

***City Planning Commission*****STAFF REPORT**

Case File Number ZA21006

September 1, 2021

<b>Location:</b>	Citywide
<b>Proposal:</b>	Amend the Planning Code related to Accessory Dwelling Units (ADUs) – currently termed Secondary Units in the Planning Code – to bring the local legislation into compliance with recent State legislation. The major proposed amendments include: 1) new standards for the processing, number, size, height, parking, location, landscaping, and setbacks for the construction of various types of new ADU structures and ADUs within existing accessory structures, single-family homes, and two-family and multi-family buildings; 2) establishment of regulations for Junior Accessory Dwelling Units (JADUs) within single family homes; 3) introduction of objective design standards to streamline approval of certain ADUs; 4) objective standards for the design and location of ADUs; 5) regulations for ADUs in mini-lot developments; and 6) amnesty and enforcement relief program for un-permitted existing ADUs. The proposal also includes regulatory options for the development of ADUs and JADUs within the Very High Fire Hazard Severity Zone (VHFHSZ), as defined by the State of California and the S-9 Fire Safety Protection Combining Zone, or an alternative overlay zone based on public safety and traffic flow.
<b>Applicant:</b>	City of Oakland
<b>Case File Number:</b>	ZA21006
<b>General Plan:</b>	Citywide
<b>Zoning:</b>	Citywide
<b>Environmental Determination:</b>	The proposed amendments to the Planning Code rely on the previously certified Final Environmental Impact Reports for the Coliseum Area Specific Plan (2105); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan (1998); the West Oakland, Central City East, Coliseum, and Oakland Army Base Redevelopment Areas; the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010); and various Redevelopment Plan Final EIRs (collectively, “EIRs”). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).
<b>City Council District:</b>	All districts
<b>Status:</b>	The item was previously presented to the Planning Commission on June 2, 2021. The Planning Commission directed staff to revise the proposal in response to public comments and return for further discussion at a future meeting.
<b>Staff Recommendation:</b>	Receive public comments, discuss, and make a recommendation to City Council to adopt the proposal as set forth in the staff report.
<b>Finality of Decision</b>	Recommendation to City Council. Final decision by City Council.
<b>For Further Information:</b>	Contact case planner <b>Ruslan Filipau</b> at <b>510-238-3491</b> or <b><a href="mailto:rfilipau@oaklandca.gov">rfilipau@oaklandca.gov</a></b>

**SUMMARY**

On January 1, 2020, and January 1, 2021, several new California State laws and amendments went into effect to encourage the construction of Accessory Dwelling Units (ADUs), which are currently termed “Secondary Units” in the City of Oakland Planning and Municipal Codes. Pursuant to Government Code Section 65852.2(a)(4), until the City adopts an ordinance that complies with State law, the City’s existing ADU regulations in the Planning Code are null and void and only State standards may be enforced. This report describes proposed amendments to align the City’s ADU regulations with State law and introduce other changes that clarify the ADU regulations. The proposed Planning Code amendments encourage ADUs by reducing regulatory barriers through the adoption of objective development standards and streamlined approval processes consistent with State law.

**BACKGROUND**

On February 16, 2016, the City Council adopted Ordinance No. 13357 C.M.S., which revised the City’s Secondary Unit regulations that were in effect at that time. The purpose of the changes was to encourage construction of more Secondary Units to address the City’s housing shortages and escalating housing costs.

On January 1, 2017, California Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 went into effect with a similar intent as the City’s February 16, 2016 changes - to streamline housing production and encourage the construction of more Secondary Units. In response to the new legislation, the City Council adopted Ordinance No. 13435 C.M.S on May 2, 2017, which again revised the City’s Secondary Unit Regulations primarily with respect to types and sizes of ADUs, parking requirements in transit-accessible and historic areas, approval processes and timelines, and establishing a new Zoning Overlay Zone (S-9 Fire Safety Protection Combining Zone) that identified areas with road widths less than 20 feet in width along with long dead end roads within the “Very High Fire Hazard Severity Zone” (VHFHSZ) where Category 2 ADUs are not permitted. These amendments brought the City’s Secondary Unit Ordinance into compliance with the State laws that were in effect at the time.

On January 1, 2020, and January 1, 2021, several amendments to Government Code §65852.2 and §65852.22, went into effect to encourage Statewide production of ADUs even further by developing a ministerial approval process for certain types of ADUs. California Assembly Bills (AB) 3182 (2020), AB 68, AB 881, AB 578, AB 670, AB 671, and California State Bill (SB) 13 (collectively passed in 2019) introduced several important changes and limitations regarding how local governments can regulate ADUs. As before, if a municipality does not update its ordinance to be consistent with the newly adopted State requirements, the local ordinance is superseded by State standards. In the meantime, the City is currently implementing State law through administrative guidance documents and handouts that include a checklist of what is allowed by State law.

Below is a summary of recent changes in State ADU laws relevant to the proposed Planning Code amendments.

Table 1: 2020 State Law Amendments Summary

State Laws	Code Sections	Summary	Status
AB 3182	Combined into Sections:	Introduced significant changes to ADU permit processing (60-day ministerial approval process), number of ADUs for lots with single-family and multi-family structures, size, height, setbacks, location, parking, impacts on historic resources, owner occupancy, and certain other design, development and use standards.	Amendments will be incorporated into the language of various Title 17 Code Sections.
AB 881	§65852.2 and §65852.22 Accessory Dwelling Units		
AB 68	§4740 and §4741 Civil Code		
SB 13	§17980.12 Health and Safety		

In response to the inconsistency between the City’s existing Secondary Unit Ordinance and State law, staff has prepared proposed amendments to the Oakland Planning Code related to “Secondary Units” (to be renamed “Accessory Dwelling Units” or “ADUs” throughout the Planning Code). These proposed amendments are attached hereto at **Attachment A**.

On April 15, 2021, the Zoning Update Committee reviewed and discussed the proposal during a public meeting. After taking questions and comments from the public, the Committee members directed staff to address a few issues. One issue of high importance were comments from the public that the S-9 Fire Safety Protection Combining Zone Map Overlay should include the entire Very High Fire Hazard Severity Zone (VHFHSZ) because of concerns that additional density would produce additional vehicles in the hills that would create emergency evacuation bottlenecks during wildfires. VHFHSZs have been designated by CAL FIRE in areas throughout the State because they have especially high probability of severe wildfires (see **Attachment B** for a discussion of how the VHFHSZ maps were developed and a map of the VHFHSZ in Oakland.)

Due to public safety concerns, Committee members tasked staff to study broadening the S-9 Zone to cover a larger area within the VHFHSZ as designated by the California Department of Forestry and Fire Protection. After consultation and further analysis with Oakland Fire Department, staff proposed revisions to the Planning Code amendments and S-9 Zone Map to cover all of the VHFHSZ and to prohibit ADUs within the entire VHFHSZ, and presented the proposal at the June 2, 2021 meeting of the Planning Commission (see the map of VHFHSZ in **Attachment C**). After presentations by Planning and OFD staff and approximately 50 public comments and questions, the Planning Commission recommended to continue the ADU proposal to a date uncertain and for staff to refine the proposal based on received comments, including the development of a more “surgical” approach to the S-9 Fire Safety Protection Combining Zone Map Overlay of where ADUs should be limited. A detailed discussion of the revised proposal is in **Key Issues and Impacts** section of the report. The Planning Commission also requested that staff engage in further discussions with the California Department of Housing and Community Development (HCD) regarding the proposal on other items that were brought up by public comments and the Commission. HCD is directed in the legislation to implement and interpret the State ADU requirements.

\* **Note** about current drafts of S-9/VHFHSZ Maps in *Attachments C and D* below, and any interactive S-9 and VHFHSZ maps that have been shared with the public prior to this meeting:

Current maps are for **illustrative purposes only** and are a subject to change by the City of Oakland Planning Bureau. Upon close examination, the staff identified several issues and mapping ambiguities with the current VHFHSZ layer issued by the State and imposed over City's base maps. The mapping ambiguities include: a) VHFHSZ boundary alignment issues with some lot lines, road centerlines, zoning boundaries and the City boundary; and b) issues stemming from the inherent low resolution of the VHFHSZ layer. The staff is working on finalizing the maps by resolving any ambiguities. Staff is also working on improving the accuracy of the proposed S-9 Zone Overlay Maps. Updated maps will be presented to the City Council and will be available with the Agenda Report prior to the City Council meeting.

## CHANGES SINCE THE JUNE 2, 2021 PLANNING COMMISSION MEETING

The following are changes proposed since the June 2, 2021 Planning Commission meeting in response to public comments at the Planning Commission meeting along with email comments from the public, as well as conversations with HCD as directed by the Planning Commission. All changes to the proposed Planning Code language introduced after that meeting are highlighted in **teal color** in *Attachment A*. A full summary of the proposal is contained in the June 2, 2021 staff report in *Attachment B*.

a) Category-3 ADU on Two-Family and Multifamily Lots

In response to a public comment following coordination with HCD, and to comply with State law, staff added a sub-category of an attached ADU that may combine both converted space within an existing envelope of a multifamily building and a newly built addition to a building footprint. Consistent with State law, creation of this type of ADU precludes creation for any other types of ADUs on the multifamily lot.

b) Maximum ADU Size

Following conversations with HCD and from public comment, the maximum size of Category-1 interior conversion ADUs is increased from 850 square feet for one bedroom and 1,000 square feet for more than one bedroom to 1,200 square feet as required by State law.

c) Maximum ADU Height

In response to public comments and to allow two-story ADUs with smaller footprints to preserve rear yard open space, staff increased the maximum height from the minimum 16 feet required by State law to 18 feet if an ADU complies with the minimum four-foot side and rear setbacks required for detached ADUs. This extra height allowance beyond the State Code minimum standard is only available for ADUs proposed to the rear of the primary structure and excludes ADUs in VHFHSZ for public safety reasons.

This is in addition to the allowance for even higher than 18-foot ADUs if the proposal meets all setback requirements of the underlying zone. In this case, the height of ADUs is controlled by the underlying zoning district regulations for primary structures.

d) Objective Design Standards

In response to public comment, objective design standards have been changed to apply only to structures rated "A," "B," or "C" by the Oakland Cultural Heritage Survey. The previous proposal applied these standards to all residential properties.

Staff recommends several straightforward and objective design requirements for ministerial review along with an option for an alternative path through Small Project Design Review for ADU applications varying from the objective standards. The objective design standards are applicable to ADUs that are visible from the public right-of-way and require building elements like roof pitch, exterior wall materials, predominant door and window trim, sill, recess, and style to visually match those elements of the primary structure.

e) ADUs in Front Setback

In response to public comment, the requirement to regulate ADUs outside of the zone's regularly required front setback has been clarified to allow one ADU of a minimum size to be exempt from this zoning requirement if the lot's configuration precludes creation of the ADU anywhere else on the lot.

f) Definition of "Existing"

Removed "January 1, 2020" time limitation from a definition of "existing" as it applies to structures throughout the Code amendments, per HCD's guidance and public comment.

g) Mini-Lot Planned Unit Developments (PUDs)

To avoid redundancy, regulations for ADUs in Mini-Lots have been removed from the ADU Section of the code and replaced with references to regulations in Chapter 17.142 for Mini-Lots and Section 17.103.080 for ADUs. The City requires that if any shared interest element like Shared Access Facilities of a Mini-Lot PUD is impacted by ADU construction, the proposal is reviewed according to regular Mini-Lot PUD provisions of Chapter 17.142 and in this example, the Shared Access Facilities requirements.

h) Planning Code Amnesty Program and Enforcement Delay of Building Code for Existing Unpermitted ADUs

A Planning Code amnesty and Building Code enforcement delay program is proposed to provide property owners with qualifying unpermitted Accessory Dwelling Units an opportunity to request: (1) the waiver of any provision of the underlying zoning or applicable development standards that would preclude the preservation of an unpermitted Accessory Dwelling Unit that can be verified to have been established and occupied prior to January 1, 2021; and (2) the delay in enforcement of the Building Code, and local amendments thereof, as adopted under O.M.C. Title 15 if the unpermitted Accessory Dwelling Unit was built prior to the effective date of these new regulations.

This proposed new program will also be implementing State law mandates that local governments grant a five (5) year enforcement delay of noncompliant or unregistered ADUs built: (1) prior to January 1, 2020 or (2) on or after January 1, 2020 during the time the City had a noncompliant ordinance so long as the City adopts a compliant ordinance. Under this program, the City has the right to grant the five (5) year enforcement delay until January 1, 2030. This delay in enforcement does not apply for structures that pose immediate risks to public health and safety. The proposed code amendments include an allowance to bring qualifying existing unpermitted ADUs into compliance with current building code standards without incurring any penalties or fines for up to five (5) years from the date of the granting of the enforcement delay. Since an enforcement delay cannot be granted on or after January 1, 2030, the latest the five (5) year enforcement delay can be in effect for a specific ADU is December 31, 2034. Accordingly, State law authorizing this program will sunset on January 1, 2035.

i) Emergency Access Requirements

Previously, the proposal prohibited ADUs in all areas of the City that are on lots accessed from streets with a pavement width of less than 20 feet or accessed by a dead-end street that is longer than 600 feet. Staff removed this prohibition because the Fire Department requires all construction on these streets to mitigate potential fire hazards. Staff continues to recommend further limits for ADUs in the VHFHSZ because, according to the Fire Department, sprinklers and new hydrants will not be sufficient to protect homes during a firestorm.

j) Very High Fire Hazard Severity Zone and S-9 Overlay Zone ADU Regulations

Responding to direction from the Planning Commission for a more “surgical” approach to restricting ADUs within the VHFHSZ, Planning staff has worked with the Oakland Fire Department (OFD), the Oakland Department of Transportation (OakDOT), and the City Administrator’s Office to develop two options for narrowly tailoring regulation of ADUs in fire-prone areas for the Planning Commission to consider for recommendation to the City Council. A discussion of these options is in the *Key Issues and Impacts* section of the report.

**ENVIRONMENTAL DETERMINATION**

The proposed amendments to the Planning Code will rely on the previous set of applicable CEQA documents including: the 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); 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); and various Redevelopment Plan Final EIRs (collectively, “Previous CEQA Documents”). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

The proposed amendments to the Oakland 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. As a result, 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 or 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). In addition, each as a separate and independent basis, this action is exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (no significant effect on the environment).

**KEY ISSUES AND IMPACTS**Very High Fire Hazard Severity Zone (VHFHSZ) and S-9 Overlay Zone ADU Regulations

State law allows for cities to enact laws to protect health, safety, and welfare of their residents. Further, the new State ADU laws permit local agencies to regulate ADUs based on “the adequacy of water and sewer service, and the impacts of traffic flow and public safety.” (Gov. Code §65852.2 subd. (a)(1)(A)).

Recognizing the risk to public health, safety, and welfare in areas susceptible to wildfires, the City Council adopted the S-9 Fire Safety Protection Combining Zone Map Overlay (“Overlay Zone”) in 2017. The S-9 Overlay Zone was created to identify areas where the street pavement width is less than 20 feet and/or a cul-de-sac length is over 600 feet; and where the area is located, in whole or part, in a VHFHSZ. The S-9 Overlay Zone was mapped according to the following criteria:

- Areas accessed by streets with a pavement width of less than 20 feet. Oakland Fire Code (OMC Chapter 15.12) states that: “Fire apparatus access roads shall be all weather roads with a minimum width of 20 feet...”
- Areas accessed by cul-de-sacs (blind streets) with a length over 600 feet. OMC Section 16.16.025(D) states: “Blind streets shall not be over 600 feet in length unless it includes means of a secondary access...;” and
- Areas designated by CAL FIRE as a VHFHSZ.

The purpose of adopting this Fire Safety Protection Overlay Zone was to help protect the public health, safety, and welfare of Oakland residents by limiting ADUs in areas that are susceptible to wildfires and have limited accessibility. And as each season passes, California’s fire risk appears to grow due to rising temperature and extended droughts attributed to overall climate change. Based on evolving data from recent wildfires such as the Camp Fire in 2018 in Paradise, CA and the recent Dixie and Caldor Fires, the recently completed *Oakland Local Hazard Mitigation Plan, Vegetation Management Plan, and Zonehaven* scenario software analysis for evacuation routes being developed with the expertise of the Oakland Fire Department (OFD), the City Administrator’s office, and the Oakland Department of Transportation (OAKDOT), staff originally recommended that the City prohibit all new ADUs and JADUs in the entire VHFHSZ as designated by the State of California and shown in *Attachment C\**.

*\*See a note regarding the maps in Attachment C in the Background section of this report.*

As discussed, this recommendation was presented to the Planning Commission on June 2, 2021, and the issue was highlighted during an open public forum with approximately 50 speakers. After the hearing and discussion, the Planning Commission recommended to continue the ADU proposal to a date uncertain and for staff to refine the proposal based on received comments, including the development of a more “surgical” approach to the S-9 Fire Safety Protection Combining Zone Map Overlay of where ADUs should be limited.

Since then, the inter-departmental working group has been working on revising the proposal. OFD continues to recommend that no new ADUs be permitted in the entire VHFHSZ due to the reasons described in this and the June 2, 2021 staff reports. This proposal would maximize public safety, but reduce the potential number of ADUs in the City.

In addition to the information in the staff reports, note that in a study published just before the June 2nd meeting, UC Berkeley researchers re-created a hypothetical wildfire model in the Berkeley Hills. The study estimated that if each household took only one vehicle to evacuate, then the estimated evacuation time would be about two hours, and 245 vehicles would be exposed to immediate fire danger. However, if the baseline for the area was that each household took 1.7 vehicles to evacuate, that would increase

evacuation time to three hours and expose 782 vehicles to fire. The report has concluded that the most impactful measure in reducing the time for evacuations was reducing the number of household vehicles<sup>1</sup>.

While the issue of traffic choke points is the most significant public safety concern, City Departments have been working on a variety of other fire prevention programs. The interdepartmental wildfire prevention working group outlined several preventative programs and efforts such as preparation of the Vegetation Management Plan, vegetation inspections and abatements on City-owned and private properties, clearings of hazardous vegetation along main egress routes, installing “No Parking Anytime” signs and designating no-parking streets within VHFHSZ, increasing enforcement of these rules, the ADU ordinance update, and other efforts as described in detail in a memo from the Wildfire Prevention Planning Group in *Attachment D*.

Letters of support from OFD and the Office of City Administrator are below in *Attachments E and F*.

Because of the need to balance the competing priorities of providing more ADUs in the City, protecting public safety, and following State law, two options for addressing ADUs in the VHFHSZ have been developed. The inter-departmental working group has met with experts from HCD, Cal Fire, and neighboring local governments to inform the development of the options for the Planning Commission to consider. The options are listed below with a discussion of both following afterward:

Option 1: Prohibit all ADUs and JADUs within an expanded S-9 Overlay Zone that is applied to all areas designated as a VHFHSZ and where street pavement width is less than 26 feet. This option covers more area than the original S-9 Overlay Zone that included streets of less than 20 feet, but does not cover the entire VHFHSZ as proposed in the last Planning Commission meeting (an overall map of this S-9 Overlay Zone expansion from the original S-9 Overlay Zone is in *Attachment G\** and a more detailed S-9 map is in *Attachment H\**). A street would need to be at least 26 feet wide until it intersects with another 26-foot-wide street to allow for ADUs.

*\*See a note regarding the maps in Attachment D in the Background section of this report.*

Option 2: Only allow one internal ADU or JADU within an expanded S-9 Overlay Zone that is applied to all areas designated as a VHFHSZ and where street pavement width is less than 26 feet; and that the following fire safety requirement is also applied:

- A fire sprinkler system is installed throughout the main residence and the newly created internal ADU or JADU if the primary structure is also newly created or significant remodeling work is required to the existing primary structure. A significant remodeling is a project that has a total construction cost of \$100,000 or more, or as required by Section 15.12.030, Chapter 4909.17.2: “when modifications are over 500 square feet or when modifications are made that increase the gross floor area greater than 50% or when the modification exceeds 3,600 square feet.”

#### *Discussion of Option One*

The current Oakland Municipal Code standard for streets in Hillside zones is a minimum of 26 feet in width, as discussed below. Therefore, under Option One, ADUs and JADUs would not be allowed in areas of the VHFHSZ that have street widths that do not meet the Municipal Code standard of at least 26

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<sup>1</sup> Zhao, Bingyu, PhD Wong, Stephen D, PhD “Developing Transportation Response Strategies for Wildfire Evacuations via an Empirically Supported Traffic Simulation of Berkeley, California” 2021: <https://escholarship.org/uc/item/70p6k4rf>



feet in width. This option would provide an allowance for creating ADUs and JADUs for lots where fronting streets are widened to 26 feet wide continuously to intersect with another street of at least 26 feet wide for the streets to be brought up to Municipal Code standards and leaves an opportunity for ADU approvals as the infrastructure is gradually improved to meet the required standards.

City infrastructure surveys show that many streets in the VHFHSZ are narrow and vulnerable to being choke points for residents trying to escape in their cars, and to limiting access for public safety vehicles during an emergency evacuation. Even though street parking is prohibited along many streets, the street signs are often disregarded, resulting in even more limited space for cars to escape quickly and for emergency vehicles to pass. Many homes within the VHFHSZ are built on steep slopes and do not have off-street parking or have nowhere to build additional off-street parking on the lot.

A recent inventory of streets in Oakland's VHFHSZ identified multiple choke points where it is difficult for a fire engine to pass because of the narrow dimensions of a street. OFD, OAKDOT, and the City Administrator's Office have all identified accessibility and egress issues that will be exacerbated by increased units in the VHFHSZ, because new residents will likely own cars that will result in more parking on the street. This is a reasonably foreseeable outcome, as off-street parking is not required for ADUs within a one-half mile from public transit, and replacement off-street parking for primary dwelling units is not required for ADU conversions pursuant to the recently passed State law. Any additional cars parked on the narrow streets in the VHFHSZ would impede both traffic trying to escape quickly in the event of a wildfire and other emergency vehicles trying to respond to emergencies at existing residences.

Oakland Municipal Code (OMC) Section 16.16.025(C)(1), mandates a minimum of 26 feet width for streets in hillside zones with lot frontages on both sides. This standard was approved to enable safe access for multiple modes of transportation, including emergency vehicles. This is a minimum acceptable standard for fire apparatus access during emergencies that takes into consideration a likely partial street blockage for a fire truck or emergency vehicle to access a home or during mass evacuations. This option would also reduce the total number of vehicles, lowering the chances of traffic bottlenecks during mass evaluations.

OMC Section 15.12.030 outlines the following minimum street width standards:

- 20 feet minimum clear street width no street parking.
- 28 feet minimum clear width with parking on one side (assuming 8 feet wide parking lane); and
- 36 feet minimum with parking on both sides, assuming that each street parking lane is 8 feet leaving 20 feet clear road width.

The current S-9 Overlay Zone is based on the minimum allowed clear street width of 20 feet. Section 503 of the California Fire Code states that "Fire apparatus access roads shall have an unobstructed width of not less than 20 feet." This standard is adopted into OMC 15.12.030, Chapter 49 for Wildland-Urban Interface Areas Section 4907.5 Fire Apparatus Access Roads: "Fire apparatus access roads shall be all weather roads with a minimum width of 20 feet..." OMC Section 10.28.80.A. also states: "The Traffic Engineer is authorized to place signs or markings indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet..."

However, people often park illegally on streets within the VHFHSZ even in places with "No Parking" signs and red curbs. Street parking is an important piece of the fire safety efforts in VHFHSZ, but enforcement continues to be a challenge even where no-parking rules are in place. Considering the realities of street infrastructure in the VHFHSZ, 20 feet wide street is not wide enough because it is easily blocked in both directions, causing potentially deadly choke points as was observed during the Oakland Tunnel Fire of 1991 and the most recent fires around the State. As mentioned above, 26 feet street width is a requirement in OMC Section 16.16.025(C)(1) to build new streets in the Hills. Therefore, the 26 feet dimension in the VHFHSZ is minimally necessary to accommodate escaping cars and providing access for emergency vehicles. In order for ADUs to be allowed under Option One, access to the ADU will need

to show 26-foot-wide pavement clearance to safely permit ingress and egress and emergency access, with the understanding that cars will likely be parked or staged on the street during any given time.

*Discussion of Option 2*

This option allows the creation of one Category One internal conversion ADU or one JADU in the newly expanded S-9 Overlay Zone mapped by the same criteria as Option 1, above (areas with less than 26-foot wide road widths within the VHFHSZ), if a compliant fire sprinkler system is installed throughout the main residence and the newly created internal ADU or JADU if the primary structure is also newly created or significant remodeling work is required to the existing primary structure. A significant remodeling is a project that has a total construction cost of \$100,000 or more; or: a) when modifications are over 500 square feet, b) when modifications are made that increase the gross floor area greater than 50% or c) when the modification exceeds 3,600 square feet as required by Section 15.12.030, Chapter 4909.17.2.

While fire sprinklers alone are unable to withstand a fast-moving wildfire, they add a layer of protection for people and existing structures by potentially removing additional “fuel” from a spreading fire as well as allowing additional time for a resident to escape their home if it is on fire while assisting fire fighters that may need more time to respond to a fire on these long and narrow streets. This is one example of “home hardening” measures OFD recommends to all residents in the VHFHSZ.

**RECOMMENDATION**

Staff requests that the Planning Commission review the entire proposal, including two options for ADU regulation in the S-9 Zone, select one of the options, and recommend the selected option along with the rest of the proposed code amendments to the City Council.

**ACTION REQUESTED OF THE PLANNING COMMISSION**

Staff requests that the Planning Commission:

1. Affirm staff's environmental determination; and
2. Recommend that the City Council approve the proposed Planning Code amendments, including a preferred option for regulating ADUs in the S-9 Zone, and Zoning Map amendments related to Accessory Dwelling Units.

Prepared by:

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Reviewed by:

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Laura Kaminski, Acting Strategic Planning  
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Approved for forwarding to the  
City Planning Commission by:

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Ed Manasse, Deputy Director of Planning

**ATTACHMENTS:**

- A. Proposed Planning Code Amendments.
- B. June 2, 2021 Meeting of the Planning Commission Staff Report.
- C. Map of VHFHSZ as Designated by the State of California.
- D. Wildfire Prevention Planning Report Memo from September 14, 2020.
- E. Letter from Fire Chief.
- F. Letter from Director of Interdepartmental Operations, Office of the City Administrator.
- G. Overall Map of Proposed Expanded S-9 Overlay Zone.
- H. Detailed Map of Proposed Expanded S-9 Overlay Zone.