

## SUPPLEMENTAL INFORMATION No. 2

For Planning Commission Agenda of:  
June 4, 2020

<input type="checkbox"/>	Administrative Agenda Item	}	
<input checked="" type="checkbox"/>	Continued Hearing Item	}	<b>G-1</b>
<input type="checkbox"/>	New Hearing Item	}	
<input type="checkbox"/>	Old Business Item	}	
<input type="checkbox"/>	New Business Item	}	

Attached for the Planning Commission's record and review are the following supplementary information items:

1. Public comment – email from T Mulder 5/21/20.
2. Public comment – email from K Dreyer 5/21/20.
3. Public comment – email from D Wiengandt 4/28/20.
4. Public comment – email from J Delson 5/22/20.
5. Public comment – email from L Henderson 5/25/20.

## FW: ADU policy

Richardson, Michael <MRichardson@co.humboldt.ca.us>

Thu 5/21/2020 10:57 AM

To: Milner, Mary <MMilner1@co.humboldt.ca.us>

Cool stuff!

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**From:** Thomas Mulder <hrh707@outlook.com>

**Sent:** Thursday, May 21, 2020 10:56 AM

**To:** Richardson, Michael <MRichardson@co.humboldt.ca.us>

**Subject:** Re: ADU policy

Thank you for the clarification and additional comments! I figured the coastal portion would have more issues than the inland (personally I'm not involved in any future developments in the coastal zone so it won't hinder my development ideas). I personally feel the 1,200 sqft is more than sufficient to have an ADU . My modest 2 bedroom fully permitted cabin on my TPZ parcel is only 900sqft . I personally feel if that number went above 1,200 principally permitted it could potentially drive this policy away from more affordable housing as homes would be more costly to build. We don't have enough 1-2 bedroom places available to rent in southern Humboldt especially so if you are working towards affordable housing going above 1,200 sqft could undermine that objective.

Thank you

Thomas Mulder

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**From:** Richardson, Michael <MRichardson@co.humboldt.ca.us>

**Sent:** Thursday, May 21, 2020 9:19:40 AM

**To:** [hrh707@outlook.com](mailto:hrh707@outlook.com) <[hrh707@outlook.com](mailto:hrh707@outlook.com)>

**Subject:** RE: ADU policy

Hi Thomas,

Thanks for checking in.

Yes, it's the same for the inland version. The coastal version is being tinkered with to address the Coastal Commission's concerns, but the changes are pretty minimal.

We'll be presenting some alternatives to the Commission for their consideration that respond to some of the comments we've heard recently. See the attached emails.

Also, there's another section of the zoning ordinance that needs to be modified to align with the ADU ordinance – see the attached. It needs to be modified to carve out an exception to allow ADU's to be 1,200 square feet in area rather than 1,000 square feet, and instead of a 15' height limit it needs to be 16' for ADU's.

Let me know if you have any questions.

- Michael R.

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**From:** Thomas Mulder <[hrh707@outlook.com](mailto:hrh707@outlook.com)>

**Sent:** Thursday, May 21, 2020 9:07 AM

**To:** Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)>

**Subject:** ADU policy

Hello I just wanted to double check the ADU policy is the same as was originally going to be presented to the PC a couple months back? I scanned through it and didn't see any changes that jumped out at me.

Thank you

Thomas Mulder

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**From:** Kevin R Dreyer <kevinrdreyer@gmail.com>  
**Sent:** Thursday, May 7, 2020 3:11 PM  
**To:** Richardson, Michael  
**Cc:** Bonnie Oliver; Maya Conrad; Kevin Jenkins; McGuigan, Connor; Ford, John; Miller, John  
**Subject:** Re: MckMAC meeting May 13th? and ADU ordinance

Hello Michael,

Good luck tonight with the planning commission. I have a few remarks about the ADU ordinance, and I'm sorry they're a bit delayed. I focused mainly on reading the interior areas, I only glazed through the coastal zone one so far.

Comments/ If I read it right.....

A. In the Manufactured Home category. 1.The draft ordinance says that the mobile home must have been built within 10 years of the date of the permit application.

*I think that in many cases much older manufactured homes are in very sound and quite nice condition. I think this age restriction is onerous.*

2. The Architectural requirements may be onerous, *i.e. must have at least a 6" eve all the way around. Some have eves only on the long sides and not on the short ends.*

B. Tiny home: *Why must it be portable ?*

C. AOB: *Love this !*

D. Square footage : I see it says that the 50% of the main house restriction is only for Attached units, when I first read it I thought it was for **any** unit, *So I am glad to see that.*

E. Short term rental restriction: *What is the pathway to permit a Unit for Short terms rental purposes??*

**Thank You Michael, Good Work!**

**Kevin**

On Sat, May 2, 2020 at 8:34 PM Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)> wrote:

Hi MMAC Town Center Subcommittee,

I hope you and your friends and families are well.

John Miller and I boldly put an ad in the Mad River Union that we're going to have a MMAC Zoom meeting on Wednesday, May 13<sup>th</sup> from 6pm to 8pm to review the responses from the Town Center survey without checking with

you first to see if that's ok. Hopefully it is. The paper called us this morning saying that they needed us to pull the trigger today if it was going to get into the paper this Wednesday, so we went for it. We'll do a better job of checking with you first next time. Please let me know one way or another if that meeting date and time will work for you. Kevin D. - should I poll the other Committee members to check their availability too, or do you want to handle that?

We're having our first Planning Commission zoom meeting this Thursday. We're pretty confident it will go well, especially after we did a walk through with the Commission. I'd like to set one of those up for MMAC too sometime next week so we can have the entire Committee participate in a meeting that resembles what we're likely to see at the real one. Wednesday 5/6 at 6:00 for ½ hour would be my preference for a dry-run zoom meeting, but I have never been more flexible in my life - I'm not planning any travel or vacations or doing much of anything else besides working to be honest. Please let me know if that meeting date and time would also work for you.

I haven't finished compiling the Town Center survey results yet for your review. I'm close though - I'll be able to send you those mid week next week.

Attached fyi are the inland and coastal Accessory Dwelling Unit (the new Second Unit) ordinances and the other related changes to the general plan, coastal plans and building codes that are going to the Planning Commission this coming Thursday evening. You're invited to check it out. The meeting starts at 6, but it may be awhile till they get to my item. Here's the link to it: <https://zoom.us/j/98784115198>. I'll be sending these same documents to Kathy Hayes to provide to the entire MMAC – that will be a duplicate of what's attached here.

Thanks for your help with all this!

Michael Richardson

Supervising Planner

Humboldt County Planning and Building Department

(707) 268-3723

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**Kevin Dreyer**  
**Realtor / Broker**  
**Community Realty**  
**(707) 498-4038 cell**  
California Dept. of Real Estate

License # 00960868

**Community Realty**

[kevindreyaer.com](http://kevindreyaer.com)

2850 E Street  
Eureka, Ca 95501

2355 Central Ave. Suite D  
Mckinleyville, Ca 95519

(800) 445-0942 fax

(707) 269-2400 Eureka Office

(707) 839-9093 ext. 207 Mckinleyville Office

**mmilner1@suddenlink.net**

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**From:** Richardson, Michael <MRichardson@co.humboldt.ca.us>  
**Sent:** Monday, May 11, 2020 8:05 AM  
**To:** Deirdre Wiegandt  
**Subject:** Re: Second Unit Ordinance

Hi Dee Dee,

The Planning Commission didn't review the ordinance - they continued the item to 5/21. We'll bring your comments forward at that time.

Talk to you soon,

- Michael R.

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**From:** Deirdre Wiegandt <truenorthbuildingdesign@gmail.com>  
**Sent:** Monday, May 11, 2020 7:36 AM  
**To:** Richardson, Michael <MRichardson@co.humboldt.ca.us>  
**Subject:** Re: Second Unit Ordinance

Hi Michael,

Hope you had a good weekend! Just checking in to see if you had an opportunity to bring my comments forward to the Planning Commission. If you did, I'm curious what the consensus was.

Thank you and kind regards,

DeeDee

On Fri, May 1, 2020 at 8:21 AM Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)> wrote:  
Thanks DeeDee. That's helpful. I'll bring your comments forward to the Planning Commission next Thursday.

Talk to you soon,

- Michael R.

**From:** Deirdre Wiegandt <[truenorthbuildingdesign@gmail.com](mailto:truenorthbuildingdesign@gmail.com)>  
**Sent:** Thursday, April 30, 2020 2:30 PM  
**To:** Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)>  
**Subject:** Re: Second Unit Ordinance

Hi Michael,

Thank you for the information. I certainly see your point and agree that it doesn't make sense to incentivize large second homes. Honestly, I have mixed feelings about the idea of being able to obtain a special permit and I could easily argue either side. However, I do think it's worth noting that 1200 square feet is fairly small for even a 2 bedroom home, let alone a 3-bedroom home. Since our rural community has many parcels with 5 acre minimums, the idea of being able to apply for a special permit that would allow owners to build a second home up to... let's say 1700 square feet, could allow for long-term renting opportunities for families with two or more children.

I appreciate your feedback!

Sincerely,

DeeDee

On Tue, Apr 28, 2020 at 5:42 PM Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)> wrote:

Hi DeeDee,

One point of clarification is the state's adu laws are presently in effect for Humboldt County.

And as far as the maximum size of an adu allowed with a special permit, I'm not sure where the Planning Commission and ultimately the Board of Supervisors will land on that. My perspective is that adu's are intended to provide affordable housing, so it wouldn't make sense to incentivize large second homes on properties. I'm interested to hear your thoughts.

Thanks!

- Michael R.

**From:** Deirdre Wiegandt <[truenorthbuildingdesign@gmail.com](mailto:truenorthbuildingdesign@gmail.com)>

**Sent:** Tuesday, April 28, 2020 4:59 PM

**To:** Richardson, Michael <[MRichardson@co.humboldt.ca.us](mailto:MRichardson@co.humboldt.ca.us)>

**Subject:** Second Unit Ordinance

Hi Michael,

I have a client who may benefit from the Second Unit Ordinance hearing. If the ordinance passes, do you have any idea how much additional square footage (over 1200 sq. ft.) will be allowed with a special permit? I'm curious how they will determine maximum square footage allowed. Any guesses you have would be appreciated.

Thank you,

DeeDee

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Deirdre Wiegandt  
True North Building Design



| (707) 672-5766

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Deirdre Wiegandt  
True North Building Design  
(707) 672-5766

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Deirdre Wiegandt  
True North Building Design  
(707) 672-5766

## Feedback for the ADU ordinance, Junior ADU and Owner Builder Code..pdf

Jayne <jayne@humboldt1.com>

Fri 5/22/2020 12:07 PM

To: Milner, Mary <MMilner1@co.humboldt.ca.us>; Nielsen, Michelle <MNIelsen@co.humboldt.ca.us>

 1 attachments (30 KB)

Feedback for the ADU ordinance, Junior ADU and Owner Builder Code\_.pdf;

Hi Mary and Michelle,

Here is my feedback for the ADU code, and more!

I have been able to establish a Homeless sub committee of the Government Relations Committee of the Humboldt Association of Realtors.

And I am its chair person. I have been busy making this happen.

I in part gained momentum for this by introducing my project to end homelessness to about half of the GRC and to my great pleasure it was unanimously encouraged.

I am now ready to work with the planning departments technical assistance, with the intent of also getting the support of the Board, if I am may be so fortunate. And then deploy scalable and uplifting solutions to end homelessness, throughout Humboldt and beyond.

Have a great long weekend, and I look forward to hearing from you.

Sincerely,

Jayne Delson

North Country Real Estate

The Sustainable Village

834-0251

**To: Humboldt County Planning Commission**  
**From: Larry Henderson**  
**Date: May 25, 2020**

**Subject: Proposed Accessory Dwelling Unit Ordinance**

Please consider the following input. I have four issues to address.

**First Issue: The requirement to connect to sewer system has detrimental consequence**

Section 69.05.3.6 (Sewer and Water Service) requires all new ADUs within a community service district's service area to connect to a public wastewater system. But some community service districts do not provide—nor can or plan to provide—sewerage facilities or other wastewater disposal systems. The requirement would be a de facto moratorium on ADUs in areas where the current State law would otherwise permit them.

There need be no requirement other than the ADU must comply with the requirements applicable on the primary residence or—as an alternative where service capacity is restricted—new residences.

**Second Issue: The permit provisions are vague**

Section 69.05.2 (ADUs Generally Permitted) provides that ADUs *may be* principally permitted in designated areas subject to specified conditions, and *may be* excluded or required to get a Special Permit in certain other designated areas.

The term “may” is discretionary. If an ADU may or may not be permitted or excluded, then the specifics must be added as to who gets to decide and what the criteria is for making the decision.

To correct the problem, delete the “permissive” text to read “is principally permitted” (rather than “may be principally permitted”), “is excluded” (rather than “may be excluded”), and “requires a Special Permit” (rather than “may require a Special Permit”).

**Third Issue: The Special Permit Area provisions are improper**

Section 69.05.6 provides that lots located in an ADU Special Permit Area “*are presumed* to have certain water and sewer service limitations, adverse impacts on traffic flow, and/or public safety conditions that may preclude construction of an ADU.”

The most demanding regulatory test in constitutional law is that the requirement or prohibition is the least restrictive means to further an overriding public interest. Is there a public interest and is it more important than other interests, and what are the options and is the proposed one the least restrictive?

In this case, the County is presuming there is an overriding public interest to apply the proposed restrictions. This is wrong. Government agencies must offer genuine justifications for important decisions...real reasons that can be scrutinized by the public and courts, rather than fabricated reasons that are asserted as self-evident truths.

To correct the problem, the underlying “special consideration” for the particular restrictions should be clearly defined, and the appropriate test for permitting the ADU described.

**Fourth Issue: Exclusion of ADUs in Jacoby Creek Area is unlawful**

Seven ADU Special Permit Areas are listed in Section 69.05.6. Six of them are truly areas having “special considerations” that—because of real, extraordinary hazardous conditions—the public interest justifies discretionary review through the special permit process. The seventh area listed (the Jacoby Creek Area) is not comparable and should not be excluded from the ADU provisions applicable to all other residentially zoned lands not having disclosed extraordinary hazardous conditions.

The proposed text is, “Within the Jacoby Creek area, ADUs must comply with the 5-acre minimum density limits as provided in the Jacoby Creek Community Plan, Appendix C of the General Plan.” This is misleading, as the 5-acre density reference is not law, but policy.

There is not a legislative 5-acre minimum density limit in the Jacoby Creek area. The residential zoning in the area permits parcels 2.5 acres and smaller subject to the same requirements and restrictions of all the other similar zoned properties throughout the County.

The 5-acre density reference is to the Jacoby Creek Area Plan that was adopted nearly 40 years ago in 1982. The plan was included by reference in the updated General Plan. But the “re-adopted” plan was not updated; nor was it’s “re-adoption” completed in compliance with CEQA mandate and public noticing and hearing requirements.

The County has the choice to include or exclude the Jacoby Creek area from the general permit provisions of the ADU ordinance. This will be a discretionary decision requiring (in addition to CEQA compliance) a showing of justification and the mandatory General Plan Consistency determination.

Planning will say the area must be excluded because including it would be inconsistent with the General Plan. Again, the reference will be the 5-acre density limitation of the 40-year old Jacoby Creek Area Plan.

The Plan allows a wide residential density range...from one dwelling unit per two and a half (2½) acres to a maximum of seven dwelling units per acre. However, the policy of that plan calls for **both** public water supply **and** sewage disposal services for new development at a density greater than one dwelling unit per five acres...effectively, for all new development in that area. The problem is there currently is no plan, budget, or projected schedule for a wastewater system in the area.

The adoption of this ordinance with Section 69.05.6(g) as proposed would now make this 40-year old policy limitation a legislative mandate.

Would it be consistent with the General Plan to make the 5-acre density limitation the law? Defendable arguments can be made that the limitation is inconsistent with numerous other goals and policies throughout the plan. For one, it would conflict with the Plan's policies—and with recent State mandate—that encourages and permits critically needed new housing...urban and suburban.

There is also the question of just cause. Is there an overriding public interest for making the 5-acre density limitation a legislative mandate...what is the problem? The current zoning has been in effect for over 40 years, and there has been no cause to change. Developments have been permitted in the area at a density higher than the 5-acre limitation.

County Planning has stated that the 5-acre density limitation protects public health. Planning references a 1979 resolution of the State Water Resources Control Board. They say the resolution (No. 79-101) identified a public health hazard related to development of residences served by on-site sewage disposal systems in the Jacoby Creek area. The assertion is that the policy—and now, the strict enforcement of the 40-year old policy—was and is necessary to mitigate this hazard.

But the referenced resolution only prohibited “waiver of criteria governing the use of individual waste treatment and disposal systems in portions of the nonsewered areas tributary to Humboldt Bay between the cities of Arcata and Eureka.” The criteria that was effective then—and is still effective today—did not mandate a 5-acre minimum standard. To the contrary, with strict application of the criteria, new housing can be accommodated in non-sewered areas at a density greater than 5 acres per unit without endangering public health.

In contrast, there are NO restrictions elsewhere in the County or State necessitating a minimum 5-acre per dwelling unit density where public water service is or will be provided without sewage disposal service. There is no legitimate reason to not apply to the Jacoby Creek Community Planning Area those policies applicable to new housing development in other areas in the County or State.

My request is to delete Section 69.05.6(g) listing the Jacoby Creek area as a Special Permit Area.

### Closing

I appreciate and thank the Planning Commission for considering my input and request.

Respectfully

Larry Henderson  
1933 Golf Course Road  
Bayside, CA 95524