

TO: JAMES L. APP, CITY MANAGER
FROM: BOB LATA, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: CODE AMENDMENT 03-004 – SECOND UNITS
DATE: JUNE 3, 2003

Needs: To consider a City-initiated amendment to the Zoning Code to revise the regulations for second (dwelling) units.

- Facts:
1. In 1983, the City adopted Ordinance 478 N.S. establishing “senior housing units” as conditional uses in single-family residential zoning districts, subject to the following regulations:
 - Occupants of senior housing units must be 60 years or older;
 - Occupants of senior housing units must be related to the owner of the primary dwelling.
 - Senior housing units must be attached to primary dwelling units and be limited in floor area to no more than 10 percent of the floor area of primary dwellings.
 2. Program 1.15 of the 1994 Housing Element of the General Plan calls for the City to amend the Zoning Code to expand the City’s current second unit (Senior Housing Unit) regulations to increase the allowable floor area, allow detached units, and eliminate the requirement that the occupant be related to the resident of the main dwelling in order to provide more housing opportunities for low- and very-low-income households.
 3. In 1998, the City adopted Ordinance 743 N.S., which made senior housing units permitted uses, subject to approval of a site plan application, which could be approved by the Development Review Committee.
 4. On July 1, 2003, an amended Government Code Section 65852.2, which establishes regulations for second units, becomes effective. Under this law, the City cannot restrict occupancy of second units to seniors and persons related to the owner. Further, it provides that permits for second units must be ministerial, i.e., approvable by staff, applying pre-adopted standards. The City cannot require any discretionary permit process, including review by the Development Review Committee.
 5. Two options for the second unit ordinance have been prepared for the City Council’s consideration:
 - a. Option A: Second units would be permitted on any R-A or R-1 zoned property, regardless of lot size.

- b. Option B: Second units would be permitted on any R-A or R-1 zoned property except those in the Orchard Bungalow area.
6. At its meeting of May 13, 2003, the Planning Commission conducted a public hearing on the proposed ordinance, and on a 5-1-1 vote, recommended that the City Council adopt Option A. The Commission's rationale for their recommendation is discussed in the Analysis Section below.
 7. Public Resources Code Section 21080.17 provides that adoption of an ordinance to implement the provisions of Government Code Section 65852.2 is not subject to environmental review under the California Environmental Quality Act (CEQA).

Analysis and
Conclusion:

The proposed second unit ordinance will apply to R-A and R-1 Zones. (In multi-family zones, second units on lots developed with a single family residence would be considered a "primary unit" – one that is already permitted by the Zoning Code, assuming the lot is large enough to accommodate an additional unit.)

The attached ordinance includes several provisions that serve to ensure compatibility of second units with both primary units and neighboring properties, to prevent the subdivision of lots with second units, and to prevent parking and traffic impacts

Some concern has been expressed about the effect of allowing second units in the Orchard Bungalow subdivision, where streets are much narrower than other areas of the community, and where there has been a tradition of large lot development. Option B would prohibit second units on properties that front onto the streets in that subdivision.

The majority of the Planning Commission expressed beliefs that the large lots in the Orchard Bungalow subdivision are better suited for second units and that the number of second units that would actually be developed would not be enough to create a traffic problem.

The majority of the Planning Commission also believed that: (a) requirements that second units adhere to setback, lot coverage, and building separation regulations would be sufficient to ensure that second units would not be incompatible with neighboring homes; (b) there may be several legal lots smaller than 7,000 sq ft in area that are developed in such a manner that second units may be possible and compatible. Therefore, the majority of the Commission believed that a minimum lot size requirement was not necessary.

Policy

Reference:

General Plan: Housing Element; Government Code Section 65852.2

Fiscal

Impact:

Under the proposed ordinance, second units will be subject to payment of development impact fees (as multi-family units – since they must be rentals), which will avert any m

Options: After consideration of all public testimony, that the City Council consider the following options:

- a. Introduce for First Reading Ordinance No. XXX N.S. amending the Zoning Code to establish regulations for second units; and set June 17, 2003, as the date for adoption of said ordinance.
- b. Introduce for First Reading Ordinance No. XXX N.S. amending the Zoning Code to establish regulations for second units, including the option to prohibit second units in the Orchard Bungalow area; and set June 17, 2003, as the date for adoption of said ordinance.
- c. Amend, modify or reject the foregoing options.

Prepared by:

Ed Gallagher
Housing Programs Manager

Attachments:

1. Ordinance Amending the Zoning Code to Establish Regulations for Second Units
2. Newspaper Notice

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING TITLE 21 (ZONING) OF THE MUNICIPAL CODE
TO ESTABLISH REGULATIONS FOR SECOND UNITS (CODE AMENDMENT 03-004)

WHEREAS, in 1983, pursuant to Sections 65852.1 and 65852.2 of the California Health and Safety Code, the City adopted Ordinance 478 N.S. establishing "senior housing units" as conditional uses in single-family residential zoning districts, subject to the following regulations:

- Occupants of senior housing units must be 60 years or older;
- Occupants of senior housing units must be related to the owner of the primary dwelling;
- Senior housing units must be attached to primary dwelling units and be limited in floor area to no more than 10 percent of the floor area of primary dwellings; and

WHEREAS, the 1994 Housing Element of the General Plan contains the following Policies and Programs:

- Policy 1.1, which calls for maintaining a variety of types of housing and price ranges;
- Policy 1.5, which calls for encouraging the construction of affordable rental housing for very-low-, low-, and moderate income households;
- Program 1.15, which calls for the City to amend the Zoning Code to expand the City's current second unit (Senior Housing Unit) regulations (Chapter 21.16D) to increase the allowable floor area, allow detached units, and eliminate the requirement that the occupant be related to the resident of the main dwelling in order to provide more housing opportunities for low- and very-low-income households; and

WHEREAS, in 1998, the City adopted Ordinance 743 N.S., which made senior housing units permitted uses, subject to approval of a site plan application; and

WHEREAS, in 2002, Section 65852.2 of the California Health and Safety Code was amended to revise regulations governing "second units"; and

WHEREAS, at its meeting of May 13, 2003, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Recommended that the City Council adopt the proposed ordinance; and

WHEREAS, at its meeting of June 3, 2003, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Considered the recommendation of the Planning Commission regarding this code amendment;
- c. Conducted a public hearing to obtain public testimony on the proposed ordinance;

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, finds as follows:

1. The above stated facts of this ordinance are true and correct.
2. This code amendment is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Section 21.08.365 is hereby established to define "Second Unit" as follows:

21.08.365 Second Unit.

"Second unit" means an attached or detached secondary residential dwelling unit on the same lot as an existing single family (primary) dwelling in the R-A or R-1 Zoning Districts (including all B Combining Districts and PD Overlay Districts). A second unit provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel on which the existing single family dwelling is situated. The existing single family dwelling is considered to be a primary use, and the second unit is considered to be an accessory use. Subject to compliance with the second unit regulations in Chapter 21.16D, a second residential dwelling unit may be constructed simultaneously with construction of the primary dwelling. Additionally, an existing single family dwelling may be considered the second unit, and a new residence may be constructed which would then be considered the primary dwelling.

In the R-2, R-3, and R-4 multi-family residential districts, on lots developed with only one existing single family unit, the second dwelling unit to be developed is considered to be a primary use (as is the existing single family dwelling), and not a second unit.

SECTION 2: Section B.4 of Table 21.16.200 is hereby amended to read as shown on the attached Exhibit A of this ordinance.

SECTION 3: Subsection C.1 of Section 21.22.060 is hereby amended to read as follows:

"C. Driveways.

1. Single-Family Residential. No more than four residential dwelling units may be served by a driveway, whether the driveway serves a single parcel or several adjoining parcels. (Exception: Second units developed in accordance with Chapter 21.16D shall not be included in this calculation.) Any access serving five or more residential dwelling units shall be required to be dedicated and improved as a standard city street. Consideration of development potential of adjoining properties that could need to be served by the same access shall be included in the calculation of the number of dwelling units to be served."

SECTION 4: Chapter 21.16D as adopted by Ordinance 483, N.S. and as amended by Ord 635 N.S. is hereby repealed and shall be replaced with a new Chapter 21.16D as shown in Exhibit B.

SECTION 5. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 6. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 7. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the

same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 8. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on June 3, 2003, and passed and adopted by the City Council of the City of El Paso de Robles on the 17th day of June 2003 by the following roll call vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Mayor Frank R. Mecham

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

Exhibit B

Chapter 21.16D

SECOND UNITS

Sections:

21.16D.010	Purpose
21.16D.020	Applicability
21.16D.030	Permit Required
21.16D.040	General Requirements
21.16D.050	Development Standards
21.16D.060	Development Fees

21.16D.010 Purpose.

- A. This Chapter is intended to implement Government Code Section 65852.2, which mandates that the City permit second units in residential zoning districts and which provides that the City may impose certain regulations on the development of second units.
- B. The City recognizes opportunities to implement certain policies and programs of the city housing element of the general plan by providing for and regulating second units.
- C. Implementation of this Chapter is meant to expand housing opportunities for very-low, low- and moderate-income and/or elderly households by increasing the number of rental units available within existing neighborhoods. Second units are intended to provide livable housing at lower cost while providing greater security, companionship and family support for the occupants.
- D. As mandated in Section 65852.2 of the Government Code, second units that comply with this Chapter are considered not to exceed the density limits prescribed within this Title for residential zoning districts.

21.16D.020 Applicability

- A. Where Permitted: Second units shall be allowed in the R-A and R-1 zoning districts (including all B Combining Districts and PD Overlay Districts) except in that area described in subsection “B”, below.

Option: B. Where Not-Permitted: Second units shall not be allowed on R-1 Zoned (including all B Combining Districts and PD Overlay Districts) properties that take access from the following streets, whose right-of-way and paved width are generally 40 feet and 20 feet, respectively, which is not wide enough to safely accommodate additional traffic that would be attributable to second units:

Burro Verde;
Elm Court;
Ivy Lane;
Jackson Drive;
Lyle Lane;
Orchard Drive;
Osos Way;
Palm Court;
Pino Way;
Renata (or Renate) Way;
Trigo Lane, north of Creston Road (but not south of Creston Road);

Vista Grande;
Walnut Drive.

21.16D.030 Permit Required.

A plot plan application, in accordance with Chapter 21.23B, shall be approved by the Community Development Director, or his/her designee, prior to issuance of a building permit for a second unit.

21.16D.040 General Requirements.

- A. No Subdivision of Property. No subdivision of property shall be allowed where a second unit has been established unless the subdivision meets all requirements of the City's zoning and subdivision regulations (Titles 21 and 22 of this Code). Nothing in this section shall prohibit joint ownership of the property where a secondary dwelling unit has been established.
- B. Constructive Notice. The property owner shall record an instrument, on a form approved by the City Attorney, to provide constructive notice to all future owners of the property of the second unit use and the restrictions on subdivision that affect the property. Said instrument shall be recorded in the office of the county recorder prior to issuance of a building permit for a second unit. Said instrument shall run with the land and be coterminous in tenure with the life of the second dwelling unit.
- C. Water and Sewer Service. Second units shall be served by City water and sanitary sewer systems.
- D. Utility Meters. Only one electric, one gas and one water meter shall be allowed on the property and shall serve both the primary dwelling and the second unit.
- E. Garage conversions. Garages may be converted to second units provided that:
 - 1. Replacement covered off-street parking which conforms to Chapter 21.22 and to the underlying zoning district regulations (e.g. setbacks) is provided for the primary dwelling;
 - 2. Off-street parking for the second unit is provided in accordance with this Chapter;
 - 3. Converted garages meet all building code requirements for a dwelling unit.
- F. Guest House. A second unit may not be developed on a lot containing a guest house (separate living quarters without kitchen facilities). However, a guest house may be converted to a second unit, provided that it complies with the regulations set forth in this Chapter and with the regulations for the underlying zoning district.
- G. Recreational Vehicles, Campers, and Travel Trailers: Recreational vehicles, campers, and travel trailers may not be used as second units.
- H. Non-Conforming Use. Only one second unit shall be permitted on a lot. If a lot contains two single family dwelling units that were legally-established as a non-conforming use, as defined by Section 21.08.310, and were established prior to the effective date of the ordinance creating this Chapter, a third dwelling unit, to be considered a second unit, shall not be permitted.
- I. Non-Conforming Primary Dwelling. If the primary dwelling is a non-conforming building as defined by Section 21.08.300, an attached second unit may be developed subject to compliance with Section 21.20.350.
- J. Illegal Second Unit. The establishment or continuance of a second unit contrary to the provisions of this Chapter is declared to be unlawful and shall constitute a misdemeanor and a public nuisance.

21.16D.050 Development Standards

Second units shall be subject to all development standards of the R-A or R-1 Zoning District in which the property is located, except as modified below:

- A. Floor Area. No minimum or maximum floor area is prescribed for second units. All development on a lot, including second units, must conform to the development standards of the underlying zoning district, including, but not limited to, setbacks, building separations, maximum lot coverage, grading limitations, and oak tree preservation.
- B. Lot coverage. The entire lot shall conform to the lot coverage limitation of the zoning district in which the property is located.
- C. Height. Attached second units shall conform to the height limits of the underlying zoning district.
- D. Setbacks. A second unit shall maintain the setbacks required in the underlying zoning district for a primary dwelling. Detached second units shall not be considered as detached accessory buildings for the purpose of determining setbacks.

Exceptions: (1) a second unit may be developed above an existing detached garage whose setbacks conform with those for detached accessory buildings; (2) a second unit may be developed above a new detached garage whose vehicle doors are set back 5 feet from an alley right-of-way.

- E. Building Separations. A minimum separation of ten (10) feet shall be maintained between the primary dwelling and a detached second unit.
- F. Off-Street Parking.
 - 1. Off-street parking for the primary dwelling shall conform to the current parking standards as set forth in Chapter 21.22.
 - 2. Off-street parking for the second unit shall be provided as follows:
 - a. One (1) additional off-street parking space, covered or uncovered, shall be provided for each studio or one-bedroom second dwelling unit; two (2) additional off-street parking space, covered or uncovered, shall be provided for each second unit with two or more bedrooms.
 - b. The additional off-street parking spaces for second units must be on a paved surface; measure 10 feet in width if covered, 9 feet in width if uncovered, and 20 feet in depth; tandem spaces may be approved for second units; in the R-1 Zoning District, the total amount of paved area for parking and driveways shall not exceed the limits set forth in Section 21.16E.320;
 - c. Parking spaces for second units may not occupy driveways and back-up areas that serve garages for the primary dwelling, nor may they occupy circular drives or hammerhead turn-arounds that serve the primary unit (which are intended to provide means by which vehicles can enter a street head-first);
 - d. Tandem parking for second units may be approved by the Community Development Director, or his/her designee, instead of the Planning Commission.
 - e. Parking spaces for second units may occupy areas for required rear and interior side yards;

- f. Primary dwellings with three-car garages may allow one bay and the driveway space in front of the bay to be used for a second unit off-street parking;
 - g. If the lot takes access from a collector or arterial street, as designated in the Circulation Element of the General Plan, parking for second units shall not be designed so that vehicles can only back into the street; for this reason, second units may not be permitted on many lots that take access from a collector or arterial street;
 - h. For lots with frontage on only one street, the Community Development Director, or his/her designee, deny a plot plan application that proposes the situations described below in order to provide access to parking for a second unit:
 - (i) The total amount of paving for parking for both the primary and second unit would exceed 75 percent of the front yard setback; or
 - (ii) For lots with access to an alley, propose to add a new driveway into a collector street, as designated in the Circulation Element of the General Plan; or
 - (iii) For corner lots, provide a new driveway that would create a public safety hazard to pedestrians or vehicles.
- G. Architectural Design. The design of the second unit shall be compatible with the design and scale of the primary dwelling (using substantially the same landscaping, color, materials and design on the exterior).
- H. Attached Second Units. If the second unit is attached to the primary dwelling, each shall be served by separate outside entrances. The interior wall(s) of an attached unit which separate it from the main unit shall be fire-rated according to the most recent Uniform Building Code.

21.16D.060 Development Fees

Since they must be rented, second units, whether attached or detached, shall be considered as multi-family units for purposes of determining City development fees.

