



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

MEMORANDUM

TO: Board of Supervisors' Unincorporated Services Committee

FROM: Chris Bazar, Director, Community Development Agency
Albert Lopez, Planning Director

DATE: January 25, 2017

SUBJECT: Secondary (Accessory Dwelling) Units — Proposed Code Amendments

BACKGROUND

In September 2016, California State Assembly Bill 2299 and State Senate Bill 1069 were signed into law. The combined bills took effect on January 1, 2017, and modified California Government Code Section 65852.2 (State Law) (Exhibit A), which governs how local agencies regulate "Accessory Dwelling Units," formerly and commonly known as secondary units, second units or in-law units. The new State Law is intended to address the shortage of affordable housing by easing restrictions on accessory dwelling units (ADUs). Specifically, the conditions under which they must be permitted have been expanded and use of discretion by local agencies in reviewing and permitting ADUs has been prohibited unless the purpose of exercising such discretion is to facilitate the creation of new ADUs. The State Law includes several mandatory elements but also provides flexibility in how some of those elements are applied. The mandatory elements would expand areas where ADUs must be permitted, ease parking requirements, make it easier to convert existing interior spaces into ADUs, and limit the collection of ADU related fees. The Law requires that new ADUs be allowed in single and multi-family residential neighborhoods on properties with existing single family homes that have adequate water and sanitary services, and when there would be no threat to public health or safety. However, if the minimum requirements of State Law are satisfied by a local ordinance, the ordinance may place some restrictions on the locations where ADUs may be permitted and the sizes of ADUs, and may implement development standards such as minimum setbacks and height limits.

Effective January 1, 2017, any local ordinance not in compliance with State Law will be deemed "null and void" and the local agency will be required to apply the new State Law standards to new ADUs. Staff has referenced the State Law against current County regulations and determined that County development standards and approval procedures contained in the Alameda County General Ordinance Code (Code), certain specific plans and one County policy are not in full compliance with the new State Law and, therefore, would be deemed "null and void". Thus, the County would be required to defer to the strict mandates of the State Law without the flexibility allowed when a compliant local ordinance is in place. Staff is proposing temporary amendments to the Code in order to bring County regulations into compliance with the State Law and still apply certain development standards to new ADUs. This would allow staff to concurrently work with decision makers and the community to assess whether additional amendments are desired and to develop permanent regulations that serve the needs of County residents. Accordingly, staff is proposing a two-step State Law compliance process, as follows:

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- **Step 1:** Implement “temporary” Code amendments in order to quickly comply with State Law and minimize the period during which State Law is locally in effect. Current development standards would remain in place, except where superseded by State Law, and new ADUs would be allowed where they are currently allowed by right. Approval of new ADUs would be paused in locations where they are not currently permitted by right and where updating related development standards would be time-intensive, such as within specific plan areas.
- **Step 2:** While the temporary standards are in place, complete a thorough evaluation of areas that can support ADUs, develop proposed countywide permitting procedures and standards, present proposed permanent ADU standards to the public and decision makers at a series of public meetings.

Ordinance Development

To date, staff has conducted the following activities:

- Researched the new State Law
- Referenced the State Law against current County regulations and policies
- Obtained guidance from the California Department of Housing and Community Development
- Drafted proposed Ordinance revisions
- Scheduled a series of public meetings to review and discuss the proposed process and regulations

Following is a list of public meetings where the draft revised Ordinance and proposed two-step process will be reviewed and discussed:

- CVMAC: January 23, 2017
- USC: January 25, 2017
- Transportation/Planning Committee: February 6, 2017
- Planning Commission: February 6, 2017
- Board of Supervisors: Late February or early March 2017 (date TBD)

The proposed temporary amendments would allow unincorporated Alameda County residents who wish to construct new ADUs, and who reside in areas where ADUs are permitted, to proceed with permitting, while the County would retain the ability to regulate the new ADUs.

Ordinance Implementation

The temporary Ordinance amendments would be implemented immediately following approval by the Board of Supervisors and would be in effect until permanent standards are adopted.

COST

The amendments will be prepared by in-house County staff; no costs beyond staff time are anticipated.

NEXT STEPS

Proceed with scheduled public meetings listed above and present the proposal, along with all feedback and recommendations, to the Board on in late February or early March 2017.

ATTACHMENTS

Revised Draft Ordinance
Presentation Slides