



Department of Conservation and Development

County Planning Commission

Wednesday, April 26, 2017 – 7:00 P.M.

STAFF REPORT

Agenda Item # _____

Project Title:	County Initiated Zoning Text Amendment Chapter 82-24
County File(s):	ZT16-0004
Applicant/Owner:	Contra Costa County
Zoning/General Plan:	Countywide
Site Address/Location:	Countywide
California Environmental Quality Act (CEQA) Status:	CEQA Statutory Exemption, Section 15282(h) and general rule of applicability, Section 15601(b)(3).
Project Planner:	Telma B. Moreira, Principal Planner (925) 674-7783.
Staff Recommendation:	Adopt a motion recommending Board of Supervisors approval (See Section II for Full Recommendation)

I. PROJECT SUMMARY

This is a County initiated zoning text amendment to repeal Chapter 82-24 of the County Ordinance Code, relating to Residential Second Units, and replace it by adopting a new Accessory Dwelling Unit Ordinance for Chapter 82-24 that would comply with the provisions of California Government Code, Section 65852.2. Modifications are also proposed for Section 84-14.402 of the R-20 District, and Sections 84-74.404, 84-74.604, and 84-74.606 of the Kensington (K) Combining District. As required under California Government Code, Section 65852.2, the text amendment would provide more flexibility for the establishment of accessory dwelling units, including but limited to, more flexibility for off-street parking requirements.

II. RECOMMENDATION

Staff recommends that the County Planning Commission adopt a motion recommending that the Board of Supervisors:

- A. FIND for purposes of compliance with the California Environmental Quality Act (CEQA) that the proposed zoning text amendment complies with the CEQA exemption, Section 15282(h), which exempts the adoption of an ordinance regarding second units, and also exempt under the general rule of applicability, Section 15061(b)(3), that CEQA only applies to projects which have the potential for causing a significant impact on the environment.
- B. FIND that the proposed zoning amendment, Code Chapter 82-24, is consistent with the County General Plan.
- C. ADOPT the proposed zoning amendment to repeal and replace Chapter 82-24 that would comply with the provisions of California Government Code, Section 65852.2.
- D. Direct staff to file a Notice of Exemption with the County Clerk.

III. BACKGROUND

June 3, 2003 County File #ZT02-0007: The Board of Supervisors repealed Chapter 82-24 of the County Code and replaced it with a new Chapter 82-24 to allow revisions in accordance with Government Code Section 65852.2. The new ordinance authorizes second units, established location and development standards for second units, and provides that all second unit permits must be considered ministerially without discretionally review or public hearing.

June 6, 2006 County file #ZT05-0002: The Board of Supervisors approved a County initiated text amended to amend several Chapters of the County Code relating to Residential Second Units and agricultural zoning districts. Previous ordinance allowed second units only within residential zoning districts. The text amendment was to allow second units in agricultural zoning districts.

April 1, 2008, County File #ZT07-0001: The Board of Supervisors approved a County initiated zoning text amendment to increase the allowable size of a second unit on a parcel of five acres or more zoned for agricultural uses to allow 1,200 square feet, and if the unit is attached to an accessory structure, increase the maximum size of

such structure to 800 square feet.

March 15, 2011, County File #ZT10-0002: The Board of Supervisors approved a text amendment to allow a) increase for accessory structures, b) more flexibility as it related to the location of the second unit, c) require second units to be architecturally compatible with the neighborhood, rather than with the main residence, d) allow for a discretionary permit review for second units that do not meet certain development standards, e) amended the Kensington Ordinance to exempt second unit if second units are internally constructed and do not result in the increase of the building envelope of the structure.

IV. PURPOSE OF ASSEMBLY BILL 2299 AND SB 1069

Both Assembly Bill 2299 and Senate Bill 1069 were approved by the Governor on September 27, 2016. These Bills brought changes to Government Code Section 65852.2. and became effective on January 1, 2017. As determined by the State legislature, accessory dwelling units are a valuable form of housing in California due to a housing shortage in the state. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. These new Bills allow for more flexibility in establishing second units; which will both contribute to a homeowner's added income and additional rental housing stocks and in lower cost housing to meet the needs of existing and future residents in California.

V. KEY COMPONENTS OF THE STATE LAW CHANGES:

These Bills would replace the term "second unit" with "accessory dwelling unit." It also allow for more flexibility for parking requirements such as that a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction and/or prohibit the imposition of parking standards under specified circumstances. The floor area of an attached accessory dwelling will also increase from 30% to 50% of the attached dwelling unit. It also requires a local agency to ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or within an accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.

The following is a summary of flexibility regarding off-street parking spaces:

- a) *No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage*
- b) *Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.*
- c) *When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).*
- d) *A local agency, will not be able to impose parking standards for an accessory dwelling unit in any of the following instances:*
 - (1) *The accessory dwelling unit is located within one-half mile of public transit.*
 - (2) *The accessory dwelling unit is located within an architecturally and historically significant historic district.*
 - (3) *The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.*
 - (4) *When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.*
 - (5) *When there is a car share vehicle located within one block of the accessory dwelling unit.*

VI. SUMMARY OF PROPOSED ORDINANCE

Consistent with Section 65852.2, the proposed ordinance lays out the location and standards requirements for ADUs.

Ministerial Procedure: The permitting procedures will remain the same. Section 82-24.006 confirms that ADUs will be processed ministerially unless the proposed ADU will not meet the criteria set forth on Section 82-24.12 (a), (i), (j), or (k) which relates to the size of the

lots, height, setbacks, and off street parking requirements.

ADUs Proposed Within and Existing Residence and/or Within an Existing Structure: As stated under Permitting Procedure of Section 82-24.006, if a proposed ADU is an internal conversion within an existing single-family residence or accessory structure, it will be approved ministerially without a discretionary review, and it will not be subject to the minimum lot size requirements of Section 82-24.008 or development standards of Section 82-24.012. ADUs will however, be required to meet sufficient setbacks for fire safety and all building standards in Title 7.

Development Standards: With the exception of the Kensington area, the required minimum lot size, size of the ADU, and lot coverage, will remain the same. Lot size will be a minimum of 6,000 sq. ft. and size of the ADU will remain 1,000 sq. ft. or 1,200 sq. ft. depending on the size of the property. The total lot coverage may not exceed 40% (residentially zoned districts) 35% (M-29 districts), 25% (M-6 through M-17 districts) and maximum 40% for P-1 districts.

The Kensington Ordinance Section 84-74.606 currently requires an ADU (previously known as second units) to undergo the Kensington design review if the ADU expands the envelope of an existing building or structure. As this requirement conflicts with the state law, this Section of the Kensington Ordinance is proposed for elimination in its entirety. However, in order to fairly and efficiently implement the Contra Costa County General Plan policies for the Kensington area, the minimum lot size of an ADU is set at 10,000 sq. ft. and floor area is set at 600 sq. ft.

As stated under proposed Section 82-24.012(a) (Development Standards), the minimum size of a lot located in the Kensington (-K) Combining District with a primary residence and an accessory dwelling unit (ADU) is 10,000 sq. ft. Section 82-24.012(b) states that the size of the ADU in the Kensington area is limited to six hundred sq. ft., or 60% of the floor area of the primary residence, whichever is smaller.

Height: In a single-family and multi-family districts, the height of the ADU must comply with the same height as the height requirements for the main residence. The height for ADUs within the Kensington area will also be restricted to a maximum of 14 feet.

Off-street Parking: One parking space may still be required for newly constructed ADUs; however, the parking configuration is flexible such as the parking space may be within any portion of the property, including within the required setbacks. As specified in Section 82-24.012(k)(2) are instances where off-street parking will not be required:

- The accessory dwelling unit is located within one-half mile of public transit.
- The accessory dwelling unit is located within an architecturally and historically significant historic district.
- The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- When there is a car share vehicle located within one block of the accessory dwelling unit.

Variance from the Development Standards: As permitted under Section 82-24.006(c) of the Ordinance, the Zoning Administrator may consider a variance from the required location and development standards such as height, setbacks, lot size, and off-street parking requirements.

VII. STAFF ANALYSIS

- A. Consistency with General Plan: The proposed ADU Ordinance implements a number of General Plan goals and policies:

The Housing Element, of the County General Plan, includes eight general goals for housing. The proposed Ordinance is consistent all of the eight goals. The proposed Ordinance will specifically promote the following goals:

Goal 1: Maintain and improve the quality of the existing housing stock and residential neighborhood in Contra Costa County;

Goal 2: Preserve the existing affordable housing stock in Contra Costa County;

Goal 3: Increase the supply of housing with a priority on the development of affordable housing.; and

Goal 4: Increase the supply of appropriate and supportive housing for the special needs populations.

- B. Consistency with Zoning: The proposed Ordinance amends Chapter 82-24 of the County Ordinance Code, formerly known as residential second units, and also amends Chapter 84-74 to amend the review procedures for permit applications to establish an accessory dwelling unit in Kensington (-K) Combining District.

As proposed, the new ordinance provides requirements for the location and development standards for accessory dwelling units to ensure health, safety and general welfare of the community and it will not conflict in any manner with the County Zoning Code.

VIII. CONCLUSION

The proposed Accessory Dwelling Unit Ordinance is consistent with Section 65852.2. of the state law and is also consistent with both the County General Plan, and Zoning Code. Staff recommends adoption of a motion to the Board of Supervisors for approval of the Ordinance.

ATTACHMENTS

Exhibit 1: March 2017 Draft Accessory Dwelling Unit (ADU) Ordinance

Exhibit 2: Superseded Residential Second Units Ordinance

EXHIBIT #1

ORDINANCE NO. 2017-XX DRAFT

ACCESSORY DWELLING UNITS

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends Chapter 82-24 of the County Ordinance Code to comply with Government Code Section 65852.2, as amended, which governs accessory dwelling units (formerly designated as residential second units). This ordinance also amends Chapter 84-74 to amend the review procedures for permit applications to establish accessory dwelling units in the Kensington (-K) combining district.

SECTION II. Chapter 82-24 of the County Ordinance Code is amended to read:

Chapter 82-24
ACCESSORY DWELLING UNITS

82-24.002 Purposes. The purposes of this chapter are to authorize accessory dwelling units; to establish a procedure for reviewing and approving their development to ensure and maintain healthy and safe residential living environments; to establish location and development standards for accessory dwelling units; and to comply with Government Code Section 65852.2, which requires local agencies to consider applications for accessory dwelling unit permits ministerially without discretionary review or a public hearing. (Ords. 2017-XX § 2, 2003-17 § 3, 87-67 § 3).

82-24.004 Definitions. For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Accessory dwelling unit” has the meaning set forth in Government Code Section 65852.2.
- (b) “Attached accessory dwelling unit” means an accessory dwelling unit attached to an existing primary residence.
- (c) “Detached accessory dwelling unit” means an accessory dwelling unit detached from an existing primary residence.
- (d) “Internal conversion” means the establishment of an accessory dwelling unit within an existing building.
- (e) Whenever the term “residential second unit” is used in any ordinance, resolution, order, directive, or regulation of the county, it means “accessory dwelling unit.” (Ords. 2017-XX § 2, 2003-17 § 3, 87-67 § 3).

82-24.006 Permitting Procedure.

- (a) Except as otherwise provided in this section, an application for a permit to establish an accessory dwelling unit will be approved ministerially without discretionary review or public hearing if the accessory dwelling unit meets: the location requirements specified in Section 82-24.008; the development standards specified in Section 82-24.012; and all applicable building standards in Title 7.
- (b) An application for a permit to establish an accessory dwelling unit that is an internal conversion within an existing single-family residence or accessory building will be approved ministerially without discretionary review or public hearing if: the existing residence or building is located in a single-family residential district; the internal conversion has independent exterior access; the side and rear setbacks are sufficient for fire safety; and the internal conversion meets all applicable building standards in Title 7 and all applicable sewage and water requirements. An internal conversion that meets the requirements of this subsection is not subject to the location requirements specified in Section 82-24.008 or the development standards specified in Section 82-24.012.
- (c) An application for a permit to establish an accessory dwelling unit that does not meet one or more of the development standards specified in subsections (a), (i), (j), and (k) of Section 82-24.012 and is not an internal conversion that meets the requirements of subsection (b) of this section will be considered under the administrative decision procedure specified in Article 26-2.21. A discretionary accessory dwelling unit permit will not be issued unless:
 - (1) The accessory dwelling unit meets the location requirements specified in Section 82-24.008, the development standards specified in subsections (b) through (h) of Section 82-24.012, and all applicable building standards in Title 7; and
 - (2) The zoning administrator makes the findings specified in Section 26-2.2006 and finds all of the following:
 - (A) The accessory dwelling unit is compatible with the surrounding neighborhood in terms of its location, size, height, and design;
 - (B) The accessory dwelling unit maintains the community's property values and does not substantially impair the value and enjoyment of neighboring properties; and
 - (C) The accessory dwelling unit promotes the health, safety, and general welfare of the community. (Ords. 2017-XX § 2, 2011-05 § 2, 2003-17 § 3, 87-67 § 3).

82-24.008 Location.

- (a) One accessory dwelling unit may be located on any lot in a single-family residential district (R-6, R-7, R-10, R-12, R-15, R-20, R-40, R-65, and R-100), planned unit district (P-1) for residential uses, or a multiple-family residential district (M-6, M-9, M-12, M-17, and M-29).
- (b) One accessory dwelling unit may be located on any lot in an agricultural district (A-2, A-3, A-4, A-20, A-40, and A-80). If an accessory dwelling unit is proposed for a lot under a Williamson Act contract, an accessory dwelling unit will be allowed subject to the provisions of this chapter unless the Williamson Act contract prohibits an accessory dwelling unit or a residential second unit on the property.
- (c) No subdivision rights are authorized that would result in the accessory dwelling unit being located on a separate lot. (Ords. 2017-XX § 2, 2011-05 § 3, 2006-19 § 2, 2003-17 § 3, 87-67 § 3).

82-24.010 Applications.

- (a) An application for an accessory dwelling unit permit must be submitted to the Department of Conservation and Development prior to the submittal to the county of a building permit application.
- (b) An application for an accessory dwelling unit permit must be made in writing and contain the following information:
 - (1) Name(s) and address(es) of applicant(s) and property owner(s).
 - (2) Address and assessor's parcel number for the lot.
 - (3) Size, indicating dimensions and square footage of the primary residence and the proposed accessory dwelling unit.
 - (4) A legible scale drawing, showing:
 - (A) A north arrow to indicate lot orientation.
 - (B) Lot dimensions and labels for all property lines.
 - (C) Siting and location of the primary residence and the proposed accessory dwelling unit.

- (D) Floor plan configuration of the primary residence and the proposed accessory dwelling unit.
 - (E) All other existing improvements, including driveways and parking areas.
 - (F) Exterior design of the primary residence and the proposed accessory dwelling unit. "Exterior design" includes architectural style and exterior features, such as trim, windows, and roof.
- (5) A description of the building and roof materials of the primary residence and accessory dwelling unit, and a sample board of the colors of the primary residence and accessory dwelling unit.
 - (6) Color photographs of the primary residence and surrounding properties taken from each of the property lines of the project site.
 - (7) Location and description of water and sanitary services for both the primary residence and the proposed accessory dwelling unit.
 - (8) Property owner's consent to physical inspection of the premises.
 - (9) A written legal description of the property. (Ords. 2017-XX § 2, 2003-17 § 3, 87-67 § 3).

82-24.012 Development Standards.

- (a) Lot Size. The minimum size of a lot with a primary residence and an accessory dwelling unit is 6,000 square feet, except in the Kensington (-K) combining district. The minimum size of a lot located in the Kensington (-K) combining district with a primary residence and an accessory dwelling unit is 10,000 square feet. Section 82-10.002(c) does not apply to an application for an accessory dwelling unit permit.
- (b) Accessory Dwelling Unit Size. An accessory dwelling unit may not exceed the following size:
 - (1) One thousand square feet in any zoning district where an accessory dwelling unit is allowed; except on a lot of five acres or more, or in an agricultural district, or in the Kensington (-K) combining district.
 - (2) One thousand two hundred square feet on a lot of five acres or more.
 - (3) One thousand two hundred square feet in an agricultural district.

- (4) Six hundred square feet or 60 percent of the floor area of the primary residence, whichever is smaller, in the Kensington (-K) combining district.
- (c) Lot Coverage.
- (1) In single-family residential districts, the accessory dwelling unit must not cause the maximum total structural lot coverage to exceed 40 percent. In multiple-family residential districts, the accessory dwelling unit must not cause the maximum total structural lot coverage to exceed 25 percent in the M-6 through M-17 districts or 35 percent in the M-29 district.
- (2) In P-1 planned unit districts where an approved final development plan specifies maximum total structural lot coverage, the accessory dwelling unit must not cause the maximum total structural lot coverage to exceed the specified percentage. In P-1 planned unit districts where an approved final development plan does not specify maximum total structural lot coverage, the accessory dwelling unit must not cause the maximum total structural lot coverage to exceed 40 percent.
- (d) Living Provisions. An accessory dwelling unit must provide complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- (e) Permanent Foundation. A permanent foundation is required for all accessory dwelling units.
- (f) Sewage and Water. If a private sewage disposal system, water system, or both are proposed to be used, it must meet all applicable county regulations and be approved by the health officer before an accessory dwelling unit may be established. Verification that the standard has been met is required prior to final inspection.
- (g) Architecture. The exterior appearance of the accessory dwelling unit must be architecturally compatible with the primary dwelling unit or with the surrounding neighborhood. "Exterior appearance" includes architectural style, colors, and exterior features, such as building materials, trim, windows, and roof design. The accessory dwelling unit must have a separate entrance. The separate entrance must be: located on the building side or building rear; or not visible from the street; or otherwise subordinate to the primary residence.
- (h) Attached Accessory Dwelling Unit. An attached accessory dwelling unit must be an internal conversion of a garage or other area within the existing primary residence, or an addition to the existing primary residence. The floor area of an attached accessory dwelling unit may not exceed the size limitations in Section 82-24.012(b) or 50 percent of the existing living area of the primary residence, whichever is less.

(i) Detached Accessory Dwelling Unit.

- (1) A detached accessory dwelling unit must be located on the same lot as the existing primary residence.
- (2) A garage may be attached to a detached accessory dwelling unit. A garage attached to a detached accessory dwelling unit may not exceed the following sizes:
 - (A) Five hundred square feet on lots 20,000 square feet or less in all zoning districts where an accessory dwelling unit is allowed, except in an agricultural district.
 - (B) Six hundred square feet on lots larger than 20,000 square feet and smaller than five acres in all zoning districts where an accessory dwelling unit is allowed, except in an agricultural district.
 - (C) Eight hundred square feet on a lot of five acres or more.
 - (D) Eight hundred square feet in an agricultural district.

(j) Yards and Building Height.

- (1) In single-family and multi-family residential districts, an accessory dwelling unit must comply with all requirements relating to yards (front setbacks, side, and rear) and building height that are generally applicable to residential construction in the zone in which the property is located, except as otherwise provided in this subsection (j).
- (2) In P-1 planned unit districts where an approved final development plan specifies requirements relating to yards (front setbacks, side, and rear) and building height, an accessory dwelling unit must comply with the requirements specified in the plan. In P-1 planned unit districts where an approved final development plan does not specify requirements relating to yards and building height, an accessory dwelling unit must comply with all requirements relating to yards and building height that are generally applicable to residential construction in the R-6 zone.
- (3) An accessory dwelling unit permitted in the Kensington (-K) combining district may not exceed fourteen feet in height.
- (4) A setback is not required for an existing garage that is converted to an accessory

dwelling unit.

- (5) A setback of five feet from the side and rear lot lines is required for an accessory dwelling unit that is constructed above a garage.

(k) Off-Street Parking.

- (1) A lot containing an accessory dwelling unit must provide an additional off-street parking space to serve the accessory dwelling unit. The additional space may be within a setback area or in tandem, unless specific findings are made that parking in a setback area or in tandem is not feasible based on site or regional topographical or fire and life safety conditions. The exemption under Section 84-4.1202 does not apply to lots for which an accessory dwelling unit permit is issued.
- (2) The off-street parking requirement in subsection (1) does not apply to an accessory dwelling unit in any of the following instances:
 - (A) The accessory dwelling unit is located within one-half mile of public transit.
 - (B) The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - (C) The accessory dwelling unit is located within a permit-parking area designated pursuant to Chapter 46-10 but an on-street parking permit is not available under that chapter to the occupant of the accessory dwelling unit.
 - (D) A car share vehicle pick-up location is within one block of the accessory dwelling unit. A “car share vehicle” has the same meaning as in Vehicle Code Section 22507.1.
- (3) If a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, the parking space must be replaced if necessary to comply with the off-street parking requirements applicable to the primary dwelling unit. The replacement parking space may be located in any configuration on the same lot as the accessory dwelling unit but must otherwise comply with the off-street parking requirements applicable to the primary dwelling unit. (Ords. 2017-XX § 2, 2011-05 § 4, 2008-09 § 2, 2003-17 § 3, 87-67 § 3).

82-24.014 Occupancy. The owner of a lot with an accessory dwelling unit shall occupy either the primary dwelling unit or the accessory dwelling unit. (Ords. 2017-XX § 2, 2003-17 § 3, 87-67 § 3).

82-24.016 Deed Restrictions. Before obtaining an accessory dwelling unit permit, the applicant shall do the following:

- (a) Enter into an agreement of restrictions with the county that refers to the deed under which the property was acquired by the applicant and provides the following:
 - (1) The accessory dwelling unit shall not be sold separately.
 - (2) The accessory dwelling unit is restricted to the maximum size allowed under Ordinance Code Section 82-24.012.
 - (3) The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action by the county against the property owner.
- (b) Record the agreement with the county recorder.
- (c) Prepare a disclosure statement that shall be included in any future offer or sale documents. The statement shall read as follows:

“You are purchasing a property with a permit for an accessory dwelling unit. This permit carries with it certain restrictions that must be met by the owner of the property. You are prohibited from selling the accessory dwelling unit separately. The accessory dwelling unit is restricted to the maximum size allowed under County Ordinance Code Section 82-24.012. The owner of the property shall occupy either the primary dwelling unit or the accessory dwelling unit. The permit is available from the current owner or from the Contra Costa County Department of Conservation and Development.”

(Ords. 2017-XX § 2, 2003-17 § 3, 87-67 § 3).

82-24.018 Nonconforming Units. Notwithstanding the provisions of Ordinance Code Section 82-8.006, if the existing primary residence is a legal nonconforming unit, an accessory dwelling unit may be constructed only if the nonconformity is not expanded and the accessory dwelling

unit meets all current applicable zoning and building standards. (Ords. 2017-XX § 2, 2003-17 § 3, 87-67 § 3).

82-24.020 Fees. Fees for accessory dwelling unit permits will be in amounts established by the board of supervisors in the Department of Conservation and Development's fee schedule. Accessory dwelling units are subject to all new development fees, including but not limited to development impact fees, park fees, and assessment district assessment allocations. (Ords. 2017-XX § 2, 2003-17 § 3, 87-67 § 3).

SECTION III. Section 26-2.2102 of the County Ordinance Code is amended to read:

26-2.2102 Decisions without public hearing. Unless otherwise required by this article, the zoning administrator may, without public hearing, decide applications for any of the following:

- (a) Variance permits pursuant to subsection 26-2.1204(1).
- (b) Minor subdivisions pursuant to subsection 26-2.1204(3) including applications for improvement exceptions.
- (c) After zoning administrator determination on it, any involved small lot application pursuant to subsection 82-10.002(c).
- (d) An accessory dwelling unit permit that does not meet one or more of the development standards specified in subsections 82-24.012(a), (i), (j), and (k).
- (e) Wireless facility access permits pursuant to Chapter 88-24. (Ords. 2017-XX § 3, 2016-11 § 3, 2011-05 § 5, 95-51 § 3, 80-87 § 2: See Gov. C. § 65901).

SECTION IV. Section 84-14.402 of the County Ordinance Code is amended to read:

84-14.402 Uses—Allowed. The following uses are allowed in the R-20 district:

- (1) A detached single-family dwelling on each lot and the accessory structures and uses normally auxiliary to it;
- (2) Crop and tree farming, and horticulture;
- (3) A temporary stand for the sale of agricultural products grown on the premises, with two and one-half acres per stand, set back at least thirty-five feet from the front property line, and operated not more than three months in any calendar year;

- (4) Small farming, including the raising of poultry and rabbits or other grain-fed rodents, primarily for home consumption thereon;
- (5) Keeping livestock on lots forty thousand or more square feet in area (with at least forty thousand square feet for each two head of livestock) and all contiguous and in one fee ownership;
- (6) Publicly owned parks and playgrounds;
- (7) A residential care facility for the elderly, operated by a person with all required state and local agency approvals or licenses, where not more than six persons reside or receive care, not including the licensee or members of the licensee's family or persons employed as facility staff;
- (8) A family day care home where care, protection, and supervision of twelve or fewer children in the provider's own home are provided for periods of less than twenty-four hours per day, while the parents or guardians are away;
- (9) Aviaries, which shall be not over twelve feet high nor exceeding one square foot (not over 1600) in area for each fifty square feet of net land area per lot, and unless otherwise provided herein, shall be set back at least twenty-five feet from the front property line or any street line and at least ten feet from any side or rear property line, and shall be maintained in a sanitary manner as determined by the county health department;
- (10) Accessory dwelling units complying with the provisions of Chapter 82-24. (Ords. 2017-XX § 4, 86-43 § 4, 78-83 § 2, 77-51 § 8, 68-25 § 2, 2033, 2032, 1768 § 2: prior code § 8146(a): Ord. 1269, 1179 § 8, 382 § 4V).

SECTION V. Subsection (h) of Section 84-74.404 of the County Ordinance Code is amended to read:

- (h) "Gross floor area" means the total horizontal area in square feet of each floor inclusive of the exterior walls of all buildings on a parcel, as measured at the exterior face of the enclosing wall. Gross floor area includes attached and detached primary and accessory buildings, accessory dwelling units, interior courtyards, garages and carports with roof covering. Gross floor area does not include the area in attics, crawl spaces, basements, and uncovered balconies, decks, and patios.

(Ords. 2017-XX § 5, 2004-46 § 2).

SECTION VI. Section 84-74.604 of the County Ordinance Code is amended to read:

84-74.604 Exemptions. The following developments are exempt from the requirements of this chapter:

- (a) Commercial buildings, churches, public buildings, or schools that meet all applicable code requirements.
- (b) One story accessory buildings with an area of less than one hundred twenty square feet sited within the applicable setbacks.
- (c) Repair or replacement of legally constructed residences destroyed or damaged by fire, explosion, act of God or the public enemy, or other accident or catastrophe, if both of the following conditions are satisfied:
 - (1) The siting and envelope are the same; and
 - (2) The application for repair or replacement is submitted within two years of the destruction.
- (d) Developments within the -K District for which application was accepted as complete before the effective date of this chapter.
- (e) Development within an existing building or structure that does not expand its envelope.
- (f) Accessory dwelling units subject to the provisions of Chapter 82-24. (Ords. 2017-XX § 6, 2011-05 § 7, 2004-46 § 2).

SECTION VII. Section 84-74.606 of the County Ordinance Code is deleted in its entirety.

SECTION VIII. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ORDINANCE NO. 2017-XX DRAFT

ATTEST: DAVID J. TWA,
Clerk of the Board of Supervisors
and County Administrator

Board Chair

By: _____
Deputy

[SEAL]

KCK:
H:\Client Matters\2017\DCD\R2U Ord Amend draft10.wpd

EXHIBIT #2

Chapter 82-24 - RESIDENTIAL SECOND UNITS

Sections:

82-24.002 - Purposes.

The purposes of this chapter are to authorize second units; to establish a procedure for reviewing and approving their development to ensure and maintain healthy and safe residential living environments; to establish location and development standards for second units; and to comply with Government Code Section 65852.2, which requires local agencies to consider applications for second unit permits ministerially without discretionary review or a public hearing.

(Ords. 2003-17 § 3, 87-67 § 3).

82-24.004 - Definition.

For purposes of this chapter, "second unit" has the meaning set forth in California Government Code Section 65852.2.

(Ords. 2003-17 § 3, 87-67 § 3).

82-24.006 - Permitting procedure.

(a)

An application for a second unit permit that meets the location requirements specified in Section 82-24.008, the development standards specified in Section 82-24.012, and all applicable building standards in Title 7 will be approved ministerially without discretionary review or public hearing.

(b)

An application for a second unit permit that does not meet one or more of the development standards specified in subsection (j), (k), or (1) of Section 82-24.012 will be considered under the administrative decision procedure specified in Article 26-2.21. A discretionary second unit permit will not be issued unless:

(1)

The permit application meets the location requirements specified in Section 82-24.008, the development standards specified in subsections (a) through (i) of Section 82-24.012, and all applicable building standards in Title 7; and

(2)

The zoning administrator makes the findings specified in Section 26-2.2006 and finds all of the following:

(A)

The second unit is compatible with the surrounding neighborhood in terms of its location, size, height, and design;

(B)

The second unit maintains the community's property values and does not substantially impair the value and enjoyment of neighboring properties; and

(C)

The second unit promotes the health, safety and general welfare of the community.

(Ord. 2003-17 § 3).

(Ord. No. 2011-05, § II, 3-15-11)

82-24.008 - Location requirements.

(a)

One second unit may be located on any lot in a single-family residential district (R-6, R-7, R-10, R-12, R-15, R-20, R-40, R-65, and R-100), planned unit district (P-1) for residential uses, or a multiple-family residential district (M-6, M-9, M-12, M-17, and M-29).

(b)

One second unit may be located on any lot in an agricultural district (A-2, A-3, A-4, A-20, A-40, and A-80). If a second unit is proposed for a lot under a Williamson Act contract, a second unit will be allowed subject to the provisions of this chapter unless the Williamson Act contract prohibits a second unit on the property.

(c)

No subdivision rights are authorized that would result in the second unit being located on a separate lot.

(Ords. 2006-19 § 2, 2003-17 § 3, 87-67 § 3).

(Ord. No. 2011-05, § III, 3-15-11)

82-24.010 - Applications.

(a)

An application for a second unit permit must be submitted to the community development department prior to the submittal to the county of a building permit application.

(b)

An application for a second unit permit must be made in writing and contain the following information:

(1)

Name(s) and address(es) of applicant(s) and property owner(s).

(2)

Address and assessor's parcel number for the lot.

(3)

Size, indicating dimensions and square footage of the primary residence and the proposed second unit.

(4)

A legible scale drawing, showing:

(A)

A north arrow to indicate parcel orientation.

(B)

Lot dimensions and labels for all property lines.

(C)

Siting and location of the primary residence and the proposed second unit.

(D)

Floor plan configuration of the primary residence and the proposed second unit.

(E)

All other existing improvements, including driveways and parking areas.

(F)

Exterior design of the primary residence and the proposed second unit. "Exterior design" includes architectural style and exterior features, such as trim, windows, and roof.

(5)

A description of the building and roof materials of the primary residence and second unit, and a sample board of the colors of the primary residence and second unit.

(6)

Color photographs of the primary residence and surrounding properties taken from each of the property lines of the project site.

(7)

Location and description of water and sanitary services for both the primary residence and the proposed second unit.

(8)

Property owner's consent to physical inspection of the premises.

(9)

A written legal description of the property.

(Ords. 2003-17 § 3, 87-67 § 3).

82-24.012 - Development standards.

(a)

Lot Size. The minimum size of a lot with a primary residence and a second unit is six thousand square feet. Applications for a second unit permit are exempt from the requirements of Section 82-10.002(c).

(b)

Second Unit Size. A second unit may not exceed the following size:

(1)

One thousand square feet in any zoning district where a second unit is allowed; except on a parcel of five acres or more, or in an agricultural district.

(2)

One thousand two hundred square feet on a parcel of five acres or more, or in an agricultural district.

(c)

Lot Coverage.

(1)

In single-family residential districts, the second unit may not cause the maximum total structural lot coverage to exceed forty percent. In multiple-family residential districts, the second unit may not cause the maximum total structural lot coverage to exceed twenty-five percent in the M-6 through M-17 districts or thirty-five percent in the M-29 district.

(2)

In P-1 planned unit districts where an approved final development plan specifies maximum total structural lot coverage, the second unit may not cause the maximum total structural lot coverage to exceed the specified percentage. In P-1 planned unit districts where an approved final development plan does not specify maximum total structural lot coverage, the second unit may not cause the maximum total structural lot coverage to exceed forty percent.

(d)

Living Provisions. A second unit must provide complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. The second unit may include one kitchen, living room, and dining room, and no more than two bathrooms and two bedrooms.

(e)

Permanent Foundation. A permanent foundation is required for all second units.

(f)

Sewage and Water. If a private sewage disposal system, water system or both, are proposed to be used, it must meet all applicable county regulations and be approved by the health officer before a second unit may be established. Verification that the standard has been met is required prior to final inspection.

(g)

Architecture. The exterior appearance of the second unit must be architecturally compatible with the primary dwelling unit or with the surrounding neighborhood. "Exterior appearance" includes architectural style, colors, and exterior features, such as building materials, trim, windows, and roof design. The second unit must have a separate entrance. The separate entrance must be: located on the building side or the building rear; or not visible from the street; or otherwise subordinate to the primary residence.

(h)

Second Unit Configuration - Second Unit Attached to an Existing Primary Residence. If a second unit is attached to an existing primary residence, the second unit must be an internal conversion of a garage or other area within the existing primary residence, or an addition to the existing primary residence.

(i)

Second Unit Configuration - Detached Second Unit. If a second unit is detached from an existing primary residence, the second unit must be located on the same lot as the existing primary residence.

(j)

Second Unit Configuration - Second Unit Attached to an Accessory Structure. If a second unit is attached to an existing or newly constructed accessory structure, the accessory structure must meet all of the following requirements:

(1)

The remainder of the accessory structure is limited to garage space. A discretionary second unit permit may not waive this requirement.

(2)

The accessory structure complies with all requirements relating to yards (front setbacks, side, and rear) and building height that are applicable to the primary residence in the zone in which the property is located.

(3)

The total floor area of the accessory structure does not exceed the following size:

(A)

Five hundred square feet (not including the second unit following completion of the second unit) in any zoning district where a second unit is allowed; except on a parcel of twenty thousand square feet or more, or in an agricultural district.

(B)

Six hundred square feet (not including the second unit following completion of the second unit) on a parcel of twenty thousand square feet or more in any zoning district where a second unit is allowed; except on a parcel of five acres or more, or in an agricultural district.

(C)

Eight hundred square feet (not including the second unit following completion of the second unit) on a parcel of five acres or more, or in an agricultural district.

(k)

Yards and Building Height.

(1)

In single-family and multi-family residential districts, second units must comply with requirements relating to yards (front setbacks, side, and rear) and building height that are generally applicable to residential construction in the zone in which the property is located.

(2)

In P-1 planned unit districts where an approved final development plan specifies requirements relating to yards (front setbacks, side, and rear) and building height, second units must comply with the requirements specified in the plan. In P-1 planned unit districts where an approved final development plan does not specify requirements relating to yards and building height, second units must comply with requirements relating to yards and building height that are generally applicable to residential construction in the R-6 zone.

(l)

Off-Street Parking. A lot containing a second unit must provide an additional off-street parking space to serve the second unit. The additional space may be in tandem, or the additional space may be in the existing driveway if the additional space is outside the existing setback or side yard. The exemption under Section 84-4.1202 shall not apply to lots for which a second unit permit is issued.

(Ords. 2008-09 § 2, 2006-19 § 3, 2003-17 § 3, 87-67 § 3).

(Ord. No. 2011-05, § IV, 3-15-11)

82-24.014 - Occupancy.

The owner of a parcel with a second unit shall occupy either the primary dwelling unit or the second unit.

(Ords. 2003-17 § 3, 87-67 § 3).

82-24.016 - Deed restrictions.

Before obtaining a second unit permit, the applicant shall do the following:

(a)

Enter into an agreement of restrictions with the county that refers to the deed under which the property was acquired by the applicant and provides the following:

(1)

The second unit shall not be sold separately.

(2)

The second unit is restricted to the maximum size allowed under Ordinance Code Section 82-24.012.

(3)

The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action by the county against the property owner.

(b)

Record the agreement with the county recorder.

(c)

Prepare a disclosure statement that shall be included in any future offer or sale documents. The statement shall read as follows:

"You are purchasing a property with a permit for a second residential unit. This permit carries with it certain restrictions that must be met by the owner of the property. You are prohibited from selling the second unit separately. The second unit is restricted to the maximum size allowed under County Ordinance Code Section 82-24.012. The permit is available from the current owner or from the Contra Costa County Community Development Department."

(Ords. 2003-17 § 3, 87-67 § 3).

82-24.018 - Nonconforming units.

Notwithstanding the provisions of Ordinance Code Section 82-8.006, if the existing primary residence is a legal nonconforming unit, a second unit may be constructed only if the nonconformity is not expanded and the second unit meets all current applicable zoning and building standards.

(Ords. 2003-17 § 3, 87-67 § 3).

82-24.020 - Fees.

Fees for second unit permits will be in amounts established by the board of supervisors in the community development department's fee schedule. Second units are subject to all new development fees, including but not limited to development impact fees, park fees, and assessment district assessment allocations.

(Ords. 2003-17 § 3, 87-67 § 3).