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MEMORANDUM

DATE: APRIL 10, 2018

TO: BOARD OF SUPERVISORS

FROM: PLANNING AND BUILDING SERVICES

SUBJECT: #OA 2017-0003: CHAPTER 20.164 - ACCESSORY USE REGULATIONS
(SHORT-TERM VACATION RENTALS & SECON RESIDENTIAL /
ACCESSORY DWELLING UNITS

STAFF REQUESTS DIRECTION FOR ORDINANCE AMENDMENTS
ADDRESSING SHORT-TERM VACATION RENTALS AND SECOND-
RESIDENTIAL UNITS/ACCESSORY DWELLING UNITS WITHIN THE
INLAND ZONING CODE (TITLE 20, DIVISION 1) CHAPTER 20.164 -
ACCESSORY USE REGULATIONS

INTRODUCTION

The Department of Planning & Building Services seeks direction from the Board of Supervisors prior to submitting a package of updates as an Ordinance Amendment to County Inland Zoning Code (Title 20 – Division 1 of the Mendocino County Code), Chapter 20.164 - Accessory Use Regulations. This package of updates would address short-term vacation rentals, as well as Second Residential/Accessory Dwelling Units (ADUs) within the Inland Zoning Division.

By aligning County regulations with recently passed state laws, this ordinance amendment would provide clarity to those developing accessory residential structures. Additionally, by addressing short-term vacation rentals, this ordinance amendment would limit the reallocation of existing and future housing stock to short-term markets by encouraging home-sharing via the Room & Board accessory use type, and requiring discretionary review of Vacation Home Rentals that disproportionately limit permanent housing for area residents.

ACCESSORY RESIDENTIAL STURCTURES

In January 2017, Senate Bill 1069 (SB1069) and Assembly Bill 2299 (AB2299), which pertain to the creation of accessory dwelling units, went into effect. These laws were intended to address California's ongoing housing affordability crisis by reducing local regulatory barriers to construct new accessory dwelling units. Additionally, Governor Brown signed Assembly Bill 2406 (AB2406), which pertains to creation of Junior Accessory Dwelling Units (JADU).

In Mendocino County, ADUs are allowed throughout the Inland Zoning Division in all districts that permit a single-family dwelling. ADUs are a critical form of infill-development that can offer important housing choices within existing neighborhoods. While the County's existing regulations substantially align with much of this recently passed legislation, updates can be made to ensure greater consistency and encourage the development of accessory residential structure to improve access for Mendocino County residents.

Proposed updates to the *County Inland Zoning Code (Title 20 – Division 1 of the Mendocino County Code)*, *Chapter 20.164 - Accessory Use Regulations*, include updating and aligning important terminology, as well as clarifying parking requirements and exemptions for these accessory uses. Additionally, staff would plan to clarify that certain accessory residential structures may be used for short-term rentals, which is why staff prefers to address these items concurrently.

With regard to Assembly Bill 2406, however, it is necessary to clarify the permitting process for Junior Accessory Dwelling Units (JADUs) by adding a new section to *Chapter 20.164*. Currently, JADUs are not described within any local regulation or planning document. Adoption of a JADU ordinance is optional, but JADUs have been incorporated by neighboring localities, including Sonoma County, and present a useful pathway to diversify Mendocino County's limited housing stock.

The updated regulatory package does little to address accessory use challenges in the Coastal Zone. Nor does it address the most prohibitive factors to developing accessory residential housing in Mendocino County, which is the lack of utility services and infrastructure. For example, residents in Redwood Valley encounter difficulties when developing accessory residential housing due to development moratoriums maintained by the local water district. Within Mendocino County infrastructure constraints are a substantial and consistent barrier to the development of new housing.

The Coastal Zone faces similar land capacity challenges, as well as a more complicated legal environment. In 1985, the Board of Supervisors of Mendocino County reluctantly concluded that the development of accessory dwelling units in the unincorporated Coastal Zone, in excess of those allowed by the Coastal Element may have adverse impacts on the public health, safety, and welfare, including water supply, septic capability and traffic. Staff continues to work with the California Coastal Commission to determine how best to address the County's housing challenges along the coastline.

SHORT TERM RENTALS

On August 1, 2017, the Mendocino County Board of Supervisors passed and adopted Ordinance No. 4391, approving interim restrictions on the establishment of new short-term/vacation home rentals on residential property, pending the study and consideration of land use and existing regulations pertaining to such activity. This urgency ordinance was passed in response to concerns that a substantial and increasing share of the County's housing stock was being utilized for the purpose of short-term/vacation home rentals, thereby reducing the share of units available for long-term lease by permanent residents or job-seekers.

Ordinance No. 4391, however, expired 45 days later because it was unable to sustain the votes necessary for a required extension. On September, 12, 2017, the Board of Supervisors further directed the Department of Planning and Building to develop a draft policy update for review and discussion by the Planning Commission and Board of Supervisors. Staff has conducted research regarding these issues, and now seeks formal direction from the Board of Supervisors to present an Ordinance Amendment to the Planning Commission for review.

For the Inland Zoning Division, if the subject parcel does not have frontage on a 'Public Road' a discretionary review of the project is required, regardless of the intensity of use of the short-term rental. Because short-term rentals within the Division 1 can only proceed as a Room and Board accessory use they are subject to additional regulations. Per Chapter 20.164 - Accessory Use Regulations, Sec. 20.164.015 - Residential and Agricultural Use Types (L) Room & Board:

"The renting of not more than two (2) rooms for occupancy by transient guests for compensation or profit, provided the parcel has frontage on a publicly maintained road. A Major Use Permit is required if the parcel does not have frontage on a publicly maintained road."

Room and Board is the only accessory use that requires discretionary review under Chapter 20.164. Per direction of the Board of Supervisors, these discretionary reviews are being processed at the cost of a minor use permit, rather than a major use permit. While reduced, this cost remains a significant barrier to entry for home-owners located on private roads. Additionally, it presents a significant logistical challenge for staff in terms of processing, response, and customer service without significant or demonstrated reasoning as to why the regulation exists.

At all times a business license is required to operate a short-term vacation rental, which must be renewed annually through the Mendocino County Tax Collector. Operators of short-term/vacation home rentals are subject to the collection of Transit Occupancy Tax (ToT) under *Title 5, Chapter 5.20 - Tax Imposed on Transients*.

Presently, Mendocino County prohibits or discourages commercial activity from occurring within following structure types:

- 'Guest Cottage'
- 'Family Care Unit'
- 'Class-K Structure' (*Within 1 Year of Permitting*)
- 'Airstream Trailers', Busses, Recreational Vehicles, etc.
- 'Second Residential Units'/'Accessory Dwelling Units' (*Division III ONLY*)

Especially within the Coastal Division, there is concern that a substantial and increasing share of the existing housing stock is being used as short-term rentals, thereby reducing the share available for either purchase or lease on a long-term basis. It is unclear, however, if this substantial and increasing share of short-term rentals results from homeowners taking advantage of excess capacity within their own homes, or by renting their whole home, effectively removing that residential unit for long-term use. Critics of home-sharing argue that short-term vacation rentals raise housing costs for local residents, and there is growing evidence to confirm this effect, albeit with substantial caveats. On the other hand, there is also evidence that home-sharing increases value by allowing owners to better utilize excess capacity that would otherwise remain vacant. Furthermore, the effect of short-term vacation rentals on long-term rental market prices would appear less impactful in zip-codes with a larger share of owner-occupiers, a result consistent with absentee landlords taking their homes away from the long-term rental market and listing them on Airbnb.¹

NEXT STEPS

In preparation, staff has established a comprehensive draft of regulatory proposals to address short-term vacation rentals within the Inland Zoning Division, but seeks additional input and clarification from the Board of Supervisors on many important details. At the same time, updates to other elements in the Accessory Chapter are suggested, especially given the interplay between Short-Term Vacation Rentals and Accessory Residential Structures. Staff proposes that discretionary reviews continue to occur, but only for *Vacation Home Rentals* that disproportionately limit permanent housing. This would include requiring '*Vacation Home Rentals*' to obtain a Minor Use Permit if the residence is utilized by short-term occupants for more than 120 days per year or more. This limitation will require close coordination between the Department of Planning and Building Services and the Treasurer-Tax Collector. It also recognizes that Vacation-Home Rentals, in which the owner is not present, do limit long-term housing options for permanent residents, and by that standard should be evaluated akin to a 'Transient Habitation' rather than 'Accessory Residential.'

By addressing these topics under a combined update, this ordinance amendment would establish appropriate standards for accessory dwelling units, as well as the short-term rental of dwellings within Division 1 of Mendocino County. Doing such would provide accommodation in areas where visitor services are limited, and bolster supplemental income opportunities for long-term permanent residents by allowing them the ability to undertake short-term rental activities. Furthermore, this proposed ordinance exists to minimize potential negative secondary effects on surrounding residential neighborhoods through a revised short-term rental application and notification process. This proposed ordinance amendment would allow home-owners additional economic opportunity, while providing for the health and safety of guests in a manner similar to other localities. Staff intends that any of the proposed amendments would be consistent with the 2009 Mendocino County General Plan, and the allowed uses would still only be permitted in areas already otherwise allowed for by the General Plan.

It is requested that the Board of Supervisors provide recommendations to staff on draft regulations for the review of the Planning Commission regarding accessory residential structures and short-term vacation

¹ Ibid.

rental uses. At such time as the Planning Commission completes their review, the ordinances will then return to the Board for their final decision.

ATTACHMENTS

- DRAFT: CHAPTER 20.008- Definitions
- DRAFT: Chapter 20.164 - Accessory Use Regulations
- DRAFT: Chapter 20.165 - Accessory Use (Short-Term Vacation Rental)-PROPOSED
- California Department of Housing and Community Development: Accessory Dwelling Unit Memorandum-December 2016