



The County of San Diego
Planning Commission Hearing Report

Date:	June 12, 2026	Case/File No.:	PDS2025-POD-25-009
Place:	County Operations Center 5520 Overland Avenue San Diego, CA 92123	Project:	ADU Ordinance Amendment: ADU Separate Sale Implementation Options to Support Homeownership and Owner Occupancy
Time:	9:00 a.m.	Location:	Various
Agenda Item:	#5	General Plan	Various
Appeal Status:	Not applicable; Approval by the Board of Supervisors	Zoning:	Various
Applicant/Owner:	County of San Diego	Community:	Various
Environmental:	N/A	APNs:	Various

A. OVERVIEW

On March 4, 2026, the Board of Supervisors adopted an ordinance allowing Accessory Dwelling Units (ADUs) to be sold separately from the primary residence. The Board considered various options and ultimately adopted an ordinance, recommended by the Planning Commission on December 5, 2025, that provides the greatest flexibility for the number and types of ADUs that may be sold separately. The Board also discussed whether additional local criteria could better support first-time homebuyers and homeownership opportunities and directed staff to return with options to further amend the Zoning Ordinance.

This is a request for the Planning Commission to provide a recommendation to the Board on four potential options regarding the separate sale of ADUs. One option would preserve the County's existing program for the separate sale of ADUs with no changes to the current ADU Ordinance, and three of these options are intended to encourage owner occupancy and support homeownership opportunities while maintaining consistency with State law. The Planning Commission may recommend one, several, or none of the options. If no options are adopted, the County would continue to allow ADUs to be sold separately with no changes to the current ordinance adopted on March 4, 2026.

The four options are summarized below and explained in the Analysis and Discussion Section:

- Option 1 - No Additional Local Criteria (Maintain Existing Ordinance): This option would maintain the ADU ordinance as currently adopted, relying solely on the State framework without additional local requirements.
- Option 2 - Right of First Refusal (ROFR): Each condominium unit owner on a lot must establish a ROFR contract with an existing tenant or another owner on the same lot. The holder of the ROFR contract will have the opportunity to purchase the unit first if they are able to match a future offer from another buyer.
- Option 3 - Owner Occupancy Affidavit: New buyers of ADU condominium units must sign an affidavit stating that they, or a family member, intend to occupy the unit as a primary residence for a defined period.
- Option 4 - Required Public Posting Period: Each new time an ADU condominium unit is listed for sale, the owner must publish the listing for a defined period of time with a disclosure stating that the ADU is being offered to buyers intending to use the ADU as a primary residence for themselves or a family member.

While the Board requested that staff return with options specifically related to the separate sale of ADUs, staff also explored broader concepts and the potential to expand countywide efforts that may benefit first-time homebuyers or tenants across all housing types, which the Board may direct in future actions. These concepts align with existing County priorities, and the Board may choose to expand programs that have broader capacity to address barriers to homeownership or provide equitable tenant protections. These concepts, which go beyond the scope of this specific Board request, have been included for reference in the Analysis and Discussion section of this report.

B. STAFF RECOMMENDATIONS

Staff recommends that the Planning Commission take the following actions:

1. Find the item is not a “project” and is exempt from CEQA under CEQA Guidelines section 15378. Changes related to the separate sale of ADUs do not require analysis under CEQA as the transfer of ownership of these homes will not cause a direct or reasonably foreseeable indirect physical change in the environment under CEQA Guidelines section 15061(b)(3).
2. Recommend that the Board of Supervisors consider the attached Form of Ordinance, section 6156.x.D.10 Programmatic Options 1, 2, 3, and 4.

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 (ATTACHMENT A [CLEAN] AND B [UNDERLINE]).

C. BACKGROUND

Adopted in 2023 and effective January 2024, AB 1033 is an opt-in law that allows local jurisdictions to permit Accessory Dwelling Units (ADUs) to be sold separately from the primary residence as condominiums. The law establishes a baseline framework, including compliance with the Subdivision Map Act, formation of a Homeowners Association (HOA), and separate property tax assessments, without increasing the number of units permitted on a property. While the State sets this framework, jurisdictions retain flexibility to establish additional local criteria based on community priorities.

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.

On December 5, 2025, staff presented an ordinance amendment to the Planning Commission that included allowing the separate sale of ADUs and options for establishing local criteria for the separate sale of ADUs (Attachment C). The Planning Commission recommended that the County follow the State framework, established by AB 1033 and identified in State Code Section 66342, without additional local eligibility requirements, noting that added criteria could limit participation and reduce flexibility.

On March 4, 2026, the Board voted unanimously to adopt AB 1033 and allow a program for the separate sale of ADUs in unincorporated communities, following the State framework without additional local criteria. This local program 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 is voluntary, and not all properties may qualify. The ordinance includes 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.

During the hearing on March 4, 2026, the Board also directed staff to return within 120 days with a draft amendment with options to promote first time home buyers and home ownership for separate sale of ADUs including but not limited to the right of first refusal and/or an owner occupancy requirement for the first year or longer, with any additional legally compliant options that County Counsel identifies through conversations with Board offices (Attachment D).

In response to the Board's additional direction, staff drafted a range of potential options for local implementation criteria focused on supporting homeownership opportunities and promoting owner occupancy for the separate sale of ADUs. These options are intended to complement State guidance while advancing local priorities related to housing access and stability. They provide potential pathways for how a local program could be structured, with varying levels of involvement by property owners or County staff. The proposed options are focused on establishing local implementation criteria specifically for the separate sale of ADUs and are not intended to apply to other types of property sales.

Staff prepared four options for consideration, specifically related to the separate sale of ADUs. These options were informed by County priorities and further refined through engagement with subject matter experts and the public.

The Board may choose to implement one, several, or none of these options. Adoption of any local implementation criteria would build upon the County's existing program for the separate sale of ADUs. If the Board chooses not to adopt any of these options, the County would continue to allow the separate sale of ADUs, as currently codified, per County Zoning Ordinance Section 6156.x.D.

D. ANALYSIS AND DISCUSSION

Local Criteria Options Specific to the ADU Separate Sale Program

Following the Board's direction, the following options have been developed to promote access to Accessory Dwelling Unit (ADU) condominium homeownership opportunities and encourage owner occupancy, while remaining consistent with the State framework. Several options could be implemented to prioritize owner-

occupancy in the sale of ADU condominiums, though each presents varying levels of effectiveness and enforceability. These options are focused specifically on establishing local implementation criteria for the separate sale of ADUs and are not intended to apply to other types of property sales. The options include potential regulatory changes requiring an ordinance amendment. Each option reflects a different approach to balancing flexibility, participation, and local policy objectives, and may be considered individually or in combination.

Option 1: No Additional Local Criteria (Maintain Existing Ordinance)

This option would maintain the ADU ordinance as currently adopted, relying solely on the State framework without additional local requirements, as currently codified per County Zoning Ordinance Section 6156.x.D. It preserves maximum flexibility for property owners, avoids added regulatory complexity, and does not require additional County resources or enforcement. While this option does not include additional local implementation criteria, the intent of this ordinance, as it currently exists, seeks to advance local policy objectives to allow more homeownership opportunities by creating smaller, more attainable units available for sale.

Option 2: Right of First Refusal

Draft Ordinance Language: Each condominium owner must establish a Right of First Refusal (ROFR) contract with an active rent paying tenant or a condominium owner on the same lot, to be effective only while the affiliated occupancy or ownership on the lot is active, and to be reestablished with another occupant or owner 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 30 days [or a specified number of days, per the Board's direction] in which to execute a sales agreement which matches the original offer.

A Right of First Refusal (ROFR) requirement would provide an existing tenant or other condominium owner on the same property the first opportunity to purchase a unit if they are able to match a future offer from another buyer. 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 current owners on the same lot to expand multi-generational living situations by purchasing units on the same lot for family members. Requiring a ROFR places a new responsibility on property owners when they attempt to market their property for sale. Property owners would be required to commit to a ROFR contract with another party, prior to knowing their own future circumstances or if they might change their minds about whom they want to sell to. The length of time for a ROFR holder to match an offer would commence after an initial market offer is received. This may impact marketability and complexity of transactions. This requirement could be applied during the condominium conversion or mapping stage, when the County has regulatory authority. For example, the City of Santa Cruz applies a similar requirement for displaced tenants at the time of conversion. However, enforcement after conversion may be limited, as it would likely depend on title companies to identify compliance issues. Additionally, this approach does not address broader financial barriers to homeownership, such as down payment requirements or mortgage qualification, which may limit the ability of tenants to exercise the right to purchase. Property owners could also potentially avoid the requirement by terminating leases prior to conversion, thereby removing tenants before the provision applies. As a result, this option would primarily affect existing ADUs and would likely have minimal impact on newly constructed ADUs intended for sale.

Option 3: Owner Occupancy Statement

Draft Ordinance Language: Each new buyer of an ADU condominium must sign an affidavit stating that either they themselves or a family member will occupy the unit as their primary residence for at least 1 year [or a specified number of years, per the Board's direction] from the purchase date.

An owner-occupancy affidavit requirement would require buyers to declare their intent and require them to occupy the unit as their primary residence for a specified period. The intent of this option is to support buyers

interested in occupying a property themselves, and help to discourage speculative investment. This approach may help support longer-term residential stability and opportunities for equity building over time. An owner occupancy requirement would be a new responsibility for both the buyer and the seller of an ADU. Buyers would be required to commit to residency, and encounter added procedural requirements if their living situation needs to change due to unforeseen life events. Marketability may be impacted, for sellers, if potential buyers perceive an owner occupancy requirement as too restrictive to commit to. This approach could be incorporated into the purchase and closing process, and the County could establish penalties, such as fines, for noncompliance. Monitoring and enforcement may present challenges, and the County may choose to exercise discretion in situations involving legitimate life changes such as employment relocation, health issues, or changes in family circumstances. Furthermore, this option does not directly address broader affordability constraints or other financial barriers to homeownership.

Option 4: Required Public Posting Period

Draft Ordinance Language: Each new time an ADU condominium is listed for sale, the owner shall offer the ADU through at least two [or a specified number, per the Board's direction] publicly accessible real estate websites or databases that source listings directly from the MLS (Multiple Listing Service), for a minimum period of 30 days [or a specified number of days, per the Board's direction], with a disclosure stating that the ADU is being offered for at least 30 days [or said number of days, per the Board's direction] to buyers intending to use the ADU as a primary residence for themselves or a family member. At the Director's discretion, this requirement may be waived based on a written statement from the seller explaining why the posting period represents an undue burden to the seller's marketing practices which adequately prioritize owner occupant buyers.

A required public posting period would mandate that ADU condominium units be publicly marketed for a minimum period (e.g., 30 to 60 days) with an emphasis on prioritizing owner-occupant buyers. The intent of this approach is to increase visibility and create a window of opportunity for potential owner-occupants. The City of San Diego includes a similar 30-day requirement in its ADU separate sale program. This approach may support broader public awareness and provide additional time for prospective homebuyers to compete with investors or cash purchasers. However, the requirements could also be viewed as a limitation on seller flexibility in a competitive housing market by delaying the timing of a sale and imposing additional marketing requirements not typically required for other types of residential property sales. This option may introduce a new requirement for sellers utilizing waitlists as part of their marketing process. Additionally, a fixed posting period may create challenges for time-sensitive sales, such as 1031-exchanges or other constrained timelines. For these reasons, the draft ordinance language indicates that exceptions may be made at the Director's discretion. While the requirement may encourage owner occupancy opportunities, it would not guarantee that the eventual purchaser occupies the unit as a primary residence.

Additionally Explored Concepts, Not Specific to the ADU Separate Sale Program:

Several additional concepts were explored, but were determined to not be necessarily specific to the ADU Separate Sale Program. Some of these concepts may be appropriate for future exploration or expanding to more housing types. While many of these concepts were not specific to ADU condominium property types, these subjects may necessitate a broader timeline to evaluate feasibility and accommodate more robust stakeholder engagement.

Tenant Relocation Assistance - Staff considered a countywide tenant relocation assistance requirement for tenants displaced by condominium conversions or similar actions that result in the sale of residential units. The intent of a local tenant relocation assistance requirement would be to expand upon the State Tenant Protection Act which currently entitles a tenant to one month of rent to help them relocate to a new home if they are evicted for a specified "no fault" situation, per Civil code section 1946.2.

A County tenant relocation assistance requirement could apply across all housing types in the unincorporated area, providing an equitable approach that is not limited to a single housing type, such as ADU condominiums. Under a local tenant relocation assistance requirement, property owners would be required to provide relocation assistance equivalent to one to three months' rent (beyond the one month of rent required by the State) to any displaced tenant who has resided in the unit for a specified duration (e.g., six to twelve months within the 18 to 24 months preceding displacement). The County of San Diego does not currently require a relocation allowance. The development of such a program could be addressed through broader efforts such as the Housing Element or Housing for All.

A tenant relocation assistance requirement would provide financial support to displaced tenants, typically equivalent to several months of rent, and would be paid by the property owner. For reference, the City of Santa Cruz requires relocation assistance, for all housing types, equal to four months of rent for qualifying low- to moderate-income tenants who have occupied a unit within the previous two years. However, unless funded through a dedicated grant program, monitoring and enforcement would be limited. Additionally, this option falls outside the scope of the Board's current direction.

Empty Homes Tax - Staff initially explored an Empty Homes Tax intended to encourage owners of vacant residential properties to rent or sell their units, thereby increasing housing supply in the region. In early 2026 the City of San Diego advanced an Empty Homes Tax that would apply to homes vacant for 183 or more days within a calendar year, with the goal of returning units to the long-term housing market. The proposal includes exemptions for primary residences, occupied units (including those leased or used by family members), and owners unable to occupy or rent a unit due to specified circumstances. The measure must be approved by voters and has been placed on the June 2, 2026, ballot. If approved by voters, the City's tax would take effect on January 1, 2027. Because this approach applies broadly to all housing types rather than specifically to ADUs, it was considered but not advanced. Options 2 through 4 presented above remain focused on ADUs as an opportunity to expand homeownership.

Deed Restriction – According to the HCD, imposing deed restrictions on ADUs created under Assembly Bill 1033 to limit sales to low- or moderate-income buyers is not permitted under current State law. The California ADU Handbook specifies that deed restrictions are not an allowable local development standard for ADUs under Government Code Section 66314. While deed restrictions for the separate sale of ADUs to qualified low- or moderate-income buyers in limited cases involving nonprofit development and tenancy-in-common agreements are allowed, broader application of deed restrictions would raise legal concerns and require significant administrative oversight by HCDS.

Larger ADU Types - Expanding the County's maximum allowable size of ADUs, beyond the 1,200 square feet currently allowed, would not be covered under the CEQA analysis prepared for the ADU Ordinance. This would require a new project to allow a type of ADU that is not ministerial, and would thereby necessitate either a countywide CEQA analysis to streamline such ADUs, or a new CEQA analysis for each new applicant. Promoting homeownership for buildings of this size may be more suited to the County's Senior & Starter Homes effort that is currently underway.

Countywide Efforts for All Housing Types

In addition to evaluating potential local criteria to implement the separate sale of Accessory Dwelling Units (ADUs), staff also reviewed broader Countywide efforts for all housing types that support homeownership opportunities, specifically first-time homebuyers.

The County's Housing and Community Development Services (HCDS) Department currently administers the Low Income Down Payment and Closing Costs Assistance Program and the Moderate-Income Down Payment Assistance Program to support first-time homebuyers. Condominiums are an eligible property type under this

program, and this includes ADU condominiums as a new homeownership property type that is also eligible.

Through the Low-Income program, eligible applicants may receive a deferred, low-interest loan of up to 22 percent of the purchase price for down payment assistance, in addition to up to 4 percent of the purchase price (not to exceed \$10,000) for closing costs. Program eligibility is subject to a maximum purchase price of \$676,000 (subject to periodic adjustment) and a household income limit of 80 percent of the Area Median Income (AMI). Through the Moderate-Income program, applicants may receive a deferred loan of up to 17 percent of the purchase price for a down payment. Eligibility is subject to a maximum purchase price not to exceed the most recent median sales price for a single-family home in the County and a household income limit of 80 to 120 percent AMI. The assisted property must serve as the buyer's primary residence. Eligible property types include new or resale single-family homes, condominiums, townhomes, and manufactured homes on permanent foundations. The separate sale of ADUs creates condominiums that would be an eligible property type for the Down Payment and Closing Cost Assistance Program.

On March 25, 2026, the Board, of Supervisors directed HCDS to Report Back with a Memo evaluating the feasibility of establishing a County-funded and County-administered pilot program to support first-time homebuyers in the unincorporated area (Attachment E). This effort would complement the existing County first-time homebuyer programs. Any first-time homebuyer effort promoted by the County that includes condominiums as an eligible property type will mention ADU condominiums as a new homeownership property type that is also eligible.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The item is not a "project" and is exempt from CEQA under CEQA Guidelines section 15378. Changes related to the separate sale of Accessory Dwelling Units (ADUs) do not require analysis under CEQA as the transfer of ownership of these homes will not cause a direct or reasonably foreseeable indirect physical change in the environment under CEQA Guidelines section 15061(b)(3).

F. COMMUNITY PLANNING GROUP (CPG)

N/A

G. PUBLIC INPUT

To better understand public concerns and program opportunities, staff hosted a public webinar, published the options for public review, and engaged with stakeholders and subject matter experts, to present and gather feedback on the proposed local criteria options for the separate sale of Accessory Dwelling Units (ADUs). Staff shared the range of options developed in response to Board direction, and included information on current County resources for supporting first-time homebuyers. The options were made publicly available for review, during the month of May, 2026, and stakeholders were invited to submit feedback. The objective of this outreach was to better understand potential opportunities, challenges, and community perspectives related to implementing local criteria, beyond the State framework for the separate sale of ADUs, under AB 1033. Public feedback helped refine the draft options, including minor revisions to clarify terminology and provide additional implementation flexibility.

On May 6, 2026 staff held a public webinar seeking feedback on the draft options. During the webinar, participants asked a wide range of questions focused on how the condominium conversion process would work in practice, including ownership structure, parceling and addressing, financing, infrastructure, homeowner association considerations, and development constraints. Overall, participants were particularly interested in understanding how an ADU could be legally sold separately from a primary residence while still existing on the

same property. Staff explained that the ordinance implements California State Code for Assembly Bill 1033, which authorizes local agencies to allow the separate sale of ADUs through a condominium subdivision process.

Throughout the webinar discussion, staff emphasized that while AB 1033 creates a pathway for separate ownership, projects would still be subject to existing building, grading, environmental, health and safety, and subdivision requirements. Staff also highlighted that many project-specific details such as ownership responsibilities, maintenance obligations, addressing, easements, financing, and HOA considerations would ultimately be determined through the condominium mapping and legal review process associated with each individual project.

Feedback from the webinar revealed that there is public interest in the County's new program for ownership of ADU condominiums, and that the majority of interest involves understanding the complexities of navigating the existing process implemented with baseline framework from State Code. Before considering the introduction of adding local criteria requirements, attention remained on the extensive requirements in determining whether or not an applicant may qualify for, or have the means to, develop ADU condominiums for separate sale.

During public review, additional feedback was gathered from stakeholders and industry experts. Comments consistently emphasized the importance of preserving as much flexibility as possible for property owners when implementing the separate sale of ADUs. There was concern that individual property owners may not necessarily have the experience or technical knowledge to navigate the existing process of converting ADUs to condominiums without professional assistance, and that adding additional local criteria may be a burden that discourages the separate sale of ADUs or creates legal commitments beyond participants' expectations.

While encouraging owner occupancy was an important concept reflected in feedback, there was division on effective methods to approach this. While housing advocates preferred an extended length of time for a required public listing period, property owners and real estate professionals indicated their observation of an existing preference for owner occupants in the market. Feedback also questioned the impact of adding this type of requirement to one narrow type of housing.

Stakeholders expressed concern that adding new local requirements could unintentionally recreate the kinds of regulatory barriers that have contributed to current housing challenges, and several noted that many of the proposed rules appeared difficult to enforce in practice. Commenters also raised worries about requirements that could delay time sensitive real estate transactions or impose procedural steps that most sellers already complete voluntarily. Overall, the majority of feedback reflected a strong desire to avoid adding regulations that may limit homeowner choice, slow down sales, or provide limited public benefit.

Report Prepared By:

Enrique Flores, Project Manager
619-380-3736

Enrique.Flores@sdcounty.ca.gov

Report Approved By:

Vince Nicoletti, Director
858-694-2960

Vince.Nicoletti@sdcounty.ca.gov

AUTHORIZED REPRESENTATIVE:

Vince Nicoletti

VINCE NICOLETTI, DIRECTOR

ATTACHMENTS:

Attachment A: Amendment [CLEAN]

Attachment B: Amendment [UNDERLINE]

Attachment C: 12/5/2025 PC Report

Attachment D: 3/4/2026 Board Hearing Minutes

Attachment E: 3/24/2026 HHSA HCDS Board Hearing Minutes

**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)**

ORDINANCE NO. _____ (New Series)

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 (Underline Copy)

County Zoning Ordinance Section 6156 x.

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.
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 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.
3. The ADU shall not be rented for a term of less than 31 days.

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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 a 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 shall not be rented for a term of less than 31 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:

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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.

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]), the County Code of Regulatory Ordinances related to the subdivision of land, and the County zoning ordinance Section 6156.x.
3. 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.
4. **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.
5. 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.”

6. **Notification to Utility Providers.** Applicants seeking to file a parcel map or final 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.
7. **Septic System and Water Well Requirements.** 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.
8. **Fire Safety Requirements.** (1) Before a condo map establishing an ADU as a condominium under this section may be recorded, the applicant must provide documentation of

concurrence from the associated local fire district agency. 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 condominium map and not assigned to any single unit. Access to any condo through any easement must remain unobstructed and maintained by the HOA.

9. **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 will vote on the adoption of an amendment to the Zoning Ordinance that would include one, several, all or none of the following options.]

10. [Option 2] **Right of First Refusal.** Each condominium owner must establish a Right of First Refusal (ROFR) contract with an active rent paying tenant or a condominium owner on the same lot, to be effective only while the affiliated occupancy or ownership on the lot is active, and to be reestablished with another occupant or owner 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 30 days [or a specified number of days, per the Board's direction] in which to execute a sales agreement which matches the original offer.
11. [Option 3] **Owner Occupancy Statement.** Each new buyer of an ADU condominium must sign an affidavit stating that either they themselves or a family member will occupy the unit as their primary residence for at least 1 year [or a specified number of years, per the Board's direction] from the purchase date.
12. [Option 4] **Required MLS Posting.** Each new time an ADU condominium is listed for sale, the owner shall offer the ADU through at least two [or a specified number, per the Board's direction] publicly accessible real estate websites or databases that source listings directly from the MLS (Multiple Listing Service), for a minimum period of 30 days [or a specified number of days, per the Board's direction], with a disclosure stating that the ADU is being offered for at least 30 days [or said number of days, per the Board's direction] to buyers intending to use the ADU as a primary residence for themselves or a family member. At the Director's discretion, this requirement may be waived based on a written statement from

the seller explaining why the posting period represents an undue burden to the seller's marketing practices which adequately prioritize owner occupant buyers.

**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. _____ (New Series)

**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
(Underline Copy)**

County Zoning Ordinance Section 6156 x.

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.
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 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.
3. The ADU shall not be rented for a term of less than 31 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 a 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 shall not be rented for a term of less than 31 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.

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]), the County Code of Regulatory Ordinances related to the subdivision of land, and the County zoning ordinance Section 6156.x.
3. 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.
4. **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.
5. 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.”

6. **Notification to Utility Providers.** Applicants seeking to file a parcel map or final 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.
7. **Septic System and Water Well Requirements.** 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.
8. **Fire Safety Requirements.** (1) Before a condo map establishing an ADU as a condominium under this section may be recorded, the applicant must provide documentation of

concurrence from the associated local fire district agency. 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 condominium map and not assigned to any single unit. Access to any condo through any easement must remain unobstructed and maintained by the HOA.

9. **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 will vote on the adoption of an amendment to the Zoning Ordinance that would include one, several, all or none of the following options.]

10. **[Option 2] Right of First Refusal.** Each condominium owner must establish a Right of First Refusal (ROFR) contract with an active rent paying tenant or a condominium owner on the same lot, to be effective only while the affiliated occupancy or ownership on the lot is active, and to be reestablished with another occupant or owner 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 30 days [or a specified number of days, per the Board's direction] in which to execute a sales agreement which matches the original offer.
11. **[Option 3] Owner Occupancy Statement.** Each new buyer of an ADU condominium must sign an affidavit stating that either they themselves or a family member will occupy the unit as their primary residence for at least 1 year [or a specified number of years, per the Board's direction] from the purchase date.
12. **[Option 4] Required MLS Posting.** Each new time an ADU condominium is listed for sale, the owner shall offer the ADU through at least two [or a specified number, per the Board's direction] publicly accessible real estate websites or databases that source listings directly from the MLS (Multiple Listing Service), for a minimum period of 30 days [or a specified number of days, per the Board's direction], with a disclosure stating that the ADU is being offered for at least 30 days [or said number of days, per the Board's direction] to buyers intending to use the ADU as a primary residence for themselves or a family member. At the Director's discretion, this requirement may be waived based on a written statement from

[the seller explaining why the posting period represents an undue burden to the seller's marketing practices which adequately prioritize owner occupant buyers.](#)

**Attachment C –
12/5/2025 PC Report**



The County of San Diego
Planning Commission Hearing Report

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

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
<u>1.a. Right of First Refusal</u>	<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>
<u>2.a. Only Detached ADUs Qualify</u>	<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>
<u>2.b. Only Newly Developed ADUs Qualify</u>	<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).

Report Prepared By:
Enrique Flores, Project Manager
619-380-3736
Enrique.Flores@sdcounty.ca.gov

Report Approved By:
Vince Nicoletti, Director
858-694-2960
Vince.Nicoletti@sdcounty.ca.gov

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 D –
3/4/2026 Board Hearing Minutes**

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS - LAND USE
WEDNESDAY, MARCH 04, 2026**

MINUTE ORDER NO. 5

**SUBJECT: NOTICED PUBLIC HEARING:
ADU ORDINANCE AMENDMENT INCLUDING THE SEPARATE SALE
OF ADUs AND RELATED CEQA EXEMPTION (DISTRICTS: ALL)**

OVERVIEW

This action proposes updates to the Accessory Dwelling Unit (ADU) section of the Zoning Ordinance (ADU Ordinance) with an amendment. The proposed ADU Ordinance Amendment Including the Separate Sale of ADUs (Amendment), includes updates to align with new mandatory State laws, and introduces an opt-in program to provide smaller, more attainable homeownership opportunities.

The County of San Diego continues to make periodic and regular updates to the Zoning Ordinance to streamline and advance housing efforts in the unincorporated area and maintain alignment with new mandatory State laws. Advancing and improving the Zoning Ordinance has been consistently identified as a priority by industry stakeholders and the community and is a shared objective of the Board of Supervisors (Board).

In 2025, the Chief Administrative Officer established the *Housing for All* initiative to unify and accelerate cross-department efforts to address the housing crisis through a near-term workplan anchored in the Board’s adopted “5 Ps” Housing Solutions Framework-Protect, Preserve, Produce, Promote, and Prevent-which identifies expanding homeownership opportunities, including through innovative tools, as a key action.

Today’s Amendment works to advance these shared goals by updating the ADU Ordinance with mandatory State requirements, clarifying public guidance, and providing a tool to create new pathways to homeownership through the separate sale of ADUs.

The first component of the proposed Amendment incorporates updates for alignment with State laws adopted in 2023 and 2024, and reorganizes the ADU Ordinance for clear public guidance and improved transparency. The second component establishes a County program under Assembly Bill (AB) 1033 to enable the separate sale of ADUs as condominiums in the unincorporated area.

Effective January 2024, AB 1033 allows jurisdictions on an opt-in basis to adopt local ordinances permitting the separate sale of ADUs as condominiums, and establishes requirements for separate ownership. A local program for the separate sale of ADUs allows the County to create opportunities to build generational wealth, give families flexibility to downsize, reduce displacement, or expand multigenerational living scenarios. The program could also support seniors who wish to age in place while accessing the value of their property.

On March 13, 2024 (10), the 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 the development of a local ordinance. Based on that input, the Board took formal action on October 9, 2024 (5), 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.

Staff have prepared five options for the Board’s consideration regarding implementation of AB 1033. The Board may elect to adopt the State framework as-is, adopt one or more local eligibility criteria in addition to State law, or decline to opt in. Adoption of any local criteria would establish a County-specific program that builds upon, and is consistent with the baseline framework provided by AB 1033. The following options are intended to balance community priorities with State allowances and support the County’s *Housing for All* initiative by expanding homeownership opportunities. These options were informed by stakeholder input gathered through the County’s public engagement process.

- Option 1: State Framework. Adopt AB 1033 as implemented by the State, allowing separate sales of ADUs consistent with State law without establishing additional local eligibility requirements.
- Option 2: Right of First Refusal. Right of First Refusal contracts must be established. 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.
- Option 3: Detached ADUs Only. The ADU must be detached from the primary unit. Limitation to detached units allows clearer physical and ownership distinctions between the primary residence and the secondary unit.
- Option 4: New Construction Only. The ADU must be new development. Eligibility for the separate sale of ADUs is limited to those that have been newly constructed as condominiums and did not exist prior to condo mapping.
- Option 5: Don’t opt in to AB 1033. The County would not opt in to allow the separate sale of ADUs, and current regulations would remain until any future Board action.

While these options were developed based on stakeholder input, they were further refined through the course of community outreach and feedback. The Planning Commission recommended adoption of the State Framework without local eligibility criteria as the most flexible and expansive approach.

Today’s request is for the Board to consider and adopt the section of the ADU Ordinance that addresses updates needed to comply with mandatory State law; consider and adopt the section of the ADU Ordinance that allows the separate sale of ADUs; and, at the Board's discretion, provide direction regarding local eligibility criteria to be applied to the separate sale of ADUs in the unincorporated area.

RECOMMENDATION(S) PLANNING COMMISSION

On December 5, 2025, the Planning Commission recommended that the Board of Supervisors adopt the ADU Ordinance Amendment, including a program for the separate sale of ADUs as written under State law, without any additional local eligibility criteria described in the programmatic options presented by County Staff. The Commission reviewed all of the options for local eligibility criteria and expressed concerns that local criteria would restrict implementation, and ultimately supported a fully State-aligned approach as the most flexible and expansive option for implementation of the program.

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

1. Find the update to the County’s Zoning Ordinance implementing State law governing the permitting of ADUs is not a “project” and is exempt from CEQA under CEQA Guidelines section 15378(b)(4) as it merely aligns the County’s Zoning Ordinance with State law already in effect. Changes related to the separate sale of ADUs do not require analysis under CEQA as the transfer of ownership of these homes will not cause a direct or reasonably foreseeable indirect physical change in the environment.
2. Adopt the Form of Ordinance, Section 6156.x through 6156.x.C including Section 8900 Table AL-1.0, that addresses updates needed to comply with mandatory State law, (Attachment A, on file with the Clerk of the Board): 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)
3. Adopt the Form of Ordinance, Section 6156.x.D, that allows the separate sale of ADUs, and at the Board of Supervisors’ discretion, provide direction on local eligibility programmatic options for the separate sale of ADUs in the unincorporated area, (Attachment A, on file with the Clerk of the Board): 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)

EQUITY IMPACT STATEMENT

Planning & Development Services (PDS) recognizes the historic and ongoing housing inequities that affect many residents in the San Diego region, including barriers to homeownership and challenges in accessing stable, attainable housing. The ADU Ordinance Amendment Including the Separate Sale of ADUs (Amendment) supports greater housing equity in the unincorporated area by improving clarity in ADU regulations and creating new, attainable pathways to homeownership. Aligning the County’s Zoning Ordinance with recent State law reduces procedural barriers that can disproportionately affect first-time buyers and lower-income households. The local program developed under AB 1033 would allow ADUs to be sold separately as smaller, more attainable ownership units, providing opportunities for households to build equity, for seniors to age in place, and for families to remain in their communities.

SUSTAINABILITY IMPACT STATEMENT

This Amendment helps support the County’s housing goals by making it easier for residents to build and understand Accessory Dwelling Unit (ADU) regulations and by creating new opportunities for attainable homeownership. Allowing ADUs to be sold separately as smaller homes can provide more flexible housing choices for first-time homebuyers, multigenerational families, and seniors who wish to remain in their communities. The program supports sustainable growth by encouraging housing within existing neighborhoods where infrastructure, services, and transportation already exist. By keeping the process clear and voluntary the Amendment helps residents make informed housing decisions while supporting stable, long-term community living.

FISCAL IMPACT

There is no fiscal impact associated with today’s recommendation. The proposed legislative updates to the Zoning Ordinance are part of the Planning & Development Services workplan to maintain alignment with State housing laws, and can be completed with existing staff resources. There will be no net change in General Fund cost and no additional staff years required.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Desmond, seconded by Supervisor Montgomery Steppe, the Board of Supervisors closed the Hearing and took the following actions:

1. Found the update to the County’s Zoning Ordinance implementing State law governing the permitting of ADUs is not a “project” and is exempt from CEQA under CEQA Guidelines section 15378(b)(4) as it merely aligns the County’s Zoning Ordinance with State law already in effect. Changes related to the separate sale of ADUs do not require analysis under CEQA as the transfer of ownership of these homes will not cause a direct or reasonably foreseeable indirect physical change in the environment.
2. Adopted Ordinance 10986 (N.S.) entitled: 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.
3. Adopted Option 1: State Framework. Adopt AB 1033 as implemented by the State, allowing separate sales of ADUs consistent with State law without establishing additional local eligibility requirements.
4. Direct the Chief Administrative Officer to move forward with drafting an amendment including options to promote first time home buyers and home ownership for separate sale of ADUs including but not limited to the right of first refusal and/or an owner occupancy requirement for the first year or longer, with any additional legally compliant options that County Counsel identifies through conversations with board offices.
5. Return to the Board in 120 days.

AYES: Aguirre, Anderson, Lawson-Remer, Montgomery Steppe, Desmond

State of California)
County of San Diego)

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER
Clerk of the Board of Supervisors



Signed
by Andrew Potter

**Attachment E –
3/24/2026 HHSA HCDS Board Hearing
Minutes**

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
TUESDAY, MARCH 24, 2026**

MINUTE ORDER NO. 25

SUBJECT: RESTORING HOMEOWNERSHIP FOR SAN DIEGANS (DISTRICTS: ALL)

OVERVIEW

Homeownership has long been a cornerstone of economic stability and upward mobility in the United States, yet in the County of San Diego, the traditional “American Dream” of owning a home is becoming increasingly unattainable for many young and moderate-income families. As of 2025, according to the California Association of Realtors, only 13% of San Diego County households can afford to purchase a median-priced home. Persistently high home prices, stagnant wage growth, limited housing inventory, and escalating interest rates have combined to push homeownership out of reach for a significant portion of the local population.

In San Diego County, the median price of a home has hovered near or above the million-dollar mark, placing ownership well beyond the financial grasp of most households. As a result, only a small fraction of residents earn enough to afford the monthly mortgage payments required for a median-priced home. This dynamic disproportionately impacts first-time buyers-particularly younger adults and moderate-income families-who face steeper barriers in saving for down payments, qualifying for competitive loans, and successfully navigating a tight and increasingly competitive housing market.

The limited ability to purchase a home has broader implications for economic mobility, workforce retention, community stability, and long-term financial security. When families are priced out of homeownership, they face increased cost burdens in the rental market, reduced stability, and diminished opportunities to build wealth or remain rooted in the communities they serve.

Today’s action directs the Chief Administrative Officer to conduct a feasibility study of establishing a County-funded and County-administered pilot program to support first-time homebuyers in the unincorporated area. Owning a home is more than a financial milestone, it represents stability, dignity, and a foundation on which families can build their future.

RECOMMENDATION(S)

SUPERVISOR JIM DESMOND

1. Direct the Chief Administrative Officer to evaluate the feasibility of establishing a County-funded and County-administered pilot program to support first-time homebuyers in the unincorporated area, and to report back to the Board within 120 days. The feasibility analysis should include, but not be limited to, the following:
 - a. Opportunities for public-private partnerships, including collaboration with financial institutions to secure better terms for program applicants.
 - b. Potential down payment assistance funding.
 - c. Interest rate buy-down options to improve mortgage affordability.
 - d. Eligibility criteria designed to complement, and not duplicate, the two first-time homebuyer programs currently administered by the County-the Down payment and Closing Cost Assistance Program and the Moderate Income Down payment Assistance Program.

- e. An indication of how many first-time homebuyers any proposed budget can assist.
- f. Include safeguards and risk mitigation strategies for the County's financial investment.

EQUITY IMPACT STATEMENT

The rising cost of homeownership in San Diego County disproportionately impacts young adults and working families. Establishing a County-administered pilot program to support first-time homebuyers would advance housing equity by creating new pathways to homeownership for moderate-income households in the unincorporated area. This effort aligns with the County's commitment to dismantling barriers to opportunity and providing all residents a fair chance at long-term financial security and community stability.

SUSTAINABILITY IMPACT STATEMENT

The proposed feasibility study supports several County of San Diego Sustainability Goals, including providing just and equitable access to housing, enhancing economic opportunity, and promoting the long-term well-being of residents. Increasing homeownership opportunities contributes to regional sustainability by fostering stable communities, reducing displacement, and encouraging local investment. This pilot program would support social and economic sustainability while aligning with the County's broader housing, climate, and quality of life goals.

FISCAL IMPACT

Funds for this request to conduct a feasibility study are included in the Fiscal Year 2025-26 Operational Plan based on existing staff time in Housing & Community Development Services funded by existing General Purpose Revenue. The Chief Administrative Officer will return to the Board with future related recommendations to implement a pilot program, including any associated funding needs and/or staffing impacts for the Board's consideration. There will be no change in net General Fund cost and no additional staff years associated with today's recommendation.

BUSINESS IMPACT STATEMENT

N/A

ACTION 25.1:

Noting for the record this item was heard on March 25, 2026; A motion was made by Supervisor Desmond, for the Board of Supervisors to take action as recommended.

(This motion failed for lack of a second.)

ACTION 25.2:

ON MOTION of Supervisor Lawson-Remer, seconded by Supervisor Aguirre, the Board of Supervisors took the following actions:

1. Directed the Chief Administrative Officer to evaluate the feasibility of establishing a County-funded and County-administered pilot program to support first-time homebuyers in the unincorporated area, and to report back to the Board within 90 days. The feasibility analysis should include, but not be limited to, the following:
 - a. Opportunities for public-private partnerships, including collaboration with financial institutions to secure better terms for program applicants.
 - b. Potential down payment assistance funding.
 - c. Interest rate buy-down options to improve mortgage affordability.

- d. Eligibility criteria designed to complement, and not duplicate, the two first-time homebuyer programs currently administered by the County-the Down payment and Closing Cost Assistance Program and the Moderate Income Down payment Assistance Program.
 - e. An indication of how many first-time homebuyers any proposed budget can assist.
 - f. Include safeguards and risk mitigation strategies for the County’s financial investment.
2. Directed the Chief Administrative Officer to include in the County’s Legislative Program opposition to federal policies that increase the cost of housing construction in San Diego County, including Trump administration tariffs on construction materials, as well as opposition to U.S. military or economic actions that disrupt energy markets and construction materials supply chains, such as U.S. actions targeting Iran and Venezuela.
 3. Additionally, direct the Chief Administrative Officer to include in the analysis the impact of geopolitical conflicts and tariffs on inflation, energy costs, construction costs, and local housing market.

AYES: Aguirre, Lawson-Remer, Montgomery Steppe
 NOES: Desmond
 ABSENT: Anderson

State of California)
 County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER
 Clerk of the Board of Supervisors




Signed
 by Andrew Potter