



A Tradition of Stewardship
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Agenda Date: 8/22/2017
Agenda Placement: 9C
Set Time: 9:30 AM PUBLIC HEARING
Estimated Report Time: 30 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: John McDowell, Principal Planner - 299-1354
SUBJECT: Accessory Dwelling Unit Ordinance

RECOMMENDATION

First reading and intention to adopt an ordinance to conform County Zoning regulations with State Law as they pertain to Accessory Dwelling Units amending Sections 18.08.550 (Second Unit), 18.10.020 (Duties - Specific Subjects), 18.104.180 (Second Unit Attached To Or Detached From An Existing Dwelling), and 18.110.030 (Number Of Parking Spaces Required), and adding Section 18.08.551 (Second Unit, Interior).

ENVIRONMENTAL DETERMINATION: Pursuant to Public Resources Code Section 21080.17, the adoption of this ordinance implementing Government Code Section 65852.2 is exempt from the California Environmental Quality Act.

EXECUTIVE SUMMARY

The purpose of the proposed ordinance is to conform County Code to recent updates to State Law concerning second units, which are known as Accessory Dwelling Units in statutes (hereafter, second units and accessory dwelling units, as used under State law, will be referred to interchangeably as either "ADUs" or "second units"). In 2016, the State Legislature declared that allowing ADUs in residential zones provides additional rental housing opportunities that are an essential component to addressing critical housing needs in California. In particular, two new laws were enacted. The Senate enacted SB 1069 (Wieckowski) to address local regulatory agency barriers to the development of ADUs, including limits on parking requirements, utility connection and impact fees, and fire safety requirements; as well as prohibiting local governments from excluding ADUs in single family residential districts. The Assembly passed AB 2299 (Bloom) which requires local governments to ministerially approve ADUs if the unit complies with certain requirements. By and large, Napa County's existing regulations conform to these new laws because the County has allowed second units by-right in single family residential districts for decades, and current design standards generally do not present a substantial barrier. However, several amendments to the County Code are necessary, which also provide an opportunity to update and simplify existing code language.

Proposed ordinance text changes include (but are not limited to): defining the term "second unit" to mean "accessory dwelling unit;" creating a new type of unit labeled as "Interior Second Units" and establishing standards for such units; amending parking standards for all ADUs; simplifying requirements for allowing second units to be attached to other accessory structures; requiring the property owner to acknowledge that ADUs cannot be sold separately from the primary unit or used for transient/short-term rental; and noting State imposed limitations on utility connection fees and fire sprinkler requirements.

Existing ordinance requirements limiting ADUs to 1,200 sq. ft. are not affected by this ordinance and remain consistent with the maximum size prescribed by the State. Existing regulations for guest cottages, which do not qualify as dwelling units are not affected by this ordinance. State law only mandates that ADUs be allowed within residential zoning districts. Napa County has historically allowed second dwelling units in the Agricultural Watershed (AW) district, but not in the Agricultural Preserve (AP). This ordinance will not alter those existing provisions and ADUs will continue to be allowed in AW and prohibited in AP. The full extent of changes are described in the Background section of this report.

A second version of the proposed ordinance was recently developed and is attached which includes additional optional provisions enabling Junior Accessory Dwelling Units (hereafter referred to as JADU's). SB 1069 allows (but does not require) cities and counties to permit these smaller, independent dwelling units within single family residences provided that they consist primarily of a bedroom conversion of not less than 500 square feet in area, with limits on kitchen size, rental occupancy, and electric service. In turn, these units are exempt from utility connection fees and other site improvement requirements. The additional proposed code language (shown in yellow highlighting in the tracked version of JADU ordinance attached) would allow these units in residential districts as well as on single family dwelling lots within Planned Development (PD) zones which applies to Berryessa Highlands, Berryessa Estates, and the single family residential areas of Silverado Country Club.

PROCEDURAL REQUIREMENTS

1. Staff reports;
2. Open the Public Hearing and receive public comments;
3. Close the Public Hearing;
4. Clerk reads the Ordinance Title;
5. Motion, second, discussion and vote to waive the balance of the reading of the ordinance; and
6. Motion, second, discussion, and vote on intention to adopt the ordinance.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Pursuant to Public Resources Code Section 21080.17, the adoption of this ordinance implementing Government Code Section 65852.2 is exempt from the California Environmental Quality Act.

BACKGROUND AND DISCUSSION

Two versions of the proposed ordinance are attached to this report in both a clean and tracked changes format for

reference. The first version contains updates intended to bring County Code into full compliance with State mandated ADU requirements. The second version contains the same ADU requirements as the first version and adds optional new code language that will enable State defined JADU's.

Background:

The primary objective of the new legislation is to enable ADU development within built-out neighborhoods and urban settings, which does not apply to most areas of unincorporated Napa County. However, there are a number of Residential Single (RS) and Residential Country (RC) zoned pockets spread across the County where these changes to State Law may assist in providing opportunities for additional second unit development. The attached map shows the location of all S and RC zones. RS zoning districts are located in pockets of the City of Napa, on the north side of Coombsville including the Silverado Country Club, in pockets south of St. Helena, and at Deer Park and Angwin. All of these areas are essentially built-out, and many are constrained by private well and septic system limitations, except for the unincorporated RS districts within City of Napa water and sewer service areas. RC districts are located in several areas surrounding the City of Napa, near Lake Berryessa, and several pockets bordering the Cities of St. Helena and Calistoga, with most properties served by private well and septic system. A large area of RC properties is located east of Napa in Coombsville, where second unit development is highly constrained due to groundwater limitations in the Miliken-Sacro-Tulucay basin. The proposed ordinance will continue to allow second units in the Coombsville neighborhood; however, the potential for second unit development will remain limited in this area due to groundwater health and safety regulations (Title 13 - Groundwater Conservation). The existing groundwater regulations will not be changed by this ordinance.

For several decades, the State has mandated that local agencies provide for second units within single family zoning districts. The County has been in compliance with State law allowing second units by right in RS and RC zones, and have exceeded State requirements by allowing second units within the AW zoning district. County Code currently does not allow second units in the AP and they would only be permitted in the PD zoning district if expressly enabled in the use permit for a specific development. In the first version of the ordinance, no changes would occur to this zoning district provisions, and as discussed below, proposed updates primarily address design criteria within the zoning districts where second units are already allowed. The second version of the ordinance, however, expands on the first version by establishing provisions for JADU's, and allowing both JADU's and second units by right in the PD zone, but only on PD-zoned lots designed for single family dwellings.

Interior Second Units and JADU's:

The most notable change in State Law is a provision under Senate Bill (SB)-1069 recognizing and expressly enabling small dwellings within the existing interior space of the primary dwelling or an accessory structure. The County's existing second unit regulations are largely compliant with these ADU provisions from SB-1069, but some updates are warranted. Presently, the two types of second units (attached and detached) enable existing interior space to be converted, but the converted dwelling space is subjected to dwelling unit setbacks which in some circumstances are larger than the existing structure setbacks. Under the new legislation, conversion of existing interior spaces is exempt from building setbacks. Therefore, to implement this provision, a new third type of second unit labeled and defined as Second Unit, Interior (or Interior Second Unit) is proposed. The proposed ordinance will only allow these new Interior Second Units within RS and RC districts consistent with State law.

Junior Accessory Dwelling Unit or JADU, as a term, has not been used in the first version of the proposed ordinance because the proposed ordinance's design requirements for Interior Second Units allow for a broader range of second units than just the narrowly defined JADU. State Law limits JADU's to 500 square feet, and mandates that JADU's include conversion of an existing bedroom; that the property owner must reside in the primary residence or JADU; that the JADU kitchen be limited in size; and that electrical service be limited to 120 volts (among other requirements). Interior Second Units, as defined in the new ordinance, would allow for conversions with full kitchens with up to 1,200 square feet in overall unit size provided that the second dwelling is

no greater than 50% of the size of the primary dwelling. The second version of the ordinance fully integrates the State's JADU provisions, and maintains the provision for Interior Second Units contained in the first version of the ordinance.

Planned Development Zoning

There are 11 areas in the County assigned PD zoning which contain a variety of existing land uses ranging from commercial and institutional uses to various residential densities, including mobile homes, condominiums and single family (see attached summary). Current PD zoning regulations do not permit second units as an allowed primary or secondary use, but they can be approved through the project's master use permit. Presently, second units have not been proposed (or approved) for any of the use permits for the 11 areas. Some of the existing land uses are not suitable for secondary dwelling units, and some of the subject properties are subject to Measures J / P because they have an underlying agricultural general plan designation. However, second units may be suitable for those PD areas that contain single family lots and are located in Urban and/or Rural Residential general plan designations, such as Berryessa Highlands, Berryessa Estates, and portions of Silverado Country Club. With the first version of the proposed ordinance, no changes to the PD regulations are proposed. Second units would remain possible but would require amendment of the master use permits. The second version of the proposed ordinance would enable both JADU's and second units by right within the single family portions of PD zoning districts.

Road and Street Standards:

Last year, as part of the Road and Street Standards (RSS) update to address new State-mandated requirements for fire safety, RSS requirements for second units were updated to comply with SB-1069 and Assembly Bill (AB)-2299. Improvements to an existing driveway are not required for the construction of new second dwelling units located in the Local Responsibility Area (LRA), which generally coincides with valley floor areas. For proposed second dwellings that require new access, the new driveways shall be constructed to the current residential driveway standard from the point of access to the new second dwelling unit. Within the State Responsibility Area (SRA), which generally involves all hillside areas, most second units will continue to trigger improvements to existing driveways from the publicly maintained road to the new or improved structure. With the second version of the ordinance, JADU's are exempt from road improvements because they consist of bedroom conversions within existing residences and would not increase the existing building footprint.

Health and Human Services Accessory Dwelling Unit Financial Assistance Program

Napa County Health and Human Services is one of 50 agencies nationwide selected to participate in the Invest Health Program, which seeks to develop new strategies for increasing and leveraging private and public investments into neighborhoods facing barriers to better health. The program is a collaboration between the Robert Wood Johnson Foundation and Reinvestment Fund. This initiative was developed to provide an opportunity for mid-sized communities to improve citizen access to quality jobs, affordable housing, and nutritious food; while reducing crime rates and environmental hazards. Housing costs as a percentage of income represent a major health barrier to low- and moderate-income families in high value real estate markets. Consequently, an objective of the Invest Health program is to support the development of affordable accessory dwelling units, which can both reduce the burden of homeownership by providing a new income source to the property owner, and provide lower cost housing within the community for low- and moderate-income families.

It is anticipated that the Invest Health loan program will be utilized mostly by property owners within the cities of Napa County, but would also be available in unincorporated areas. This ordinance update does not directly relate to the Invest Health program, but the proposed code changes would complement the program's goals by reducing development requirements and increasing the potential for new second units within single family neighborhoods, especially for interior units involving the conversion of existing dwelling space.

Proposed County Code updates are as follows:**Ordinance Section 1:**

Updates Section 18.08.550 to reflect that the County's long-established term "second unit" is synonymous with the State's new "accessory dwelling unit" term, and then recognize the various types of ADUs as prescribed by the State.

Ordinance Section 2:

Creates new Section 18.08.551 establishing a definition of the new type of second unit labeled as "Second unit, interior." Interior Second Units are differentiated from Attached and Detached Second Units in that an interior unit is limited to the conversion of existing legally constructed spaces within a primary residence or accessory structure. Attached and detached units can include conversion, but may also include expansion or new construction.

Ordinance Section 3:

Removes antiquated code language in Section 18.10.020.A.5 which states that the Zoning Administrative is the discretionary decision maker for second units within "deep lot developments." Deep lot developments no longer exist in zoning or as a land use in unincorporated Napa County, and if they did, State law mandates that second units be non-discretionary approvals (ministerial actions) which would pre-empt a Zoning Administrator review process anyway.

Ordinance Section 4:

This section contains numerous proposed changes to design criteria as follows:

18.104.180.A - Updates the code to now allow a second unit to be attached to other accessory structures, such as a free-standing garage or a barn. Presently, second units which are detached from the primary dwelling unit are not permitted to be attached to an accessory structure unless the Director grants an exception under the terms of 18.104.180.A.5 (see below).

18.104.180.A.4 - Relocates the 1,200 square-foot maximum size limit requirements (per State law) from Section 18.104.180.C.1.

18.104.180.A.5 - Modifies this section to eliminate the quasi-discretionary "exception process" allowing second units to be attached to accessory structures. Existing code requires detached second units to be free standing structures, except that the Director can grant an exception allowing the second unit to be attached to other accessory structures if the second unit contains design features that prevent future unauthorized expansion. The new code language simplifies this section by allowing second units to be attached to other accessory structures by-right without grant of an exception. Second units will continue to include design features limiting the unit to 1,200 square feet and preventing interior access, but the code language has been significantly reduced. Also see Section 18.104.180.B.2 regarding prohibition of interior access with the attached accessory structure.

18.104.180.A.6 - Augments this section to stipulate that second units will not be subject to connection fees or capacity charges for utilities. However, since the County is not a utility services provider, this code section has little relevance to most second unit projects simply because they are typically served by private well and septic systems. In addition, the County has no authority to dictate how utility providers choose to comply with State Law. Applicants seeking utility connections will need to work directly with the utility provider in this regard.

18.104.180.A.9, -A.10 and -A.11 - Rescinds these three sections and replaces them as follows: Existing code

language in these sections would be relocated to Sections 18.104.180.B.3, -B.4, and -B.5 respectively, and new State-mandated fire sprinkler and parking provisions would occupy these sections. Under previous Building and Fire Code requirements, a requirement to install fire sprinklers has been a significant barrier to implementation of some second unit projects; primarily second units occurring within existing structures. The new Building and Fire Code requirements prescribe that fire sprinklers will not be required unless they are required for the primary residence. As a result, fire sprinklers will continue to be required for second units constructed concurrent with a main dwelling in hillside locations, but would not be required when the garage of an existing residence is being converted to a second dwelling. Fire sprinkler requirements are applied by the Fire Marshall separate from zoning requirements. CalFire has issued a bulletin on this subject matter, which is attached herein for reference (see Attachment C).

The new parking requirements essentially mirror the parking requirements from statute. The major change affecting unincorporated Napa County is that no additional parking can be required for new Interior Second Units. For other second units, a maximum of one space per bedroom can be required, but even this cannot be required in urban areas within one-half mile of transit or in historically or architecturally significant districts. Generally, provision of parking spaces is not an issue nor is it a barrier to second unit development on unincorporated properties, but these new provisions could facilitate second unit conversion within unincorporated urban neighborhoods located within the City of Napa.

18.104.180.A.12 - Requires recordation of a property covenant notifying future owners that the second unit cannot be sold separately from the primary dwelling or used for short-term rental. Property covenants have been used on some second unit projects previously when there has been a question of use, but with this change, a buyer awareness covenant will be recorded on all second unit projects. State law allows for such covenants as a means to protect housing stock.

18.104.180.B.1 - Adds a new section establishing regulations for Interior Second Units as discussed above. Under current code, if an existing accessory structure encroaches into minimum building setbacks, it cannot be converted to a dwelling unit (without complying with the setback for dwellings). This new provision is likely to assist in resolution of code cases for long-existing undocumented second units occupying former garages and accessory structures within the RS districts. It will also enable the conversion of garages (typically in older urban areas), where side yard setbacks are below current standards.

18.104.180.B.2 - Modifies the code to prohibit second units attached to accessory units from having interior access. This is considered a necessary provision to discourage expansion of secondary dwelling units into attached accessory use space, and is consistent with long-standing County practices. Also see 18.104.180.A.5. pertaining to elimination of the 'exception' provision.

18.104.180.B.3, -B.4 and -B.5 - Relocates these sections from Sections 18.104.180.A.9, -A.10 and -A.11 with no changes in text. They address minimum lot size for second units in the RS district, provision of adequate lot area for water and sewage treatment in the RC and AW zones, and provide for second units to be separately metered at the property owner's discretion.

18.104.180.C - Updates this section to reflect that its provisions do not apply to the new Interior Second Units, and implements a State requirement that Attached Second Units may only constitute a maximum of 50% of the floor area of the primary dwelling or 1,200 square-feet, whichever is less.

18.104.180.D - Modifies this section to reflect that its provisions do not apply to Interior Second Units and eliminates redundant language referencing the 1,200 square-foot size limit. Of note, the existing code language to be eliminated includes "as measured from the inside of the exterior walls." Measurement of useable floor area will continue to be taken from interior walls for zoning purposes.

18.104.180.E - Adds a new section of requirements that only apply to Interior Section Units. Such units will be allowed only in the RS and RC zoning districts, consistent with State law, are not required to otherwise meet residential use setbacks (as noted in Section 18.104.180.B.1), and do not require additional parking spaces.

18.104.180.F - Adds a section that applies language mandated by State law stipulating that second units are to be administratively reviewed and approved, through an "over-the-counter" or ministerial process. A decision must be made within 120 days of application. This code section will not change the second unit review process for Napa County, which currently employs an administrative building permit process.

Ordinance Section 5

Updates the parking requirement table contained in Section 18.110.030 to reference parking waiver procedures from Sections 18.104.180.A.10 and -A.11.

Proposed Junior Accessory Dwelling Unit Ordinance Version updates are as follows:

Adds New Ordinance Section 1:

Creates new Section 18.08.332 defining JADU's consistent with State Law.

Ordinance Section 5:

Amends numerous areas of Section 18.104.180 adding language establishing JADU's and applying design requirements as set forth in State Law. Refer to yellow highlighted areas on tracked changes version attached.

Also amends Section 18.104.180.A enabling JADU's and second units on single family dwelling lots within PD zones.

Ordinance Section 6:

Updates the parking requirements table contained in Section 18.110.030 to reference JADU's and waives parking for such units.

Public Process:

On May 26, 2017, the draft ordinance was emailed to those persons who have requested notification of pending items before the Planning Commission, to the CEQA notification list, and to the "development stakeholder" email list, which includes organizations and individuals who have previously expressed interest in PBES land use topics. Several people responded with clarifying questions. Prior to the Planning Commission hearing, Staff received one comment from George Caloyannidis, who advocated for septic system requirements to be reduced. Otherwise, no formal comments or correspondence were received.

On July 5, 2017, the Planning Commission conducted a duly noticed public hearing on the ordinance. Notice of the Planning Commission hearing was published as an 1/8th page add in the Napa Register on June 23, 2017. (As an ordinance affecting the entire County, there is no mailed notice and instead an enlarged newspaper add is provided in a prominent section of the newspaper.) At the hearing, Staff made a brief presentation and responded to questions. No members of the public spoke on the matter. Some of the discussion centered on why second units have not occurred within AP - Agricultural Preserve zoning districts (which roughly coincide with the floor of Napa Valley). Staff indicated that inclusion of second units with the AP was considered during the 2008/2009 General Plan Update, but the Board opted to continue the long-standing practices of prohibiting second units in the AP. At the conclusion of the hearing, the Commission voted 4-0-1 (Cottrell excused) to recommend approval of the

ordinance as proposed.

Subsequent to the Planning Commission meeting, Staff have continued to discuss the issue of septic system standards with Mr. Caloyannidis and he has provided a letter, attached, for Board consideration. Environmental Management Division Staff met with Mr. Caloyannidis and agreed to review and consider updates to septic systems standards as part of their next County Code Title 13 update programed for this fall/winter. Sewage treatment standards are periodically updated to comply with updates in State law, with the latest State updates mandated by May of 2018.

An additional public comment letter was since been received from Jeff Jones (attached) requesting that second units be permitted in the AP zone.

Public notice of this Board of Supervisors hearing was published as an 1/8th page add in the Napa Register on August 11, 2017.

Recommendation:

It is requested that the Board of Supervisors adopt the ordinance as proposed, and as recommended by the Planning Commission. Alternatively, if the Board wishes to enable JADU's, it is requested that the Board adopt the second version of the ordinance, attached. If there are minor amendments to either the proposed ordinance or the second version addressing JADU's, then the Board may conclude its first reading for the desired ordinance and direct that changes be incorporated for consideration with the second reading. If major changes are requested, the Board should remand the item to Staff to address the changes which would return for a subsequent public hearing and first reading.

SUPPORTING DOCUMENTS

- A . Accessory Dwelling Unit Ordinance (Clean Version)
- B . Accessory Dwelling Unit Ordinance (Tracked Version)
- C . ADU Ordinance with jADU Option (Clean Version)
- D . ADU Ordinance with jADU Option (Tracked Version)
- E . ADU Zoning Areas Map
- F . Planned Development Zoning Districts Summary
- G . CalFire ADU Requirements Memo
- H . Public Comments (Through 8/16)

CEO Recommendation: Approve

Reviewed By: Helene Franchi