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October 28, 2020

City Council
City of San Mateo
330 West 20th Avenue
San Mateo, CA 94403

Re: Grand Jury Report: "Second Units: Adding New Housing In The Neighborhoods"

Dear Councilmembers:

The 2019-2020 Grand Jury filed a report on October 28, 2020 which contains findings and recommendations pertaining to your agency. Your agency must submit comments, within 90 days, to the Hon. Danny Y. Chou. Your agency's response is due no later than January 26, 2021. **Please note that the response should indicate that it was approved by your governing body at a public meeting.**

For all findings, your responding agency shall indicate one of the following:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Additionally, as to each Grand Jury recommendation, your responding agency shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation therefore.

Please submit your responses in all of the following ways:

1. Responses to be placed on file with the Clerk of the Court by the Court Executive Office.

- Prepare original on your agency's letterhead, indicate the date of the public meeting that your governing body approved the response address and mail to Judge Chou.

Hon. Danny Y. Chou
Judge of the Superior Court
c/o Jenarda Dubois
Hall of Justice
400 County Center; 8th Floor
Redwood City, CA 94063-1655.

2. Responses to be placed at the Grand Jury website.

- Copy response and send by e-mail to: grandjury@sanmateocourt.org. (Insert agency name if it is not indicated at the top of your response.)

3. Responses to be placed with the clerk of your agency.

- File a copy of the response directly with the clerk of your agency. Do not send this copy to the Court.

For up to 45 days after the end of the term, the foreperson and the foreperson's designees are available to clarify the recommendations of the report. To reach the foreperson, please call the Grand Jury Clerk at (650) 261-5066.

If you have any questions regarding these procedures, please do not hesitate to contact Paul Okada, Chief Deputy County Counsel, at (650) 363-4761.

Very truly yours,



Neal Taniguchi
Court Executive Officer

Enclosure

cc: Hon. Danny Y. Chou
Paul Okada



Second Units: Adding New Housing In The Neighborhoods

ISSUE

How are the County of San Mateo and its cities supporting homeowners who are considering building a new Second Unit on their property or upgrading a non-permitted one, in response to new State laws, which became effective January 1, 2020?

SUMMARY

Housing availability is a top priority in San Mateo County because while 93,000 new jobs were added between 2010-2018, only 8,500 new housing units were built. Housing considered “affordable” is especially at a crisis point. “Limited land and the large gap between new jobs and available housing lead to high rents and high home prices. As of 2019, median rent in the County for a one-bedroom apartment is \$2,621 and for a two-bedroom apartment it is \$3,349, while only 24% of County households can afford to purchase an entry-level home.”¹

To put this slow-moving catastrophe into further perspective, more than two-thirds (68%) of the County’s land is protected from development because it is either agricultural or open space. At the same time, of the County’s already developed land, two-thirds is occupied by single-family homes.² Simply stated, building more single-family homes cannot begin to solve the County’s housing shortfall. “Second Units” – broadly defined as self-contained living spaces that are on the same property as an existing residence – present a creative and innovative option to addressing the region’s affordable housing crisis.

The number of new Second Units dramatically increased after several State laws went into effect in 2017. This made the construction of Second Units easier for homeowners. The number of new Second Units is expected to further increase as a result of new state laws which went into effect in January 2020. It has become clear to date that Second Units are popular for a variety of reasons. They are attractive as housing for relatives, rental income and personal investment as well as providing the option to downsize. Such units can also supply housing for community members like educators or public safety employees who otherwise would not be able to live in the community in which they work. Factoring in that there are approximately 155,000 single-

¹ Home for All Brochure, Published April 2019. Accessed May 15, 2020. https://homeforallsmc.org/wp-content/uploads/2019/08/HFA_brochure_v16_WEB.pdf

² Home for All Community Convening on Second Units: Maintaining the Momentum, February 27, 2020

family homes in San Mateo County³ and only 4,000 Second Units on those properties⁴, the potential exists for thousands of new Second Units that would significantly impact the county's housing deficit over the years to come.

However, there are significant hurdles facing the development of Second Units. According to housing advocates interviewed by the Grand Jury, the biggest impediments to the construction of new Second Units, as well as upgrading non-permitted Second Units, are: obtaining financing, the lack of contractors willing to work on Second Units, and the need for local governments to recruit and train more inspectors.⁵

“The San Mateo County Board of Supervisors and County Manager's Office, along with support from the County's Department of Housing (“DOH”) have been leading the regional effort to allow the development and construction of more Second Units.”⁶ DOH has been working collaboratively with the 20 cities to help address countywide affordable housing issues. DOH has contracted with a consulting firm, Baird & Driskell, on the *21 Elements Project*, to assist the County and cities in this effort. The consulting firm hosts monthly meetings related to Second Units with city and DOH representatives. As part of this effort, DOH is developing a new website and marketing plans that will focus on promoting Second Units.

As a result of this investigation, the Grand Jury recommends the following:

1. The County and its cities should continue their outreach to homeowners informing them about the new laws that simplify and streamline the construction and permitting of Second Units.
2. The County and its cities should determine whether there is a way for the public entities to compile a list of financial partners who can assist homeowners with funding new Second Units and upgrading non-permitted Second Units.
3. The County and its cities should determine whether there is a way for the public entities to develop a comprehensive list of contractor resources and partner with training institutions to recruit and train more general contractors and inspectors.
4. The County and its cities should encourage homeowners who may have non-permitted Second Units to go through the permitting process.

The 2019-2020 Grand Jury commends the current housing efforts of the County and its cities and urges them to embrace the new opportunities. The impact of the laws passed by the California Legislature in 2017 increased the number of Second Units constructed annually by 450%. If the

³ According to San Mateo County housing data, there are 276,444 housing units in San Mateo County (Fig. 1). Figure 33 says that 56% (155,000) of housing units are single-family, detached homes. When you multiply the two figures, you get 154,808 (which rounds to 155k).

<https://www.towncharts.com/California/Housing/San-Mateo-County-CA-Housing-data.html>

⁴ Grand Juror interviews.

⁵ Grand Jury Interviews

⁶ Home for All collaborative, <https://homeforallsmc.org/>

2020 laws have a similar effect, our County and cities will be well-positioned for adding more affordable housing.

GLOSSARY

Home for All: A collaborative countywide initiative which was undertaken to inspire community action and promote closure of the county’s 11:1 jobs/housing gap.⁷ The members of this initiative include the County and 16 of its cities as well as representatives from all sectors of the community who are focused on creating a future where everyone in the County has a home they can afford. It has been led by Supervisors Don Horsley and Warren Slocum. According to its website, this initiative builds on the work and momentum of the Closing the Jobs/Housing Gap Task Force.⁸

Second Unit: An interchangeable term with a granny flat, in-law suite, Accessory Dwelling Unit (ADU), converted garage, backyard cottage or basement apartment. They are always self-contained homes, smaller than the main house and legally part of the same property. Second Units can take many forms and vary in size, but always contain everything someone needs to live, including a kitchen, bathroom and a place to sleep.⁹

Junior Second Unit/Junior ADU: A very small living unit up to 500 square feet, which re-purposes existing space within a residence such as a bedroom, garage or carport within an existing single-family home. These units may contain a basic kitchen utilizing small plug-in appliances and may share central systems as well as a bathroom with the primary dwelling.¹⁰

The “21 Elements Project”: A multi-year funded project co-sponsored by DOH and the City/County Association of Governments (C/CAG) through which all jurisdictions in San Mateo County cooperate to update their respective Housing Elements and share information and work on a wide variety of housing policies and programs.¹¹ “21 Elements” is a project of Baird & Driskell Community Planning Consultants, a master housing consultant, which supports all San Mateo County and city jurisdictions, hosting monthly phone conferences related to affordable housing issues (including Second Units), through a contract with DOH.¹²

BACKGROUND

The Bay Area housing crisis can be traced back to the 1970s when local cities experienced an economic boom, and property taxes were rising with them. Then Proposition 13 put a cap on

⁷ Supra, note 1

⁸ <https://homeforallsmc.org/about-us/>

⁹ Second Unit Inspiration brochure, page 3. The booklet was produced as a joint project of Home for All and 21 Elements, 2018. www.SecondUnitCenterSMC.org

¹⁰ Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), California Department of Housing and Community Development, accessed May 20, 2020. <https://www.hcd.ca.gov/policy-research/AccessoryDwellingUnits.shtml>

¹¹ <https://sanmateocountv.legistar.com/LegislationDetail.aspx?ID=4068159&GUID=1D7B2118-0312-4351-88E6-9E4BAB9C37B5>

¹² <http://21elements.com/second-units>

how much could be raised from property taxes each year. Cash-hungry cities zoned more land for commercial use so they could collect more sales tax. That meant more retail property was built than private housing. In addition, steep impact fees pushed developers to prioritize expensive homes rather than multi-unit housing. Then, Silicon Valley businesses grew and brought huge numbers of tech jobs to the Bay Area. “The housing crisis has been a slow-moving storm that has been churning for decades.”¹³

The number of jobs in San Mateo County has grown beyond the number of new housing units available.¹⁴ Between 2010-2018, for example, 93,000 jobs were added but only 8,500 new housing units were built. To put this serious situation in perspective, more than two-thirds (68%) of the County’s land is either agricultural or open space, and two-thirds of the County’s *developed* land is occupied by single-family homes.¹⁵ Simply stated, building more single-family homes on the remaining available land cannot begin to solve the County’s housing shortfall.

“Limited land and the large gap between new jobs and available housing lead to high rents and high home prices. In the County, median rent for a one-bedroom apartment is \$2,621 and for a two-bedroom apartment it is \$3,349.”¹⁶ Approximately two thirds of San Mateo County households cannot afford to purchase an entry-level home. Among those affected are important members of the County’s workforce including teachers, firefighters and other public employees who are unable to live in the areas they serve.¹⁷ Lack of affordable housing is an issue for San Mateo County and throughout the State of California.¹⁸

¹³ Melissa Colorado, “Making It in the Bay: How the Bay Area’s Housing Crisis Spiraled Out of Control” February 10, 2020. <https://www.nbcbayarea.com/news/local/making-it-in-the-bay/making-it-in-the-bay-how-the-bay-areas-housing-crisis-spiraled-out-of-control/2230410/>

¹⁴ According to a San Mateo County spokesperson at a Home for All Community Convening on Second Units: Maintaining the Momentum, Belmont, February 27, 2020

¹⁵ Home for All Community Convening on Second Units: Maintaining the Momentum, Belmont, February 27, 2020.

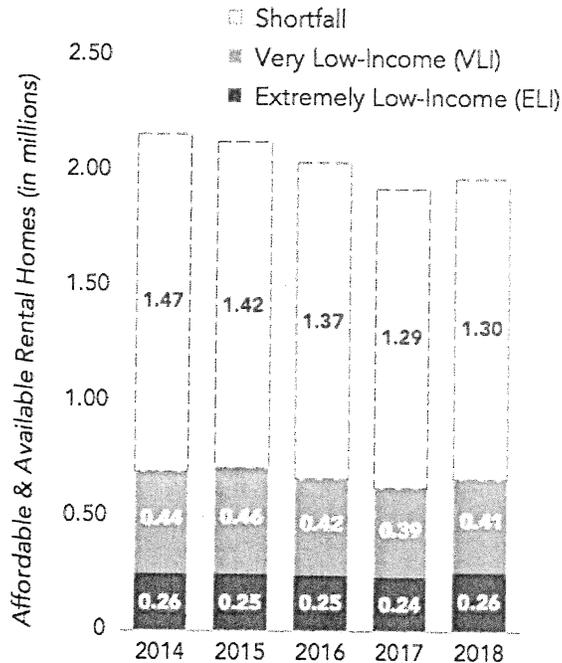
¹⁶ Home for All brochure, Published April 2019. https://homeforallsmc.org/wp-content/uploads/2019/08/HFA_brochure_v16_WEB.pdf

¹⁷ Second Unit Inspiration Brochure, produced by Baird + Driskell Community Planning, page 4, 2018. www.SecondUnitCenterSMC.org.

¹⁸ California Housing Partnership analysis of 2018 1-year American Community Survey (ACS) PUMS data with HUD income levels https://1p08d91kd0c03rlxhmhtydpr-wpengine.netdna-ssl.com/wp-content/uploads/2020/03/CHPC_HousingNeedsReportCA_2020_Final-.pdf

CALIFORNIA NEEDS 1.3 MILLION MORE AFFORDABLE RENTAL HOMES

While the shortfall has declined by 11% since 2014, the share of housing need not being met has remained relatively constant because the number of low-income households has also declined.



Source: California Housing Partnership analysis of 2018 1-year American Community Survey (ACS) PUMS data with HUD income levels. Methodology was adapted from NLIHC gap methodology.

*The proportion of total unmet housing demand for low-income renters (shortfall / total demand) from 2014 to 2018, was 68%, 67%, 67%, 67%, and 66%, respectively.

Throughout the County, the housing shortage is being addressed in a variety of ways including: development of multi-unit complexes along transit corridors; shared housing; and the subject of this report, building Second Units on single family properties. According to Grand Jury interviews with local government officials and housing advocates, building and upgrading Second Units is a relatively fast and efficient option and one component of a multi-faceted strategy to address the County's affordable housing shortage.¹⁹

California laws passed in 2017 dramatically increased the number of new Second Units in the County to an average of 269 Second Units per year from an average of just 60 Second Units per year from 2010-2016. (See Appendix A).

¹⁹ Grand Jury interviews.

The laws which went into effect on January 1, 2020, include:²⁰

- **AB 68/AB 881** - Requires local agencies to approve or deny an ADU project more quickly and prohibits local agencies from adopting ADU ordinances that impose minimum lot size requirements, set certain maximum dimensions, or require replacement off-street parking in certain situations. Also allows for an ADU as well as a "junior" ADUs where certain access, setback and other criteria are met.
- **SB 13** - Provides, until January 1, 2025, that cities may not condition approval of ADU building permit applications on the applicant being the "owner-applicant" of either the primary dwelling or the ADU, and prohibits impact fees on ADUs under 750 square feet.
- **AB 587** - Provides that local agencies may now allow ADUs to be sold or conveyed separately from a primary residence if certain conditions are met. This law is expected to increase the ability of affordable housing organizations to sell deed-restricted ADUs to eligible low-income homeowners.
- **AB 670** - Prevents homeowners' associations from barring ADUs. AB 670 makes unlawful any HOA condition that "prohibits or unreasonably restricts" the construction of ADUs on single-family residential lots.
- **AB 671** - Requires local governments to include in their General Plan housing elements plans to incentivize and promote the creation of affordable ADUs. The law also requires HCD to develop, by December 31, 2020, a list of state grants and financial incentives for ADU development.

The new 2020 laws solve a number of key zoning and construction restraints which previously held back less expensive housing options. Second Units can now be built or remodeled into 800 square-foot rental units with construction approved by the respective cities within 60 days and do not require owner occupation, additional parking or impact fees (if 750 square feet or less).

In the case of amnesty, non-permitted Second Units are acceptable if they meet health and safety standards, e.g., operating fire detectors and electric wiring. Of note is that units cannot be used for short-term vacation rentals as the various laws were intended for rental to singles or families who cannot otherwise afford a single-family dwelling or an apartment rental near their workplace.²¹

²⁰ <https://www.hklaw.com/en/insights/publications/2019/10/californias-2020-housing-laws-what-you-need-to-know>. Additionally, a more complete summary of the 2020 statutes impacting the construction or permitting of Second Units can be found in Appendix B.

²¹New state laws for ADU/Second Unit construction, effective January 1, 2020: AB 670 (Friedman), AB 671 (Friedman), AB 68 (Ting), AB 587 (Friedman), AB 881 (Bloom), SB 13 (Wieckowski) are designed to help narrow the shortfall in affordable housing in California. Another bill is being worked on to tie all bills together. (Appendix B: Summary of bills)

DISCUSSION

In December 2019, the San Mateo County Grand Jury surveyed the city managers of all 20 cities in the County regarding passage of California laws concerning Second Units. The survey inquired about plans for the implementation of these new laws in each jurisdiction.²² With the exception of East Palo Alto and Millbrae, all of the jurisdictions responded to the survey, and all were aware of the new laws. Many were preparing to find ways to initiate the development of more Second Units in their jurisdictions. Their main concerns included:

- short amount of time between passage of the laws and the need to implement them;
- perceived conflicts and inconsistencies within the new State laws;
- loss of local control might lead to community backlash;
- inadequate staffing to handle the potential increase in Second Unit interest;
- homeowner's ability to secure funding for the construction costs; and
- availability of sufficient extra neighborhood parking.

Opportunity for New Second Units

Housing advocates consider Second Units to be “low-hanging fruit” for the development of new housing inventory. There are about 155,000 single-family homes in San Mateo County with only 4,000 Second Units on those properties, so there is a potential for thousands of new Second Units. Since 2010, there has been a steady growth in Second Unit approvals throughout the county, according to San Mateo County's Annual Jurisdiction Survey.²³

To take full advantage of new opportunities for ADUs created by the 2020 State bills, cities throughout the county are updating their zoning ordinances to be in compliance with the new State laws. Additionally, many cities are focused on streamlining their individual Second Unit permitting process as well as the process that will provide amnesty for pre-existing, non-permitted Second Units.²⁴

Several new online tools – including tools at <https://secondunitcenter.org/> (a website maintained by the County) – identify potential sites for Second Units, calculate estimated costs, and streamline the process of building a Second Unit, thereby making Second Unit development an easier option for homeowners to consider.²⁵ They include:

- <https://build.symbium.com/>
Using this link, residents and planners in Redwood City, Pacifica, and Unincorporated San Mateo County can quickly determine whether a Second Unit is allowed at a particular address and if so, what specific development standards (State and local rules) apply. More cities will be added to this list in the near future.²⁶

²² Survey questions are listed in Appendix C.

²³ “Accessory Dwelling Units Approved by Jurisdiction” (2010-2018, with 2019 data added), Annual Jurisdiction Survey. See chart and graph in Appendix A.

²⁴ Grand Jury interviews.

²⁵ Online Tools from companies like Symbium allows anyone to understand whether a Second Unit is allowed on a particular parcel. See <https://build.symbium.com>

²⁶ Second Unit Resource Center handout. <https://secondunitcentersmc.org/>

- <http://calculator.secondunitcentersmc.org/>
San Mateo County’s Second Unit Calculator helps a homeowner get an estimate for what a Second Unit project might cost, and calculates the amount it might yield as an investment. It also allows a user to change assumptions such as location, unit size, type of unit and much more.
- <https://secondunitcentersmc.org/>
The County’s website focuses on Second Unit development and, according to Grand Jury interviews, will be further updated in the future.

Amnesty for Non-Permitted Second Units

The actual number of non-permitted Second Units in the County is unknown.²⁷ However, whatever this number might actually be, these units are important affordable housing as long as they meet minimum health and safety codes.

The San Mateo County Planning and Building Department and nonprofits such as “Rebuilding Together Peninsula”²⁸ are focused on encouraging owners of non-permitted Second Units in the unincorporated area of the County and East Palo Alto respectively to develop plans that would make more of them safer and healthier and thereby permitted.

In January 2020, the County initiated a pilot program for homeowners who wished to consider upgrading their non-permitted Second Units.²⁹ If this pilot program is successful, it will be expanded and marketed as a model that cities in the County could adopt. The program allows:

- existing Second Units to be brought up to code and become permitted;
- applicants to explore whether the amnesty program for non-permitted units might work for them;
- a *no-risk* assurance which enables the homeowner to back out of the permitting process at any time with no obligation on their end to bring their non-permitted unit up to health and safety standards;
- a variety of enforcement suspensions included in the laws that took effect this past January; and
- some previously non-permitted construction features (so some homeowners no longer need amnesty.)

Rebuilding Together Peninsula is a non-profit organization that focuses on home repair. Eighty five percent of its home repair projects are in San Mateo County, primarily garage-conversion Second Units in East Palo Alto.^{30 31} Much of that work is focused on upgrading non-permitted Second Units. Grand Jurors toured the Redwood City offices and learned that the nonprofit

²⁷ Grand Jury interviews.

²⁸ RebuildingTogetherPeninsula is a non-profit that is focused on working with other local agencies to upgrade non-permitted second units in East Palo Alto. It has a focus on repairs of garage-conversions, not new construction. <https://sites.google.com/rebuildingtogetherpeninsula.org/epa-adu-initiative/home>

²⁹ See the SMC Second Unit Amnesty Website: <https://planning.smcgov.org/second-unit-amnesty>

³⁰ Grand Jury interview.

³¹ Rebuilding Together the Peninsula EPA Garage Conversion/ADU Legalization Initiative, <https://sites.google.com/rebuildingtogetherpeninsula.org/epa-adu-initiative/home>

works on one project at a time, relying on volunteers who are good at making repairs. Most of these Second Units are for relatives and friends, not for revenue. Rebuilding Together's five year plan targets low income communities of color. Second Unit goals for Rebuilding Together in East Palo Alto are:

- legalizing non-permitted units;³²
- repairing units to make them safer for occupants;
- streamlining the repair process;
- sharing learnings;
- training and workforce development; and,
- transitioning East Palo Alto Second Unit projects to "EPA CAN DO"³³ leadership.

Moving Forward

Step One: *Home for All* Initiative

The County's *Home for All* Initiative builds on the work and momentum of the San Mateo County Board of Supervisors' *Closing the Jobs/Housing Gap Task Force*.³⁴ "The Second Unit Center" is a program of the *Home for All* Initiative which is aimed at providing information and tools to make it easier for homeowners to build second units to help increase the housing supply in San Mateo County. According to the Second Unit Center website, on August 6, 2019, the Board of Supervisors approved the creation of a new *One Stop Shop*³⁵ pilot program to help homeowners with Second Unit construction. Through this program, participating homeowners can receive no-cost support from the nonprofit *Hello Housing*, a member of the Mid-Peninsula Housing family of companies.

Hello Housing will provide up to 100 hours of free feasibility and project management support at no cost in connection with the design, permitting, and project management involved with building a Second Unit. The *One Stop Shop* pilot program is a partnership of DOH, *Hello Housing*, and the cities of East Palo Alto, Pacifica, and Redwood City. Residents of these three cities and the unincorporated County will be eligible to apply for inclusion in this pilot program.³⁶ If the pilot program is successful, it is hoped that it can be scaled to serve all jurisdictions.³⁷

To prepare for the eventual scaling up of this pilot program, the County and its cities are reaching out to residents to inform, educate, and support homeowners who are considering building or improving a Second Unit.³⁸ As part of this effort, DOH and the City/County Association of Governments of San Mateo County (C/CAG) have co-sponsored and coordinated

³² Cost of a garage conversion or "permitted" to codes of the day is about \$70,000 according to Rebuilding Together the Peninsula. This can include adding insulation, upgrading electrical, sealing and leveling a concrete floor, reviewing the safety of the roof, creating a new share wall and a proper wall to replace the garage door, and make garage electric/energy efficient and heated.

³³ <https://epacando.org/>

³⁴ *Closing the Jobs/Housing Gap Task Force*, The Task Force began in September 24, 2015 to build a common understanding of the challenge, learn what is already being done both inside and outside the county and finish by exploring possible solutions. <https://bos.smcgov.org/task-force>

³⁵ <https://secondunitcentersmc.org/onestopshop/> (accessed on 7/22/2020)

³⁶ *ibid.*

³⁷ Grand Jury interviews.

³⁸ Grand Jury interviews.

the “21 Elements Project” which aids all jurisdictions in the County to work together on addressing their housing needs, including the development of Second Units. As part of this effort, monthly meetings and/or conference calls are convened by *21 Elements*.³⁹

Step Two: Raising Awareness and Enthusiasm

It is critical that interested residents become aware of Second Unit opportunities and resources that are available to them for building Second Units on their property. To get the attention of homeowners, there will need to be a variety of outreach strategies. The following are efforts by the County of San Mateo and its cities, and for comparison, the City of San Jose.

County of San Mateo initiatives:

There has been a great deal of effort already put into the development of a Second Unit Initiative in San Mateo County. During the past couple of years, as the need for a multi-pronged housing initiative became apparent, the County took a number of critical steps.

The County developed two notable booklets -- *Second Unit Inspiration* and *Second Unit Workbook*; initiated a collaborative partnership between the County and its cities through the *21 Elements Project*; created two pilot programs (one focused on the process of building new Second Units and the other on homeowners successfully obtaining amnesty for non-permitted Second Units); and are developing an updated DOH Second Unit website and marketing plan.⁴⁰

City-level initiatives

In their responses to the Grand Jury survey, city managers identified the following communication methods:

- informational handouts - hard copies and digital (i.e., Second Unit designs, checklists, development of some standard designs, lists of pre-approved contractors);
- posting key Second Unit resource links;
- publishing articles and/or promotions in local news media; and
- community meetings and workshops;

Funding for the development of some of these programs and materials may be acquired with SB 2 Planning Grants. SB 2 provides funding and technical assistance to all local governments in California to help cities and counties prepare, adopt, and implement plans and process improvements that streamline housing approvals and accelerate housing production.⁴¹

The City of San Jose (Santa Clara County)

The City of San Jose hired an Alternative Dwelling Unit (ADU) Ally acting much like an expeditor for homeowners desiring Second Units. San Jose City’s ADU Ally has become a valuable resource in assisting San Jose homeowners through the process of developing Second Units. The ADU Ally:

- is a dedicated staff person who coordinates and connects homeowners to city services and demystifies the process for homeowners who are exploring the process of building a

³⁹ 21Elements, <http://21elements.com/second-units>, Baird & Driskell Community Planning Consultants.

⁴⁰ <https://secondunitcentersmc.org> accessed May 19, 2020.

⁴¹ <https://hcd.ca.gov/grants-funding/active-funding/planning-grants.shtml>

Second Unit;

- creates online tools, handouts and information, including a Second Unit Universal Checklist which offers step-by-step guidance; and,
- helped produce a YouTube video tutorial on how to build a Second Unit in San Jose.

An official from San Jose informed the Grand Jury that the resources created by this department would be available for use during the San Mateo County Second Unit effort.

Home for All San Mateo held a summit in February 2020, at which the ADU Ally delivered a featured presentation. While this dedicated specialist seems to be making an impact, only time and hard data will tell.⁴²

Step Three: Amnesty for Non-Permitted Second Units

There are thought to be a large but unidentified number⁴³ of non-permitted Second Units in San Mateo County. In order to successfully increase the number of housing units countywide, it is critical that these Second Units be upgraded to comply with applicable health and safety codes and maintained as viable housing units. The new State laws make it easier for those units to be made safer by providing amnesty to the homeowners who built these non-permitted units and encouraging them to bring their units up to permitting standards.

If the County pilot program for homeowners who wish to obtain permits for their non-permitted Second Units⁴⁴ is successful, it will have the potential to be expanded and marketed as a model program that cities throughout the County could modify and/or adopt for their own use. This action by the cities would help preserve these critical housing units. Interestingly, in the Grand Jury's December 2019 survey, only Belmont referred to amnesty. New construction appears to be a higher priority for most cities.

The City of East Palo Alto and nonprofits such as Rebuilding Together Peninsula⁴⁵ are also focused on developing other plans that would make non-permitted Second Units safer and ultimately permitted.

Barriers to Building or Upgrading Second Units:

While state law has been amended to make Second Units easier to develop, based on Grand Jury interviews with housing advocates, it is clear that there are still significant barriers that hinder and sometimes block homeowners from adding Second Units. For example, those barriers include:

⁴² Grand Jury interview. See more in Appendix D

⁴³ Grand Jury Interview.

⁴⁴ SMC Second Unit Amnesty Website: <https://planning.smcgov.org/second-unit-amnesty>

⁴⁵ RebuildingTogetherPeninsula is a non-profit that is focused on working with other local agencies to upgrade non-permitted second units in East Palo Alto. It has a focus on repairs of garage-conversions, not new construction. <https://sites.google.com/rebuildingtogetherpeninsula.org/epa-adu-initiative/home>

- The process of financing new Second Units or upgrading non-permitted Second Units. At the time of this writing, only one local lender, San Mateo Credit Union,⁴⁶ has committed to providing lending for these projects. At the same time, homeowners who might consider building a new or upgrading non-permitted Second Units, are often unaware of financing options;⁴⁷
- The recent booming Bay Area building environment has made it very difficult to find and engage contractors willing to work on relatively small projects such as Second Units, especially due to the demand for rebuilding homes lost to recent wildfires. During its investigation, several interviewees suggested that local governments may wish to provide options in which contractors could utilize “handy men” (who are not licensed as contractors) to do work that the contractors would officially supervise;⁴⁸
- Some homeowners find the building and permitting process complex and intimidating according to the interviews of housing advocates;⁴⁹
- Local public entities may lack a sufficient number of inspectors to handle building inspections and amnesty approvals;⁵⁰
- A misunderstanding by homeowners that the construction of a Second Unit could result in the reassessment of their entire property as opposed to an increase, based on the value of the Second Unit alone. (Adding an ADU will not impact the original home assessment, but homeowners will get a supplemental bill.)⁵¹
- Some jurisdictions on the County’s coast are unclear as to whether the new State laws apply to coastal areas;⁵² and
- The uncertainty of the Covid-19 environment.

As the County and its cities continue to focus on the shortage of available and affordable housing, Second Units are an important option to consider. They are a popular alternative to single-family homes and can be developed more quickly. This is even more important given the COVID-19 pandemic because the number of households without an affordable place to live will grow. For example, Matt Schwartz, President and CEO of CA Housing Partnership, says income inequality was a problem before COVID-19. Before the pandemic, about 1.5 million households were living without an affordable place in California and now that number will grow. He says

⁴⁶ San Mateo Credit Union, <https://www.smcu.org/Loans/Home-Loans/ADU-Loan>

⁴⁷ Grand Jury interviews.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² “City Flooded with Requests for ADU Permits.” *Half Moon Bay Review*, March 4, 2020, https://www.hmbreview.com/news/city-flooded-with-requests-for-adu-permits/article_0d5a9920-5e49-11ea-b933-c7dea1fa420c.html (viewed again on 4/27/2020)

the state will still need to house the homeless. Interest rates are low, so this is the time to continue to address the homelessness crisis.⁵³

FINDINGS

- F1. The number of jobs in San Mateo County has grown beyond the number of new housing units available. More housing is needed and Second Units are one solution.
- F2. From 2016 to 2020, the number of Second Units constructed annually within the County dramatically increased by 450% (823) after related State laws were enacted in 2017. Effective January 1, 2020, several additional new State laws were enacted in order to make the construction of new Second Units easier for homeowners.
- F3. There are about 155,000 single-family homes in San Mateo County with only 4,000 Second Units on those properties, so there is a potential for thousands of new Second Units.
- F4. The County has an unknown but large number of non-permitted Second Units. The new 2020 State laws are intended to make it easier for those units to be made safer, and potentially to be brought up to permitting standards.
- F5. Barriers to building new Second Units and for upgrading non-permitted Second Units include: a lack of knowledge by homeowners as to potential lenders in financing the construction of a Second Unit and a lack of lenders in the region that have indicated their willingness to engage in such financing, homeowners' difficulty in finding contractors willing to work on "small" projects such as Second Units, and the need to recruit and train more inspectors.
- F6. DOH and the City/County Association of Governments of San Mateo County have co-sponsored and coordinated the "21 Elements Project" which aids all jurisdictions in the County to work together on addressing their housing needs, including the development of Second Units.
- F7. The San Mateo County Department of Housing is updating its website and marketing plan that focuses on Second Units.
- F8. The City of San Jose has developed a Second Unit initiative that is worth examining closely and possibly emulating. (See Appendix D).

RECOMMENDATIONS

- R1. The County and its cities should continue to develop or enhance existing outreach to homeowners about the new laws that simplify and streamline the construction and permitting of Second Units including but not limited to the following:

⁵³ Bay Area Housing Post-Covid-19 <https://www.kqed.org/news/11818184/bay-area-housing-post-pandemic-whats-in-store>

- posting relevant information on their websites regarding the process for the construction and permitting of Second Units including materials such as checklists and flowcharts;
- increasing social media and other outreach regarding the above-referenced resources;
- offering workshops (live or online) regarding the process for the construction and permitting of Second Units at least quarterly.

R2. By December 31, 2020, the County and its cities should commit to meeting for the purpose of finding collaborative solutions for:

- developing and publicizing additional financial partners to help homeowners finance the construction of new Second Units as well as the upgrading of non-permitted existing Second Units;
- developing solutions to address the shortage of licensed contractors willing to work on small projects including, but not limited to, the feasibility of licensed contractors engaging and supervising non-licensed “handymen”
- identifying and collaborating with training institutions to recruit and train more general contractors and inspectors.

Such meetings may occur in connection with 21 Elements Project meetings regarding Second Units, or through a separate platform.

R3. The County and each city should develop a marketing plan to focus on the needs and concerns of homeowners who have non-permitted units. This should be done by the end of the calendar year 2020.

R4. The County and its cities should determine whether it is feasible to retain an outside resource that can be shared among cities and the County to leverage Second Unit expertise. This determination should be made by December 31, 2021.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

City Councils and County Board of Supervisors should respond to R1-R4.

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

METHODOLOGY

Documents

Alternative Dwelling Unit (ADU) SurveyMonkey Survey, December 2019.
ADU growth Survey by SMC Housing,

Interviews

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

Eight interviews were conducted with representatives of San Mateo County, San Mateo County Housing Department, San Mateo County Planning and Building Department, San Mateo Rebuilding Together Peninsula, Baird & Driskell and City of San Jose Building Division - Permit Center.

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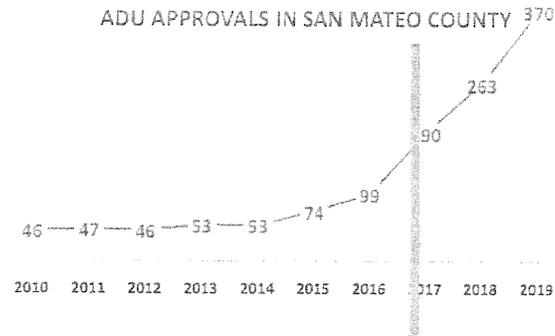
April 17, 2020. <https://secondunitcentersmc.org/> or <https://planning.smcgov.org/second-unit-ordinance> (Accessed 7/23/2020)

APPENDIX A: Accessory Dwelling Units Approved by Jurisdiction
 “Accessory Dwelling Units Approved by Jurisdiction” (2010-2018, with 2019 data added),
 Annual Jurisdiction Survey, County of San Mateo.

Jurisdiction	1/1/17: effective date of new state laws										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total
Atherton	1	5	7	8	4	10	9	11	13	13	68
Belmont	1		1	2	1	0	0	4	9	10	18
Brisbane		0	0	0	1	0	3	3	6	3	16
Burlingame	0	0	0	0	0	2	3	5	8	10	28
Colma	0	0	0	0	0	0	0	0	0	0	0
County of San Mateo	0	0	4	1	2	6	7	8	34	38	62
Daly City	6	8	3	7	3	4	11	33	23	68	166
East Palo Alto*					2	0	4	4	1	8	11
Foster City	0	0	0	0	0	0	0	0	0	2	2
Hillsborough	13	13	17	16	15	19	8	15	15	11	131
Half Moon Bay					0	0	3	3	3	13	22
Menlo Park					3	8	7	13	15	Sent Followup	46
Millbrae					0	0	0	0	0	Sent Followup	0
Pacifica					0	5	1	4	11	11	32
Portola Valley	6	4	3	7	8	5	13	11	6	7	63
Redwood City	1	1	2	1	2	2	13	35	34	39	130
San Bruno	6	3	3	1	3	1	4	14	13	10	58
San Carlos	1	1	1	2	1	1	1	n/a	19	15	42
San Mateo*	2	2	2	2	2	2	2	16	24	50	104
South San Francisco	1	3	1	3	2	6	8	5	22	46	51
Woodside	8	7	2	3	4	3	2	6	7	16	58
Total	46	47	46	53	53	74	99	190	263	370	1108

Source: Annual Jurisdiction Survey

* Estimates provided by cities prior to 2018 when tallies unavailable



APPENDIX B: Provision of New California Laws for Second Units

Provisions of the laws AB670, AB671, AB587, AB68, AB881, and SB13 include:

1. One Second Unit and one Junior Second Unit will be allowed on a single-family lot.
2. There will be no minimum lot size for the addition of a Second Unit.
3. No setback will be required if the Second Unit is the conversion of an existing structure at the property line.
4. Second Units with a size up to 800 square feet that follow building construction standards must be allowed.
5. Second Units under 800 square feet can be 16 feet tall and can have a setback of four feet on the side and rear of the unit.
6. Cities have 60 days to review permit applications. If they fail to do so, they are automatically approved.
7. No replacement parking for the main house is required if converting a garage.
8. No parking is required for a Second Unit if it is within a half mile walk of transit.
9. No impact fees apply to Second Units less than 750 square feet. If larger than 750 square feet, impact fees must be proportional to the main house.
10. Second Units that receive building permits between 1/1/2020 and 12/31/2024 are exempt from owner-occupancy rules.
11. Mandatory five-year stay of enforcement on non-permitted Second Units if health and safety standards are met. This is based on Government Code Section 65852.2(n), which will sunset in 2025.⁵⁴
12. No short-term rentals of Second Units or Junior Second Units will be allowed for less than 30 days to discourage vacation rentals.
13. Second Units will be allowed in multi-family and mixed-use zones. Second Units will be allowed in multifamily buildings - up to two detached Second Units, plus allowing for the conversion of uninhabited spaces for multiple Second Units (up to 25% of units in multifamily buildings)
14. Home Owner's Associations cannot ban Second Units or Junior Second Units, regardless of any existing rules doing so. Home Owner's Associations can set reasonable design guidelines for Second Units and Junior Second Units.

⁵⁴ Government Code Section 65852.2(n)

APPENDIX C: December 2019 Survey Questions

Questions from “Alternative Dwelling Unit (ADU)” SurveyMonkey Survey, December 2019.

1. Among your city leadership, who is aware of the passage of these laws? (AB 68, AB 587, AB 670, AB 671, AB 881 and SB 13). Please identify leaders by name with contact information.
2. Will your city be actively encouraging your residents to take advantage of these Second Unit laws? (What might that entail?)
3. Do you think there will/could be at least 50 parcels in your city, which might be eligible for a Second Unit?
4. Do you anticipate that your city's homeowners as well as landlords will take advantage of this opportunity?
5. How will you encourage your homeowners as well as landlords to take advantage of this opportunity?
6. What obstacles do you anticipate encountering?
7. What kinds of support might you need in order to be able to actively implement these new state laws?
8. Name (and contact information) of the person filling out the response to this survey.

APPENDIX D: San Jose's ADU Ally

San Jose City's ADU Ally has become a valuable resource in assisting San Jose homeowners through the process of developing Second Units. Having a dedicated person for this initiative has had an impact on the San Jose City's effort. Some of the actions that have resulted from this singular dedicated staff person include:

1. Serving as the dedicated staff person who is the
 - o contact person who deals with people and points them in the right direction.
 - o coordinator and connector of homeowners to all city services and who demystifies the process.
 - o *tour guide* for homeowners who are exploring the process of building a Second Unit.
 - o “hand holder” holds a homeowner's hand as they walk through the process. The ADU Ally is quoted as saying, “I can see them all of the way through to the end of the project, help them to submit or resubmit plans, and then through permit issuance. And when they need to schedule inspections, I can connect them to the right city staff members.”
2. Online tools, handouts and information have been created including a Second Unit Universal Checklist which offers step-by-step guidance. The City of San Jose Planning Department's ADU website is an example of a comprehensive and easy-to-read site, See sanjoseca.gov/business/development-services-permit-center/accessory-dwelling-units-adus
3. The ADU Ally helped produce a YouTube video tutorial on how to build a Second Unit in San Jose. This attracted more than 2,900 views, before it was taken down due to recent changes in ADU regulations and Zoning Ordinances.

4. The San Jose ADU Ally has said that the resources created by this department would be available for use during the San Mateo County Second Unit effort.

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