

APPENDIX B
ANALYSIS OF POTENTIAL CONSTRAINTS TO HOUSING FOR PERSONS WITH
DISABILITIES AND REASONABLE ACCOMMODATION POLICY

Analysis of Potential Constraints to Housing for Persons with Disabilities

In accordance with state housing law, as amended by Senate Bill 520 in 2001, the following is an analysis of the potential and actual governmental constraints on the development of housing for persons with disabilities as well as an explanation of the County's efforts and continued commitment to remove such constraints.

Over-Arching and General Considerations

Does the locality have any processes for individuals with disabilities to make requests for reasonable accommodation with respect to zoning, processing, or building laws?

Yes. As provided by the Reasonable Accommodation Policy included later in this Appendix, the Director of Planning and Development or applicable review authority may waive any County zoning ordinance requirements necessary to provide reasonable accommodations for persons with disabilities in compliance with federal and state fair housing and disability laws.

Describe the process for requesting reasonable accommodation.

Individuals with disabilities, or a family member or a caregiver of an individual with disabilities, may request reasonable accommodation with respect to applicable County zoning ordinance requirements by including a written request for a zoning ordinance modification or waiver as part of their permit application, with no additional fee.

Has the County made any efforts to remove constraints on housing for persons with disabilities, such as accommodating procedures for the approval of group homes, ADA retrofit efforts, an evaluation of the zoning code for ADA compliance or other measures that provide flexibility?

Yes. In accordance with the County Land Use and Development Code (LUDC), special care homes (group homes providing non-medical care and supervision) that serve 6 or fewer people are considered a single-family dwelling and are a permitted use in residential, agricultural, and mixed-use zone districts, as well as the Old Town (OT) zone districts in Orcutt. Permitting special care homes is a ministerial action exempt from the California Environmental Quality Act (CEQA). Structural installations necessary to accommodate disabled residents pursuant to the Fair Housing Act are allowed in all residential and agricultural zone districts. The Director of Planning and Development, or applicable Review Authority, may waive any criteria required for permitting a special care home necessary to comply with the federal and/or state fair housing and disability laws. The County zoning ordinance has not been comprehensively evaluated for ADA compliance, however all updates to the zoning ordinance are evaluated for compliance with federal and/or state fair housing and disability laws.

The Housing Element provides incentives for qualifying housing projects to address the needs of persons with disabilities, in addition to any modifications necessary for reasonable accommodations. These include expedited permit processing, as well as reduced common open space, front or side yard setbacks, and parking requirements. Further, the Housing Element specifically encourages the expansion of a housing supply that meets the needs of persons with disabilities and their families. Housing Element Policy 2.1 and Program 2.5 state that when evaluating specific project proposals, including housing for persons with disabilities, the County will be supportive of and work collaboratively with applicants, recognizing the need for housing for persons with disabilities in the County.

In response to this requirement the County has provided an improved Reasonable Accommodation Policy later in this Appendix which provides greater processing clarification for persons in need of such accommodations.

Zoning and Other Land Use Regulations

Has the County reviewed all of its zoning laws, policies and practices for compliance with fair housing law?

The County zoning ordinance has not been comprehensively evaluated for ADA compliance. However, all updates to the zoning ordinance are evaluated for compliance with federal and/or state fair housing and disability laws. In addition, the Director of Planning and Development or applicable review authority may waive any requirements necessary to provide reasonable accommodation in accordance with fair housing laws.

Are residential parking standards for persons with disabilities different from other parking standards? Does the County have a policy or program for the reduction of parking requirements for special needs housing if a project proponent can demonstrate a reduced need for parking?

Residential parking standards for persons with disabilities are not different from other parking standards. However, decision-makers can and have granted parking reductions in addition to any necessary modifications made for reasonable accommodations if the applicant can demonstrate a reduced need for parking. In addition, as provided by the Reasonable Accommodation Policy specified later in this appendix, parking requirements can be modified by the applicable review authority if necessary to comply with fair housing laws.

Does the County restrict the siting of group homes? How does this affect the development and cost of housing?

No, residential homes providing non-medical care and supervision (special care homes) which serve 6 or fewer people are considered a single family residential use and are permitted ministerially within all the County's agricultural and residential zones. This does not affect the development and cost of housing.

What zones allow group homes other than those residential zones covered by state law? Are group homes over six persons also allowed?

Group homes fall under the County zoning ordinance's definition of a *special care home* which is a residential home providing non-medical care and supervision (also known as a "Group Home-Children", "Transitional Home, including substance abuse recovery", "Supported Housing", "Adult Residential Home", "Residential Care Facility for the Elderly or Handicapped", or "Foster Home"). Special care homes which serve 6 or fewer persons are considered a residential use.

As such, they are allowed in any zone district permitting residential uses including all agricultural zone districts and commercial zone districts (as a secondary use) and are subject to the regulations for any other single family residential dwelling in the applicable zone district.

Does the County have occupancy standards in the zoning code that apply specifically to unrelated adults and not to families? Do the occupancy standards comply with Fair Housing Laws?

No, the County does not have occupancy standards that apply specifically to unrelated adults. All of the County occupancy standards comply with fair housing laws.

Does the land use element regulate the siting of special need housing in relationship to one another? Specifically, is there a minimum distance required between two (or more) special needs housing?

No, the County does not have siting requirements for special care homes other than those dictated by state law.

Permits and Processing

How does the County process a request to retrofit homes for accessibility (i.e. ramp requests)?

The County processes requests to retrofit homes for accessibility in the same way that all land use and building permit requests are processed. Depending on the complexity of the retrofit, a series of steps are potentially required, as follows:

1. Submittal of application (including application form, plan and map requirements, photos of the site, and supplemental information).
2. Review by zoning counter staff (typically, retrofitting alone is exempt from a Land Use or Coastal Development Permit).
3. Review by building counter staff.
4. Building permit issued.

Permits for non-structural modifications are issued the same day an application is filed. Depending on the complexity of applications for structural changes the process typically takes about four to six weeks.

Does the County allow group homes with fewer than six persons by right in single family zones? What permits, if any, are required?

Yes, a special care home that serves 6 or fewer people is considered a single family residential use. Permitting of special care homes serving 6 or fewer people is a ministerial action exempt from the California Environmental Quality Act (CEQA), unless the project is located within a Geographic Appeals Area of the Coastal Zone. If the project is located in the appealable area of the Coastal Zone then the project is required to obtain a discretionary permit and is subject to environmental review according to the provisions of CEQA, the same process for any project requiring a permit in this area.

Does the County have a set of particular conditions or use restrictions for group homes with greater than 6 persons? What are they? How do they affect the development of housing for persons with disabilities?

As discussed above, a special care home that serves 6 or fewer people are permitted by right in all zone districts that allow a residential unit by right. Special care homes that serve 7 or more people require a Minor Conditional Use Permit. Special care homes serving 7 or more persons are subject to the following standards:

- There may be only a single kitchen (the same standard that applies to all single-family units).
- One parking space is required for each guest room and one parking space is required for every two employees.

What kind of community input does the County allow for the approval of group homes? Is it different than from other types of residential development?

In the process of obtaining permits for special care homes which serve 6 or fewer people, the allowance for community input does not differ from that for other types of residential development.

For projects located in the inland areas of the unincorporated County a Land Use Permit (LUP) is required. Notice of LUP issuance is given in the following manner:

- a) By the Planning and Development Department conspicuously posting at one public place within the County's jurisdiction;
- b) Requiring that the applicant conspicuously post notice of LUP approval at a minimum of one location on and around the perimeter of the subject property with at least one notice posted in a location that can be viewed from the nearest street;
- c) Notice shall be posted the next day following the date of approval of the LUP, and shall remain posted for a minimum of 10 calendar days;
- d) Notice of the Planning and Development Department's approval of a LUP is also mailed to any person who has filed a written request thereof and people owning property located within 300 feet of the project site.

The decisions of the Planning and Development Department on the approval, denial, or revocation of LUPs, and final approval of projects under the jurisdiction of the Director may be appealed to the Planning Commission by the applicant or any interested person adversely affected by such decision within the 10 calendar days following the date of the decision of the Planning and Development Department. The decision of the Planning Commission may be appealed to the Board of Supervisors by the applicant or any aggrieved person adversely affected by such decision within the 10 calendar days following the date of the Planning Commission's decision.

If a project is located in a Geographic Appeals Area in the Coastal Zone a Coastal Development Permit (CDP) with a hearing is required. This is the same requirement for all similarly situated single-family dwellings. The Zoning Administrator (or Montecito Planning Commission if the project site is located in the Montecito Community Plan area) holds at least one noticed public hearing, unless waived, on the Coastal Development Permit (CDP) and either approves, conditionally approves, or denies the request. Notice is given in the same manner as is required for all public hearings (a legal advertisement appearing in the local newspaper, and mailed notice to people owning property located within 300 feet of the project site; both to occur a minimum of 10 days prior to the public hearing. The decision of the Zoning Administrator (or Montecito Planning Commission) may be appealed to the Board of Supervisors by the applicant or any aggrieved person within the 10 calendar days following the date of the Zoning Administrator's or

Montecito Planning Commission's decision. Notice of a pending decision on a Coastal Development Permit (CDP), not subject to special hearing requirements is given 7 days prior to the decision on the permit in the following manner:

- a) By the Planning and Development Department conspicuously posting at one public place within the County's jurisdiction;
- b) Requiring that the applicant conspicuously post notice of CDP approval at a minimum of one location on and around the perimeter of the subject property with at least one notice posted in a location that can be viewed from the nearest public street;
- c) Notice shall be posted at a minimum of 7 days prior to the date of the decision on the CDP and shall be posted continuously for a minimum of 17 calendar days;
- d) Notice of the Planning and Development Department's intent to act on a CDP is also mailed to any person who has filed a written request thereof and has supplied Planning and Development with a self-addressed stamped envelope, all people owning property located within 300 feet of the project site, all occupants located within 100 feet of the perimeter of the subject parcel, and the Coastal Commission.

The decisions of the Planning and Development Department on the approval, denial, or revocation of Coastal Development Permits, and final approval of projects under the jurisdiction of the Director may be appealed to the Planning Commission by the applicant or any aggrieved person or any two members of the Coastal Commission within the 10 calendar days following the date of the decision of the Planning and Development Department Director. The decision of the Planning Commission may be appealed to the Board of Supervisors by the applicant or any aggrieved person or any two members of the Coastal Commission within 10 calendar days following the date of the Planning Commission's decision. The decision of the Planning and Development Department to approve a Coastal Development Permit for a project located within the Geographic Appeals Area in the Coastal Zone may be appealed to the California Coastal Commission in compliance with the Coastal Act.

Does the County have particular conditions for group homes that will be providing services on-site? How may these conditions affect the development or conversion of residences to meet the needs of persons with disabilities?

There are no particular conditions for special care homes that provide non-medical care and supervision. There are no standard conditions for group homes that *do* provide medical care, however, there is the potential for conditions to be imposed on a case-by-case basis through the Conditional Use Permit (CUP) approval process.

Building Codes

Has the County adopted the Uniform Building Code? What year? Has the County made amendments that might diminish the ability to accommodate persons with disabilities?

The County has adopted an updated California Building Code (effective on January 1, 2008) which is based on the International Building Code. There have been no amendments that might diminish the ability to accommodate persons with disabilities.

Has the County adopted any universal design elements in the Building Code?

The County has not adopted any universal design elements in the Building Code. However, the Reasonable Accommodation Policy provided later in this appendix provides the necessary means to grant reasonable and warranted exceptions to applicable code requirements in order to accommodate the needs of persons with disabilities.

Does the County provide reasonable accommodation for persons with disabilities in the enforcement of building codes and the issuance of building permits?

Yes, at the permit counter lower wheel chair accessible tables are provided and assistance in completing applications is available upon request. The County also provides priority permit processing for reasonable accommodation requests.

Reasonable Accommodation Policy

This section of the Housing Element is intended to provide clarification regarding the need to reasonably accommodate persons with disabilities during the land use and construction permitting process in accordance with Chapter 5 of this Housing Element (see Program 2.5). The County has established the following policy to address this requirement of state law:

Reasonable Accommodation Policy for Persons with Disabilities

A. Purpose and applicability. This Section provides standards for granting warranted exceptions to the requirements of the County Code Chapter 35 Land Use and Development Code (LUDC) in order to provide reasonable accommodation for persons with disabilities.

B. Standards. The application and the requirements of the Development Code may be waived by the review authority if necessary to comply with the Federal and/or State Fair Housing and Disability Laws relating to accommodation for persons with disabilities. Exceptions to the following Development Code requirements are allowed:

- 1) Setbacks
- 2) Height Limit
- 3) Site Coverage
- 4) Parking Requirements
- 5) Landscape Requirements
- 6) Open Space Requirements
- 7) Other, as deemed appropriate by the applicable Review Authority

C. Findings required for approval. A Development Plan application shall be approved or conditionally approved only if the review authority first makes all of the following findings, as applicable:

1. The proposed project will not be detrimental to the general welfare, health, and safety of the neighborhood and will not be incompatible with the surrounding areas.
2. The proposed project will comply with all applicable requirements of this Development Code and the Comprehensive Plan, including any applicable community or area plan

with the exceptions of only those design modifications which are necessary to provide reasonable accommodations for individuals with disabilities.

3. The project will not conflict with any easements required for public access through, or public use of a portion of the subject property.
4. In designated rural areas the use will be compatible with and subordinate to the rural and scenic character of the area with the exceptions of only those design modifications which are necessary to provide reasonable accommodations for individuals with disabilities.
5. The project will not require extensive alteration of the topography with the exceptions of only those design modifications which are necessary to provide reasonable accommodations for individuals with disabilities.

D. Permit requirements. The required permits shall be the same as specified in the applicable section of the Development Code for the proposed scope of work. (i.e. Land Use Permits are required for reasonable accommodation exceptions made as part of the review and approval of a new single-family dwelling.)

E. Public Noticing and Appeal. The required noticing and appeal process shall be the same as specified in the applicable section of the Development Code for the proposed scope of work. (i.e. If the reasonable accommodation exception is granted as part of the review and approval of a Land Use Permit then the development associated with the handicap accessible improvements is subject to the same noticing and appeal process as the remainder of the scope of work approved under the LUP)