



Planning Commission **STAFF REPORT**

Ken Goldstein, Chair
Gina Frierman-Hunt, Vice-Chair
Matthew Buckles, Commissioner
Manish Desai, Commissioner
Leslee Hinton, Commissioner
John Hutt, Commissioner
Bob Spears, Commissioner

*Vincent Gonzalez, Planning and
Community Preservation Director*

DATE: September 3, 2015

TO: Planning Commission

FROM: Leticia Cardoso, Senior Planner

SUBJECT: Discussion Regarding Second Unit Ordinance Amendments

ISSUE

At the June 18 meeting, the Planning Commission reviewed Section 17.22.030 ("Permitted Areas") of the City's Second Unit Ordinance, which requires that a second unit be permitted only on residentially zoned lots that conform to the residential zoning standards in existence at the time that the second unit permit or a building permit is issued for the second unit, whichever is later. The Commission agreed that this requirement is overly restrictive in that it unnecessarily prevents the creation of new second units in the City as many properties have become non-conforming over time due to changes in the zoning ordinances that regulate zoning requirements for single-family residences.

The Commission also considered revising the requirement that a 25-foot-wide side yard setback be provided along the secondary frontage of reversed corner lots in cases where an existing accessory structure is being converted into a second unit. The Commission directed staff to revise Code Section 17.22.080 ("All Other Standards") to include language allowing such units to align with the existing side yard setback of the primary unit, and to require approval of a minor conditional use permit to allow a reduced setback, but no less than 5 feet along the secondary frontage. The Commission agreed that the 25-foot-wide side yard setback required along a secondary frontage should remain at 25 feet for newly constructed second units.

With regard to conversion of existing guest houses or other accessory structures to second units, the Commission expressed concern that the Second Unit Ordinance does not currently address verification of compliance with health and safety codes as part of the City's approval of the conversion. Consequently, the Commission asked staff to add language requiring that a City inspection be required prior to approval of such conversions. Staff added Section 17.22.120 ("Conversion of Existing Accessory

Structures Into Second Units”) to include the same list of items subject to City inspection that was included in the Second Unit Amnesty Program.

The redlined ordinance and the June 18, 2015 staff report are attached herein for reference as Exhibits A and B, respectively.

Staff seeks further direction from the Planning Commission.

Attachments (3):

- 1) Exhibit A: Redlined Second Unit Ordinance (Chapter 17.22)
- 2) Exhibit B: Planning Commission Staff Report – June 18, 2015
- 3) Exhibit C: Reversed Corner Lot Diagram

Chapter 17.22 - SECOND UNITS

Sections:

17.22.005 - Findings and determinations.

17.22.010 - Purpose.

17.22.020 - Definition.

17.22.030 - Permitted areas.

17.22.040 - Standards of development—Generally.

17.22.050 - Allowable floor area.

17.22.060 - Height.

17.22.070 - Parking.

17.22.080 - All other standards.

17.22.090 - Owner occupancy required.

17.22.100 - Utilities.

17.22.110 - Ownership.

17.22.120 — Conversion of Existing Accessory Structures into Second UnitsAffordability.

17.22.130 - Recordation.

17.22.140 - Permit process.

17.22.150 - Permit termination.

17.22.160 - Permit revocation.

17.22.170 - Severability.

17.22.005 - Findings and determinations.

The City Council finds and determines:

A. Assembly Bill 1866, signed into law on September 29, 2002 by the Governor of the state of California and effective January 1, 2003, affecting, among other provisions of state law, California Government Code Sections 65852.2 and 65583.1, requires that as of July 1, 2003, all applications for second units be considered ministerially without discretionary review or hearing.

B. Various provisions of state law relating to the housing goals, objectives and needs, including regional housing needs, and requirements pertaining to the provision of affordable housing as applicable to the city, are affected by the requirements of Assembly Bill 1866 and the effect thereof on second housing units on residentially zoned property in the city.

C. The city finds that second dwelling units are a valuable form of housing. Second units provide housing within existing neighborhoods for family members, elderly, in-home health care providers, persons with disabilities and others, at below market rates.⁵ Homeowners who create second units benefit from added income and an increased sense of security. D.—The limitations set forth herein are necessary to protect the health and welfare of residents, and do not jeopardize the city's obligation to comply with Government Code Sections 65852.2 and 65583.1.

17.22.010 - Purpose.

The purpose of this chapter is to implement Assembly Bill No. 1866, Chapter 1062 of Stats. 2002. It is also the purpose of this chapter to allow for an increase in the supply of affordable housing in the city in conformance with the goals and policies of the housing element of the Sierra Madre general plan. It is the intent of the city to encourage secondary dwelling units and impose standards to enable homeowners to create second units that will not aggravate or create neighborhood problems. ⁷ In doing so, and to ensure that no avoidable adverse impacts on the public health, safety, and general welfare result from the creation of a second unit, this chapter provides standards for the approval of such second units that limit the circumstances under which second units may be permitted consistent with the findings and determinations set forth in Section 17.22.010 and the purposes of this chapter.

17.22.020 - Definition.

For the purpose of this chapter, a "second unit" is a second dwelling unit located on the same lot as the primary single family dwelling unit, which second dwelling unit is either attached to, or detached from, the primary single family dwelling unit, and which

provides complete, independent living facilities for no more than two persons. A second unit shall include permanent living facilities including permanent but separate provisions for living, sleeping, eating, cooking, and sanitation and shall contain a full bath, a kitchen and not more than one bedroom.

17.22.030 - Permitted areas.

One second unit shall be permitted ~~only on residentially-zoned lots that conform to the residential zoning standards in existence at the later of (i) the time of issuance of the ministerial permit for the second unit as provided in this chapter, or (ii) the time of issuance of a building permit for the second unit following the granting of the second unit permit. The following additional with the following~~ limitations apply: (i) no second unit shall be permitted on a lot having an existing guest house; (ii) no lot with a second unit shall be permitted to have a guest house; (iii) no existing guest house may be converted to a second unit except with full compliance with this chapter; and (iv) neither the primary residential dwelling unit nor the second unit shall be a mobile home, trailer, or vehicle.

17.22.040 - Standards of development—Generally.

All "second units" shall comply with the standards of development set forth in the following sections.

17.22.050 - Allowable floor area.

All second units, whether attached or detached, shall have a minimum floor area of 220 square feet and maximum floor area of eight hundred square feet and the total of all buildings on the lot shall have a maximum floor area as defined in Sections [17.20.125](#), [17.24.120](#), and [17.28.120](#). An attached second unit shall not exceed thirty percent of the floor area of the principal single family dwelling to which the second unit is attached.

17.22.060 - Height.

The maximum height of a single-story detached second unit shall be fifteen feet as measured in accordance with Section [17.20.040](#). Second units that are located above a garage, located on the second story, or are comprised of two stories are permitted in accordance with the height provisions of Section [17.20.040](#).

17.22.070 - Parking.

One on-site parking space shall be designated for the second unit in addition to the required on-site parking for the primary dwelling unit. Tandem parking shall not satisfy this requirement, and the parking space cannot obstruct access to other on-site parking.

17.22.080 – Access and Facilities.

All new second units shall have a separate entrance and contain a separate kitchen and bathroom facility.

17.22.080 - All other standards.

Except as specifically provided in this chapter, all second units shall comply with all other provisions of this code applicable to the residential zone in which it is located, except as follows:-

- a) Where privacy and environmental considerations are not compromised, reduced setbacks no closer than 5 (five) feet from the side and rear property lines may be granted through a minor conditional use permit process (Code Section 17.60.055).
- b) New second units located on a reversed corner lot shall provide a 25-foot-wide setback along the secondary frontage.
- a)c) The minimum required side yard setback of an existing accessory structure being converted to a second unit on a reversed corner lot shall be the same as that of the primary structure along the secondary frontage. Approval of a minor conditional use permit is required in cases where the side yard setback of the accessory structure is less than that of the primary structure, but no less than 5 (five) feet.

17.22.090 - Owner occupancy required.

The owner of the lot on which the second unit is located shall maintain either the primary single family dwelling unit or the second unit as his/her/their principal domicile as long as the second unit exists on the lot.

17.22.100 - Utilities.

Second units shall not have separate utility connections, but shall receive all utilities via the pre-existing principal unit, with the exception of telephone, cable television, and computer modem lines or other communication facilities.

17.22.110 - Ownership.

The second unit may not be owned separately, or sold or hypothecated separately, from the primary dwelling unit, but may be rented or leased for a period not to exceed one year terms.

17.22.120 – Conversion of Existing Accessory Structures Into Second Units

A. Prior to the approval of a second unit permit for the conversion of an existing structure for which there is no record of a building permit being issued, satisfactory completion of a

safety inspection by the City's Building Official and Fire Department is required. An applicant must be committed to upgrade the second unit to health and safety codes in order to be granted approval of a second unit permit, including the following items:

a. Independent entrance to second unit.

b. Direct access to exterior of building from bedroom (door or window).

c. Adequate light and ventilation in each habitable room.

a-d. Sufficient ceiling height:

(i) Minimum 7 feet in all rooms, kitchens, halls and baths.

b-e. Properly installed electrical wiring:

(ii) Separate access to electrical shut-off.

f. Structural Integrity:

(iii) Foundation not cracked, damaged, or shifting.

(iv) Framing not sagging or deteriorated.

e-g. Comfort heating:

(v) Gas forced air unit or wall heater.

(vi) Separate access to gas shut-off.

h. Working Plumbing:

(vii) Kitchen and bathroom facilities with hot water.

(viii) Water heater strapped and properly vented.

(vi)(ix) Connection to approved sewage system.

i. Fire Safety:

(vii)(x) Hallways serving sleeping rooms must have smoke and carbon monoxide detectors.

(xi) Each sleeping room must have a smoke detector.

B. Once an inspection by the City's Building Official and Fire Department occurs, the applicant is required to correct those items that are identified as needing repair even in the event that the applicant decides to withdraw the second unit permit application.

-17.22.130 - Recordation.

As a prerequisite to obtaining a building permit, the applicant for a second unit permit shall cause to be recorded a covenant or deed restriction (in a form approved by the city attorney) specifying that the second unit will at all times comply with the provisions of this chapter and applicable state law. The recorded covenant shall run with the land, shall set forth the requirements of this chapter, and shall contain provisions implementing the requirements of this chapter, including but not limited to authorizing the city to make periodic inspections to ascertain compliance with the requirements of this chapter and the terms of the recorded covenant, and authorizing the city to abate any violation of this

chapter at the cost of the then owner, including that the city may record a lien to recover the cost of such abatement proceedings including all reasonable administrative costs in connection therewith.

17.22.140 - Permit process.

All proposed second dwelling units are subject to review for compliance with the terms of this chapter by the director of Planning and Community Preservation~~development services~~. A second unit application must be submitted to the city along with the appropriate fee as established by the city council by resolution in accordance with applicable law, and a list, in a form required by the city for property owner notifications, of property owners within a three hundred foot radius of the property on which the second unit is proposed. Property owners within a three hundred-foot radius of the property for which a new second dwelling application is made shall be notified in writing of the second dwelling unit application at least twenty days prior to the date of the director's action on the second unit permit application. The director shall complete the review of the application for a second unit permit within thirty days of receipt of a complete submission. Review of, and the denial of or granting of, an application for a second unit permit by the city is a ministerial action. The director shall not approve an application for a second unit permit or issue a second unit permit unless the proposed second unit complies with the requirements of this chapter. The decision of the director shall be final and conclusive. An applicant who obtains a second unit permit shall be required to obtain a building permit for the second unit. This chapter is not intended to amend the California Environmental Quality Act requirement relating to historic resources.

17.22.150 - Permit termination.

A second unit permit validly issued pursuant to this chapter shall terminate when any one or more of the following occur: (1) the permit is not used within one hundred eighty days from the date of permit issuance; (2) the permit has been abandoned or discontinued for one hundred eighty consecutive days; (3) the second unit owner files a declaration with the director of Planning and Community Preservation~~development services~~ that the permit has been abandoned or discontinued and the second unit has been removed from the property; (4) the permit has expired by its terms; or (5) the permit has been revoked as provided in Section 17.22.160.

17.22.160 - Permit revocation.

In the event (i) a second unit permit was obtained by fraud or misrepresentation, or (ii) a permitted second unit dwelling is used, operated, or maintained in violation of this chapter or applicable state or federal law, or (iii) the second unit is has been used or is being used in a manner so as to constitute a public nuisance, the director of Planning and

Community Preservation~~development services~~, on not less than ten days written notice to the second unit owner, may hold a permit revocation hearing which shall be heard by a hearing officer in accordance with applicable law. The director and the second unit owner shall each be permitted to present evidence with respect to the proposed permit revocation. The hearing officer shall issue a written decision within ten days of the conclusion of the hearing. The decision of the hearing officer shall be final. Upon revocation the second unit shall be removed; provided, however, if at the time of revocation there are tenants occupying the second unit pursuant to a valid and binding rental or lease agreement that is consistent with the provisions of this chapter, such tenants shall be permitted to continue to occupy the second unit until the expiration or earlier termination of the rental or lease agreement, and upon such expiration or earlier termination the second unit shall be removed. Nothing herein shall preclude or prevent the city from undertaking any other enforcement action with respect to the second unit which the city is otherwise authorized under this code or applicable state or federal law, including but not limited to the abatement of public nuisances.

17.22.170 - Severability.

If any part of this chapter is declared to be invalid or unenforceable, the city council declares that such invalidity shall be severable, and that it would have adopted every other provision hereof without regard to such invalidity.



Planning Commission **STAFF REPORT**

Manish Desai, Chair
Ken Goldstein, Vice-Chair
Matthew Buckles, Commissioner
Gina Frierman-Hunt, Commissioner
Kevin Paschall, Commissioner
William Pevsner, Commissioner
Bob Spears, Commissioner

*Vincent Gonzalez, Planning and
Community Preservation Director*

DATE: June 18, 2015

TO: Planning Commission

FROM: Leticia Cardoso, Senior Planner

THROUGH: Vincent Gonzalez, Planning and Community Preservation Director

SUBJECT: Discussion Regarding Second Unit Ordinance Amendments

ISSUE

The Second Unit Ordinance (Chapter 17.22) was amended in December 2013 in compliance with the 2008-2014 Housing Element of the City's General Plan. The Housing Element requires the City to remove impediments to the production of new second units in order to meet the number of affordable housing units required under the Regional Housing Needs Assessment (RHNA) for Sierra Madre. Prior to being amended, several provisions in the ordinance were considered impediments to the production of new second units in the City. More specifically, the amendments included the elimination of the affordable rent and income restrictions, expansion of the permitted locations from the R-1 Zone to all residential zone districts that include single-family uses, the increase of the maximum permitted unit size from 600 square feet and one bedroom, to 800 square feet, and reduced setbacks through a minor conditional use permit process.

However, one provision that was carried over from the previous Second Unit Ordinance is a requirement that a second unit be permitted only on residentially zoned lots that conform to the residential zoning standards in existence at the time that the second unit permit or a building permit is issued for the second unit, whichever is later. While the relaxation of the above mentioned requirements have removed some of the original constraints limiting production of new second units, this provision continues to present a significant impediment to the creation of new units because most if not all new second units would be located on properties developed many years ago under previous zoning ordinances, and which have since become non-conforming over the years as a result of amendments to the residential zoning ordinance regulating those properties. In other words, it is very difficult for previously developed properties to comply with current

residential zoning ordinances considering the age of the majority of the housing stock in the city. When this requirement is applied, it unnecessarily disqualifies properties that would otherwise be able to meet all other requirements of the Second Unit Ordinance.

Another amendment for the Commission to consider in order to facilitate production of second units involves the conversion of existing guest houses or other accessory buildings into second units where the structure does not conform with the existing 25-foot front yard setback requirement for secondary frontages on reversed corner lots pursuant to Code Section 17.20.050.B.1.c ("Side Yards – Reverse corner lots or Parcels")¹. Although the Second Unit Ordinance was amended to allow reduced side and rear setbacks up to 5 feet through approval of a minor conditional use permit (Code Section 17.22.080), it did not address side yards that are considered secondary frontages on reversed corner lots. Consequently, for those properties that are already developed with not only a primary residence, but also with an accessory structure that could be converted to a second unit were it not for its non-conforming setback, the Commission might want to consider relaxing the requirement for a 25-foot-wide secondary frontage setback to facilitate conversion of existing accessory structures into second units.

Staff feels that these requirements remain inconsistent with the intent of the Housing Element in that they are excessively restrictive, and contrary to the goal of the Housing Element to encourage production of these units. The City of Sierra Madre is generally built-out. As such, a large number of properties are ineligible for a second unit permit, even when they are able to meet all other second unit requirements in the ordinance, mostly due to legal nonconforming setbacks. Staff is also concerned that these requirements may indirectly promote the conversion of existing accessory structures, including guest houses, into unpermitted second units, which are in turn not captured in the City's housing stock for purposes of calculating RHNA numbers.

Staff seeks further direction from the Planning Commission.

Attachments (2):

- 1) Exhibit A: Chapter 17.22 – Second Units
- 2) Exhibit B: Reversed Corner Lot Diagram

¹ Pursuant to Code Section 17.08.020 ("Definitions"), a reversed corner lot means a corner lot where the side lot line that fronts the street is substantially a continuation of the front line of the lot which adjoins the rear lot line of said corner lot.

