

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: November 10, 2005

COUNCIL DISTRICT: Citywide
SNI AREAS: All

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE, EFFECTIVE AS OF JANUARY 1, 2006 AND EXPIRING AS OF DECEMBER 31, 2006, PROVIDING FOR A LIMITED EXCEPTION TO ORDINANCE NO. 21663 WHICH PRECLUDES SECOND UNITS, AND AUTHORIZING A TEMPORARY SECOND UNIT PILOT PROGRAM FOR THE ISSUANCE OF A MAXIMUM OF 100 SECOND UNIT PERMITS FOR NEW CONSTRUCTION.

RECOMMENDATION

The Planning Commission voted 7-0 to recommend that the City Council adopt the proposed ordinance amending the San Jose Municipal Code to allow a limited exception to Ordinance No. 21663, and authorizing a temporary second unit pilot program, with direction to refine the limitation on storage area to a limitation on the amount of contiguous storage area of 10% of the total floor area of the second unit.

BACKGROUND

On November 9, 2005, the Planning Commission held a public hearing to consider the proposed Municipal Code amendment to authorize a temporary second unit pilot program.

At the hearing, staff briefly explained the proposed amendment.

Commissioner Dhillon commented that Commissioner Zito, who worked on the secondary units issue in the past, should comment on whether the proposed ordinance aligned with the Planning Commission's earlier work on the topic.

Sharon Sweeney spoke in favor of the proposed pilot program and stated that staff had done a good job on public outreach. Phyllis Ward, representing the Affordable Housing Network,

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expressed that the pilot program is a good start in providing additional affordable housing options, especially for seniors.

The public hearing was then closed.

Commissioner Zito asked for clarification on the most recent changes to the proposed ordinance. Staff explained that the changes were relative to the percentage of floor area allowed for storage; loosening of the phrase "identical materials" to "materials of identical color, and similar in texture and appearance"; requiring matching roof forms in addition to a matching roof pitch; that door placement should retain a single-family look and feel; that second unit windows should not provide views into adjacent parcels; and that if there are any existing code violations on the site, then the second unit permit will not be deemed complete until the violations are corrected. Staff further clarified that existing unpermitted units could file an application to legalize the structure, and that these permits would not count towards the limit of 100 total new units.

Commissioner Zito expressed that the ordinance would particularly assist in being able to provide on-site living arrangements for older family members and for the boomerang generation, meaning adult children returning home, in addition to providing affordable housing.

Commissioner Levy noted that there is a maximum size, but no minimum size for second units, and staff responded that the minimums set out in the Housing and Building Codes would apply. Commissioner Levy asked about safety issues in relation to the placement and visibility of the front door of the second unit, and staff responded that the proposed ordinance language was trying to strike a balance between neighborhood compatibility and safety. Commissioner Levy suggested that the language in the ordinance requiring identical colors and materials could be changed to the phrase "similar materials" to allow for additional flexibility and creativity. Staff responded that the requirement for ministerial process makes it necessary to have objective standards that do not require discretion.

Commissioner Campos asked if the total number of units allowed would increase if more illegal units were permitted, and staff concurred.

Commissioner Zito asked if developers could apply for a series of second units on several parcels as part of a new subdivision. Staff responded negatively, because the owner is required to be an occupant of the primary dwelling at the time of application.

The Commission then voted unanimously to recommend approval of the proposed amendment of the Municipal Code.

OUTCOMES

The proposed ordinance amendment would allow for a temporary second unit pilot program to run for one year, and allow up to 100 units of new construction. The second unit pilot program could provide valuable information about the compatibility of second units with the existing neighborhood fabric.

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COORDINATION

Preparation of the proposed ordinance has been coordinated with the City Attorney's Office and the Housing Department. Transmittal of the draft ordinance language is being sent by the City Attorney's Office under separate cover.

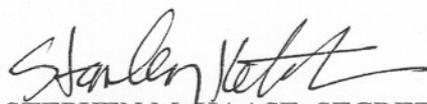
This memorandum has been coordinated with the Housing Department.

PUBLIC OUTREACH

On October 17, 2005, a hearing notice for the proposed ordinance change and for the hearings for the permanent ordinance change was sent to the San Jose Post-Record for publishing. As standard practice, staff posted the staff report and draft ordinance as well as the hearing dates on the Department's website. Staff also sent notification regarding the hearing dates to subscribers of the second units e-mail list.

CEQA

The proposed ordinance, PP05-196, was found exempt from CEQA per Section 15061(b)(3).


STEPHEN M. HAASE, SECRETARY
Planning Commission

Attachment

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