



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 24-356

Board Meeting Date: 5/21/2024

Special Notice / Hearing: 10-day newspaper
publication

Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Director of Planning and Building

Subject: Public hearing regarding an ordinance amending Chapter 22.5, Accessory Dwelling Units, of the Zoning Regulations to comply with recent changes to State law, adopt additional fire standards, and make minor amendments for clarity and consistency.

County Number: PLN2023-00182

RECOMMENDATION:

Conduct a public hearing regarding an ordinance amending Chapter 22.5, Accessory Dwelling Units, of the Zoning Regulations to comply with recent changes to State law, adopt additional fire standards, and make minor amendments for clarity and consistency:

- A) Open the public hearing
- B) Close the public hearing
- C) Adopt an ordinance amending the County Ordinance Code, Division VI, Part One (Zoning Regulations) to revise the existing Chapter 22.5 (Accessory Dwelling Units) in order to comply with State law, to adopt additional fire standards, and make minor amendments for clarity and consistency, previously introduced at the Planning Commission meeting on April 10, 2024, and waive reading of the ordinance in its entirety.

BACKGROUND:

Report Prepared By: Sam Becker, Project Planner, 650/382-4493

Applicant: San Mateo County Planning and Building Department

Public Notification: Ten (10) business day advanced notification for the hearing was provided via a 1/8th-page notice for the hearing posted in a newspaper (San Mateo County Times) of general public circulation.

Location: Countywide, excluding areas of the Coastal Zone

Environmental Evaluation: Per California Environmental Quality Act (CEQA) Section 21080.17 and CEQA Guidelines Section 15282(h), adoption of ordinances relating to second units (accessory dwelling units) to implement specific Government Code sections (Sections 65852.1 and 65852.2) is exempt from CEQA.

DISCUSSION:

In 2019, and again in 2020, the Planning Commission recommended, and this Board of Supervisors adopted, various updates to the County’s Accessory Dwelling Unit (ADU) regulations, Chapter 22.5 of the Zoning Regulations, consistent with State law, particularly Government Code Section 65852.2. These updates were intended to bring the County’s regulations into compliance with State law and to facilitate production of ADUs in unincorporated San Mateo County.

Since those updates, there have been additional changes to State law pertaining to ADUs, including most substantially Assembly Bill (AB) 2221 and Senate Bill (SB) 897.

These bills amended Government Code Section 65852.2 and necessitate further updates to the County’s regulations. Some of these legislative changes are minor adjustments to existing law with the intent to clarify language and intent of previous legislative updates and add further detail for local implementation of State law.

Some changes are substantive new provisions, such as those that further reduce development standards and requirements that could hinder construction of an ADU. For example, a local agency may no longer require front setbacks for a “state preemption” ADU, an accessory dwelling unit of at least eight hundred (800) square feet that meets all other objective standards for floor area, height, and side and rear setbacks, and may no longer require off-street parking spaces to be replaced when a garage, carport, or covered parking structure is demolished in conjunction with construction or conversion into an ADU. Also, local agencies may not deny an application to create an ADU or junior ADU (JADU) due to correction of nonconforming zoning conditions, violations, or unpermitted structures that do not present a threat to public health or safety. Local agencies are also prohibited from requiring fire sprinklers in an existing primary dwelling solely due to the addition of an ADU on the property. A list of the most significant proposed amendments to the ordinance is provided under Discussion: Section A.

The regulations governing ADUs in the County’s Coastal Zone differ from the regulations applicable outside of the Coastal Zone, due to the California Coastal Act, the County’s Local Coastal Program, and the authority of the California Coastal Commission. As a result, updating the regulations applicable within the Coastal Zone will be done separately. Staff will bring forward any amendments to Chapter 22.5.1 Accessory Dwelling Units-Coastal Zone, after consultation with the County Attorney’s Office and Coastal Commission staff.

A. SUMMARY OF PROPOSED AMENDMENTS

To comply with Government Code Section 65852.2, staff recommends the amendments shown in the attached ordinance. The most significant changes are:

1. Section 6426.6 Junior Accessory Dwelling Unit. To be amended to state that a junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing or proposed primary residence.

2. Section 6426.10. Step back. To be amended to clarify that step backs for ADUs are measured from the applicable property line rather than outermost point of the building at ground level.
3. Section 6426.7. Multifamily Dwelling. Definitions section to be amended to define a multifamily dwelling as two (2) or more attached dwellings on a single lot. In contrast, multiple detached single-unit dwellings on the same lot are not considered a multifamily dwelling.
4. Section 6426.11. Uninhabitable Space. Definitions section to be amended to clarify that uninhabitable space is space that is not developed to full standards of habitability.
5. Section 6429.1.4.a(2). Front Setbacks. To be amended to allow ADUs to encroach on the front setback the minimum distance necessary to allow creation of an ADU of at least eight hundred (800) square feet with side and rear setbacks of at least four (4) feet.
6. Section 6429.1.4.a(2). Front Setbacks. To be amended to state that, in cases where ADUs are proposed to be built atop or below an existing detached garage that is located within the required front setback, a conditional use permit shall be required unless the front setback provision would preclude the creation of an ADU of at least eight hundred (800) square feet.
7. Section 6429.1.8. Daylight Plane. To be amended to state that daylight plane shall be measured from the setback applicable to the ADU.
8. Section 6429.1.11. Fire Safety Requirements. To be amended to include a list of requirements for fire materials on walls, windows, eaves, and other architectural features on the side(s) of an ADU that does not meet setback requirements of 6429.1.4.b.
9. Section 6429.1.14.b.(5). Parking Exemptions. To be amended to prohibit the granting of parking exemptions for properties: 1) located within Wildland Urban Interface areas, and 2) where the fire engine access and turnaround required under the California Fire Code is not provided. County Fire requested this modification to reduce use of the driveway for parking that could impede fire access.
10. Section 6429.1.14.d. Garage Conversion. To be amended to state that if an existing attached or detached garage is converted to an ADU, the parking previously provided by that garage is no longer required to be replaced.
11. Section 6429.1.21. Creation of ADU Entirely within a Non-Conforming Primary Residence. To be amended to state that correction of existing non-conformities will not be required unless the non-conformities pose a threat to public health or safety.
12. Section 6429.4.1. JADU Location. To be amended to clarify that JADUs are allowed to be constructed within an attached garage.
13. Section 6439.4.4. JADU Internal Ingress and Egress. To be amended to require JADUs to have internally connecting doorways between the unit and primary residence if the JADU does not include a separate bathroom.

14. Section 6429.5. Standards for Multiple Accessory Dwelling Units on Properties with Existing or Proposed Multifamily Structures. To be amended to allow multiple ADUs on parcels with proposed multi-family structures, not just existing multi-family structures.
15. Section 6432. Home Improvement Exceptions. To be amended to state that ADUs covered by this section are also exempt from required Home Improvement Exception (HIE) findings of Section 6534.2(1) and (2).

B. PLANNING COMMISSION ACTION

The San Mateo County Planning Commission reviewed the proposed ordinance at its regularly scheduled hearing on April 10, 2024 and recommended that this Board of Supervisors adopt the ordinance amending Chapter 22.5, Accessory Dwelling Unit regulations, of the County's Zoning Regulations. The Planning Commission's consideration and recommendation constituted a first reading of the proposed ordinance.

C. ALTERNATIVES

The alternatives to adoption of the ordinance amending Chapter 22.5, Accessory Dwelling Unit Regulations, is adoption of a modified form of the amended regulations.

35 In the absence of adoption of an ordinance incorporating the changes required by State law, State law supersedes the County's local ordinance, and the Planning and Building Department must administratively implement the local ordinance in compliance with State law.

D. ENVIRONMENTAL REVIEW

Per CEQA Section 21080.17 and CEQA Guidelines Section 15282(h), adoption of ordinances relating to second units (accessory dwelling units) to implement specific Government Code sections (Sections 65852.1 and 65852.2) is exempt from CEQA.

The ordinance has been reviewed and approved by the County Attorney's Office as to form.

FISCAL IMPACT:

There is no fiscal impact to the County from adoption of the proposed amendments to Chapter 22.5 Accessory Dwelling Units of the County's Zoning Regulations.

ATTACHMENT:

- A. Chapter 22.5. Accessory Dwelling Units: redline of proposed changes