



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

Chris Bazar
Agency Director

MEMORANDUM

TO: Board of Supervisors' Transportation and Planning Committee

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

DATE: February 14, 2017

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

Albert Lopez
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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:

- **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, including areas within the eastern portion of the County where ADUs require a Rezoning or Site Development Review process; engage with the public to gauge interest and identify community needs; develop proposed countywide permitting procedures and standards; and, 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
 - completed—Board approval recommended
- USC: January 25, 2017
 - Completed—Q&A focused on parking, interior space conversions and ADU locations
- Planning Commission: February 6, 2017
- Transportation/Planning Committee: February 14, 2017
- Board of Supervisors: February 21, 2017

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

- Exhibit A – California Government Code Section 65852.2
- Exhibit B – Draft Ordinance
- Exhibit C – Proposed Amendments (Edits shown)
- Exhibit D – CVMAC Staff Report
- Exhibit E – USC Memo
- Exhibit F – February 6, 2017 Planning Commission Staff Report with Draft Resolution and Climate Action Plan excerpt attachments
- Exhibit G – Presentation Slides



State of California

GOVERNMENT CODE

Section 65852.2

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, 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.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency 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 topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "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.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(Amended by Stats. 2016, Ch. 735, Sec. 1.5. (AB 2299) Effective January 1, 2017.)

ORDINANCE NO.: _____

AN ORDINANCE AMENDING TITLES 12 AND 17 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE, FAIRVIEW AREA SPECIFIC PLAN, LITTLE VALLEY SPECIFIC PLAN AND MADISON AVENUE SPECIFIC PLAN REGARDING ACCESSORY DWELLING UNITS

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

The Board of Supervisors makes the following findings in support of this Ordinance:

1. In September 2016, the State of California passed AB 2299 and SB 1069, amending Government Code section 65852.2 regarding the regulation of accessory dwelling units; and
2. State law, as revised, restricts the manner in which local agencies can regulate accessory dwelling units; and
3. The General Ordinance Code of the County of Alameda regulates accessory dwelling units and fees applicable to accessory dwelling units, including 12.20.050 and 12.20.120 of Title 12 of the Alameda County General Ordinance Code related to Park Dedication Fees, Sections 17.04.010, 17.30.110, 120 and 130, 17.52.780, 17.54.225 and 17.60.050 and 100 of Title 17 of the Alameda County General Ordinance Code related to Zoning, and various sections of the Fairview Area Specific Plan, Little Valley Specific Plan and Madison Avenue Specific Plan; and
4. The amendments to the General Ordinance Code set forth herein are made to conform to the new State law regarding accessory dwelling units; and
5. The Alameda County Board of Supervisors did consider amending Sections 12.20.050 and 12.20.120 of Title 12 of the Alameda County General Ordinance Code related to Park Dedication Fees and Sections 17.04.010, 17.30.110, 120 and 130, 17.52.780, 17.54.225 and 17.60.050 and 100 of Title 17 of the Alameda County General Ordinance Code related to Zoning and various sections of the Fairview Area Specific Plan, Little Valley Specific Plan and Madison Avenue Specific Plan; and
6. Notice of public hearing was given as required by law; and
7. This Board did hold a public hearing on said proposed amendment at the hour of 6:00 p.m. on Tuesday, February 21, 2017; and
8. The Board does find that the amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of the California Environmental Quality Act (CEQA) and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multifamily residential zone to implement Government Code section 65852.2 and pursuant to the general rule in California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment and
9. The Board finds that the amendments incorporate revisions to the Municipal Code prompted by passage of California State Senate Bill 1069 (Wieckowski) and California State Assembly Bill 2299 (Bloom),

which amended California Government Code Section 65852.2 starting on January 1, 2017, to address the shortage of affordable housing by modifying the development standards and process by which cities review and permit accessory dwelling units; and

10. The California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens.

SECTION II

Part 1. Title 12 Amendments

Section 12.20.050 of the Alameda County General Code is hereby amended to insert the following definition of "Agricultural Caretakers Unit" in alphabetical order, and to delete the definition of "Secondary unit" and replace it with the following definition of "Secondary (or Accessory Dwelling) Unit":

Section 12.20.050 - Definitions.

"Agricultural Caretakers Unit" means an agricultural caretakers unit as defined in the Zoning Ordinance or any second or subsequent unit including but not limited to additional dwellings for persons employed in the agricultural use on the property under Section 17.06.040(A) of the Zoning Ordinance and occupancy of a mobile home by person directly related to an on-site agricultural use or for security purposes under Section 17.06.040(M).

"Secondary (or Accessory Dwelling) Unit" means, for the purpose of this chapter, a second or secondary unit as allowed under the Zoning Ordinance or other adopted county policy regarding such units, which is either attached or detached and which is not fully contained within the existing space of an existing single family residence or accessory structure. "Accessory Dwelling Unit" does not mean an agricultural caretakers unit.

The final table only of Section 12.20.120 of the Alameda County General Code is hereby amended to read as follows; the remainder of Section 12.20.120 remains:

Section 12.20.120 - Standards.

Subsequent to July 1, 2006, the requirement shall be as follows:

Type of Unit	Sq. ft./ Unit	\$ In-Lieu Fee	
		Total	Development Increment
Single Family	628	\$11,550.00	\$2,175.00
Multiple	555	10,200.00	1,900.00
Secondary Unit	314	5,775.00	1,075.00

Agricultural Caretakers Unit	314	5,775.00	1,075.00
Mobilehome	434	7,975.00	1,500.00

Part 2. Title 17 Amendments

Section 17.04.010 of the Alameda County General Code is hereby amended to insert the following definition in alphabetical order:

17.04.010 - Definitions.

"Secondary (or Accessory Dwelling) Unit" means an accessory, second or secondary unit that is an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as one single family dwelling is situated. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 17.30.100 of the Alameda County General Code is hereby amended to read as follows:

17.30.100 - Combining SU District—Intent.

The district, hereinafter designated as combining SU (secondary unit) district, is established to be combined with residential districts which are characterized by lot sizes, parking areas, street improvements, public utilities, and other residential support systems which can best accommodate them.

Section 17.30.110 of the Alameda County General Code is hereby amended to read as follows:

17.30.110 - SU Combining District—Permitted uses.

In addition to those uses permitted in this district with which it is combined, one secondary dwelling unit per building site is permitted subject to the following requirements:

A. Parking:

1. One parking space per unit or per bedroom, available for tenant and visitor parking and having a nine-foot minimum width, an eighteen (18) foot minimum depth, and an area not less than one hundred eighty (180) square feet, or be designed as specified in the Alameda County Residential Design Guidelines, must be present on the property. Such parking may be provided on an existing driveway or within a required setback and may be tandem.
2. No additional parking for the secondary unit is required when:
 - a. the property is located within one half mile of public transit;
 - b. the property is located within an architecturally and historically significant

- historic district;
 - c. the property is entirely within the existing space of the existing primary residence or an existing accessory structure;
 - d. on street parking permits are required but not offered to the occupant of the accessory dwelling unit; or,
 - e. there is a car share vehicle located within one block of the accessory dwelling unit.
3. Except for secondary units described in subsection 17.30.110(A)(2), when a garage, carport, or covered parking space is eliminated in conjunction with the construction of a secondary unit, the eliminated off street parking spaces shall be replaced on-site. The replacement space(s) may be located in any configuration on the same lot as the secondary unit and may be covered, uncovered spaces, tandem spaces, or accessible by the use of mechanical automobile parking lifts.
- B. The attached secondary unit shall have a direct external entry and shall be limited to a maximum size of 50% of the existing living area or six hundred forty (640) square feet, whichever is less. In all other respects the regulations of the district within which the SU district is combined shall remain the same, except as follows:
- a. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, except as required by Fire or Building Codes.
 - b. Units contained within the existing space of a single-family residence or accessory structure need only have side and rear setbacks sufficient to ensure fire safety.
- C. The detached secondary dwelling shall be clearly subordinate to the existing single family dwelling by size and appearance. A detached secondary unit shall be limited to one story, fifteen (15) feet in height, a maximum size of 50% of the existing living area or six hundred forty (640) square feet, whichever is less, a minimum of ten feet from the existing dwelling, and located to the rear of the existing dwelling. In all other respects the regulations of the district with which the SU district is combined shall remain the same.
- D. The secondary unit shall not be sold separately from the primary residence.
- E. The secondary unit shall not be rented per a period of less than 30 days.
- F. The property must be owner occupied.

Section 17.30.120, Section 17.30.120, and the heading “Article V – Combining CSU Districts” of the Alameda County General Code are hereby deleted in their entirety.

Section 17.52.780 of the Alameda County General Code is hereby amended to read as follows:

Section 17.52.780 - Parking spaces—Size and location.

Except as provided for in Section 17.30.110, concerning secondary units, every required parking space shall have an area not less than one hundred eighty (180) square feet and shall have a width not less than nine feet, and a length of not less than eighteen (18) feet, or be designed as specified in the Alameda County Residential Design Guidelines, exclusive of maneuvering space and driveways which shall be provided as required to make each parking space independently accessible from the street at all times. No required parking space shall occupy any required front yard or any required street side yard of a corner lot, or any required setback from a driveway or any part of a required loading space. All required parking spaces shall be provided on the same building site as the use of building for which they are required.

Section 17.54.225 of the Alameda County General Code is hereby amended to read as follows:

Section 17.54.225 - Site development review for garage conversions—Applications.

Applications for garage conversions shall include the materials required per "Site Development Review—Applications" Section 17.54.230, except that site development reviews for garage conversions shall also include:

- A. Elevations of all exterior wall surfaces of the existing on-site primary structure(s), and of the proposed garage conversion;
- B. Annotated photographs of all street-facing exterior wall surfaces of the five neighboring properties at either side of the subject site, and of the ten closest properties across the street from the subject site;
- C. Floor plans of all of the on-site primary structures and of the proposed garage conversion; and
- D. Site plans showing the entire subject property and all structures therein, including the replacement storage space, the proposed on-site parking spaces, and showing site plans for all adjacent parcels that share property lines with the subject parcel, including their curb-cuts and driveways, and locations of all structures.
- E. "Site Development Review" shall not be required for garage conversions when the purpose of the conversion is to create a new secondary unit within the space of an existing attached or detached garage, and the new units meets the requirements contained in Section 17.30.110, concerning secondary units.

Paragraph A of Section 17.60.050 of the Alameda County General Code is hereby amended to delete the phrase "for a secondary unit".

Part 3. Specific Plan Amendments

The Fairview Area Specific Plan is hereby amended as follows:

Section III(B)(8) is hereby amended to read as follows:

8. Secondary Units

Secondary units shall be allowed only as permitted and regulated within the SU (Secondary Unit) Combining District.

The Little Valley Specific Plan is hereby amended as follows:

A new subparagraph "g." is added to Chapter IV, Section B, Paragraph 1 and shall read as follows:

g. Secondary units shall be allowed only as permitted and regulated within the SU (Secondary Unit) Combining District.

Subparagraph "f." of Chapter IV, Section B, Paragraph 2, is deleted in its entirety.

The Madison Avenue Specific Plan is hereby amended as follows:

Regulations and Required Improvements, Page 9, Paragraph 1, delete the phrase "secondary units" from the first bullet-point paragraph.

SECTION III

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the 21st day of February 2017, by the following called vote:

AYES:
NOES:
EXCUSED:

Scott Haggerty, President of the Board of Supervisors
of the County of Alameda,
State of California

Anika Campbell-Belton, Clerk of the Board of Supervisors
of the County of Alameda,
State of California

Approved as to Form:

Donna Zeigler, County Counsel

By: _____

Proposed Amendments: Omissions shown in strikethrough; additions shown as underlined

Part 1: Chapter 12

Section 12.20.050 - Definitions.

For purposes of this chapter, certain words and phrases are defined and shall be construed as set out in this section unless it is apparent from the context that they have a different meaning. Words or phrases not defined below shall have the meaning given to them in other sections of this title, or, if not defined therein, shall have the meaning commonly ascribed to them by professional or general usage in the context of this chapter.

“Agricultural Caretakers Unit” means an agricultural caretakers unit as defined in the Zoning Ordinance or any second or subsequent unit including but not limited to additional dwellings for persons employed in the agricultural use on the property under Section 17.06.040(A) of the Zoning Ordinance and occupancy of a mobile home by person directly related to an on-site agricultural use or for security purposes under Section 17.06.040(M).

“Secondary (or Accessory Dwelling) Unit” means, for the purpose of this chapter, a second or secondary unit as allowed under the Zoning Ordinance or other adopted county policy regarding such units, which is either attached or detached and which is not fully contained within the existing space of an existing single family residence or accessory structure. “Secondary Accessory Dwelling Unit” also means does not mean an agricultural caretakers unit as defined in the Zoning Ordinance or any second or subsequent unit including but not limited to additional dwellings for persons employed in the agricultural use on the property under Section 17.06.040(A) of the Zoning Ordinance and occupancy of a mobile home by person directly related to an on-site agricultural use or for security purposes under Section 17.06.040(M).

Section 12.20.120 - Standards.

Subsequent to July 1, 2006, the requirement shall be as follows:

Type of Unit	Sq. ft./ Unit	\$ In-Lieu Fee	
		Total	Development Increment
Single Family	628	\$11,550.00	\$2,175.00
Multiple	555	10,200.00	1,900.00
Secondary Unit	314	5,775.00	1,075.00
<u>Agricultural Caretakers Unit</u>	<u>314</u>	<u>5,775.00</u>	<u>1,075.00</u>

Mobilehome	434	7,975.00	1,500.00
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Part 2: Chapter 17

17.04.010 - Definitions.

"Secondary (or Accessory Dwelling) Unit" means an accessory, second or secondary unit that is an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as one single family dwelling is situated. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 17.30 - S DISTRICTS

Article IV - Combining SU Districts

17.30.100 - Combining SU District—Intent.

The district, hereinafter designated as combining SU (secondary unit) district, is established to be combined with residential districts which are characterized by lot sizes, parking areas, street improvements, public utilities, and other residential support systems which can best accommodate ~~residential density increases~~ them.

17.30.110 - SU Combining District—Permitted uses.

In addition to those uses permitted in this district with which it is combined, one secondary dwelling unit per building site is permitted subject to the following requirements:

A ~~Three parking spaces per Section 17.52.770 and 17.52.780 and an area for an additional (fourth)~~ Parking:

1. One parking space per unit or per bedroom, available for tenant and visitor parking and having a nine-foot minimum width, an eighteen (18) foot minimum depth, and an area not less than one hundred eighty (180) square feet, or be designed as specified in the Alameda County Residential Design Guidelines, must be present on the property. Such parking may be provided on an existing driveway or within a required setback and may be tandem.
2. No additional parking for the secondary unit is required when:
 - a. the property is located within one half mile of public transit;
 - b. the property is located within an architecturally and historically significant historic district;
 - c. the property is entirely within the existing space of the existing primary residence or an existing accessory structure;
 - d. on street parking permits are required but not offered to the occupant of the accessory dwelling unit; or,
 - e. there is a car share vehicle located within one block of the accessory

dwelling unit.

3. Except for secondary units described in subsection 17.30.110(A)(2), when a garage, carport, or covered parking space is eliminated in conjunction with the construction of a secondary unit, the eliminated off street parking spaces shall be replaced on-site. The replacement space(s) may be located in any configuration on the same lot as the secondary unit and may be covered, uncovered spaces, tandem spaces, or accessible by the use of mechanical automobile parking lifts.

- B. The attached secondary unit shall have a direct external entry and shall be limited to a maximum size of 50% of the existing living area or six hundred forty (640) square feet, whichever is less in area. In all other respects the regulations of the district within which the SU district is combined shall remain the same, except as follows:
 - a. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, except as required by Fire or Building Codes.
 - b. Units contained within the existing space of a single-family residence or accessory structure need only have side and rear setbacks sufficient to ensure fire safety.

- C. The detached secondary dwelling shall be clearly subordinate to the existing single family dwelling by size and appearance. A detached secondary unit shall be limited to one story, fifteen (15) feet in height, a maximum size of 50% of the existing living area or six hundred forty (640) square feet, whichever is less in area, a minimum of ten feet from the existing dwelling, and located to the rear of the existing dwelling. In all other respects the regulations of the district with which the SU district is combined shall remain the same.

- D. The secondary unit shall not be sold separately from the primary residence.

- E. The secondary unit shall not be rented per a period of less than 30 days.

- F. The property must be owner occupied.

~~Article V—Combining CSU Districts~~

~~17.30.120—Combining CSU district—Intent.~~

~~The district, hereinafter designated as the combining CSU (conditional secondary unit) district, is established to be combined with residential districts that (A) are characterized by lot sizes, parking areas, street improvements, public utilities and other residential support systems which can best accommodate residential density increases; and (B) that contain a wide variety of housing types in terms of size and layout that preclude effective use of the SU combining district. The combining CSU district is intended to provide a further degree of review than needed in the SU combining district in order to ensure that secondary units are compatible with the affected neighborhood. The board of zoning adjustments may specify more stringent conditions than specified in Section 17.30.110 to ensure compatibility.~~

~~17.30.130—Conditional uses—CSU combining districts.~~

~~In addition to those uses permitted in the district with which it is combined, one secondary dwelling unit per building site shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130 on parcels zoned for not more than one dwelling and having one but no more than one existing dwelling unit on the parcel subject to the minimum requirements specified in Section 17.30.110.~~

Section 17.52.780 - Parking spaces—Size and location.

Except as provided for in Section 17.30.110, concerning secondary units, every required parking space shall have an area not less than one hundred eighty (180) square feet and shall have a width not less than nine feet, and a length of not less than eighteen (18) feet, or be designed as specified in the Alameda County Residential Design Guidelines, exclusive of maneuvering space and driveways which shall be provided as required to make each parking space independently accessible from the street at all times. No required parking space shall occupy any required front yard or any required street side yard of a corner lot, or any required setback from a driveway or any part of a required loading space. All required parking spaces shall be provided on the same building site as the use of building for which they are required.

Section 17.54.225 - Site development review for garage conversions—Applications.

Applications for garage conversions shall include the materials required per "Site Development Review—Applications" Section 17.54.230, except that site development reviews for garage conversions shall also include:

- A. Elevations of all exterior wall surfaces of the existing on-site primary structure(s), and of the proposed garage conversion;
- B. Annotated photographs of all street-facing exterior wall surfaces of the five neighboring properties at either side of the subject site, and of the ten closest properties across the street from the subject site;
- C. Floor plans of all of the on-site primary structures and of the proposed garage conversion; and
- D. Site plans showing the entire subject property and all structures therein, including the replacement storage space, the proposed on-site parking spaces, and showing site plans for all adjacent parcels that share property lines with the subject parcel, including their curb-cuts and driveways, and locations of all structures.
- E. "Site Development Review" shall not be required for garage conversions when the purpose of the conversion is to create a new secondary unit within the space of an existing attached or detached garage, and the new units meets the requirements contained in Section 17.30.110, concerning secondary units.

Section 17.60 - REASONABLE ACCOMMODATION

Sections:

17.60.010 - Intent.

It is the policy of Alameda County to provide reasonable accommodation for exemptions in the application of its zoning laws to rules, policies, practices, and procedures for the siting, development, and use of housing, as well as other related residential services and facilities, to persons with disabilities seeking fair access to housing. The purpose of this section is to provide a process for making a request for reasonable accommodation to individual persons with disabilities, to be applicable to individual residential units...

17.60.050 - Notice of request for reasonable accommodation.

Written notice of a request for reasonable accommodation shall be given as follows:

- A. Where the request does not require another planning permit or approval, and where the request for reasonable accommodation involves conversion of a garage to living space, variance from the requirements of this chapter for a secondary unit, or use of a recreational vehicle in a required setback, notice shall be mailed to the owners of record of all properties within a three hundred (300) foot radius of the property which is the subject of the request. Where the request does not require another planning permit or approval, and where the request is for any other reasonable accommodation, notice shall be mailed to the owners of record of all properties within a one hundred (100) foot radius of the property which is the subject of the request. This notice shall include the information in Section 17.060.030, above, shall indicate that any person may request a hearing on the request as provided in Section 17.60.060, and shall describe the approval process.

Part 3: Specific Plans

Fairview Area Specific Plan Section III(B)(8)

8. Secondary Units

Secondary units shall be allowed only as permitted and regulated within the SU (Secondary Unit) Combining District. ~~In order to provide for maximum site and design review, secondary units may be developed only through rezoning to a PD (Planned Development) District. The following guidelines shall be utilized to evaluate rezoning petitions to allow secondary units:~~

~~a. Zoning Ordinance provisions relating to size, type (attached or detached), minimum setback from property line and other structures, area, height and required off-street parking spaces which apply to secondary units (Section 8.44.10 of the County Zoning Ordinance) shall be utilized as standards for allowing the secondary unit and against which secondary unit rezoning applications will be judged.~~

~~b. Secondary units shall not be permitted on lots where access will create a traffic hazard or burden to existing streets.~~

~~e. Secondary units shall only be permitted on properties in areas where there is sufficient existing infrastructure such as street improvements, on-street parking, public utilities, and other residential support systems.~~

~~d. Secondary units shall only be permitted on properties that are well maintained and where property owners have demonstrated the ability to maintain the primary structure in accordance with the Neighborhood Preservation Ordinance. The secondary units shall be designed to be aesthetically pleasing yet maintain consistency with the architectural style of the existing dwelling units in the area.~~

Little Valley Specific Plan, Chapter IV, Section (B) Allowed Uses

1. Permitted Uses: The following principle uses are permitted in the plan area...

g. Secondary units shall be allowed only as permitted and regulated within the SU (Secondary Unit) Combining District.

Little Valley Specific Plan, Chapter IV, Section (B)(2)(f)

2. Conditional Uses: The following are conditional uses and shall only be permitted if approved by the Zoning Administrator as provided in section 17.06.010 and 17.54.130 of the Zoning Ordinance...

~~f. One secondary dwelling unit as defined and regulated in the County Policy on secondary units in rural residential areas, except that the septic system shall be on the same parcel as the primary system.~~

Madison Avenue Specific Plan, Regulations and Required Improvements, Page 9

1. Site Development Review – for all development on parcels having access from Madison Avenue and/or Common Roads—
 - All new construction of houses, ~~secondary units~~ and/or additions to houses that exceed 50% of the existing gross square footage of the structure are subject to Site Development Review, following the procedures set forth under Zoning Ordinance Sections 17.54.21-290.



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT
STAFF REPORT**

TO: **Castro Valley Municipal Advisory Council**

HEARING DATE: January 23, 2017

GENERAL INFORMATION

PROJECT: County-initiated amendments to the Alameda County General Ordinance Code to update regulations on secondary units

PROJECT PROponent: Alameda County Community Development Agency

PROPOSAL: Consideration of Temporary Ordinance Amendments Related to Secondary (Accessory Dwelling) Units to bring Alameda County into compliance with a recently approved state statute

ZONING / SPECIFIC PLAN DESIGNATION: Countywide in all residential zoning districts

GENERAL PLAN DESIGNATION: Countywide in all residential land use designations

ENVIRONMENTAL REVIEW: The proposed amendments have been reviewed in accordance with the provisions of the California Environment Quality Act (CEQA) and have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multifamily residential zone to implement Government Code section 65852.2 and pursuant to the general rule in CEQA Guidelines Section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment.

RECOMMENDATION

Staff recommendation to the Castro Valley Municipal Advisory Council is to recommend approval, to the Board of Supervisors, of the proposed temporary Ordinance amendments and two-step approval process for attaining compliance with new state requirements related to secondary (accessory dwelling) units.

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 and ease parking requirements, size limits, and 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.

The State Law requires any local ordinance to comply with the new standards. 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.

The following list identifies pertinent mandatory elements of the State Law:

- The ADU may not be sold separately from the main dwelling unit.
- The lot is zoned for single-family or multifamily use and contains one existing single-family dwelling.
- The ADU is on the same lot as the main dwelling unit.
- The maximum size of the ADU is 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
- No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
- Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom.
- Off street parking shall be permitted in setback areas in locations determined by the local agency 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 topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.
- When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.
- Applications for new ADUs must be approved ministerially (e.g. through building permit process) within 120 days of receipt.
- The new ADU shall not be considered residential growth or be counted toward density limitations.
- A local agency may not require a new or separate utility connection directly between the accessory dwelling unit and the utility if the ADU is within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.
- Notwithstanding any other section, no additional parking for an ADU may be required when:
 - the property is located within one half mile of public transit;

- the property is located within an architecturally and historically significant historic district;
- the property is entirely within the existing space of the existing primary residence or an existing accessory structure;
- on street parking permits are required but not offered to the occupant of the accessory dwelling unit; or,
- there is a car share vehicle located within one block of the accessory dwelling unit.

The following list identifies elements where local agencies are permitted flexibility in regulating ADUs to suit local needs:

- Designate areas where accessory dwelling units may be permitted. The designation of areas may be based on criteria including, but not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.
- Impose standards related to number of parking spaces (except in the cases described in the last bullet in the previous section), height, setbacks (except for detached garage and accessory structure conversions), lot coverage, landscaping, architectural review (via design guidelines approvable by staff), 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.
- A local agency may reduce or eliminate parking requirements for any accessory dwelling unit.
- A local agency may require that the property be owner-occupant or that the property be used for rentals of terms longer than 30 days.

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 the ordinance into compliance with the State Law. 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. With temporary standards in place, the County could continue to apply development standards related to size, setbacks, height and the like, while exploring what, if any, other changes may be needed to implement the new State Law or are desired by the community. Temporary standards adopted within 120 days from January 1, 2017 would also enable the County to regulate new ADUs in accordance with the local ordinance, as opposed to being forced to approve ADUs meeting only the minimum mandatory elements of the new State Law. Further, they would allow time to examine the appropriate locations for ADUs in the unincorporated County and for the public to participate in updating specific plans and other regulations that govern their communities. The proposed temporary Code amendments are shown in Exhibit B. Staff is proposing a two-step compliance process, as follows:

- **Step 1:** Implement “temporary” Code amendments in order to quickly comply with State Law and minimize the period during which the State Law standards are applicable to new ADU applications. Current development standards would remain in place as allowed 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 ADUs were only conditionally permitted with a discretionary permit while new regulations are being developed and where the revision process is time-intensive, as is the case with specific plan updates and evaluations of where ADUs should be permitted.
- **Step 2:** While the temporary ordinance is in place, complete a thorough evaluation of areas that can support ADUs, develop a proposal for permitting procedures within specific plan areas,

present the information for community input and discussion and present proposed permanent ADUs standards to decision makers.

It should also be noted that in addition to the new State Law, the Alameda County Community Climate Action Plan (Exhibit C), adopted in February 2014, identifies reducing parking restrictions and allowing ADUs in certain residential areas near public transit as a short-term greenhouse gas reduction strategy. This document was fully vetted by the community and indicates that there may a desire to ease parking restrictions on ADUs and expand the locations in which they are permitted. This measure was expected to be implemented within 1-2 years following approval of the Climate Action Plan, and is in line with the State Law. In addition to reducing greenhouse gas emissions in areas where public transit is available, ADUs also provide affordable rental housing, put more rental housing on the market and can assist existing and prospective property owners to afford to purchase property.

STAFF ANALYSIS

Staff has referenced the new State Law against the Alameda County General Ordinance Code as well as local area Specific Plans and other relevant County plans and policies, in order to identify where changes to local regulations are needed to attain compliance. Several discrepancies were identified during staff review; these generally pertain to approval procedures and criteria, parking requirements and park dedication fees. The Code currently allows for the creation of ADUs within its SU/CSU (Secondary Unit/Conditional Secondary Unit) Overlay district, where they are permitted by right if all applicable standards are met, and which is known to have infrastructure sufficient to accommodate new ADUs. This would include areas within Homeowners' Associations (HOAs), if any, that may have restrictions on the creation of ADUs. The SU/CSU overlay generally includes the Castro Valley area, part of Cherryland and Ashland, and two individual properties in the eastern portion of the County. However, it's possible that other areas within the County contain properties with space and infrastructure sufficient to support the creation of new ADUs. For instance, single family districts in flat areas with lot sizes at a minimum of 5,000 square feet, with sewer and water service and improved public streets may be able to accommodate ADUs. Large lot single-family residential districts where water and on or off-site sewer services are available may also be able to accommodate new ADUs without much difficulty. However, many such areas are not included within the SU/CSU overlay districts and are not currently permitted by right, as is now required by State Law. Based on inquiries made by staff, at least 63 HOAs are present in Alameda County and 23 of those do not have formal prohibitions against ADUs. Within the San Lorenzo Village Homes Association area, ADUs are not allowed. How HOAs choose to address ADUs would be between them and the residents within their boundaries and is not related to County compliance with the new State Law. However, this consideration is worth noting since several County residences are located within HOAs.

SU/CSU District requires a total of four off-street parking spaces on properties with ADUs, which exceeds the maximum amount of parking allowed by the new State Law, does not account for the special circumstances where no parking can be required, and does not account for garage conversions, when only replacement parking can be required. The same is true concerning the Fairview Specific Plan, Madison Avenue Specific Plan, Little Valley Specific Plan, and Rural Residential Policy which applies Countywide to larger single family lots with single family homes in rural areas. There are also obsolete provisions related to Conditional Use Permits and Site Development Review requirements within the CSU overlay district, which were superseded by state law several years ago and are no longer enforceable. The aforementioned specific plans and Rural Residential Policy also include discretionary review processes such as rezoning, Site Development Review and review by local homeowner's associations in order to approve ADUs. This is no longer permissible and these processes will need to be modified in order to comply with State Law. Since utility connection and Park Dedication fees may only be assessed for new attached or detached ADUs which expand an existing building envelope, the Code

section regulating Park Dedication fees, which now applies to all new ADUs, will also need to be revised. In order to ensure consistency throughout the Code and with specific plans, some other minor edits will be needed.

The above described Code inconsistencies related to parking, CSU requirements and Park Dedication fees can be addressed relatively quickly by approving a series of minor text amendments that meet the related requirements of State Law. However, the locational aspects of the County's current requirements will require a more in-depth analysis and public input in order to assess whether the locations where ADUs are permitted should be expanded. Extensive public input will also be critical to revising approval criteria contained within the Fairview Specific Plan, Madison Avenue Specific Plan, Little Valley Specific Plan and Rural Residential Policy. This is especially true since discretionary approval can no longer be required. Accordingly, amending the above plans and identifying suitable areas for ADUs will require more than the 120 days that State Law allows for ministerial (e.g., building permit) application review and approval. In order to ensure a complete analysis by staff, adequate public input, and a full and meaningful discussion by decision makers, several weeks, if not months, of public discussion will be necessary.

Should the County opt to forego the proposed two-step compliance process and instead move forward with developing permanent regulations, there would likely be a period of several months when new ADUs must be permitted in all single and multi-family residential district on properties that contain an existing single family residence. In these cases, no size, setback, height, lot coverage, time or owner-occupancy restrictions could be applied aside from what the new State Law permits.

CONCLUSION

The proposed amendments to Titles 12 and 17 of the Alameda County Zoning Ordinance are recommended in order to comply with the minimum requirements of State Law, while allowing County staff, stakeholders and decisions makers to fully evaluate and implement permanent regulations governing the creation of new ADUs.

NEXT STEPS

Staff will present the proposed amendments and two-step process to the Board of Supervisors Unincorporated Services Committee on Wednesday, January 25, 2017, to the Transportation and Planning Committee and Planning Commission on February 6, 2017 and to the Board of Supervisors in February 2017, on a date to be determined.

ATTACHMENTS:

- Exhibit A – California Government Code Section 65852.2
- Exhibit B - DRAFT Ordinance Amending Titles 12 and 17 of the Ordinance Code of the County of Alameda Zoning Ordinance, Fairview Area Specific Plan, Little Valley Specific Plan and Madison Avenue Specific Plan regarding Accessory Dwelling Units
- Exhibit C – Alameda County Community Climate Action Plan Excerpt – Land Use Measure L2

PREPARED BY: Christina Horrisberger

Senior Planner

REVIEWED BY: Rodrigo Orduña

Assistant Planning Director



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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Agency Director

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Planning Director

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phone
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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

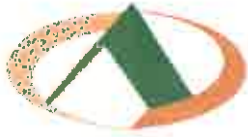
The amendments will be prepared by in-house County staff; no costs beyond staff time are anticipated.

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



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

STAFF REPORT

TO: **PLANNING COMMISSION**

HEARING DATE: February 6, 2017

GENERAL INFORMATION

PROPOSAL: Consideration of Temporary Ordinance Amendments Related to Secondary (Accessory Dwelling) Units to bring Alameda County into compliance with a recently approved state statute

**PROJECT
PROPONENT:** Alameda County Community Development Agency

ZONING DISTRICT: Countywide in all residential zoning districts

**GENERAL PLAN
DESIGNATION:** Countywide in all residential land use designations

**ENVIRONMENTAL
REVIEW:** The proposed amendments have been reviewed in accordance with the provisions of the California Environment Quality Act (CEQA) and have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multifamily residential zone to implement Government Code section 65852.2 and pursuant to the general rule in CEQA Guidelines Section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment.

RECOMMENDATION

Staff recommendation to the Planning Commission is to recommend approval, to the Board of Supervisors, of the proposed temporary Ordinance amendments and two-step approval process for attaining compliance with new state requirements related to secondary (accessory dwelling) units.

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

February 6, 2017

PLANNING COMMISSION

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 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.

The State Law requires any local ordinance to comply with the new standards. 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.

The following list identifies pertinent mandatory elements of the State Law:

1. The ADU may not be sold separately from the main dwelling unit.
2. The lot is zoned for single-family or multifamily use and contains one existing single-family dwelling.
3. The ADU is on the same lot as the main dwelling unit.
4. The maximum size of an attached ADU is 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
5. The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
6. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
7. Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom.
8. Off street parking shall be permitted in setback areas in locations determined by the local agency 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 topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.
9. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.
10. New units contained within the existing space of a single-family residence or accessory structure shall have side and rear setbacks sufficient for fire safety.
11. Applications for new ADUs must be approved ministerially (e.g. through building permit process) within 120 days of receipt.
12. The new ADU shall not be considered residential growth or be counted toward density limitations.
13. A local agency may not require a new or separate utility connection directly between the accessory dwelling unit and the utility if the ADU is within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.
14. Notwithstanding any other section, no additional parking for an ADU may be required when:
 - a. the property is located within one half mile of public transit;
 - b. the property is located within an architecturally and historically significant historic

- district;
- c. the unit is entirely within the existing space of the existing primary residence or an existing accessory structure;
- d. on street parking permits are required but not offered to the occupant of the accessory dwelling unit; or,
- e. there is a car share vehicle located within one block of the accessory dwelling unit.

The following list identifies elements where local agencies are permitted flexibility in regulating ADUs to suit local needs:

- Designate areas where accessory dwelling units may be permitted. The designation of areas may be based on criteria including, but not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.
- Impose standards related to number of parking spaces (except in the cases described in item 14 in the previous section), height, setbacks (except for detached garage, interior living space and accessory structure conversions), lot coverage, landscaping, architectural review (via design guidelines approvable by staff), 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.
- A local agency may reduce or eliminate parking requirements for any accessory dwelling unit.
- A local agency may require that the property be owner-occupant or that the property be used for rentals of terms longer than 30 days.

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 the ordinance into compliance with the State Law. 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. With temporary standards in place, the County could continue to apply development standards related to size, setbacks, height and the like, while exploring what, if any, other changes may be needed to implement the new State Law or are desired by the community. Temporary standards adopted within 120 days from January 1, 2017 would also enable the County to regulate new ADUs in accordance with the local ordinance, as opposed to being forced to approve ADUs meeting only the minimum mandatory elements of the new State Law. Further, they would allow time to examine the appropriate locations for ADUs in the unincorporated County and for the public to participate in updating specific plans and other regulations that govern their communities. The proposed temporary Code amendments are shown in Exhibit B. Staff is proposing a two-step compliance process, as follows:

- **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.

It should also be noted that in addition to the new State Law, the Alameda County Community Climate Action Plan (Exhibit C), adopted in February 2014, identifies reducing parking restrictions and allowing ADUs in certain residential areas near public transit as a short-term greenhouse gas reduction strategy. This document was fully vetted by the community and indicates that there may a desire to ease parking restrictions on ADUs and expand the locations in which they are permitted. This measure was expected to be implemented within 1-2 years following approval of the Climate Action Plan, and is in line with the State Law. In addition to reducing greenhouse gas emissions in areas where public transit is available, ADUs also provide affordable rental housing, put more rental housing on the market and can assist existing and prospective property owners to afford to purchase property.

The following tables summarizes public meetings related the proposed temporary amendments and two-step compliance process:

<u>Meeting</u>	<u>Date</u>
Castro Valley Municipal Advisory Committee	January 23, 2017
<ul style="list-style-type: none"> • <i>Meeting completed</i> • <i>Board approval recommended</i> 	
Unincorporated Services Committee:	January 25, 2017
<ul style="list-style-type: none"> • <i>Meeting completed</i> • <i>Questions focused mainly on parking, interior space conversions and locations where ADUs may be located</i> • <i>Staff responses related to the details contained in this report</i> 	
Transportation and Planning Committee:	February 6, 2017 (9:30 a.m.)
<ul style="list-style-type: none"> • <i>Staff will provide a verbal summary to the Planning Commission</i> 	
Planning Commission:	February 6, 2017 (6:00 p.m.)
Board of Supervisors:	February 21, 2017

STAFF ANALYSIS

Staff has referenced the new State Law against the Alameda County General Ordinance Code as well as local area Specific Plans and other relevant County plans and policies, in order to identify where changes to local regulations are needed to attain compliance. Several discrepancies were identified during staff review; these generally pertain to approval procedures and criteria, parking requirements, conversion of existing interior spaces and park dedication fees. The Code currently allows for the creation of ADUs within its SU/CSU (Secondary Unit/Conditional Secondary Unit) Overlay district, where they are permitted by right if all applicable standards are met, and which is known to have infrastructure sufficient to accommodate new ADUs. This would include areas within Homeowners' Associations (HOAs), if any, that may have restrictions on the creation of ADUs. The SU/CSU overlay generally includes the Castro Valley area, part of Cherryland and Ashland, and two individual properties in the eastern portion of the County. However, it's possible that other areas within the County contain properties with space and infrastructure sufficient to support the creation of new ADUs. For instance, single family districts in flat areas with lot sizes at a minimum of 5,000 square feet, with sewer and water service and improved public

streets may be able to accommodate ADUs. Large lot single-family residential districts where water and on or off-site sewer services are available may also be able to accommodate new ADUs without much difficulty. However, many such areas are not included within the SU/CSU overlay districts and are not currently permitted by right, as is now required by State Law. Based on inquiries made by staff, at least 63 HOAs are present in Alameda County and 23 of those do not have formal prohibitions against ADUs. Within the San Lorenzo Village Homes Association area, ADUs are not allowed. How HOAs choose to address ADUs would be between them and the residents within their boundaries and is not related to County compliance with the new State Law. However, this consideration is worth noting since several County residences are located within HOAs.

SU/CSU District requires a total of four off-street parking spaces on properties with ADUs, which exceeds the maximum amount of parking allowed by the new State Law, does not account for the special circumstances where no parking can be required, and does not account for garage conversions, when only replacement parking can be required. The same is true concerning the Fairview Specific Plan, Madison Avenue Specific Plan, Little Valley Specific Plan, and Rural Residential Policy which applies Countywide to larger single family lots with single family homes in rural areas. There are also obsolete provisions related to Conditional Use Permits and Site Development Review requirements within the CSU overlay district, which were superseded by state law several years ago and are no longer enforceable. In addition, the State Law requires new ADUs involving only the conversion of existing interior spaces, such as accessory buildings, garages and existing living space, and no added space, only be subjected to the minimum setbacks required for adequate fire safety. The aforementioned specific plans and Rural Residential Policy also include discretionary review processes such as rezoning, Site Development Review and review by local homeowner's associations in order to approve ADUs. This is no longer permissible and these processes will need to be modified in order to comply with State Law. Since utility connection and Park Dedication fees may only be assessed for new attached or detached ADUs which expand an existing building envelope, the Code section regulating Park Dedication fees, which now applies to all new ADUs, will also need to be revised. In order to ensure consistency throughout the Code and with specific plans, some other minor edits will be needed.

The above described Code inconsistencies related to parking, CSU requirements, conversion of existing spaces and Park Dedication fees can be addressed relatively quickly by approving a series of minor text amendments that meet the related requirements of State Law. However, the locational aspects of the County's current requirements will require a more in-depth analysis and public input in order to assess whether the locations where ADUs are permitted should be expanded. Extensive public input will also be critical to revising approval criteria contained within the Fairview Specific Plan, Madison Avenue Specific Plan, Little Valley Specific Plan and Rural Residential Policy. This is especially true since discretionary approval can no longer be required. Accordingly, amending the above plans and identifying suitable areas for ADUs will require more than the 120 days that State Law allows for ministerial (e.g., building permit) application review and approval. In order to ensure a complete analysis by staff, adequate public input, and a full and meaningful discussion by decision makers, several weeks, if not months, of public discussion will be necessary.

Should the County opt to forego the proposed two-step compliance process and instead move forward with developing permanent regulations, there would likely be a period of several months when new ADUs must be permitted in all single and multi-family residential district on properties that contain an existing single family residence. In these cases, no size, setback, height, lot coverage, time or owner-occupancy restrictions could be applied aside from what the new State Law permits.

CONCLUSION

The proposed amendments to Titles 12 and 17 of the Alameda County Zoning Ordinance and to the

February 6, 2017

PLANNING COMMISSION

Fairview Specific Plan, Madison Avenue Specific Plan, Little Valley Specific Plan are recommended in order to comply with the minimum requirements of State Law, while allowing County staff, stakeholders and decisions makers to fully evaluate and implement permanent regulations governing the creation of new ADUs.

NEXT STEPS

Staff will present the proposed amendments and two-step process, along with the CVMAC, USC, T&P and Planning Commission feedback/recommendations, to the Board of Supervisors on late February 21, 2017.

ATTACHMENTS:

- Exhibit A – California Government Code Section 65852.2
- Exhibit B – Planning Commission Resolution recommending approval of an Ordinance Amending Titles 12 and 17 of the Ordinance Code of the County of Alameda Zoning Ordinance, Fairview Area Specific Plan, Little Valley Specific Plan and Madison Avenue Specific Plan regarding Accessory Dwelling Units (*with the Draft Ordinance as Exhibit A*)
- Exhibit C – Proposed Revisions (edits shown)
- Exhibit D – Alameda County Community Climate Action Plan Excerpt – Land Use Measure L2
- Exhibit E – CVMAC Staff Report
- Exhibit F – Unincorporated Services Committee (USC) Memo
- Exhibit G – USC Power Point Presentation

PREPARED BY: Christina Horrisberger

Senior Planner

REVIEWED BY: Rodrigo Orduña

Assistant Planning Director

THE PLANNING COMMISSION OF ALAMEDA COUNTY
HAYWARD, CALIFORNIA

RESOLUTION NO. 17-____ - ____ RECOMMENDING BOARD OF SUPERVISOR APPROVAL
OF AN ORDINANCE AMENDING TITLES 12 AND 17 OF THE ALAMEDA COUNTY
GENERAL ORDINANCE CODE, THE FAIRVIEW AREA SPECIFIC PLAN, LITTLE VALLEY
SPECIFIC PLAN AND MADISON AVENUE SPECIFIC PLAN REGARDING ACCESSORY
DWELLING UNITS (ADUs)

Introduced by Commissioner _____
Seconded by Commissioner _____

WHEREAS in September 2016, the State of California passed AB 2299 and SB 1069, amending Government Code section 65852.2 regarding the regulation of accessory dwelling units; and

WHEREAS State law, as revised, restricts the manner in which local agencies can regulate accessory dwelling units; and

WHEREAS the General Ordinance Code of the County of Alameda regulates accessory dwelling units and fees applicable to accessory dwelling units, including 12.20.050 and 12.20.120 of Title 12 of the Alameda County General Ordinance Code related to Park Dedication Fees, Sections 17.04.010, 17.30.110, 120 and 130, 17.52.780, 17.54.225 and 17.60.050 and 100 of Title 17 of the Alameda County General Ordinance Code related to Zoning, and various sections of the Fairview Area Specific Plan, Little Valley Specific Plan and Madison Avenue Specific Plan; and

WHEREAS notice of public hearing was given as required by law; and

WHEREAS this Commission did hold a public hearing on said proposed amendment at the hour of 6:00 p.m. on Tuesday, February 6, 2017; and

WHEREAS the Commission does find that the amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of the California Environmental Quality Act (CEQA) and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multifamily residential zone to implement Government Code section 65852.2 and pursuant to the general rule in California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment and

WHEREAS, the Commission finds that the amendments incorporate revisions to the Municipal Code prompted by passage of California State Senate Bill 1069 (Wieckowski) and California State Assembly Bill 2299 (Bloom), which amended California Government Code Section 65852.2 starting on January 1, 2017, to address the shortage of affordable housing by modifying the development standards and process by which cities review and permit accessory dwelling units; and

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

PLANNING COMMISSION RESOLUTION NO. 17-__-__

February 6, 2017

PAGE 2

WHEREAS the Alameda County Board of Supervisors will hold a public hearing to consider amending Sections 12.20.050 and 12.20.120 of Title 12 of the Alameda County General Ordinance Code related to Park Dedication Fees and Sections 17.04.010, 17.30.110, 120 and 130, 17.52.780, 17.54.225 and 17.60.050 and 100 of Title 17 of the Alameda County General Ordinance Code related to Zoning and various sections of the Fairview Area Specific Plan, Little Valley Specific Plan and Madison Avenue Specific Plan; and

NOW THEREFORE

BE IT RESOLVED that this Planning Commission does hereby recommend adoption of a Declaration of exemption from environmental review as allowed by CEQA for this proposal; and

BE IT FURTHER RESOLVED that this Planning Commission does hereby recommend adoption of the proposed amendments to the Sections 12.20.050 and 12.20.120 of Title 12 of the Alameda County General Ordinance Code related to Park Dedication Fees and Sections 17.04.010, 17.30.110, 120 and 130, 17.52.780, 17.54.225 and 17.60.050 and 100 of Title 17 of the Alameda County General Ordinance Code related to Zoning and various sections of the Fairview Area Specific Plan, Little Valley Specific Plan and Madison Avenue Specific Plan, as set forth in Exhibit A;

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

EXCUSED:

ABSTAINED:

**ALBERT LOPEZ - PLANNING DIRECTOR & SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY**

ORDINANCE NO.: _____

AN ORDINANCE AMENDING TITLES 12 AND 17 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE, FAIRVIEW AREA SPECIFIC PLAN, LITTLE VALLEY SPECIFIC PLAN AND MADISON AVENUE SPECIFIC PLAN REGARDING ACCESSORY DWELLING UNITS

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

The Board of Supervisors makes the following findings in support of this Ordinance:

1. In September 2016, the State of California passed AB 2299 and SB 1069, amending Government Code section 65852.2 regarding the regulation of accessory dwelling units; and
2. State law, as revised, restricts the manner in which local agencies can regulate accessory dwelling units; and
3. The General Ordinance Code of the County of Alameda regulates accessory dwelling units and fees applicable to accessory dwelling units, including 12.20.050 and 12.20.120 of Title 12 of the Alameda County General Ordinance Code related to Park Dedication Fees, Sections 17.04.010, 17.30.110, 120 and 130, 17.52.780, 17.54.225 and 17.60.050 and 100 of Title 17 of the Alameda County General Ordinance Code related to Zoning, and various sections of the Fairview Area Specific Plan, Little Valley Specific Plan and Madison Avenue Specific Plan; and
4. The amendments to the General Ordinance Code set forth herein are made to conform to the new State law regarding accessory dwelling units; and
5. The Alameda County Board of Supervisors did consider amending Sections 12.20.050 and 12.20.120 of Title 12 of the Alameda County General Ordinance Code related to Park Dedication Fees and Sections 17.04.010, 17.30.110, 120 and 130, 17.52.780, 17.54.225 and 17.60.050 and 100 of Title 17 of the Alameda County General Ordinance Code related to Zoning and various sections of the Fairview Area Specific Plan, Little Valley Specific Plan and Madison Avenue Specific Plan; and
6. Notice of public hearing was given as required by law; and
7. This Board did hold a public hearing on said proposed amendment at the hour of 6:00 p.m. on Tuesday, February 21, 2017; and
8. The Board does find that the amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of the California Environmental Quality Act (CEQA) and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multifamily residential zone to implement Government Code section 65852.2 and pursuant to the general rule in California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment and
9. The Board finds that the amendments incorporate revisions to the Municipal Code prompted by passage of California State Senate Bill 1069 (Wieckowski) and California State Assembly Bill 2299 (Bloom),

which amended California Government Code Section 65852.2 starting on January 1, 2017, to address the shortage of affordable housing by modifying the development standards and process by which cities review and permit accessory dwelling units; and

10. The California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens.

SECTION II

Part 1. Title 12 Amendments

Section 12.20.050 of the Alameda County General Code is hereby amended to insert the following definition of "Agricultural Caretakers Unit" in alphabetical order, and to delete the definition of "Secondary unit" and replace it with the following definition of "Secondary (or Accessory Dwelling) Unit":

Section 12.20.050 - Definitions.

"Agricultural Caretakers Unit" means an agricultural caretakers unit as defined in the Zoning Ordinance or any second or subsequent unit including but not limited to additional dwellings for persons employed in the agricultural use on the property under Section 17.06.040(A) of the Zoning Ordinance and occupancy of a mobile home by person directly related to an on-site agricultural use or for security purposes under Section 17.06.040(M).

"Secondary (or Accessory Dwelling) Unit" means, for the purpose of this chapter, a second or secondary unit as allowed under the Zoning Ordinance or other adopted county policy regarding such units, which is either attached or detached and which is not fully contained within the existing space of an existing single family residence or accessory structure. "Accessory Dwelling Unit" does not mean an agricultural caretakers unit.

The final table only of Section 12.20.120 of the Alameda County General Code is hereby amended to read as follows; the remainder of Section 12.20.120 remains:

Section 12.20.120 - Standards.

Subsequent to July 1, 2006, the requirement shall be as follows:

Type of Unit	Sq. ft./ Unit	\$ In-Lieu Fee	
		Total	Development Increment
Single Family	628	\$11,550.00	\$2,175.00
Multiple	555	10,200.00	1,900.00
Secondary Unit	314	5,775.00	1,075.00

Agricultural Caretakers Unit	314	5,775.00	1,075.00
Mobilehome	434	7,975.00	1,500.00

Part 2. Title 17 Amendments

Section 17.04.010 of the Alameda County General Code is hereby amended to insert the following definition in alphabetical order:

17.04.010 - Definitions.

"Secondary (or Accessory Dwelling) Unit" means an accessory, second or secondary unit that is an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as one single family dwelling is situated. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 17.30.100 of the Alameda County General Code is hereby amended to read as follows:

17.30.100 - Combining SU District—Intent.

The district, hereinafter designated as combining SU (secondary unit) district, is established to be combined with residential districts which are characterized by lot sizes, parking areas, street improvements, public utilities, and other residential support systems which can best accommodate them.

Section 17.30.110 of the Alameda County General Code is hereby amended to read as follows:

17.30.110 - SU Combining District—Permitted uses.

In addition to those uses permitted in this district with which it is combined, one secondary dwelling unit per building site is permitted subject to the following requirements:

A. Parking:

1. One parking space per unit or per bedroom, available for tenant and visitor parking and having a nine-foot minimum width, an eighteen (18) foot minimum depth, and an area not less than one hundred eighty (180) square feet, or be designed as specified in the Alameda County Residential Design Guidelines, must be present on the property. Such parking may be provided on an existing driveway or within a required setback and may be tandem.
2. No additional parking for the secondary unit is required when:
 - a. the property is located within one half mile of public transit;
 - b. the property is located within an architecturally and historically significant

- historic district;
 - c. the property is entirely within the existing space of the existing primary residence or an existing accessory structure;
 - d. on street parking permits are required but not offered to the occupant of the accessory dwelling unit; or,
 - e. there is a car share vehicle located within one block of the accessory dwelling unit.
3. Except for secondary units described in subsection 17.30.110(A)(2), when a garage, carport, or covered parking space is eliminated in conjunction with the construction of a secondary unit, the eliminated off street parking spaces shall be replaced on-site. The replacement space(s) may be located in any configuration on the same lot as the secondary unit and may be covered, uncovered spaces, tandem spaces, or accessible by the use of mechanical automobile parking lifts.
- B. The attached secondary unit shall have a direct external entry and shall be limited to a maximum size of 50% of the existing living area or six hundred forty (640) square feet, whichever is less. In all other respects the regulations of the district within which the SU district is combined shall remain the same, except as follows:
- a. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, except as required by Fire or Building Codes.
 - b. Units contained within the existing space of a single-family residence or accessory structure need only have side and rear setbacks sufficient to ensure fire safety.
- C. The detached secondary dwelling shall be clearly subordinate to the existing single family dwelling by size and appearance. A detached secondary unit shall be limited to one story, fifteen (15) feet in height, a maximum size of 50% of the existing living area or six hundred forty (640) square feet, whichever is less, a minimum of ten feet from the existing dwelling, and located to the rear of the existing dwelling. In all other respects the regulations of the district with which the SU district is combined shall remain the same.
- D. The secondary unit shall not be sold separately from the primary residence.
- E. The secondary unit shall not be rented per a period of less than 30 days.
- F. The property must be owner occupied.

Section 17.30.120, Section 17.30.120, and the heading "Article V – Combining CSU Districts" of the Alameda County General Code are hereby deleted in their entirety.

Section 17.52.780 of the Alameda County General Code is hereby amended to read as follows:

Section 17.52.780 - Parking spaces—Size and location.

Except as provided for in Section 17.30.110, concerning secondary units, every required parking space shall have an area not less than one hundred eighty (180) square feet and shall have a width not less than nine feet, and a length of not less than eighteen (18) feet, or be designed as specified in the Alameda County Residential Design Guidelines, exclusive of maneuvering space and driveways which shall be provided as required to make each parking space independently accessible from the street at all times. No required parking space shall occupy any required front yard or any required street side yard of a corner lot, or any required setback from a driveway or any part of a required loading space. All required parking spaces shall be provided on the same building site as the use of building for which they are required.

Section 17.54.225 of the Alameda County General Code is hereby amended to read as follows:

Section 17.54.225 - Site development review for garage conversions—Applications.

Applications for garage conversions shall include the materials required per "Site Development Review—Applications" Section 17.54.230, except that site development reviews for garage conversions shall also include:

- A. Elevations of all exterior wall surfaces of the existing on-site primary structure(s), and of the proposed garage conversion;
- B. Annotated photographs of all street-facing exterior wall surfaces of the five neighboring properties at either side of the subject site, and of the ten closest properties across the street from the subject site,
- C. Floor plans of all of the on-site primary structures and of the proposed garage conversion; and
- D. Site plans showing the entire subject property and all structures therein, including the replacement storage space, the proposed on-site parking spaces, and showing site plans for all adjacent parcels that share property lines with the subject parcel, including their curb-cuts and driveways, and locations of all structures.
- E. "Site Development Review" shall not be required for garage conversions when the purpose of the conversion is to create a new secondary unit within the space of an existing attached or detached garage, and the new units meets the requirements contained in Section 17.30.110, concerning secondary units.

Paragraph A of Section 17.60.050 of the Alameda County General Code is hereby amended to delete the phrase "for a secondary unit".

Part 3. Specific Plan Amendments

The Fairview Area Specific Plan is hereby amended as follows:

Section III(B)(8) is hereby amended to read as follows:

8. Secondary Units

Secondary units shall be allowed only as permitted and regulated within the SU (Secondary Unit) Combining District.

The Little Valley Specific Plan is hereby amended as follows:

A new subparagraph "g." is added to Chapter IV, Section B, Paragraph 1 and shall read as follows:

g. Secondary units shall be allowed only as permitted and regulated within the SU (Secondary Unit) Combining District.

Subparagraph "f." of Chapter IV, Section B, Paragraph 2, is deleted in its entirety.

The Madison Avenue Specific Plan is hereby amended as follows:

Regulations and Required Improvements, Page 9, Paragraph 1, delete the phrase “secondary units” from the first bullet-point paragraph.

SECTION III

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the 21st day of February 2017, by the following called vote:

AYES:
NOES:
EXCUSED:

Scott Haggerty, President of the Board of Supervisors
of the County of Alameda,
State of California

Anika Campbell-Belton, Clerk of the Board of Supervisors
of the County of Alameda,
State of California

Approved as to Form.

Donna Zeigler, County Counsel

By: _____

ALAMEDA COUNTY
(UNINCORPORATED AREAS)

Community Climate Action Plan

An Element of the Alameda County General Plan, approved by the
Alameda County Board of Supervisors on February 4, 2014

FINAL



TRANSIT ORIENTED DEVELOPMENT

L-2: Reduce restrictions on second units in single-family residential districts near transit stations, major bus route corridors, neighborhood commercial centers, and central business districts.

Measure Description:

The County will amend area plans, the zoning code and relevant specific plans to allow second units in R-1, RS-5, and CBD Sub-Area (11 districts within ½ mile walking distance of major transit stations, neighborhood commercial centers, and the Castro Valley Central Business District). Second units are often termed "granny flats" or "mother-in-law units", and used to increase the number of dwelling units in targeted areas. Second units, therefore, increase the vitality of nearby commercial centers through allowing more residents to live within a walkable distance to transit and neighborhood serving businesses. They also provide property owners with the potential for rental income, which can improve home affordability. Additionally the County will review second unit development standards (e.g., parking requirements) and consider revising standards that staff deem restrictive to second unit development and are not essential for the protection of health, safety, and welfare of the community. The County will inform affected property owners of these changes.

Implementation Action		Timetable	Responsibility
A	Revise zoning code, development standards, and relevant specific plans to allow second units in R-1, RS-5, and Residential Low Density Areas within ½-mile walking distance of major transit stations.	Short Term (1-2 years)	Planning
B	Revise parking requirements for new second units to 1 space per unit.	Short Term (1-2 years)	Planning
C	Provide outreach to affected property owners.	Short Term (1-2 years)	Planning
Performance Indicator		Target	
i	New second units within ½-mile of transit stations.	200 new second units by 2020	



GHG Reduction Potential:

Supporting L-1

Community Co-Benefits



Cost to County:

Low

Cost to Resident or Building Owner:

None

Savings to Resident or Building Owner:

None

Potential Funding Sources:

State & Regional Grants; Partnerships w/ Organizations

Secondary (Accessory Dwelling) Units

Proposed Temporary Code Amendments



February 14, 2017

EXHIBIT G

Presentation Outline

- Brief History
- State Law – Mandatory Elements
- State Law – Local Agency Flexibility
- Proposed 2-step Compliance Process
- ADU Area Map
- Unpermitted Units
- Benefits of ADUs
- Examples of ADUs
- Next Steps
- Questions

Brief History

- September 2016
 - AB2299 and SB1069—Address housing crisis
 - Accessory Dwelling Units(ADUs)—Ease development standards and permitting requirements
- December 2016
 - Housing and Community Development (HCD)
 - Webinar
 - Draft Guidance and website
- January 1, 2017
 - CA Govt. Code 65852.2 (State Law)
 - Local ordinances null and void if not in total compliance
- September 2016 – December 2016
 - CDA cross references State Law with local requirements
 - Several Code and specific plan requirement noncompliant
 - Parking
 - Location
 - Conversion of existing space
 - Permitting procedure
 - Local regulations null and void
- January 2017
 - 2-step compliance process

State Mandates

- Zoned for single-family or multifamily use and contains one existing single-family dwelling
- Maximum size
 - Attached: 50% of existing living area, up to 1,200 s.f.
 - Detached: 1,200 s.f.
- Allow garage conversions
- Setbacks
 - None for garage conversion
 - 5 feet side and rear for ADU above a garage
 - Conversion of existing interior space: setbacks sufficient for fire safety
- Parking
 - One off-street parking space per ADU or per ADU bedroom
 - Must be permitted in setback areas in locations or through tandem parking unless unsafe
- Garage Conversions:
 - Replace only what is removed
 - Locate in any configuration: covered, uncovered, tandem, or by mechanical automobile parking lifts
- No additional parking when:
 - Property is within 1/2 mile of public transit
 - Property is within an architecturally and historically significant historic district
 - ADU is entirely within the existing interior space
 - On-street parking permits are required but not offered to the ADU occupant
 - A car-share vehicle is located within one block of the ADU
- Ministerial Approval (e.g. building permit) within 120 days
- Fees
 - None for ADU within the existing interior space
 - May continue to apply fees for additions and detached ADUs

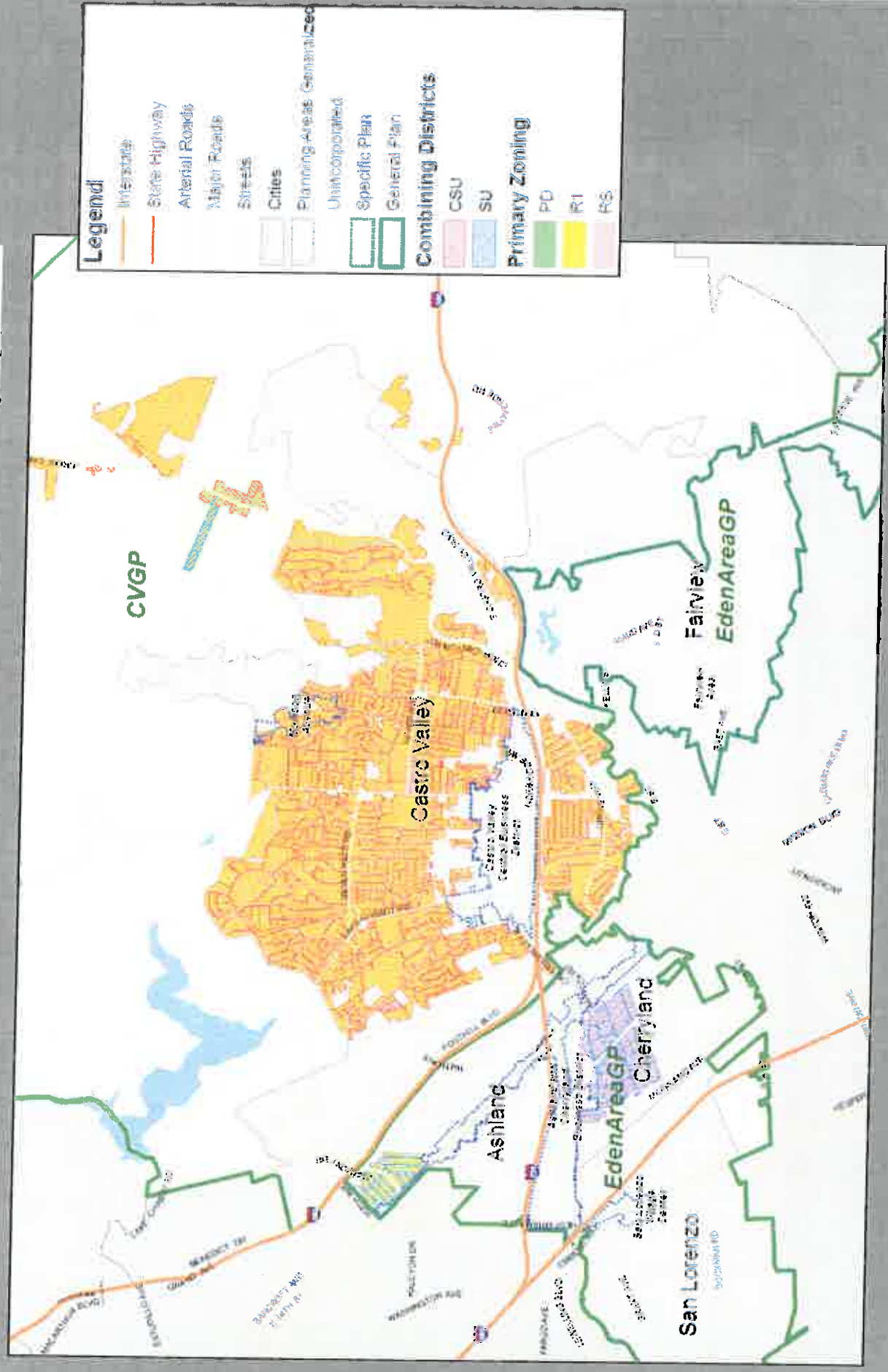
Flexibility

- Location
 - Restrict location based the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety
- Parking
 - Impose standards related to number of parking spaces
 - Except as superseded by State Law
- Development Regulations
 - Height limit
 - Minimum setback for additions and detached units
 - Maximum lot coverage
 - Minimum landscaping
 - Maximum size
 - Standards that prevent adverse impacts on Registered Historic Places
- Architectural standards
 - Must be clear and approvable by staff through ministerial process
- General
 - May require that owner occupy the property
 - May require rentals are for terms longer than 30 days

2-Step Compliance

- **Step 1: Implement “temporary” Code amendments**
 - Quickly comply with State Law
 - Minimize the period during which State Law is locally in effect
 - Development standards remain unless superseded
 - New ADUs SU/CSU—already allowed by right
 - New ADU approval paused elsewhere
 - **Maintain regulation of ADUs & comply with State Law**
- **Step 2: Engage public to develop long term requirements**
 - Evaluation of areas that can support ADUs
 - Including eastern portion of the County where ADUs require a Rezoning or Site Development Review process
 - Continue to receive evolving HCD guidance
 - Gauge community interest
 - Engage general public and HOAs in public discussions
 - Local agency cannot base permit issuance on HOA restrictions
 - Develop proposed countywide development standards
 - Propose permanent standards to the public and decision makers at public meetings

SU/CSU Map— Main Area



Legalizing Unpermitted ADUs

- Not recognized, since not permitted
- Subject to all current regulations at time of application
- Need building permit

Benefits

- Adds to rental housing stock
 - Increases affordability
- Can make home ownership more affordable
 - Income from ADU
 - Lowers rental housing prices, allowing renters to save money
- Extended family/aging in place
- In areas near transit and services
 - Increase pedestrian activity
 - Reduce greenhouse gas emissions
 - Alameda County CAP objective

Some Common Types of ADUs



**Garage or Accessory Structure
Conversion, or New Detached ADU**



Interior Space Conversion



Addition

SOURCE: <http://www.tcdailyplanet.net/thoughts-minneapolis-proposed-accessory-dwelling-units-ordinance/>

Next Steps

- Continue holding public meetings and present feedback and recommendation to the Board on in late February or early March 2017

- **CVMAC:** *January 23, 2017*

- Completed—BOS approval recommended

- **USC:** *January 25, 2017*

- Completed presentation and Q&A session

- **Planning Commission:** *February 6, 2017*

- **T&P Committee:** *February 14, 2017*

- **Board of Supervisors:** *February 21, 2017*

Secondary (Accessory Dwelling) Units

Proposed Code Amendments



February 14, 2017

QUESTIONS?

