



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

Sandra Rivera
Agency Director

Agenda Item # 5 April 11, 2024

March 28, 2024

Albert Lopez
Planning Director

Honorable Board of Supervisors
County of Alameda
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Dear Board Members:

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SUBJECT: ADOPTION OF AN ORDINANCE PERTAINING TO ACCESSORY DWELLING UNITS (ADU) AND JUNIOR ACCESSORY DWELLING UNITS (JADU) PURSUANT TO CURRENT STATE LEGISLATION

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RECOMMENDATION:

Planning Staff recommends that the Board remand the proposed Ordinance to the Planning Commission (a) for the Planning Commission to consider the implications of an existing Policy for Secondary Units in Rural Residential and Agricultural Areas, and (b) in light of new emergency legislation (SB 477) which repealed the operative statute upon which this Ordinance is predicated.

BACKGROUND:

The new California ADU law, AB 2221, was signed by Governor Newsom on September 28, 2022, and went into effect January 1, 2023. The law clarifies prior legislation to ensure that ADU guidelines and regulations are clearer and less prone to misinterpretation, thereby reducing obstacles to ADU development. Updates to the California ADU law, AB 1033, which went into effect January 1, 2024, allows local jurisdictions to voluntarily adopt a local ordinance to allow the separate conveyance of the Primary Dwelling Unit and Accessory Dwelling Unit or Units as condominiums. Staff considers that County adoption of AB 1033 would incentivize further development of ADUs in the unincorporated areas of Alameda County and supports various programs of the County's Housing Element which is currently under development.

DISCUSSION/SUMMARY:

CHANGES BROUGHT ABOUT BY AB 2221

Redefining height restrictions – AB 2221 (Government Code section 65852.2 *et seq.*) requires all cities to change their ADU height limits to at least 16 feet, paving the way for more two-story ADUs. There are also added regulations that require the local agency to allow ADUs to be built even higher than 16 feet in certain circumstances. For example, if an ADU is attached to the primary dwelling, the height limitation is 25 feet. If the structure is within ½ mile from public transit or the property already has a multi-family dwelling that is two stories high, the height limitation is 18 feet.

Modifications to the 60-day rule – Previously, an ADU permit had to be approved or denied within 60 days. However, many planning departments started simply denying complete permit applications once the 60 days were up. To prevent this from happening, AB 2221 requires the local agency to specify all the reasons an application is rejected, not just a few. The language of the law was also changed from “local agencies” to “permitting agencies.” This means that any entity involved in the review of an ADU permit (i.e. water districts, utilities, etc.) is held to the 60-day requirement, not just the Planning Department.

Front setback – The front setback requirement for ADUs is better defined in AB 2221. If an ADU is under 800 square feet, front setback requirements now cannot prevent an ADU from being built.

Multi-family housing – AB 2221 makes it easier to build multi-family housing by allowing builders to propose and build new ADUs in new multi-family housing development concurrently. Previously, developers had to complete a multi-family building project before starting ADU development.

Overall, AB 2221 simplifies the ADU development process, eliminates some of the restrictions that may have made it difficult for people to build ADUs, and makes it easier for Californians to have additional housing options on their properties.

In addition to the adoption of the ADU updates, this proposed Ordinance includes elimination of the Secondary Unit provisions of the Alameda County Zoning Ordinance (Article IV – Combining SU Districts, Sections 17.30.100 and 17.30.110) because the SU Districts sections are superseded by the ADU ordinance updates.

CHANGES BROUGHT ABOUT BY AB 1033

Under AB 1033, a local ordinance may allow the separate conveyance of the Primary Dwelling Unit and Accessory Dwelling Unit or Units as condominiums. The Planning Commission has asked for more information before recommending approval of this optional provision of the new state law.

EMERGENCY ADU LEGISLATION – SB 477

On March 25, 2024, the State of California passed Senate Bill 477, effective immediately, which rescinds Government Code section 65852.2, and adds Chapter 13 (Government Code section 66310 *et seq.*), among other technical legislative amendments. The bill makes non-substantive changes and reorganizes various provisions relating to the creation and regulation of accessory dwelling units and junior accessory dwelling units. The changes brought about by SB 477 have not been incorporated into the proposed Ordinance. Given that the Planning Commission did not have an opportunity to review and consider this emergency legislation, Staff recommends the Board remand the Ordinance to the Planning Commission for their review of Staff’s future incorporation of the new law.

EXISTING COUNTY POLICY FOR SECONDARY UNITS IN RURAL RESIDENTIAL AND AGRICULTURAL AREAS

The County’s “Policy for Secondary Units in Rural Residential and Agricultural Areas”, adopted by the County Board of Supervisors on July 2, 1998, and revised on October 1, 2001, would remain in place. This policy applies to parcels in the R-1 (Single Family Residence) zoning district, which requires a 40,000 square foot or larger parcel size and A (Agriculture) zoning district for eligibility. It allows Secondary Dwelling Units that are larger than 1,200 square feet in size if they comply with certain development regulations and discretionary review procedures. It is organized into three categories:

- A. Parcels in the R-1 zoning district requiring a 40,000 square foot or larger parcel size and parcels in the A zoning district that are twenty-five acres or less in size.
- B. Parcels in the A zoning district larger than 25 acres and less than 100 acres.
- C. Parcels in the A zoning district 100 acres or larger.

While the Ordinance and the policy do not directly conflict, the Policy permits a property owner to construct a secondary unit up to 1,200 square feet subject to site development review which is beyond what is permitted by right in the proposed Ordinance. Should the proposed Ordinance and Policy both be in effect, a property owner living in these districts is entitled to both an ADU and JADU by right under the proposed Ordinance, in addition to a secondary unit up to 1,200 square feet as provided under the Policy.

The Planning Commission did not consider the implications of the Policy for Secondary Units in Rural Residential and Agricultural Areas in their recommendation for the Board of Supervisors adopt the proposed Ordinance. While the Policy is referenced in the proposed Ordinance, there was no discussion or consideration at the February 20, 2024 Planning Commission meeting as to its greater implications on development in these districts. As such, Staff recommends that the Board remand the proposed Ordinance to the Planning Commission for their recommendation as to whether the Policy for Secondary Units in Rural Residential and Agricultural Areas should remain in effect congruently with the proposed Ordinance.

PUBLIC COMMENTS

Proposed Amendment from the Hayward Hills Property Owners Association: (insertion in bold type.)

17.55.XXX

*Accessory Dwelling Units and Junior Accessory Dwelling Units shall be permitted in all zoning districts that permit Single-family, Multifamily, or Mixed-use dwellings. **Applications for ADUs in zoning districts served by private septic systems (OTWS) shall require approval of the Department of Environmental Health.** By-right approvals are granted for ADUs measuring up to 1,200 sq. ft. in floor area, with policies in place to review and approve larger projects.*

Rationale from the Hayward Hills Property Owners Association for proposed Amendment:

Government Code Section 65852.2 gives a local jurisdiction the authority to deny the creation of an ADU if “adequate water and sewer service is not available.” The proposed amendment does not prohibit ADUs in areas served by private septic systems but adds the approval of the local health officer. 65852.2(ix).

Staff agreed to present their proposal to the MACs, Planning Commission, and Board of Supervisors for their consideration to include in the County ADU / JADU ordinance. It is worth noting that approval by the County of Environmental Health septic system is already required as part of the ministerial Building Permit process prior to approval for construction of an ADU or a JADU, just as it is already required prior to construction of any dwelling unit located on property with a septic system. Any residential construction requiring Building Permits is already required to comply with all construction and development codes, including ADUs on properties with septic system and on private streets. So, ADUs are already required to conform with the Department of Environmental Health’s regulations regarding septic systems, and with the Fire Department regarding adequate Fire Access Lanes and access and egress.

In response to the above comments, Staff has made the following draft change to the ADU Ordinance (additional language shown in underline italics font below):

17.55.XXX Construction Phasing and Permitting.

Accessory Dwelling Units and Junior Accessory Dwelling Units shall be allowed to be established either simultaneously with or subsequent to the construction of a Primary dwelling unit that is located on the same lot of record and under one common ownership. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to applicable Building Codes and require approval of the County Building Inspection Department. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units on parcels served by private septic systems (on-site wastewater treatment systems) shall require approval of the County Department of Environmental Health.

At the Sunol Citizens Advisory Council hearing and in at least three phone calls received by the Planning Department after the Sunol hearing, there has been public inquiry about the County opting into the State AB 1033 language that a property owner can choose a condominium subdivision of an ADU or ADUs and the Primary Dwelling Unit.

RESULTS OF MAC AND CAC HEARINGS:

Staff presented the proposed ADU / JADU ordinance updates to the Municipal Advisory Councils and the Citizens' Advisory County per the schedule below. All MACs and the CAC voted to adopt the ADU / JADU ordinance, to keep the language to the intent of State ADU and JADU legislation, and not be any more permissive in allowing ADUs or JADUs.

- Fairview MAC Tuesday, December 05, 2023
- Castro Valley MAC Monday, December 11, 2023
- Eden MAC Tuesday, December 12, 2023
- Sunol CAC Wednesday, January 17, 2024

RESULTS OF PLANNING COMMISSION HEARING:

At the February 20, 2024, Planning Commission hearing, after discussion on the possibility of the various regulatory considerations for regulating and enforcing condominium conversions on ADUs, the Planning Commission voted 6 to 0 to adopt the ADU / JADU ordinance, without the opt-in provision of AB 1033, because they wanted County staff to further review and present to them the potential considerations for regulation and enforcement. The Planning Commission may consider later recommending adoption of the condominium provisions of AB 1033 once there is more information about potential consequences. County staff is researching how other jurisdictions in California have adopted AB 1033. So far, no other jurisdictions have adopted this part of the new state law although the City of San José is currently considering adoption.

Given that a separate conveyance of ADUs could spur additional ADU development, local interest in this provision of the new State law, and that such a feature of the County's ADU ordinance would support programs in the 2023-2031 Housing Element, Staff is seeking direction from the Board related to allowing air-space condominium subdivisions for ADUs. That language is contained in the 02/20/2024 Planning

Commission packet attached herein, Section 17.55.140 “Separate Sale or Conveyance of an Accessory Dwelling Unit”.

CONCLUSION:

Staff recommends that your Board remand the proposed ADU / JADU Ordinance to the Planning Commission for the Planning Commission’s review to consider the implications of Policy for Secondary Units in Rural Residential and Agricultural Areas and for the Planning Commission to review and make recommendations of the Ordinance in light of the new emergency legislation.

Very truly yours,

DocuSigned by:
Sandra Rivera
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Sandra Rivera, Director
Community Development Agency

Attachments:

- DRAFT Accessory Dwelling Unit and Junior Accessory Dwelling Unit Ordinance
- Planning Commission Resolution No. 24-04
- Staff Report for Planning Commission hearing of February 20, 2024

ORDINANCE NO. O-2024-_____

AN ORDINANCE AMENDING SECTIONS 17.04.010, 17.06.030, 17.30.110, 17.52.780, 17.54.225, AND 17.60.100 AND ADDING CHAPTER 17.55 TO ADOPT THE “ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT ORDINANCE” OF THE COUNTY OF ALAMEDA ZONING ORDINANCE

WHEREAS, the State of California passed Assembly Bill 2221 (AB 2221), effective January 1, 2023, which amends Government Code section 65852.2 regarding the regulation of Accessory Dwelling Units (ADUs) and codifies the development of Junior Accessory Dwelling Units (JADUs); and

WHEREAS, the County of Alameda, to comply with the requirements of AB 2221, has prepared the proposed amendments modifying the development standards and process by which Alameda County reviews and permits ADUs and JADUs; and

WHEREAS, AB 2221, as revised, restricts the manner in which local agencies can regulate ADUs and JADUs; and

WHEREAS, Title 17 of the County of Alameda General Ordinance Code currently regulates ADUs, including Sections 17.04.010, 17.06.030, 17.30.110, 17.52.780, 17.54.225 and 17.60.100; and

WHEREAS, applications for development for ADUs and JADUs pursuant to the proposed amendments will be subject to applicable Building Codes and require ministerial approval by the Alameda County Public Works Agency; and

WHEREAS, applications for development for ADUs and/or JADUs pursuant to the proposed amendments on parcels served by private septic systems (on-site wastewater treatment systems) will be subject to ministerial approval by the County of Alameda Department of Environmental Health; and

WHEREAS, the proposed amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of the California Environmental Quality Act (CEQA) and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17, which exempt the local adoption of ordinances regarding second units in a single- family or multifamily residential zone to implement Government Code section 65852.2 and pursuant to the general rule in CEQA Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment; and

WHEREAS, the Planning Commission, at its February 20, 2024 public meeting, voted 6 to 0 to recommend that the Board of Supervisors adopt an ordinance amending Title 17 of the Alameda County General Ordinance Code regarding regulation of ADUs and JADUs to conform with Government Code section 65852.2; and

WHEREAS, on July 2, 1998, the Alameda County Board of Supervisors adopted a Policy for Secondary Units in Rural Residential and Agricultural Area; and

WHEREAS, in the event of a conflict between the proposed amendments and the Policy for Secondary Units in Rural Residential and Agricultural Area, the proposed amendments shall preempt the Policy for Secondary Units in Rural Residential and Agricultural Area; and

NOW, THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Section 17.04.010 of Chapter 17.04 of Title 17 of the Alameda County Ordinance Code is amended to add the following definitions to the existing list of definitions, in alphabetical order, with additional language underlined deleted language ~~strikethrough~~ as follows:

17.04.010 - Definitions.

“Accessory Dwelling Unit” (ADU) means an accessory, second, or secondary unit that is attached or detached which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a Single-family dwelling, Multifamily dwelling, or Mixed-use dwelling. An Accessory Dwelling Unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code." Accessory structure" means a detached subordinate structure or building on a lot, the use of which is appropriate, incidental and customarily or necessarily related to the district and to the principal use of the lot or to that of a main building on the lot.

“Conversion” means the modification to the occupancy of a legally existing space within the existing volume of a building or covered structure without expansion, except up to 150 sq. ft. of expansion as allowed for ingress and egress.

“Junior Accessory Dwelling Unit” (JADU) means an accessory, second, or secondary unit that is fully contained within a Single-family dwelling or within an attached garage and which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, and cooking on the same parcel and within the same building as one Primary Dwelling Unit. It shall not exceed 500 sq. ft in floor area. Junior Accessory Dwelling Units may share bathroom facilities with the Primary Dwelling Unit and may share central utility systems of the main home. A Junior Accessory Dwelling Unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

“Mixed-use dwelling” means a building containing one or more Primary Dwelling Units and one or more non-residential units.

“Multifamily dwelling” means two or more attached Primary Dwelling Units on one lot.

“Primary Dwelling Unit” is a residential living unit such as a Single-family dwelling, Multifamily dwelling, or Mixed-use dwelling. A Primary Dwelling Unit is distinct from an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit. Examples of Primary units include a Single-family dwelling (i.e., one Primary Dwelling Unit), Multifamily dwelling such as a duplex (i.e., two Primary Dwelling Units) or four-plex (i.e., four Primary Dwelling Units), or a Mixed-use dwelling (containing one or more Primary Dwelling Units).

"Secondary (or accessory dwelling) unit" means an accessory, second or secondary unit that is an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and

sanitation on the same parcel as one single family dwelling is situated. An accessory dwelling unit also includes the following:

1. ~~An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.~~
2. ~~A manufactured home, as defined in Section 18007 of the Health and Safety Code.~~

“Single-family dwelling” means one or more detached Primary Dwelling Units on one lot.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six feet above grade as defined herein, or more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story. A loft or mezzanine that is enclosed with an interior partition wall or has a floor area of more than 1/3 the floor area of the story below is considered a story.

~~“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six feet above grade as defined herein, or more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story.~~

SECTION II

Alameda County Zoning Ordinance Section 17.06.030 “Permitted Uses” is amended with additional language in underlined and deleted language in ~~strikethrough~~.

17.06.030 - Permitted uses.

The following principal uses are permitted in an A district:

- H. Accessory Dwelling Units per Chapter 17.55, ~~One secondary dwelling unit per~~ on a building site ~~on parcels twenty five (25) acres in size or larger that are zoned for not more than one dwelling and have one but no more than one dwelling unit on the parcel~~ subject to the following requirements:
1. ~~The secondary~~ Accessory dDwelling uUnit or Accessory Dwelling Units shall be on the same building envelope as the ~~primary unit~~ Primary Dwelling Unit;
 2. Accessory Dwelling Units not subject to floor area regulations of Chapter 17.55 shall be subject to maximum floor area of one thousand two hundred (1,200) square feet ~~On parcels less than one hundred (100) acres, the secondary dwelling unit shall be no larger than two thousand (2,000) square feet in area; on parcels one hundred (100) acres or larger the secondary dwelling unit shall be no larger than two thousand five hundred (2,500) square feet in area;~~
 3. ~~The secondary~~ Any Accessory dDwelling uUnit larger than the maximum floor area of one thousand two hundred (1,200) square feet and not subject to floor area regulations of

Chapter 17.55 shall be subject to site development review pursuant to Section 17.54.210 et seq.; and

4. The ~~secondary Accessory dDwelling uUnit~~ subject to rezoning or site development review shall be subject to and consistent with the provisions of the county policy on secondary dwelling units in agricultural and rural residential areas. Notwithstanding the requirements of Section 17.54.220(A), for ~~secondary uAccessory dDwelling uUnits~~ on parcels that are less than one hundred (100) acres in size and subject to site development review, the planning commission shall decide applications for site development review under this section, and a public hearing is required;

SECTION III

Alameda County Zoning Ordinance Chapter 17.30, Article IV “Combining SU Districts” is hereby deleted in its entirety.

SECTION IV

Alameda County Zoning Ordinance Section 17.52.780 is amended as follows with additional language underlined and deleted language in ~~strikethrough~~.

17.52.780 - Parking spaces—Size and location.

~~Except as provided for in Section 17.30.110, concerning secondary units,~~ every required parking space ~~shall have an area not less than one hundred eighty (180) square feet and~~ shall have a width not less than nine feet, and a length of not less than eighteen (18) feet, or be designed as specified in the Alameda County Residential Design Guidelines, exclusive of maneuvering space and driveways which shall be provided as required to make each parking space independently accessible from the street at all times. No required parking space shall occupy any required front yard or any required street side yard of a corner lot, or any required setback from a driveway or any part of a required loading space. All required parking spaces shall be provided on the same building site as the use of building for which they are required.

SECTION V

Alameda County Zoning Ordinance Section 17.54.225 is amended as follows with additional language underlined and deleted language in ~~strikethrough~~.

17.54.225 - Site development review for garage conversions—Applications.

Applications for garage conversions shall include the materials required pursuant to "Site Development Review—Applications" Section 17.54.230, except that site development reviews for garage conversions shall also include:

- A. Elevations of all exterior wall surfaces of the existing on-site primary structure(s), and of the proposed garage conversion;
- B. Annotated photographs of all street-facing exterior wall surfaces of the five neighboring properties at either side of the subject site, and of the ten closest properties across the street from the subject site;
- C. Floor plans of all of the on-site primary structures and of the proposed garage conversion; and

- D. Site plans showing the entire subject property and all structures therein, including the replacement storage space, the proposed on-site parking spaces, and showing site plans for all adjacent parcels that share property lines with the subject parcel, including their curb-cuts and driveways, and locations of all structures.
- E. Site development review shall not be required for garage conversions when the purpose of the conversion is to create a new ~~secondary~~ Accessory Dwelling Unit within the space of an existing attached or detached garage, and the new unit meets the requirements contained in ~~Section 17.30.14055~~, concerning ~~secondary~~ Accessory Dwelling Units.

SECTION VI

Alameda County Zoning Ordinance Chapter 17.55 is added to read as follows:

17.55 - Accessory Dwelling Units and Junior Accessory Dwelling Units.

17.55.010 Purpose.

The purpose of this chapter is to comply with state law, which authorizes cities and counties to set standards for the development of Accessory Dwelling Units and Junior Accessory Dwelling Units to increase the supply of small and affordable housing while ensuring that they remain compatible with existing Primary Dwelling Units, neighborhoods, and rural areas.

17.55.020 Ministerial Approval.

Notwithstanding the requirements otherwise established in this Title, the County shall ministerially approve an application for a building permit within an agricultural, residential, or mixed-use zoning district to create any allowable Accessory Dwelling Unit or Junior Accessory Dwelling Unit without discretionary review or a hearing.

17.55.030 Requirement to Establish as and Remain Accessory to a Primary Dwelling Unit.

1. Accessory Dwelling Units: Will be permitted to be established as a permanent housing option on any property that either contains or is constructed concurrently with a Primary Dwelling Unit, and when established in compliance with state and local ordinances.
2. Junior Accessory Dwelling Units: Will be permitted to be established as a permanent housing option on any property in a Single-Family Residence (R-1) Zoning District or the Planned Development (PD) Zoning District based on the R-1 Zoning District that either contains or is constructed concurrently with a Single-family dwelling, and when established in compliance with state and local ordinance.

17.55.040 Permitted Zones.

Accessory Dwelling Units and Junior Accessory Dwelling Units shall be permitted in all zoning districts that permit Single-family, Multifamily, or Mixed-use dwellings. Approvals for ADUs measuring up to 1,200 square feet in floor area are subject to the Policy for Secondary Units in Rural Residential and Agricultural Areas.

17.55.050 Density Calculation.

Accessory Dwellings Units and Junior Accessory Dwelling Units shall not be counted when calculating the maximum permitted density requirements of a property; however, they may be counted to meet minimum density requirements.

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1. Single-family dwellings: The maximum number of Junior Accessory Dwelling Units on a Building Site shall be one. The maximum number of Accessory Dwelling Units on a Building Site shall be one attached and one detached; this applies to each Single-family dwelling on a property.
2. Multifamily dwellings: The maximum number of Accessory Dwelling Units on a Building Site shall be one for every four existing Multifamily dwelling units (rounded down with a minimum of one) and two detached Accessory Dwelling Units and no Junior Accessory Dwelling Units.

17.55.060 Site and Building Development Requirements.

1. For Single-family dwellings:
 - a. Accessory Dwelling Units may be attached to the Single-family dwelling, detached from the Single-family dwelling, or may involve the conversion of floor area of an existing legal structure.
 - b. Junior Accessory Dwelling Units
 - i. Shall be contained within the exterior walls of an existing or proposed Single-family dwelling; and
 - ii. May share bathroom facilities with the Primary Dwelling Unit.
2. For Multifamily dwellings:
 - a. Accessory Dwelling Units are allowed within the portions of existing Multifamily dwellings that are not currently used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - b. Junior Accessory Dwelling Units are prohibited.
3. For Mixed-use dwellings: the conversion of a nonresidential portion into an Accessory Dwelling Unit is not allowed.
4. For all projects.
 - a. Shall have at least an efficiency kitchen including a cooking facility with appliances, a food preparation counter, and storage cabinets of reasonable size in relation to the unit;
 - b. Shall have a separate entrance from the Primary Dwelling Unit. Access to the public right-of-way may be provided through the rear yard of the Primary residence or a dedicated pathway. Internal connection to the Primary Dwelling Unit is optional, except for Junior Accessory Dwelling Unit sharing a bathroom with a Primary Dwelling Unit which must have both an internal connection and separate entrance.

17.55.070 Development Standards for Accessory Dwelling Units.

1. Required yards (setbacks):
 - a. Side, street side, and rear: Minimum required 4-foot side and rear yard. This shall not apply to development of Accessory Dwelling Units by conversion of existing structures.
 - b. Front: Minimum is the same as for Primary Dwelling Unit. For Accessory Dwelling Units measuring less than 800 sq. ft. in area, front setback can be occupied if there is no other legal physical location on the property to accommodate the building footprint.
2. Distance Separation: Six-foot separation minimum from any other building.
3. Height:
 - a. Up to 16 feet

A detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit and not meeting setbacks for Primary Dwelling Unit

b. Up to 18 feet:

In addition to 3a., if located within one-half mile walking distance of a ‘major transit stop’ or a ‘high-quality transit corridor’, as defined in Section 21155 of the Public Resources Code

c. Up to 20 feet:

In addition to 3b., if necessary to accommodate a roof pitch on the Accessory Dwelling Unit that is aligned with the roof pitch of the Primary Dwelling Unit.

d. If meeting required Primary Dwelling Unit setbacks, then an accessory dwelling unit either detached or attached to a Primary Dwelling Unit on a lot with an existing or proposed single family dwelling unit may apply the lesser of 25 feet or the height limit for the existing or proposed Primary Dwelling Unit.

4. Stories:

a. Maximum one story for new construction; or

b. Maximum two stories where practicable within a conversion with no building envelope expansion; or

c. If meeting required setbacks (either detached from or attached to a Primary Dwelling Unit), then maximum two stories.

5. Exemptions: For Accessory Dwelling Units measuring up to 800 square feet in floor area, none of the following County development standards apply:

a. floor area ratio (FAR);

b. lot coverage; or

c. maximum developable parcel slope limitations.

6. Additional: For attached Accessory Dwelling Units measuring greater than 800 square feet in floor area, development standards applying to the Primary Dwelling Unit shall apply except for required side and rear yard setback development standards.

17.55.080 Size Limitations.

1. Floor Area Calculation:

The size of the unit shall be measured from the side of the exterior wall of the dwelling unit to the opposing exterior wall face enclosing the unit, or to the centerline of the furthest opposing interior wall that separates the Accessory Dwelling Unit or Junior Accessory Dwelling Unit and Primary Dwelling Unit living space. Carports, covered porches and patios, chimneys, exterior stairwells, and mechanical rooms are not counted toward the determination of floor area.

2. Accessory Dwelling Units:

a. The following development standards apply to newly constructed detached Accessory Dwelling Units:

i. If the detached Accessory Dwelling Unit is to contain 0 or 1 bedrooms, then limited to 850 square feet maximum.

ii. If the detached Accessory Dwelling Unit is to contain 2 or more bedrooms, then limited to 1,200 square feet maximum:

iii. If the property contains a Junior Accessory Dwelling Unit, then a detached Accessory Dwelling Unit shall not exceed 800 square feet in floor area.

b. The following development standards apply to newly constructed attached Accessory Dwelling Units:

i. Maximum 50% floor area of the Single-family dwelling or 1,200 square feet, whichever is

less. (A minimum of 800 square feet is allowed by right regardless of size of the Single-family dwelling.)

c. The conversion of an existing accessory structure or a portion of the existing Single-family dwelling to an ADU shall not be subject to ADU size requirements. Should the accessory structure or existing Single-family dwelling be expanded beyond 150 square feet to create an ADU, then the ADU shall be subject to the size maximums listed herein.

3. Junior Accessory Dwelling Units

a. A Junior Accessory Dwelling Unit shall measure no more than 500 square feet in size, contained within the exterior walls of a proposed or existing Single-family dwelling.

17.55.090 Parking.

One (1) on-site parking space is required for each Accessory Dwelling Unit and Junior Accessory Dwelling Unit, and, notwithstanding other development regulations, may otherwise be located within front yard or street side yard setbacks. On-site parking is not required in the following instances:

1. Site is located within one-half mile walking distance of public transit;
2. Site is located within an architecturally or historically significant property or district;
3. When the project involves converting enclosed parking of the Primary Dwelling Unit;
4. When on-street parking permits are required but not offered to the occupants; or
5. When there is a car share vehicle located within one block.

17.55.100 Construction Phasing and Permitting.

Accessory Dwelling Units and Junior Accessory Dwelling Units shall be allowed to be established either simultaneously with or after the construction of a Primary Dwelling Unit that is located on the same lot of record and under one common ownership. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to applicable Building Codes and require approval of the County Building Inspection Department. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units on parcels served by private septic systems (on-site wastewater treatment systems) shall require approval of the County Department of Environmental Health.

17.55.110 Demolitions and Reconstructions.

Accessory Dwelling Units established by conversion of an existing legal structure can be demolished and reconstructed within the same building volume at the same footprint location, and with no floor area or height limit.

17.55.120 Additions for Ingress and Egress.

A Junior Accessory Dwelling Unit located within a Single-family dwelling may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure. This expansion shall be limited to accommodate ingress and egress (for example, a covered front porch).

An Accessory Dwelling Unit located within a Single-family dwelling or accessory structure may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure. This expansion shall be limited to accommodate ingress and egress (for example, a covered front porch).

17.55.130 Tenancy Restrictions.

1. Deed Restriction. Before the County will issue a building permit for an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, the property owner shall file with the County Recorder a declaration or agreement of restrictions, which has been approved by the County Counsel as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

- a. The Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit shall not be sold, transferred or owned separately from the Primary Dwelling Unit on the property, except when owned by certain nonprofit corporations pursuant to California Government Code Section 65852.26, as that section may be amended.
- b. The Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit may be occupied by or rented to a separate household living independently from the occupant(s) of the Primary Dwelling Unit; (or vice versa) provided, that the terms for separate occupancy of the accessory unit and/or Primary Dwelling Unit shall be longer than 30 days;
- c. The Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit shall not be used or converted for use as visitor lodging for remittance; and
- d. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

2. Accessory Dwelling Units: the owner of the property is not required to reside on the property in either the Primary Dwelling Unit or Accessory Dwelling Unit.

3. Junior Accessory Dwelling Units: the property owner shall reside on the property in either the Single-family dwelling or the Junior Accessory Dwelling Unit. Evidence shall be provided with a recorded deed restriction prior to final occupancy of either unit. Owner occupancy is not required if the owner is a governmental agency, land trust, or housing organization.

17.55.140 Design Criteria.

All new Accessory Dwelling Units and Junior Accessory Dwelling Units shall be reviewed by the Planning Director or their designee for consistency with this chapter. Applications shall demonstrate compliance with the following regulations by clearly identifying existing and proposed materials of the site landscaping, fencing, Accessory Dwelling Units, and Junior Accessory Dwelling Units and the Primary Dwelling Unit.

1. Design.

- a. All detached Accessory Dwelling Units located at the front or side of a primary Residential Facility and visible from the public right-of-way shall be designed to meet the following objective design standards:
 - i. Roof pitch shall match the dominant roof pitch of the Primary Dwelling Unit
 - ii. Roof material shall match Primary Dwelling Unit;
 - iii. Exterior siding material and/or color shall match Primary Dwelling Unit;
 - iv. Window and door trim shall match the Primary Dwelling Unit
 - v. Covered porch shall be provided if the Primary Residential Facility has a porch;
 - vi. Fencing or landscaping shall be installed and maintained to buffer the view of the detached ADU from a street, road, or other public area.
- b. All Accessory Dwelling Units attached to the Primary Dwelling Unit and all Junior Accessory Dwelling Units shall provide materials and colors of the exterior walls, windows, rooflines, and doors that match the Primary Dwelling Unit.

2. Privacy.

- a. New Construction and Conversion: To maximize privacy on adjacent properties, windows that are

located less than 5 feet from a rear or side property line shall be clerestory windows or use frosted or obscure glass. Balconies, decks, and doors shall be located on the exterior wall not adjacent to the nearest property line(s) when located five feet or fewer from any property line(s).

17.55.160 Park Dedication Fees.

No Park Dedication impact fees are required for Accessory Dwelling Units measuring less than 750 square feet in floor area and for all Junior Accessory Dwelling Units.

17.55.170 Nonconforming Facilities.

Pursuant Government Code section 65852.2(b)(2), the County shall not require the correction of the following as a condition of an Accessory Dwelling Unit or Junior Accessory Dwelling Unit permit approval:

1. Nonconforming zoning conditions prior to the issuance of a permit for Accessory Dwelling Units or Junior Accessory Dwelling Units, except to comply with the California Building Code where the structure is not in compliance with current California Building Code standards.
2. Existing unpermitted structures not affecting proposed Accessory Dwelling Unit, unless the existing unpermitted structure presents a threat to public health or safety or affects the construction of the Accessory Dwelling Unit.
3. Existing building standards violations on the Primary Dwelling Unit, provided that correcting the violation is not necessary to protect health and safety.

17.55.180 Building Code.

Pursuant to 65852.2 *et seq.*, Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to all applicable state laws, including the California Building Code, and the regulations below. The Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit shall:

1. Be placed on a permanent foundation;
2. Provide side and rear setbacks that are sufficient for fire and safety; and
3. Comply with the requirements of Government Code Section 65852.2.

17.55.190 Junior Accessory Dwelling Unit Relative to Fire or Live Protection Ordinance.

A Junior Accessory Dwelling Unit shall not be considered a separate or new unit for purposes of any fire or life protection ordinance or for purposes of providing water, wastewater or power services. Primary Dwelling Units containing a Junior Accessory Dwelling Unit may be subject to the same requirements as applied to Primary Dwelling Units not containing a Junior Accessory Dwelling Unit.

17.55.200 Severability.

To the extent possible, this chapter shall be interpreted to be consistent with the provisions of Government Code Sections 65852.2 and 65852.22. If any part of this chapter is found to be invalid or inconsistent with Government Code Sections 65852.2 and 65852.22, such provision shall be null and void and the remaining sections will still be applied to the maximum extent feasible.

SECTION VII

Alameda County Zoning Ordinance Section 17.60.100 is amended with additional language underlined and deleted language in ~~strike~~through.

17.60.100 Term limits for grants of reasonable accommodation.

Where the request for reasonable accommodation involves conversion of a garage to living space, variance from the requirements of this chapter for an ~~secondary~~ Accessory Dwelling Unit, or use of a recreational vehicle in a required setback, the request shall include a specific time limit and shall be made contingent on a specific person's actual need for the accommodation.

At the expiration of this period the applicant shall notify the planning director if the need continues. The planning director may extend the term for a period for a specific time limit after following the process described above in Sections 17.60.050 through 17.60.090. If the applicant does not notify the planning director at or before the expiration, or if the planning director does not extend the term, the premises shall be returned to the condition prior to the accommodation. Any violation to the granted term limits shall follow procedures per Chapter 17.59, Abatement of Procedures, of the county zoning ordinance.

Where the request is for any other purpose, including but not limited to encroachment of a ramp or elevator housing into a required setback or construction or placement of accessory structures for medical or other necessary equipment there shall be no time limit on the accommodation.

Nothing in this section shall preclude rescission of the grant of reasonable accommodation as indicated in Section 17.60.110.

SECTION VII

This Ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of 15 days after its adoption by the Board of Supervisors, this ordinance shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the _____ day of _____, 2024, by the following called vote:

AYES:

NOES:

EXCUSED:

ABSTAINED:

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

Anika Campbell-Belton, Clerk
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Melanie S. O'Brien
Deputy County Counsel

**THE PLANNING COMMISSION OF ALAMEDA
COUNTY HAYWARD, CALIFORNIA**

**RESOLUTION NO. 24-04 RECOMMENDING BOARD OF SUPERVISORS APPROVAL
OF AN ORDINANCE AMENDING TITLE 17 OF THE ALAMEDA COUNTY GENERAL
ORDINANCE CODE REGARDING ACCESSORY DWELLING UNITS (ADUs) AND
JUNIOR ACCESSORY DWELLING UNITS (JADUs)**

**Introduced by Commissioner Moore
Seconded by Commissioner Kelley**

WHEREAS in January of 2023, the State of California Assembly Bill 2221 (AB 2221) went into effect, amending Government Code section 65852.2 regarding the regulation of Accessory Dwelling Units; and

WHEREAS in January of 2024, the State of California Assembly Bill 1033 (AB 1033) went into effect, allowing local jurisdictions to opt in to allow the separate conveyance of the Primary Dwelling Unit and Accessory Dwelling Unit or Units as condominiums; and

WHEREAS State law, as revised, restricts the manner in which local agencies can regulate Accessory Dwelling Units and Junior Accessory Dwelling Units; and

WHEREAS Title 17 of the County of Alameda General Ordinance Code regulates Accessory Dwelling Units and Junior Accessory Dwelling Units, including Sections 17.04.010, 17.06.030, 17.30.110, 17.52.780, 17.54.225 and 17.60.100; and

WHEREAS the Planning Commission did hold a public hearing on said proposed amendment at the hour of 6:00 p.m. on Monday, February 20, 2024; and

WHEREAS notice of public hearing was given as required by law; and

WHEREAS this Commission does find that the amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of the California Environmental Quality Act (CEQA) and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multifamily residential zone to implement Government Code section 65852.2 and pursuant to the general rule in CEQA Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment; and

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

WHEREAS, this Commission finds that the amendments incorporate revisions to the Municipal Code prompted by passage of California State Assembly Bill 2221 (Quirk-Silva), which amended California Government Code Section 65852.2 starting on January 01, 2023, to address the shortage of affordable housing by modifying the development standards and process by which cities review and permit Accessory Dwelling Units; and

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WHEREAS, this Commission finds that although the amendments incorporate revisions to the Municipal Code prompted by passage of California State Assembly Bill 1033 (AB 1033), effective on January 01, 2024, that will incentivize further development of ADUs in the unincorporated areas of Alameda County by allowing air-space condominium subdivisions for ADUs, more investigation needs to be done about potential consequences of condominium conversions of ADUs from Primary Dwelling Units before opting into AB 1033; and

WHEREAS, this Commission finds that adding language to the ordinance to state that applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to applicable Building Codes, and require approval of the County Building Inspection Department, and that applications for Accessory Dwelling Units and Junior Accessory Dwelling Units on parcels served by private septic systems (on-site wastewater treatment systems) shall require approval of the County Department of Environmental Health, further clarifies the permitting necessary to develop Accessory Dwelling Units and Junior Accessory Dwelling Units in unincorporated Alameda County.

NOW THEREFORE

BE IT RESOLVED that this Planning Commission does hereby recommend to the Alameda County Board of Supervisors adoption of a Declaration of exemption from environmental review as allowed by California Environmental Quality Act (CEQA) for this proposal because the amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of CEQA and the proposed amendments have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17, which exempt the local adoption of ordinances regarding second units in a single- family or multifamily residential zone to implement Government Code section 65852.2, and pursuant to the general rule in CEQA Guidelines section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment; and

BE IT FURTHER RESOLVED that this Planning Commission does hereby recommend to the Alameda County Board of Supervisors adoption of the proposed amendments to the Sections 17.04.010, 17.06.030, 17.30.110, 17.52.780, 17.54.225 and 17.60.100, and new Chapter 17.55 of Title 17 of the Alameda County General Ordinance Code related to Zoning, as set forth in Exhibit C.

ADOPTED BY THE FOLLOWING VOTE:

AYES: Moore, Crawford, Kelley, Hernandez, Nielsen, Zeisse

NOES:

ABSENT:

EXCUSED:

ABSTAINED:

**ALBERT LOPEZ - PLANNING DIRECTOR & SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY**



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT
STAFF REPORT**

TO: Alameda County Planning Commission

HEARING DATE: February 20, 2024

GENERAL INFORMATION

PROJECT: County-initiated amendments to the Alameda County General Ordinance Code to update regulations on Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) to comply with current State legislation

PROJECT PROPONENT: Alameda County Community Development Agency

PROPOSAL: Consideration of Ordinance Amendments Related to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) to bring Alameda County into compliance with a recently updated State legislation.

ZONING / SPECIFIC PLAN DESIGNATION: Countywide in all residential and mixed-use residential zoning districts

GENERAL PLAN DESIGNATION: Countywide in all residential and mixed-use residential land use designations

ENVIRONMENTAL REVIEW: The proposed amendments have been reviewed in accordance with the provisions of the California Environment Quality Act (CEQA) and have been found to be exempt from further environmental review pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multi-family residential zone to implement Government Code section 65852.2 and pursuant to the general rule in CEQA Guidelines Section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment.

RECOMMENDATION

Staff recommends that the Planning Commission recommend adoption of the attached Ordinance Amendments related to Accessory Dwelling Units and Junior Accessory Dwelling Units to the Alameda County Board of Supervisors and adoption of the CEQA Exemption pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17 which exempt the local adoption of ordinances regarding second units in a single-family or multi-family residential zone to implement Government Code section 65852.2 and pursuant to the general rule in CEQA Guidelines Section 15061(b)(3), which specifies that CEQA applies only to any project with the potential to cause a significant impact on the environment.

BACKGROUND

The new California ADU law, AB 2221, was signed by Governor Newsom on September 28, 2022, and went into effect on January 01, 2023. The law clarifies old legislation to ensure that ADU guidelines and regulations are clearer and less prone to misinterpretation, thereby reducing obstacles to ADU development. Updates to the California ADU law, AB 1033, which went into effect on January 01, 2024, allows local jurisdictions such as Alameda County to voluntarily adopt a local ordinance to allow the separate conveyance of the Primary Dwelling Unit and Accessory Dwelling Unit or Units as condominiums. Staff considers that County adoption of AB 1033 would incentivize further development of ADUs in the unincorporated areas of Alameda County. Staff therefore recommends adoption of the attached ADU and JADU Ordinance updates, including the provision to allow air-space condominium subdivisions for ADUs.

STAFFANALYSIS

The changes brought about by AB 2221 include:

Redefining height restrictions – AB 2221 requires all cities to change their ADU size limits to at least 16 feet, paving the way for more two-story ADUs. There are also added regulations that require cities to allow ADUs to be built even higher than 16 feet in certain circumstances. For example, if an ADU is attached to the primary dwelling, the height limitation is 25 feet. If the structure is within ½ a mile from public transit or the property already has a multi-family dwelling that is two stories high, the height limitation is 18 feet.

Modifications to the 60-day rule – Previously, an ADU permit had to be approved or denied within 60 days. However, many planning departments started simply denying permit applications once the 60 days were up. To prevent this from happening, AB 2221 requires cities to specify all the reasons an application is rejected, not just a few. The language of the law was also changed from “local agencies” to “permitting agencies.” This means that any entity involved in the review of an ADU permit (i.e. water districts, utilities, etc.) is held to the 60-day requirement, not just the planning board.

Front setback – The front setback requirement for ADUs is better defined in AB 2221. If an ADU is under 800 sq ft, front setback requirements now cannot prevent an ADU from being built.

Multi-family housing – AB 2221 makes it easier to build multi-family housing by allowing builders to propose and build new ADUs in new multi-family housing concurrently. Previously, developers had to complete a multi-family building project before starting ADU development.

Overall, AB 2221 simplifies the ADU development process, eliminates some of the restrictions that may have made it difficult for people to build ADUs, and makes it easier for Californians to have additional housing options on their properties.

The changes brought about by AB 1033 include:

Per AB 1033, the proposed ordinance allows the separate conveyance of the Primary Dwelling Unit and Accessory Dwelling Unit or Units as condominiums.

The County’s secondary dwelling unit are being removed:

In addition to the adoption of the ADU updates, this proposal includes elimination of the Secondary Unit section of the Alameda County Zoning Ordinance, Article IV - Combining SU Districts, Sections 17.30.100 and 17.30.110. The SU Districts ordinance is being superseded by the ADU ordinance updates.

PUBLIC COMMENTS

Proposed Amendment from the Hayward Hills Property Owners Association: (insertion in bold type.)

17.55.XXX

*Accessory Dwelling Units and Junior Accessory Dwelling Units shall be permitted in all zoning districts that permit Single-family, Multifamily, or Mixed-use dwellings. **Applications for ADUs in zoning districts served by private septic systems (OTWS) shall require approval of the Department of Environmental Health.** By-right approvals are granted for ADUs measuring up to 1,200 sq. ft. in floor area, with policies in place to review and approve larger projects.*

Rationale from the Hayward Hills Property Owners Association for proposed Amendment:

Government Code Section 65852.2 gives a local jurisdiction the authority to deny the creation of an ADU if "adequate water and sewer service is not available." The proposed amendment does not prohibit ADUs in areas served by private septic systems but adds the approval of the local health officer. 65852.2(ix).

Staff agreed to present their proposal to the MACs, Planning Commission, and Board of Supervisors for their consideration to include in the County ADU / JADU ordinance. It is worth noting that approval by the County of Environmental Health septic system is already required as part of the ministerial Building Permit process prior to approval for construction of an ADU or a JADU, just as it is already required prior to construction of any dwelling unit located on property with a septic system. Any residential construction requiring Building Permits is already required to comply with all construction and development codes, including ADUs on properties with septic system and on private streets. So, ADUs are already required to conform with the Department of Environmental Health's regulations regarding septic systems, and with the Fire Department regarding adequate Fire Access Lanes and access and egress.

In response to the above comments, Staff has made the following draft change to the ADU Ordinance (additional language shown in underline italics font below):

17.55.XXX Construction Phasing and Permitting.

Accessory Dwelling Units and Junior Accessory Dwelling Units shall be allowed to be established either simultaneously with or subsequent to the construction of a Primary dwelling unit that is located on the same lot of record and under one common ownership. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be subject to applicable Building Codes, and require approval of the County Building Inspection Department. Applications for Accessory Dwelling Units and Junior Accessory Dwelling Units on parcels served by private septic systems (on-site wastewater treatment systems) shall require approval of the County Department of Environmental Health.

CONCLUSION

The proposed amendments to Title 17 of the Alameda County Zoning Ordinance are recommended in order to comply with the minimum requirements of State Law, while allowing County staff, stakeholders and decisions makers to fully evaluate and implement permanent regulations governing the creation of new ADUs.

NEXT STEPS

Staff will present the proposed amendments to the Board of Supervisors in either January or February of 2024 and to the Board of Supervisors Unincorporated Services Committee, to the Transportation and Planning Committee and to the Board of Supervisors, on a date to be determined, but expected in February or March of 2024.

Schedule for March 2024 Board of Supervisors adoption:

- Fairview MAC Tuesday, December 05, 2023
- Castro Valley MAC Monday, December 11, 2023
- Eden MAC Tuesday, December 12, 2023
- Sunol CAC Wednesday, January 17, 2024
- Planning Commission Tuesday, February 20, 2024
- Transportation and Planning Monday, March 04, 2024
- Board of Supervisors Thursday, March 14, 2024

ATTACHMENTS:

- Exhibit A: California Government Code Section 65852.2
- Exhibit B: DRAFT Planning Commission Resolution
- Exhibit C: DRAFT Ordinance Amending Title 17 of the Ordinance Code of the County of Alameda regarding Accessory Dwelling Units and Junior Accessory Dwelling Units

PREPARED BY: Aubrey Rose, Planner

REVIEWED BY: Rodrigo Orduña, Assistant Planning Director