



**Contra  
Costa  
County**

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: August 15, 2017

Subject: Discussion to Consider Modifications to the Accessory Dwelling Unit Ordinance to Permit Larger ADUs and to Amend the Kensington Review Process

### **RECOMMENDATION(S):**

DIRECT staff to prepare an ordinance amending the County's Accessory Dwelling Unit Ordinance: (1) to allow accessory dwelling units up to 1,200 square feet on lots greater than 12,000 square feet, except in Kensington; and (2) in Kensington, to amend the review procedures for certain accessory dwelling unit permit applications and allow accessory dwelling units up to 1,000 square feet on lots larger than 10,000 square feet, if approved under the Kensington design review procedures.

### **FISCAL IMPACT:**

The costs of modifying this ordinance would be funded by the Department of Conservation and Development's Land Development Fund. The costs of processing accessory dwelling unit applications will be funded by the application fees.

### **BACKGROUND:**

The Board of Supervisors adopted Ordinance No. 2017-11, the Accessory Dwelling Unit Ordinance, on May 23, 2017. Under the Accessory Dwelling Unit (ADU) Ordinance, Chapter 82-24 of the Ordinance Code, ADUs in single-family residential districts that meet the ordinance's development standards, or are internal conversions of existing residences or

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **08/15/2017** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 15, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Telma B. Moreira,  
925-674-7783

cc:

accessory buildings, are ministerially approved without discretionary review or public hearing, as required by Government Code section 65852.2. The ADU Ordinance also provides that an applicant may obtain a discretionary ADU permit by requesting a variance from one or more of the ordinance's development standards, including lot size, height and setback requirements, or parking requirements.

## BACKGROUND: (CONT'D)

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During the Board hearing on the ADU Ordinance, several property owners expressed interest in establishing ADUs that would be larger than allowed under the ordinance. The Board directed staff to review options for amending the ADU Ordinance to allow larger ADUs on large lots. Staff also has reviewed options for amending the ADU review and permitting process in Kensington.

Below is a summary of recommended amendments to the current ADU Ordinance to address the interest in larger ADUs and the permitting process in the Kensington area. If the Board directs staff to prepare these amendments, the Planning Commission would first consider the amendments and then forward its recommendation to the Board for hearing and final action.

### ADU sizes in unincorporated County, except Kensington

The maximum ADU size allowed under state law is 1,200 square feet. In the unincorporated County, except Kensington, the current ADU Ordinance allows the following maximum unit sizes: 1,000 square feet on lots less than 5 acres, and 1,200 square feet on lots 5 acres or larger. To address the interest in larger ADUs, staff recommends allowing ADUs up to 1,200 square feet on lots that are 12,000 square feet or larger. This change would be consistent with the current lot size requirement of 12,000 square feet to establish a second residence in the R-6 district.

Current ADU Ordinance		Recommended Amendment	
Lot Size	Maximum Unit Size	Lot Size	Maximum Unit Size
6,000 sq. ft. or larger, but less than 5 acres	1,000 sq. ft.	6,000 sq. ft. or larger, but less than 12,000 sq. ft.	1,000 sq. ft.
5 acres or larger	1,200 sq. ft.	12,000 sq. ft. or larger	1,200 sq. ft.

### Permitting procedure for ADUs in Kensington

The Kensington combining district ordinance, Chapter 84-74 of the Ordinance Code, was established to implement the Contra Costa County General Plan policies for the Kensington area, which include allowing for the “review of new residential development that provides reasonable protection for existing residences in the Kensington Community with regards to: views, design capability (including building bulk, size, and height), adequate parking, privacy, and access to sunlight.” The Kensington combining district ordinance requires that new development in Kensington be reviewed under the Kensington design review procedures prior to approval.

Currently, ADUs established in the Kensington area are not reviewed under the Kensington design review procedures. Staff recommends that an application for a discretionary permit to establish an ADU in the Kensington area that does not meet the development standards of the ADU Ordinance be reviewed under the Kensington design review. Permits to establish ADUs that meet the ADU ordinance’s development standards, or are internal conversions of existing residences or accessory structures, will continue to be

ministerially approved as provided for under the ADU Ordinance.

### ADU sizes in Kensington

The maximum ADU size allowed in the Kensington area under the current ADU Ordinance is the lesser of 600 square feet or 60% of the floor area of the primary residence. To address the interest in larger ADUs, and remain consistent with the General Plan policies applicable in the Kensington area, staff recommends that ADUs up to 1,000 square feet be allowed in the Kensington area on lots larger than 10,000 square feet, if these ADUs are approved under the Kensington design review procedures. ADUs that meet all the development standards, including a maximum size of 600 square feet or 60% of the floor area of the primary residence, whichever is less, will still be ministerially approved.

<b>County ADU Ordinance With Proposed Amendments</b>				
<b>Lot Size (sq. ft.)</b>	<b>Unincorporated County (except Kensington)</b>		<b>Kensington</b>	
	<b>Max. unit size (sq.ft.)</b>	<b>Process*</b>	<b>Max. unit size (sq. ft.)</b>	<b>Process *</b>
less than 6,000	1,000	Variance for substandard lot	600 or 60% of the floor area of the primary residence, which ever is less	-K Design Review
6,000 or larger, but less than 10,000	1,000	Ministerial	600 or 60% of the floor area of the primary residence, which ever is less	-K Design Review
10,000 or larger, but less than 12,000	1,000	Ministerial	1,000	Ministerial up to 600 sq. ft. or 60% of the primary residence, then -K Design Review

12,000 or larger	1,200	Ministerial	1,000	Ministerial up to 600 sq. ft. or 60% of the primary residence, then -K Design Review

\* Assumes all other development standards are met

CONCLUSION: After considering the proposed potential changes, staff seeks guidance from the Board to return to the County Planning Commission for their consideration of amendments to the ADU Ordinance. Following review and recommendation by the County Planning Commission, the amendments this Draft Ordinance will come to the Board for final review and approval.

CONSEQUENCE OF NEGATIVE ACTION:

The current May 23, 2017 approval will remain in effect with no flexibility to permit larger ADUs on larger lots.

CHILDREN'S IMPACT STATEMENT:

None.