



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
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TOM BURNS, PLANNING DIRECTOR

October 8, 2004

AGENDA DATE: October 27, 2004

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: Revision of Approval Process for Two-Story Second Units Within the Urban Services Line

Planning Commissioners:

Your Commission is being asked to consider amendments to County Code Section 13.10.681 (Second Units) that would change the approval process for two-story second units within the Urban Services Line (USL). As of July 2003, a variance approval is required for two-story second units constructed inside the USL. Since variances can only be approved under very limited circumstances, no two-story second units have been approved in the urban area since the variance requirement has been in place. To remedy this situation Planning staff has proposed that, instead of a variance being required, the approval of two-story second units be subject to the Development Permit review process with a Level V approval (i.e., public hearing before the Zoning Administrator, appealable to the Planning Commission). A proposed ordinance amending Section 13.10.681(d)(4) to make this change has been given conceptual approval by the Board of Supervisors and is attached as Attachment A-I of Exhibit A.

Background

On June 24, 2003, the Board of Supervisors adopted a resolution and ordinance amending the County's Second Unit Ordinance (County Code Sec. 13.10.681) to comply with the requirements of AB 1866, a 2002 statute that requires second units to be subject to ministerial rather than discretionary approvals. In response to privacy concerns raised by the Planning Commission, the Board also made the approval of two-story second units inside the USL subject to a variance approval. As a part of that action, the Board directed staff to return on February 10, 2004 with a status report on the implementation of the amended Second Unit Ordinance, and a report on alternatives to the variance requirement for new two-story second units within the USL.

The amended Second Unit Ordinance went into effect outside the coastal zone on July 24, 2003 and inside the Coastal Zone on February 20, 2004. Under the revised ordinance, the process for reviewing all second units (inside or outside the USL)

changed from a Level IV (discretionary) review to a Level III - Building Permit (ministerial) approval.

On February 10, 2004, the Board of Supervisors filed and accepted a status report on the implementation of the amended Second Unit Ordinance and received a report on possible alternatives to the variance requirement for new two-story second units within the USL. Regarding two-story second units, staff described how the need to make variance findings have made it impossible to approve any two-story second units within the USL. As the recommended alternative, staff proposed that the variance requirement for new two-story second units be replaced with the Development Permit review process, subject to a Level V approval (public hearing before the Zoning Administrator). The Board conceptually approved staffs proposed amendment to subsection 13.10.681(d)(4) and directed staff to take the proposed amendment to the Planning Commission for consideration.

Analysis/Discussion

The Second Unit Ordinance currently limits the height of second units in the urban area to one story unless a variance is obtained. However, the variance process does not lend itself particularly well to the review of these types of **second** units because of the rigidity of the findings that must be made. Since the adoption of the amendments to the Second Unit Ordinance to comply with **AB 1866** (i.e., June 24, 2003), there has been an acceleration of applications for second units (48 applications between July 2003 and January 2004), but none of these have been for two-story second units within the urban area. It appears that the primary reason for the lack of applications has been the difficulty in making findings to approve a variance to allow a two-story second unit.

The required findings for a variance are as follows:

1. That because **of** special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures, the strict application of the Zoning **Ordinance** deprives such property *of* privileges enjoyed by other property in the vicinity and under identical zoning classification.
2. That the granting *of* such variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety or welfare or injurious to property or improvements in the vicinity,
3. That the granting of such variance shall not constitute a grant *of* special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated.

Planning staff does not believe these findings can be made for most potential proposed two-story second units, especially the finding of 'special circumstance' (finding #1). However, an alternative to the variance process exists within the Development Permit

review process. The Development Permit review process is currently used to consider a number of permits, including those for height exceptions, habitable accessory structures, home occupations, etc., where there is a possibility that the proposed use or structure could create an adverse impact on the neighborhood. This process requires that the following findings be made:

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the *neighborhood* or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.
2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.
3. That the proposed use is consistent with all elements of the County General Plan and with any Specific Plan which has been adopted for the area.
4. That the proposed use will not overload utilities, and will not generate more than the acceptable level of *traffic* on the streets in the vicinity.
5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

These findings address health, safety and welfare; consistency with zoning and General Plan; adequacy of infrastructure; and compatibility with the surrounding neighborhood. Development permits are processed either at a Level IV (administrative review with public noticing) or Level V (ZA public hearing) depending on the type of permit. Because habitable accessory structures greater than 17-feet in height currently require a Level V review, it would seem that a similar level of review would be appropriate for second units that exceeded the 17-foot height limit.

Conclusion and Recommendation

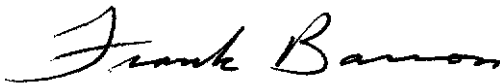
The recently amended Second Unit Ordinance (**Sec. 13.10.681**) currently limits the height of second units in the urban area to one story unless a variance is obtained. Although a substantial number of second units are being processed under the revised Second Unit Ordinance, none of the approvals within the USL have been approved as two-story second units due to the difficulties in making the required variance findings. Staff has reviewed the existing and alternative processes for reviewing two-story second units and believes that the Development Permit process will achieve the same goals as the variance process – preventing adverse impacts on neighboring parcels – while allowing for the construction of two-story second units where appropriate.

Staff therefore prepared a proposed revision to County Code Section 13.10.681(d)(4) to include language that would require a Level V Development Permit for any second unit in the urban area that exceeds 17-feet or I-story in height. On February 10, 2004, the Board of Supervisors gave conceptual approval to this proposed new amendment to the Second Unit Ordinance.

The proposed amendment to the Second Unit Ordinance has been found by Planning Department staff to be statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) and a CEQA Exemption From has been prepared (Exhibit B). It is, therefore, RECOMMENDED that your Commission:

1. Adopt the attached Resolution recommending Board of Supervisors adoption of the proposed ordinance amending County Code Section 13.10.681(d)(4) to Change the Approval Process for Two-Story Second Units Within the Urban Services Line from a Variance Approval to a Level V Development Permit Approval (Exhibit A), and
2. Direct staff to forward the proposed amendment to the Board of Supervisors for their consideration.

Sincerely,



Frank Barron, AICP
Long Range Planning Section

Exhibits:

- A. Resolution Recommending Board of Supervisors Adoption of an Ordinance Amending County Code Section 13.10.681(d)(4) to Change the Approval Process for Two-Story Second Units Within the Urban Services Line from a Variance Approval to a Level V Development Permit Approval

Attachment A-I: Proposed Revision to County Code Section 13.10.681

- B. CEQA Exemption

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Commissioner
duly seconded by Commissioner
the following Resolution is adopted:

**PLANNING COMMISSION RESOLUTION RECOMMENDING ZONING
ORDINANCE AMENDMENT TO CHANGE THE APPROVAL PROCESS FOR
TWO-STORY SECOND UNITS WITHIN THE URBAN SERVICES LINE FROM
A VARIANCE APPROVAL TO A LEVEL V DEVELOPMENT PERMIT
APPROVAL**

WHEREAS, increasing the production of second units ~~has~~ been identified by the General Plan Housing Element as an important factor to help increase the County's affordable housing stock; and

WHEREAS, the Board of Supervisors has recently enacted several measures to facilitate increased production of second units in the County's unincorporated area so as to increase the County's affordable housing stock; and

WHEREAS, in many cases, due to lot coverage and setback standards, the only way some homeowners are able to accommodate second units on their property is to build them as two-story structures; and

WHEREAS, the recently amended Second Unit Ordinance, County Code Section 13.10.681, currently limits the height of second units in the urban area to one story unless a variance is obtained; and

WHEREAS, although a substantial number of second units are being processed under the revised Second Unit Ordinance, none of the approvals within the USL have been approved as two-story second units due to the difficulties in making the required variance findings; and

WHEREAS, the Planning Commission has reviewed the existing and alternative processes for reviewing two-story second units and believes that the Development Permit process will achieve the same goals as the variance process –preventing adverse impacts on neighboring parcels – while allowing for the construction of two-story second units

where appropriate; and

WHEREAS, On February 10, 2004, the Board of Supervisors gave preliminary approval to the proposed amendment to the Second Unit Ordinance to change the approval process for two-story second units within the Urban Services Line from a variance approval to a Level V Development Permit approval; **and**

WHEREAS, the proposed amendment of the Second Unit Ordinance has been found by Planning Department staff to be statutorily exempt from the requirements of the California Environmental Quality Act (CEQA).

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends that the proposed amendment of Subsection(d)(4) of County Code Section 13.10.681 changing the approval process for two-story second units within the Urban Services Line from a variance approval to a Level V Development Permit approval (Attachment A-I).

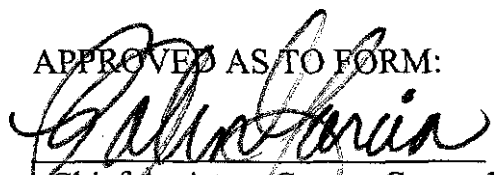
PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, **this** _____ day of _____, 2004 by the following vote:

AYES: COMMISSIONERS
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Chairperson

ATTEST: _____
Cathy Graves, Secretary

APPROVED AS TO FORM:



Chief Assistant County Counsel

cc: Planning Department

ORDINANCE NO. _____

**AN ORDINANCE AMENDING SUBSECTION (d) (4) OF
SECTION 13.10.681 OF THE SANTA CRUZ COUNTY CODE
RELATING TO SECOND UNITS**

The Board of Supervisors of the County of ~~Santa~~ Cruz ordains as follows:

SECTION I

Subsection (d) (4) of Section 13.10.681 of the ~~Santa~~ Cruz County Code is hereby amended to read **as** follows:

(4) Site Standards: All site standards of the zoning district in which the second unit is proposed shall be met. ~~Within the Urban Services Line, second units exceeding 17 feet in height or 1-story may be constructed if a Level V Development Permit is obtained, pursuant to Chapter 18.10.~~ Outside the Coastal Zone, on land zoned or designated agricultural, all setbacks of the agricultural zone districts shall be met and all second units must meet the buffering requirements of County Code Section 16.50.095(f), as determined by the Agricultural Policy Advisory Commission, if applicable.

SECTION II

This ordinance shall become effective on the 31st day following adoption or upon certification by the California Coastal Commission Zone, whichever is latest.

PASSED AND ADOPTED **this** _____ of _____ 2004, by the Board of Supervisors of the County of Santa Cruz by the following vote:

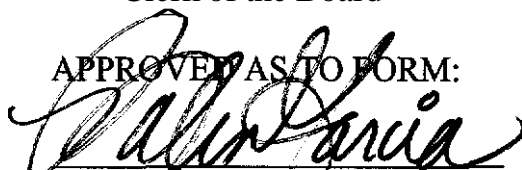
AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairperson of the Board of Supervisors

Attest: _____

Clerk of the Board

APPROVED AS TO FORM:



Chief Assistant County Counsel

DISTRIBUTION: County Counsel
CAO
Planning Department
Housing Advisory **Commission**