

Alena Chen
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING THE OAKLAND PLANNING CODE TO: 1) CHANGE TRANSITIONAL AND SUPPORTIVE HOUSING REGULATIONS TO COMPLY WITH STATE LAW; 2) REVISE REGULATIONS FOR SECONDARY UNITS; AND 3) MAKE MISCELLANEOUS MINOR CHANGES IN VARIOUS CHAPTERS OF THE PLANNING CODE, AND MAKE APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATIONS

WHEREAS, in March of 1998, the City adopted the Land Use and Transportation Element (LUTE) of the Oakland General Plan; and

WHEREAS, one of the objectives of the LUTE is to create a 'user friendly' Planning Code document that minimizes the complexity of regulations; and

WHEREAS, the Planning Code contains overly complex language, is difficult to navigate and needs formatting and reference updates, as well as organizational improvements; and

WHEREAS, there are inconsistencies, typographical errors and omissions in the Planning Code text; and

WHEREAS, the current Planning Code regulations as they relate to Transitional and Supportive Housing do not fully comply with California State law; and

WHEREAS, the current Planning Code regulations may impede the development of Secondary Units, particularly existing parking and setback requirements; and

WHEREAS, because Secondary Units are smaller, the average construction cost is usually much lower than even a typical new subsidized affordable apartment project; and

WHEREAS, because of their usually lower cost of construction, Secondary Units are considered one way to help address the city's housing shortage and escalating

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costs; and

WHEREAS, it is thus in the City's interest to encourage the construction of Secondary Units by reducing regulatory barriers in the Oakland Planning Code; and

WHEREAS, the City of Oakland's Strategic Planning Division staff has prepared the following amendments to the Oakland Planning Code to bring the City's Transitional and Supportive Housing regulations into full compliance with California State law, reduce regulatory barriers to the development of Secondary Units, correct the above code issues, update references, reduce redundancy, and clarify language in various chapters of the Planning Code in order to better promote the public's health, safety and general welfare; and

WHEREAS, on October 14, 2015, at a duly noticed public meeting, the Zoning Update Committee recommended approval of the proposed Planning Code Amendments; and

WHEREAS, on October 21, 2015, at a duly noticed public hearing, the Planning Commission recommended approval of the proposed changes to Transitional and Supportive Housing regulations and miscellaneous minor changes in various Chapters of the Planning Code. The Planning Commission took no action on the proposed Secondary Unit-related amendments at the October 21, 2015 hearing, and instead asked that they come back soon for another hearing before the Commission, along with a plan for regulating and permitting short-term rentals; and

WHEREAS, on November 18, 2015, the Planning Commission held a second duly noticed public hearing on the proposed changes to Secondary Unit regulations and recommended approval of the proposed changes to the Planning Code; and

WHEREAS, after a duly noticed public meeting on December 1, 2015, the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on January 5, 2016 ~~December 8, 2015~~ to consider the proposal; and

WHEREAS, the proposed amendments to the Planning Code rely on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs - West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163; and

WHEREAS, the Previous CEQA Documents provide analysis of the environmental impacts of the proposed amendments and support all levels of approval necessary to implement the Planning Code amendments; and

WHEREAS, the proposed amendments to the Planning Code would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents; and

WHEREAS, the City Council hereby finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163 are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3); and

WHEREAS, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (no significant effect on the environment); 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 Environmental Review Officer shall file a Notice of Exemption/Notice of Determination, and an Environmental Declaration under the California Fish and Game Code (Section 711.4) with the County of Alameda.

Section 3. Title 17 of the Oakland Planning Code is hereby amended pursuant to the attached Exhibit A, Attachment C of the attached Agenda Report (~~"Attachment C"~~), which is hereby incorporated by reference. Additions to Title 17 of the Oakland Planning Code are shown in Exhibit A Attachment C as underline and omissions are shown as ~~strikethrough~~.

Section 4. This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired, or (b) zoning applications approved by the City and not yet expired, or (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City

prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

Section 5. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 6. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND PRESIDENT GIBSON
MCELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

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JAN 19 2016

2016 JAN 12 PM 3:49

REVISED JANUARY 5, 2016

APPROVED AS TO FORM AND LEGALITY

Clenna Chen
CITY ATTORNEY'S OFFICE

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LaTonda Simmons
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