



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building



Date: November 30, 2016
Board Meeting Date: January 10, 2017
Special Notice / Hearing: Newspaper Notice
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: EXECUTIVE SUMMARY: Adopt an Ordinance amending Chapter 22.5 (Second Unit Ordinance) of Division VI, Part One (Zoning Regulations), to comply with the requirements of California Accessory Dwelling Unit Law (Government Code Section 65852.1, et seq.), and to advance the County's goal of facilitating the production of second units as a valuable source of needed housing.

RECOMMENDATION FOR THE SECOND READING OF THE ORDINANCE TO:

1. Adopt an Ordinance amending Chapter 22.5 (Second Unit Ordinance) of Division VI, Part One (Zoning Regulations) of the San Mateo County Ordinance Code, by making the required findings in Attachment A, and waive reading of the ordinance in its entirety; and
2. Adopt a Resolution directing staff to submit the amended Second Unit Ordinance (Chapter 22.5 of the County Zoning Regulations) to the California Coastal Commission for review and certification.

BACKGROUND:

Second units are units built on the same property as a primary residence, and may be attached to, within, or detached from that primary residence. Because these units are small, and often rely on existing infrastructure, they are cheaper to construct, and typically more affordable to occupy, than other units. In addition, because they are typically constructed in already-developed areas, they have less impact on neighborhoods, and are more efficient and sustainable than other forms of new development.

San Mateo County has had an ordinance regulating second units since 1984. The ordinance establishes standards for placement, design, and construction of second units, as well as the review and approval process for these units. While the ordinance

has been in effect since adoption, some portions have since been supplanted by State law, and the County has not been applying those parts of the ordinance.

The County is updating the existing ordinance to: 1) comply with changes directly mandated by State law; 2) advance the County's goal of facilitating the production of second units, as a valuable source of affordable housing in San Mateo County; and 3) make the regulations more consistent, and easier to understand and apply.

DISCUSSION:

Requirements of State Law. California's Accessory Dwelling Unit law governs how local jurisdictions may regulate second units. As most recently amended in September 2016, the requirements of State law include:

1. Ministerial Approval. Second units that comply with local regulations must be approved through a ministerial process, with no discretionary approvals.
2. No Public Hearings. Second units that comply with regulations may not be considered at public hearings.
3. No Growth Limits or Quotas. The development of second units cannot be subject to any growth cap or quota establishing a maximum number of units.
4. Specific Parking Requirements. State law limits how much parking may be required for second units, as well as establishing standards for how these requirements may be met.
5. Second Units within Primary Residences. State law imposes limits on how jurisdictions may regulate second units built entirely within existing structures.
6. Second Units within or atop Garages. State law also limits how jurisdictions may regulate units built on or within existing garages.
7. Size Thresholds. Established limits on the size thresholds that jurisdictions may impose on second units.

The amendments to State law adopted in September 2016 require local jurisdictions to update their regulations to comply with these amendments by January 2017. If the County does not update its regulations, they become null and void, and the County must rely only on the State's regulations.

County Housing Goals. San Mateo County is experiencing a historic housing crisis, and most households at most income levels cannot afford market rate housing. This crisis is driven by the gap between new jobs created in the Bay Area, and new housing created in San Mateo County, the former has outpaced the latter on the order of twenty-six new jobs for each new housing unit built. San Mateo County urgently needs new housing of all kinds, serving all income levels.

The County Board of Supervisors has recognized this crisis, and has taken steps to address it. As part of these efforts, the Board has recognized second units as a valuable source of affordable housing, and has directed staff to update the County's regulations, both to comply with State law, and with the explicit intent of facilitating creation of second units.

Consistency and Clarity. The County has been applying a patchwork of State law, and those portions of the County's regulations not superseded by State law. This regulatory framework is difficult to interpret and apply. The proposed updates simplify and clarify the regulations, making them easier for applicants and staff to use.

Changes to the County's Second Unit Ordinance. The proposed changes to the County's Second Unit Ordinance include the following:

1. Maximum floor area: Detached second units may be the greater of 750 square feet, or 35% of the primary residence, with an absolute maximum of 1,200 square feet. Attached second units have the same restrictions, except that they may be up to 50% of the size of the primary residence. The prior regulations had a maximum of 35% or 700 square feet, with a 1,500 square foot cap. The 1,200 foot maximum, and 50% threshold for attached units are consistent with State law.
2. Setbacks: Detached second units of 16 feet or less in height may have side and rear setbacks of 5 feet. Detached second units greater than 16 feet in height may have side setbacks of 5 feet and rear setbacks of 10 feet. The greater rear setback for taller units protects the privacy of adjacent properties.
3. Maximum height: The maximum height of second units is 26 feet. The prior ordinance did not establish a maximum.
4. New standards for the placement of windows, balconies, and decks, to protect the privacy of adjacent properties.
5. A number of new parking exceptions, as required by State law.
6. Alternative means of meeting parking requirements, as required by State law.
7. Different, more permissive standards for units built within or atop an existing garage, as required by State law.
8. Removal of discretionary review: State law prohibits discretionary review of second units that comply with regulations. The existing version of Chapter 22.5

has a number of standards that require discretion in their application. To comply with State law, these standards have been eliminated from the revised ordinance.

9. Planning Commission Review and Recommendation. The County Planning Commission reviewed the proposed amendments on November 30, 2016. The Commission directed minor changes to the proposed regulations, limiting the areas of the County's Coastal Zone in which second units are allowed to only those areas zoned R-1, and adding language reinforcing that the County's LCP remains applicable, regardless of changes to the second unit regulations.

With those changes, the Planning Commission recommended that the Board of Supervisors adopt the proposed amendments.

FISCAL IMPACT:

There is no foreseeable fiscal impact to the County from adoption of the proposed ordinance.