

**CITY OF PLACERVILLE
CITY COUNCIL
STAFF REPORT**

APPLICATION NO.: Zone Change 08-01

DATE: June 17, 2008

REQUEST: Various amendments to the Zoning Ordinance (City Code Title 10) Concerning Secondary Dwelling Units and Granny Housing

APPLICANT: City of Placerville

LOCATION: Citywide

ENVIRONMENTAL DOCUMENT: Categorical exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act Guidelines.

RECOMMENDATION

1. The Planning Commission recommends that the City Council approve various text amendments to the Zoning Ordinance relating to secondary dwelling units and granny housing units, as submitted.
2. Introduce the attached ordinance, and waive the first reading of the ordinance.

PROPOSAL

The proposal is for consideration of amendments to the Zoning Ordinance pertaining to secondary dwelling units and granny housing so that the ordinance is consistent with State law. The proposed changes include:

- Permitting under ministerial process, secondary dwelling units within the City's residential zones (RE, R1-A, R1-20, R1-10, R1-6, R2, R3 and R4), with exceptions made in some instances for properties located within the City designated historic districts;

- Modifications to the secondary dwelling unit development regulations, including parking, occupancy and historic resources, and
- Deleting City Code Section 10-4-15: Granny Housing.

BACKGROUND

Secondary Dwelling Units

The Placerville Zoning Ordinance defines a secondary dwelling unit as:

“DWELLING UNIT, SECONDARY: One additional living unit on any one lot or parcel within a single-family residential zoning district. The criterion for defining a secondary dwelling unit shall be the existence of separate cooking facilities, not merely the addition of bathroom to single-family units. A secondary dwelling unit may be established by:

- (A) The revision of a single-family unit whereby cooking facilities are not shared in common;
- (B) The conversion of an attic, basement, garage or other previously uninhabited portion of a single-family unit;
- (C) The addition of a separate unit onto the existing single-family unit; or
- (D) The creation of a separate structure on the lot or parcel in addition to the existing single-family unit.”

Secondary dwelling units are classified as a conditional use in the RE, Estate Residential; R1-A, Single-Family Residential, One Acre; R1-20,000, Single-Family Residential; R1-10,000, Single-Family Residential, and the R1-6,000, Single-Family Residential Zoning Districts in the City subject to the discretionary approval of a use permit and conformance with an established set of development regulations.

Secondary dwelling units are protected under State statute, Government Code Section 65852.2, allowing property owners to build second units in single-family and multi-family zones. The statute allowed local governments to impose reasonable restrictions on their construction. In 2002, this section was amended. It required that on and after July 1, 2003, applications for secondary dwelling units in residential zoning districts be considered on a ministerial basis rather than through a discretionary review process. The statute’s intent is to require cities and counties to facilitate the creation of secondary dwelling units as a source of housing in California by streamlining the application process.

This amended statute allows cities to have some control over the creation of secondary dwelling units by adopting ordinances that impose ministerial standards related to parking, height, setbacks, lot coverage, maximum unit size, architectural review and

prevention of adverse impacts on properties listed in the California Register of Historic Places. Additionally, cities may exclude second units from certain areas based on criteria that may include but are not limited to the adequacy of water, sewer and other services.

Since the revised statute went into effect on July 1, 2003, the City has issued five secondary dwelling unit requests. Each request complied with the standards provided by the statute.

Granny Housing Units

Since the early 1990s Government Code §65852.1, or what is known as the “granny housing law”, permitted by variance, special use permit or CUP, a dwelling unit occupied for one or two adult persons 62 years of age or older on a parcel zoned for residential use. The statute permitted this use as a form of secondary dwelling unit. In 1991, the City adopted Ordinance 1474 that established City Code Section 10-4-15: Granny Housing. City Code Section 10-4-15 permits a Granny Housing Unit residential use consistent with the defined parameters within Government Code. Government Code §65852.1 was recently amended to state that on January 1, 2007 it would become inoperative. Provisions were added that stated that granny housing units approved by a city or county and constructed prior to the inoperative date were considered valid secondary dwelling units.

City records reveal that nine granny housing units have been established since 1991. Per the amended State law, all nine granny housing units permitted by the City and constructed before January 1, 2007 are considered valid secondary dwelling units.

DRAFT ZONING ORDINANCE AMENDMENTS

The City has initiated an amendment to the Zoning Ordinance that would bring Placerville’s code regulations into compliance with the revisions to secondary dwelling unit and granny housing State law. A comparison table of the existing and proposed ordinance language is provided as Table 1.

Secondary Dwelling Units

In order to meet the intent of the law to provide for the ministerial approval of secondary dwelling units, the draft ordinance amendment will change the current discretionary review approval process for secondary units to a ministerial or non-discretionary process in most cases. An exception is discussed within this report for a scenario involving a secondary dwelling unit request within a City historic district.

The current Zoning Ordinance regulates secondary dwelling units according to their consistency with all applicable development regulations within the single-family zoning districts, residential occupancy, parking, quantity, minimum lot area, and unit

size, adverse impacts on public services and resources and exterior access. The secondary unit must also meet the California Building Code requirements.

The proposal would modify regulations involving intent, occupancy, historic resources, and the requirement for conditional use permit approval. It further would require that the property have an established, existing single-family use. Regulations for minimum lot size, parking, unit floor area, and consistency with all applicable development regulations for the residential zoning districts would not change as a result of the proposal. The secondary unit would still be required to meet the California Building Code.

The current development standards require that the owner of the property must reside on the property, and an agreement recorded against the property with the County Clerk-Recorder. Staff believes that clarification language be inserted to remove existing ambiguity.

As mentioned previously, State statute requires that applications for secondary dwelling units in residential zoning districts be considered on a ministerial basis rather than through a discretionary review process. It is Staff's opinion that the City must retain its discretionary authority for new construction and exterior alterations to existing structures within City historic districts. The request would prevent potential adverse impacts from the construction of secondary dwelling units on properties listed in the California Register of Historic Places, and those located within a City historic district. The request would require that a proposed secondary dwelling unit within a historic district that would cause a physical change to the exterior of a building or property must comply with City Code Section 10-4-9 (Site Plan Review) and 10-4-10 (Historic Buildings in the City) under a discretionary review process. However, a request for a secondary dwelling unit within a historic district that is accessory to an existing single-family use, and where there is no physical change to the exterior of a building or property, such request would be permitted without discretionary review.

The current Zoning Ordinance definition of a secondary dwelling unit involves a lot or parcel within a single-family residential zone district. The proposal would replace the specific single-family language with the generalized term, "residential", that incorporates both single-family and multi-family residential zone districts.

City Code provisions that classify secondary dwelling units as a conditional use within the RE, R1-A, R1-20,000, R1-10,000 and R1-6,000 residential zones would be deleted. A secondary dwelling unit would be added as a permitted use to RE, R1-A, R1-20,000, R1-10,000 and R1-6,000, as well as the R2, R3 and R4 residential zones to be consistent with State statute.

Granny Housing Units

The request would delete City Code Section 10-4-15 in its entirety. This is due to the inoperative nature of the State statute and the changes in Government Code relating to secondary dwelling units that do not place age restrictions on the occupancy of the secondary dwelling unit.

PLANNING COMMISSION REVIEW

On May 20, 2008, the Planning Commission conducted a public hearing on the above mentioned amendments to the City Zoning Ordinance, recommending approval.

CEQA - ENVIRONMENTAL REVIEW

The draft ordinance amendment is categorically exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines under the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Because there is no possibility that the proposed Zoning Ordinance amendments may have a significant effect on the environment, this project is exempt from CEQA.

RECOMMENDED ACTION

Staff recommends the City Council take the following actions:

1. Adopt the Staff Report as part of the public record.
2. Make the following findings:
 - A. The City of Placerville ("City") City Code currently permits secondary dwelling units subject to approval of a conditional use permit by the Planning Commission;
 - B. Government Code Section 65852.2 requires that all applications for secondary dwelling units in residential zones be considered ministerially, without discretionary review;
 - C. Government Code Section 65852.2 permits local agencies, by ordinance, to retain control over the creation of secondary dwelling units by designating areas within its jurisdiction where secondary dwelling units may be permitted;
 - D. The City has established by ordinance the boundaries of historic districts within the City, as well as a discretionary permit process for the review of all

new buildings within historic districts, as well as, exterior alterations to existing buildings within historic districts that are visible from the street;

E. Government Code Section 65852.2 permits local agencies, by ordinance, to retain some control over the creation of secondary dwelling units by imposing standards on secondary dwelling units that include, but are not limited to, parking, height, setback, lot coverage, maximum size of a unit and architectural review;

F. Government Code Section 65852.1 became inoperative on January 1, 2007, and

G. The project was determined to be categorically exempt from the California Environmental Quality Act per Section 15061(b) (3) of the California Environmental Quality Act (CEQA) Guidelines, in that there is no possibility that the proposed Zoning Ordinance amendments may have a significant effect on the environment.

3. Approve the amendments to the City Zoning Ordinance relating to secondary dwelling units and granny housing.
4. Introduce the attached ordinance, and waive the first reading of the ordinance.

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Table 1: Comparison Chart of Proposed Ordinance Amendments to the Current Zoning Ordinance

The following is a comparison of the proposed zoning ordinance amendments with the current zoning ordinance. Each proposed change is identified separately as underlined text and compared to its corresponding provision in the current ordinance. In some cases, the proposed change is a new provision.

Proposed Zoning Ordinance	Current Zoning Ordinance
<p>Modify Section 10-1-4, Dwelling Unit, Secondary, as follows: One additional dwelling unit on a lot or parcel within a single-family residential zoning district. The criterion for defining a secondary dwelling unit shall be the existence of separate cooking facilities, not merely the addition of a bathroom to single-family units. A secondary dwelling unit may be established by:</p> <ul style="list-style-type: none"> (A) The revision of a single-family unit whereby cooking facilities are not shared in common; (B) The conversion of an attic, basement, garage or other previously uninhabited portion of a single-family unit; (C) The addition of a separate unit onto the existing single-family unit, or (D) The creation of a separate structure on the lot or parcel in addition to the existing single-family unit. 	<p>Section 10-1-4, Dwelling Unit, Secondary: One additional living unit on any one lot or parcel within a single-family residential zoning district. The criterion for defining a secondary dwelling unit shall be the existence of separate cooking facilities, not merely the addition of bathroom to single-family units. A secondary dwelling unit may be established by:</p> <ul style="list-style-type: none"> (A) The revision of a single-family unit whereby cooking facilities are not shared in common; (B) The conversion of an attic, basement, garage or other previously uninhabited portion of a single-family unit; (C) The addition of a separate unit onto the existing single-family unit, or (D) The creation of a separate structure on the lot or parcel in addition to the existing single-family unit.
<p>Modify Section 10-4-12 (A) as follows: It is the intent of this section to <u>further facilitate the creation of secondary dwelling units within the City of Placerville, providing a source of housing within the City by streamlining the application process.</u></p>	<p>Section 10-4-12 (A) It is the intent of this section to maintain the single-family character of established single-family neighborhoods. If the Planning Commission determines that such a use or proliferation of many such uses will adversely affect a single-family area, the permit shall be denied.</p>
<p>Modify Section 10-4-12 (C) as follows: The owner of the property must reside on the property. <u>This agreement must be recorded with the County Recorder-Clerk prior to a certificate of occupancy issued for the secondary unit.</u></p>	<p>Section 10-4-12 (C): The owner of the property must reside on the property, and this must be recorded with the County Recorder.</p>
<p>Replace Section 10-4-12 (F) with the following: <u>The secondary unit shall connect to public sewer and water utilities when they are available, or as required under the California Building Code.</u></p>	<p>Section 10-4-12 (F): Elevations and floor plans shall be approved by the Planning Commission.</p>

Proposed Zoning Ordinance	Current Zoning Ordinance
Modify Section 10-4-12 (I) as follows: The maximum allowable floor area for the secondary unit shall be six hundred forty (640) square feet, or not to exceed thirty five percent (35%) of the original gross floor area of the primary unit, whichever is less.	Section 10-4-12 (I): The maximum allowable floor area for the secondary unit shall be six hundred forty (640) square feet, or not to exceed thirty five percent (35%) of the original gross floor area of the primary unit, whichever is less, unless otherwise approved by the Planning Commission.
Add Section 10-4-12 (M) which states as follows: The parcel on which a secondary dwelling unit is proposed shall be located within a residential zone and have a permitted single-family use.	
Add Section 10-4-12 (N) which states as follows: A request for a secondary dwelling unit located within a City historic district that is accessory to an existing single-family use may be permitted pursuant to this section where there is no physical change to the exterior of a building or property.	
Add Section 10-4-12 (O) which states as follows: A request for a secondary dwelling unit that is located within a City historic district that proposes exterior modifications to a building or property, such request shall comply with the requirements of City Code Sections 10-4-9 and 10-4-10.	
Delete Section 10-4-15: Granny Housing, in its entirety.	Section 10-4-15 et.al.
Modify Section 10-5-4 (B) as follows: <u>Secondary Dwelling Unit, subject to the requirements within City Code Section 10-4-12.</u>	Section 10-5-4 (B): Granny housing unit
Modify Section 10-5-5 (B) as follows: <u>Secondary Dwelling Unit, subject to the requirements within City Code Section 10-4-12.</u>	Section 10-5-5 (B): Granny housing unit.
Modify Section 10-5-6 (B) as follows: <u>Secondary Dwelling Unit, subject to the requirements within City Code Section 10-4-12.</u>	Section 10-5-6 (B): Granny housing unit.
Modify Section 10-5-7 (B) as follows: <u>Secondary Dwelling Unit, subject to the requirements within City Code Section 10-4-12.</u>	Section 10-5-7 (B): Granny housing unit.
Modify Section 10-5-8 (B) as follows: <u>Secondary Dwelling Unit, subject to the requirements within City Code Section 10-4-12.</u>	Section 10-5-8 (B): Granny housing unit.
Modify Section 10-5-9 (B) as follows: <u>Secondary Dwelling Unit, subject to the requirements within City Code Section 10-4-12.</u>	
Modify Section 10-5-10 (B) as follows: <u>Secondary Dwelling Unit, subject to the requirements within City Code Section 10-4-12.</u>	
Modify Section 10-5-11 (B) as follows: <u>Secondary Dwelling Unit, subject to the requirements within City Code Section 10-4-12.</u>	