

OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE CITY CLERK
OAKLAND

2003 PRODUCED BY PUBLIC MEMBER

John T. ...
CITY ATTORNEY
2003 SEP 18 PM 1:49

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

10.13 CC
ORA/COUNCIL
NOV 18 2003

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

John T. [Signature]
OFFICE OF THE CITY CLERK
OAKLAND

NOTICE AND DIGEST

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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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