



City of San Leandro

Meeting Date: October 15, 2012

Staff Report

File Number: 12-488 **Agenda Section:** CONSENT CALENDAR

Agenda Number: 8.D.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Tom Liao

FINANCE REVIEW: Not Applicable

TITLE: Staff Report for the Adoption of an Ordinance Amending Section 2-576 of Article 5 of the City of San Leandro Zoning Code Related to Secondary Dwelling Units to Allow for an Increase in the Allowable Floor Area in Relation to Lot Size and Floor Area of Main Dwelling

SUMMARY AND RECOMMENDATIONS

On October 1, 2012, the City Council held a public hearing on proposed amendments to the City of San Leandro Zoning Code Article 5, Section 2-576 Secondary Dwelling Units, to allow for an increase in the allowable floor area. Staff presented a table that showed that the allowable floor area of a secondary unit would depend on the lot size, accordingly:

Lot Area: up to 4,500 sf - Secondary Dwelling Unit: up to 450 sf;
Lot Area: 4,501 to 6,000 sf - Secondary Dwelling Unit: 451 to 600 sf;
Lot Area: 6,001 sf and above - Secondary Dwelling Unit: 601 to 750 sf

During the meeting, Councilmember Cutter asked whether the above ranges would obligate a homeowner to build a second unit with a minimum size. For example: in the case of a homeowner with a lot size of 4,500 square feet, would that homeowner be prohibited from building a secondary dwelling unit of 300 square feet? Staff agreed that this was a point that could be misinterpreted, and that a clarification should be made to add the phrase "up to" to the proposed amendments. The ordinance was then passed to print to modify the language to clarify that a smaller unit than the range shown in the table would be allowed.

In making edits to the proposed ordinance, staff determined that the clearest way to express the floor area allowance would be to state that a unit could comprise "up to ten (10) percent" of the lot area, rather than retain the ranges shown in the table. For example, if the subject site comprised 5,000 square feet, the allowed floor area for a secondary unit would be up to 500 square feet. The table format presented at the October 1 public hearing did not make this sufficiently clear.

As such, staff has revised the proposed ordinance to read as follows (~~strike-outs~~ indicate deleted section of existing Zoning Code text; **bold and underlined** indicate proposed new text):

Unit size. A secondary dwelling constructed within or attached to an existing dwelling or garage shall **be allowed to contain a floor area of up to ten (10) percent of the lot area, or fifty (50) percent of the heated floor area of the main dwelling, whichever is less.** ~~contain at least three hundred 300 square feet but not more than thirty (30%) percent of the heated floor area of the existing dwelling or four hundred fifty (450) square feet, whichever is lesser.~~

Staff recommends that the City Council adopt the revised Ordinance in its second reading.

PREPARED BY: Sally Barros, Senior Planner, Community Development Department



City of San Leandro

Meeting Date: October 15, 2012

Ordinance

File Number: 12-457 **Agenda Section:** CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Tom Liao

FINANCE REVIEW: Not Applicable

TITLE: ADOPT: Ordinance No. 2012-013, an Ordinance Amending Section 2-576 of Article 5 of the City of San Leandro Zoning Code Related to Secondary Dwelling Units (allows for an increase in the allowable floor area in relation to lot size and floor area of main dwelling)

WHEREAS, in 2002, the City of San Leandro adopted a new General Plan, which states in Chapter 3, Land Use, that the City “plan for a variety of housing types, matching the needs of diverse groups”; and

WHEREAS, in 2010, the City of San Leandro adopted a revised Housing Element with the goal to “conserve the City’s existing housing stock while providing opportunities for new housing for a variety of income groups”; and

WHEREAS, the adopted Housing Element states further in its Goal 59: Elimination of Housing Constraints, “Reduce potential constraints that increase the cost or feasibility of new housing development”; and

WHEREAS, the City of San Leandro Planning Division continuously reviews and periodically recommends updates to the Zoning Code; and

WHEREAS, on August 9, 2012, the City of San Leandro Board of Zoning Adjustments met, reviewed, and commented upon Planning Division proposed amendments to Article 5, Section 2-576 of the Zoning Code, entitled “Secondary Dwelling Units,” and such comments were provided to the Planning Commission; and

WHEREAS, on August 16, 2012, the Planning Commission passed Resolution No. 2012-004PC, recommending to the City Council adoption of Zoning Code amendments to Section 2-576 of Article 5 of the San Leandro Zoning Code relating to Secondary Dwelling Units, to allow for an increase in the allowable floor area in relation to lot size and floor area of main dwelling; and

WHEREAS, on October 1, 2012, the City Council conducted a properly noticed public hearing to consider approval of the proposed Zoning Code amendments pursuant to Section 5-2712 of the Zoning Code; and

WHEREAS, the proposed amendments to the Zoning Code are exempt from CEQA because (1) the proposed amendments are a minor change in existing policy to provide for an increase in allowable floor area that will not have a significant effect on the environment and (2) the proposed amendments to the Zoning Code do not approve or allow the construction of any project. Therefore, the proposed amendments to the Zoning Code will have no potential for resulting in physical change in the environment, directly or ultimately. Therefore, adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act pursuant to Public Resources Code section 21065 based on the finding that the proposed amendments are not a "project" within the meaning of Section 15378 of the State CEQA Guidelines and section 15061(b) as minor changes to an existing Zoning Code section. Furthermore, future secondary dwelling unit projects would be exempt from CEQA review under Section 15303(a) New Construction or Conversion of Small Structures and Section 15332 In-Fill Development Projects; and

WHEREAS, the documents incorporated herein by reference are available for review in the City Planning Services Division at San Leandro City Hall, during normal business hours. The location and custodian of the Notice of Exemption and other documents that constitute a record of proceedings for the Project is the City of San Leandro, 835 E. 14th Street, San Leandro, CA 94577.

NOW, THEREFORE, the City Council of the City of San Leandro does **ORDAIN** as follows:

Section 1. Incorporation. The recitals above are true and correct and incorporated herein by this reference.

Section 2. Findings for the Zoning Code amendment. As required under State law, the City Council finds as follows:

a. The proposed Zoning Code amendments are consistent with the City's General Plan, pursuant to Government Code section 65855 and Section 5-2708 of the Zoning Code, as established by the Planning Commission. The proposed amendments are consistent with the following policies of the General Plan:

Goal 59: Elimination of Housing Constraints: *Reduce potential constraints that increase the cost or feasibility of new housing development.*

Policy 1.10 Second Units: *Allow second units in appropriate residential zones, subject to conditional use permit requirements which ensure that parking, design, and other neighborhood impacts are fully addressed and that other criteria and standards established by the City are met.*

Policy 56.11 Grandfathered Second Units: *Continue to recognize second units established prior to the adoption of the 1961 zoning code as legal dwelling units.*

Second units should be recognized as an important form of market rate housing that is affordable to smaller low- and moderate-income San Leandro households

Policy 59.01 Zoning Regulations: *Ensure that the development standards, use restrictions, parking requirements, and other regulations contained in the San Leandro Zoning Code enable the production of housing for all income groups. Overly restrictive or redundant requirements should be strongly discouraged.*

Action 59.01-C: Amendments to the Second Unit Standards: *Consider amending the second unit provisions in the Zoning Code to allow units ranging from 450 to 700 square feet, with a conditional use permit. The requirement that the unit may not exceed 30 percent of the total floor area should be retained. This change should be considered as a way to increase the supply of one-bedroom in-law units.*

b. The proposed Zoning Code amendments are internally consistent with the City's Zoning Ordinance. The amendments meet the requirements and standards of the Zoning Ordinance and the procedural requirements of Article 27, "Amendments".

c. The proposed amendments are reasonably related to the public health, safety, and welfare in that the amendments uphold the General Plan goals and policies that emphasize maintaining and improving the attractiveness of the City's neighborhoods.

Section 3. Adoption of the Zoning Code Amendments. Based on the entirety of the record, as described above, Section 2-576 of Article 5 of the San Leandro Zoning Code is hereby amended as set forth in Exhibit A, attached hereto and incorporated into this Ordinance by this reference.

Section 4. Effective Date of Ordinance. This Ordinance shall take effect thirty (30) days after adoption. The City Clerk of the City of San Leandro is directed to publish the title of the Ordinance once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of San Leandro does hereby declare that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Introduced by Councilmember Cutter on this 1st day of October, 2012, and passed to print by the following called vote:

Members of the Council:

AYES: Councilmembers Cutter, Dlugosh, Gregory, Prola, Reed, Souza;

Mayor Cassidy (7)

NOES: None (0)

ABSENT: None (0)

**Exhibit A: Proposed Amendments City of San Leandro Zoning Code –
Article 5, Section 2-576**

(additions are **underlined and in bold**; deletions are in ~~strike-out~~)

2-576 Secondary Dwelling Units

This section is intended to implement the General Plan housing policy on second dwelling units, adopted in part in response to Government Code Section 65852.1 et seq., by allowing Secondary Dwelling Units through ministerial review in any residential district, subject to meeting the criteria defined below.

- A. Where Permitted. In any residential district, a Secondary Dwelling Unit may be permitted on a lot with a single-family dwelling, subject to meeting the regulations of this section. Additional Dwelling Units in the RO District only are subject to the regulations of Section 2-554.
- B. Ministerial Review and Approval Required. A secondary dwelling unit in a residential district will be approved if it fully conforms to the following criteria.
 - 1. Application Requirements.

Applicants for second dwelling units shall submit an application to the Department of Community Development, Planning Services Division, which, at a minimum, shall include:

- A. Plot plan (drawn to scale): Dimensions of the perimeter of parcel on which the second dwelling will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and structures located within 50 feet of the project site. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included. Provide average slope calculations for the project site.
- B. Floor Plans: Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.
- C. Elevations: north, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and

color board for the existing residence and the proposed second dwelling unit.

- D. Cross Section: Provide building cross sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.
 - E. Deed restriction completed as required, signed and ready for recordation.
2. Findings Necessary for Approval. The Zoning Enforcement Official shall approve a secondary dwelling unit upon finding the following:
- A. The dwelling conforms to the design and development standards for secondary dwelling units established in Subsection C of this section;
 - B. The secondary unit maintains the scale of, and is visually compatible with, adjoining residences and the residences in the immediate vicinity; Building materials, forms (e.g., roof pitch), colors and exterior finishes are substantially the same as those on the existing dwelling;
 - C. Public and utility services including emergency access are adequate to serve both dwellings;
 - D. The secondary unit is not located on, or adjacent to, real property that is listed in the California Register of Historic Places;
 - E. The secondary unit will not exceed the allowable density for the property upon which it is located;
 - F. The secondary dwelling unit is consistent with the General Plan and the zoning for the property.
 - G. For Secondary Units located in a RO, RS, or RS-VP District, the main dwelling or secondary dwelling will be owner-occupied and eligible for a homeowner's exemption for state tax purposes.

C. Design and Development Standards.

1. Unit size. A secondary dwelling constructed within or attached to an existing dwelling or garage shall **be allowed to contain a floor area of up to ten (10) percent of the lot area, or fifty (50) percent of the heated floor area of the main dwelling, whichever is less.** ~~contain at least three hundred 300 square feet but not more than thirty (30%) percent of the heated floor area of the existing dwelling or four hundred fifty (450) square feet, whichever is lesser.~~
2. Prohibition - Garage Conversions. No secondary dwelling unit may be constructed, installed or created from the conversion of an existing garage unless a garage replacing the converted garage is provided on the lot.
3. Required Setbacks. Attached secondary dwelling units shall not be permitted in a required yard. Detached units are required to meet setback requirements established by Section 2-546 related to Accessory Structures, while detached units in the RO District shall comply with all setback requirements defined for RO District.
4. Height and Building Coverage. The basic requirements of Article 5 shall apply unless modified by an overlay district.
5. Parking. A minimum of one (1) independently accessible off-street parking space in addition to any parking spaces required for the residential dwelling shall be required for a lot containing a secondary dwelling, unless a finding is made that additional parking requirements are directly related to the use of the second unit and consistent with applicable neighborhood standards applicable to the existing dwelling. Parking for a secondary dwelling unit may be provided in a tandem arrangement if located in the driveway and outside the front yard setback.
6. Subordinate to Existing Dwelling. The secondary unit shall be visually subordinate to the existing dwelling, with an exterior entry that is clearly made to appear secondary to the entry for the existing dwelling.
7. Attached and Detached Units Allowed. Both attached and detached secondary dwelling units are allowed, however, detached units must be sited on parcels containing at least 10,000 square feet.

A detached secondary dwelling unit that is sited on a property less than 10,000 square feet may be considered through a Site Plan Review process through the Zoning Enforcement Official. Detached units on smaller parcels shall be considered as along as all other requirements relating to parking, lot coverage, building height and setbacks are met.

Detached secondary dwelling units are required to meet the building coverage requirements of Section 2-546 Accessory Structures in the RS, RD and RM Districts. Detached secondary dwelling units in the RO District shall comply with the requirements in Section 2-552 RO District – Accessory Structures.

8. Residential Site Plan Review. For Secondary Units located in a RO, RS, or RS-40 District that meets the standards for Residential Site Plan Review as defined in Section 2-580(D), the Secondary Unit shall comply with the Residential Site Plan Review Standards contained in Section 2-580(H).
 9. View Preservation/Site Plan Review. For Secondary Units located in a RS-VP District that meet the standards for View Preservation/Site Plan Review as defined in Section 2-582(D)(1), the Secondary Unit shall comply with the View Preservation/Site Plan Review Standards contained in Section 2-582(D)(6).
- D. Conditions Recorded. The City shall file a Notice of Occupancy Restriction (pursuant to subsection (B)(2)(g)), above with the Alameda County Recorder within thirty (30) days from the date the approval of the secondary dwelling unit .
- E. Prohibition - Subdivision - Separate Tax Assessment. Approval of a secondary dwelling unit shall not be deemed to be a division of land for purposes of Government Code Section 66410 et seq. or Title VII of the Municipal Code, nor shall the ministerial approval in accord with this Article entitle the applicant to:
- (1) such a division of land; or
 - (2) to have each of the two (2) dwelling units on the parcel separately assessed for property tax purposes.”