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OAKLAND
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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Rachel Flynn

SUBJECT: Amendments to Oakland's Transitional and Supportive Housing Regulations, Secondary Unit Regulations, and Other Miscellaneous Planning Code Changes

DATE: December 1, 2015

City Administrator
Approval

Date

11/18/15

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt: 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

EXECUTIVE SUMMARY

The proposed Planning Code Text amendments fall into three basic categories: (1) Transitional and Supportive Housing-Related Changes, (2) Secondary Unit-Related Changes, and (3) Miscellaneous Code Update Changes.

1. Transitional and Supportive Housing-related changes include: (a) creating a new "Supportive Housing" Residential Activity Type that conforms to the State definition; (b) replacing the current "Service Enriched Permanent Housing" Residential Activity Type throughout the Planning Code with the new "Supportive Housing" Residential Activity; (b) revising the existing definition of "Transitional Housing" to conform to the State definition; (c) modifying the activity charts for every Zone allowing Residential Uses to indicate that "Transitional Housing" and "Supportive Housing" are permitted as Residential Activities; (d) removing all special standards that previously applied to "Transitional Housing" and "Supportive Housing", including but not limited to 300-foot separation and differential parking regulations, to ensure that Transitional and Supportive

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Housing will only be subject to those restrictions that apply to other residential dwellings of the same facility type;

2. Secondary Unit-related changes include: (a) Parking revisions – Tandem parking regulations would be amended to allow tandem parking for Secondary Units in all Zones, except S-11 or S-12. Also, proposed Secondary Units that are within ½ mile of a Bay Area Rapid Transit (BART) Station, Bus Rapid Transit (BRT) Station, Rapid Transit line, or Major Transit Stop would have no additional parking requirement. This provision is intended to facilitate the development of more “low carbon footprint” housing options for residents seeking to utilize transit to meet their daily needs; (b) Setback revisions – detached Secondary Units would be allowed up to 4 feet from the side and rear lot line if located within 35 feet of the rear property line. Existing accessory structures located outside of the front yard setback would be allowed to convert into a Secondary Unit - regardless of any existing nonconformity as to side setback, rear setback, or height - as long as any existing nonconformity is not increased; the floor area does not exceed the maximum allowed; and the minimum parking can be met on site; (c) Height restrictions – Building walls for detached Secondary Units located within 4 feet of the side or rear lot line would be limited to 10 feet in height and maximum roof height would be limited to 14 feet; and
3. Miscellaneous Code update changes include various non-substantive and minor substantive text changes to improve consistency, reduce redundancies, and clarify language throughout the Planning Code.

OUTCOME

- All special standards that previously applied to “Transitional Housing” and “Supportive Housing” in the Oakland Planning Code are proposed to be removed to comply with California State law, which requires that Transitional and Supportive Housing be permitted in all zones allowing Residential Uses and not be subject to any restrictions not imposed on similar dwelling types (e.g. Single Family, Multifamily) in the same zone.
- Amendments are proposed to reduce the regulatory barriers to the development of Secondary Units, which are considered one way to help address the city's housing shortage and escalating costs.
- The Land Use and Transportation Element of the General Plan contains policy direction calling for a more user-friendly and easier-to-interpret Planning Code. To comply with this directive, staff has undertaken a periodic update or “clean-up” of the Planning Code to improve consistency, reduce redundancies, and clarify language throughout the Code.

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BACKGROUND/LEGISLATIVE HISTORY

Project History

On October 14, 2015, the Zoning Update Committee held a public meeting to hear comments and provide feedback on various proposed amendments to the Oakland Planning Code, including but not limited to, changes to Transitional and Supportive Housing regulations to comply with State Law; revisions to regulations for Secondary Units; and miscellaneous minor changes in various Chapters of the Planning Code. At the meeting, the ZUC recommended that the proposed revisions to Secondary Unit regulations be amended to include locations within ½ mile of a “major transit stop”, in addition to locations within ½ mile of a BART or BRT Station, as areas where no additional parking would be required for a Secondary Unit.

On October 21, 2015, the City Planning Commission conducted a public hearing to consider various proposed amendments to the Oakland Planning Code, including but not limited to: changes to the Transitional and Supportive Housing regulations to comply with State Law; revisions to regulations for Secondary Units; and miscellaneous minor changes in various Chapters of the Planning Code.

At the hearing, the Planning Commission only recommended that the non-substantive and minor substantive changes described in Sections I and II of the 10/21/15 staff report and amendments to Transitional and Supportive Housing regulations described in Section III of the 10/21/15 staff report be forwarded to the City Council for consideration. The 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.

Because reforming the city's Secondary Unit regulations is a priority for the Mayor's office, Staff scheduled another Planning Commission hearing on the proposed Secondary Unit changes for November 18, 2015 (see **Attachment B** for the 11/18/15 Planning Commission staff report). The results of that hearing will be reported to the Community and Economic Development Committee of the City Council when this item is heard before the Committee on December 1, 2015.

ANALYSIS

Proposed Changes to Transitional and Supportive Housing Regulations

California State law requires that Transitional and Supportive Housing be permitted in all zones allowing Residential Uses, and not be subject to any restrictions not imposed on similar dwelling types (e.g. Single Family, Multifamily) in the same zone. Therefore, in order to ensure conformance with State law: (a) the current "Service Enriched Permanent Housing" Residential Activity category is proposed to be replaced throughout the entire Planning Code with a new "Supportive Housing" Residential Activity Type; (b) the definitions of "Transitional Housing" and "Supportive Housing" would be revised to conform to the State definitions; (c) the activity charts for every Zone allowing Residential Uses will be revised to indicate that "Transitional Housing" and "Supportive Housing" are permitted as Residential Activities; and (d) all special standards that previously applied to "Transitional Housing" and "Supportive Housing", including but not limited to differential parking regulations, will be removed to ensure that Transitional and Supportive Housing will only be subject to those restrictions that apply to other residential dwellings of the same facility type.

Proposed Changes to Secondary Unit Regulations

The goal of the proposed amendments is to encourage construction of Secondary Units by reducing the regulatory barriers in the City's current Planning Code language. Secondary Units are considered one way to help address the city's housing shortage and escalating costs. Because Secondary Units are smaller, the average construction cost is usually much lower than even a typical new subsidized affordable apartment project. Another benefit of Secondary Units is that they are increasingly being used as independent living options for young adults and elderly family members. Also, because Secondary Units go into established neighborhoods, they can contribute to the city's desire to maximize the use of existing available land, as well as foster greater use of bicycling and transit.

The University of California Center for Community Innovation recently prepared a study titled "**Yes in My Backyard: Mobilizing the Market for Secondary Units**", which discusses the benefits of and obstacles to Secondary Units in the East Bay. The study found that local regulations may impede the development of Secondary Units.

Also, the Housing Equity Roadmap recently approved by City Council states that:

"A recent study conducted focusing on the MacArthur BART station area and the Oakland portion of the Ashby BART station area found that Oakland has underutilized the building of secondary dwelling units. A sampling survey of homeowners found that 18 percent of houses already have at least one secondary dwelling unit. Approximately 7 percent of the homeowners surveyed were already planning on building a second unit and another 7

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percent were interested but had encountered regulatory and/or financing barriers. The study found that the city's parking requirements were the biggest regulatory barrier to the development of second units, followed by lot setbacks. Under the city's current requirements, 230 homeowners in the studied areas could build a second unit. The study found that with the relaxing of parking requirements, 2,300 homeowners in the studied areas could build a second unit. In addition, through its relations with nonprofit and for-profit financial institutions, the city could help facilitate homeowners' access to capital resources for building a second unit.

***"Recommendation:** Oakland should consider facilitating the development of secondary dwelling units by 1) relaxing requirements, such as parking and set-back; and 2) assisting with access to private capital resources."*

In recognition of the potential of Secondary Units as a housing strategy, the following Oakland Planning Code amendments are proposed to reduce barriers to Secondary Unit development - particularly existing parking requirements (see Attachment C for the full text of the proposed Planning Code amendments):

- **Parking** – Tandem parking regulations would be amended to allow tandem parking in all Zones, except S-11 or S-12, for Secondary Units up to the maximum size allowed (750 square feet or 75% of the primary structure, whichever is less). Also, proposed Secondary Units that are within one-half (½) mile of a BART Station, Bus Rapid Transit (BRT) Station, Rapid Transit line, or “Major Transit Stop” (see definition below) would have no additional parking requirement. This provision is intended to facilitate the development of more “low carbon footprint” housing options for residents seeking to utilize transit to meet their daily needs.
 - “Major transit stop” is defined consistent with California Public Resources Code Section 21064.3; and means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
- **Setback** – New Secondary Units would be allowed up to 4 feet from the side and rear lot line if located within 35 feet of the rear property line. Existing accessory structures located outside of the front yard setback would be allowed to convert into a Secondary Unit - regardless of any existing nonconformity as to side setback, rear setback, or height - as long as any existing nonconformity is not increased; the floor area does not exceed the maximum allowed; and the minimum parking can be met on site.

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- **Height** – Detached Secondary Units within the rear 35 feet of a lot would have a maximum roof height of 14 feet, and building walls located within 4 feet of the side or rear lot line would be limited to 10 feet in height.

The differences between existing regulations related to Secondary Units and the proposed Code amendments described in this staff report are summarized below:

Regulation	Existing	Proposed
Max. Unit Size	900 sf. or 50% of the existing Primary Unit, whichever is less	<i>750 sf. or 75% of the existing Primary Unit, whichever is less</i>
Max. Building Height	Same as Primary Unit	For detached Secondary Units within 35 ft. of rear lot line: <i>Max. roof height of 14 feet and max. wall height of 10 ft. within 4 ft. of the side or rear lot line</i>
Min. Rear Setback	Same as Primary Unit	<i>Allowed within normally required rear setback - as long as new detached Secondary Unit is located at least 4 feet from the side and rear lot lines</i>
Min. Side Setback	Same as Primary Unit	<i>Allowed within normally required side setback - as long as new detached Secondary Unit is located at least 4 feet from the side and rear lot lines</i>
No. of Parking Spaces Req'd	1 additional space for the Secondary Unit	1 additional space for the Secondary Unit - <i>unless the lot is located within ½ mile of a BART Station, BRT Station, Rapid Transit line, or Major Transit Stop, and then no additional space is required</i>
Tandem Parking	Allowed for Secondary Units of up to 500 sf. in size only	<i>Allowed for all Secondary Units</i>

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Regulation	Existing	Proposed
Conversion of Existing Building to Secondary Unit	Not allowed if located in any setback	<u>Allowed if legally in existence and located outside of front setback, regardless of any existing nonconformity as to side or rear setback, or height, as long as: any existing nonconformity is not increased; the floor area does not exceed the max. allowed; and the min. parking is met on site</u>
Rebuilding Existing Building as Secondary Unit	Not allowed if located in any setback	<u>Allowed, but only in conformance with all applicable zoning regulations - including min. 4-foot side & rear setback</u>
Sale of Unit	Cannot be sold separately from the Primary Unit on site	(No Change - same as existing regulation)
Owner Occupancy	Owner must occupy either the Primary or Secondary Unit on site	(No Change - same as existing regulation)
Dead-End Streets	Site must be on a through street, or on a dead-end street less than 300 feet in length	(No Change - same as existing regulation)
Min. Pavement Width	24 feet for all streets connecting the lot to the nearest arterial; may be reduced to 20 feet upon granting of a Conditional Use Permit (CUP)	(No Change - same as existing regulation)

The public has expressed both support and concern for the Secondary Unit proposal. Supporters feel these changes would further encourage the production of Secondary Units which can be a source of "unsubsidized affordable" housing. Others have expressed concerns about: (1) rebuilding existing buildings as new Secondary Units, particularly those located on or very near property lines; (2) potential privacy impacts on neighbors of windows in Secondary Units located near property lines; and (3) the proposed ½-mile distance from transit in which the parking requirement would be waived, recommending instead a ¼-mile distance.

Regarding item (1) above, rebuilding existing buildings, unlike the new regulations in Berkeley, an existing building rebuilt as a Secondary Unit would need to conform to the four-foot setback requirement; it would not be allowed to be rebuilt in its previous location if it does not meet

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setback requirements. Regarding item (2) above, privacy impacts on neighbors due to windows, these impacts would be limited due to the height restriction (one-story) and the required setback. Furthermore, the Building Code generally requires new windows to be set back at least three feet from a property line. Regarding item (3) above, the ½-mile distance from transit where no parking is required, the rationale of using ½-mile as the distance from transit is consistent with state law Senate Bill (SB) 743 (2013) concerning Transit-Oriented Development (TOD) and new state law Assembly Bill (AB) 744 (2015) concerning parking reductions for affordable housing.

The focus on Transit-Oriented Development (TOD) is based on studies by the California Department of Transportation, the U.S. Environmental Protection Agency, and the Metropolitan Transportation Commission, among others, which have found that encouraging development in areas served by transit can result in local, regional and statewide benefits, including:

- Increased transportation choices;
- Increased public safety;
- Increased transit ridership;
- Reduced vehicle miles traveled;
- Increased household disposable income;
- Reduced air pollution and energy consumption;
- Conservation of natural resources and open space;
- Increased economic development;
- Increased affordable housing; and
- Reduced local infrastructure costs.

Some of the key terms used in SB 743 are:

- “Transit Priority Area”, which means an area within one-half (1/2) mile of a “major transit stop” that is existing or planned; and
- “Major Transit Stop”, which means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two (2) or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

At its October 21, 2015 meeting, the Planning Commission took no action on the proposed Secondary Unit-related amendments, 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. Some Commissioners were concerned that encouraging new Secondary Units would

encourage new short-term rentals (e.g., through listing services such as Airbnb), while other Commissioners felt that short-term rentals are a larger citywide issue that should be studied on a citywide basis and not specifically linked to Secondary Units.

In response, Staff has scheduled a second Planning Commission hearing on the proposed amendments to Secondary Unit regulations for November 18, 2015. The results of that hearing will be reported to the Community and Economic Development Committee of the City Council when this item is heard before the Committee on December 1, 2015.

The concerns expressed around short-term rentals generally relate to: (1) the collection of Transient Occupancy Tax (TOT); (2) their effect on the supply of housing; and (3) potential nuisance impacts to neighbors. Regarding concern #1, the TOT, the City has an agreement with Airbnb, which has the largest listings of short-term rentals in Oakland, to collect and remit TOT to the City. Regarding concern #2, the effect on housing supply and concern #3, potential nuisance impacts, these issues are not restricted to Secondary Units and have implications for all housing in the city.

At the 11/18/15 Planning Commission hearing, Staff will inform the Commission that existing planning regulations already exclude any rental of a single-family home or Secondary Unit for less than one week, based on the following definition of "Permanent Residential Activities":

17.10.110 Permanent Residential Activities.

"Permanent Residential Activities include the occupancy of living accommodations on a weekly or longer basis, with none of the living units under the same ownership or management on the same lot being occupied on a shorter basis;..."

Therefore, the city already has the basis to strictly regulate the short-term rental of Secondary Units. To support better compliance, Planning Staff can update applicable Secondary Unit forms, handouts, and bulletins to clarify the existing restriction on less-than-weekly rental.

In conclusion, Staff recommends that development of special regulations for short-term rentals be completed separately from the adoption of the proposed Secondary Unit revisions; and that the proposal should look at the short-term rental of all housing types, not just Secondary Units.

Proposed Miscellaneous Code Changes

The Land Use and Transportation Element (LUTE) of the Oakland General Plan contains policy direction calling for a more user-friendly and easier-to-interpret Planning Code. To comply with this directive, the Bureau of Planning undertakes a periodic update or "clean-up" of the Planning Code to improve consistency, reduce redundancies, and simplify language in key chapters of the Planning Code.

The proposed miscellaneous changes to the Planning Code fall into two basic categories:

- I. Non-Substantive Changes
- II. Minor-Substantive Changes

I. Non-Substantive Changes

The following section summarizes the proposed Non-Substantive changes to the Planning Code.

Staff proposes to:

- Capitalize all Chapter, Section and Subsection references, the names of Activity and Facility Types, the names of Sign types (Business, Residential, etc.), and the names and types of Zoning designations;
- Spell out all number references throughout the Code;
- Remove references to zoning designations previously deleted, including but not limited to: C-5, C-10, C-28, C-31, C-35, and C-55;
- Replace "None" and "0 feet" with "N/A" (Not Applicable) throughout the Code wherever such terms are intending to indicate that a particular regulation does not apply;
- Relocate (without amendment) the recently adopted additional Conditional Use Permit (CUP) findings for Crematories from Chapter 17.103 to Chapter 17.102. This clean-up item creates a new Section in Chapter 17.102 (Section 17.102.440), for the previously adopted Crematory provision. This is a clean-up item included to be consistent with the overall organization and purpose of Chapters 17.102 and 17.103; and
- Make minor word, phrase, or sentence changes to improve the clarity and internal consistency of the Code.

II. Minor-Substantive Changes

The following section summarizes the proposed Minor-Substantive changes to the Planning Code.

Staff proposes to:

- Revise Chapter 17.01, General Provisions of Planning Code and General Plan Conformity, to reflect the expiration of the City's General Plan Conformity Guidelines, and be consistent with current General Plan and Zoning Determination practices;
- Standardize the activity size threshold at 3,000 square feet differentiating 'Group Assembly' (Section 17.10.380) and 'Personal Instruction and Improvement Services' Activities (Section 17.10.385);

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- Revise the definition of Sidewalk Café Nonresidential Facility in Section 17.10.750 to include “dining areas which encroach within the sidewalk or plaza area of the public right-of-way”;
- Because Design Review is included as part of any initial Planned Unit Development (PUD) permit approval, clarify throughout the Code that the requirement for design review may not apply to developments at the time of initial granting of a PUD permit. Unless otherwise specified in the PUD permit, any future changes within the PUD will be subject to applicable design review regulations;
- Replace outdated design review threshold language in the R-80, CBD, S-4, S-10, and S-11 Zones with the current citywide standard design review threshold language;
- Standardize the thresholds for design review or CUP throughout the Planning Code that involve 25,000 square feet to specify that all are triggered by a project that is more than 25,000 sf. (rather than 25,000 sf. or more);
- Standardize the minimum width of sidewalks at 6½ feet for the installation of street trees throughout the Zoning Code;
- Remove the phrase “...and not previously used for Civic Activities” from the end of all applicable Activity Table Limitations throughout the Planning Code that include a specification that: “These activities may only be located in an existing ground floor of a Nonresidential Facility that was built prior to the effective date of this Chapter (April 15, 2011)...”
- Remove references to RU-1 from all applicable Activity Table Limitations throughout the Planning Code as being a zone which triggers the same setback and height limitations that apply to projects that abut the RH, RD, and RM Zones. This proposed amendment is intended to correct a misplacement of the RU-1 Zone within this same lower density Zone category as the RH, RD, and RM Zones. It is not, and therefore should not be regulated the same.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and by the Budget Office.

PUBLIC OUTREACH/INTEREST

Prior to the October 21st and November 18th City Planning Commission hearings on this item, Staff met several times with interested parties to discuss the proposed Planning Code Amendments, including but not limited to changes to Secondary Unit regulations.

COST SUMMARY/IMPLICATIONS

Implementation of the proposed Planning Code Text changes will be a routine component of project review administered by the Department of Planning and Building, which collects fees for such review as established in the Master Fee Schedule. Staff will inform the public of the new regulations as part of all applicable inquiries and apply the new regulations as part of all applicable Planning applications. If adopted by the City Council, there will be no impact on costs or fees to the City.

SUSTAINABLE OPPORTUNITIES

Economic: The amendments to Secondary Unit regulations are intended encourage the construction of more Secondary Units, and thereby help address the city's housing shortage and escalating costs.

Environmental: One of the benefits of Secondary Units is that because they go into established neighborhoods, they can contribute to the city's desire to foster more walkable neighborhoods with greater use of bicycling and transit.

Social Equity: The amendments to Transitional and Supportive Housing regulations are intended to help people facing health and other challenges to continue to live in the community.

CEQA

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.

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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. 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 CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (no significant effect on the environment).

For questions regarding this report, please contact Ed Manasse, Strategic Planning Manager at (510) 238-7733.

Respectfully submitted,



RACHEL FLYNN

Director, Department of Planning and Building

Reviewed by:

Darin Ranelletti, Deputy Planning Director

Prepared by:

Ed Manasse, Strategic Planning Manager

Attachments

- A. Planning Commission Staff Report (without attachments) – October 21, 2015**
- B. Planning Commission Staff Report (without attachments) – November 18, 2015**
- C. Planning Code Text Amendments**
- D. Map of areas where no additional parking would be required for a Secondary Unit (areas within ½ mile of a BART Station, BRT Station, Rapid Transit line, or Major Transit Stop)**

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APPROVED AS TO FORM AND LEGALITY



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 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 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 **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 **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: _____

NOTICE AND DIGEST

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

This Ordinance would amend the Transitional and Supportive Housing regulations in the Oakland Planning Code to bring them into conformance with California State law, which requires that these types of housing be permitted in all zones allowing Residential Uses, and not be subject to any restrictions not imposed on similar dwelling types (e.g. Single Family, Multifamily) in the same zone. The Ordinance would also amend regulations related to Secondary Units in the Oakland Planning Code, including: (a) Parking revisions – Tandem parking would be allowed for Secondary Units in all Zones, except S-11 or S-12. Secondary Units that are within ½ mile of a Bay Area Rapid Transit (BART) Station, Bus Rapid Transit (BRT) Station, or Major Transit Stop would have no additional parking requirement; (b) Setback revisions – detached Secondary Units would be allowed up to 4 feet from the side and rear lot line if located within 35 feet of the rear property line. Existing accessory structures located outside of the front yard setback would be allowed to convert into a Secondary Unit - regardless of any existing nonconformity as to side setback, rear setback, or height - as long as any existing nonconformity is not increased; the floor area does not exceed the maximum allowed; and the minimum parking can be met on site; and (c) Height limits – Building walls for detached Secondary Units located within 4 feet of the side or rear lot line would be limited to 10 feet in height and maximum roof height would be limited to 14 feet. Finally, the Ordinance includes miscellaneous minor changes throughout the Planning Code intended to improve consistency, reduce redundancies, and clarify language.

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OAKLAND

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