

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 OCT 23 PM 3:07

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: November 4, 2003

RE: **Consideration of an Ordinance amending the Oakland Planning Code to modify the minimum street pavement width requirements provided by Ordinance 12501 C.M.S. related to standards for Secondary Units.**

SUMMARY

On June 17, 2003, the City Council adopted a Zoning Text Amendment that revised the City's regulations for Secondary Units in response to a new state law. One of the newly adopted regulations states that Secondary Units are allowed only if the streets leading from the property to the nearest arterial street have a minimum pavement width of 20 feet. The original Secondary Unit guidelines adopted by the City Council in 1999 included a 20-foot minimum pavement width requirement. However, at the time a Conditional Use Permit was also required which allowed for a case by case review of emergency access by the Fire Marshal, Planning staff, and the Planning Commission.

At the June 3, 2003 City Council hearing, some Councilmembers expressed an interest in increasing the pavement width requirement to 24 feet, based on fire safety concerns. However, making the change at that time would have necessitated an additional public hearing and would have resulted in the City missing the state imposed deadline for adopting new Secondary Unit regulations. Therefore, the City Council adopted the 20-foot requirement and instructed staff to come back with a follow-up report on the 24-foot standard immediately after the adoption of the new Secondary Unit regulations.

Staff presented an informational report to the City Council on July 15, 2003 and laid out four options for dealing with the street width issue. The City Council took a straw vote recommending that the minimum street width requirement be increased to 24-feet, but that street widths of 20- to 24-feet be permitted with a Conditional Use Permit.

The existing 20-foot minimum pavement width requirement is contained within Section 17.102.360(G) of the Oakland Planning Code, as amended by Ordinance No. 12501 on June 17, 2003 (attached). This report includes a recommended revision to these regulations and includes recommended Conditional Use Permit criteria to guide staff in reviewing these types of applications.

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FISCAL IMPACT

There is a possible impact to the General Fund in that fewer properties will qualify for a Secondary Unit under the new regulations, thereby resulting in fewer permit applications. The Community and Economic Development Agency will monitor its permit revenues in coordination with the City Manager's Budget Office, and report on its review through the quarterly revenue and expenditure report.

KEY ISSUES AND IMPACTS

Street width and parking

The minimum pavement width requirement is meant to address the issue of fire safety and emergency access. Narrow streets are most prevalent in the hills areas, which are also generally subject to higher fire risks and longer response times for public safety personnel. Residential development of any type on narrow streets can result in dangerous congestion or gridlock during an emergency, such as a large wildfire, where people are trying to escape at the same time that emergency personnel are trying to respond. The problem is compounded by parked vehicles that block portions of the street and reduce the width of the travel lane(s). The impact of Secondary Units is that they result in an increase in the number of people living in areas that lack adequate emergency access, and will likely result in an increase of on-street parking, furthering the potential to block access for emergency vehicles.

The absolute minimum pavement width for Fire Department access that is allowed by building and fire codes with respect to new streets or alleys is 20-feet, and then only if no parking is allowed on either side of the street or alley. The City's width requirement for new streets that allow on-street parking on one side is 28-feet, while new streets that allow parking on both sides must be at least 36-feet wide. These requirements allow for 10-foot wide travel lanes and 8-foot wide parking spaces. The problem of blocked access on existing streets in the hills areas is really more a problem of on-street parking and parked cars blocking the path of emergency vehicles, rather than street width in and of itself. Many of the streets in the hills areas are less than 28 feet wide and allow parking on one or both sides of the street. Section 10.28.080 of the Oakland Municipal Code allows the City Traffic Engineer to designate no-parking zones on narrow streets. However, it is not required. There have been incidents where Fire Department crews have had to stop and knock on doors to ask people to move their parked vehicles when responding to an emergency call.

The whole issue of emergency access in the hills areas was debated extensively after the Oakland Hills Fire of 1991. A few streets were widened, and "no parking" signs were installed on some streets. However, there was not community support to restrict parking throughout the hills areas, given the lack of off-street parking available on many properties.

Vehicle width

The Oakland Fire Marshal has stated that a 20-foot wide street is not adequate to provide two-way access for their equipment when cars are parked on the street. The City of Oakland's fire engines are 8'-2" wide, and vary in length from 31 to 59 feet (most fire engines used in the hills areas are 31 feet long). Private passenger cars, SUV's, and trucks vary in width from about 5 1/2

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to 6½ feet (a Toyota Corolla is 5'-7" wide, while a Chevy Suburban is 6'-8" wide). A car parked on a 20-foot wide street leaves only approximately 14-feet of roadway for two-way vehicle travel. Often on narrow streets, cars are parked partially off the edge of pavement or on the shoulder. However, even in those situations, there is still not adequate room for a fire engine traveling in one direction and a private passenger vehicle traveling in the other, particularly on curves where the fire engine's length necessitates taking wide turns. In many cases, particularly on curves, parked cars will not allow the passage of fire equipment at all, even if there is no oncoming traffic.

Location of narrow streets

A majority of the City's narrow streets are located in the hills areas, particularly concentrated in the north and central hills areas. As measured in terms of total street length, approximately 19% of the streets in the hills areas above highways 580 and 13 are less than 20 feet wide, and approximately 43% are less than 24 feet wide. Meanwhile, approximately 2% of the streets located below highways 580 and 13 are less than 20 feet wide, and approximately 7% are less than 24 feet wide. No data is available listing which of these streets allow on-street parking.

ANALYSIS

The original Secondary Unit guidelines adopted by the City Council in 1999 included a 20-foot minimum pavement width requirement. However, a Conditional Use Permit was also required which allowed for a case by case review of emergency access by the Fire Marshal, Planning Department staff, and the Planning Commission. The Fire Marshal has indicated that without a case by case review, a 24-foot wide street is recommended as the minimum necessary to provide reasonable emergency access in areas with a mix of restricted and unrestricted on-street parking, as is the case in the Oakland hills. On July 15, 2003, the City Council recommended that the minimum street width requirement be increased to 24-feet, but that street widths of 20 to 24-feet be permitted upon the issuance of a Conditional Use Permit. The City Council directed staff to return with a zoning text amendment that includes new regulations that reflect this change, and Conditional Use Permit criteria to guide staff in reviewing these types of applications.

Staff has prepared an ordinance (attached) that reflects the revised street width requirement, and contains the following recommended Conditional Use Permit criteria:

1. That there is adequate emergency access to the lot as determined by the Fire Marshal.
The original Conditional Use Permit criteria for Secondary Units adopted by the City Council in 1999 included this finding. Staff is recommending its reinstatement for Secondary Units on narrow streets. The issue of emergency access is ultimately one of fire and paramedic access, something that is under the purview of the Fire Marshal, and staff feels that the Fire Marshal's approval should be required for all Secondary Unit applications on narrow streets.

2. That the portions of the street that have a pavement width of less than twenty-four (24) feet are not located on a dead-end street.

In addition to emergency access to the Secondary Unit by Fire Department personnel, narrow street widths can result in blocked access to vehicles trying to evacuate an area during a wildfire

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or other large emergency. Therefore, a secondary means of vehicular access should be available to allow escape from an area in case the primary access is blocked.

3. That if on-street parking is permitted on the portions of the street that have a pavement width of less than twenty-four (24) feet, that there exist level and hard-surfaced shoulders with a combined additional width of at least eight (8) feet.

The problem of blocked access on existing streets in the hills areas is really more a problem of on-street parking and parked cars blocking the path of emergency vehicles, rather than street width in and of itself. However, there are circumstances where the pavement width of a street will be less than 24-feet in width, but wide shoulders allow for on-street parking without blocking the traffic lanes. Requiring an additional 8-feet of shoulder width in cases where on-street parking is permitted will ensure adequate room for on-street parking (one additional car-width of shoulder space) while still providing a level of access that is commensurate with a 24-foot pavement width for the road itself.

4. That if on-street parking is prohibited on the portions of the street that have a pavement width of less than twenty-four (24) feet, that the restricted parking areas are clearly marked with official city installed no-parking signs and/or red curbs, pursuant to the provisions of the Oakland Traffic Code (Title 10 of the Oakland Municipal Code).

If on-street parking is prohibited, and is clearly marked as such, then a 20-foot wide path of travel will be maintained, which is acceptable for two-way traffic and emergency access. Additionally, developments that involve the construction of new streets that are 20-feet in pavement width are allowed by building and fire codes when on-street parking is prohibited.

RECOMMENDATION

Staff recommends adopting the Zoning Text Amendment to change the zoning regulations regarding the minimum pavement widths for Secondary Units.

ACTION REQUESTED OF THE CITY COUNCIL

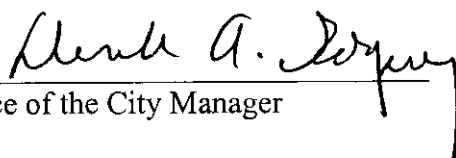
Adopt the attached ordinance for a Zoning Text Amendment to change the zoning regulations regarding the minimum pavement widths for Secondary Units.

Respectfully submitted,



Claudia Cappio
Director of Development
Community and Economic Development
Agency

APPROVED AND FORWARDED TO
THE CITY COUNCIL


Office of the City Manager

Prepared by:
Andrew M. Smith, Planner III
Planning & Zoning Division

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FILED
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APPROVED AS TO FORM AND LEGALITY
FILED
OFFICE OF THE CITY CLERK
OAKLAND
CITY ATTORNEY
2003 SEP 18 PM 1:49

2003 OCT 23 PM 3:09
PROPOSED BY COUNCIL MEMBER _____

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO MODIFY THE MINIMUM STREET PAVEMENT WIDTH REQUIREMENTS PROVIDED BY ORDINANCE 12501 C.M.S. RELATED TO STANDARDS FOR SECONDARY UNITS

WHEREAS, in October of 2002, the state legislature adopted and governor signed into law Assembly Bill 1866. This new law, which went into effect July 1, 2003, requires that cities provide a process whereby applications for the construction of Secondary Units (commonly known as "in-law units" or "granny flats") can be processed via a ministerial (by-right) process; and

WHEREAS, on June 17, 2003, the City Council adopted Ordinance 12501 C.M.S., which modified the Oakland Planning Code with respect to the regulations for Secondary Units, so as to comply with the provisions of Assembly Bill 1866; and

WHEREAS, concurrent with the adoption of Ordinance 12501 C.M.S., the City Council continued the public hearing on the adoption of the ordinance, with the instruction to staff to return to the City Council with a modification to the ordinance, as introduced and adopted, regarding the minimum street width standards that would be required for ministerial approval of secondary units; and

WHEREAS, Ordinance 12501 C.M.S. included ministerial development standards applying to the construction of Secondary Units, including an emergency access requirement that mandates a twenty foot minimum pavement width for all connecting streets leading from a Secondary Unit to the nearest arterial street; and

WHEREAS, the twenty foot minimum pavement width requirement was based on Conditional Use Permit criteria that were in effect prior to the adoption of Ordinance 12501 C.M.S. and was one of several criteria considered by the Fire Marshal, Planning staff, and Planning Commission in their discretionary review of the Conditional Use Permit application; and

WHEREAS, the ministerial review process required by Assembly Bill 1866 took away the City's ability to judge the adequacy of emergency access for Secondary Units on a case by case (discretionary) basis for applications that otherwise comply with all ministerial standards; and

WHEREAS, narrow streets are most prevalent in the hills areas, which are also generally subject to higher fire risks and longer response times from emergency personnel. The increased

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residential densities resulting from the construction of Secondary Units on narrow streets can result in dangerous congestion or gridlock during an emergency, such as a large wildfire, where people are trying to escape at the same time that emergency personnel are trying to respond. The problem is compounded by parked vehicles that block portions of the street and constrict the width of the travel lane(s); and

WHEREAS, due to fire safety and emergency access considerations, the Fire Marshal has recommended a minimum pavement width of twenty-four feet in cases where the City has no discretionary oversight for a Secondary Units; and

WEREEAS, on July 15, 2003, the City Council recommended modification of the zoning regulations for Secondary Units which were adopted under Ordinance 12501 C.M.S., to increase the minimum pavement width to twenty-four feet, but to allow pavement widths between twenty and twenty-four feet upon the granting of a Conditional Use Permit; and

WHEREAS, said amendments to the Oakland Planning Code do not necessitate amendments to the Master Fee Schedule; and

WHEREAS, said amendments to the Oakland Planning Code are exempt from environmental review under Section 15282(i), State CEQA Guidelines, other statutory exemptions; and

WHEREAS, the City Council finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by the proposed amendment; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

SECTION 2. The City Council finds and determines that the adoption of this Ordinance complies with the California Environmental Quality Act.

SECTION 3. This Ordinance shall be effective upon adoption, subject to the provisions of Section 216 of the Charter of the City of Oakland, but shall not apply to applications for which currently valid building permits have already been issued or to un-expired zoning applications approved by the City for which permits have not been issued.

SECTION 4. If any provisions of this Ordinance or application thereof to any person of circumstances are held invalid, the remainder of this Ordinance and the application of provisions to other persons or circumstances shall not be affected thereby.

SECTION 5. Section 17.102.360 (General Regulations Applicable to All or Several Zones) of the Oakland Planning Code is amended to read as follows:

17.102.360 Secondary Units.

A. Development Standards. The following regulations shall apply to the construction, establishment, or alteration of Secondary Units wherever permitted or conditionally permitted, as specified in each individual zone:

1.A. Other uses on property. A Secondary Unit shall only be permitted on a lot that contains only one other primary dwelling unit. A Secondary Unit may be approved and constructed at the same time or after the approval and construction of the primary dwelling unit.

2.B. Sale of unit. A Secondary Unit shall not be sold separately from the primary dwelling on the same lot.

3.C. Owner occupancy. The legal owner shall occupy either the primary dwelling or the Secondary Unit. Prior to issuance of a building permit for a Secondary Unit, the applicant shall record as a deed restriction in the Alameda County Recorder's Office, notice of this requirement, in a form prescribed by the Director of City Planning.

4.D. Maximum permitted floor area. The floor area of a Secondary Unit shall not exceed six hundred fifty (650) square feet or fifty (50) percent of the floor area of the primary dwelling, whichever is less, except that Secondary Units of up to five hundred (500) square feet in floor area are permitted regardless of the size of the primary dwelling. This floor area limitation may be exceeded, up to a maximum of one thousand two hundred (1,200) square feet, upon the granting of a conditional use permit, pursuant to the conditional use permit procedure in Chapter 17.134.

5.E. Fire flow and water pressure. A Secondary Unit may be permitted only if the fire flow and water pressure in the adjoining street meets the minimum requirements as determined by the Fire Marshal.

6.F. Emergency access – multiple vehicular outlets. A Secondary Unit may be permitted only on a lot which has frontage on a through street, or a dead-end street that has a total length of less than three hundred (300) feet. For the purposes of this subsection, the total length of a dead-end street shall be the distance from the intersection with the nearest through street to the farthest opposite end of the street right-of-way, or private access easement (as defined by Section 16.32.010 of the Oakland Municipal Code) if the private access easement is connected to said dead-end street.

7.G. Emergency access – minimum pavement width. A Secondary Unit may be permitted only if all streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) have a minimum pavement width of at least twenty-four (24) feet. This minimum pavement width limitation may be reduced to a minimum of twenty (20) feet, upon the granting of a conditional use permit, pursuant to the criteria in subsection B of this section, and the conditional use permit procedure in Chapter 17.134.

8.H. Public sanitary sewer. A Secondary Unit may be permitted only if it is served by a public sanitary sewer.

9.I. Architectural compatibility. The architectural design and materials of a Secondary Unit shall match or be visually compatible with that of the primary dwelling, including the architectural style, siding material, roof shape, roofing material, trim material and design, window types, window trim, and window sill detail.

10.J. Compliance with Building and Fire Codes. All Secondary Units shall comply with all other code and permit requirements imposed by all other affected departments, including but not

limited to fire separation, sound separation, egress, utility access, and the requirement for a building permit.

11.K. Upon receipt of an application for a Secondary Unit made pursuant to this section seeking ministerial approval of said application, notice of the application shall be sent to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved. All such notices shall be given not less than ten days prior to the date that the Director of City Planning acts on the application. Failure of any person to receive such notice shall not affect the validity of action taken on the application by City staff.

B. Use Permit Criteria for Secondary Units accessed via narrow streets. A conditional use permit for a Secondary Unit accessed from the nearest arterial street via a street with a minimum pavement width of between twenty (20) and twenty-four (24) may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to all of the following use permit criteria:

1. That there is adequate emergency access to the lot as determined by the Fire Marshal.
2. That the portions of the street that have a pavement width of less than twenty-four (24) feet are not located on a dead-end street.
3. That if on-street parking is permitted on the portions of the street that have a pavement width of less than twenty-four (24) feet, that there exist level and hard-surfaced shoulders with a combined additional width of at least eight (8) feet.
4. That if on-street parking is prohibited on the portions of the street that have a pavement width of less than twenty-four (24) feet, that the restricted parking areas are clearly marked with official city installed no-parking signs and/or red curbs, pursuant to the provisions of the Oakland Traffic Code (Title 10 of the Oakland Municipal Code).

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2003

PASSED BY THE FOLLOWING VOTE:

AYES-
NOES-
ABSENT-
ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the
Council of the City of Oakland, California

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OFFICE OF THE CITY CLERK
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NOTICE AND DIGEST

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**AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO MODIFY THE
MINIMUM STREET PAVEMENT WIDTH REQUIREMENTS PROVIDED BY
ORDINANCE 12501 C.M.S. RELATED TO STANDARDS FOR SECONDARY UNITS**

This ordinance amends the Oakland Planning Code to change the street width development standards for Secondary Units seeking ministerial approval pursuant to the provisions adopted by Ordinance 12501 C.M.S., as amended herein.

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