



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: October 17, 2017

Subject: Hearing on Ordinance No. 2017-25 to amend the Accessory Dwelling Unit Ordinance

RECOMMENDATION(S):

1. OPEN the public hearing on Ordinance No. 2017-25; RECEIVE testimony; and CLOSE the public hearing.
2. FIND that the adoption of Ordinance No. 2017-25 is exempt from environmental review under the California Environmental Quality ACT (California Code Regulations, Title 14, Section 15282(h), and Section 15061(b)(3)).
3. ADOPT Ordinance No. 2017-25 to authorize accessory dwelling units up to 1,200 square feet on lots of 12,000 square feet or larger countywide, except in Kensington, and to amend the review procedures for permits to establish accessory dwelling units in Kensington.
4. DIRECT staff of the Department of Conservation and Development Director, or his designee, to file a Notice of Exemption with the County Clerk-Recorder.

FISCAL IMPACT:

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **10/17/2017** ☐ 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: October 17, 2017

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

By: June McHuen, Deputy

Contact: Telma Moreira (925)
674-7783

cc:

The costs of preparing this Ordinance have been 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 (ADU) Ordinance, on May 23, 2017. Under 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, 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.

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 larger lots.

On August 15, 2017, when considering a staff report with recommendations on approaches for amending the ADU Ordinance, the Board directed staff to prepare an ordinance amending the ADU 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, amend the review procedures for certain accessory dwelling unit permit applications and allow accessory dwelling units up to 1,000 square feet if approved under the Kensington design review procedures. The Board also directed staff to review and include amendments to the owner occupancy requirements for ADUs as appropriate.

On September 27, 2017, the County Planning Commission considered the proposed zoning text amendment prepared by staff. After a public hearing, the County Planning Commission voted to recommend approval of the proposed zoning text amendment. Below is a summary of proposed Ordinance No. 2017-25.

STAFF ANALYSIS:

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. Under Ordinance No. 2017-25, ADUs up to 1,200 square feet would be allowed 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 foot to establish a second residence in the R-6 district.

Permitting procedure for ADUs in Kensington

The Kensington combining district ordinance, Chapter 84-74 of the Ordinance Code, requires that new development in Kensington be reviewed under the Kensington design review procedures prior to approval.

Under the current ADU Ordinance, ADUs established in the Kensington area are not reviewed under the Kensington design review procedures. Under Ordinance No. 2017-25, 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 would be reviewed under the Kensington design review. Permits to establish ADUs that meet the ordinance’s development standards, (10,000 sq. ft. minimum lot, setbacks, height) or are internal conversions of existing residences or accessory structures, will continue to be ministerially approved as provided 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. Ordinance No. 2017-25 would allow the establishment of ADUs up to 1,000 square feet on lots greater than 10,000 square feet in the Kensington area if 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.

The table below summarizes the ADU size limitations and ADU permit procedures in Ordinance No. 2017-25:

	Unincorporated County (except Kensington)		Kensington	
Lot size (sq. ft.)	Max. unit size (sq. ft.)	Process*	Max. unit size (sq. ft.)	Process*
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, internal conversions are exempt				

ADU Occupancy

Section 82-24.014 of the ADU Ordinance provides that an owner of a lot must occupy either the primary or accessory dwelling unit. On August 15, 2017, the Board directed staff to review this requirement and propose amendments as appropriate.

Section 82-24.014 of the ADU Ordinance has been revised to state that all or any part of an accessory dwelling unit and all or any part of a primary dwelling unit located on the same lot may not be rented, or offered for rent, at the same time. This language clarifies that the primary purpose of the occupancy requirement is to prohibit the rental of both the primary and accessory dwelling units on a lot at the same time.

CONCLUSION:

The proposed zoning text amendment implements the Board's direction (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, amend the review procedures for certain accessory dwelling unit permit applications and allow accessory dwelling units up to 1,000 square feet if approved under the Kensington design review procedures. The proposed zoning text amendment is consistent with Government Code section 65852.2, and is also consistent with both the County General Plan and the Zoning Code. Staff recommends the Board adopt Ordinance No. 2017-25 as presented.

CONSEQUENCE OF NEGATIVE ACTION:

The current ADU Ordinance will remain in effect. The maximum unit size for ADUs established on large lots will not be increased. The permitting procedures for ADUs established in the Kensington area will not be subject to the Kensington design review procedure.

CLERK'S ADDENDUM

CLOSED the public hearing; FOUND that the adoption of Ordinance No. 2017-25 is exempt from environmental review under the California Environmental Quality ACT ; ADOPTED Ordinance No. 2017-25 to authorize accessory dwelling units up to 1,200 square feet on lots of 12,000 square feet or larger countywide, except in Kensington, and to amend the review procedures for permits to establish accessory dwelling units in Kensington; and DIRECTED staff of the Department of Conservation and Development Director, or his designee, to file a Notice of Exemption with the County Clerk-Recorder.

ATTACHMENTS

ADU Ordinance No. 2017-25

CPC Resolution No.13-2017

May 23, 2017 - Ordinance 2017-11

ADU PowerPoint