



# COUNTY OF SANTA CRUZ

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## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
**KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR**

September 28, 2010

**AGENDA DATE: October 13, 2010**

**ITEM #: 9**

**TIME: After 9 AM**

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

### **RE: Proposed Amendment to Second Unit Ordinance - County Code Section 13.10.681**

#### Members of the Commission:

On September 14, 2010, the Board of Supervisors directed planning staff to process an ordinance amendment to remove the requirements for owner-occupancy and a homeowners exemption for properties with a Second Unit that are owned by public agencies and provide housing to special populations. In the rare case where a public agency owns property and would be subject to the proposed ordinance amendment, the proposal will increase the availability of rental housing and furthers County objectives to address housing needs for special populations, including a range of housing needs identified in the Housing Element.

The proposed Gemma House Improvement Project prompted the proposed ordinance amendment. The Gemma House, a single-family home owned by the RDA, is located at 522 Capitola Road extension. The property includes a habitable accessory structure, that Gemma has proposed be converted to a second unit, that would create an additional housing unit that could serve the program needs. County Code Section 13.10.681 requires owners of second units to obtain a homeowner property tax exemption and to reside on the property. RDA is a public agency that is not eligible to receive a homeowner property tax exemption or able to live on the property. To help facilitate the project, staff has identified an amendment to 13.10.681 that would remove the owner-occupancy requirement for properties located on property owned by public agencies that are providing housing to special needs populations. Staff is recommending that the proposed ordinance take effect on the 31<sup>st</sup> day after the date of final passage outside the Coastal Zone, and on the 31<sup>st</sup> day after the final passage or upon certification by the California Coastal Commission, whichever date is later, for properties inside the Coastal Zone.

#### **Background**

In 2006 the RDA acquired the Gemma House located at 522 Capitola Road Extension in the Live Oak area. Over the past few years, the RDA has leased the property to the Community

Action Board (CAB), and Gemma has developed a successful model program to provide therapeutic trauma-based recovery services along with a transitional housing program. Gemma has become an example of a community corrections strategy that can provide long-term impact and long-term savings in the criminal justice system. As an RDA owned property that meets a special housing need in the community, staff has been evaluating ways to enhance the property and, at the same time, work with Gemma to improve program operations and increase program revenues.

As part of the initial Gemma project, the RDA converted a 400 square foot garage into a habitable accessory structure for use by the Gemma site manager. Over the intervening years, in response to program needs, Gemma has refined its operations and continues to provide a high level of on-site support but the site manager no longer lives on the property. Meanwhile, Gemma has discussed with Housing staff the possibility of converting the detached habitable accessory structure unit into a second unit, which would be made available to a Gemma graduate at an affordable rent. This approach will allow for Gemma to expand its housing program. In addition, the proposed amendment would help facilitate the creation of additional affordable housing units and address housing needs for special populations in the community.

### **Environmental Review**

The project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), as the minor amendments will not have a significant effect on the environment. The minor amendments propose changes to the owner residency of second units. Therefore, the amendments do not have the potential to cause significant environmental effects.

The project is statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15265, which states that CEQA compliance within the Coastal Zone rests with the Coastal Commission.

### **Local Consistency Program**

The proposed amendments involve minor changes to coastal implementing ordinances (County Code Section 13.10.681) regarding the owner occupancy requirement and will not result in any loss of coastal access, or negative impact to coastal resources. Therefore, the amendments meet the requirements of, and are consistent with, the County's certified Local Coastal Program and California Coastal Act.

### **Conclusion/Recommendation**

The current second unit requirement prohibits a public agency from developing a second unit because a public agency cannot meet the owner occupancy requirements of the ordinance. In the rare case where a public agency does own a single-family home, this ordinance would allow for a second unit to be developed and the property would serve a special population. It is worth noting that in cases where projects are subject to the proposed ordinance amendment, the County and or RDA would typically have a lease with a non-profit agency to provide housing to special populations, with provisions built into the lease agreement that the lessee shall maintain good relations with neighbors and make every effort to foster good relationships between tenants and neighbors.

It is therefore RECOMMENDED that your Commission takes the following actions:

1. Adopt the attached Resolution (Exhibit X ) recommending the Board of Supervisors adopt the proposed amendments to County Code Section 13.10.681 that would remove the requirements for owner-occupancy and a homeowners exemption for properties with a Second Unit, for those that are owned by public agencies and provide housing to special populations, and
2. Recommend certification of the CEQA notice of exemption.

Sincerely,



Erik Schapiro  
Housing Manager

Exhibits:

- A. Resolution Recommending Board of Supervisors Adoption of Proposed Amendments to County Code Section 13.10.681 and certification of CEQA, including Attachment 1 Proposed Ordinance Amending County Code Section 13.10.681 (strike-through copy).
- B. Proposed Ordinance Amending County Code Section 13.10.681 (clean copy).
- C. CEQA Notice of Exemption

cc: CAB-Gemma  
Redevelopment Agency  
Probation Department  
Coastal Commission

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  
SENDING RECOMMENDATION TO THE BOARD OF SUPERVISORS  
ON PROPOSED AMENDMENTS TO SANTA CRUZ COUNTY CODE SECTION 13.10.681

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WHEREAS, on September 14, 2010 the Board of Supervisors directed planning staff to process an ordinance amendment to remove requirements for owner-occupancy and homeowners exemption for properties with a second unit that are owned by a public agency that provide housing to special populations; and

WHEREAS, County Code Section 13.10.681 relating to Second Unit Occupancy Standards requires that an owner permanently reside on the property, as evidenced by a Homeowner's Property Tax Exemption on the parcel; and

WHEREAS, a public agency does not reside in residential property and therefore does not qualify for a homeowners exemption; and

WHEREAS, the amendments to Santa Cruz County Code Section 13.10.681 removing the provision of owner residency and homeowners exemption for public agency owned properties that provide housing to special populations have been drafted and submitted to the Planning Commission for review (Attachment 1 to Exhibit A); and

WHEREAS, the proposed amendments will potentially provide rental housing and further the County objectives to address housing needs for special populations, including a range of housing needs identified in the County Housing Element; and

WHEREAS, on October 13, 2010 the Planning Commission conducted a public hearing to consider the amendments to the Santa Cruz County Code Section 13.10.681; and

WHEREAS, the Planning Commission finds that the proposed amendments will be consistent with the policies of the General Plan and other provisions of the County Code, and will be consistent with State Law; and

WHEREAS, the ordinance amendments have been found to be categorically and statutorily exempt from further review under the California Environmental Quality Act; and

WHEREAS, Chapter 13.10 is an implementing ordinance of the Local Coastal Program (LCP) and the proposed amendments to this chapter constitute amendments to the LCP; and

WHEREAS, the proposed amendment to Section 13.10.681 has been

determined to be consistent with the Coastal Act.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Planning Commission recommends that the amendments to Section 13.10.681 of Chapter 13.10 of the Santa Cruz County Code, and the Notice of Exemption, incorporated by reference, be approved by the Board of Supervisors.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

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

\_\_\_\_\_  
Chairperson

ATTEST: \_\_\_\_\_  
Cathy Graves, Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
COUNTY COUNSEL

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING SUBSECTION (E) of SECTION 13.10. 681  
OF THE SANTA CRUZ COUNTY CODE RELATING SECOND UNITS**

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

**SECTION I**

Subsection (e) of Section 13.10.681 of the Santa Cruz County Code is hereby amended to read as follows:

(e) Occupancy Standards. The following occupancy standards shall be applied to every second unit and shall be conditions for any approval under this section:

(1) Occupancy Restrictions. The maximum occupancy of a second unit may not exceed that allowed by the State Uniform Housing Code, or other applicable state law, based on the unit size and number of bedrooms in the unit.

(2) Owner Residency. **Unless owned by a public agency that is providing housing for special populations,** the property owner shall permanently reside, as evidenced by a Homeowner's Property Tax Exemption on the parcel, in either the main dwelling or the second unit. If the second unit is newly constructed on a parcel within a subdivision, then the purchaser of said property shall permanently reside in either the main dwelling or the second unit, shall be required to submit a property tax exemption prior to occupancy of the second unit, and shall be subject to the deed restriction noted in subsection (3) below.

(3) Deed Restriction. Prior to the issuance of a building permit, the property owner shall provide to the Planning Department proof of recordation of a Declaration of Restrictions containing reference to the deed under which the property was acquired by the present owner and stating the following:

(A) The property owner shall permanently reside, as evidenced by a Homeowner's Property Tax Exemption on the parcel, in either the main dwelling or the second unit, **unless owned by a public agency that is providing housing for special populations, in which case the Declaration of**

**Restrictions shall indicate that any subsequent non-public agency owner shall abide by the terms of this subsection and subsection (e)(2) above.**

(B) The Declaration is binding upon all successors in interest;

(C) The Declaration shall include a provision for the recovery by the County of reasonable attorney fees and costs in bringing legal action to enforce the Declaration together with recovery of any rents collected during any occupancy not authorized by the terms of the agreement or, in the alternative, for the recovery of the reasonable value of the unauthorized occupancy.

## SECTION II

This ordinance shall take effect on the 31<sup>st</sup> day after the date of final passage outside the Coastal Zone and on the 31<sup>st</sup> day after the date of final passage or upon certification by the California Coastal Commission, whichever date is later, inside the Coastal Zone.

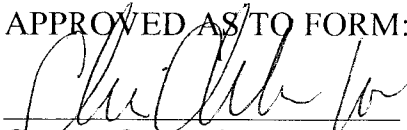
PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the Board of Supervisors of the County of Santa Cruz by the following vote:

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

\_\_\_\_\_  
Chairperson, Board of Supervisors

Attest: \_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
County Counsel

Distribution: Planning  
County Counsel

ORDINANCE NO. \_\_\_\_\_

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OF THE SANTA CRUZ COUNTY CODE RELATING SECOND UNITS**

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**SECTION I**

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(e) Occupancy Standards. The following occupancy standards shall be applied to every second unit and shall be conditions for any approval under this section:

(1) Occupancy Restrictions. The maximum occupancy of a second unit may not exceed that allowed by the State Uniform Housing Code, or other applicable state law, based on the unit size and number of bedrooms in the unit.

(2) Owner Residency. Unless owned by a public agency that is providing housing for special populations, the property owner shall permanently reside, as evidenced by a Homeowner's Property Tax Exemption on the parcel, in either the main dwelling or the second unit. If the second unit is newly constructed on a parcel within a subdivision, then the purchaser of said property shall permanently reside in either the main dwelling or the second unit, shall be required to submit a property tax exemption prior to occupancy of the second unit, and shall be subject to the deed restriction noted in subsection (3) below.

(3) Deed Restriction. Prior to the issuance of a building permit, the property owner shall provide to the Planning Department proof of recordation of a Declaration of Restrictions containing reference to the deed under which the property was acquired by the present owner and stating the following:

(A) The property owner shall permanently reside, as evidenced by a Homeowner's Property Tax Exemption on the parcel, in either the main dwelling or the second unit, unless owned by a public agency that is providing housing for special populations, in which case the Declaration of Restrictions shall indicate that any subsequent non-public agency owner shall abide by the terms of this subsection and subsection (e)(2) above.

EXHIBIT 3



- (B) The Declaration is binding upon all successors in interest;  
(C) The Declaration shall include a provision for the recovery by the County of reasonable attorney fees and costs in bringing legal action to enforce the Declaration together with recovery of any rents collected during any occupancy not authorized by the terms of the agreement or, in the alternative, for the recovery of the reasonable value of the unauthorized occupancy.

## SECTION II

This ordinance shall take effect on the 31<sup>st</sup> day after the date of final passage outside the Coastal Zone and on the 31<sup>st</sup> day after the date of final passage or upon certification by the California Coastal Commission, whichever date is later, inside the Coastal Zone.


PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the Board of Supervisors of the County of Santa Cruz by the following vote:

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

\_\_\_\_\_  
Chairperson, Board of Supervisors

Attest: \_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
County Counsel

Distribution: Planning  
County Counsel

EXHIBIT 10

# CALIFORNIA ENVIRONMENTAL QUALITY ACT

## NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: N/A

Assessor Parcel Number: Countywide

Project Location: those residential properties located within the Unincorporated Area of the County of Santa Cruz.

**Project Description:** Proposal to amend County Code Section 13.10.681 to remove the requirements for owner-occupancy and a homeowners exemption for properties with an Second Unit, for those that are owned by public agencies and provide housing to special populations.

**Person or Agency Proposing Project:** County of Santa Cruz Planning Department

**Contact Phone Number:** Erik Schapiro, (831) 454-5166

- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C. ☐ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
- D. ☒ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).
- E. ☒ **Categorical Exemption**  
Sections 15305 and 15308 of the State CEQA Guidelines and Section 1805 of the County's CEQA Guidelines:

**F. Reasons why the project is exempt:**

The project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), as the minor amendments will not have a significant effect on the environment outside of the Coastal Zone. The minor amendments propose changes to the owner residency of second units. Therefore, the amendments do not have the potential to cause significant environmental effects.

The project is statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15265, which states that CEQA compliance within the Coastal Zone rests with the Coastal Commission.

In addition, none of the conditions described in Section 15300.2 apply to this project.

\_\_\_\_\_  
Erik Schapiro, Housing Manager

Date: \_\_\_\_\_

EXHIBIT C