



## ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

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### MEMORANDUM

**TO:** Board of Supervisors' Unincorporated Services Committee

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

**DATE:** October 25, 2017

**SUBJECT:** Accessory Dwelling Units — Phase 2 Code/Policy Update

### **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 addresses 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 expand areas where ADUs must be permitted, ease parking requirements, allow the conversion of existing permitted interior spaces into ADUs in all single-family residential zones, and limit the collection of ADU related fees.

For properties within Homeowners' Associations (HOAs), the County cannot consider HOA rules, and must issue permits according to State Law. Any disputes that may arise are a private matter between the property owner and HOA.

Effective January 1, 2017, any local ordinance that was not in compliance with State Law was deemed “null and void” and any local agency with a noncompliant ordinance was required to defer to the State Law. However, with a compliant local ordinance in place, local agencies could regulate locations where ADUs may be permitted and the size of ADUs, and implement development standards such as minimum setbacks and height limits. In order to implement a compliant local ordinance, while minimizing the duration within which the County must defer to the more permissive State Law, the County opted to update its ADU regulations using two-steps:

- **Step 1:** Implement “temporary” Code amendments which retained existing development standards, except where superseded by State Law.
- **Step 2:** While the temporary standards are in place, conduct outreach to gauge community interest in further revising County regulations, identify desired revisions, and draft proposed permanent ADU permitting procedures and standards for presentation to the public and decision makers at a series of public meetings.

In early 2017, Step 1 was completed, and staff is now in the process of engaging in Step 2 by conducting public outreach meetings in order to determine community needs and develop draft

regulations. To date, Planning staff has participated in three community outreach events: one meeting in June 2017, in Dublin, specifically to discuss ADUs, and ADU presentations at the July 2017 regular Sunol Citizens' Advisory Council and Agricultural Advisory Council meetings. These meetings, were generally attended by East County and Sunol area residents, and conversations focused on the County's *Policy for Secondary Units in Rural Residential and Agricultural Areas*, which is the governing policy for ADUs for most of those in attendance. General feedback received indicated that the County should consider removing rezoning requirements, continue to require Site Development Review, as permitted by the State Law, and increase setback requirements for detached structures.

In urbanized parts of the unincorporated County not subject to the *Policy for Secondary Units in Rural Residential and Agricultural Areas*, the creation of new ADUs involving new construction (an addition or new detached structure) is limited to single-family residential districts that are part of a Second Unit (SU) combining district. However, the State Law requires that new ADUs involving the conversion of existing, permitted, interior space, whether attached or detached, must be allowed in any single-family residential zone on any property with an existing single-family dwelling, regardless of the use or location of the interior space to be converted. Under the State Law, "single-family zone" includes Planned Development Districts with an underlying single-family residential land use designation. The County may not require additional parking for these conversions and size limits do not apply. This may result in situations where two units of comparable size, sometimes located up to property lines, exist on a property. It also virtually eliminates the need for the SU Districts, since property owners can obtain a permit for an addition or detached structure, then obtain a second permit to convert that space into an ADU.

To date, Planning staff has received several ADU related inquiries from residents throughout the County at the public Zoning Counter. The general tone of the inquiries indicates that there is a strong desire by residents in all type of single-family residential zones to create new ADUs, especially the conversion of detached buildings. At some of the public meetings associated with Step 1 of the County's ADU update process, some residents indicated that the regulations for detached structures of all kinds should be updated in case such structures are converted into ADUs in the future. The input received at the recent public meetings associated with Step 2, support the need to revise County regulations for detached structures in single-family residential districts. Input from the meetings and Zoning Counter inquiries generally indicates that setbacks for detached structures should be increased, but there has been no consensus concerning what is an appropriate setback distance. Input concerning increasing or decreasing the 15-foot, one-story, height limit for detached structures has also been mixed.

## **RECOMMENDATIONS**

- Revise Accessory Building regulations to account for various development scenarios
- Remove SU Combining Districts
- Create ADU Ordinance for all single-family residential zones; allow denial for safety reasons

## **COST**

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

## **NEXT STEPS**

- Complete public outreach and draft proposed revisions to County requirements
- Present proposed revisions for input at public meetings
- Present proposed revisions and recommendations from advisory councils and the Planning Commission to the Board of Supervisors for a decision

## **ATTACHMENTS**

- Current County Regulations for ADUs in Residential Districts
- Policy for Secondary Units in Rural Residential and Agricultural Areas
- Presentation Slides