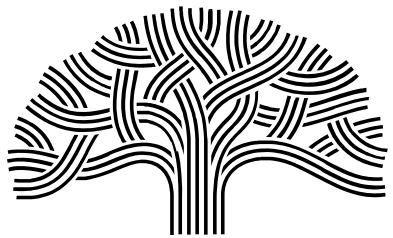


# Subdivision Code (Title 16) and Planning Code (Title 17) Amendments

**Presentation to the Community  
Economic Development Committee**  
**May 28, 2024**

**Planning and Building Department**



**CITY OF  
OAKLAND**



# Agenda

- Proposed ADU-Related Planning Code Amendments (Title 17)
- Proposed ADU-Related Findings
- Proposed Miscellaneous and “Clean-Up” Planning Code Amendments (Title 17)
- Proposed Subdivision Code Amendments (Title 16)
- Recommendations
- Next Steps

# **Proposed ADU-Related Planning Code Amendments (Title 17)**

# Previous ADU Work

- **June and September 2021** – Staff brought ADU code changes to Planning Commission
- **January 18, 2022** – Oakland adopted Accessory Dwelling Unit (ADU) Ordinance No. 13367
- **July 5, 2023** – State Housing and Community Development (HCD) sent technical assistance letter to PBD
  - 23 findings of instances where Ordinance was not in compliance with State Law or needed to be updated to address new changes to State Law
- **August 4, 2023** – Staff responded to State TA letter, addressing each of HCD's 23 comments

# Review of HCD Comments

- 23 comments
  - Proposed amendments to ADU Ordinance address 19 comments
  - 4 comments where City has provided findings that the ADU Ordinance actually does comply with State Law
    - 3 comments have to do with limitations placed on ADUs in the S-9 Fire Safety Protection Combining Overlay Zone(S-9) to address public safety and emergency response
    - 1 comment on nuances of definition of “Non-habitable space”
    - Findings will accompany the adoption Ordinance

# Overview of HCD Comments Addressed

- Update design standards on unit mixture, size and height limitations, setbacks, ingress/egress, and parking to be consistent with State law
- Update provisions in ADU amnesty program to be consistent with State law
- Remove any standards that are more restrictive than State Law

# Examples of HCD Comments Addressed

Comment # and Topic Area	Summary of Comment
6 – Separate Sale	<b>ADUs and JADUS may be sold separately under narrow exceptions</b> outlined in Government Code Section 65852.26. The Ordinance must note this exception.
9 – Landscaping Standards	<b>ADU approval cannot be contingent on planting trees.</b> The City must remove the tree planting requirement from the Ordinance or clarify it as an incentive.
14 – Size Limitations	<b>ADU size maximums do not apply to converted units</b> and only new construction detached units have a discrete size limit. The Ordinance must be revised to note this.
18 – Unit Mixture	The Ordinance states that a Category 3 ADU precludes creation of any other ADU. <b>Prior existence of an attached new-construction Category 3 ADU cannot preclude the development of a Category 1 or Category 2 ADU,</b> and the Ordinance must be revised to note this.

# Proposed ADU-Related Findings



# Overview of HCD Comments That Resulted in Findings

- Regulation of ADUs in the S-9 Overlay Zone, including the number of permitted ADUs, parking requirements, and amnesty for unpermitted ADUs in the S-9 Overlay Zone
  - No changes were made due to emergency evacuation and public safety concerns, which have been adequately documented by Oakland Fire Dept. and other agencies with expertise on the issue of evacuation.
- Definition of nonhabitable space for interior ADUs in multi-family buildings
  - No changes due to definitions being aligned.

# Overview of Findings

- Models and consultation with technical experts warn that increased density in S-9 exacerbates an already **unsatiable evacuation scenario, increase wildfire risk, and decrease ability of City to provide adequate emergency response and evacuation** in those areas.
- **City has committed to wildfire and public emergency mitigation measures** that manage housing density through the Local Hazard Mitigation Plan, the recently adopted Safety Element, and City Council Resolution No. 87940 C.M.S.
- Increasing number of vehicles in S-9, w/o requiring off-street parking leaves people to park on narrow, substandard roads, **exacerbating emergency response and congestion during evacuation situations and emergencies**

# Overview of Findings

- The City has concerns about the life safety of occupants in the S-9, in terms of:
  - 1) the ability to evacuate from the area in an emergency and access for emergency response services to reach residents
  - 2) provision and maintenance of defensible space and building separations
  - 3) building standards related to fire and life safety.
- **State law permits local agencies to make life safety findings under Government Code section 65852.23 that would make an ADU ineligible for the Amnesty Program**
- The City wants to ensure that property owners do not attempt to constructively evict tenants by removing tenant amenities, such as laundry rooms, gyms, etc. Oakland's definition of non-habitable space is in line with the intent of State law.

# **Proposed Miscellaneous and Clean-Up Code Amendments (Title 17)**

# Previous Related Zoning Amendments

- **October 2023** – City adopted an extensive packet of zoning amendments related to Phase 1 of General Plan Update
  - Implements actions in recently adopted Housing, Environmental Justice, and Safety Elements
- Proposed amendments further clarify, and support of amendments adopted in October 2023

# Overview of Changes Made

- Further clarify or build on and support the zoning changes made in October 2023
  - Tandem parking requirements
- Update S-15 height areas and densities consistent with last year's update
- Streamline the development review process for small projects and improve the City's ability to improve more complex projects, such as housing, through:
  - ministerial approval for additional units within an existing building envelope.
  - exempt certain microwave and satellite dish additions from design review
  - eliminate Tract 3 Small Project Design Review procedure
  - update definition of "Small Project" to include creation of new living units within an existing building envelope
- Allow General Advertising signs in the D-CO-2 Zone if they are associated with naming rights

# **Proposed Subdivision Code Amendments (Title 16)**

# Summary of Changes Made

- Changes have been made to:
  - Chapter 16.16 Design Standards, Section 16.16.170.
  - Chapter 16.24 Parcel Maps, Section 16.24.040.
- Remove the prevalent lot size requirement (except in the S-9 Overlay Zone) to allow for smaller lot sizes of 2,000 square feet.
  - Create consistency with Planning Code changes adopted Oct. 2023



# Recommendations

# Planning Commission Recommendation

- 4/3/2024 – Planning Commission presentation & discussion
- Planning Commission unanimously recommended that the City Council approve the proposed miscellaneous and “clean-up” Planning Code amendments, the Planning Code amendments related to Accessory Dwelling Units, and the findings related to Accessory Dwelling Units
- Additionally recommended changes in table 17.103.10 and table 17.103.02 to change the word “major” to “public” in reference to the “no parking” requirement for ADUs located within ½ mile of public transit.

# Staff Recommendation

**Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt an Ordinance:**

1) Amending The Oakland Planning Code (Title 17) Of the Oakland Municipal Code (“OMC”), As Recommended By The City Planning Commission, To: (A) Update Regulations For Accessory Dwelling Units (ADUs) And Junior Accessory Dwelling Units (JADUs) To Comply With State Law And Implement Miscellaneous And Clean-Up Changes In Support Of The Title 17 Amendments Adopted In October 2023 To Streamline The Development Review Process For Small Projects And Improve The City’s Ability To Improve More Complex Projects, Such As Housing, And (B) Provide Written Findings In Support of ADU Planning Code Regulations Restricting the Development of ADUs In The S-9 Overlay Zone and For Non-Habitable Space In Multi-Family Buildings; And

2) Amending The Oakland Subdivision Code (Title 16) of the OMC To Remove The Prevalent Lot Size Requirement, In Line With Previous Title 17 Changes Adopted in October 2023; And

3) Making Appropriate California Environmental Quality Act Findings.

# Next Steps

# Tentative Dates of Council Meetings

- **May 28, 2024** – Community Economic Development (CED) Meeting
- **June 4, 2024** – City Council (First Reading)
- **June 18, 2024** – City Council (Second Reading)