



CITY OF ATASCADERO PLANNING COMMISSION AGENDA

In accordance with City Council Resolution No. 2022-044 and the requirements of AB 361, the Planning Commission Meeting will not be physically open to the public and Planning Commissioners will be teleconferencing into the meeting.

HOW TO OBSERVE THE MEETING:

To maximize public safety while still maintaining transparency and public access, the meeting will be available by clicking on the following link:

Planning Commission - 832 5023 8111 (No Passcode Required)

<https://us02web.zoom.us/j/83250238111?pwd=SG9OdGxyNHNTNmxRWEpHTzRQK0VnQT09>

The video recording of the meeting will be available through the City's website and on the City's YouTube channel.

HOW TO SUBMIT PUBLIC COMMENT:

Members of the public are highly encouraged to participate in live public comment through the Zoom platform using the link above or by calling **669-900-6833** (Meeting ID 832 5023 8111) to listen and provide public comment via phone.

If you wish to comment but not via a live platform, please email public comments to: pc-comments@atascadero.org by 12:00 pm on the day of the meeting. Such email **comments must identify the Agenda Item Number in the subject line of the email**. The comments will be forwarded to the Planning Commission and made a part of the administrative record. If a comment is received after the deadline for submission but before the close of the meeting, the comment will still be included as a part of the administrative record of the meeting but will be forwarded to the Planning Commission the next business day. ***Please note, email comments will not be read into the record.***

AMERICAN DISABILITY ACT ACCOMMODATIONS:

Any member of the public who needs accommodations should contact the City Clerk's Office at cityclerk@atascadero.org or by calling 805-470-3400 at least 48 hours prior to the meeting or time when services are needed. The City will use their best efforts to provide reasonable accommodations to afford as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

Planning Commission agendas and minutes may be viewed on the City's website: www.atascadero.org.

Copies of the staff reports or other documentation relating to each item of business referred to on the Agenda are on file in the Community Development Department and are available for public inspection on our website, www.atascadero.org. Contracts, Resolutions and Ordinances will be allocated a number once they are approved by the Planning Commission. The Minutes of this meeting will reflect these numbers. All documents submitted by the public during Planning Commission meetings that are either read into the record or referred to in their statement will be noted in the Minutes and available for review by contacting the Community Development Department. All documents are available for public inspection during City Hall business hours by appointment.



CITY OF ATASCADERO PLANNING COMMISSION AGENDA

**REGULAR MEETING
Tuesday, July 5, 2022
6:00 P.M.**

**City Hall Council Chambers
6500 Palma Avenue, 4th Floor
Atascadero, California 93422**

CALL TO ORDER

Pledge of Allegiance

Roll Call: Chairperson Jeff van den Eikhof
Vice Chairperson Tori Keen
Commissioner Jason Anderson
Commissioner Victoria Carranza
Commissioner Greg Heath
Commissioner Randy Hughes
Commissioner Dennis Schmidt

APPROVAL OF AGENDA

PUBLIC COMMENT (This portion of the meeting is reserved for persons wishing to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. Speakers are limited to three minutes. Please state your name for the record before making your presentation. The Commission may take action to direct the staff to place a matter of business on a future agenda.)

CONSENT CALENDAR (All items on the consent calendar are considered to be routine and non-controversial by City staff and will be approved by one motion if no member of the Commission or public wishes to comment or ask questions.)

1. APPROVE THE DRAFT MINUTES OF JUNE 7, 2022

- **Recommendation:** Commission approve the June 7, 2022 Minutes.

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PLANNING COMMISSION BUSINESS**COMMUNITY DEVELOPMENT STAFF REPORTS****2. UPCOMING REVISIONS TO ADU'S, URBAN DWELLING UNITS, AND URBAN LOT SPLITS**

The Community Development Director will give an overview of upcoming revisions to the Municipal Code to implement government code changes related to Accessory Dwelling Units, Urban Dwelling Units and Urban Lot splits. (ZCH21-0006)

****This item was continued from June 7, 2022 and has since been scheduled as a public hearing. See Item 4. ****

PUBLIC HEARINGS

(For each of the following items, the public will be given an opportunity to speak. After a staff report, the Chair will open the public hearing and invite the applicant or applicant's representative to make any comments. Members of the public will be invited to provide testimony to the Commission following the applicant. Speakers should state their name for the record and can address the Commission for three minutes. After all public comments have been received, the public hearing will be closed, and the Commission will discuss the item and take appropriate action(s).

DISCLOSURE OF EX PARTE COMMUNICATIONS:

Prior to a project hearing, Planning Commission Members must disclose any communications they have had on any quasi-judicial agenda items. This includes, but is not limited to, Tentative Subdivision Maps, Parcel Maps, Variances, Conditional Use Permits and Planned Development Permits. This does not disqualify the Planning Commission Member from participating and voting on the matter, but gives the public and applicant an opportunity to comment on the ex parte communication.

The proposed project is for a one-lot parcel map for condo purposes at 3710 El Camino Real on APN 049-221-016 to establish 3 commercial airspace units, 7 residential airspace units, and 4 residential garage spaces associated with residential units. The project qualifies for a Class 15 (CEQA section 15315: Minor Land Divisions) exemption. Staff's recommendation is to approve the project with conditions. (SBDV22-0026).

3. PARCEL MAP FOR 3710 EL CAMINO REAL

The proposed project is for a one-lot parcel map for condo purposes on APN 049-221-016 to establish three commercial airspace units, 7 residential airspace units, and 4 residential garage spaces associated with residential units. The project qualifies for a Class 15 (CEQA Section 15315: Minor Land Divisions) exemption.

Recommendation: Staff's recommendation is to approve the project with conditions. (SBDV22-0026).

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4. UPCOMING REVISIONS TO ADU'S, URBAN DWELLING UNITS, AND URBAN LOT SPLITS

Community Development Director will give an overview of upcoming revisions to the Municipal Code to implement Government code changes related to Accessory Dwelling Units (ADU's), Urban Dwelling Units, and Urban Lot Splits.

Recommendation: Staff's recommendation is that this item be continued to a date certain of July 19, 2022. (ZCH21-0006).

COMMISSIONER COMMENTS AND REPORTS

DIRECTOR'S REPORT

ADJOURNMENT

The next regular meeting will be held on July 19, 2022, at 6:00 p.m.

Please note: Should anyone challenge in court any proposed development entitlement listed on this Agenda, that person may be limited to raising those issues addressed at the public hearing described in this notice or in written correspondence delivered to the Planning Commission at, or prior to, this public hearing.

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*City of Atascadero***WELCOME TO THE ATASCADERO PLANNING COMMISSION MEETING**

The Planning Commission meets in regular session on the first and third Tuesday of each month at 6:00 p.m. at City Hall, Council Chambers, 6500 Palma Avenue, Atascadero. Matters are considered by the Commission in the order of the printed Agenda.

Copies of the staff reports or other documentation relating to each item of business referred to on the Agenda are on file in the office of the Community Development Department and are available for public inspection during City Hall business hours at the Front Counter of City Hall, 6500 Palma Avenue, Atascadero, and on our website, www.atascadero.org. All documents submitted by the public during Commission meetings that are either read into the record or referred to in their statement will be noted in the minutes and available for review in the Community Development Department. Commission meetings are audio recorded, and may be reviewed by the public. Copies of meeting recordings are available for a fee. Contact the City Clerk for more information at (805) 470-3400.

In compliance with the Americans with Disabilities Act, **if you need special assistance to participate in a City meeting or other services offered by this City**, please contact the City Manager's Office or the City Clerk's Office, both at (805) 470-3400. Notification at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

TO SPEAK ON SUBJECTS NOT LISTED ON THE AGENDA

Under Agenda item, "PUBLIC COMMENT", the Chairperson will call for anyone from the audience having business with the Commission to approach the lectern and be recognized.

1. Give your name for the record (not required).
2. State the nature of your business.
3. All comments are limited to 3 minutes.
4. All comments should be made to the Chairperson and Commission.
5. No person shall be permitted to make slanderous, profane or negative personal remarks concerning any other individual, absent or present.

This is when items not on the Agenda may be brought to the Commission's attention. A maximum of 30 minutes will be allowed for Public Comment Portion (unless changed by the Commission).

TO SPEAK ON AGENDA ITEMS (from Title 2, Chapter 1 of the Atascadero Municipal Code)

Members of the audience may speak on any item on the agenda. The Chairperson will identify the subject, staff will give their report, and the Commission will ask questions of staff. The Chairperson will announce when the public comment period is open and will request anyone interested to address the Commission regarding the matter being considered to step up to the lectern. If you wish to speak for, against or comment in any way:

1. You must approach the lectern and be recognized by the Chairperson.
2. Give your name (not required).
3. Make your statement.
4. All comments should be made to the Chairperson and Commission.
5. No person shall be permitted to make slanderous, profane or negative personal remarks concerning any other individual, absent or present.
6. All comments limited to 3 minutes.

If you wish to use a computer presentation to support your comments, you must notify the Community Development Department at (805) 470-3402 at least 24 hours prior to the meeting. Digital presentations brought to the meeting should be on a USB drive or CD. You are required to submit to the Recording Secretary a printed copy of your presentation for the record. Please check in with the Recording Secretary before the meeting begins to announce your presence and turn in the printed copy.

The Chairperson will announce when the public comment period is closed, and thereafter, no further public comments will be heard by the Commission.

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CITY OF ATASCADERO PLANNING COMMISSION

DRAFT MINUTES

**Regular Meeting – Tuesday, June 7, 2022 – 6:00 P.M.
City Hall (Teleconference)
6500 Palma Avenue, Atascadero, California**

CALL TO ORDER - 6:00 p.m.

Chairperson van den Eikhof called the meeting to order at 6:00 p.m. and Commissioner Carranza led the Pledge of Allegiance.

ROLL CALL

Present: **By Teleconference** - Commissioners Carranza, Hughes, Schmidt,
Vice Chairperson Keen and Chairperson van den Eikhof

Absent: Commissioner Anderson (excused absence)
Commissioner Heath (excused absence)

Vacant: None

Others Present: **By Teleconference** - Recording Secretary, Annette Manier

Staff Present: **By Teleconference** –
Community Development Director, Phil Dunsmore
Public Works Director/City Engineer, Nick DeBar
Senior Planner, Kelly Gleason
Associate Planner, Mariah Gasch

APPROVAL OF AGENDA

**MOTION: By Commissioner Hughes and seconded by Vice
Chairperson Keen to approve the Agenda.**

***Motion passed 5:0 by a roll-call vote.
(Anderson, Heath absent)***

PUBLIC COMMENT

The following members of the public spoke: Sierra Steele.
Director Dunsmore addressed Ms. Steele's questions.

Chairperson van den Eikhof closed the Public Comment period.

CONSENT CALENDAR**1. APPROVE THE DRAFT MINUTES OF MAY 3, 2022**

- Recommendation: Commission approve the May 3, 2022 Minutes.

Commissioner Carranza noted that she had not been at the May 3, 2022 meeting and would be abstaining.

MOTION: By Commissioner Hughes and seconded by Vice Chairperson Keen to approve the Consent Calendar.

Motion passed 4:0 by a roll-call vote.
(Anderson, Heath absent)
(Carranza abstained)

PLANNING COMMISSION BUSINESS

None.

PUBLIC HEARINGS**2. MASTER PLAN OF DEVELOPMENT FOR THE DEL RIO MARKETPLACE**

The proposed project (Del Rio Marketplace) is an Amendment to the previously approved Master Plan of Development for the Northeast site of the Del Rio Road Commercial Area Specific Plan. The project proposes a mix of retail, office, light industrial, and residential uses. No exceptions are being requested at this time. An addendum to the originally certified EIR has been prepared showing no additional impacts.

The proposed project includes the following addresses/APN's:

049-102-075 (1825 El Camino Real), 049-102-051 (1745 El Camino Real), 049-102-031 (1831 El Camino Real), 049-102-048 (5510 Del Rio Rd), 049-102-045 (5700 Del Rio Rd), 049-102-056 (1905 El Camino Real)

Recommendation: Staff's recommendation is to approve the project with conditions. (AMND19-0063).

EX PARTE COMMUNICATIONS

Vice Chairperson Keen stated that she has a personal relationship with the designer, however; they have not discussed the project. Chairperson van den Eikhof stated that he saw this item at DRC. Commissioners Carranza, Hughes and Schmidt had no ex parte.

Planner Gleason presented the staff report, and she and Director Dunsmore answered questions from the Commission. Planner Gleason requested the Commission review and approve modifications to conditions (Exhibit A).

PUBLIC COMMENT

The following members of the public spoke: Patti Whelen (representative for MP Annex), Clint Pearce (property owner), Greg & Teresa King (Valley Fresh Markets), and Sierra Steele. Scott Martin (RRM Design Group) shared a presentation (Exhibit B), and requested that the Commission remove Condition 27, and modify Condition 29.

Chairperson van den Eikhof closed the Public Comment period.

MOTION: By Vice Chairperson Keen and seconded by Commissioner Hughes to adopt PC Resolution approving a Conditional Use Permit Amendment, Tentative Parcel Map (AT22-0011), AND EIR Addendum for the Del Rio Marketplace, subject to findings and conditions of approval, with the following:

- **Include staff modifications to conditions (Exhibit A).**
- **Change Condition 27 regarding the ceiling height to change it to the 2nd floor/16 feet tall or other wording that staff approves to allow flexibility.**
- **Condition 29 - recommend to the Council that they consider a taller sign.**

***Motion passed 5:0 by a roll-call vote.
(Anderson, Heath absent)***

This item will move forward to City Council.

Chairperson van den Eikhof recessed the meeting at 7:48 p.m. for a break.

Chairperson van den Eikhof reconvened the meeting at 7:55 p.m. with all present.

COMMUNITY DEVELOPMENT STAFF REPORTS

3. UPCOMING REVISIONS TO THE MUNICIPAL CODE TO IMPLEMENT CHANGES RELATED TO ACCESSORY DWELLING UNITS, URBAN DWELLING UNITS AND URBAN LOT SPLITS.

Director Dunsmore stated that Commissioner Schmidt has a conflict of interest due to his current work on an SB9 project and would be recusing himself from the discussion and any motion on this item. Commissioner Schmidt was moved from a panelist to an attendee.

Director Dunsmore presented the staff report and answered questions from the Commission. No action will be taken on this item tonight.

PUBLIC COMMENT

The following members of the public spoke: Sierra Steele, Greg Ravatt, Jeff Skinner, and Tim.

Chairperson van den Eikhof closed the Public Comment period.

Director Dunsmore addressed questions raised during public comment.

Director Dunsmore asked the Commission to return to the next meeting with ideas on general direction that include health, safety standards, and design standards. He stated that staff will come back with a completely developed code. After the Commission makes recommendations on July 5th, the Council will hear the item.

MOTION: By Commissioner Hughes and seconded by Vice Chairperson Keen to continue the item to a date certain of July 5, 2022.

Motion passed 4:0 by a roll-call vote.
(Anderson, Heath absent)
(Schmidt abstained)

Director Dunsmore stated that the June 21st meeting will be cancelled, and asked the Commissioners who would be present for the July 5th meeting. The results were that Keen, Hughes, Carranza and van den Eikhof would be present. Schmidt will be present but cannot participate in the discussion or vote on the item. Staff will follow-up with Anderson and Heath.

Commissioner Schmidt was returned as a panelist.

COMMISSIONER COMMENTS AND REPORTS

None.

DIRECTOR'S REPORT

None.

ADJOURNMENT – 9:15 p.m.

The next regular meeting is scheduled for June 21, 2022, at City Hall, but will be cancelled. The Commission will meet again on July 5, 2022.

MINUTES PREPARED BY:

Annette Manier, Recording Secretary
Administrative Assistant

The following Exhibits are available in the Community Development Dept.:
Exhibit A – Condition modifications for the Del Rio Marketplace
Exhibit B – RRM presentation on Del Rio Marketplace

****This item was continued from June 7, 2022, and has since been scheduled as a public hearing.****

THE JUNE 7TH STAFF REPORT IS INCLUDED



Atascadero Planning Commission

Community Development Department

Accessory Dwelling Unit And Senate Bill 9 Text Amendments (AMC Title 9 and Title 11)

RECOMMENDATION:

The Planning Commission review and provide feedback on proposed amendments to the Municipal Code that will respond to recent State law updates regarding Accessory Dwelling Units, Urban Dwelling Units and Urban Lot Splits.

DISCUSSION:

Background

Recent Government Code changes are designed to streamline the local review process for accessory dwelling units. These changes are intended to further reduce barriers, and make it easier to develop these smaller units that share a property with other housing units as a form of affordable housing. In 2020, the City adopted its 2021-2028 Housing Element which identified a number of City code updates that are needed in order to implement State law revisions. The Housing Element identified ADUs as a component in helping to meet the City's moderate- and low-income housing requirements. A portion of all new ADU's and JADU's will count towards the City's affordable housing stock and can be utilized for calculating our annual Regional Housing Needs Allocation (RHNA) since these units are considered to be "affordable by design".

Title 9, Chapter 5, of the Atascadero Municipal Code regulates Accessory Dwelling Units (ADUs) and is currently titled "Secondary Dwelling Units". The Code was adopted in 2004 and last updated in 2010. Since 2010, the State has provided several updates to the government code regulating ADUs and Junior ADUs (JADUs) with substantial updates that became effective on January 1, 2020. These State updates have made many portions of our local code inconsistent with State law, and State law currently supersedes much of our local ordinance. Updates to our local ordinance that comply with State law will allow our City to recognize local conditions that can apply to the regulation, guidance and health/safety standards of these accessory units.

In addition to ADU laws, the governor signed Senate Bill 9 (SB9) into law (September 2021) in an effort to streamline the development of housing and allow up to two primary housing

units on many existing single-family zoned sites in addition to allowing lot splits on existing single-family zoned sites as a staff level approval. The implementation of these code amendments will result in the adoption of separate ordinances that will result in multiple updates to the Municipal Code.

Proposed amendments and additions include:

- Repeal and replacement of Title 9, Chapter 5 (Accessory Dwelling Units)
- Addition of a new section to address Urban Dwelling Units.
- Amendments to Title 9, Chapters 3, 4, and 9 to update definitions for consistency with amended standards.
- Amendments to the City's Subdivision Regulations, Title 11 to accommodate SB9 (Urban Lot Splits)

Following Planning Commission feedback, staff will return to the Planning Commission with the proposed code updates prior to proceeding to the City Council for final adoption. Amendments to the ADU code will also require review by the state department of Housing and Community Development (HCD).

Analysis

Accessory dwelling units and Junior Accessory dwelling units

An ADU is defined as an attached or detached accessory dwelling unit that shares a property with a primary unit. A JADU is defined as a unit solely converted from existing residential space within a primary unit and is limited in size to 500 square-feet. A single site may have an ADU and a JADU if it can meet development standards. ADU's are allowed in conjunction with any legal primary dwelling unit, whether the unit is part of a mixed-use project, an apartment project, planned development, condominium, or standard single-family dwelling. However, ADU's have additional limitations within multi-family or mixed-use sites.

Some of the more significant changes to State law include:

- The introduction of Junior ADUs.
- Considerations for the allowance of ADUs on multi-family and mixed-use properties.
- Prohibition of required replacement parking when a garage is converted to create an ADU.
- Establishment of impact fee exemptions for ADU's less than 750 square feet and reduced fees for units 750 square feet or greater.
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five (5) years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency
- Limitations on parking standards for new ADUs and JADUs
- Provides that covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable.
- Prohibits the use of ADUs or JADUs as short-term (vacation) rentals.

On September 28, 2021, staff brought this topic before the City Council for direction prior to preparing a final ordinance. The City Council directed staff to analyze the following standards for inclusion in the updated ordinance:

- Consider the maximum size of an allowed ADU to be 1,000 square-feet in areas with smaller lots in Single Family Residential zones and Multi-Family zones for consistency with the States affordable housing goals but maintain larger units on larger Single-Family properties where appropriate.
- Limit the construction of detached ADUs on properties less than 1 acre gross if served by an on-site wastewater system (septic). In addition, explore parameters for exceptions if a smaller parcel is surrounded by larger parcels.
- Limit ADU construction on sites in the City's WUI zone that do not meet fire standards for secondary road access.
- Provide standards for ADUs in planned developments and multi-family and mixed-use zones.
- Consider objective design standards

Because septic suitability and fire access are related to public health and safety, these topics may guide where it is suitable to develop accessory dwelling units.

Proposed ADU/JADU Objective Design Standards

Local agencies may adopt design standards that include, but are not limited to, design standards for parking, height, setback, landscaping, architecture, unit size, and development with historic resources. However, these standards must not preclude the ministerial review of an ADU. The following discussion provides "objective" design standards that should be incorporated into the City code for ADUs and JADUs.

Unit Size:

Unit size directly results in unit cost. ADU's are designed to be an affordable housing option, therefore the state set a maximum limit at 1,200 square feet. However, the City has discretion to require smaller units provided that standards allow at least an 850 square-foot unit, or 1,000 square-feet if the unit has 2 bedrooms. The City's current code allows up to 1,200 square-feet for an ADU regardless of zoning district or property size.

The City Council directed staff to update the ADU ordinance to include a maximum unit size of 1,000 square-feet and provide allowances for the full 1,200 square-feet on larger single-family properties.

- ***Staff is suggesting the following size standards for ADUs:***
 - 1. Up to 850 square feet for a one bedroom or less ADU***
 - 2. Up to 1,000 square-feet for any new ADU that includes two (2) or more bedrooms***
 - 3. Up to 1,200 square-feet for properties 1.5 acres gross or larger when the ADU does not exceed 50% of the floor area of the primary residence.***

Junior accessory dwelling units are limited by state law to a maximum of 500 square-feet. JADUs must be created by the conversion of existing space within the existing or proposed as part of a new primary dwelling unit. JADUs can be conversions of existing habitable space and/or conversion of an attached garage.

Accessory Buildings attached to Accessory Dwellings

Current City ADU standards allow a garage/storage space up to 500 square-feet to be attached to an ADU. The code also provides an exception process through approval of an Administrative Use Permit or a Conditional Use Permit reviewed by the Planning Commission if a larger garage/workshop is requested. Staff has concerns about allowing larger garages attached to ADUs as this may conflict with neighborhood character, especially as side and rear setbacks are reduced to four feet for ADUs under 16-feet in height.

Staff is proposing a maximum footprint of both an attached garage and ADU to not exceed 1,250 square feet. This would allow smaller ADU's to have a two-car attached garage on the ground floor, or allow flexibility for larger ADUs to be built above a garage. For example, an 800 square foot ADU could have an attached 450 square foot garage (20x22) allowing for parking of two vehicles and storage. Alternatively, a 1,000 square foot ADU built above a garage may have a larger garage that could serve both the primary residence and ADU. A larger ADU and Accessory structure will need to comply with standard residential setbacks and will not be eligible for the reduced four-foot setback set by the government code.

- ***Staff is suggesting that the footprint of an ADU and an attached garage or accessory structure should not exceed 1250 square feet.***

Minimum Lot Size:

The new Government code Prohibits the City from limiting ADUs based on minimum lot size **unless lot size is a factor in determining health and safety standards**. The Government Code allows local agencies to limit the development of ADUs based on the adequacy of water and sewer services and adequate road access in order to preserve public health and safety.

The City's Local Area Management Plan (LAMP) is approved by the Regional Water Quality Control Board, a State Agency. The LAMP governs septic systems from a technical aspect based on health and safety and regional board standards. The LAMP provides design parameters for a variety of site-specific characteristics but does not analyze or address neighborhood or regional impacts to groundwater quality.

City staff has coordinated with an engineering consultant (Monsoon Consultants) to determine what areas or parcels in the City may be most impacted by the expansion of on-site wastewater systems due to overall density or overconcentration concerns. The analysis focused on determining areas and parcel characteristics that would be vulnerable to high nitrogen loading rates should systems be expanded or added to accommodate additional units.

- ***The resulting analysis concluded that a minimum lot size of one gross acre would be required for ADU's to ensure that established thresholds for nitrogen***

overconcentration would not be exceeded. No minimum lot size will be established for ADU's that are connected to City sewer, only setbacks and design standards would apply.

This lot size limit captures smaller parcels on the west side in addition to known areas of concern related to septic concentration and failure such as River Gardens, the neighborhood south of Pine Mountain, some areas west of Atascadero High School and some of the neighborhoods near Rosario north east of the downtown.

The one acre minimum assumes nitrogen concentrations based on one detached ADU one primary residence and one JADU for a total of three (3) units on a 1-acre site with an on-site wastewater disposal system or multiple onsite systems. Junior ADUs do not typically produce the same level of impact due to size limitations, are converted from existing square-footage, and are not allowed to be vacation rentals. JADUs are envisioned to be similar to a master bedroom expansion or bedroom replacement and therefore, the septic concerns are reduced to a level of insignificance as long as the existing system or proposed upgrades can accommodate the additional occupancy.

- ***The City should allow for an internal JADU to replace existing space in an existing residence, up to 500 square feet regardless of lot size, providing on-site septic systems can be designed to accommodate any additional load per the requirements of the City's LAMP.***

Council also requested that staff explore an exception process that would allow some smaller parcels without City sewer access to construct ADUs if certain findings could be made and parameters could be met.

- ***Staff is proposing text that would allow ADUs on properties between ¾ and 1-acre that are surrounded by parcels larger than 1 acre where the average lot size within a 1/4 mile radius is over 1-acre gross. This calculation is required to take into account any potential future lot split possibilities in determining average gross acreage. This allowance may also require a property owner to demonstrate on-site wastewater system operation and expansion by certification from an engineer.***

Emergency Access Standards:

In addition to the amendment described above regarding wastewater, the City may adopt regulations that limit ADUs where health and safety concerns exist, such as on properties that have limited road access (only one way out) and that are within the City's identified Very High Fire Severity Zone. Staff has identified several neighborhoods that do not have sufficient road access and are within these areas. The new code will need to identify these locations and limit new ADU development where it is not safe. However, these sites will still allow for JADUs.

- ***No ADU's shall be allowed in areas that are within the Very High Fire Severity Zone on roads that do not have a second way out as determined by the City Fire Department. JADU's may still be allowed on these properties.***

Building Setbacks:

The State requires that standard City setbacks be reduced to 4-feet for ADUs that are less than 16-feet in height. Standard City setbacks are 5-feet from a side property line and 10-feet from the rear. The State requires that both the side and rear setbacks be reduced to 4-feet for a qualifying ADU. The reduced setback will result in design limitations because the building code requires fire rated construction for any building wall that is less than 5-feet from a property line. Therefore, a structure that is less than 5-feet from a property line may not be able to have any operable windows, opening doors, or other features that are not fire-rated facing the property line that is less than 5-feet away. Other walls may still have these features.

While the City cannot override these standards, the City will need to modify our standard definitions to clarify side, front and rear setbacks. Specifically, our existing code labels a corner setback adjacent to a street as a "corner side setback". Based on State law, the City would be required to allow an ADU up to 4-feet from the right-of-way on a corner lot. The amended language uses the term "corner street setback" to allow the City to maintain a 10-foot setback from the right-of-way (street).

- ***ADU's will be subject to a new four foot minimum setback for no more than one building wall. New definitions for setbacks are proposed that will clarify each setback standard.***

Multi-Family Standards:

The State expanded the government code section related to accessory dwelling units to include provisions for ADUs within multi-family projects such as apartments and condominiums and some planned developments. Cities must allow the conversion of existing non-residential space (this includes garages and other non-conditioned storage) into ADUs at a ratio up to 25% of the number of existing units on-site. In lieu of conversion of existing space, cities must allow at least one and no more than 2 new units on the site. The State law allows for this to be an either/or scenario so cities do not have to allow for both on one site. Staff is proposing a maximum of one new unit as an ADU or the conversion of existing space within a multi-family unit under the provisions of the State law.

It is important to note that garages and carports are considered existing space on a multi-family site and are eligible for conversion. If converted, the City cannot require replacement parking but can require one new parking space per ADU. The city has no authority to limit the conversion of required parking nor require additional parking on-site.

Atascadero has many multi-family properties that have not yet been developed to full density. The City's Housing Element contains policies and programs to encourage infill development on these sites and these sites are included in calculating the City's ability to meet RHNA requirements. Requiring buildout to specified density prior to development of ADUs will allow compliance with Housing Element goals and eliminates a potential loophole.

- **Staff is recommending an updated land use definition for multi-family to clarify that multi-family zoned properties must be developed to density prior to construction of an ADU.**
- **Staff is proposing a new definition for a Residential Multi-Family project: More than 10 units per gross acre are considered a multi-family project, regardless of the design of the units or whether the units are owned or rented.**

Code changes needed for State Law Consistency:

Owner Occupancy:

The new State law prohibits the City from placing owner-occupancy requirements for ADUs but allows Cities to require owner occupancy provisions for residences that contain JADUs.

- **Staff is proposing language that includes requirements for owner occupancy of either the primary, ADU, or JADU as a condition of a construction permit for a JADU.**

Parking

The State law includes automatic parking reductions for ADUs. This includes both prohibitions against requiring replacement parking for ADU garage conversions in addition to waiving parking requirements based on proximity to transit stops.

- **Any draft ordinance will include provisions requiring 1 parking space per ADU, consistent with State law, except where waived by state law.**

Short-term Rental Prohibition

State law requires that ADUs that are developed consistent with the current government code be reserved for stays of greater than 30-days, thereby prohibiting the use of ADUs or JADUs as vacation rentals. However, the state law does not prohibit a property owner from living in an ADU and utilizing a primary residence as a vacation rental. This provision is supported by the State's findings that ADUs will provide additional opportunities for affordable housing.

- **Proposed code will prohibit the use of an ADU or JADU as a vacation rental and includes a requirement to record a deed restriction for new accessory dwellings prior to occupancy.**

Atascadero Municipal Code consistency:

Changes to Title 9, chapter 5 of the Zoning Code to accommodate the new ADU language will result in the need to amend the General Definitions, the Land Use Definitions, and the property development standards.

These amendments include:

- **Amending the definition (9-3.500) for detached accessory structures that are not considered dwelling units (ADUs), including standards for detached offices and art studios, to Chapter 6, section 106: Residential Accessory Uses, so that these structures are subject to the same state laws as ADUs.**
- **Updating land-use definitions related to mixed-use and multi-family residential development for clarity on when ADU standards apply (9-3.500).**

- **Updating general definitions and development standards to clarify setback standards (9-9.102).**
- **Modifications to existing planned development language to clarify setbacks as they relate to ADUs (9-3.642).**

Proposed Design Standards for Urban Dwelling Units and Urban Lot Splits (SB9)

On September 16, 2021 the governor signed Senate Bill 9 (SB9) into law in an effort to streamline the development of housing to allow multiple housing units on many existing single-family zoned sites and allowing lot splits on existing single-family zoned sites with approval at the staff level. SB 9 allows one to either add a new Urban Dwelling Unit on an existing parcel with an existing unit, or allows one to subdivide an eligible parcel and have two units on each resulting parcel, whether a pre-existing unit, a new Urban Dwelling Unit, or an accessory dwelling unit/junior accessory dwelling unit. Under SB9, an existing dwelling unit, a new urban dwelling unit, or an ADU/JADU count towards the total number of units.

In December of 2021, the City Council adopted an urgency ordinance to ensure that applications received on or after the effective date could be processed with health, safety, and objective design standards enforced to address the unique characters of Atascadero (Attachment 1). To date, the City has reviewed two applications for an urban lot split. No applications to construct a new unit under SB9, separate from an Urban Lot Split have yet been pursued.

SB9 does three things:

1. Allows for the development of one additional primary (“Urban Dwelling Unit”) dwelling unit on the same lot as a primary residence on all single-family zoned parcels within or partially within the “Urbanized Area” of a city. The Urbanized Area is a designated zone established by census data.
2. Requires that cities allow for the approval of Urban Lot Splits of single-family properties within the urbanized area, and allowing up to two units on each of the new resulting lots without discretionary review and without a hearing, if the lot split meets state and local criterion.
3. Allows the City to approve 24-month time extensions to Tentative Maps rather than the current 12-month limit

The government code grants the City the authority to:

1. Deny applications pursued in accordance with these government code sections based on health and safety issues or significant impacts on the physical environment.
2. The law also allows cities to apply objective standards associated with the construction of new units or the design of the subdivision.

Much of the City of Atascadero has constraints to development based on a variety of factors. Fire safety, limited access, on-site wastewater overconcentration, historical resources, and sensitive environmental resources present concerns that require additional review and analysis. However, many west-side properties are outside of the Urbanized zone and therefore are not eligible to utilize SB9.

Analysis:

Staff has identified the following as areas of concern for adding new units in particular areas due to:

1. Lack of availability of sewer service
2. Neighborhoods without accessible secondary emergency egress routes
3. Properties with average slopes of 30% or greater
4. Properties that include creeks, wetlands or sensitive habitat
5. Properties in locations of known archeological resources
6. Properties that include historic resources

These declared areas of concern have been taken into consideration in creating objective standards to help preserve the health and safety of our community while maintaining compliance with the California Environmental Quality Act (CEQA). SB9 requires that the City approve a lot split or the addition of new units as a *ministerial act*. Therefore, the City may not utilize CEQA to evaluate topics such as environmental impacts, health and safety impacts, or impacts to historic resources. Therefore, these topics must be guided through the implementation of objective design standards. The proposed amendments to the Atascadero Municipal Code will replace the adopted urgency standards and adopt a set of local objective standards and health/safety standards based on new HCD guidance and City Council direction. City legal staff has evaluated the proposed code amendments and has advised on specific topics.

Urbanized Area

SB9 and the resulting State law amendments apply to parcels zoned for single-family uses that are within or partially within an Urbanized Area as defined by the US Census Bureau. Atascadero is included on the El Paso de Robles (Paso Robles) – Atascadero, CA 27261 map. The area includes the east side of the City in addition to approximately half of the west side. The boundary is not a parcel specific boundary and therefore, some parcels may be partially within the Urbanized Area. State law mandates that parcels that are partially within can apply for urban dwelling units or urban lot splits under SB9 providing no other health, safety, or environmental concerns warrant limitations. SB9 does not apply to any properties within multi-family zones, commercial zones, or mixed-use zones. The law also allows cities to exempt lots within Planned Developments, even if the underlying zoning is single-family.

Objective Standards

The government code allows cities to establish objective design standards for urban lot splits and the construction of new Urban Dwelling Units (UDU). Other than lot size, the lot splits must comply with the City's Subdivision Regulations. The Atascadero Municipal Code already contains standards for deep lot subdivisions (flag lots) and depth to width ratios and these standards are repeated to the sections specific to urban subdivisions for clarity. However, additional standards were included in the interim ordinance and are recommended to ensure that adequate infrastructure is available, environmentally sensitive areas are protected, and neighborhood character is preserved.

The law also stipulates that development standards cannot hinder the ability of the owner to:

- Construct an 800 square-foot unit;
- Or at least two units total on each lot created by an SB9 lots split.

The law, however, does not dictate a maximum unit size. The findings made by the State for enactment of SB9 are based on assumptions that units constructed under these provisions will be smaller and thus, affordable by design. As such, the City's interim ordinance included an 800 square-foot maximum for any new urban dwelling unit constructed on a parcel. The City Council, while adopting this standard for the interim, directed staff to provide additional discussion and adjust this number to allow for some flexibility to homeowners.

- **Staff is proposing that the size limit for SB9 units be 1,000 square feet, consistent with the standards for ADU's.**

Staff is proposing the following objective design criteria that will increase neighborhood compatibility and health and safety:

1. All parcels must be zoned for single-family use and be within or partially within the Urbanized Area, as designated by the US Census Bureau, and;
2. All Parcels must be connected to the City's public sewer system or meet LAMP standards for minimum parcel size, and;
3. All parcels with average slopes of 30% or greater must identify an accessible 1,500 square foot or larger building envelope of 15% or less for the resulting vacant parcel, and;
4. Parcels with jurisdictional waters, known archeological sites, or sensitive environmental resource areas shall be excluded, and;
5. All parcels containing a qualifying historic resource or qualifying historic structure shall be excluded, and;
6. Urban Dwelling Units (any residential unit created in accordance with these provisions) shall be a maximum of 1,000 square-feet of habitable area, and;
7. All parcels proposing an urban lot split shall comply with the City's subdivision regulations, and;
8. All properties shall show a minimum of one off-street parking space per unit unless specifically exempted by state law.

Staff is recommending that objective design standards be included to ensure neighborhood compatibility and to support quality design:

These include the following:

1. ***Covered front entries and/or front porches***
2. ***Open space requirements that can accommodate a minimum of 200 square feet of outdoor space per unit (open space refers to outdoor use areas such as gardens, patios, decks, porches and yards)***
3. ***Reduced footprint of the second floor to increase building articulation and reduce overlook***
4. ***Dedicated laundry and storage space in each unit***

5. **Maximum lot coverage standards of approximately 60% per lot**
6. **Shared driveway standards for narrow properties**
7. **Minimum site access and parking standards**
8. **Maximum size of attached garages and accessory structures**

These design standards would be in addition to mandated elements of SB9 law which include:

1. *Owner-occupancy requirements will apply to the existing owner/applicant in a signed affidavit requiring at least 3-years primary occupancy following occupancy and completion of unit.*
2. *Subdivision standards requiring that each resulting lot be approximately half the size of the original lot (40% minimum)*
3. *Requirements that no rental or deed restricted affordable housing be demolished to accommodate any lot split or second unit*
4. *Setback exceptions for existing structures on parcels proposed to be subdivided (law allows for new lot lines to be as close as four feet to existing structures as long as fire code and building code can be met).*
5. *Prohibition of short-term vacation rentals for new units created in accordance with SB9.*
6. *Prohibition of ADU's or JADU's on sites that are developed to the maximum standards allowed with SB9 (two units on each site).*
7. *Prohibition of further ministerial subdivisions on a site with a prior urban lot split.*

SB9 recognizes the potential impacts to CEQA and particularly to historic resources. Therefore, SB9 allows local jurisdictions to exclude properties that include listed historic resources from SB9 lots splits and the development of UDU's. State law requires that these properties be identified and designated by a state or local ordinance. At this time, the City's General Plan identifies all Colony Homes and related structures as historic resources that shall be documented and included in a historic preservation ordinance. However, this General Plan program has yet to be implemented. Prior to adopting an ordinance that lists all of the Colony Homes as historic resources, community outreach to each of these Colony Home owners will need to be completed.

Health and Safety Considerations

State law grants local jurisdictions the authority to deny applications based on health and safety concerns that cannot be mitigated. SB9 allows for the City's building official to determine when Health and Safety factors shall limit development and subdivision under SB9. Specific criteria may also be adopted into a City ordinance. The City of Atascadero contains a large area identified in high or very high fire severity zones, however, state law specifically preempts this as a factor for denial providing the structure is built to current building and fire codes that are designed to mitigate this impact. The law does allow for consideration in neighborhoods that do not meet fire code for secondary access as this cannot be mitigated through unit construction. The proposed ordinance would prohibit urban dwelling units and urban lot splits in neighborhoods with dead end roads exceeding the length of state standards. Many of these sites are already outside of the urbanized area and therefore would not be eligible to use SB9 anyway.

Fees, improvements and Exactions

New units built in accordance with SB9, whether on an existing site or on a new site created from an urban lot split, are subject to City Development Impact and Wastewater Capacity fees and do not qualify for incentives granted under existing ADU laws. Since SB9 lot splits must be approved without discretionary conditions, typical road improvements such as frontage improvements cannot be required prior to recordation of an SB9 lot split. However, frontage improvements, if found necessary, can be required as a condition of occupancy of a new unit on a site following an urban lot split.

Conclusion

This activity is a direct implementation of mandated policies of the City's adopted General Plan Housing Element. The State department of Housing and Community Development (HCD) is required to review and approve any municipal code changes related to ADU's and JADU's and may provide comment if code modifications do not align with HCDs guidance and legislative intent. However, the state does not review the City's codes regarding SB9. It is to the City's advantage to amend our code to adopt specific standards that speak to our local conditions, especially recognizing health and safety impacts such as fire and wastewater limitations. These proposed code amendments will implement an identified Housing Element program, providing additional ADU development that will help achieve our RHNA and comply with the latest updates to State law.

Next Steps

At this time, staff is seeking Planning Commission feedback on the following topics. The Planning Commission shall also consider the City Council direction that has been offered on these topics. Staff will return to the Planning Commission on July 5th with a code drafts for Planning Commission review and approval.

Discussion Items

ADUs and JADUs

**Note: items that are required for health and safety or for state code interpretation are not included in this discussion list.*

1. Staff is suggesting the following size standards for ADUs:
 - a) Up to 850 square feet for a one bedroom or less ADU
 - b) Up to 1,000 square-feet for any new ADU that includes two (2) or more bedrooms
 - c) Up to 1,200 square-feet for properties 1.5 acres gross or larger when the ADU does not exceed 50% of the floor area of the primary residence.
 - d) Staff is suggesting a that the footprint of an ADU and an attached garage or accessory structure should not exceed 1250 square feet.
 - e) The Planning Commission should comment on the overall size of an ADU and an attached accessory structure such as a garage or workshop that is not designed as living space.
2. Should there be architectural standards that require items such as porches, second story setbacks, architectural styles, or private open space standards?

3. Staff is proposing text that would allow ADUs on properties between $\frac{3}{4}$ and 1-acre that are surrounded by parcels larger than 1 acre where the average lot size within a $\frac{1}{4}$ mile radius is over 1-acre gross. This allowance may also require a property owner to demonstrate on-site wastewater system operation and expansion by certification from an engineer.
4. Staff is recommending an updated *land use definition* for multi-family to clarify that multi-family zoned properties must be developed to density prior to construction of an ADU.
5. Staff is proposing a new definition for a Residential Multi-Family project: *More than 10 units per gross acre are considered a multi-family project*, regardless of the design of the units or whether the units are owned or rented.
6. Staff suggests amending the definition (9-3.500) for detached accessory structures that are not considered dwelling units (ADUs), including standards for detached offices and art studios, to Chapter 6, section 106: Residential Accessory Uses, so that these structures are subject to the same state laws as ADUs.
7. Staff suggest updates to the land-use definitions related to mixed-use and multi-family residential development for clarity on when ADU standards apply (9-3.500).
8. Staff suggests updates to the general definitions and development standards to clarify setback standards (9-9.102).
9. Staff suggests modifications to existing planned development language to clarify setbacks as they relate to ADUs (9-3.642).

SB9 discussion topics

1. Staff is proposing that the size limit for SB9 units be 1,000 square feet, consistent with the standards for ADU's.
2. All Parcels must be connected to the City's public sewer system or meet LAMP standards for minimum parcel size, and;
3. All parcels with average slopes of 30% or greater must identify an accessible 1,500 square foot or larger building envelope of 15% or less for the resulting vacant parcel, and;
4. Parcels with jurisdictional waters, known archeological sites, or sensitive environmental resource areas shall be excluded, and;
5. All parcels containing a qualifying historic resource or qualifying historic structure shall be excluded, and;
6. All parcels proposing an urban lot split shall comply with the City's subdivision regulations, and;

7. All properties shall show a minimum of one off-street parking space per unit unless specifically exempted by state law.
8. Staff is recommending that the following objective design standards be included to ensure neighborhood compatibility and to support quality design:
 - a) *Covered front entries and/or front porches*
 - b) *Open space requirements that can accommodate a minimum of 200 square feet of outdoor space per unit (open space refers to outdoor use areas such as gardens, patios, decks, porches and yards)*
 - c) *Reduced footprint of the second floor to increase building articulation and reduce overlook*
 - d) *Dedicated laundry and storage space in each unit*
 - e) *Maximum lot coverage standards of approximately 60% per lot*
 - f) *Shared driveway standards for narrow properties*
 - g) *Minimum site access and parking standards*
 - h) *Maximum size of attached garages and accessory structures*

ATTACHMENTS:

1. SB 9 Interim (urgency ordinance)

Attachment 1

DEVELOPMENT OF URBAN LOT SPLITS AND URBAN DWELLING UNITS

1. Purpose and intent.

It is the purpose and intent of this ordinance to implement the provisions of Government Code sections 65852.21 and 66411.7, which mandates the City to establish a ministerial process for approval of urban lot splits and urban dwelling units and authorizes the City to establish certain requirements and standards for such approvals, while protecting the public health, safety, and welfare of the community, such as through orderly planning and aesthetic standards.

2. Definitions.

“Urban dwelling unit” means a dwelling unit established or proposed to be developed in accordance with the standards, procedures, and requirements set forth under Government Code section 65852.21 and this chapter, either as a primary or secondary unit on a parcel.

“Urban lot split” means a subdivision or proposed subdivision of land established in accordance with the standards, procedures, and requirements set forth under Government Code section 66411.7, this chapter, and the procedures set forth in Chapter 11-14 of this code.

“Primary Frontage” means the frontage of a property abutting a street.

“Secondary Frontage” means a second side of the property that abuts a street and is parallel to the primary frontage.

“Corner street frontage” means a second side of the property that abuts a street and is perpendicular to the primary frontage.

“Individual Property Owner” means a natural person holding fee title individually or jointly in the person’s own name or a beneficiary of a trust that holds fee title. This does not include any corporation or corporate person of any kind (partnership, limited partnership, limited liability company, C corporation, S corporation, etc.) except for a community land trust (as defined by Revenue and Taxation Code Section 402.1(a)(11)(C)(ii)) or a qualified non-profit corporation (as defined by Revenue and Taxation Code Section 214.15).

3. Urban Dwelling Units.

(a) Ministerial Review Process. An application for development of an urban dwelling unit will be reviewed ministerially, without discretionary review or a hearing if it meets all the requirements set forth in this section and after payment of all applicable fees.

(b) Location Requirements. An application for development of an urban dwelling unit must meet all the following location requirements:

(1) The subject parcel must be located in an area zoned for residential single-family use and be within or partially within the urbanized area, as designated by the US Census Bureau.

(2) The subject parcel must not be located in an area designated in Government Code sections 65913.4(a)(6)(B) through (K). This includes, but is not limited to, certain farmland, wetlands, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, on a site with a historic resource, and within or adjacent to habitats for protected species.

(3) The subject parcel must not be located within a historic district or property, as set forth in Government Code section 65852.21(a)(6).

(c) Limitation on Demolition and Alterations. A proposed urban dwelling unit must not involve demolition or alteration of:

(4) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(5) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(6) Housing that has been occupied by a tenant in the last three years.

(7) More than 25% of the existing exterior structural walls, unless the housing has not been occupied by tenants within the last three years.

(d) Limitation on Parcels Withdrawn from Rental Market. A proposed urban dwelling unit must not involve property withdrawn from rental market under GC §7060 and following, within 15 years before the date that the development proponent submits an application.

(e) Development Standards. A proposed urban dwelling unit must comply with the following development standards:

(1) No more than two urban dwelling units per lot may be developed. Primary dwellings, Urban Dwelling Units, Accessory dwelling units (ADUs) and junior ADUs constitute units towards the maximum number of units.

(2) Maximum Size limitations shall be as follows:

(i) The maximum size of a proposed urban dwelling unit must not exceed 800 square feet in floor area, including attached accessory storage rooms or enclosed porches.

(ii) A dwelling unit, primary or secondary, that was established on the lot prior to the submittal of a complete application for a development

pursuant to this chapter may not be altered or expanded to a size greater than 800 square-feet, inclusive of any attached garage, storage space, or enclosed porch.

(3) The minimum setback from the side and rear property line shall be four feet. No setback is required for an existing, permitted structure or a structure constructed in the same location and to the same dimensions as an existing, permitted structure.

(4) The minimum setback for the primary street frontage shall be 25-feet. The minimum setback for the secondary street frontage shall be 12.5-feet. The minimum setback for the corner street frontage shall be 10-feet.

(5) The minimum setback from an access way (flag or easement) shall be 10-feet.

(6) Any proposed urban dwelling unit must be connected to the City's public sewer system.

(7) Any proposed urban dwelling unit must be connected to a separate water service (separate meter).

(8) There must be at least one off-street parking space per proposed urban dwelling unit unless specifically exempted by state law.

(9) Private open space shall be provided for each residential unit at a ratio of three hundred (300) square feet for units that provide 2 or less bedrooms. Each bedroom in excess of two (2) shall require an increase of private open space by fifty (50) square feet. The required front yard setback area shall not be used to satisfy the open space requirement; however, side and rear setback areas may be utilized. The minimum width of the private open space area shall not be less than ten (10) feet.

(10) Unconditioned Spaces. Structures such as garages and workshops attached to urban dwelling units shall be accessory to the residential unit and shall be limited to two hundred and eighty (280) square feet. Attached structures shall be included in the maximum floor area of the unit.

(11) Two (2) story units built in accordance with urban dwelling unit standards shall have a second floor that is limited to seventy-five percent (75%) of the gross area of the first floor inclusive of any attached garage.

(12) Porches shall be provided for each new unit. Porches shall be a minimum of six (6) feet deep and 8-feet wide.

(13) Lot coverage shall not exceed forty percent (40%) of the net lot area.

(14) Each unit shall include the following:

- a) Three hundred (300) cubic feet of shelved storage area. (Bedroom and entry/coat closets shall not count toward this requirement);
- b) Dedicated space for laundry facilities with hookups.

(15) All utilities shall be installed underground.

(16) Where the street frontage of a lot (or the combined street frontage of the two lots created through an urban lot split) is 80 feet or less, all units on the lot (or all units on both lots created through an urban lot split) shall share the same drive approach and driveway.

(f) The subject property shall be owned solely by one or more individual property owners.

(g) Denial Based Upon Adverse Impacts. The City will deny a proposed urban dwelling unit if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(h) Short Term Rental Limitation. Urban dwelling units developed under this section may not be rented for a term less than 30 days. Prior to construction permit completion, a covenant shall be recorded on each lot with a new urban dwelling unit stating the terms of long term occupancy.

(i) Election of development standards. If necessary, objective zoning, subdivision, or design standards will be set aside in the following order until the site can contain two, 800 square foot units. Such standards will be set aside in the following order until the site can contain two, 800 square foot units:

- a. Lot Coverage
- b. Second Floor Area limitations
- c. Porch requirement
- d. Private open space
- e. Setbacks to the degree allowed by State law

(i) A deed notification shall be recorded on all properties exercising development per the provisions of this chapter as necessary to describe these limitations.

4. Urban Lot Splits.

(a) Ministerial Review Process. An urban lot split parcel map application will be reviewed ministerially, without discretionary review or a hearing, if it meets all the

requirements set forth in this section and in accordance with the procedures set forth in Chapter 11-14 of this code.

(b) Location Requirements. An urban lot split parcel map application must meet all the following location requirements:

(1) The subject parcel must be located in an area zoned for single-family use and be within or partially within the urbanized area, as designated by the US Census Bureau.

(2) The subject parcel must not be located in an area designated in Government Code sections 65913.4(a)(6)(B) through (K). This includes certain farmland, wetlands, very high fire hazard severity zones, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, and habitats for protected species.

(3) The subject parcel must not be located within a historic district or property, as set forth in Government Code section 65852.21(a)(6).

(c) Limitation on Demolition and Alterations. A proposed urban lot split must not involve demolition or alteration of:

(1) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(2) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(3) Housing that has been occupied by a tenant in the last three years.

(d) Limitation on Parcels Withdrawn from Rental Market. A proposed urban lot split must not involve property withdrawn from rental market under GC §7060 and following, within 15 years before the date that the development proponent submits an application.

(e) Development Standards. A proposed urban lot split must comply with the following development standards:

(1) No more than two urban dwelling units may be developed per lot. Accessory dwelling units (ADUs) and junior ADUs will be shall be included in the maximum number of units. An urban dwelling development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The maximum size of a proposed urban dwelling unit shall not exceed 800 square feet in floor area including any attached, enclosed storage rooms, enclosed porches, or enclosed garage areas.

(3) The minimum setback from the side and rear property line is four feet. No setback is required for an existing, permitted structure or a structure constructed in the same location and to the same dimensions as an existing, permitted structure.

(4) Any proposed urban dwelling unit must be connected to the City's public sewer system.

(5) There must be at least one off-street parking space per proposed urban dwelling unit unless specifically exempted by state law.

(6) All parcels proposing an urban lot split must comply with the following design standards:

(i) Lot lines shall be at the top of slope banks.
(ii) Side lot lines shall be perpendicular to the street on straight streets, or radial to the street on curved streets.

(iii) Lots with a ratio of depth to width greater than 3:1 shall not be permitted.

(iv) All new lots shall have a minimum primary frontage width of 40-feet, unless approved as a flag lot subdivision.

(v) Where the street frontage of a lot (or the combined street frontage of the two lots created through an urban lot split) is 80 feet or less, all units on the lot (or all units on both lots created through an urban lot split) shall share the same drive approach and driveway.

(vi) Flag lot subdivisions may be approved subject to the following:

(A) The original lot shall have frontage on a dedicated street with a minimum width of at least 65 feet;

(B) The accessway to the rear shall be at least twenty (20) feet wide (developed to City standards), except where the accessway is more than one hundred fifty (150) feet long, it shall be at least twenty-four (24) feet wide with twenty (20) feet of pavement.

(C) The lot farthest from the street shall own the accessway in fee. Other lots using the accessway shall have an access and utility easement over it and a maintenance agreement shall be recorded with the final parcel map.

(D) A reflectorized house number master sign shall be located at the intersection of the street and accessway and individual reflectorized address signs shall be placed on the right-hand side of the driveway to each individual lot.

(8) All parcels with average slopes of 30% or greater must identify an accessible building envelope of 20% or less for the resulting vacant parcel.

(9) All utilities shall be separate for units residing on separate parcels. Multiple units on the same parcel may share utility connections unless prohibited by city code for residential uses.

(10) One street tree per 30-feet of primary frontage shall be installed.

(g) Denial Based Upon Adverse Impacts. The City will deny a proposed urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(h) Short Term Rental Limitation. A unit located on an urban lot split approved under this section may not be rented for a term less than 30 days. In conjunction with lot recordation, a covenant shall be recorded on each lot with a new urban dwelling unit stating the terms of long term occupancy.

(i) Compliance with the Subdivision Map Act. Urban lot splits must conform to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as expressly provided in this section.

(j) Dedication and Off-Site Improvements. A dedication of rights-of-way or the construction of offsite improvements for the parcels being created cannot be required as a condition of issuing a parcel map. All required frontage improvements shall be completed prior to or concurrently with a building permit for an urban dwelling unit on either resulting lot.

(k) Fire Department & Utility Easements. An easement must be provided over the front parcel to the rear parcel for access to the public right of way, providing public services and facilities, maintenance of utilities, and (if required) fire department access.

(l) Owner Occupancy. The applicant for an urban lot split must sign an affidavit stating that the applicant will occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split. This does not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

(m) Residential Use Requirement. All uses allowed on a site subdivided as an urban lot split must be limited to residential uses. This does not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

(n) Non-Conforming Zoning Conditions. Nonconforming zoning conditions are not required to be made conforming before approving an application.

(o) Prior Urban Lot Split. The parcel being subdivided may not have not been established through prior exercise of an urban lot split. In addition, neither the owner of

the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel may have used the urban lot split process as provided for in this section.

(p) Size Requirements. The urban lot split meets all of the following size requirements:

(1) Both newly created parcels must be no smaller than 1,200 square feet;

(2) Both newly created parcels must be of approximately equal lot area, which for purposes of this paragraph means that one parcel may not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(q) A deed notification shall be recorded on all properties exercising development per the provisions of this chapter as necessary to describe these limitations.

5. Appeals.

For the purposes of this chapter, decisions of the Community Development Director or Building Official to appeal or deny an application may be appealed in compliance with section 9-1.111 of the Atascadero Municipal Code.



Atascadero Planning Commission

Staff Report – Community Development Department

3710 El Camino Real Condominium Subdivision (SBDV22-0026)

RECOMMENDATIONS:

Staff recommends the Planning Commission adopt draft PC Resolution approving a condominium subdivision for a previously approved mixed-use development, based on findings and subject to conditions of approval.

REPORT-IN-BRIEF:

The proposed project includes the creation of airspace condominium units for an approved mixed-use project that would allow for the individual sale of both the residential units and commercial tenant spaces. The project has a total of seven (7) residential units, and 3 commercial tenant spaces.

Project Info In-Brief:

PROJECT ADDRESS:	3710 El Camino Real	Atascadero, CA	APN	049-221-016
PROJECT PLANNER	Kelly Gleason Senior Planner	805-470-3446	kgleason@atascadero.org	
APPLICANT	Mitchell Stafford, 6955 Balboa Rd, Atascadero, CA 93422			
PROPERTY OWNER	Mitchell Stafford, 6955 Balboa Rd, Atascadero, CA 93422			
GENERAL PLAN DESIGNATION:	ZONING DISTRICT:	SITE AREA	EXISTING USE	PROPOSED USE
General Commercial (GC)	Commercial Retail (CR)	0.649 acres	Mixed-Use development permits in for review	Same

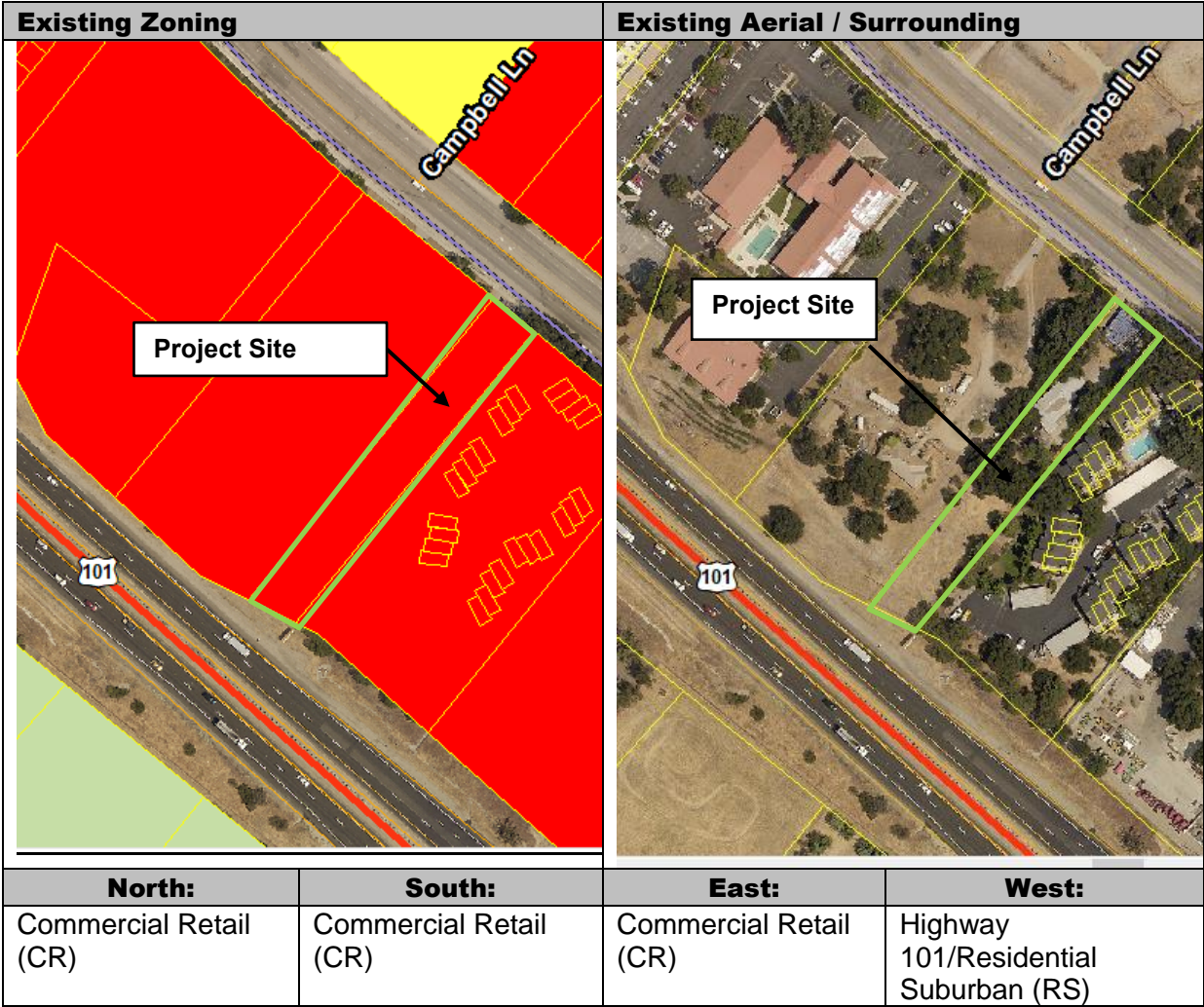
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE ATASCADERO COMMUNITY DEVELOPMENT DEPARTMENT AT

<http://www.atascadero.org>

6500 PALMA AVENUE | ATASCADERO, CA 93422 | (805) 461-5000

DISCUSSION:

Existing Surrounding Uses / Parcel Configurations:



Project Description

A mixed-use development was approved on the project site on November 17, 2020. The project includes 7 residential units above approximately 6,700 square-feet of commercial tenant space within a total of 3 buildings. The airspace condominium subdivision will allow each residential and commercial unit to be sold individually. The design includes residential garages on the ground floor and each garage will be linked to a residential unit.



ANALYSIS:

The City's General Plan supports vertical mixed-use projects in Commercial Retail zones with the approval of a Use Permit. This project was reviewed and approved by the Planning Commission in November of 2020. Since then, the project has sold and the new owner has submitted building permit plans for City review and issuance. To date, a grading permit has been issued and building permits are in the final stages of review.

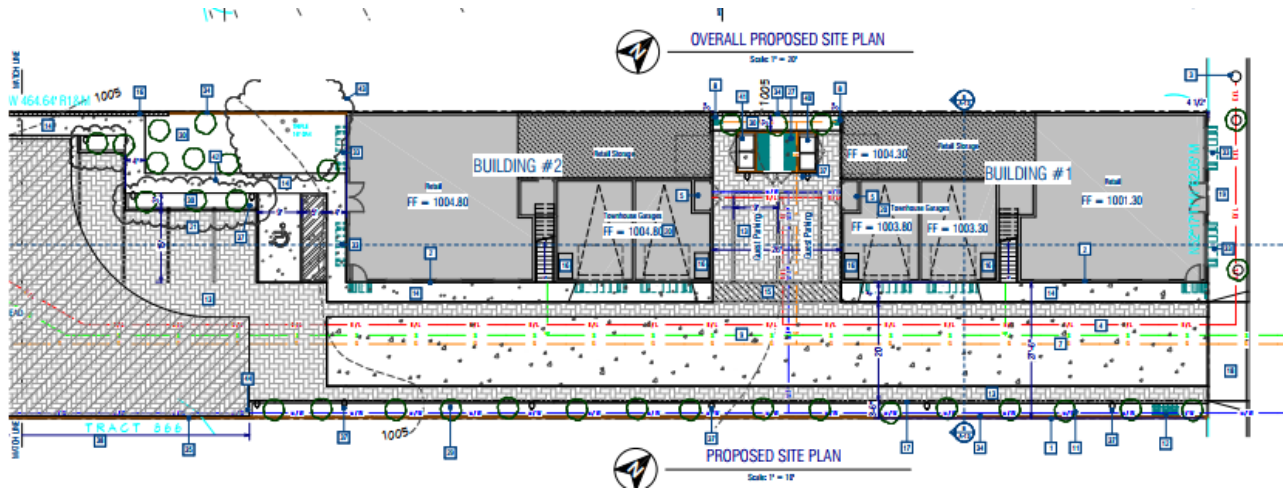
Atascadero Municipal Code (AMC) 11-6.41 states that "design criteria for subdivisions and the required physical improvements for them shall be in compliance with the City's Zoning Ordinance, standard drawings and specifications, subdivision standards, and other applicable regulations or standards." The existing site is consistent with the approved Master Plan of Development approved in 2005, therefore, no site modifications are required. Parking and access will continue to be governed by the Master Plan of Development and recorded CC&Rs.

Site Design

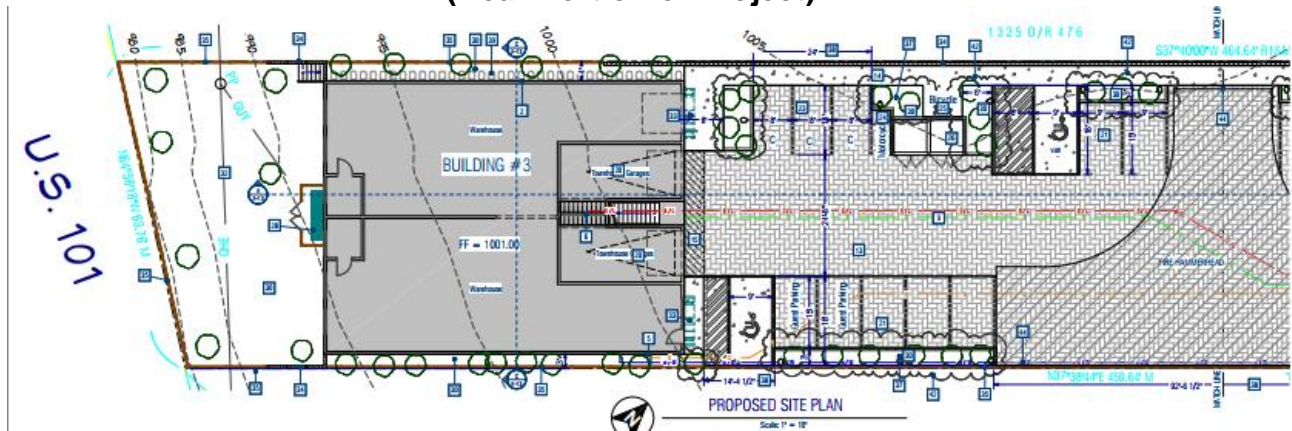
The site is designed with a single driveway at El Camino Real. The private garages for the residential units are located along the shared driveway. A shared parking area is located towards the middle of the property to allow for residential, guest, and commercial patron parking. A turn-around for fire access is designed into the driveway and parking area. Building one is located adjacent to El Camino Real providing a storefront appearance along the frontage. In between building one and two is an open area that provides two residential guest parking spaces. Building three is located toward the rear of the property and contains two single-car garages for the second story residential units with warehouse commercial space on the ground floor. The residential units are located on the second story of each building for a total of seven units. The proposed residences range from 2- to 3-bedroom units.



Project Site Plan (Front Portion of Project)



Project Site Plan (Rear Portion of Project)



A parking reduction of 1 space was approved with the original use permit. Of the 27 total provided spaces, six are within private residential garages, 19 are shared spaces, 1 is designated as a motorcycle space, and 1 bicycle parking area is provided. The proposed condo map will designate garage parking for residential units and retain surface parking as a shared parking area, as conditioned.

CONCLUSION:

The Planning Commission approved the mixed-use project in November 2020. The current owner is applying for a condominium subdivision to allow for the individual sale of residential and commercial units. The underlying parcel will be under the ownership of an



association and CC&Rs as well as deed notifications will be required to ensure ongoing maintenance and adherence to City codes and project requirements.

ENVIRONMENTAL DETERMINATION:

The proposed project is Categorically Exempt (Class 15) from the provisions of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000, et seq.) CEQA pursuant to CEQA Guidelines Section 15315, because it is a minor subdivision of existing commercial buildings and where no physical changes occur.

FINDINGS:

To approve the proposed project, findings are required to be made by the Planning Commission. The City's General Plan and Zoning Ordinance identify the specific findings that must be made to approve a Tentative Parcel Map for commercial condominiums. Findings and the facts to support these findings are included in the Draft Resolution.

ALTERNATIVES:

1. The Planning Commission may include modifications to the project conditions of approval for the project. Any proposed modifications including conditions of approval, should be clearly re-stated in any vote on the attached draft resolution.
2. The Planning Commission may determine that more information is needed on some aspect of the project and may refer the item back to the applicant and staff to develop the additional information. The Commission should clearly state the type of information that is required. A motion, and approval of that motion, is required to continue the item to a future date.
3. The Planning Commission may deny the project. The Commission must specify what findings cannot be made, and provide a brief oral statement, based on the Staff Report, oral testimony, site visit, correspondence, or any other rationale introduced and deliberated by the Planning Commission. It is important to note that denial of the subdivision map will not result in denial of the development and building permits will still proceed based on the 2020 approval.

ATTACHMENTS:

1. Draft Resolution



ATTACHMENT 1:	Draft PC Resolution SBDV22-0026
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DRAFT PC RESOLUTION

**RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF ATASCADERO, CALIFORNIA, APPROVING TENTATIVE
PARCEL MAP AT 21-0034 ESTABLISHING SIXTEEN AIRSPACE UNITS
ON ONE COMMON LOT AT 3710 EL CAMINO REAL**

**SBDV22-0026
3710 EL CAMINO REAL
APN: 049-221-016
(STAFFORD)**

WHEREAS, an application was received from Mitchell Stafford, 6955 Balboa Rd, Atascadero, CA 93422 (owner and applicant), for a Tentative Parcel Map to allow a commercial and residential airspace subdivision at 3710 El Camino Real (APN 049-221-016); and

WHEREAS, the property is in the General Commercial (GC) General Plan Land Use Designation; and

WHEREAS, the property is in the Commercial Retail (CR) zoning district; and

WHEREAS, mixed use projects are considered a conditionally allowed use in the Commercial Retail zoning district; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and

WHEREAS, the proposed project qualifies for a Categorical Exemption consistent with CEQA Guidelines Section 15332: In-fill Development Projects; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject conditional use permit was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said use permit; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Atascadero makes the following findings, determinations and recommendations with respect to the proposed Tentative Parcel Map:

SECTION 1. Recitals: The above recitals are true and correct.



SECTION 2. Public Hearing. The Planning Commission of the City of Atascadero, at a Public Hearing held on July 5, 2022 considered the proposed project.

SECTION 3. Findings for approval of Tentative Parcel Map. The Planning Commission finds as follows:

1. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan (Government Code §§ 66474(a) and (b)).

Fact: The Commercial Retail zoning district is designed to allow for mixed-use developments with the approval of a conditional use permit. The mixed-use development was approved in 2020 by the Planning Commission and is in the city’s building permit review process. The project proposes an airspace subdivision of the buildings to allow for separate ownership of each residential and commercial space. The proposed subdivision will not alter the physical improvements approved for construction and required CC&Rs will ensure that the center functions as one development.

2. The site is physically suitable for the type of development (Government Code § 66474(c)), and

Fact: The site is relatively flat and no physical changes are required beyond what was previously approved.

3. The site is physically suitable for the proposed density of development (Government Code § 66474(d)), and

Fact: The sixteen proposed airspace units are within a previously approved development. The tentative parcel map does not affect the density.

4. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. (Government Code § 66474(e)), and

Fact: The airspace subdivision of an existing commercial building will not result in any physical changes to the site and will not degrade the environment.

5. The design of the subdivision or the type of improvements will not cause serious health problems. (Government Code § 66474(f)), and

Fact: The improvements are minor and will not cause health problems.

6. The design of the subdivision will not conflict with easements for access through or use of property within the proposed subdivision. (Government Code § 66474(g)).

Fact: The development was previously approved and permits are ready to issue. No additional structures are proposed.



SECTION 4. CEQA. The project is exempt from the California Environmental Quality Act (CEQA), under Categorical Exemption § 15315, Class 15: Minor Land Divisions.

SECTION 5. Approval. The Planning Commission of the City of Atascadero, in a regular session assembled on July 5, 2022, resolved to approve a Tentative Parcel Map AT 21-0034 (SBDV22-0026) subject to the following:

- EXHIBIT A: Conditions of Approval
- EXHIBIT B: Tentative Parcel Map

On motion by Commissioner _____, and seconded by Commissioner _____, the foregoing resolution is hereby adopted in its entirety by the following roll call vote:

- AYES: ()
- NOES: ()
- ABSENT: ()
- ABSTAINED: ()
- ADOPTED:

CITY OF ATASCADERO, CA

Jeff van den Eikhof
Planning Commission Chairperson

ATTEST:

Phil Dunsmore
Planning Commission Secretary



EXHIBIT A: Conditions of Approval SBDV22-0026 Condominium Subdivision
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Conditions of Approval	Timing
<p><i>Tentative Parcel Map</i> 3710 El Camino Real SBDV 22-0026</p>	<p>BL: Business License FM: Final Map GP: Grading Permit BP: Building Permit FI: Final Inspection TO: Temporary Occupancy FO: Final Occupancy</p>
Planning Services Conditions	
1. SBDV 22-0026 (Tentative Parcel Map AT 21-0034) shall be for the airspace subdivision of 3710 El Camino Real; a portion of lot 4 of block 18 of the Atascadero Colony, in the city of Atascadero, County of San Luis Obispo, California. (Assessor's Parcel Number's 049-221-016), as generally shown in attached Exhibit B, regardless of owner.	Ongoing
2. The appeal period is fourteen (14) days following the Planning Commission approval unless prior to the time, an appeal to the decision is filed as set forth in Section 9-1.111(b) of the Zoning Ordinance.	Ongoing
3. Approval of this Tentative Parcel Map shall be valid for a period of twenty-four (24) months and shall expire on July 5, 2024 , consistent with Section 66452.6(a)(1) of the California Subdivision Map Act. The approved Tentative Parcel Map may be extended consistent with Section 66452.6(e) of the California Subdivision Map Act. Any requested map extension shall be consistent with Section 11-4.23 of the Atascadero Municipal Code	FM
4. The Community Development Department shall have the authority to approve minor changes to the project that (1) result in a superior site design or appearance, and/or (2) address a construction design issue that is not substantive to the Tentative Parcel Map.	FM
5. The Subdivider shall defend, indemnify, and hold harmless the City of Atascadero or its agents, officers, and employees against any claim or action brought to challenge an approval by the City, or any of its entities, concerning the subdivision.	Ongoing
6. The Subdivider shall pay all applicable Quimby Act fees to the City in accordance with the fee schedule and policies in effect at the time of subsequent applications.	FM
7. This map shall be for the approval of 16 airspace units on one common lot. There shall be no further division of the property without approval of a subsequent map.	Ongoing
8. Prior to recordation of the final parcel map, the applicant shall submit a condominium plan for recording concurrently with the final parcel map. A qualified licensed professional shall prepare the final parcel map and the condominium plan. The condominium plan shall include provisions to link garage units to residential units to ensure concurrent sale and ownership of said units.	FM
9. Prior to recordation of the final map, the applicant shall provide recorded CC&R's outlining maintenance responsibilities between the owners.	FM
10. The site shall be kept in a neat manner at all times and the landscaping shall be continuously maintained in a healthy and thriving condition.	Ongoing
11. A deed notification shall be recorded against the property outlining the following:	



Conditions of Approval	Timing
<p><i>Tentative Parcel Map</i> 3710 El Camino Real SBDV 22-0026</p>	<p>BL: Business License FM: Final Map GP: Grading Permit BP: Building Permit FI: Final Inspection TO: Temporary Occupancy FO: Final Occupancy</p>
<p>a. That the project is part of an approved use permit and all development including landscaping and fencing shall remain consistent with said approval, and</p> <p>b. All surface parking must remain shared between residential and commercial users with the exception of the 2 spaces between building 1 and 2 which may be reserved as residential guest parking. No other surface parking reservations are permitted, and</p> <p>c. Residential garages must be maintained for parking of vehicles, and</p> <p>d. That the fire department turnaround shall remain clear of obstructions at all times.</p>	
Public Works Conditions	
<p>12. Prior to approval of the Parcel Map, the Applicant shall have the map reviewed by the public utility providers for power, telephone, gas, cable TV, and the Atascadero Mutual Water Company. The Applicant shall provide a letter from each utility company stating that the easements and rights-of-way shown on the map for public utility purposes are acceptable.</p>	FM
<p>12. Documents that the City of Atascadero requires to be recorded concurrently with the Parcel Map (e.g.: CC&Rs, easements not shown on the map, agreements, etc.) shall be listed on the certificate sheet of the map.</p>	
<p>13. The City of Atascadero may require an additional map sheet for information purposes in accordance with the Subdivision Map Act.</p>	
<p>14. Provide Covenants, Conditions and Restrictions (CC&Rs) document for review by City - designating the responsibilities of the air space condo owners for the shared spaces/ improvements.</p>	
<p>15. Provide a condominium plan, which contains descriptions and diagrams identifying the boundaries of the separate interests (the condominium "units"), the common areas, and exclusive use common areas (ie. parking spaces and balconies), prior to recordation of the Final map.</p>	
<p>16. Frontage improvements shall be installed or bonded for as conditioned by City of Atascadero PC Resolution 2020-0015 for a Conditional Use Permit on the property, particularly the removal of curb, gutter and sidewalk will be limited to that which is needed for the new driveway configuration as this frontage is new.</p>	





Atascadero Planning Commission

Community Development Department

Accessory Dwelling Unit And Senate Bill 9 Text Amendments (AMC Title 9 and Title 11)

RECOMMENDATION:

The Planning Commission continue the item to the regular hearing of July 19, 2022 to allow staff and the legal team additional time to complete the code amendments.

DISCUSSION:

Background

In 2020, the City adopted its 2021-2028 Housing Element which identified a number of City code updates that are needed in order to implement State law revisions. The Housing Element identified necessary updates to the Municipal Code related to ADUs as a component in helping to meet the City's moderate- and low-income housing requirements. In addition to ADU laws, the governor signed Senate Bill 9 (SB9) into law (September 2021) in an effort to streamline the development of housing and allow up to two primary housing units on many existing single-family zoned sites in addition to allowing lot splits on existing single-family zoned sites as a staff level approval. The implementation of these code amendments will result in the adoption of separate ordinances that will result in multiple updates to the Municipal Code.

The review and updates of the Municipal Code are currently under review with the City's legal team and will be ready for Planning Commission action at the regular hearing of July 19, 2022.