



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 20-643

Board Meeting Date: 9/15/2020

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Development Community Director

Subject: An ordinance amending the County's Accessory Dwelling Unit (Second Unit) Regulations, Chapter 22.5 of the Zoning Regulations, to renumber existing Chapter 22.5 as Chapter 22.5.1 to apply to Accessory Dwelling Units in the Coastal Zone, and to add a new Chapter 22.5 to apply to Accessory Dwelling Units outside of the Coastal Zone, to comply with recent changes to State law, and making minor amendments for clarity and consistency.

County File Number: PLN 2020-00144

RECOMMENDATION:

Adopt an ordinance amending the County's Accessory Dwelling Unit (Second Unit) Regulations, Chapter 22.5 of the Zoning Regulations, to renumber existing Chapter 22.5 as Chapter 22.5.1 to apply to Accessory Dwelling Units in the Coastal Zone, and to add a new Chapter 22.5 to apply to Accessory Dwelling Units outside of the Coastal Zone, previously introduced at the June 24, 2020 Planning Commission meeting, and waive the reading of the ordinance in its entirety.

BACKGROUND:

In 2017, and again in 2019, the Planning Commission recommended, and the Board of Supervisors adopted various updates to the County's Second Unit Regulations (Chapter 22.5 of the Zoning Regulations, now re-titled "Accessory Dwelling Unit" regulations, consistent with State law and common practice). These updates were intended to bring the County's regulations into compliance with State law, and, consistent with the State's mandate, to facilitate production of accessory dwelling units in unincorporated San Mateo County. The updates were required by State law.

Since the last update in 2019, there have been additional changes to State law which necessitate further updates to the County's regulations. Some of these changes are minor adjustments to existing law, and some are significant new provisions that will create new opportunities for the development of accessory dwelling units.

In addition, the regulations governing accessory dwelling units in the County's Coastal Zone often

differ from the regulations applicable outside of the Coastal Zone, due to provisions in the California Coastal Act, provisions in the County's Local Coastal Program, and due to the authority of the California Coastal Commission. For the same reasons, the process of updating the regulations applicable within and outside of the Coastal Zone also differ. At present, both sets of regulations are included in a single chapter of the Zoning Regulations, with various caveats explaining how the regulations differ inside and outside of the Coastal Zone. Ease of both interpretation and updates to these two sets of regulations would be furthered by formally dividing these regulations into two distinct chapters in the County Zoning Regulations, one addressing standards applicable outside of the Coastal Zone, and one addressing standards within it.

Implementation of the County's regulations since the last update has also revealed various provisions in the regulations to be confusing, ineffective, or counterproductive. The proposed update brings the County's regulations entirely into conformity with current State law, divides the County's regulations into two zoning chapters governing accessory dwelling units outside of, and within, the County's Coastal Zone, and also includes minor amendments to increase clarity and rectify issues identified since the last update.

DISCUSSION:

A. PROPOSED AMENDMENTS

The proposed amendments included in the attached ordinance are discussed below, with each new or modified provision identified by section. The most significant changes are:

- The current Chapter 22.5 of the Zoning Regulations is renumbered "Chapter 22.5.1 (Accessory Dwelling Units - Coastal Zone)," the reference to "second units" is replaced with "accessory dwelling units" throughout, the sections are renumbered, beginning with Section 3439.1, and the section titled "Locations Permitted" is amended to include only those locations in the Coastal Zone in which accessory dwelling units are permitted.
- Accessory dwelling units (ADUs) are no longer subject to minimum lot size requirements, and can be constructed on substandard lots.
- No development standard can be applied that precludes the creation of an 800 sq. ft. ADU, 16 feet or less in height, with 4-foot side and rear setbacks.
- A detached ADU may now be combined with a junior accessory dwelling unit (JADU), resulting in one internal and one external (detached) ADU on the same parcel.
- Multiple internal and multiple external (detached) ADUs are permitted on lots with existing multi-family housing.
- Accessory dwelling units are allowed in combination with a primary residence in any zoning district in which residential uses are permitted.

The amendments to Chapter 22.5, by section, are as follows:

1. 6426.1. Second Units are now called "Accessory Dwelling Units" (ADUs), consistent with State law and the practice of many jurisdictions, and the zoning chapter is retitled "Chapter 22.5: Accessory Dwelling Units".

2. 6426.2. The definition of accessory dwelling units now includes “efficiency units,” as defined in State law.
3. 6426.3. The regulations now clarify that ADUs built within or as an addition to detached accessory structures are considered “detached” accessory dwelling units.
4. 6426.5. The regulations now specifically define a “Junior Accessory Dwelling Unit,” (JADU) which is an accessory dwelling unit of no more than 500 sq. ft., created entirely within a primary residence.
5. 6426.6. The regulations also define an “efficiency kitchen” which, per State law, is a kitchen allowed in a JADU that contains at least a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
6. 6426.8. The regulations now define “owner occupancy” as the requirement that the owner of a parcel on which a JADU is constructed live in one of the units on the property in perpetuity. The County regulations do not require owner occupancy for most accessory dwelling units, but State law requires owner occupancy as a condition of creating a junior accessory dwelling unit.
7. 6428.9. The regulations now define a “stepback” as a setback of the building envelope from the property line which, in contrast to a typical setback, is located above the ground floor.
8. 6427.1. Consistent with State law, the regulations now allow ADUs to be created in any district which allows residential uses as a primary or conditional use, including R-1, R-2, R-3, PC, CMU -1, CMU-2, CMU-3, NMU, NMU-ECR, R-E, RH, RM and TPZ zoning districts.
9. The regulations now organize ADU standards in four sections: Section 6429.1 describes standards applicable to all units; 6429.2, standards specific to detached units; 6429.3, standards specific to attached units; and 6429.4 describes standards specific to junior accessory dwelling units.
10. 6429.1.2. Per state law, ADUs are now exempt from minimum lot size requirements.
11. 6429.1.4.b. Consistent with State law, ADUs are now subject only to 4-foot side and rear setbacks.
12. 6429.1.4.c. ADUs greater than 16 feet in height must have a side stepback of 5 feet, and a rear stepback of 10 feet, at a point no higher than 16 feet on the structure, in addition to the required setbacks.
13. 6429.1.5. Per State law, no floor area limitation may be imposed that precludes an 800 sq. ft. attached or detached accessory dwelling unit.
14. 6429.1.21. Accessory dwelling units may not be used for short-term rental (rental of less than 30 days).
15. 6429.1.22. Per state law, ADUs of less than 750 sq. ft. are exempt from all impact fees, and those larger than 750 sq. ft. can only be charged impact fees in proportion to the size of the unit.

16. 6429.2.2. Consistent with new floor area requirements in State law, the new regulations modify the square footage allowance for detached ADUs from the prior 750 sq. ft. or 35 percent of the primary residence to 800 sq. ft. or 35 percent of the primary residence, whichever is greater.
17. 6429.2.2.b.1 expresses the State's prohibition on any regulation that precludes an 800 sq. ft. detached ADU that meets setback requirements.
18. 6429.2.3 describes the newly allowed combination of one detached ADU and one JADU, as long as both units meet the required development standards.
19. 6429.3.1. Consistent with State law, the allowed square footage of attached ADUs is modified from 750 sq. ft. or 50 percent of the primary residence, to 800 sq. ft. or 50 percent of the primary residence.
20. 6429.3.1.b(1) expresses the State's prohibition on any regulations that preclude an 800 sq. ft. attached ADU.
21. 6429.3.1.b(2). Per State law, attached ADUs built entirely within the primary residence are now allowed an additional 150 sq. ft. of floor area, beyond that otherwise allowed, for purposes of creating ingress/egress.
22. 6429.3.2. The prior regulation requiring a conditional use permit for any connecting doorways between an attached ADU and the primary residence has been modified to require only the Community Development Director's approval for such a doorway.
23. Section 6429.4 describes the standards for JADUs, which are all drawn directly from the language of California Government Code Section 65852.22 and were not previously included in the County's regulations. Junior accessory dwelling units must be entirely within the walls of the primary residence, no larger than 500 sq. ft., must have basic facilities, must have external, independent ingress and egress, and can only be created if the owner of the property occupies a unit on the property.
24. Section 6429.5 describes the standards for creation of multiple ADUs on properties with multi-family structures. This section is also drawn directly from State law, and these standards were not included in the County's prior ordinance. The regulations allow multiple attached ADUs to be converted from up to 25 percent of the non-habitable space within a multi-family structure and allows two detached ADUs to be created on a parcel with a multi-family dwelling.
25. As described above, the County's ADU regulations are now proposed to be divided into two chapters: one chapter, 22.5, addressing standards for ADUs built in areas outside the County's Coastal Zone, and one chapter, 22.5.1, for ADUs built within the Coastal Zone. The currently proposed updates to Chapter 22.5 are specific to areas outside the Coastal Zone; the newly renumbered Chapter 22.5.1, addressing units in the Coastal Zone, will be amended to comply with State law and proposed for Board of Supervisors consideration separately. The current update to Chapter 22.5.1 is not a comprehensive update, but only addresses the creation of separate chapters and minor renaming and numbering and will require additional amendments in the future.

B. PLANNING COMMISSION ACTION

The San Mateo County Planning Commission reviewed the proposed ordinance at its regularly scheduled hearing on June 24, 2020 and recommended that the Board of Supervisor adopt the ordinance amending the County's Accessory Dwelling Unit regulations. The Planning Commission's consideration and recommendation constituted a first reading of the proposed ordinance.

C. 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 County Counsel as to form.

FISCAL IMPACT:

There is no fiscal impact to the County from adoption of the proposed amendments to the County's Accessory Dwelling Unit (Second Unit) Regulations.

ATTACHMENTS:

A. Ordinance amending the County's Accessory Dwelling Unit (Second Unit) Regulations.