

**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