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April 11, 2017

Montecito Planning Commission
123 E. Anapamu Street
Santa Barbara, CA 93101

Re: Proposed Accessory Dwelling Unit Land Use Development Code
Amendments, Hearing of April 12, 2017

Dear Chair Keller and Commissioners:

The Montecito Association is pleased to offer these further comments in support of Accessory Dwelling Unit (ADU) code amendments that best suit the needs of the Montecito Community. These comments supplement our comments of March 16, 2017. While we continue to have concerns about application of this State mandate in an area characterized by a number of resource constraints, we are offering specific standards that can be incorporated in the applicable Land Use Codes in compliance with the limitations imposed by Government Code §65852.2.

In order to find the proposed ordinance amendments consistent with the Comprehensive Plan, provisions must be included that ensure that future ministerial approvals of ADU comply with the development standards of the Montecito Community Plan (MCP). This is mandated by Policy H-M-1.2: “Affordable housing in Montecito should be provided through a variety of means...Such development must be consistent with the architectural and development standards mandated by this community plan and consistent with other applicable goals and policies of this community plan.”

Ordinance Components:

1. Support Staff’s conformance of County Ordinance language to Government Code §65852.2.

The Association supports the revisions noted in Staff’s April 5, 2017 memo, items 1 a. thru e., regarding application completeness, clarifying “legal” living area, required minimum occupancy standards, owner occupancy on site and limitation of sale of ADU’s. Note in the italicized text for item c. on page 2, Staff and the Commission may want to insert the term “consecutive” in referring to days, consistent with Government Code §65852.2.

2. Maximum ADU Unit Size

Maintaining the existing floor area maximums in the current Montecito Land Use Development Code (MLUDC) and Coastal Zoning Ordinance is critical to protecting community character and the ability to make the required finding that the proposed ordinance amendments are consistent with the Comprehensive Plan and Montecito Community Plan. Specifically, see Goal G-M-1, “Maintain and preserve the residential, low intensity, semi-rural character of Montecito.”

These current provisions are tied to lot size, would work in tandem with the lot coverage limits and are very clearly compliant with GC§65852.2. To

this point, please refer to the California Department of Housing and Community Development “Accessory Dwelling Unit Memorandum” dated December 2016 (this is guidance provided by the State agency with responsibility for overseeing local implementation of State law specific to Housing Elements):

“Can Local Governments Establish Minimum and Maximum Unit Sizes?”

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.”

We ask that your Commission recommend that the unit size limitations of 400-1000 square feet from the current code be applied to both attached and detached ADU.

3. ADU In Addition To Existing Second Non-Conforming Dwelling or Guesthouse:

Current ordinance provisions (MLUDC 35.442.160) state that “A residential second unit shall not be allowed on a lot in addition to a guesthouse, dwellings other than the principal dwelling determined to be nonconforming as to use, or farm employee housing.” Staff proposes to delete this provision. Instead, we recommend it be modified and retained to require that an existing guesthouse or nonconforming unit be converted to an ADU, if proposed on the property. We believe this is consistent with the State’s intent to allow only one second residential unit on a site.

This provision could read,

“On a lot containing a guesthouse or dwellings other than the principal dwelling determined to be nonconforming as to use, an ADU may be approved within the existing guesthouse or dwelling other than the principal dwelling but not in addition to such a structure.”

4. Design Review:

We continue to support maintenance of the existing provision for MBAR chair, or designee, review to evaluate compliance with the proposed development standards (where external changes are proposed).

Similarly, we appreciate and support your Commission’s request at the March 22 hearing to also incorporate a similar provision for review of ADU applications involving structures that are 50 years old or greater. We support staff’s response that review and comment on an ADU by the HLAC should be added to the Development Standards and maintain such review in a ministerial manner.

5. Owner Occupancy and Minimum Rental Term:

We are in agreement with staff regarding the ability to apply a minimum rental term and owner occupancy on the lot. Application of the Article II standard for determining owner occupancy is appropriate. Application of both terms is consistent with the HCD December memorandum

guidance, below. The Association continues to support establishment of a minimum rental period of 180 days.

“Are Owner Occupants Required?”

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5.”

6. Lot Coverage:

The existing 40% maximum lot coverage requirement for residential second units should be maintained. This is a useful tool in addressing the overdevelopment of a lot and is within the allowances of the ADU law. As demonstrated in the table provided on page 3 of the April 5 staff memo, this will accommodate construction of amply sized units on even the smallest parcels. Further, it maintains existing ordinance provisions that were intended to address Montecito Community Plan consistency. This may even have the benefit of creating units that are affordable by design.

7. Building Height:

In order to ensure compatibility of new detached ADU, we recommend that these be limited to one-story in height. This will be a useful standard to address compatibility, especially on smaller lots. Application of a 25 foot height limit for the portion of new construction of an attached ADU would also help address compatibility concerns.

8. Parking:

We understand the limitation placed on parking requirements by the State law. We are concerned that failure to accommodate parking off-street will present a significant safety hazard on Montecito roadways that are not adequately sized to accommodate parked cars and a passing fire engine. This is especially concerning in the mountainous very high fire hazard areas. To address this, we recommend caution in allowing tandem parking in these areas and measures to prevent on-street parking on a roadway with less than 16 feet of clearance. The intent is that ADU parking be provided on site safely, especially in high fire hazard areas, in a manner that does not impede fire access or safe evacuation.

9. Landscaping:

Please include standards in the ordinances that will ensure views of the unit and any required parking are screened from abutting properties and the public right-of-way. To ensure the standard is ministerial in nature, a minimum planted hedge height and thickness could be described in the code.

10. Grading/Retaining Walls

In order to ensure that new construction permitted under the proposed amendment would be consistent with the Comprehensive Plan, including the Montecito Community Plan, and to keep the process ministerial, we recommend these development standards be included in the code for new ADU construction:

- a. Net cut or net fill shall not exceed 50 cubic yards for construction of the unit or grading of the access, outdoor living area or parking area. (Net cut and net fill shall be defined to

exclude any grading needed for footings, underfloor, excavation, and cut and recompaction of soil immediately under the ADU needed to provide a safe and stable foundation system.)

- b. An ADU shall not be permitted if it requires the construction of an exposed retaining wall greater than 6' in height.

11. Environmentally Sensitive Habitat

To further ensure consistency with the Comprehensive Plan, including the Montecito Community Plan, and keep the ADU review process ministerial, we propose these standards:

- a. An ADU shall not be constructed within a mapped Environmentally Sensitive Habitat Area, including mapped riparian corridors.
- b. An ADU shall not be located such that it requires the removal of a specimen tree or a Coast Live Oak with a diameter at breast height (DBH) of 12" or greater. Removal of Coast Live Oak of 6-12" at DBH shall be replaced onsite at 3:1 with 36" box Coast Live Oak trees.

Resource Constraints

We continue to have reservations regarding the adequacy of resources to accommodate the additional development and densities that could be converted and developed in the community. The annual report to the Board of Supervisors for the Montecito Growth Management Ordinance clearly lays out those constraints and we do not believe they should be disregarded as this process proceeds.

Conclusion

Thank you for your consideration of these comments. We realize that some of the recommendations herein may require additional effort to fully define and make user-friendly for applicants and staff alike. We remain available and willing to assist in that effort. We also draw your attention to the comments submitted by other experts in our community and hope that you will carefully consider that input – with the hope of achieving an ordinance that is aligned with the vision for the community as set out in the Montecito Community Plan.

With gratitude,



Charlene Nagel
President