



*The County of San Diego*

# Planning Commission Hearing Report

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<b>Date:</b>	December 5, 2025	<b>Case/File No.:</b>	PDS2025-POD-25-009
<b>Place:</b>	County Operations Center 5520 Overland Avenue San Diego, CA 92123	<b>Project:</b>	ADU Ordinance Amendment Including Separate Sale of ADUs
<b>Time:</b>	9:00 a.m.	<b>Location:</b>	Various
<b>Agenda Item:</b>	#1	<b>General Plan</b>	Various
<b>Appeal Status:</b>	Not applicable; Approval by the Board of Supervisors	<b>Zoning:</b>	Various
<b>Applicant/Owner:</b>	County of San Diego	<b>Community:</b>	Various
<b>Environmental:</b>	N/A	<b>APNs:</b>	Various

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## A. OVERVIEW

This is a request for the Planning Commission to provide a recommendation to the Board of Supervisors on the Accessory Dwelling Unit (ADU) Ordinance Amendment Including Separate Sale of ADUs (Amendment). The Amendment includes two components. The first component involves amending the County's Zoning Ordinance to reorganize and clarify the ADU section to align with State law and improved public guidance. This portion aligns the County's Zoning Ordinance with new State ADU legislation from 2023 and 2024. The second component is the development of a local program under Assembly Bill (AB) 1033, which would allow for the separate sale of ADUs.

On March 13, 2024, the Board of Supervisors (Board) directed staff to evaluate the feasibility of allowing the separate sale of ADUs in the unincorporated area. In response, staff began community and stakeholder outreach to inform development of a local ordinance under AB 1033, which allows a jurisdiction to adopt an ordinance to allow ADUs to be sold separately as condominiums. Based on that input, the Board took formal action on October 9, 2024, directing staff to move forward with the development of a local program that goes beyond the baseline provisions established under AB 1033. Specifically, the Board directed staff to incorporate local eligibility criteria into the program, such as a right of first refusal for owner-occupants, and to further explore additional standards that may be appropriate for implementation in the unincorporated area of the county.

A local program for the separate sale of ADUs is considered a tool to create new pathways to homeownership. Smaller, more attainable units could provide entry points for first-time buyers, reduce displacement, and give families flexibility to downsize - such as moving into an ADU while selling the primary home. The program could also support seniors who wish to age in place while accessing the value of their property. Locally tailored

provisions are expected to provide homeowner protections and ensure that the process is clear, inclusive, and optional for those who choose to participate.

## B. STAFF RECOMMENDATIONS

Staff recommends that the Planning Commission take the following actions:

1. Find the update to the County's Zoning Ordinance implementing State law governing the permitting of ADUs is not subject to the California Environmental Quality Act (CEQA) under Public Resources Code section 21080.17, the provisions regulating condo conversion and sale of ADUs are not a project under Public Resources Code section 21151, and the General Plan Environmental Impact Report (EIR), dated August 3, 2011, on file with PDS as Environmental Review Number 02-ZA-001, was completed in compliance with CEQA and the State and County CEQA Guidelines.
2. Find that there are no changes in the project or in the circumstances under which the project is undertaken that involve significant new environmental impacts which were not considered in the previously certified EIR dated August 3, 2011.
3. Recommend that the Board of Supervisors accept the Accessory Dwelling Unit (ADU) Ordinance Amendment Including the Separate Sale of ADUs; find that the attached Form of Ordinance, Section 6156.x through 6156.x.C including Section 8900 Table AL-1.0, addresses updates needed to comply with State law; find that the attached Form of Ordinance, Section 6156.x.D, creates a local program for the separate sale of ADUs; and find that the attached Form of Ordinance, Section 6156.x.D, includes programmatic options subject to the Board of Supervisors' selection at their discretion.
4. Recommend that the Board of Supervisors adopt the attached Form of Ordinance, Section 6156.x through 6156.x.C including Section 8900 Table AL-1.0:

Draft Ordinance Amending the San Diego County Zoning Ordinance, Part Six: General Regulations: Accessory Use Regulations Related to Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Section 6156.x, and Part Eight: Village Regulations: Section 8900 Alpine Village Core Regulations Table AL-1.0 Permitted Use Type (ATTACHMENT A [CLEAN] AND B [UNDERLINE]).

5. Recommend that the Board of Supervisors adopt the attached Form of Ordinance, Section 6156.x.D:

Draft Ordinance Amending the San Diego County Zoning Ordinance, Part Six: General Regulations: Accessory Use Regulations Related to Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Section 6156.x, and Part Eight: Village Regulations: Section 8900 Alpine Village Core Regulations Table AL-1.0 Permitted Use Type (ATTACHMENT A [CLEAN] AND B [UNDERLINE]).

6. Recommend that the Board of Supervisors adopt the attached Form of Ordinance, Section 6156.x.D.3 Programmatic Option 2.a.:

Draft Ordinance Amending the San Diego County Zoning Ordinance, Part Six: General Regulations: Accessory Use Regulations Related to Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Section 6156.x, and Part Eight: Village Regulations: Section 8900 Alpine Village Core Regulations Table AL-1.0 Permitted Use Type (ATTACHMENT A [CLEAN] AND B [UNDERLINE]).

The Staff Recommendation includes a recommendation for the adoption of programmatic Option 2.a. This

Option is described below under section F.2., with supporting feedback described below under section D. Option 2.a. limits separate sale eligibility to detached ADUs, which limits the total number of ADUs that may be sold on a lot, and emphasizes that detached units create clearer physical and ownership distinctions between the main residence and the secondary unit. Staff has received feedback both in support and in opposition to the adoption of a local program for the separate sale of ADUs. Option 2.a. represents a balance between community feedback and the need for additional housing opportunities.

## C. **BACKGROUND**

### *Alignment with State Law*

Since 2016, the State of California has enacted a series of laws aimed at reducing barriers to the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), with the goal of promoting housing production, affordability, and flexible living arrangements. These laws require local jurisdictions to support ADU development by streamlining permitting, limiting local restrictions, and clarifying allowable unit types and configurations. The ADU Ordinance Amendment Including Separate Sale of ADUs (Amendment) aligns the ADU section of the County's zoning ordinance with State law and ensures compliance with recent legislative changes. The updates are designed to provide clearer guidance for the public and enhance community understanding by removing ambiguities in ordinance language—particularly regarding which ADU approvals are considered ministerial versus subject to discretionary local development standards. The reorganization separates ministerial criteria from local development standards, with the new ministerial section outlining all allowable combinations of ADUs and JADUs that can be created without discretionary review. Language has also been updated to clarify that local requirements cannot be more restrictive than the State's ministerial standards. By ensuring consistency with State law, the Amendment does not exceed State requirements but rather provides a clear framework for implementing them locally. Key provisions of State law include allowing a range of detached and attached ADUs, establishing size and setback limits, and limiting discretionary review where units meet ministerial criteria. The County is required to update the Zoning Ordinance to reflect these requirements. In the absence of local updates, the County is required to implement the State's standards directly.

In recent years, the State of California has expanded legislation related to accessory dwelling units (ADUs), providing greater flexibility for property owners to construct ADUs on a wider range of residential lots. These changes are part of the State's broader effort to increase housing supply and improve affordability. ADUs are recognized as an important housing option that can offer more affordable units, support multi-generational living, and integrate into existing neighborhoods and infrastructure. As a result, ADU construction has increased substantially in both incorporated and unincorporated areas of San Diego County. The County implements new State housing laws as they are adopted and provides fact sheets, guidance materials, and permit resources to assist applicants in navigating ADU regulations. The most recent Zoning Ordinance update in 2023 incorporated State legislation adopted through 2022.

Under State law, ADUs are permitted on properties zoned for residential or mixed use and may be developed as new detached or attached units or through the conversion of existing structures. State law requires that certain ADUs must be approved ministerially, including New Construction Detached ADUs that are one story and less than 800 square feet or Conversion ADUs of any size within an existing converted structure. While State law mandates certain exemptions such as lot coverage, front setbacks and design standards, these units must still comply with building code and health and safety requirements. ADUs may be approved ministerially on a site with a single-unit building, such as a single-family home, townhome, or detached units, or on a site with a multi-unit building such as an apartment or condominium building. State law establishes the number and types of ADUs that are allowed on a single-family parcel which include one primary dwelling, one detached ADU (either new construction or a converted accessory structure), one JADU within the primary residence of up to 500 square feet, and one attached ADU located within existing living space or an addition to the home. In practice, this means a single-family parcel can accommodate up to four units: the primary home, one attached ADU, one JADU, and one detached ADU. The

Amendment does not change the State's ADU mandates in single-family zones, the County will continue to follow the standards established by State law.

#### *Separate Sale of ADUs*

Additionally, the Amendment includes provisions for implementing a local program to allow the separate sale of ADUs in accordance with AB 1033. Adopted in 2023 and effective January 2024, AB 1033 is an opt-in bill that allows jurisdictions to adopt local ordinances permitting the separate sale of ADUs as condominiums. A local program for the separate sale of ADUs would not increase the number of ADUs allowed, it would only provide the option to sell an ADU as a separate unit under certain conditions. These baseline requirements are provided under State law which each jurisdiction must follow. The law enables separate ownership of portions of a single property without a traditional lotsplit, which is often infeasible due to minimum lot size or access constraints. Instead, property owners could record a condominium map, allowing them to divide ownership while bypassing lot size limitations and reducing time and costs.

On March 13, 2024, the Board of Supervisors directed staff to evaluate the feasibility of allowing the separate sale of ADUs in the unincorporated area. In response, staff conducted outreach with stakeholders, property owners, and the development community to assess interest, concerns, and ideas for structuring a local program for the separate sale of ADUs. Based on this input, the Board took formal action on October 9, 2024 (5), directing staff to move forward with development of a local program for the separate sale of ADUs, in accordance with AB 1033, that incorporates both State-mandated provisions and local eligibility criteria. AB 1033 establishes a baseline framework for allowing ADUs to be sold as condominiums, including compliance with the Subdivision Map Act, formation of a Homeowners Association (HOA), and separate property tax assessments. While the legislation sets statewide standards, it also allows local governments flexibility to adopt additional local eligibility criteria.

The Board has directed staff to explore measures such as a "Right of First Refusal" for tenants or co-owners and other local eligibility criteria designed to protect homeowners and address community priorities. A local program for the separate sale of ADUs is intended to expand homeownership opportunities by creating smaller, more attainable units, while also providing options for seniors and families to downsize, remain in their communities, and access property equity. Participation would be voluntary, and not all properties may qualify. The ordinance will include clear guidance on the conversion process, utility and mapping requirements, and HOA formation to ensure that the program is understandable, accessible, and responsive to public input.

AB 1033 requires the formation of an HOA to manage common areas and shared infrastructure, with condominium maps recorded by the County Recorder. Where the primary residence is already within HOA, that association would need to approve the map and include both units. While HOA administration falls outside the County's land use authority, State law requires inclusion of dispute resolution procedures in Covenants, Conditions, and Restrictions (CC&Rs). Allowing separate sales of ADUs offers potential benefits for homeowners, buyers, and developers. Homeowners could access equity by selling the primary residence while remaining in the ADU, while buyers would gain access to lower-cost homes, typically 40–60% of the price of a single-family home. Developers would gain financing flexibility since small ADU condominium projects (fewer than four units) face fewer federal lending requirements and are eligible for additional funding opportunities. With ADUs accounting for about 28% of the County's housing permits issued between 2021 and 2023, the ability to sell them separately could expand ownership opportunities and increase housing supply. Stakeholders, including housing advocates and developers, have generally expressed support, citing affordability, first-time homebuyer opportunities, and equity benefits. However, concerns remain about parking, driveway access, and potential impacts in areas with limited infrastructure, particularly regarding water and sewer capacity.

#### *Condominium Conversion*

For an ADU to be sold separately from the primary residence, property owners must complete a condominium

conversion. This requirement applies to both the main dwelling and the ADU. A key prerequisite is that the ADU must already have received final approval from the Building Department through a signed-off building permit. If the property is subject to a mortgage, a letter of consent from the lender is required prior to moving forward. For properties located within an existing Homeowners Association (HOA), written authorization from the HOA must also be secured. Once these initial conditions are met, property owners are required to file a Parcel Map for the condominium conversion. The process must comply with both the Davis-Stirling Act and the Subdivision Map Act. As part of the application, a condominium plan must be prepared by a licensed surveyor or civil engineer. This plan defines the legal boundaries of the units, describes each unit, and identifies the common areas to be shared by all owners. A site plan is also required, documenting the building footprints, spacing between structures, and the layout of utility connections. In addition, Covenants, Conditions, and Restrictions (CC&Rs) must be prepared to formally establish the HOA. The CC&Rs govern responsibility for common areas, set dues and insurance requirements, and outline rules for the operation and enforcement of the HOA.

Utility coordination is also a critical component of the condominium conversion process. Property owners must notify all relevant utility providers, including water, sewer, gas, and electricity companies. While separate water metering is not typically required for ADUs, it may be necessary when the unit is converted into a condominium for separate sale. The local utility provider will determine whether a separate water line or sewer service lateral is required. For properties served by septic systems or private wells, the County of San Diego Department of Environmental Health and Quality (DEHQ) must conduct inspections and grant approval before a condominium map can be filed. Similarly, requirements for separate gas and electrical metering vary depending on site-specific conditions and are determined at the discretion of the local utility provider in accordance with regulations established by the California Public Utilities Commission (CPUC). The newly created HOA will manage shared facilities and expenses related to common areas. HOA dues will be used to cover these costs and will also determine how utility charges, such as water and electricity for common spaces, are allocated among condominium owners.

#### **D. PUBLIC INPUT**

Preparation of the ADU Ordinance Amendment Including Separate Sale of ADUs (Amendment) involved extensive community engagement to ensure that updates to local regulations were both consistent with State law and responsive to local priorities. Between spring and fall 2025, County staff conducted a comprehensive outreach effort that included small group discussions with industry representatives and environmental organizations, presentations at community planning and sponsor group meetings, and a series of public webinars. Each engagement activity was designed to serve a specific purpose—small group meetings focused on technical feasibility and implementation considerations; community group meetings provided a forum to discuss local needs and potential community impacts; and public webinars were structured to inform residents about recent changes to State ADU legislation, outline potential implications for the County's Zoning Ordinance, and solicit input on local eligibility criteria for the separate sale of ADUs. Additionally, during the public review period, stakeholders also submitted written comments on the Amendment; these comment letters are included in Attachment C. The objectives of this outreach were to gather input on community priorities, identify challenges and opportunities related to ADU development, clarify where the County has discretion to adjust local standards, and inform the public about State-mandated ADU requirements. Information received during public engagement is summarized below.

##### *ADU Development Requirements and Approval Processes*

A primary theme that emerged from building industry stakeholder engagement involved concerns about reduced development requirements and the ministerial permitting process, as it relates to the separate sale of ADUs. Many participants noted that existing ADUs were originally designed and permitted as rental units, without consideration for potential future subdivision or condominium conversion. As a result, these units often lack the physical site features—such as private access driveways, off-street parking, or individual utility connections—needed to function as independent ownership units. Comments also emphasized that creating separate parcels for ADUs can be

complex and time-intensive due to requirements of the State Subdivision Map Act. Stakeholders reported that site plans involving multiple detached rental units can take 10 to 12 months to approve, while condominium conversion projects may extend to two or three years. While the County has limited discretion over subdivision mapping requirements, which are governed by State law, this feedback highlights the importance of clear and efficient local review procedures. Staff incorporated this input by ensuring that the Amendment provides clearer guidance on what qualifies for ministerial approval, while continuing to comply with State-mandated subdivision and mapping requirements.

#### *Environmental and Locational Considerations*

Community members also provided feedback regarding the location and environmental impacts of ADU development and conversion. Participants expressed concern that allowing the separate sale of ADUs could increase development pressures in rural areas, potentially contributing to dispersed growth patterns or added strain on road infrastructure, parking, utilities, fire safety and natural resources. Additional comments noted potential environmental impacts, such as increased impervious surfaces and stormwater runoff associated with ADU construction and site improvements. Some participants suggested linking eligibility for separate ADU sales to factors such as proximity to transit or access to public services, to better align the policy with sustainable development goals. While the County's ability to impose location-based restrictions on ADUs is limited under State law, these concerns are addressed through continued application of existing environmental review and infrastructure requirements. ADU projects, including condominium conversions, remain subject to applicable local building, environmental, and infrastructure standards to ensure that new development is safe and compatible with its surroundings.

#### *Housing Supply and Affordability*

Another central theme of public feedback focused on housing affordability and the potential effects of allowing ADUs to be sold separately. Some community members expressed concern that separate sales could reduce the availability of affordable rental housing. There was also concern that potential increased investor activity in single-family neighborhoods may lead to higher-than-intended residential densities. Others viewed the policy as a positive step toward expanding homeownership opportunities, supporting multigenerational living arrangements, and providing flexibility for homeowners to age in place or access home equity. To better understand the potential impacts, staff partnered with Ascent, through SANDAG's Housing Acceleration Program, to analyze trends in jurisdictions that have already implemented similar policies. Since the separate sale of ADUs is new in California, local examples are not yet available. However, findings from Seattle, Washington, and Austin, Texas show that allowing ADU condominiums has not increased rents relative to traditional housing but has created new pathways to ownership in higher-income neighborhoods where ADUs are most common. In Austin, approximately 40 percent of ADU condominiums continue to operate as rentals, maintaining comparable rent levels to non-condominium ADUs. These findings suggest that permitting separate ADU sales can increase housing options and affordability without substantially diminishing the rental housing supply. The full memorandum prepared by the technical assistance team is provided in Attachment D.

#### *Fire Safety and Infrastructure Considerations*

Fire safety and infrastructure requirements were also recurring topics of discussion throughout the engagement process. Participants expressed concern about the feasibility of condominium conversions in areas designated as high or very high fire severity zones. While State law does not prohibit ADUs in these areas, the conversion of an existing ADU and primary dwelling into separate condominium units introduces additional fire access and safety standards. Specifically, condominium conversion projects must comply with local fire authority requirements regarding maximum dead-end road length, secondary access, and minimum setback distances from wildland urban interface (WUI) boundaries. If a property's access road exceeds allowable limits or lacks sufficient secondary access, the local fire district may not approve a condominium map for the site. These requirements apply only when

an ADU is proposed for separate sale and do not affect ministerial ADU development or rental use. Stakeholders also raised questions about infrastructure capacity, including water and sewer service, energy metering, and solar compliance. These elements remain governed by existing County regulations and State codes. While these standards may limit eligibility for condominium conversion in certain locations, they are critical for ensuring public safety and consistency with adopted building and fire codes.

#### *Program Design and Implementation*

Input on the design of a local program for the separate sale of ADUs reflected a wide range of perspectives. Many participants expressed opposition to including a Right of First Refusal requirement, noting that it could complicate transactions, reduce marketability, and place additional burdens on property owners. Others supported limiting eligibility to detached ADUs, emphasizing that detached units create clearer physical and ownership distinctions between the main residence and the secondary unit. Detached units were also seen as simpler to regulate, with fewer issues related to shared walls, utilities, or access points. Additional support was expressed for a requirement to limit eligibility to ADUs that have been newly constructed as part of the development of a major subdivision while seeking a tentative map. These recommendations were considered in the creation of options for local eligibility criteria for the separate sale of ADUs, and subsequent feedback was considered in the further development and refinement of options included in section F.

Overall, the community engagement process provided valuable input that helped shape the Amendment. Stakeholder feedback highlighted both the opportunities and challenges associated with allowing the separate sale of ADUs, particularly in balancing homeownership goals with rental housing preservation and infrastructure capacity. While some concerns—such as subdivision processing, fire safety standards, and environmental review—are governed by State law and outside the County’s discretion, the Amendment incorporates local refinements to improve clarity, predictability, and efficiency. Analysis of other jurisdictions suggests that allowing ADU condominiums can expand affordable ownership options and support reinvestment in existing housing stock without negatively affecting rental availability. The County’s approach reflects a balance between compliance with State housing requirements and responsiveness to community priorities, ensuring that local regulations promote safe, equitable, and sustainable ADU development across unincorporated areas.

### **E. COMMUNITY PLANNING GROUPS**

During public outreach staff presented information on the ADU Ordinance Amendment Including Separate Sale of ADUs (Amendment) at the County’s Community Planning Group (CPG) Chairs meeting. In addition, nine CPGs requested individual presentations at their public meetings. Across these discussions, members shared a range of perspectives. Some expressed concerns about potential impacts to local infrastructure, and the availability of rental housing. Others highlighted potential benefits, such as creating new homeownership opportunities, supporting multigenerational living, and providing a pathway for homeowners to access equity. While each CPG raised unique questions and considerations, only the Valley Center CPG and Fallbrook CPG voted on the Amendment. On August 11, 2025, Valley Center CPG voted (12-1-0) to recommend that the community opt out of the Accessory Dwelling Units Ordinance Amendment. On September 15, 2025, Fallbrook CPG voted (11-0-4) to submit a letter to Planning & Development Services (PDS) with a recommendation to opt-out of the proposed ADU Zoning Ordinance Update that would allow the sale of ADUs and JADUs as condominiums.

### **F. ANALYSIS AND DISCUSSION**

#### **1) Amendment to Align with State Law**

The County implements new State housing laws as they are adopted. To support implementation of new law, the County develops and distributes fact sheets, guidance materials, and permit resources to help applicants navigate new regulations. The most recent Accessory Dwelling Unit (ADU)-related zoning ordinance updates occurred in 2023 and incorporated changes from State legislation adopted through 2022. The ADU Ordinance Amendment

Including Separate Sale of ADUs (Amendment) incorporates legislation adopted in 2023 and 2024 and will reformat and reorganize the ADU section of the Zoning Ordinance to improve clarity and make the ordinance more user-friendly.

### *Legislative Updates*

The following legislative updates have been incorporated into the Amendment and are actively being implemented as part of the County's ADU program. While these changes are unrelated to the sale of ADUs, the amendment codifies them into the County's Zoning Ordinance, as required by State law.

SB 2533 (2024) – Amnesty for Unpermitted ADUs: Extends ADU permitting amnesty to include unpermitted JADUs. The bill allows for unpermitted ADUs and JADUs to obtain necessary building permits to achieve compliance while maintaining health and safety standards. In addition, it expands amnesty to ADUs and JADUs built before 2020. Applicants with unpermitted ADUs built before January 1, 2020, may be eligible to receive a permit, provided they meet certain health, safety, and building standards. To help property owners navigate the applications process, the County has developed informational materials and checklists to help applicants obtain building permits for previously unpermitted ADU construction or conversions. This legislative update has been incorporated into the Amendment.

SB 1211 (2024) – Increased ADUs for Multifamily Lots: Increases the allowable ADUs on a lot with an existing multifamily dwelling from no more than two detached ADUs to no more than eight detached ADUs. Previously, State law allowed no more than two detached ADUs per property, in addition to interior ADUs created within the existing structure (e.g., basements or garages). SB 1211 increases this limit to up to eight detached ADUs on lots with existing multifamily dwellings, provided the number of ADUs does not exceed the number of existing units on the lot. For proposed new construction multifamily projects, the cap remains at two detached ADUs. The bill also prohibits local governments from requiring replacement of surface parking spaces when existing parking is repurposed for ADU construction. This legislation applies only in multifamily lots. The draft ordinance has been amended to allow up to eight ADUs on multifamily parcels.

The following legislative updates do not require any additional changes to the County's ADU Ordinance, which follows the described guidance.

AB 976 (2023) – Owner Occupancy Not Required: Effective January 1, 2024, permanently eliminates the authority of local jurisdictions to impose owner-occupancy requirements on properties with ADUs. Previously, jurisdictions could require that either the ADU or the primary residence be owner-occupied if the ADU was approved after January 1, 2020. AB 976 permanently exempts ADUs from such requirements, regardless of when they are constructed or converted. However, owner-occupancy is still required for a JADU. The legislation does not prompt any changes to the County's ADU program as the County does not require owner occupancy for ADUs.

AB 1332 (2023) – Preapproved ADU Plans: Requires local agencies to develop a program to preapprove accessory dwelling unit plans by January 1, 2025. The local agency must accept ADU plan submissions for preapproval without restricting who may submit plans for preapproval. The bill allows design firms, developers, or other applicants to submit ADU plans for pre-approval, provided the plans meet applicable building standards and codes. Local agencies may charge fees for this process, but fees must be consistent with standard permitting costs. Both detached and attached ADU plans must be accepted, and agencies must review pre-approval requests using the same standards as site-specific applications. Once approved, plans must be made publicly accessible on the agency's website along with the designer's contact information. The County has already offered pre-approved plans for ADUs which are available to the public at no charge since 2019. The legislation does not prompt any changes to the County's ADU program.

SB 1077 (2024) – Coastal Commission Guidance: Requires the Coastal Commission to coordinate with the Department of Housing and Community Development (HCD) to develop and provide guidance that clarifies and simplifies the permitting process for ADUs and JADUs within the coastal zone. Before it's finalized, the State must

hold at least one public workshop and release a draft for public comment. At this time, the bill does not require any changes to local regulations, as implementation will depend on the State's forthcoming public engagement.

**AB 3057 (2024) – CEQA Exemption:** This bill expands a California Environmental Quality Act (CEQA) exemption for City or County adoption of an ordinance facilitating ADUs to also include adoption of an ordinance facilitating Junior Accessory Dwelling Units (JADUs). Current law exempts ADU ordinances that are bringing local ADU rules into compliance with State law from CEQA review, allowing cities to implement State ADU law faster and easier. However, a gap in current law denies JADU ordinances the same exemption. AB 3057 extends existing law to grant JADU ordinances the same exemption to environmental review that is already granted to standard ADUs. The legislation does not prompt any changes to the County's ADU program.

## 2) Proposed Local Program for the Separate Sale of ADUs – AB 1033 (2023) – Opt-In Legislation

Assembly Bill 1033 provides the framework for cities and counties to develop local programs that allow for the separate sale of ADUs. Adoption of this legislation would create a clear legal pathway for such sales, and would support the County's priority to expand homeownership opportunities. Based on the direction from the Board of Supervisors, staff has moved forward with the development of a local program for the separate sale of ADUs that captures community input in shaping local eligibility criteria. Public input has revealed themes related to technical feasibility, implementation, environmental impacts, infrastructure capacity, and community densities. These ideas and concerns have been incorporated into the Amendment's local criteria options for the separate sale of ADUs.

### *Options for Local Eligibility Criteria*

Based on the feedback received during outreach, staff have prepared options for local eligibility criteria that work to balance community priorities with State requirements, while aligning with the County's broader goal of expanding housing opportunities. These options would serve to distinguish the County's local program from the baseline framework provided by AB 1033. The Board may choose to include any or all of these options in a local program for the separate sale of ADUs. The Board may also choose not to include any options for local eligibility criteria and adopt the remaining baseline criteria for the separate sale of ADUs as described in the Amendment. Options for local eligibility criteria beyond the baseline established by AB 1033 are outlined below.

OPTIONS	SUMMARY
<b><u>1.a. Right of First Refusal</u></b>	<u>Each condo owner must give either their current tenant or another condo owner living on the same lot the first chance to buy the unit if it's put up for sale.</u>
<b><u>2.a. Only Detached ADUs Qualify</u></b>	<u>Limits separate sale eligibility to detached ADUs, emphasizing that detached units create clearer physical and ownership distinctions between the main residence and the secondary unit.</u>
<b><u>2.b. Only Newly Developed ADUs Qualify</u></b>	<u>Limits separate sale eligibility to ADUs that have been newly constructed as condominiums while seeking a tentative map.</u>

### Option 1.a.: Lots with ADU condominiums must establish Right of First Refusal contracts:

Under this option, each condominium owner must give either the current tenant or another condominium owner living on the same lot the first opportunity to purchase the unit if it's put up for sale. Therefore, this option would require the owner of either an ADU condominium or primary residence condominium to establish a Right of First Refusal (ROFR) contract with an occupant of their choice on the same lot. This ROFR only applies while the ROFR holder is living there, and it must be offered again to a new tenant or owner if the original ROFR holder moves out. Before a condominium owner accepts a purchase offer, written notice of the offer must be provided to the ROFR

holder, who shall have 60 days in which to execute a sales agreement which matches the original offer. The intent of this option is to encourage and prioritize owner-occupant buyers over investors.

The intent of this option is to promote owner-occupied units. This option includes the potential to provide existing tenants with an opportunity for homeownership. This option also provides potential for owners to expand multi-generational living situations.

While this option was created based on feedback from fair housing advocates, there was also opposition from stakeholders noting that requiring a ROFR could complicate transactions, reduce marketability, and place additional burdens on property owners. The feasibility of including this option may be hindered by the ability to enforce compliance. This would require ongoing monitoring of each ADU condominium sale to ensure compliance and introduce additional procedural steps for participating property owners. Due to the complexity of administration and the additional steps required for both staff and property owners, staff does not recommend including this option as a local program criterion.

## Option 2.a: The ADU must be detached from the primary unit:

Under this option, only detached ADUs would qualify for separate sale. Any ADU physically attached to the primary residence would not be eligible and would instead need to be sold or conveyed together with the main home as a single condominium unit. An important distinction was noted for ADUs connected to accessory structures, such as a detached garage. In those cases, the ADU and all or part of the accessory structure could be combined and sold together as one condominium unit. In summary, detached ADUs may qualify for separate sale, while attached ADUs must remain tied to the primary residence unless they are connected to a detached accessory structure, in which case they may be sold together as a unit.

The intent of this option is to simplify the process of converting an ADU to separate ownership by focusing eligibility on detached units. Detached ADUs create clearer physical and ownership distinctions between the primary residence and the secondary unit, which can make the condominium mapping and sale process more straightforward.

Staff recommends pursuing this option. Limiting eligibility to detached ADUs also generally restricts separate sale to one ADU per single family dwelling, as State Law allows one detached ADU per single family dwelling. Under State Law, multifamily properties may have 2 to 8 detached ADUs, therefore separate sale would be restricted to these detached units, under this option. This helps address community concerns that allowing the sale of ADUs could lead to an increase in ADU construction beyond typical development patterns. By narrowing the program to ADUs that are already physically independent structures, this approach limits the number of units that qualify while still supporting the County's broader goal of expanding homeownership opportunities. Overall, this option provides a clearer separation between units for property owners and future buyers, while balancing program accessibility with thoughtful growth in ADU development.

## Option 2.b: The ADU must be new development:

This option applies to newly constructed development projects that undergo formal subdivision review, such as parcel or tentative parcel maps. It is most appropriate for larger-scale developments where multiple units, including ADUs, can be planned, designed, and sold together as part of an integrated condominium project. This option does not apply to new ADUs constructed on parcels with an existing single-family home, making it limited for individual homeowners seeking to convert or sell an existing ADU.

Stakeholder feedback indicates that new development projects are generally better equipped to address community priorities related to parking, access, and infrastructure. These projects allow for comprehensive site design solutions—such as shared driveways, designated parking areas, and private entries—that are often

challenging to retrofit into established neighborhoods. Overall, this option establishes a clear framework for facilitating ADU condominium sales within new developments, supporting thoughtful growth within existing single-family communities. There was community support for new development projects that bring new infrastructure into the community with the project. However, this option may be too limited in scope, as it would not extend to previously constructed ADUs. Since 2020 alone, approximately 1,756 ADUs have been permitted in the County, and these units would not be eligible for separate sale under this option. Given this option would apply only to new development and exclude previously built ADUs, staff does not recommend this option as a local eligibility criterion. Furthermore, this option reduces a local program's effectiveness in expanding homeownership opportunities in the unincorporated areas.

**A. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The project is exempt from CEQA under Public Resources Code section 21080.17. Changes related to the separate sale of ADUs do not require analysis under CEQA as these provisions do not constitute a project under Public Resources Code section 21151 because they pertain only to the sale and not the construction of ADUs and therefore will not cause a direct or reasonably foreseeable indirect effect on the physical environment. See *Pacific Palisades Prop. Owners Ass'n v. City of Los Angeles*, 42 CA3d 781, 791 (1974).

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**Report Prepared By:**

Enrique Flores, Project Manager  
619-380-3736

[Enrique.Flores@sdcounty.ca.gov](mailto:Enrique.Flores@sdcounty.ca.gov)

**Report Approved By:**

Vince Nicoletti, Director  
858-694-2960

[Vince.Nicoletti@sdcounty.ca.gov](mailto:Vince.Nicoletti@sdcounty.ca.gov)

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**Authorized Representative:**

*Vince Nicoletti*

VINCE NICOLETTI, DIRECTOR

ATTACHMENTS:

Attachment A: Amendment [CLEAN]

Attachment B: Amendment [UNDERLINE]

Attachment C: Public Comment Letters

Attachment D: Ascent Memorandum

ATTACHMENT A –  
AMENDMENT [CLEAN]

**Draft Ordinance Amending the  
San Diego County Zoning Ordinance  
Part Six: General Regulations:  
Accessory Use Regulations  
Related to Accessory Dwelling Unit (ADU)  
and  
Junior Accessory Dwelling Unit (JADU)  
Section 6156.x  
(Clean Copy)**

(Clean Copy)

**ORDINANCE NO. 6156 x.**

**AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE PART SIX:  
GENERAL REGULATIONS: ACCESSORY USE REGULATIONS Related to Accessory  
Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Section 6156.x  
(Clean Copy)**

The Board of Supervisors of the County of San Diego ordains as follows:

**Section 1.** The Board of Supervisors finds and determines that the San Diego County Zoning Ordinance should be updated by amending or adding various sections regarding accessory use regulations related to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). The amendments made by this ordinance are intended to ensure compliance with recent changes to California housing laws. Amendments also include implementation of one opt-in legislation.

**Section 2.** Section 6156.x of the Zoning Ordinance is amended to read as follows:

x. Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU).

An ADU means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. Any structure designed for human habitation that is divided into two or more independent and attached living units on a single lot is considered a multifamily complex (such as duplex, triplex, stacked dwellings, etc.), for the purposes of this section. For the purpose of calculating allowable density under the General Plan, an ADU is not counted toward the density of a lot. ADUs are classified as accessory use.

A JADU means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. Additions and enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence, for purposes of this section. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit from the primary unit. No separate electric meter will be permitted for JADUs.

**A. ADU Permit Approval.** Approval of ADUs shall be subject to the following criteria:

1. For an ADU proposed in conjunction with a proposed or existing primary residence, the ADU is either attached to an existing primary residence or detached and on the same legal lot.

[\[The Board will vote on the adoption of AB 1033, resulting in one of the alternative outcomes below. The display of these alternatives is for information purposes only.\]](#)

**Alternative 1 (new language incorporating AB 1033, if adopted)**

2. ADU may be rented but is not intended for sale separate from the primary residence, unless the lot is subdivided in conformance with qualifications for the ministerial approval of a two-lot subdivision/parcel map creating a separate lot for each dwelling, or condominiums are created in conformance with requirements outlined under Section 6156.x.D. of the County's Zoning Ordinance pertaining to the sale of ADUs, or the conditions pertaining to Nonprofits and tenancy in common agreements established under Section 66341 of the California Government Code are met.

**Alternative 2 (existing language, as-is, currently in the County ZO)**

2. ADU may be rented but is not intended for sale separate from the primary residence, unless the lot is subdivided in conformance with qualifications for the ministerial approval of a two-lot subdivision/parcel map creating a separate lot for each dwelling, or the conditions established under Section 66341 of the California Government Code are met.
3. The ADU shall not be rented for a period of less than 30 days.
4. The total floor area of an attached ADU shall not exceed 50% of the floor area of the primary residence, up to a maximum floor area of 1,200 square feet. The 50% square foot limitation is not applicable for attached ADUs up to 850 square feet or up to 1,000 square feet if it has more than one bedroom.
5. The total floor area of a detached ADU shall not exceed 1,200 square feet, independent of the square footage of the existing primary residence.
6. Applicants must provide mathematical computations of the "floor area" for both units on the plot plans, and these calculations must be taken from the exterior dimensions of the outside walls.
7. Total floor area of a proposed accessory structure attached to a detached ADU shall not exceed the allowable combined square footages per Section 6156.g of the Zoning Ordinance, or unless authorized by an approved Administrative Permit.
8. Any proposed accessory structure, attached to an ADU, exceeding 1,000 sq. ft. (combined with all other accessory structure per Section 6156.g) and/or more than 12' in height, are subject to the main building setbacks and height regulations of the Zoning Ordinance.
9. An attached or detached patio, deck, and/or balcony is subject to Section 4835 of the Zoning Ordinance.
10. A detached ADU is limited to 25' in height.
11. An existing and permitted accessory structure may be converted into an ADU. Such a conversion is not subject to any size requirements if it does not expand beyond the existing envelope of the permitted accessory structure.

12. An ADU may be attached to an existing and permitted, or proposed recreation room, if there is a defined fire and sound separation wall or floor between the ADU and recreation room. Any openings (doors, windows, or penetrations) are required to be fire rated.
13. No setbacks are required if an existing and permitted accessory structure, or a portion thereof is being converted into an ADU, except for fire safety, private wells, and installed septic systems.
14. A minimum setback of at least 4' from the side and rear lot lines is required for an ADU that is being constructed above a permitted detached accessory structure. If corner lot, the exterior side yard setback must be at least 4' from the edge of easement/street/and/or property line. The setbacks only apply to the added space above the accessory structure and the ADU can be constructed wholly or partly above the accessory structure, including extending beyond the accessory structure walls.
15. All newly constructed detached and/or attached ADU's must comply with the required front yard setbacks and a minimum side and rear setback of at least 4'.
16. If corner lot, the exterior side yard setback must be at least 4' from the edge of easement, street, and property line.
17. A detached and/or attached ADU may encroach into the required front yard setbacks if it would otherwise prevent the construction of an ADU that is 800 sq. ft. or smaller.
18. If the ADU is in the front yard setbacks, it cannot block the driveway, or access of the two required off-street parking spaces for the existing primary residence, unless two replacement off-street parking spaces have been provided.
19. An accessory structure, or patio attached to an ADU must comply with the required exterior side yard setbacks.
20. An ADU shall provide one parking space. The parking space may be located within the setbacks and in an existing driveway as tandem parking. Parking spaces don't need to be replaced when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted into an ADU.
21. A parking space is not required for the ADU in any of the following instances:
  - a. The ADU is located within one-half mile of public transit.
  - b. The ADU is located within an architecturally and historically significant historic district.
  - c. ADUs that are part of the proposed or existing primary residence or an accessory structure.
  - d. When on-street parking permits are required but not offered to the occupant of the ADU.
  - e. When there is a car share vehicle located within one block of the ADU.
  - f. When a permit application for an ADU is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the ADU or the parcel satisfies any other criteria listed in this subdivision

22. Multiple detached single-family residences on the same lot are not considered a multifamily complex but the lot may qualify for one detached ADU, one ADU within the proposed space of a single-family dwelling or existing space of a single -family dwelling or accessory structure, and one JADU.
23. Properties that have an existing non-conforming primary residence and are in a zone that does not allow for a primary residence may qualify for one detached ADU, one ADU within the proposed space of a single-family dwelling or existing space of a single -family dwelling or accessory structure, and one JADU.
24. A permit for an unpermitted ADU or unpermitted JADU constructed before January 1, 2020, shall not be denied due to violation of building standards or noncompliance with this section, unless correction of the violation is necessary to comply with Onsite Wastewater Treatment System (OWTS) standards specified in Section 68.301 et seq of the San Diego County Code of Regulatory Ordinances and/or Health and Safety Code standards specified in Health and Safety Code section 17920.3, or the building has been deemed substandard.
25. A homeowner applying for a permit for a previously unpermitted ADU or JADU constructed before January 1, 2020, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with all applicable Health and Safety Code requirements. Necessary permits to correct noncompliance with health and safety standards shall be approved without penalty by the Planning and Development Services Department.

**B. Ministerial ADU and JADU Permit Approval.** Ministerial approval of qualifying ADUs and JADUs, within a residential or mixed-use zone, shall be subject to the following criteria, in accordance with California Law Government Code Section 66323 as detailed in this subsection:

1. Any of the following categories may be created, as allowed by the site and lot conditions, and may be combined. As such, a single-family lot may have at least one ADU constructed from existing space, one JADU, and one newly constructed detached ADU; or a multifamily lot may have at least one ADU constructed from existing non-livable space and up to 8 detached:
  - a. Single-Family Converted ADUs and JADUs: One ADU and/or one JADU per lot with a proposed or existing single-family dwelling if all of the following apply:
    - i. The ADU and/or JADU is within the proposed space of a single-family dwelling or existing space of a single -family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing dwelling or accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
    - ii. The space has exterior access from the proposed or existing single-family dwelling.
    - iii. The side and rear setbacks are sufficient for fire and safety.
    - iv. The JADU complies with the requirements set forth in this section.

- b. Single-Family Detached ADUs: One detached, new construction, ADU, (which may be combined with a JADU), that does not encroach into the four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling with the following conditions:
    - i. The total floor area of a detached ADU approved under this subsection shall not exceed 800 square feet.
    - ii. The height of detached ADU approved under this subsection shall not exceed 18 feet.
  - c. Multifamily Converted ADUs: At least one ADU and not more than 25 percent of the existing number of multifamily dwelling units within an existing multifamily dwelling with the following conditions:
    - i. The ADU(s) are within the portions of an existing multifamily dwelling structure that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
  - d. Multifamily Detached ADUs with Existing Multifamily Dwelling: At least one and not more than eight detached ADU(s) on a lot with an existing multifamily dwelling if the total number of detached ADUs do not to exceed the total number of existing units with the following conditions:
    - i. The height of detached ADU(s) approved under this subsection shall not exceed 18 feet.
    - ii. Construction of the ADU(s) does not result in side or rear yard setbacks of less than 4 feet.
    - iii. If the existing multifamily dwelling has a rear or side setback of less than four feet, any modification of the existing multifamily dwelling will not be a required condition of approving the application to construct a qualifying ADU.
  - e. Multifamily Detached ADUs with Proposed Multifamily Dwelling: At least one and not more than two detached ADU(s) on a lot with a proposed multifamily dwelling with the following conditions:
    - i. The height of detached ADU(s) approved under this subsection shall not exceed 25 feet.
    - ii. Construction of the ADU(s) does not result in side or rear yard setbacks of less than 4 feet.
- 2. Ministerial approval of any ADU will be subject to the following conditions:
  - a. No additional development standards such as maximum square footage, height, lot coverage, and setbacks are required if an existing and permitted detached or attached accessory structure is being converted into an ADU. Any new addition to the ADU must comply with the setbacks and height regulations outlined by this ordinance.

- b. The installation of fire sprinklers shall not be required in an ADU if sprinklers are not required for the primary residence. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.
  - c. Any ADU approved in accordance with this subsection shall not be rented for any term of less than 31 days.
  - d. ADUs on any parcel that utilizes an onsite wastewater treatment system (OWTS) and/or water well must comply with requirements established by the County of San Diego Department of Environmental Health and Quality (DEHQ). An ADU that needs to connect to an OWTS will not be approved under this subsection unless approval has been granted by the DEHQ indicating that the OWTS for both the existing residence and proposed ADU meet all current local and State requirements for an OWTS. If the existing OWTS is not adequate for the project, then the OWTS may be upgraded and/or the number of bedrooms may be reduced to meet the wastewater demands of the property.
  - e. The correction of existing nonconforming zoning conditions is not a condition for ministerial approval of a permit application for the creation of an ADU or JADU.
3. Ministerial approval of any JADU will be subject to the following conditions:
- a. A deed restriction shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a JADU unit identified in this Section.
    - i. The JADU shall not be sold separately from the primary residence;
    - ii. The JADU is restricted to the maximum size allowed per the development standards;
    - iii. The JADU shall be considered legal only so long as either the primary residence, or the ADU, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or housing organization in an effort to create affordable housing;
    - iv. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a JADU on the property.
  - b. The JADU must be completely contained within an existing or proposed primary residence and its enclosed spaces which may include an attached garage.
  - c. An entrance to the JADU that is separate from the main entrance to the primary residence is required.
  - d. The JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.
  - e. In instances where the JADU shares a bathroom with the primary residence, interior entry to the primary residence is required.
  - f. The JADU shall include an efficiency kitchen, which shall include all the following:

- i. A cooking facility with appliances.
  - ii. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit
- g. If a JADU is to be attached to an ADU, ministerial review is unavailable.
- h. When an existing garage, carport, or covered parking space is being demolished in conjunction with the construction of a JADU or converted into a JADU, any required off-street parking spaces for the lot must be replaced.
- i. No additional parking space is required for a JADU.
- j. JADUs, and/or additions for JADUs must comply with main building setbacks, including JADU additions for non-conforming primary residences. Please see Section 6886 of the Zoning Ordinance for setback information on non-conforming single-family dwellings.
- k. The JADU may be rented for a period of not less than 30 days, and is not intended for sale separate from the primary residence. Compliance with the owner-occupancy requirements of the deed restriction is required.

**C. Sale of ADUs for or by a Nonprofit.** Sale or conveyance of ADUs separate from the primary residence to a qualified buyer of low or moderate income, in accordance with California Law Government Code Sections 66340 and 66341, shall be allowed if all of the following apply:

1. The accessory dwelling unit or the primary dwelling was built or developed by a qualified nonprofit corporation.
2. There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.
3. The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
  - a. The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling that each qualified buyer occupies.
  - b. A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the ADU or primary dwelling if the buyer desires to sell or convey the property.
  - c. A requirement that the qualified buyer occupy the ADU or primary dwelling as the buyer's principal residence.
  - d. Affordability restrictions on the sale and conveyance of the ADU or primary dwelling that ensure the ADU and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
  - e. The tenancy in common agreement shall also include all of the following:
    - i. Delineation of all areas of the property that are for the exclusive use of a cotenant. Each cotenant shall agree not to claim a right of occupancy to an

area delineated for the exclusive use of another cotenant, provided that the latter cotenant's obligations to each of the other cotenants have been satisfied.

- ii. Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property. This delineation shall only be binding on the parties to the agreement and their successors, and shall not supersede or obviate the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.
  - iii. Procedures for dispute resolution among the parties before resorting to legal action.
4. A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the County. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.
  5. If requested by a utility providing service to the primary residence, the ADU has a separate water, sewer, or electrical connection to that utility.

[\[The Board will vote on the adoption of AB 1033, resulting in the addition or removal of the section below.\]](#)

**D. ADUs Sold as Condominiums.** Separate sale or conveyance of ADU(s) and the primary residence as condominiums shall be allowed if all of the following apply:

1. The condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 [commencing with Section 4000] of Division 4 of the Civil Code).
2. The condominiums shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 [commencing with Section 66410]) and all objective requirements the County zoning ordinance Section 6156.x.

[\[The Board will have an option to direct one, both or none of the options below. Alternatively, the Board may choose not to include the local criteria option below, and adopt AB 1033 as defined by State Code, without the addition of any local criteria.\]](#)

### **3. Option 2.a.**

The ADU is detached from the primary structure. Separate sale of ADUs as condominiums will not apply to ADUs that are attached to the primary structure. If the ADU is attached to an accessory structure (such as a detached garage or garages), the ADU and all or a portion of the attached accessory structure may be sold or conveyed together as one condominium unit. If an ADU is attached to the primary dwelling structure, the ADU and the primary dwelling must be sold or conveyed together as one condominium unit.

### 3. Option 2.b.

The condominium units and common areas were mapped prior to the construction commencement of the ADU/s that are to be sold separately. Separate sale of ADU/s as condominiums will apply to new development only, and not to ADU/s existing prior to condominium mapping.

4. Before recordation of the subdivision map or condominium plan, the property owner or applicant shall submit to Planning and Development Services proof that final inspection of the ADU was conducted as evidenced either through a certificate of occupancy from the County or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.
5. **Lienholder Consent.** (1) Neither a subdivision map nor a condominium plan shall be recorded with the County Recorder without each lienholder's consent. The following shall apply to the consent of a lienholder:
  - a. A lienholder may refuse to give consent.
  - b. A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.

(2) Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the County Recorder along with a signed statement from each lienholder that states as follows:

“(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have.”

(3) The lienholder's consent shall be included on the condominium plan or a separate form attached to the condominium plan that includes the following information:

  - i. The lienholder's signature.
  - ii. The name of the record owner or ground lessee.
  - iii. The legal description of the real property.
  - iv. The identities of all parties with an interest in the real property as reflected in the real property records.
  - v. The lienholder's consent shall be recorded in the office of the County Recorder.
6. The County shall include the following notice to consumers on any ADU or JADU submittal checklist or public information issued describing requirements and permitting for ADUs, including as standard condition of any ADU building permit or condominium plan approval:

“NOTICE: If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form

of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any.

In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

- i. Paying off your current lender.

You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.

- ii. Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.
- iii. Securing your lender's consent to the details of any construction loan or ground lease.

This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the consent above is true and correct."

7. **Notification to Utility Providers.** Applicants seeking to file a parcel map for the creation of a condominium must notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.
8. **Septic System and Water Well Requirements for Parcel Map Applications.** Prior to approval by Planning and Development Services for the creation of a condominium, for any parcel that utilizes a water well and/or an onsite wastewater treatment system (OWTS)—including those proposing to allow for the separate sale of an ADU—applicants must obtain approval from the County of San Diego Department of Environmental Health and Quality (DEHQ) and meet the standards set forth by Health and Safety Code, County Code of Regulatory Ordinances, and the San Diego Regional Water Quality Control Board.
9. **Fire Safety Requirements.** (1) If an ADU is established as a condominium, the applicant must initiate the Tentative Parcel Map (TPM) process, at which time the associated local fire district agency may require a secondary access if the ADU is located on a road that exceeds the maximum dead-end fire apparatus road length at the agency's discretion.

(2) Setbacks in High Fire Risk Areas may be expanded to between 30 and 100 feet from any wildland urban interface (WUI) boundary, at the discretion of the local fire district agency.

(3) Any easements that are in place must be designated as shared space identified on the condo map and not assigned to any single unit. Access to any condo through any easement must remain unobstructed and maintained by the HOA.

**10. Written Authorization for ADUs in Planned Developments.** (1) The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.

(2) For purposes of this subdivision, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.

[\[The Board may choose to direct the local criteria option below. Alternatively, the Board may choose not to include the local criteria option below, and adopt AB 1033 as defined by State Code, without the addition of any local criteria.\]](#)

**Option 1.a.**

11. Each condominium owner must establish a Right of First Refusal (ROFR) contract with an active rent paying tenant or a condominium owner occupant on the same lot, to be effective only while the affiliated occupancy on the lot is active, and to be reestablished with another occupant if the original ROFR holder is no longer applicable. Before a condominium owner accepts a purchase offer, written notice of the offer must be provided to the ROFR holder, who shall have 60 days in which to execute a sales agreement which matches the original offer.

**Draft Ordinance Amending the  
San Diego County Zoning Ordinance  
Related to Accessory Dwelling Unit (ADU)  
and  
Junior Accessory Dwelling Unit (JADU)  
Part Eight: Village Regulations:  
Section 8900 Alpine Village Core Regulations  
Table AL-1.0 Permitted Use Types  
(Clean Copy)**

**County Zoning Ordinance Section 8900 Alpine Village Core Regulations****TABLE AL-1.0 PERMITTED USE TYPES**

<b>RESIDENTIAL</b>	<b>AL-V1</b>	<b>AL-V2</b>	<b>AL-CD</b>
<b>Second Dwelling Unit</b>	R	R	R
<b>Family Residential</b>	R	R	R
<b>Farm Labor Camps</b>			
<b>Group Residential Mobile</b>	R	R	R
<b>Home Residential</b>	M		
<b>Low Barrier Navigation Centers</b>	R	R	R

ATTACHMENT B –  
AMENDMENT [UNDERLINE]

**Draft Ordinance Amending the  
San Diego County Zoning Ordinance  
Part Six: General Regulations:  
Accessory Use Regulations  
Related to Accessory Dwelling Unit (ADU)  
and  
Junior Accessory Dwelling Unit (JADU)  
Section 6156.x  
(Underline Copy)**

(Underline indicates addition)

**ORDINANCE NO. 6156 x.**

**AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE PART SIX:  
GENERAL REGULATIONS: ACCESSORY USE REGULATIONS Related to Accessory  
Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Section 6156.x  
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The Board of Supervisors of the County of San Diego ordains as follows:

**Section 1.** The Board of Supervisors finds and determines that the San Diego County Zoning Ordinance should be updated by amending or adding various sections regarding accessory use regulations related to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). The amendments made by this ordinance are intended to ensure compliance with recent changes to California housing laws. Amendments also include implementation of one opt-in legislation.

**Section 2.** Section 6156.x of the Zoning Ordinance is amended to read as follows:

x. Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU).

An ADU means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. Any structure designed for human habitation that is divided into two or more independent and attached living units on a single lot is considered a multifamily complex (such as duplex, triplex, stacked dwellings, etc.), for the purposes of this section. For the purpose of calculating allowable density under the General Plan, an ADU is not counted toward the density of a lot. ADUs are classified as accessory use.

A JADU means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. Additions and enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence, for purposes of this section. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit from the primary unit. No separate electric meter will be permitted for JADUs.

**A. ADU Permit Approval.** Approval of ADUs shall be subject to the following criteria:

1. For an ADU proposed in conjunction with a proposed or existing primary residence, the ADU is either attached to an existing primary residence or detached and on the same legal lot.

[\[The Board will vote on the adoption of AB 1033, resulting in one of the alternative outcomes below. The display of these alternatives is for information purposes only.\]](#)

**Alternative 1 (new language incorporating AB 1033, if adopted)**

2. ADU may be rented but is not intended for sale separate from the primary residence, unless the lot is subdivided [in conformance with qualifications for the ministerial approval of a two-lot subdivision/parcel map](#) creating a separate lot for each dwelling, [or condominiums are created in conformance with requirements outlined under Section 6156.x.D. of the County's Zoning Ordinance pertaining to the sale of ADUs, or the conditions pertaining to Nonprofits and tenancy in common agreements](#) established under Section 66341 of the California Government Code are met.

**Alternative 2 (existing language, as-is, currently in the County ZO)**

2. ADU may be rented but is not intended for sale separate from the primary residence, unless the lot is subdivided [in conformance with qualifications for the ministerial approval of a two-lot subdivision/parcel map](#) creating a separate lot for each dwelling, or the conditions established under Section 66341 of the California Government Code are met.
3. [The ADU shall not be rented for a period of less than 30 days.](#)
4. The total floor area of an attached ADU shall not exceed 50% of the floor area of the [primary residence](#), up to a maximum floor area of 1,200 square feet. The 50% square foot limitation is not applicable for attached ADUs up to 850 square feet or up to 1,000 square feet if it has more than one bedroom.
5. The total floor area of a detached ADU shall not exceed 1,200 square feet, independent of the square footage of the existing [primary residence](#).
6. Applicants must provide mathematical computations of the "floor area" for both units on the plot plans, and these calculations must be taken from the exterior dimensions of the outside walls.
7. Total floor area of a proposed accessory structure attached to a detached ADU shall not exceed the allowable combined square footages per Section 6156.g of the Zoning Ordinance, or unless authorized by an approved Administrative Permit.
8. Any proposed accessory structure, attached to an ADU, exceeding 1,000 sq. ft. (combined with all other accessory structure per Section 6156.g) and/or more than 12' in height, are subject to the main building setbacks and height regulations of the Zoning Ordinance.
9. An attached or detached patio, deck, and/or balcony is subject to Section 4835 of the Zoning Ordinance.
10. A detached ADU is limited to 25' in height.
11. An existing and permitted accessory structure [may be converted into an ADU. Such a conversion is not subject to any size requirements if it does not expand beyond the existing envelope of the permitted accessory structure.](#)

12. An ADU may be attached to an existing and permitted, or proposed recreation room, if there is a defined fire and sound separation wall or floor between the ADU and recreation room. Any openings (doors, windows, or penetrations) are required to be fire rated.
13. No setbacks are required if an existing and permitted accessory structure, or a portion thereof is being converted into an ADU, except for fire safety, private wells, and installed septic systems.
14. A minimum setback of at least 4' from the side and rear lot lines is required for an ADU that is being constructed above a permitted detached accessory structure. If corner lot, the exterior side yard setback must be at least 4' from the edge of easement/street/and/or property line. The setbacks only apply to the added space above the accessory structure and the ADU can be constructed wholly or partly above the accessory structure, including extending beyond the accessory structure walls.
15. All newly constructed detached and/or attached ADU's must comply with the required front yard setbacks and a minimum side and rear setback of at least 4'.
16. If corner lot, the exterior side yard setback must be at least 4' from the edge of easement, street, and property line.
17. A detached and/or attached ADU may encroach into the required front yard setbacks if it would otherwise prevent the construction of an ADU that is 800 sq. ft. or smaller.
18. If the ADU is in the front yard setbacks, it cannot block the driveway, or access of the two required off-street parking spaces for the existing primary residence, unless two replacement off-street parking spaces have been provided.
19. An accessory structure, or patio attached to an ADU must comply with the required exterior side yard setbacks.
20. An ADU shall provide one parking space. The parking space may be located within the setbacks and in an existing driveway as tandem parking. Parking spaces don't need to be replaced when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted into an ADU.
21. A parking space is not required for the ADU in any of the following instances:
  - a. The ADU is located within one-half mile of public transit.
  - b. The ADU is located within an architecturally and historically significant historic district.
  - c. ADUs that are part of the proposed or existing primary residence or an accessory structure.
  - d. When on-street parking permits are required but not offered to the occupant of the ADU.
  - e. When there is a car share vehicle located within one block of the ADU.
  - f. When a permit application for an ADU is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the ADU or the parcel satisfies any other criteria listed in this subdivision

22. Multiple detached single-family residences on the same lot are not considered a multifamily complex but the lot may qualify for one detached ADU, one ADU within the proposed space of a single-family dwelling or existing space of a single -family dwelling or accessory structure, and one JADU.
23. Properties that have an existing non-conforming primary residence and are in a zone that does not allow for a primary residence may qualify for one detached ADU, one ADU within the proposed space of a single-family dwelling or existing space of a single -family dwelling or accessory structure, and one JADU.
24. A permit for an unpermitted ADU or unpermitted JADU constructed before January 1, 2020, shall not be denied due to violation of building standards or noncompliance with this section, unless correction of the violation is necessary to comply with Onsite Wastewater Treatment System (OWTS) standards specified in Section 68.301 et seq of the San Diego County Code of Regulatory Ordinances and/or Health and Safety Code standards specified in Health and Safety Code section 17920.3, or the building has been deemed substandard.
25. A homeowner applying for a permit for a previously unpermitted ADU or JADU constructed before January 1, 2020, shall not be required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with all applicable Health and Safety Code requirements. Necessary permits to correct noncompliance with health and safety standards shall be approved without penalty by the Planning and Development Services Department.

**B. Ministerial ADU and JADU Permit Approval.** Ministerial approval of qualifying ADUs and JADUs, within a residential or mixed-use zone, shall be subject to the following criteria, in accordance with California Law Government Code Section 66323 as detailed in this subsection:

1. Any of the following categories may be created, as allowed by the site and lot conditions, and may be combined. As such, a single-family lot may have at least one ADU constructed from existing space, one JADU, and one newly constructed detached ADU; or a multifamily lot may have at least one ADU constructed from existing non-livable space and up to 8 detached:
  - a. Single-Family Converted ADUs and JADUs: One ADU and/or one JADU per lot with a proposed or existing single-family dwelling if all of the following apply:
    - i. The ADU and/or JADU is within the proposed space of a single-family dwelling or existing space of a single -family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing dwelling or accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
    - ii. The space has exterior access from the proposed or existing single-family dwelling.
    - iii. The side and rear setbacks are sufficient for fire and safety.
    - iv. The JADU complies with the requirements set forth in this section.

- b. Single-Family Detached ADUs: One detached, new construction, ADU, (which may be combined with a JADU), that does not encroach into the four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling with the following conditions:
  - i. The total floor area of a detached ADU approved under this subsection shall not exceed 800 square feet.
  - ii. The height of detached ADU approved under this subsection shall not exceed 18 feet.
- c. Multifamily Converted ADUs: At least one ADU and not more than 25 percent of the existing number of multifamily dwelling units within an existing multifamily dwelling with the following conditions:
  - i. The ADU(s) are within the portions of an existing multifamily dwelling structure that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
- d. Multifamily Detached ADUs with Existing Multifamily Dwelling: At least one and not more than eight detached ADU(s) on a lot with an existing multifamily dwelling if the total number of detached ADUs do not to exceed the total number of existing units with the following conditions:
  - i. The height of detached ADU(s) approved under this subsection shall not exceed 18 feet.
  - ii. Construction of the ADU(s) does not result in side or rear yard setbacks of less than 4 feet.
  - iii. If the existing multifamily dwelling has a rear or side setback of less than four feet, any modification of the existing multifamily dwelling will not be a required condition of approving the application to construct a qualifying ADU.
- e. Multifamily Detached ADUs with Proposed Multifamily Dwelling: At least one and not more than two detached ADU(s) on a lot with a proposed multifamily dwelling with the following conditions:
  - i. The height of detached ADU(s) approved under this subsection shall not exceed 25 feet.
  - ii. Construction of the ADU(s) does not result in side or rear yard setbacks of less than 4 feet.
- 2. Ministerial approval of any ADU will be subject to the following conditions:
  - a. No additional development standards such as maximum square footage, height, lot coverage, and setbacks are required if an existing and permitted detached or attached accessory structure is being converted into an ADU. Any new addition to the ADU must comply with the setbacks and height regulations outlined by this ordinance.

- b. The installation of fire sprinklers shall not be required in an ADU if sprinklers are not required for the primary residence. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.
  - c. Any ADU approved in accordance with this subsection shall not be rented for any term of less than 31 days.
  - d. ADUs on any parcel that utilizes an onsite wastewater treatment system (OWTS) and/or water well must comply with requirements established by the County of San Diego Department of Environmental Health and Quality (DEHQ). An ADU that needs to connect to an OWTS will not be approved under this subsection unless approval has been granted by the DEHQ indicating that the OWTS for both the existing residence and proposed ADU meet all current local and State requirements for an OWTS. If the existing OWTS is not adequate for the project, then the OWTS may be upgraded and/or the number of bedrooms may be reduced to meet the wastewater demands of the property.
  - e. The correction of existing nonconforming zoning conditions is not a condition for ministerial approval of a permit application for the creation of an ADU or JADU.
3. Ministerial approval of any JADU will be subject to the following conditions:
- a. A deed restriction shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a JADU unit identified in this Section.
    - i. The JADU shall not be sold separately from the primary residence;
    - ii. The JADU is restricted to the maximum size allowed per the development standards;
    - iii. The JADU shall be considered legal only so long as either the primary residence, or the ADU, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or housing organization in an effort to create affordable housing;
    - iv. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a JADU on the property.
  - b. The JADU must be completely contained within an existing or proposed primary residence and its enclosed spaces which may include an attached garage.
  - c. An entrance to the JADU that is separate from the main entrance to the primary residence is required.
  - d. The JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.
  - e. In instances where the JADU shares a bathroom with the primary residence, interior entry to the primary residence is required.
  - f. The JADU shall include an efficiency kitchen, which shall include all the following:

- i. A cooking facility with appliances.
  - ii. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit
- g. If a JADU is to be attached to an ADU, ministerial review is unavailable.
- h. When an existing garage, carport, or covered parking space is being demolished in conjunction with the construction of a JADU or converted into a JADU, any required off-street parking spaces for the lot must be replaced.
- i. No additional parking space is required for a JADU.
- j. JADUs, and/or additions for JADUs must comply with main building setbacks, including JADU additions for non-conforming primary residences. Please see Section 6886 of the Zoning Ordinance for setback information on non-conforming single-family dwellings.
- k. The JADU may be rented for a period of not less than 30 days, and is not intended for sale separate from the primary residence. Compliance with the owner-occupancy requirements of the deed restriction is required.

**C. Sale of ADUs for or by a Nonprofit.** Sale or conveyance of ADUs separate from the primary residence to a qualified buyer of low or moderate income, in accordance with California Law Government Code Sections 66340 and 66341, shall be allowed if all of the following apply:

1. The accessory dwelling unit or the primary dwelling was built or developed by a qualified nonprofit corporation.
2. There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.
3. The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
  - a. The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling that each qualified buyer occupies.
  - b. A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the ADU or primary dwelling if the buyer desires to sell or convey the property.
  - c. A requirement that the qualified buyer occupy the ADU or primary dwelling as the buyer's principal residence.
  - d. Affordability restrictions on the sale and conveyance of the ADU or primary dwelling that ensure the ADU and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
  - e. The tenancy in common agreement shall also include all of the following:
    - i. Delineation of all areas of the property that are for the exclusive use of a cotenant. Each cotenant shall agree not to claim a right of occupancy to an

area delineated for the exclusive use of another cotenant, provided that the latter cotenant's obligations to each of the other cotenants have been satisfied.

- ii. Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property. This delineation shall only be binding on the parties to the agreement and their successors, and shall not supersede or obviate the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.
  - iii. Procedures for dispute resolution among the parties before resorting to legal action.
4. A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the County. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.
  5. If requested by a utility providing service to the primary residence, the ADU has a separate water, sewer, or electrical connection to that utility.

[\[The Board will vote on the adoption of AB 1033, resulting in the addition or removal of the section below.\]](#)

**D. ADUs Sold as Condominiums.** Separate sale or conveyance of ADU(s) and the primary residence as condominiums shall be allowed if all of the following apply:

1. The condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 [commencing with Section 4000] of Division 4 of the Civil Code).
2. The condominiums shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 [commencing with Section 66410]) and all objective requirements the County zoning ordinance Section 6156.x.

[\[The Board will have an option to direct one, both or none of the options below. Alternatively, the Board may choose not to include the local criteria option below, and adopt AB 1033 as defined by State Code, without the addition of any local criteria.\]](#)

**3. Option 2.a.**

[The ADU is detached from the primary structure. Separate sale of ADUs as condominiums will not apply to ADUs that are attached to the primary structure. If the ADU is attached to an accessory structure \(such as a detached garage or garages\), the ADU and all or a portion of the attached accessory structure may be sold or conveyed together as one condominium unit. If an ADU is attached to the primary dwelling structure, the ADU and the primary dwelling must be sold or conveyed together as one condominium unit.](#)

### 3. Option 2.b.

The condominium units and common areas were mapped prior to the construction commencement of the ADU/s that are to be sold separately. Separate sale of ADU/s as condominiums will apply to new development only, and not to ADU/s existing prior to condominium mapping.

4. Before recordation of the subdivision map or condominium plan, the property owner or applicant shall submit to Planning and Development Services proof that final inspection of the ADU was conducted as evidenced either through a certificate of occupancy from the County or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.

5. **Lienholder Consent.** (1) Neither a subdivision map nor a condominium plan shall be recorded with the County Recorder without each lienholder's consent. The following shall apply to the consent of a lienholder:

- a. A lienholder may refuse to give consent.
- b. A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.

(2) Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the County Recorder along with a signed statement from each lienholder that states as follows:

"(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have."

(3) The lienholder's consent shall be included on the condominium plan or a separate form attached to the condominium plan that includes the following information:

- i. The lienholder's signature.
  - ii. The name of the record owner or ground lessee.
  - iii. The legal description of the real property.
  - iv. The identities of all parties with an interest in the real property as reflected in the real property records.
  - v. The lienholder's consent shall be recorded in the office of the County Recorder.
6. The County shall include the following notice to consumers on any ADU or JADU submittal checklist or public information issued describing requirements and permitting for ADUs, including as standard condition of any ADU building permit or condominium plan approval:

"NOTICE: If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form

of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any.

In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

i. Paying off your current lender.

You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.

ii. Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.

iii. Securing your lender's consent to the details of any construction loan or ground lease.

This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the consent above is true and correct."

7. **Notification to Utility Providers.** Applicants seeking to file a parcel map for the creation of a condominium must notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.
8. **Septic System and Water Well Requirements for Parcel Map Applications.** Prior to approval by Planning and Development Services for the creation of a condominium, for any parcel that utilizes a water well and/or an onsite wastewater treatment system (OWTS)—including those proposing to allow for the separate sale of an ADU—applicants must obtain approval from the County of San Diego Department of Environmental Health and Quality (DEHQ) and meet the standards set forth by Health and Safety Code, County Code of Regulatory Ordinances, and the San Diego Regional Water Quality Control Board.
9. **Fire Safety Requirements.** (1) If an ADU is established as a condominium, the applicant must initiate the Tentative Parcel Map (TPM) process, at which time the associated local fire district agency may require a secondary access if the ADU is located on a road that exceeds the maximum dead-end fire apparatus road length at the agency's discretion.

(2) Setbacks in High Fire Risk Areas may be expanded to between 30 and 100 feet from any wildland urban interface (WUI) boundary, at the discretion of the local fire district agency.  
(3) Any easements that are in place must be designated as shared space identified on the condo map and not assigned to any single unit. Access to any condo through any easement must remain unobstructed and maintained by the HOA.

10. **Written Authorization for ADUs in Planned Developments.** (1) The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.

(2) For purposes of this subdivision, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.

[The Board may choose to direct the local criteria option below. Alternatively, the Board may choose not to include the local criteria option below, and adopt AB 1033 as defined by State Code, without the addition of any local criteria.]

**Option 1.a.**

11. Each condominium owner must establish a Right of First Refusal (ROFR) contract with an active rent paying tenant or a condominium owner occupant on the same lot, to be effective only while the affiliated occupancy on the lot is active, and to be reestablished with another occupant if the original ROFR holder is no longer applicable. Before a condominium owner accepts a purchase offer, written notice of the offer must be provided to the ROFR holder, who shall have 60 days in which to execute a sales agreement which matches the original offer.

**Draft Ordinance Amending the  
San Diego County Zoning Ordinance  
Related to Accessory Dwelling Unit (ADU)  
and  
Junior Accessory Dwelling Unit (JADU)  
Part Eight: Village Regulations:  
Section 8900 Alpine Village Core Regulations  
Table AL-1.0 Permitted Use Types  
(Underline Copy)**

**County Zoning Ordinance Section 8900 Alpine Village Core Regulations****TABLE AL-1.0 PERMITTED USE TYPES**

<b>RESIDENTIAL</b>	<b>AL-V1</b>	<b>AL-V2</b>	<b>AL-CD</b>
<b>Second Dwelling Unit</b>	<u>R</u>	R	<u>R</u>
<b>Family Residential</b>	R	R	R
<b>Farm Labor Camps</b>			
<b>Group Residential Mobile</b>	R	R	R
<b>Home Residential</b>	M		
<b>Low Barrier Navigation Centers</b>	R	R	R

ATTACHMENT C –  
PUBLIC COMMENT LETTERS



# 1 - 44 Valley Center Community Planning Group

P.O. Box 127  
Valley Center, CA 92082

**Dori Ratray - Chair**  
Seat 3

dratray524@aol.com

**Lisa Adams - Vice Chair**  
Seat 6

lisa.adams.valleycenterca@gmail.com

**James Garritson - Secretary**  
Seat 12

vc@garritson.com

**Chris Barber**  
Seat 11

chris.barber1959@gmail.com

**Michelle Bothof**  
Seat 1

busybrunette@protonmail.com

**Vlad Ciupitu**  
Seat 8

vc Ciupitu@gmail.com

**Susan Fajardo**  
Seat 14

sfajardo247@gmail.com

**Delores Chavez Harmes**  
Seat 5

dee.valleycenter@gmail.com

**Mary Hodson**  
Seat 13

mhodsonvalleycenter@gmail.com

**Steve Hutchinson**  
Seat 2

hutchisonsm@gmail.com

**Karen Lieber**  
Seat 7

klieber.vccpg@gmail.com

**Bob Littlejohn**  
Seat 9

robert.g.littlejohn@gmail.com

**Dr. Matt Matthews**  
Seat 4

**LaVonne Norwood**  
Seat 10

lavonnenorwood@gmail.com

**Tom Stinson**  
Seat 15

tomjstinson51@gmail.com

October 8, 2025

To: The San Diego County Planning Commission

Dear Commissioners,

On behalf of the Valley Center Community Planning Group, I am writing to officially submit our decision regarding the Draft Accessory Dwelling Unit (ADU) Zoning Ordinance Amendment.

Following a detailed review and comprehensive discussion, **the Planning Group voted 12 to 1 in favor of opting out of the Draft ADU Zoning Ordinance Amendment.**

Our decision was driven by a range of significant concerns raised by the group, specifically related to the potential local impacts of the Amendment. Key concerns that informed our vote include:

- **Increased Density and Infrastructure Strain:** A primary concern is the potential for increased residential density, particularly in already developed areas like the Park Circle community. This increased volume of units is anticipated to strain critical local resources and infrastructure, including water resources, waste management, educational capacity, and emergency response capabilities.
- **Mandatory Development Concerns:** There is apprehension that the ordinance may eventually lead to requirements for large landowners to develop ADUs on their properties to meet State housing mandates, potentially coupled with penalties for non-compliance.
- **Impact on Property Value and Assessment:** Concerns were voiced regarding the potential for an existing property to be reassessed at current market rates upon the construction or sale of an ADU.
- **Homeowners Association (HOA) Regulations:** Clarification was sought regarding the rights of existing HOAs. While an HOA cannot deny a homeowner the ability to build an ADU, there is a concern that it can deny the subsequent sale of the ADU as a separate unit.
- **Setback and Development Requirements:** Concerns exist regarding potential new setback requirements for ADUs built adjacent to existing properties.
- **Affordability:** While recognizing the need for more creative solutions to homeownership affordability for younger Californians and families, the group is concerned that this specific ordinance, without addressing the underlying infrastructure concerns, may not be the most effective solution for Valley Center.
- **Requirements for Sale:** There is a concern that a property owner may be subject to additional requirements before being legally permitted to sell an ADU.

We appreciate the opportunity to provide our formal position and the rationale behind it. We believe these concerns must be addressed before the Amendment is enacted in our community.

Best regards,

Dori Ratray - Chair

Valley Center Community Planning Group



## **LOWER SWEETWATER FIRE PROTECTION DISTRICT**

**2725-B Granger Avenue, National City, CA 91950**

Board of Supervisors  
County of San Diego  
1600 Pacific Highway  
San Diego, CA 92101

Subject: Opposition to Proposed Ordinance Allowing Separate Sale of ADUs

Dear Chair Lawson-Remer and Members of the Board,

The Lower Sweetwater Fire Protection District respectfully submits this letter to express our opposition to the proposed ordinance permitting the separate sale of Accessory Dwelling Units (ADUs) in San Diego County.

Our District's mission is to safeguard life, property, and the environment through effective fire protection and emergency response. The proposed ordinance would increase residential density beyond current zoning limits, creating significant risks to public safety that our existing emergency infrastructure is not equipped to manage.

Of particular concern:

- **Emergency Response Strain:** Increased density without proportional expansion of fire stations, personnel, and equipment will lengthen response times and reduce effectiveness.
- **Evacuation Hazards:** Additional independently occupied residences will complicate evacuation planning and execution in wildfire-prone areas.
- **Access and Congestion:** More households per parcel will worsen roadway congestion, impeding fire engines, ambulances, and law enforcement.
- **Battery Energy Storage Systems (BESS):** The County's Green Building Incentive Program encourages renewable energy adoption, often paired with residential BESS. While beneficial for sustainability, lithium-ion battery systems present unique fire hazards, including thermal runaway, toxic gas emissions, and

difficult-to-extinguish fires. Increased density combined with widespread BESS installations compounds the risks faced by first responders.

For these reasons, the Lower Sweetwater Fire Protection District formally opposes the ordinance in its current form. We urge the County to prioritize public safety by ensuring that any housing policy changes are matched with adequate fire protection and emergency response capacity, and that the hazards of residential BESS are fully addressed in planning and permitting processes.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Kurt Worden". The signature is written in a cursive, flowing style.

Kurt Worden

Board President

Lower Sweetwater Fire Protection District

# HIDDEN MEADOWS COMMUNITY SPONSOR GROUP

“Community Representation to the County of San Diego”

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October 13, 2025

County of San Diego  
Planning and Development Services  
5510 Overland Avenue, Suite 210  
San Diego, California 92123

Subject: Accessory Dwelling Unit (ADU) Zoning Ordinance Amendment

On September 25, 2025, the Hidden Meadows Community Sponsor Group determined group feedback as part of the Public Review period for the draft Accessory Dwelling Unit (ADU) Zoning Ordinance Amendment was critical due to overall concerns with the proposed changes. These proposed changes not only increase the density of homes on a single property, but also allow for the sale of the units, amounting to the creation of small subdivisions without any analysis of impact to supporting infrastructure and related changes that would normally be required to account for the increased population. These impacts affect a wide range of topics including general plan elements, environment, schools, traffic patterns, emergency services, along with other areas. Our immediate concerns are detailed below.

**General/Community Plans:** The County, as well as local communities, has spent considerable time preparing these plans to preserve local character and have a balanced approach of sustainable population growth and infrastructure. The ADU changes would not only change the intent of the rural and semi-rural designations that make up the majority of the Hidden Meadows area, but have also not been addressed in the Land Use or Housing elements. The overall intent of the General Plan would essentially be rendered useless if each parcel is permitted to become a de facto subdivision without the normal processes being enforced.

**Environment:** The California Environmental Quality Act (CEQA) exemptions extended by AB3057 and earlier legislation did not take into consideration the proposed massive increase in ADUs. Without proper environmental review there is a high potential for significant and unmitigated impacts, undoing decades of work by the County and others to protect our environment and native species.

**Schools:** Each new dwelling unit has the potential to generate students which must be accommodated by the local school district. The potential is that hundreds of students would place an increased burden on local school districts without the normal process mitigations allowing local districts to apply a fee structure for each potential student.

**Traffic Patterns:** Streets and roads within an area are carefully studied to determine if the road network will operate at an acceptable level. Subdivisions are scrutinized to determine if there will be adverse impacts and if they are aligned with the General Plan Mobility element. The ADU proposed changes do not include even single ADU traffic analysis, let alone aggregate level when several ADUs are potentially approved. Without mitigating factors and transportation infrastructure improvement, roadway traveler capacity will continue to degrade.

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**Water:** Sustainable water supplies across San Diego County continue to be a challenge. The potential impacts of subdivisions is carefully monitored by the responsible Water District, in the case of wells County Department of Environmental Health. Without this standardized scrutiny, there is increased risk of water supplies and sources being unable to meet future demand.

**Fire:** Especially in the rural and semi-rural areas such as Hidden Meadows, the fire threat continues to grow. The latest maps from the State Fire Marshal show a significant increase in High and Very High Fire Severity Zones. Increasing the population in the Wildland-Urban Interface (WUI) areas without appropriate mitigations endangers both current and potential future residents. Specifically, at least three developments in the Hidden Meadows area have not been approved during the last decade due to community egress limitations. The proposed ADU ordinance changes would circumvent this safety restriction by potentially adding more dwelling units than all the recent attempted projects combined, while not addressing the primary egress concerns.

In summary, while we understand the need for more low-cost housing in the County, we feel that there are other, less impactful, ways to accomplish these goals around infrastructure that is capable of handling the increased population density. Adding thousands of additional dwellings to rural and semi-rural areas actually creates more problems than it solves.

Best regards,



Bret A. Sealey  
Chair

## **OPPOSITION TO PROPOSED “OPTIONAL LANGUAGE” RELATED TO SEPARATE SALES OF ADUs**

**Don't devalue existing property rights! The proposed optional language related to the separate sale of ADUs authorized by AB1033 should not be included in a new or amended County Ordinance, and the Board of Supervisors should vote NO on any such proposed language.**

The Board should vote NO on the proposed optional language related to the separate sale of ADUs authorized by AB1033 (“*Optional Language*”) for the following reasons:

1. It is an unlawful taking without due compensation to existing property owners;
2. It is an ex post facto law by its effect;
3. It violates the Subdivision Map Act; and
4. It changes the character of existing neighborhoods by failing to require on-site parking of ADU-related vehicles.

### **The *Optional Language* Is An Unlawful Taking**

The California Constitution, specifically Article I, Section 7, provides a provision against unlawful taking without compensation. It states that a person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws. The Fifth Amendment Takings Clause, which is applicable to the States through the Fourteenth Amendment, ensures that private property is not taken for public use without just compensation. This provision is crucial in safeguarding property rights and ensuring that government actions do not impose due burdens on private property owners.

As stated in the “Guide For Public Feedback” related to the *Optional Language*, said language “*supports the County’s priority to expand homeownership opportunities and more attainable price points...*” The *Optional Language* clearly supports a public purpose or use.

The *Optional Language* constitutes an unlawful taking for which there is no compensation to existing homeowners for the loss in value to their homes caused by ADUs creating a higher density of people, greater traffic on residential streets, and more vehicles parked on streets.

### **The *Optional Language* Is An Ex Post Facto Law By Its Effect**

People purchase homes in a particular area based on a number of factors. Initially, it may be location, but a close second is the appearance of the neighborhood. Factors affecting appearance may include the cleanliness of the neighborhood; whether existing homeowners maintain their properties; whether existing homeowners park their personal

vehicles in garages, on driveways, or in the streets; the number of vehicles associated with a particular residence; space between one home and another (privacy considerations); and views associated with the particular home to be purchased or the area in general. (Collectively, *Appearance Factors*). Among many other things, the *Appearance Factors* are often determinative of the sales price for a home. For this reason, homes in one area often sell for multiple times the price of homes in other locations.

The *Optional Language* has the effect of changing every one of the *Appearance Factors* referred to above. While it is true that a homebuyer in the same neighborhood may change several of the *Appearance Factors*, the *Optional Language* allows privacy and views to be directly affected by the higher density of people and traffic after an existing homeowner has purchased his or her property.

The *Optional Language* should not be allowed as it effectively retroactively changes the *Appearance Factors* and character of neighborhoods.

### **The Optional Language Violates The Subdivision Map Act**

The Subdivision Map Act plays a crucial role in California's land use planning and development, ensuring that subdivisions are designed and built in a manner that benefits the community while protecting the interests of buyers and the public. The *Optional Language* violates the Subdivision Map Act by allowing additional residential structures in existing subdivisions that were previously zoned for specific size structures for residential occupancy. Allowing the separate sale of ADUs is little more than an end run around the purpose and requirements of the Subdivision Map Act.

### **The Optional Language Changes The Character of Existing Neighborhoods by Failing to Require for On-Site Parking of ADU-Related Vehicles in All Situations**

The numerous exceptions to when additional parking is or is not required for ADU-related vehicles changes the character of existing neighborhoods by increasing traffic on residential streets and by increasing the number of vehicles parked on residential streets.

In addition, because law enforcement does not or cannot effectively enforce California's Daylight Parking Law (AB 413), which prohibits parking within 20 feet of the approach side of any marked or unmarked crosswalk or within 15 feet of any crosswalk where a curb extension is present, the *Optional Language* will increase the likelihood of injuries or fatalities as additional ADU-related vehicles will result in increased violations of the Daylight Parking Law without meaningful enforcement. **At a minimum**, any *Optional Language* that allows for additional ADU-related vehicles to be parked off site should require that builders/developers (and owners) of ADUs located on properties contiguous to

intersections be required to paint and maintain curbing red, so the 20 foot minimum distance is clearly visible and understood by all vehicle owners.

## **Conclusion**

The *Optional Language* effectively violates a principle even toddlers learn at an early age – you cannot fit a square peg into a round hole – or vice versa. The entire ADU concept fits more people into existing defined areas and infringes on the characteristics of a neighborhood that inspired the purchase of homes by existing homeowners. The effect is to devalue properties owned by existing homeowners. The addition of ADUs to existing neighborhoods increases the density of people and vehicles to neighborhoods and by doing so constitutes a takings within the meaning of the California and U.S. Constitutions without consideration of or compensation to existing homeowners. It also exposes individuals to increased injuries as a result of the inability or unwillingness of law enforcement to cite violators for California Daylight Law violations.

Respectfully submitted,

Michael Andelson  
9325 Francis Dr.  
Spring Valley, CA 91977  
Michael.andelson@gmail.com

**Section 6156.x.A. (Page 5)**

**Alternative 1 (new language) incorporating AB 1033**

2. ADU may be rented but is not intended for sale separately from the primary residence, unless the lot is subdivided in conformance with qualifications for the ministerial approval of a two-lot subdivision/parcel map creating a separate lot for each dwelling, or condominiums are created in conformance with requirements outlined under section 6156.XD. of the County Zoning Ordinance pertaining to the sale of ADUs. Or the conditions pertaining to nonprofits and tenancy in common agreements established under section 66341 of the California Government Code are met.

- We are in support of adopting alternative 1.

**Section 6156.x.B. (Page 8)**

1. b.
  - i. The total floor area of a detached ADU approved under this subsection shall not exceed 800 square feet.
  - ii. The height of detached ADU approved under this subsection shall not exceed 18 feet.

- We strongly oppose the limitation to the size and height of the detached ADU allowed in single-family lot. We recommend keeping the size at 1,200 square feet and the height at 25 feet.

**Section 6156.x.D. (Page 12)**

Separate sale of accessory dwelling unit (AB 1033).

**3. Option 2**

The condominium units and common areas were mapped prior to the construction commencement of the ADU/s that are to be sold separately. Separate sale of ADU/s as condominiums will apply to new development only, and not to ADU/s existing prior to condominium mapping.

- We strongly oppose option 2 that limits the separate sale of ADU as condominiums to new development only. It's unfair for the existing detached ADU to not have the right to be sold separately if it meets the county requirements.

# BONSALL COMMUNITY SPONSOR GROUP

## Position Statement: Opposition to Assembly Bill 1033 (2023)

**Date:** November 2025

The Bonsall Community Sponsor Group (BCSG), a local citizens' organization committed to preserving the safety, character, and quality of life in our rural community, respectfully submits this statement of **opposition to Assembly Bill 1033 (2023)** — the so-called “Opt-In” Accessory Dwelling Unit (ADU) legislation.

### Our Position:

We do not support Assembly Bill 1033 because it undermines local control, disregards community planning, and threatens to change the unique character of our rural and semi-rural neighborhoods.

### Key Concerns:

1. **Loss of Local Oversight:** AB 1033 allows cities and counties to “opt in” to state-mandated ADU sales and condominium conversions, effectively reducing the ability of local planning boards and residents to determine what is appropriate for their own communities.
2. **Increased Density & Infrastructure Strain:** The bill enables property owners to sell ADUs separately from primary residences, encouraging higher density without corresponding upgrades to infrastructure, roads, or emergency services.
3. **Erosion of Community Character:** Bonsall's rural charm and open space are vital to our residents and local environment. This legislation incentivizes urban-style development that conflicts with the community's General Plan and long-term vision.
4. **Unintended Consequences:** While framed as an affordability solution, the bill could drive speculation, inflate land values, and worsen local housing pressures rather than provide sustainable, affordable options.

### Conclusion:

For these reasons, the BCSG stands in **opposition to Assembly Bill 1033 (2023)** and urges our county and state representatives **not to adopt or support “opt-in” provisions** under this legislation. We support responsible housing solutions that preserve local decision-making and maintain the integrity of our rural community.

Sincerely,

Larissa Anderson  
Chairperson, Bonsall Community Support (BCSG)

Steve Norris      Jennifer Haider      Jared Rowley      Michael Collier      Sophia Kittell

**ATTACHMENT D –  
ASCENT MEMORANDUM**

March 24, 2025

To: Enrique Flores, Land Use/Environmental Planner, County of San Diego

From: Matt Gelbman, Senior Urban Planner, Ascent

**Subject: Research on Impacts of Separate Sale or Conveyance of Accessory Dwelling Units**

## Introduction

Accessory Dwelling Units (ADUs) have emerged as a vital tool for increasing the supply of housing, promoting housing affordability, and fostering diverse housing options. Traditionally, ADUs are rented or occupied by family members while remaining under the ownership of the primary dwelling's property owner.

Through the SANDAG Housing Acceleration Program (HAP), the County of San Diego requested research on the economic impact of separately selling ADUs as permitted by Assembly Bill (AB) 1033 (Government Code Section 65852.2). This memo summarizes research on how the separate sale of ADUs may affect housing affordability, rental supply, homeownership opportunities, and ADU construction. By analyzing existing studies and case study examples, this memo presents insights into potential benefits, challenges, and key considerations for developing an ADU ownership program consistent with AB 1033.

## Overview

The following components are included as part of this summary of research related to AB 1033:

- Introduction
- Overview
- Summary of AB 1033
- Key Findings
- Overview of Case Studies
- Research Summary
- References

## Summary of AB 1033

AB 1033 (Government Code Sections 65852.2) allows local agencies to adopt an ordinance to permit the separate sale or conveyance of ADUs as condominiums (SANDAG 2024). Under this legislation, ADUs can be legally sold independently from the primary dwelling unit, creating a new category of homeownership opportunities. This policy aims to expand housing options while maintaining local control over implementation.

## Key Findings

The following represent key findings related to the separate sale or conveyance of ADUs.

- **Finding #1: ADU condos are not likely to reduce the supply of rental units and may provide another source of affordable housing.** ADU condos expand the overall supply of housing, which research has shown helps stabilize housing costs over time. Because ADU condos serve a different market segment than single-family homes, they primarily expand the availability of smaller, more affordable housing options. By increasing housing choices, ADU condos help maintain affordability within the ADU market without negatively impacting broader housing market stability.
- **Finding #2: ADU condos create new, more affordable homeownership opportunities.** ADU condos provide accessible homeownership options for first-time buyers and individuals who may not be able to afford a traditional single-family home. Beyond expanding overall housing supply, ADU condos can offer a unique and inclusive path to homeownership, particularly in areas where the options for affordable housing units are limited.
- **Finding #3: ADU condos reduce financial barriers to further ADU construction.** Current ADU financing options are limited because rental income from ADUs is often not fully considered in mortgage qualification calculations. ADU condos, by being legally separate properties, can qualify for conventional mortgage loans with more favorable interest rates and terms than traditional ADU construction loans.

## Overview of Case Studies

To better understand the impacts of ADU ownership programs, case studies from Seattle, Washington, and Austin, Texas were examined. These examples provide insights into how the separate sale of ADUs has affected the housing market and findings from these case studies directly inform the research summary that follows.

- **Seattle, Washington.** Studies in Seattle show that legalizing ADU condos has not led to ADU rents increasing higher than conventional housing. Most ADUs are in higher income areas, expanding homeownership opportunities in these neighborhoods.
- **Austin, Texas.** In Austin, up to 40% of ADU condos continue to function as rental housing, with rents comparable to non-condo ADUs. The program has helped seniors and disabled persons remain in their neighborhoods by offering more suitable housing options.

## Research Summary

This section summarizes research on the impacts of the separate sale or conveyance of ADUs.

### **1. ADU condos are not likely to reduce the supply of rental units and may provide another source of affordable housing.**

Lowering barriers to ADU development is a proven and established strategy for addressing housing unaffordability by increasing housing supply. ADU condos build upon this approach by creating an additional path to homeownership while maintaining rental affordability.

- As the national leader in ADU production, California's ADU has proven to be an effective legal mechanism to produce more housing by reducing regulations and barriers that would otherwise make ADUs financially prohibitive (Elmendorf and Nall 2024).

#### *ADU Condos Help Maintain Affordable Rents*

- If expanding the supply of ADU condos improves the affordability of ADUs in an area, rental prices are expected to become more affordable as well. There is a relationship between costs to own and costs to rent: "Where owning is expensive, so is renting." (ULI 2024).
- A greater mix of housing options generally results in lower rent growth, as new units help alleviate demand pressure on existing housing (Li 2019).
- In Seattle, legalizing ADU condos has not caused ADU rents to rise higher than conventional housing options. Although ADUs increase parcel value by 15-20%, ADUs still rent for less than conventional housing options, with a significant portion of ADUs renting for less than \$1,000 per month (University of Washington 2020; City of Seattle 2024a).
- Austin's ADU condo program demonstrates that ADU condos can continue serving as rentals, and at prices comparable to similar rentals.
  - About 60% of Austin ADU condos are claimed as primary residences, indicating they are owner-occupied (McHugh 2022).
  - Up to 40% may be rented out by the unit owner. Owners may not be aware of property tax reductions for a property that is claimed as a primary residence (homestead exemption) (McHugh 2022).
  - Real estate investors tended to rent out purchased ADUs at similar levels to owner-occupiers at vacancy, all else equal (Davis 2023).

#### *ADU Condos Would Not Have a Negative Impact on Single-Family Home Values*

- Since ADUs are not direct substitutes for single-family homes, their separate sale is unlikely to reduce single-family home values. Instead, they primarily impact the affordability of other ADUs (Li 2019).

- ADU condos cater to the “missing middle” housing market which typically serves younger, single-person, or smaller households, looking for affordable options (Missing Middle Housing, n.d.).
- In Seattle, the median sales price of an ADU condo is 64% of the principal dwelling unit and 47% of new detached homes (City of Seattle 2024b).
- Research indicates that a 10% increase in condo supply leads to an approximate 1% decrease in rental and sales prices within a 500 ft buffer, though this primarily affects the sales prices for comparable housing types (Li 2019).

### *Non-Profit and Homeowner ADU Development Supports Affordability*

- Financial modeling in the Austin area estimates that ADUs built by nonprofits and homeowners sell for 5% less than those developed by for-profit builders due to simpler finishes and lower overhead costs (McHugh 2022).
- Providing technical support and streamlining regulations could encourage more non-profit and homeowner-led ADU development, mitigating unwanted increases in land value from for-profit developers (McHugh 2022).

## **2. ADU condos create new, more affordable homeownership opportunities.**

Increasing the overall supply of homes is a key strategy to expand access to homeownership. In particular, removing restrictions on infill homeownership development lowers the barriers for first time homeowners by catalyzing the creation of more entry-level housing in neighborhoods that otherwise do not have such ownership opportunities (Turner Center 2023).

### *ADU Condos Offer More Affordable Entry Points into Homeownership*

- In Seattle and Portland, 40-50% of ADUs constructed are sold as condominiums to new homebuyers, where they are bought for approximately half the value of a stand-alone single-family home (Casita Coalition 2024).
- Based on a survey of ADU owners in Seattle, the median ADU sold as a condo in 2022 was priced at \$757,000 in comparison to \$1.18M for the associated primary dwelling unit. Newer detached homes sold for a median price of \$1.61M. These various price points demonstrate how ADUs can allow for homeownership opportunities that are more affordable than other forms of housing (City of Seattle 2024a).

### *ADU Condos Provide Independent Housing for Seniors and Disabled Persons*

- 60% of seniors are open to moving into an ADU as a means of maintaining independence while reducing housing costs (AARP 2021).
- More missing middle housing, such as ADU condos, allows more seniors to age in place in their communities (Casita Coalition 2024).

- Austin's ADU condo program has helped seniors, disabled persons, and veterans remain in their neighborhoods, providing permanent affordable housing options. (McHugh 2022).

### **3. ADU condos reduce financial barriers to further ADU production.**

#### *Current ADU Financing Limitations*

- More than half of ADUs in California are funded from a homeowner's personal liquid assets. Homeowners without such savings typically must rely on personal loans with much higher interest rates than mortgage products (Goodman 2024).
- Mortgage financing options are limited because full potential value of an ADU income is not considered in qualifying calculations (Goodman 2024).
- Renovation financing is unreliable due to high denial rates (Goodman 2024).

#### *ADU Condos Expand Financing Opportunities*

- As ADU condos create a separate parcel identity, they can be financed through conventional streams which historically have had lower interest rates, such as home construction or purchase loans (Turner Center 2020).

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