to the City Council to adopt both an urgency ordinance and a non-urgency ordinance amending several sections of the Development Code relating to Accessory Dwelling Units and Junior Accessory Dwelling Units as a result of recent changes to state law.

Staff recommends that the Planning Commission hold a public hearing and adopt the attached resolutions recommending that the City Council adopt an urgency ordinance and non-urgency ordinance and finding the ordinances exempt from the California Environmental Quality Act (CEQA).

3. PLANNING DIRECTOR'S REPORT

4. SUMMARY COMMENTS

5. ADJOURNMENT

The City of Big Bear Lake wishes to make all of its public meetings accessible to the public. If you need special assistance to participate in a meeting, please contact the City Clerk's office. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to public meetings.

**CITY OF BIG BEAR LAKE
PLANNING COMMISSION MEETING MINUTES**

October 16, 2019

CALL TO ORDER 1:15 p.m.

FLAG SALUTE Vice-Chairman Senft led the salute.

ROLL CALL Commissioners Holoubek, Mote, Vice-Chairman Senft, and Chairman Breunig were present. Commissioner Auer was excused.

STAFF PRESENT Jae Hill, Planning Director, and Andrew Mellon, Principal Planner

AGENDA APPROVAL Approved with a unanimous voice vote.

PRESENTATIONS / ANNOUNCEMENTS / INFORMATIONAL ITEMS – None

PUBLIC FORUM

Opened 1:17 p.m. No one spoke – closed 1:17 p.m.

1. CONSENT CALENDAR

1.1 Approval of the minutes of the Planning Commission meeting of September 4, 2019.

Approved with a unanimous voice vote.

2. PUBLIC HEARING

2.1 Plot Plan Review 2019-113/PPR Planner: Andrew Mellon
Variance 2019-114/VAR

Location: 42530 Moonridge Road

APN: 2328-382-17, 18 & 24

Applicant: Jaymes Nordine

Representative: John Acosta, Mountain Architecture

A new 2,069 s/f building addition to an existing 1,428 s/f restaurant and expansion of the existing patio to a new 1,354 s/f outdoor patio. The Variance requests to allow the encroachment of eight parking spaces into the Rathbun Drive street side setback, to allow the encroachment of one parking space into the Elm Street side yard setback, and to waive three of the required thirteen parking spaces.

Andrew Mellon gave the report and presentation.

Commissioner Mote asked if this is plan meets requirements of the Rathbun Corridor Plan. Mr. Mellon said it was held to current standards for the area. Chairman Breunig inquired whether the Rathbun Corridor Plan addresses landscaping. Mr. Mellon responded that some areas of the commercial area of Moonridge Road are adding

landscaping. He also noted that the Water Efficiency Landscaping Ordinance (WELO) has some requirements that will apply to the area.

Public Hearing opened at 1:27

Jaymes Nordine – applicant was available for questions.

Vice-Chairman Senft commended Mr. Nordine on addressing the need of a full-size restaurant and asked how they plan on advertising. Mr. Nordine answered that it would be word-of-mouth mostly, but will also be part of the community and through social media. Vice-Chairman Senft inquired when they plan to be open. Mr. Nordine said they are very hopeful to be ready in March 2020. Vice-Chairman Senft again complimented the design of the project. Mr. Nordine said he was willing to do whatever the City required.

Commissioner Holoubek commended the applicant, but voiced concerns about parking. He asked the applicant how many employees they have. Mr. Nordine said 15 employees. Commissioner Holoubek noted that they are increasing the need for parking but decreasing the parking spaces. Mr. Mellon commented that the goal in the Moonridge area is to get people moving in other ways than using personal cars, like biking, walking, shuttle, etc. He also stated that the City plans to provide some parking lots in the area at a future date, but there will be on-street parking available. Commissioner Holoubek asked when parking lots might be a reality. Mr. Mellon said there are funding issues, and reiterated the idea to encourage people to get out of their cars.

Commissioner Mote expressed enthusiasm for the aesthetics of the project and asked if the trees will be retained. Mr. Nordine said that they cannot retain the existing trees but he is open to doing some planting to create a park-like setting on the corner.

Chairman Breunig thanked the applicant for stepping up as the first business to come forward with upgrades.

Public Hearing closed at 1:42

Chairman Breunig said that he believes we have learned a lot in doing the improvements to the Village that can be copied to Moonridge.

Commissioner Mote asked about landscaping plans for the median in the middle of the road. Mr. Mellon said these plans represent the third rendition of the proposal.

Commissioner Mote moved to adopt the attached Resolution finding the project exempt from the California Environmental Quality Act (CEQA) and approving Plot Plan Review application 2019-113 and Variance application 2019-114, based on the findings and subject to the conditions of approval contained in the Resolution. Commissioner Holoubek seconded the motion, which carried by the following vote:

AYES:	Breunig, Holoubek, Mote, Senft
NOES:	None
ABSTAIN:	None
ABSENT:	Auer

5. **PLANNING DIRECTOR'S REPORT** – Mr. Hill advised the Commission that the next meeting will be on November 6, 2019.

6. **SUMMARY COMMENTS** – Commissioner Mote inquired about planned charging stations. Mr. Hill responded that Bear Valley Electric Service is working on a program through grants. The City is looking for appropriate locations. Commissioner Mote asked about the timeframe for this process. Mr. Hill said that there should be a decision within six months. Vice-Chairman Senft commented that the solar panels at the Civic Center could supplement the need for the charging stations. Mr. Hill explained that there are several requirements for the chargers that have to be reviewed for compatibility. Mr. Mellon added that the 2019 Building Code, which will be adopted in January 2020, includes a requirement for charging stations for new construction. Commissioner Mote asked about existing properties. Mr. Mellon said those are not addressed yet.

Commissioner Mote requested an update to the Traffic Management Plan. Mr. Hill said it is going to the City Council on October 28th, and staff will provide the Commission with a copy of the report when it has been prepared.

7. **ADJOURNMENT** - At the hour of 1:45 p.m., Chairman Breunig adjourned the meeting.

MINUTES APPROVED AT THE MEETING OF NOVEMBER 6, 2019.

Becky Romine, Commission Secretary

**CITY OF BIG BEAR LAKE
PLANNING COMMISSION MEETING MINUTES**

November 6, 2019

CALL TO ORDER 1:15 p.m.

FLAG SALUTE Commissioner Auer led the salute.

ROLL CALL Commissioners Auer, Vice-Chairman Senft, and Chairman Breunig were present. Commissioner Holoubek was absent and Commissioner Mote was excused.

STAFF PRESENT Janice Etter, Senior Principal Planner, and Andrew Mellon, Principal Planner

AGENDA APPROVAL Approved with a unanimous voice vote.

PRESENTATIONS / ANNOUNCEMENTS / INFORMATIONAL ITEMS – Ms. Etter informed the Commission that Jae Hill had resigned as the Planning Division Manager and reminded them that City Hall will be closed on Monday, November 11th in observance of Veterans Day.

PUBLIC FORUM

Opened 1:17 p.m. No one spoke – closed 1:17 p.m.

1. CONSENT CALENDAR

1.1 Approval of the minutes of the Planning Commission meeting of October 16, 2019.

Commissioner Auer abstained from the vote due to absence from that meeting. Due to the lack of quorum, the item was continued to the next Planning Commission meeting.

2. PUBLIC HEARING

2.1 Conditional Use Permit 2019-072/CUP Planner: Andrew Mellon

Location: 885 Andrew Lane
APN: 0308-192-05
Applicant: Katheryn Longawa

Representative: James Smith, Smithaven Homes, Inc.

Request to convert an existing single-family residence into a four (4) guestroom bed and breakfast establishment in the Single Family Residential (R-1) zone.

Andrew Mellon gave the report and presentation.

Commissioner Auer requested that a condition be added to be sure that the additional bedroom being added as a portion of the garage is converted would not be allowed to

become an Accessory Dwelling Unit (ADU). Andrew responded that the conditions state that none of the bedrooms shall have kitchen facilities. Ms. Etter added that the Conditional Use Permit itself would prohibit an ADU to be added for the property. Commissioner Auer said that she was very concerned about continuity of the ADU ordinance. Chair Breunig said that he was comfortable with staff's ability to monitor and enforce the use of the property.

Public Hearing opened at 1:36

James Smith – Smithaven Homes, representative, spoke in favor of the project and thanked Andrew for covering everything in his report. Mr. Smith noted that he will also be making upgrades to the interior of the home, including obtaining permits for all items as necessary. He stated that the owner is aware and in agreement with the conditions.

Vice-Chairman Senft complemented the designer on his work. He voiced concern about clearance of snow from the property. Mr. Smith indicated that the owner has ample space for movement of snow. Mr. Mellon explained that this is a non-dedicated street, so it is up to the property owners on that street to arrange for it to be cleared. Commissioner Auer asked if there should be a condition of approval that she will be responsible for clearing the road. Mr. Mellon said that was not necessary since it would be in her best interest to make sure her renters could access her property.

Valarie Ren – 898 Andrew Lane – believes that a Bed and Breakfast use would be restrictive to her being able to rent her home and that it could impact her property value. It will attract more traffic and create more trash and noise. Ms. Ren noted that she has found that there have been people coming on to her property using her Jacuzzi and assumes these are renters from some of the other properties in the neighborhood. Ms. Ren also asked if fire sprinklers were required to be installed. Mr. Mellon answered that sprinklers are not required. Commissioner Auer stated that, if this house were to be used as a Transient Private Home Rental (TPHR), it could host up to 16 guests at a time, but, as a Bed and Breakfast, it can only house 8 plus the owner. Mr. Mellon clarified that the owner is required to be on the premises at all times when there are renters there. Ms. Ren then said that parking has previously been a problem on this street.

Ray Wilcox – 898 Andrew Lane – said his dad had looked at the subject property and had been told that the property does not meet requirements and was constructed illegally. He is opposed to the request because it is a commercial use in a single family neighborhood. Mr. Mellon noted that the zoning on the property is an R-1 (Residential Low Density), but due to the occupancy, is rated as R-3 (Residential Multi-Family), which allows for a Bed and Breakfast.

Vice-Chairman Senft asked if anything can be done regarding the fire sprinkler requirement. Mr. Mellon explained that the Building Code will apply to any areas necessary, but there is no addition proposed, it is only interior upgrades.

Mr. Smith noted that there is a 2-car garage on the property.

Mr. Wilcox returned to the podium and said that he heard it said that the zoning was R-1, but then heard Mr. Mellon state that it was R-3. Mr. Mellon explained that the

Development Code determines the zoning on a property, in this case R-1. However, the Building Code determines the occupancy code, and in this case it becomes R-3.

Public Hearing closed at 2:05 p.m.

Mr. Mellon noted that we are adding condition #22 – The Bed and Breakfast shall not be allowed to have an ADU while being operated as a Bed and Breakfast. Also, condition #7(i) will have the phrase guest bedrooms changed to all bedrooms.

Commissioner Auer moved to adopt the attached resolution finding the project exempt from the California Environmental Quality Act (CEQA) and approving Conditional Use Permit 2019-072/CUP, based on the findings and subject to the conditions of approval contained in the resolution. Vice-Chairman Senft seconded the motion, which carried by the following vote:

AYES:	Auer, Breunig, Senft
NOES:	None
ABSTAIN:	None
ABSENT:	Holoubek, Mote

- 5. **PLANNING DIRECTOR’S REPORT** – Ms. Etter pointed out the traffic management plan that had been supplied to the Commissioners. She told them that, if they have any questions about snow removal information or more history, they can go to the City Council meeting archive and download the full staff report.

Ms. Etter also stated that there will not be a meeting on November 20th, but items have been set for the December 4th meeting.

- 6. **SUMMARY COMMENTS** – None
- 7. **ADJOURNMENT** - At the hour of 2:10 p.m., Chairman Breunig adjourned the meeting.

MINUTES APPROVED AT THE MEETING OF DECEMBER 4, 2019.

Becky Romine, Commission Secretary



STAFF REPORT

PLANNING COMMISSION MEETING OF DECEMBER 4, 2019

PUBLIC HEARING

SUMMARY AND RECOMMENDATIONS

- Project:** Development Code Amendment 2019-135
- Proposal:** Consideration of a recommendation to the City Council to adopt both an urgency ordinance and a non-urgency ordinance amending language in the Development Code relating to Accessory Dwelling Units and Junior Accessory Dwelling Units as a result of recent changes to state law.
- Location:** All residential zones designated Residential-Low (R-L), Single-Family Residential (R-1), Multiple-Family Residential (R-3), and the residential land use designation in the Village Specific Plan (VSP-R).
- Applicant:** City of Big Bear Lake
- Recommendations:** Staff recommends that the Planning Commission hold a public hearing and adopt the attached resolution recommending that the City Council adopt both an urgency ordinance and non-urgency ordinance pertaining to ADUs and JADUs, and finding the ordinances exempt from the California Environmental Quality Act (CEQA).

Submitted by,

JANICE ETTER, AICP
Senior Principal Planner

BACKGROUND

Earlier this year, the City Council adopted Ordinance 2019-471 establishing standards for the regulation of Accessory Dwelling Units (ADUs) that are now contained in Development Code Section 17.25.210. In October of 2019, the state legislature approved and the Governor signed into law a number of bills, specifically, AB 881, SB 13 and AB 68, constituting new ADU laws. These bills amend Government Code Sections 65852.2 and 65852.22 and impose strict limits on the city's authority to regulate ADUs and Junior Accessory Dwelling Units (JADUs). The new ADU laws take effect on January 1, 2020. If a City's ADU ordinance does not comply with the new ADU laws, then the City's entire ordinance becomes null and void on that date.

It is therefore necessary to amend the following Development Code provisions:

- Table 17.25.040.A. Accessory Uses and Structures Permitted in Residential Zones – to allow JADUs.
- Section 17.25.210 – Accessory Dwelling Units – replace all existing language to comply with the new ADU laws.

ANALYSIS

The City's ADU regulations do not comply with the new ADU laws and the inconsistencies will be discussed throughout this report. The attached Planning Commission resolution recommends that the City Council adopt both an Urgency Ordinance and a Non-Urgency Ordinance. The Urgency Ordinance will adopt the new ADU and JADU regulations for an interim period until the Non-Urgency Ordinance becomes effective. The proposed regulations in the two ordinances are identical and they address the following provisions.

Significant Changes to State Law

- I. Cities can no longer require a minimum lot size, special setbacks, owner occupancy requirements, or correction of nonconforming zoning conditions in order to establish an ADU or JADU.*

Several sections of our existing ordinance can no longer be enforced, including requirements for a minimum lot size, 25-foot front setback, and permanent or second-home occupancy. An ADU or JADU must be allowed, even where the primary residence is nonconforming with respect to one or more development standards. Only minimal standards can be applied to ADUs and JADUs as discussed further in the paragraphs that follow.

II. Junior ADUs (JADUs) must be allowed.

The city may no longer prohibit JADUs. The new ADU laws establish minimum development standards for JADUs within existing or proposed residences, and allows JADUs in addition to a detached ADU on the same property.

A Junior ADU (JADU):

- Is contained entirely within an existing or proposed single-family dwelling or accessory structure.
- Is no more than 500 square feet in area.
- Includes its own separate sanitation facility or shares sanitation facilities with an existing or proposed single-family structure, and
- Contains an efficiency kitchen with a cooking facility with appliances, food preparation counter(s) that total at least 15 square feet and food storage cabinets that total at least 30 square feet of shelf space.

III. New categories of ADUs and JADUs must be allowed by right, by building permit only.

These new ADU types are:

- **Converted on Single-Family Lot.**
 - Where only one ADU or JADU is either within the space of a proposed single-family dwelling, within the existing space of an existing single-family dwelling, or within the space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress.
 - Has exterior access that is independent of the primary residence.
 - Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - Have no maximum size, but must be created out of existing space.
- **Limited Detached on Single-Family Lot.**
 - Where one detached new-construction ADU is proposed on a lot with a proposed or existing single-family dwelling in addition to a JADU that may be established within the single-family dwelling.
 - Has side and rear yard setbacks of at least four (4) feet.
 - Has a total floor area of 800 square feet or less.
 - Has the peak (roof ridge height) of 16 feet or less above grade.

- Converted on a Multiple Family Lot.
 - Multiple ADUs may be established within portions of existing multifamily dwelling structures that are not used as livable space, including storage rooms, boiler rooms, passageways, attics, basements or garages if each converted ADU complies with state building standards for dwellings.
 - At least one converted ADU is allowed within an existing multiple family dwelling.
 - Up to 25 percent (25%) of the existing multiple family dwelling units may each have a converted ADU.

- Limited Detached on Multiple Family Lot.
 - No more than two detached ADUs on a lot that has an existing multiple family dwelling.
 - Each ADU has side and rear setbacks of at least four (4) feet.
 - Each ADU has a total floor area of 800 square feet or less.

IV. ADU Permit and Specific ADU Requirements.

For ADUs that are not listed above, the city is allowed to establish an ADU Permit, which must be considered by ministerial action without discretionary review or a hearing, when it meets the following standards:

- The maximum size of a detached or attached ADU is 850 square feet for a studio or one-bedroom unit, and 1,000 square feet for a two-bedroom unit. No more than two (2) bedrooms are allowed.
- An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent (50%) of the floor area of the existing primary dwelling.
- The application of other development standards, such as lot coverage or open space requirements might further limit the size of the ADU, but no application of these development standards may require the ADU to be smaller than 800 square feet.
- A single-story attached or detached ADU may not exceed 16 feet in height above grade, measured to the peak of the structure. A second story or two-story attached ADU may not exceed the height of the primary dwelling. A detached ADU may not exceed one story.

We recommend that the Zoning Clearance Review process already established in Development Code Section 17.03.240 be used to review this category of ADUs.

For ADUs proposed to go beyond the above-listed requirements, the new ADU law allows discretionary review through the Conditional Use Permit process.

V. Changes to Owner Occupancy Requirements and Rental Terms

Between January 1, 2020, and January 1, 2025, state law prohibits cities from requiring an owner occupancy requirement on ADUs. For the next five years a primary residence, an ADU and a JADU on the same property can be rented concurrently.

JADU's require owner occupancy of the primary dwelling or JADU. We are recommending occupancy to mean occupancy of the property by an owner as their permanent or seasonal (second home) residence. "Occupy" here means the right to use the unit exclusively at will.

After January 1, 2025, we recommend a limit on the number of full-time rental units on the single family residential property as shown in Section 17.25.210(e)(7) of the urgency and non-urgency ordinances.

The new ADU laws prohibit a JADU or ADU from being a vacation rental.

VI. Reduced or Eliminated Parking Requirement

The new ADU laws severely limit the City's ability to require on-site parking. The city is prohibited from requiring on-site parking for JADUs and converted single family ADUs. Replacement parking is also not allowed to be required for converted garages. The City is prohibited from requiring parking for any ADU that is within ½ mile walking distance to a bus stop. When parking is allowed to be required, it is limited to a minimum of one (1) off-street parking space for each ADU.

VII. Additional Provisions – Architectural standards and Development Impact Fees.

Architectural standards. The new ADU laws allow the City to require minimum architectural standards. Our current regulations contain standards for compatible materials and color with the primary residence, a minimum roof pitch and eave overhangs, and location of the entrance to the ADU. We recommend that these be retained, as shown in Section 17.25.210(f)(7) of the ordinance.

Development Impact Fees. The new ADU laws allow the City to collect Development Impact Fees in proportion to the square footage of the primary dwelling unit for an ADU that is greater than 750 square feet in area. At the current time, the City is not collecting Development Impact Fees for ADUs. Because the new ADU laws have the potential to double and triple the full-time occupancy within the City, additional incremental impacts to Fire vehicles and equipment, city streets, and similar public works facilities and equipment will result. Therefore, it is recommended that Development Impact Fees be collected on ADUs as allowed by state law, as shown in Section 17.25.210(g)(1).

FINDINGS

Two special findings must be made in order to make a recommendation to adopt an Urgency Ordinance. These findings are that:

1. There is a current and immediate threat to the public health, safety, or welfare based on the passage of the new ADU laws, which when effective on January 1, 2020, invalidate the City's ADU ordinance and create JADUs and ADUs subject only to a few state-wide default standards.
2. Local regulations on JADUs and ADUs are necessary because of Big Bear Lake's unique economic and physical environment. Without local regulations, JADUs and ADUs created under

the default standards would threaten the character of existing neighborhoods and negatively impact property values, personal privacy, and fire and life safety. These threats to public safety, health, and welfare justify the adoption of an urgency ordinance.

A Non-Urgency Ordinance may be recommended to be approved upon making the four findings for the approval of a Development Code Amendment shown below:

1. The Development Code Amendment conforms with the goals, objectives and policies of the General Plan, specifically Land Use Element Policy L 1.7 pertaining to compatibility between different land uses; and the amendment incorporates regulations to integrate ADUs into the character of existing neighborhoods to the extent allowed by law. The amendment is consistent with Goal L 3 to provide for housing opportunities for all demographic and economic segments of the population, and Policy L 3.3 that requires the planners to maintain the integrity, safety and attractiveness of residential neighborhoods.

To the extent allowed under the new ADU laws, the ordinance supports Community Design Element Goal CD 1 to create and maintain a well-designed built environment which contributes to the community's economic vitality, enhances the quality of life and reflects and enhances the beauty of the City's natural mountain setting.

The amendment is consistent with goals and policies of the Housing Element, including Goal H2 and Policy H1.2, to assist in the development of and removal of barriers to housing for low and moderate-income households.

2. *The proposed Development Code amendment is necessary to implement the General Plan and to provide for public safety, convenience and/or general welfare;*

The Development Code Amendment is necessary to implement the General Plan and to provide for public safety, convenience, and general welfare because the current state standards that were passed by the Legislature do not represent the overall goals and policies of the General Plan. The current state law is general in nature and applies to all cities in the State. Big Bear Lake is unique because of our terrain, elevation, population and weather. Modifications to the state standards are necessary to implement the General Plan Policy's and Goals and to provide public safety and the overall general welfare of the citizens.

3. *The proposed Development Code amendment conforms with the intent of the Development Code and is consistent with all other related provisions thereof;*

The amendment is consistent with the Development Code and its related provisions because it requires ADUs to comply with existing single- and multiple-family residential development standards to the extent allowed under state law in order to maintain health, safety and welfare for our citizens. These requirements include front building setbacks, lot coverage, open space, laundry facilities, parking space sizes and architectural standards.

4. *The proposed Development Code amendment is reasonable and beneficial at this time.*

The Development Code amendment is reasonable and beneficial at this time because the city's ADU regulations are inconsistent with the new ADU laws and the city's regulations will become unenforceable on January 1, 2020. Therefore it is necessary to adopt new regulations that are consistent with the new state laws.

ENVIRONMENTAL DETERMINATION

Staff has reviewed the project for conformance with the California Environmental Quality Act (CEQA) and determined that the adoption of an ordinance implementing the provisions of Government Code Sections 65852.2 and 65852.22 is statutorily exempt from the CEQA. [CEQA Guidelines Section 15282(h)]. In addition, the construction of appurtenant accessory structures, as described in the ordinance, is categorically exempt. (Section 15303, Class 3 of CEQA Guidelines). A Notice of Exemption is attached to this report as Attachment 2.

PUBLIC NOTIFICATION

A legal notice and display ad were published in The Grizzly newspaper on November 20, 2019. This notice was posted in three public places and posted on the Planning Commission's page of the City's website at www.citybigbearlake.com. As of the date of this Staff Report, no public correspondence has been received.

RECOMMENDATIONS

Staff recommends that the Planning Commission hold a public hearing and adopt the attached Resolution No. 2019-XX, which recommends that the City Council approve Development Code Amendment 2019-135, finding the action statutorily and categorically exempt from the California Environmental Quality Act (CEQA) and adopting both an Urgency Ordinance and a Non-Urgency Ordinance amending Development Code Table 17.25.040.A. and Section 17.25.210 relating to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs).

MOTION

The following motion is recommended:

“I move to approve Resolution No. 2019-XX, which recommends that the City Council approve Development Code Amendment 2019-135, finding it statutorily and categorically exempt from CEQA, and adopting both an Urgency Ordinance and Non-Urgency Ordinance to amend the appropriate sections of the Development Code relating to ADUs and JADUs, based on the findings contained in the Resolution.”

ATTACHMENTS

1. Resolution No. PC2019-xx
2. Notice of Exemption

N:\2-Group\Planning\Development Code Amendments\2019\2019-135 ADU's 2019 Revisions\PC Staff Report CC Agenda Reports\PC Dec 4 2019~Staff Report ADUs & JADUs.docx

ATTACHMENT 1

RESOLUTION NO. PC2019-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE DEVELOPMENT CODE AMENDMENT 2019-135, FINDING THE ACTION EXEMPT FROM CEQA AND ADOPTING BOTH AN URGENCY ORDINANCE AND A NON-URGENCY ORDINANCE AMENDING DEVELOPMENT CODE TABLE 17.25.040.A. AND SECTION 17.25.210 RELATING TO ACCESSORY DWELLING UNITS (ADUs) AND JUNIOR ACCESSORY DWELLING UNITS (JADUs)

A. RECITALS

- (i) The City of Big Bear Lake, California (the “City”) is a municipal corporation and charter city, duly organized under the constitution and laws of the State of California; and
- (ii) The City of Big Bear Lake has prepared Development Code Amendment 2019-135 as described herein (hereinafter referred to as “Amendment”).
- (iii) The Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and
- (iv) In October 2019, the California Legislature approved, and the Governor signed into law a number of bills (“New ADU Laws”) 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; and
- (v) The new ADU Laws take effect January 1, 2020, and if the City’s ADU ordinance does not comply with the new ADU Laws, the City’s ordinance becomes null and void on that date as a matter of law; and
- (vi) The City desires to amend its local regulations for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and
- (vii) Failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020, renders the City’s ordinance regulating ADUs and JADUs null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

- (viii) The creation of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety.
- (ix) City staff and the City Attorney prepared the proposed ordinances, including the proposed language and terminology, and any additional information and documents deemed necessary for the Planning Commission and City Council to take action; and
- (x) On November 20, 2019, the City gave public notice of the public hearing for the proposed Development Code Amendment by publication in a newspaper of general circulation and posting in three public places and on the City’s website of a Planning Commission public hearing at which the amendment would be considered; and
- (xi) On December 4, 2019, the Planning Commission conducted a duly noticed public hearing on the Development Code Amendment in Hofert Hall of the Civic and Performing Arts Center, 39707 Big Bear Boulevard, Big Bear Lake, California.
- (xii) All legal prerequisites to the adoption of this Resolution have occurred.

B. RESOLUTION

NOW THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Big Bear Lake, as follows:

1. The Planning Commission hereby specifically finds that all of the facts set forth in the Recitals, part A of this Resolution, are true and correct.
2. The Planning Commission hereby finds that, based on the public hearing and substantial evidence in the record, the adoption of an ordinance implementing the provisions of Government Code Sections 65852.2 and 65852.22 is statutorily exempt from the CEQA. [CEQA Guidelines Section 15282(h)]. In addition, the construction of appurtenant accessory structures, as described in the ordinance is categorically exempt. (Section 15303, Class 3 of CEQA Guidelines).
3. Based on the evidence presented to the Planning Commission, including oral and written staff reports and public testimony during the above-referenced public hearing, the Planning Commission finds as follows with respect to Development Code Amendment 2019-135 for the adoption of an Urgency Ordinance:
 - a. There is a current and immediate threat to the public health, safety, or welfare based on the passage of the new ADU laws, which when effective on January 1, 2020, invalidate the City’s ADU ordinance and create JADUs and ADUs subject only to a few state-wide default standards.

- b. Local regulations on JADUs and ADUs are necessary because of Big Bear Lake’s unique economic and physical environment. Without local regulations, JADUs and ADUs created under the default standards would threaten the character of existing neighborhoods and negatively impact property values, personal privacy, and fire and life safety. These threats to public safety, health, and welfare justify the adoption of an urgency ordinance.
4. Based on the evidence presented to the Planning Commission, including oral and written staff reports and public testimony during the above-referenced public hearing, the Planning Commission finds as follows with respect to Development Code Amendment 2019-135 for the adoption of a Non-Urgency Ordinance:

- a. The Development Code Amendment conforms with the goals, objectives and policies of the General Plan, specifically Land Use Element Policy L 1.7 pertaining to compatibility between different land uses, and incorporates regulations to integrate ADUs into the character of existing neighborhoods to the extent allowed by law. The amendment is consistent with Goal L 3 to provide for housing opportunities for all demographic and economic segments of the population and Policy L 3.3 that requires the planners to maintain the integrity, safety and attractiveness of residential neighborhoods.

To the extent allowed under the new ADU laws, the ordinance supports Community Design Element Goal CD 1 to create and maintain a well-designed built environment which contributes to the community’s economic vitality, enhances the quality of life and reflects and enhances the beauty of the City’s natural mountain setting.

The amendment is consistent with goals and policies of the Housing Element, including Goal H2, and Policy H1.2 to assist in the development of and removal of barriers to housing for low and moderate-income households.

- b. The Development Code Amendment is necessary to implement the General Plan and provide for public safety, convenience, and general welfare because the current state standards that were passed by the Legislature do not represent the overall goals and policies of the General Plan. The current state law is general in nature and applies to all cities in the State. Big Bear Lake is unique because of our terrain, elevation, population and weather. Modifications to the state standards are necessary to implement the General Plan Policy’s and Goals and to provide public safety and the overall general welfare of the citizens.
- c. The amendment is consistent with the Development Code and its related provisions, because it requires ADUs to comply with existing single-family and multiple-family residential development standards to the extent allowed under state law in order to maintain health, safety and welfare for our citizens. These requirements include front building setbacks, lot coverage, open space, laundry facilities, parking space sizes, and

architectural standards.

- d. The Development Code amendment is reasonable and beneficial at this time because the city’s ADU regulations are inconsistent with the new ADU laws and will become unenforceable on January 1, 2020. Therefore it is necessary to adopt new regulations that are consistent with the new state laws contained in Government Code Sections 65852.2 & 65852.22, as amended.
5. ADUs subject to the ADU permit requirements in Section 17.25.210(d)(2)(B) shall be reviewed through the Zoning Clearance Review process established in Development Code Section 17.03.240, and pay the associated application fee, as amended from time to time by City Council resolution.
6. Based on the findings and conclusions set forth in paragraphs 1, 2, 3, 4 & 5 above, the Planning Commission hereby recommends that the City Council approve Development Code Amendment 2019-135 finding the action statutorily and categorically exempt from the California Environmental Quality Act and adopting both an Urgency Ordinance and a Non-Urgency Ordinance to amend Development Code Table 17.25.040.A. and Section 17.25.210 relating to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) as attached hereto respectively as Resolution Exhibit 1 (amendment to Table 17.25.040.A) and Resolution Exhibit 2 (amendments to Section 17.25.210).
7. The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 4th day of December, 2019.

AYES:
NOES:
ABSENT:
ABSTAIN:

Date

Tim Breunig, Chairman

ATTEST:

Becky Romine
Planning Commission Secretary

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF BIG BEAR LAKE)

I, Becky Romine, Commission Secretary of the City of Big Bear Lake, California, do hereby certify that the whole number of the Planning Commission of the said City is five; that the foregoing Resolution, being **Resolution No. PC2019-xx** as duly passed and adopted by the said Planning Commission and attested by the Commission Secretary of said City, all at a regular meeting of the said City held on the **4th day of December 2019**, and that the same was so passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Witness my hand and the official seal of said City this **xth day of December 2019**.

Becky Romine
Planning Commission Secretary

**RESOLUTION EXHIBIT 1
 AMENDMENT TO DEVELOPMENT CODE TABLE 17.25.040.A.**

ACCESSORY USES AND STRUCTURES PERMITTED IN RESIDENTIAL ZONES

Zone District	R-L	R-1	R-3
<u>Animal Uses:</u>			
Keeping of domestic animals commonly kept as household pets; <ul style="list-style-type: none"> ▪ Single family residential: 2 dogs and/or cats over age of 4 mos. for each lot 7200 sq. ft. or less; 3 for lots 7201-10,000sq. ft.; 4 for lots of 10,001 – 20,000 sq. ft.; maximum of 5 for each lot over 20,000 sq. ft. ▪ Multiple family residential: 2 dogs and/or cats over age 4 mos. per dwelling unit 	P	P	–
Keeping of horses, llamas, donkeys, mules, burros, or ponies on lots of 1 acre or greater in area; 1 animal per each 10,000 sq. ft. of lot area, not to exceed 6 animals per lot or project	P	–	–
Keeping of exotic or wild animals	CUP	CUP	CUP
<u>Accessory Dwelling Units:</u>			
Junior Accessory Dwelling Units (JADUs) and Accessory Dwelling Units (ADUs)	P ¹	P ¹	P ¹
Caretaker’s or manager’s unit as part of approved project	–	–	P ¹
Board and room provided to not more than 2 boarders per dwelling unit	P	P	P
Temporary dependent housing unit (“granny unit”)	CUP ¹	CUP ¹	CUP ¹

Zone District	R-L	R-1	R-3
<u>Accessory Structures:</u>			
Animal enclosures - large animals (barns, corrals, pastures, stables)	P ¹	-	-
Animal enclosures – small animals (dog houses, etc.)	P	P	P
Decks, patios, gazebos (covered or uncovered)	P	P	P
Garages, attached or detached; maximum one per dwelling unit, maximum area of 10 percent of lot area, not to exceed 1,500 sq. ft., provided that setbacks and open space requirements are met.	P	P	P
Guest house, with no kitchen facilities	P ¹	P ¹	P ¹ (for single family use only)
Signs, residential identification, pursuant to Chapter 17.12 (Signs)	SP	SP	SP
Tennis court, play court, swimming pool, jacuzzi, or other recreational facility for use by residents	P ¹	P ¹	Single-family: P ¹ Multi-family: part of PPR or CUP ¹
Storage buildings or children’s play house, for use by residents, not to exceed 2 such structures and a total of 1,000 square feet in area for each single family use; for multi-family, review as part of overall development plan	P	P	Single-family: P Multi-family: part of PPR or CUP
<u>Accessory Commercial Uses:</u>			
Day care, large family	LFD	LFD	LFD
Day care, small family	P	P	P
Home occupation permit	HOP	HOP	HOP

Zone District	R-L	R-1	R-3
Vacation home rental	TPHR	TPHR	TPHR
<u>Temporary Uses:</u>			
Special events	SE	SE	SE
Construction staging area (on-site only)	TUP	TUP	TUP
Temporary construction office/trailer	TUP	TUP	TUP
Temporary sales office/trailer/models	TUP	TUP	TUP
Caretaker’s or owner’s residence on permitted, active construction site	TUP	TUP	TUP

P = permitted use without land use approval; other permits may be required.

PPR = permitted subject to approval of a Plot Plan Review pursuant to Section 17.03.160.

CUP = permitted subject to approval of a Conditional Use Permit pursuant to Section 17.03.170.

TDH = permitted subject to approval of a Temporary Dependent Housing unit, pursuant to Section 17.25.130.

LFD = permitted subject to approval of a Large Family Day Care, pursuant to Section 17.03.260.

HOP = permitted subject to approval of a Home Occupation Permit, pursuant to Section 17.03.270.

TPHR = Permitted subject to approval of a Transient Private Home Rental unit, pursuant to Section 17.03.310.

SE = permitted subject to approval of a Special Event Permit, pursuant to Section 17.03.300.

SP = permitted subject to approval of a Sign Permit, pursuant to Chapter 17.12.

TUP = permitted subject to approval of a Temporary Use Permit, pursuant to Section 17.03.290.

¹ Subject to special development standards in this chapter.

“ _ ” = Not permitted.

RESOLUTION EXHIBIT 2
AMENDMENTS TO DEVELOPMENT CODE SECTION 17.25.210

The entirety of existing Development Code Section 17.25.210, as previously adopted by City Council Ordinance No. 2019-471, shall be repealed and replaced with the following language:

17.25.210 ACCESSORY DWELLING UNITS

(a) Purpose. The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code sections 65852.2 and 65852.22.

(b) Effect of Conforming. An ADU or JADU that conforms to the standards in this section will not be:

- (1) Deemed to be inconsistent with the City’s General Plan and zoning designation for the lot or property on which the ADU or JADU is located.
- (2) Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
- (3) Considered in the application of any local ordinance, policy, or program to limit residential growth.
- (4) Required to correct a nonconforming zoning condition, as defined in subsection (c)(7) below. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.

(c) Definitions. As used in this section, the following terms are defined as follows:

- (1) “Accessory dwelling unit” or “ADU” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary dwelling unit. For the purpose of this ordinance, primary dwelling, primary dwelling unit, and primary residence shall mean the same thing and be used interchangeably. An accessory dwelling unit also includes the following:
 - (A) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - (B) A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
- (2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

- (3) “Complete independent living facilities” means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
- (4) “Efficiency kitchen” means a kitchen that includes each of the following:
 - (A) A cooking facility with appliances.
 - (B) A food preparation counter or counters that total at least 15 square feet in area.
 - (C) Food storage cabinets that total at least 30 square feet of shelf space.
- (5) “Junior accessory dwelling unit” or “JADU” means a residential unit that
 - (A) Is no more than 500 square feet in size,
 - (B) Is contained entirely within an existing or proposed single-family structure,
 - (C) Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and
 - (D) Includes an efficiency kitchen, as defined in subsection (a)(4) above
- (6) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
- (7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform to current zoning standards.
- (8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- (9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- (11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(d) **Approvals.** The following approvals apply to ADUs and JADUs under this section:

(1) **Building-permit Only.** If an ADU or JADU complies with each of the general requirements in subsection (e) below, it is allowed with only a building permit in the following scenarios:

(A) **Converted on Single-family Lot:** Only one ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

- (i) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress.
- (ii) Has exterior access that is independent of that for the single-family dwelling.
- (iii) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

(B) **Limited Detached on Single-family Lot:** One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (d)(1)(A) above), if the detached ADU satisfies the following limitations:

- (i) The side- and rear-yard setbacks are at least four-feet.
- (ii) The total floor area is 800 square feet or smaller.
- (iii) The peak height above grade is 16 feet or less.

(C) **Converted on Multifamily Lot:** Multiple ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units may each have a converted ADU under this paragraph.

(D) **Limited Detached on Multifamily Lot:** No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:

- (i) The side- and rear-yard setbacks are at least four-feet.

(ii) The total floor area is 800 square feet or smaller.

(2) **ADU Permit.**

(A) Except as allowed under subsection (1) above, no ADU may be created without a building permit and an ADU permit in compliance with the standards set forth in subsections (e) and (f) below.

(B) The ADU permit shall be processed through the Zoning Clearance Review process established in Development Code Section 17.03.240, and subject to the associated application fee, as amended from time to time by City Council resolution.

(3) **Process and Timing.**

(A) An ADU permit is considered and approved ministerially, without discretionary review or a hearing.

(B) The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, unless either:

(i) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

(ii) In the case of a JADU and the application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the JADU will still be considered ministerially without discretionary review or a hearing.

(e) **General ADU and JADU Requirements.** The following requirements apply to all ADUs and JADUs that are approved under subsections (d)(1) or (d)(2) above:

(1) **Zoning.**

(A) An ADU or JADU subject only to a building permit under subsection (d)(1) above may be created on a lot in a residential zone.

(B) An ADU or JADU subject to an ADU permit under subsection (d)(2) above may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

(2) **Fire Sprinklers.** Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

- (3) **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days nor operated under the City’s Transient Private Home Rental Program.
- (4) **No Separate Conveyance.** An ADU or JADU may be rented, but no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot).
- (5) **Septic System.** If the ADU or JADU will connect to an onsite water-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- (6) **Laundry Facilities.** An ADU shall be provided with utility hook-ups to accommodate installation of a washer and dryer.
- (7) **Owner Occupancy and Concurrent Rental of the Dwelling Units.**
 - (A) All ADUs created before January 1, 2020, are subject to the owner-occupancy requirements that were in place when the ADU was created. Specifically, the previous regulations established by Ordinance No. 2019-471 required that the primary dwelling unit or the ADU on the property shall be occupied by an owner of the property as their permanent or seasonal (second home) residence. “Occupy” here means the right to use the unit exclusively at will. The owner may rent out either unit for longer than 30-day periods, but in no case shall the two units be concurrently rented.
 - (B) An ADU that is created after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.
 - (C) All ADUs that are created on or after January 1, 2025, are subject to an owner-occupancy requirement. After January 1, 2025, where the property contains a primary dwelling unit, an ADU, and a JADU, the owner may rent out only two of the units for longer than 30-day periods, but in no case shall three units be concurrently rented. Where the property contains a primary dwelling unit and an ADU, or a primary dwelling unit and a JADU, the owner may rent out only one of the units for longer than 30-day periods but in no case shall two units be concurrently rented.
 - (D) All JADUs are subject to an owner-occupancy requirement. The primary dwelling unit or the JADU on the property shall be occupied by an owner of the property as their permanent or seasonal (second home) residence. “Occupy” here means the right to use the unit exclusively at will. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

- (8) **Deed Restriction.** Prior to issuance of a final inspection and release of occupancy of building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder’s office and a copy filed with the Planning Department. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
- (A) The ADU or JADU may not be sold separately from the primary dwelling.
 - (B) The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - (C) The deed restriction runs with the land and may be enforced against future property owners.
 - (D) The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request to the Director of the Planning Department, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director’s determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
 - (E) The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
- (9) **Parking.**
- (A) **General Parking Requirements.** No on-site parking shall be required for a JADU. One (1) on-site parking space shall be required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by subsection (a)(11) above.
 - (B) **Exceptions.** No on-site parking space for an ADU shall be required under subsection (e)(9)(A) in the following situations:
 - (i) The ADU is located within one-half mile walking distance of public transit, as defined in subsection (a)(10) above.

- (ii) The ADU is located within an architecturally and historically significant district established by the city.
 - (iii) The ADU is a “Converted on a Single-family lot ADU” specifically within a proposed or existing primary residence or an accessory structure under subsection (d)(1)(A) above.
 - (iv) When on-street parking permits are required but not offered to the occupant of the ADU.
 - (v) When there is an established car share vehicle stop located within one block of the ADU.
- (C) No Replacement Parking. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those on-site parking spaces are not required to be replaced.
- (f) **Specific ADU Requirements.** The following requirements apply only to ADUs that require an ADU permit under subsection (d)(2) above.
- (1) **Maximum Size.**
 - (A) The maximum size of a detached or attached ADU subject to this subsection (f) is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two bedrooms. No more than two bedrooms are allowed.
 - (B) An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
 - (C) Application of other development standards in this subsection (f), such as FAR or lot coverage, might further limit the size of the ADU, but no application of FAR, lot coverage, or open-space requirements may require the ADU to be less than 800 square feet.
 - (2) **Floor Area Ratio (FAR).** In Commercial zones where accessory residential dwelling units are allowed, no ADU subject to this subsection (f) may cause the total FAR of the lot to exceed a ratio of 0.5, subject to subsection (f)(1)(C) above.
 - (3) **Lot Coverage.** No ADU subject to this subsection (f) may cause the total lot coverage of the lot to exceed that of the lot coverage requirement of the underlying zone, subject to subsection (f)(1)(C) above.
 - (4) **Minimum Open Space.** No ADU subject to this subsection (f) may cause the total percentage of open space of the lot to fall below that of the minimum open space requirement of the underlying zone, subject to subsection (f)(1)(C) above.

(5) **Building Height.**

- (A) A single-story attached or detached ADU may not exceed 16 feet in height above grade, measured to the peak of the structure.
- (B) A second story or two-story attached ADU may not exceed the height of the primary dwelling.
- (C) A detached ADU may not exceed one story.

(6) **Passageway.** No passageway, as defined by subsection (a)(8) above, is required for an ADU.

(7) **Architectural and Design Requirements.**

- (A) **Roof.** An ADU shall have a minimum roof pitch of 2:12, and shall have eave and gable overhangs of not less than 12 inches.
- (B) **Design.** The ADU must use exterior materials and textures, colors, windows types, roofing materials, and roof pitch that appear the same as those of the primary dwelling unit.
- (C) **Building Entrance.** The ADU must have an independent exterior entrance, apart from that of the primary dwelling. The ADU entrance must be located on the side or rear building façade, not facing a public-right-of-way.
- (D) **Parking space dimensions.** Each unenclosed parking space shall be at least nine (9) feet wide by nineteen (19) feet deep. Each parking space that is provided within an enclosed garage shall be at least ten feet wide and twenty feet deep.

(g) **Fees.**

(1) **Impact Fees.**

- (A) No impact fee is required for an ADU that is less than 750 square feet in size.
- (B) Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.

(2) **Utility Fees.**

- (A) Converted ADUs and JADUs on a single-family lot, created under subsection (d)(1)(A) above, are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required unless the ADU or JADU is constructed with a new single-family home.
 - (B) All ADUs and JADUs not covered by subsection (g)(2)(A) above may be subject to a new, separate utility connection directly between the ADU or JADU and the utility. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.
- (h) **Nonconforming ADUs and Discretionary Approval.** Any proposed ADU or JADU that does not conform to the objective standards set forth in subsections (a) through (g)(2) of this section may be allowed by the City with a conditional use permit, in accordance with the other provisions of this title.

End of Ordinance

ATTACHMENT 2
NOTICE OF EXEMPTION

TO: Clerk of the Board of Supervisors
County of San Bernardino
385 N. Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415-0130

FROM: Planning Department
City of Big Bear Lake
P. O. Box 10000
Big Bear Lake, CA 92315

Project Title:

Development Code Amendment 2019-135, both an urgency ordinance and non-urgency ordinance amending Development Chapter 17.25 pertaining to ADUs and JADUs in all residential zones of the City.

Project Location - Specific: City-wide

Description of Project:

This action is the adoption of an both an urgency ordinance and a non-urgency ordinance amending Development Code Chapter 17.25 pertaining to ADUs and JADUs in all residential zones of the City pursuant to Government Code Sections 65852.2 and 65852.22, as amended in 2019.

Name of Public Agency Approving Project:

City Council, City of Big Bear Lake

Exempt Status: (check one) (State type and section number)

Statutory Exemption. Section: 15282(h)

Categorical Exemption. Section: 15303, Class 3 of CEQA Guidelines

Reasons why project is exempt:

The activity is not subject to CEQA because Accessory Dwelling Unit Ordinances were granted a statutory exemption by the Legislature. Pursuant to Sections 15282(h); which allows the adoption of an ordinance regarding ADUs and JADUs by a city to implement Sections 65852.2 and 65852.22 of the Government Code. In addition, the construction of appurtenant accessory structures, as described in the ordinance, is categorically exempt. (Section 15303, Class 3 of CEQA Guidelines).

Lead Agency or Contact Person:

Janice Etter

Area Code/Telephone/Extension

(909) 866-5831

Date: _____ 2020

Signature: _____

End of Report