



STAFF REPORT

ZONE TEXT AMENDMENTS TO BELMONT ZONING ORDINANCE 360 REGARDING SECONDARY DWELLING UNITS - Section 2 (Definitions), Section 4 (Residential Districts), Section 8 (Off-Street Parking and Loading), Section 9 (General Regulations), and Section 24 (Secondary Dwelling Unit) in order to comply with California State Law (AB1866)

Honorable Mayor and Council members:

Summary

On February 17, 2004, by a vote of 5 to 1 (1 abstained), the Planning Commission adopted resolutions recommending zoning amendments to Section 2 (Definitions), Section 4 (Residential Districts), Section 8 (Off-Street Parking And Loading), Section 9 (General Regulations), And Section 24 (Secondary Dwelling Unit) of the Belmont Zoning Code. The zone text amendments would revise Belmont's secondary dwelling unit regulations in response to the recently enacted State regulations (AB 1866) for such units.

The City can generally no longer require a Conditional Use Permit or other discretionary approval process for construction of certain types/sizes of new secondary dwelling units under AB 1866. Thus new objective standards must be considered as part of the proposed Zone Text Amendments to the Zoning Code. The Commission believed the draft amendment language allows for maximizing local control of these units within the framework of the new State law.

A copy of the Planning Commission resolution, February 17, 2004 staff report, and meeting minutes are attached to this staff report. A public hearing has been noticed for this item.

Background

The City Council considered the matter in a Study Session at their May 13, 2003 meeting and initiated the amendments to the Zoning Ordinance regarding secondary dwelling units. The Planning Commission has since conducted one Study Session (July 15, 2003), and three public hearings to discuss draft amendments relating to secondary dwelling units. A summary of the discussions at each of these meetings is provided below:

STAFF REPORT

RE: Zone Text Amendments – Secondary Dwelling Units

April 13, 2004

Page 2

October 8, 2003 Commission Hearing

Staff presented draft amendments to the Commission for their review; the amendments included establishing administrative/discretionary thresholds for new units, type (attached or detached) and (minimum/maximum) unit size, and parking/design review considerations to be consistent with AB 1866. After discussion of the proposed amendments the Commission continued the item, requesting additional information on establishing a minimum lot size for such units, other jurisdiction amnesty programs, and draft language clarifications. The Commission also directed staff to assess whether secondary dwelling units could be prohibited in HRO districts (See attachment 8 – 10/8/03 PC Staff Report/Minutes).

February 3, 2004 Commission Hearing

Staff presented revised amendments which included requiring a minimum lot size (5,000 sq. ft. min. with lots under 8,000 sq. ft. needing CUP approval) to establish a new unit. Staff also clarified amendment language (definition of “kitchen”, and “restrictive covenant”) and provided examples of other Cities amnesty programs of which the Commission agreed with staff was not appropriate as part of proposed amendments at this time. Revised amendments also included requiring secondary units and structures w/habitable floor area to maintain a 15-foot rear yard setback (current BZO statute allows accessory structures to be placed within five feet of rear property line).

Staff also indicated that prohibition of secondary units within HRO zones would require making special findings per the California Government Code, and recommended a CUP requirement instead; the Commission concurred with the staff recommendation on this matter. After discussion of the revised amendments (See attachment 7 – 2/3/04 PC Staff Report/Minutes), the Commission continued the item requesting additional information relating to parking requirements and whether lot slope considerations (i.e. lots above a certain slope would be allowed less floor area for the dwelling in total) could be established for new units.

February 17, 2003 Commission Hearing

Staff presented revised parking requirements to establish to secondary units (five or six total off-street spaces (depending on unit size) required for main dwelling/new unit) and two alternatives:

1. Four total off-street spaces regardless of size of unit
2. No change to current standards - three or four total off-street spaces depending on unit size

The Commission discussion resulted in their endorsement of alternative 1 (four total spaces). Staff also provided analysis that imposing a lot slope requirement to establish a new secondary unit would also require making special findings per the California Government Code, and recommended against this action; the Commission concurred with the staff recommendation on this matter.

At the conclusion of discussion on the item, the Commission adopted resolutions recommending

City Council approval of the amendments as presented in this staff report (See Attachment 6 – 2/17/04 Staff Report/Minutes).

No members of the public addressed the Commission at the three public meetings held for review of the draft amendments.

Discussion

Current State Law - AB 1866

The new state law requires Belmont (and other California cities) to apply new standards to the first secondary unit application received after July 1, 2003. (As of the writing of this report, the City has not received any new secondary dwelling unit applications to be considered under the framework of the new state law.) Alternatively, the City may craft an ordinance that adheres to the requirements of state law but also includes standards tailored to community needs and values relating to creation of such units. Based on this option, the Planning Commission recommends the City amend the aforementioned sections of the Zoning Code (Sections 2, 4, 8, 9, & 24) – see below.

The table below summarizes the proposed amendments to the Code as recommended by the Commission. Full text of the proposed amendments follows on page 7 of this report.

| BZO Section | Section Title | Proposed Amendments |
|--------------------|-------------------------------------|---|
| 2 | Definitions | Proposed amendments will allow for construction of a detached secondary unit and eliminate inconsistent language in development standards for such units. (2.2 – Accessory Building) (2.25 – Building, Principal) (2.55 – Dwelling, Single Family) (2.66 – Guest House) (2.104b – Secondary Dwelling Unit) |
| 4 | Residential Zoning Districts | Proposed amendments allow for: <ul style="list-style-type: none"> • Construction of a detached secondary unit • Elimination of inconsistent language in establishing development standards for new units (including maintaining a 15-foot rear yard setback for detached units), the number of allowable units per lot, and type of review (administrative or discretionary) • Creating a CUP requirement to establish secondary dwelling units in the HRO Districts. • Cleanup language in relation to new unit construction for |

STAFF REPORT

RE: Zone Text Amendments – Secondary Dwelling Units

April 13, 2004

Page 4

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| | | <p>existing buildings in the R-3 district</p> <p>(Permitted & Conditional Uses – R-1A, R-1B, R-1C, R-1E, R-1H Single Residential Family Districts) (Section 4.2.3.f – Number of Units) (Rear Yard – Section 4.2.6 – Accessory Structures) (Permitted Uses – R-2 Duplex Residential Districts, & Section 4.3.3.f – Number of Units) (Conditional Uses – R-3 Multi-Family Residential Districts – Section 4.4.2.d) (Conditional Uses – HRO-1, HRO-2, & HRO-3 – Hillside Residential & Open Space Districts)</p> |
| 8 | Off-Street Parking & Loading | <p>Proposed amendments for this section address requiring four total off-street spaces (minimum of two covered) for newly established secondary dwelling units.</p> <p>(8.1.4 & 8.4.1 – Number of Spaces required for Single Family Dwellings and new secondary dwelling units)</p> |
| 9 | General Regulations | <p>Proposed amendments for this section address creating a rear yard setback of 15 feet for detached secondary dwelling units and structures which include habitable floor area.</p> <p>(9.5.4.a – Accessory Buildings – Required Yard Areas) (9.7.3.b – Yard Requirements – Accessory Uses)</p> |
| 24 | Secondary Dwelling Unit | <p>Wholesale changes recommended for this section to establish development standard thresholds to address AB 1866 that include:</p> <ul style="list-style-type: none"> • Type of review (administrative or discretionary) • Minimum lot size (5,000 sq. ft., lots under 8,000 sq. ft. require CUP approval to establish a new unit) • Minimum/maximum unit sizes (min – 275 sq. ft., maximum of 1,200 sq. ft. w/CUP approval) • Parking (four off-street spaces) • Architectural/design considerations • Restrictive covenants <p>Removal of outdated language (growth limitation Ordinance 659) is also proposed.</p> |

Required Findings – Zoning Ordinance Amendments

The only required finding for Zoning Code amendments is that it must “...achieve the objectives of the Zoning Plan and the General Plan for the City” (Section 16.5). Staff notes that there is no Zoning Plan; however, the Zoning Code contains a purpose statement (Section 1.1) that represents the objectives of the City’s zoning regulations:

- 1.1 *PURPOSE – The following regulations for the zoning of land within the City are hereby adopted to promote and protect the public health, safety, peace, comfort, convenience and general welfare, and to provide a precise guide for the physical development of the City.*

The objectives of the Belmont General Plan are contained in its “General Community Goals and Policies”, several of which (listed below) are affected by this proposal. The Commission was required to determine that they are achieved by the proposed amendments.

GENERAL COMMUNITY GOALS AND POLICIES

Goals

2. *To preserve and enhance the attractive, family-oriented and tranquil quality of Belmont’s residential neighborhoods.*
4. *To maintain and enhance the appearance of the City through controlling the location, timing, design and landscaping of new development and encouraging renovation of older areas.*

Policies

1. *New development should be of a scale and character compatible with surrounding land uses and Belmont’s small city environment.*
2. *Intensity of use of land as measured by such factors as parcel size, population density, building coverage, extent of impervious surfaces, public service requirement parking requirements, and traffic movements should be based on the following general principles:*
 - a. *Intensity of land use should decrease as steepness of terrain and distance from major thoroughfares increase.*
 - b. *The lowest intensities of use should occur on the steep hillsides to limit storm runoff, prevent increased erosion, avoid unstable slopes, protect vegetation and watersheds and maintain scenic qualities.*
 - c. *Intensity of use of individual parcels and buildings should be governed by*

STAFF REPORT

RE: Zone Text Amendments – Secondary Dwelling Units

April 13, 2004

Page 6

considerations of existing development patterns, water and air quality, accessibility, traffic generation, parking, noise, fire safety drainage, natural hazards, resource conservation and aesthetics.

- d. Intensity of land use should be regulated according to the availability of community facilities and services.*
- 5. In the more intensely developed and accessible portions of the City, land use should be varied with creative mixing of businesses, professional offices, institutions, and residences.*
- 11. On-street parking should be controlled by requiring provision of off-street parking in new development, construction of additional off-street parking spaces, especially in the Central Business District and near Old County Road, preventing the conversion of space or uses to higher intensities unless adequate off-street parking is provided.*
- 12. Incompatible land uses should be separated by landscaped open spaces, streets or other forms of buffers.*

In taking action on the proposed zone text changes, staff and the Commission believe the secondary dwelling unit amendments achieve the goals and objectives of the Zoning Plan and General Plan within the limits of State Law AB 1866. The proposed amendments provide a more streamlined review process with clear development standards for secondary dwelling units, while still maintaining local control in establishment of such units.

In assessing the Commission recommended zone text amendments, staff believes the Commission's action was reasonable and appropriate. The proposed amendments meet the intent of the California Government Code by providing a non-discretionary option to build an adequately sized secondary dwelling unit in appropriate zoning districts. The Conditional Use Permit and/or Single Family Design Review process will continue to allow the City to evaluate secondary dwelling units which exceed administrative review thresholds relating to the use, access, site/floor plan, parking, size/shape of property, design, and appropriateness within the surrounding area.

Staff also believes the proposed design-related standards recommended by the Commission as part of Section 24 amendments will address the intent of the Single Family Design Review Ordinance (Section 13A), and ensure that new construction is compatible with the architectural style and bulk, roof pitch, height, and materials, colors, and landscaping of the main dwelling. The proposed amendments will also protect and preserve the character and privacy of single-family residential zoning districts by requiring a height limitation (15 feet) for detached accessory units.

By establishing more current and comprehensive development standards for secondary dwelling units, the proposed amendments would generally be more responsive to the physical environment,

STAFF REPORT

RE: Zone Text Amendments – Secondary Dwelling Units

April 13, 2004

Page 7

existing development, and needs of the community. Finally, staff believes the proposed amendments support protecting and promoting the comfort, convenience, and general welfare of those who live and work in Belmont, and advance the goal of providing a precise guide for physical development of the city.

Environmental Clearance (CEQA)

The proposed Belmont Zoning Code (BZO) amendments address establishment of both administrative and discretionary review processes to consider new secondary dwelling units consistent with recent changes in State Law (AB 1866). Other proposed amendments establish associated development standards and create consistency with other Sections of the BZO. In total, the proposed amendments are exempt from the California Environmental Quality Act (CEQA) under Statutory Exemption, Section 15282(i), adoption of a second unit ordinance.

Zone Text Amendment

The 2/17/04 Commission recommended amendments to the City Council for adoption are as follows:

1. Amend Section 2 (Definitions) of the Belmont Zoning Code as follows (new text is denoted in bold *italics*, and text to be deleted is denoted in ~~strikeout~~):

2.2 ACCESSORY BUILDING - A building which is subordinate to, and the use of which is incidental to that of the main building or use on the same lot, ~~but not including any building containing a dwelling unit as hereinafter defined;~~ **including detached secondary dwelling units.**

2.25 BUILDING, PRINCIPAL - A building in which the principal use of the lot upon which it is situated is conducted. Every dwelling in any R District is a principal building. **A detached secondary dwelling unit, as defined herein, is not a principal building.**

2.55 DWELLING, SINGLE-FAMILY - A **principal** building designed for use and occupancy by no more than one family, and containing not more than one kitchen or kitchen facility.

~~2.66 GUEST HOUSE - A detached accessory building containing living quarters, but no kitchen or kitchen facilities, located on the same premises with the principal building, for use by nonpaying guests of the occupants of the premises.~~

2.104b SECONDARY DWELLING UNIT - A secondary dwelling unit is a separate dwelling unit which provides complete, independent living facilities for one or more persons, **located on a lot containing a single-family dwelling as the principal building.** It includes

permanent provisions for living, sleeping, cooking, eating, and sanitation. ~~on the same parcel or parcels as the primary unit is situated. A secondary dwelling unit may be created by either conversion of an existing single-family dwelling or adding onto an existing dwelling.~~

2. Amend Section 4 (Residential Districts) of the Belmont Zoning Code as follows (new text is denoted in bold *italics*, and text to be deleted is denoted in ~~strikeout~~):

4.2 REGULATIONS FOR SINGLE FAMILY RESIDENTIAL DISTRICT - R-1E, R-1H, R-1A, R-1B, AND R-1C - The regulations in this Section shall apply to all land in the R-1E, R-1H, R-1A, R-1B, and R-1C Districts referred to collectively hereinafter as the R-1 Districts, and shall be subject to all the general provisions and regulations of this Ordinance.

4.2.1 PERMITTED USES

- (a) One-family residences in which not more than two paying guests may be lodged and/or furnished meals.
- (b) *Secondary dwelling units in compliance with development standards outlined in Section 24.3, Secondary Dwelling Unit, as set forth herein.*
- ~~(b)~~ (c) Crop and tree farms and gardens.
- ~~(c)~~ (d) Accessory structures and uses located on the same site as a one-family residence for which the use is clearly related to single family dwelling, including the following:
 - 1) Garages and carports. (See Section 9.5.4(a).)
 - 2) Garden structures.
 - 3) Greenhouses.
 - 4) Storage buildings.
 - 5) Recreation rooms.
 - 6) Hobby shops provided that no noisy or otherwise objectionable machinery or equipment is used and provided that no sales are made therefrom.

7) Private swimming pools.

~~(d)~~ (e) Home occupations as defined in Section 2.68.

~~(e)~~ (f) Temporary subdivision sales offices in accordance with the provisions of Section 9.5.2 of this Ordinance.

~~(f)~~ (g) Temporary buildings or trailers used during construction on the site, for a period not to exceed the duration of such construction.

~~(g)~~ (h) Signs as regulated in Section 4.2.8 herein.

~~(h)~~ (i) Television antennas provided that all such antennas shall be attached to the residence structure.

4.2.2 CONDITIONAL USES - The following uses shall be permitted only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:

(o) Secondary *dwelling living* units ~~living~~ *which exceed development standards as outlined in Section 24.3(d), Secondary Dwelling Unit, as set forth herein.*

4.2.3 SITE AREA, DIMENSION AND DENSITY LIMITATIONS.

(f) NUMBER - Not more than one building designed or used as a *single family dwelling, and not more than one secondary dwelling unit, as defined herein*, shall occupy a lot.

4.2.6 REAR YARD - The minimum depth of any rear yard shall be 30 feet in the R-1E *and R-1H* Districts, 20 feet in the R-1A Districts, and 15 feet in the R-1B and the R-1C Districts; provided however, that *nonhabitable* accessory buildings (*i.e. garages and storage sheds*) may be built to within five feet of any rear lot line in the R-1A, R-1B, and R-1C Districts. *Detached buildings which include habitable floor area (including secondary dwelling units) shall meet the minimum rear yard depth requirements of the aforementioned residential zoning districts.*

4.3 REGULATIONS FOR DUPLEX RESIDENTIAL DISTRICTS - R-2 - The regulations in this Section shall apply to all land in the R-2 Districts and shall be subject to all the general provisions and regulations of this Ordinance.

4.3.1 PERMITTED USES

(b) *Secondary dwelling units in compliance with development standards outlined in Section 24.3, Secondary Dwelling Unit, as set forth herein.*

~~(b)~~ **(c)** Two family dwellings or duplex structures.

~~(c)~~ **(d)** Accessory structures and uses located on the same site as a single family or duplex dwelling for which the use is clearly related to a single family dwelling, including the following:

- 1) Garages and carports. (See Section 9.5.4(a).)
- 2) Garden structures.
- 3) Greenhouses.
- 4) Storage buildings.
- 5) Recreation rooms.
- 6) Hobby shops provided that no noisy or otherwise objectionable machinery or equipment is used and provided that no sales are made therefrom.
- 7) Private swimming pools.

~~(d)~~ **(e)** Home occupations as defined in Section 2.68.

~~(e)~~ **(f)** Temporary subdivision sales offices in accordance with the provisions of Section 9.5.2 of this Ordinance.

~~(f)~~ **(g)** Temporary buildings or trailers used during construction on the site, for a period not to exceed the duration of such construction.

~~(g)~~ **(h)** Signs as regulated in Section 4.2.8 herein.

- ~~(h)~~ (i) Television antennas provided that all such antennas shall be attached to the residence structure.

4.3.3 SITE AREA, DIMENSION AND DENSITY LIMITATIONS

- (f) NUMBER - Not more than one building designed or used as a *two family dwelling (duplex), or a single family dwelling and secondary dwelling unit, as defined herein*, shall occupy a lot.

4.4 REGULATIONS FOR MULTI-FAMILY RESIDENTIAL DISTRICTS - R-3, (GARDEN APARTMENTS) - The regulations in this Section shall apply to all land in the R-3 Districts and shall be subject to all the general provisions and regulations of this Ordinance.

4.4.2 CONDITIONAL USES - The following uses shall be permitted only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:

- (d) Any new multi-family residential buildings, additions to floor area for existing multi-family residential buildings, and the addition of dwelling units within existing *multi-family residential* buildings.

4.7 HILLSIDE RESIDENTIAL AND OPEN SPACE (HRO) DISTRICTS (note: HRO-1 applies to unsubdivided, HRO-2 applies to subdivided)

4.7.3 CONDITIONAL USES - The following uses shall be permitted in the HRO-1, HRO-2, and HRO-3 Districts, except as otherwise specified, only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:

- (o) *Secondary dwelling units in compliance with development standards outlined in Section 24.3, Secondary Dwelling Unit, as set forth herein.*

3. Amend Section 8 (Off-Street Parking and Loading) of the Belmont Zoning Code as follows (new text is denoted in bold *italics*):

- 8.1.4 At the time of erection or enlargement of any building containing one or more dwelling units, or of the addition of one or more dwelling units to or within an existing building, unless otherwise prohibited in this Ordinance, there shall be provided and maintained not less than four vehicle spaces - two (2) automobile garage spaces and two (2) spaces which need not be covered – for each new or added dwelling unit in any one or two family structures, and not less than one (1) automobile garage space plus one (1)

additional on-site parking space for each new or added unit in any multi-family. Furthermore, there shall be provided and maintained not less than four vehicle spaces – two (2) automobile garage spaces and two (2) spaces which need not be covered – for each dwelling unit in any one or two family structure when more than one bedroom is being added to such dwelling unit. For purposes of this section, a bedroom shall be defined as any room which is at least 70 square feet in area and includes both a built in closet framed within the walls of the room and a door which separates the room from adjoining floor area within the dwelling unit.

Notwithstanding this section, all secondary dwelling units shall comply with the parking standards set forth in Sections 8.4.1(f) and 24.3(i) of the Belmont Zoning Code.

8.4.1 RESIDENTIAL USES, AS FOLLOWS:

- (f) ***A Single Family Dwelling with a Secondary Dwelling Units - ~~One space for studio and one bedroom units. Two spaces for two bedroom units.~~ Notwithstanding Section 8.1.4, either an existing or new single-family detached dwelling with either a new studio, one-bedroom, or two bedroom secondary dwelling unit shall be provided with four off-street parking spaces (minimum of two automobile garage spaces).***

4. Amend Section 9 (General Regulations) of the Belmont Zoning Code as follows (new text is denoted in bold *italics*, and text to be deleted is denoted in ~~strikeout~~):

9.5.4 ACCESSORY BUILDINGS - Accessory buildings as regulated herein are permitted in any district, if constructed either at the same time as the main building on the lot, or subsequently.

- (a) In any R District, ***nonhabitable*** one story detached accessory buildings (*i.e. garages and storage sheds*) may occupy part, but not more than 40 percent, of the required yard areas; provided however, that no detached accessory building shall be located in front of the main building. ***Detached accessory buildings which include habitable floor area (including secondary dwelling units) shall not occupy the required yard areas.***

9.7.3 YARD REQUIREMENTS - ACCESSORY USES

- (b) ***Nonhabitable*** accessory buildings (*i.e. garages and storage sheds*) may occupy part of the yard area subject to the limitations contained herein; and shall be included in the calculation of lot coverage.

5. Amend Section 24 (Secondary Dwelling Unit) of the Belmont Zoning Code as follows (new text is denoted in bold *italics*, and text to be deleted is denoted in ~~strikeout~~):

SECTION 24 - SECONDARY DWELLING UNIT

- 24.1 Purpose. This chapter is designed to provide for, and to regulate, the establishment of secondary dwelling units in all residential zoning districts. The purpose of permitting secondary *dwelling* units is to promote more efficient use of the City's existing housing stock and to help meet the need for small rental units while preserving the character of the City.
- 24.2 Location. Secondary *dwelling* units shall be allowed ~~on lots~~ *in the following residential zoning districts:*
- *All R-1 Single Family Residential zones.*
 - *For Single Family Dwellings located in R-2, R-3, and R-4 Residential Zones.*
 - *HRO Hillside Residential & Open Space zones upon approval of a Conditional Use Permit by the Planning Commission, as set forth herein.*
- 24.3 Property Development Standards. A secondary *dwelling* unit shall be allowed only if it can exist in compliance with the following standards:
- (a) Zoning Requirements. All site area, density, height and yard area standards of the R-1 zoning districts shall apply to the property proposed for conversion. Both the principal and secondary dwelling *unit* must conform to these zoning requirements.
- (b) Lot Size. The minimum lot size for a secondary *dwelling* unit shall be 5,000 square feet. *Conditional Use Permit approval by the Planning Commission shall be required for all properties having less than 8,000 square feet of total area.*
- (c) *Minimum Unit Size. The minimum size for a secondary dwelling unit shall be 275 square feet.*
- (d) *Maximum Allowable Unit Size with approval of a Building Permit (Administrative)*
- *A detached unit not greater than 399 square feet*
 - *A unit constructed within the building envelope of the existing main dwelling not greater than 640 square feet*

- *A unit combining existing floor area with new floor area not greater than 640 square feet (maximum of 399 square feet outside of building envelope).*
- (e) *Maximum Allowable Unit Size with approval of a Conditional Use Permit by the Planning Commission*
- *Units greater than 640 square feet and up to 1,200 square feet or maximum of 30% of the total floor area of the principal dwelling, whichever is smaller.*
- (f) *Number of bedrooms. A maximum of two bedrooms is allowed for any new secondary dwelling unit.*
- ~~(e) Dwelling Unit Size. Second units erected or established in a residential district shall provide a floor area in compliance with the following:~~

| | Minimum | Maximum |
|-----------------------------|------------------------|------------------------|
| Studio unit | 420 sq. ft. | 780 sq. ft. |
| One bedroom unit | 600 sq. ft. | 780 sq. ft. |
| Two bedroom unit | 780 sq. ft. | 850 sq. ft. |

- (g) *Height. Detached secondary dwelling units shall not exceed 15 feet in height and shall comply with all development requirements of the R-1 Single Family Residential Zoning District.*
- ~~(d)~~ (h) Design. The secondary *dwelling* unit shall be subordinate to the principal *building unit* in size and shall be designed so that the appearance of the principal building remains that of a single-family residence. The secondary *dwelling* unit shall be architecturally compatible with the main structure and shall be constructed of similar materials. *The roof forms and pitches of a secondary dwelling unit shall be consistent with those of the principal building.*
- ~~(e)~~ (i) Off-Street Parking. *Notwithstanding* Section 8.1.4 ~~notwithstanding a~~, *either an existing or new* single-family detached dwelling with *either a new studio, one-bedroom, or two-bedroom* secondary *dwelling* unit shall be provided with ~~three~~ *four off-street* parking spaces (*minimum of two automobile garage*

~~spaces). A two-bedroom second unit shall be provided with four spaces, two of which must be covered.~~

Spaces provided shall meet the size requirements pursuant to Section 8.3.1 and must be paved and located wholly upon the property in fee. **Parking** ~~One~~ spaces may be permitted in tandem in the driveway of a two-car garage if the garage meets minimum setback requirements, adequate on-street parking is available, and the lot configuration precludes placement elsewhere on the property.

~~(f)~~ (j) Occupancy. At least one unit shall be owner occupied.

(k) ***Sale of unit. Title to a secondary dwelling unit may not be transferred separately from title to the primary unit or the underlying land.***

~~24.4 Use Permit. The construction of a second unit shall be permitted only after approval of a Conditional Use Permit by the Planning Commission. The issuance of a use permit shall comply with the procedure and substantive requirements set forth in Section 11 of this Ordinance.~~

~~Prior to its decision, the Planning Commission shall consider traffic impacts, and may consider utility capacity, public facilities capacity, and other potential impacts of second unit development. Conditions proposed by the Public Services Department may also be required for approval.~~

~~24.5~~ 24.4 ~~Restrictions/Conditions~~ ***Additional Development Standards.***

(a) Secondary ***dwelling*** units shall be allowed only on parcels on which one dwelling unit is located. ~~They must be attached to the principal structure.~~

(b) Secondary ***dwelling*** units must comply with all applicable building, ***health***, and fire codes ***and shall be served by sanitary sewer.***

(c) Secondary ***dwelling*** units are allowed ~~for~~ ~~on~~ legal non-conforming ***principal buildings structures*** only if existing setbacks are conformed to.

~~(d) Second units are not subject to the limitations set forth in the City's Growth Limitation Ordinance No. 659.~~

(d) ***Exterior access (such as exterior doors, stairways, and landings) to attached secondary dwelling units shall not be located on the front of the primary dwelling, unless approved by the Planning Commission pursuant to Sections 13A.1(c) & 13A.2 – Single Family Design Review.***

- (e) *No separate curb cuts shall be allowed in the creation of off-street parking for any new secondary dwelling unit. A detached secondary dwelling unit shall be served by the same driveway access to the street as the existing principal building.*
- (f) *A restrictive covenant which mandates owner occupancy of at least one of the units shall be a recorded with the establishment of a new secondary dwelling unit. The restrictive covenant shall be binding upon any successor in ownership of the property and lack of compliance shall void the approval of the unit and may result in legal action against the property owner. The restrictive covenant shall be subject to approval by the City Attorney as to its form and content.*
- (g) *The conversion of any detached accessory structure with non-conforming yard setbacks into a secondary dwelling unit shall be subject to variance review and approval by the Planning Commission pursuant Section 14 (Variances), as set forth herein.*
- (h) *Vehicles of any kind, with or without wheels, and trailers are prohibited as secondary dwelling units.*

Fiscal Impact

None.

Recommendation

Staff recommends that the Council introduce for first reading the attached draft ordinances amending Section 2 (Definitions), Section 4 (Residential Districts), Section 8 (Off-Street Parking and Loading), Section 9 (General Regulations), and Section 24 (Secondary Dwelling Unit) of the Belmont Zoning Ordinance regarding secondary dwelling units.

Alternatives

1. Reject the amendments.
2. Adopt alternative language (Please note that a substantially different proposal may require returning it to the Planning Commission for further review).

Public Contact

For Zone Text Amendment proposals with City-wide impacts, the City Council is required to hold a public meeting as per Section 16.7 (Amendments) of the BZO. The City placed a public notice display ad in the local newspaper of general circulation (San Mateo Times) for a minimum 10-day

STAFF REPORT

RE: Zone Text Amendments – Secondary Dwelling Units

April 13, 2004

Page 17

period beginning on April 3, 2004, for the scheduled public hearing by the City Council on April 13, 2004. Staff has received no public contact as of the date this report was prepared.

Attachments

1. Draft Ordinance amending Belmont Zoning Ordinance 360 regarding Secondary Dwelling Units - Section 2 (Definitions), Section 4 (Residential Districts), Section 8 (Off-Street Parking and Loading), Section 9 (General Regulations), and Section 24 (Secondary Dwelling Unit)
2. February 17, 2004 Planning Commission Staff Report, Resolutions, and Meeting Minutes
3. February 3, 2004 Planning Commission Staff Report and Meeting Minutes
4. October 8, 2003 Planning Commission Staff Report and Meeting Minutes

Respectfully submitted,

Carlos de Melo
Principal Planner

Craig A. Ewing, AICP
Community Development
Director

Jere A. Kersnar
City Manager

ORDINANCE NO. _____

ATTACHMENT 1

ORDINANCE AMENDING SECTION 2 (DEFINITIONS), SECTION 4 (RESIDENTIAL DISTRICTS), SECTION 8 (OFF-STREET PARKING AND LOADING), SECTION 9 (GENERAL REGULATIONS), AND SECTION 24 (SECONDARY DWELLING UNIT) OF

BELMONT ZONING ORDINANCE NUMBER 360 FOR SECONDARY DWELLING UNITS

WHEREAS, on May 13, 2003, the City Council directed staff to evaluate Belmont secondary dwelling unit regulations in addressing requirements of State Law AB 1866, effective July 1, 2003, for Commission consideration of possible amendments to the Belmont Zoning Ordinance (BZO); and,

WHEREAS, on October 8, 2003, February 3, 2004, and February 17, 2004, the Planning Commission, following notification in the prescribed manner, conducted public hearings, at which hearings the Commission considered public testimony and staff memorandums for the zone text amendments, and recommended amendments to Section 2 (Definitions), Section 4 (Residential Districts), Section 8 (Off-Street Parking And Loading), Section 9 (General Regulations), and Section 24 (Secondary Dwelling Unit) of the Belmont Zoning Ordinance for secondary dwelling units; and,

WHEREAS, on April 13, 2004, the City Council, following notification in the prescribed manner, conducted a public hearing, at which hearing the Council considered public testimony and a staff report on the aforementioned amendments; and,

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

WHEREAS, the City Council hereby adopts the staff report (dated April 13, 2004) and the facts contained therein as its own findings of fact; and,

WHEREAS, the City Council finds the proposed amendments are exempt from the California Environmental Quality Act (CEQA) under Statutory Exemption, Section 15282(i), adoption of a second unit ordinance; and,

WHEREAS, the City Council after consideration of all testimony and reports hereby determines that the proposed amendments to Section 2 (Definitions), Section 4 (Residential Districts), Section 8 (Off-Street Parking And Loading), Section 9 (General Regulations), and Section 24 (Secondary Dwelling Unit) of the Belmont Zoning Ordinance, to address secondary dwelling unit standards consistent with the requirements State Law AB 1866, achieves the objectives of the Zoning Plan and the General Plan for the City. The amendments meet the intent of the California Government Code by providing a non-discretionary option to build an adequately sized secondary dwelling unit in appropriate zoning districts. These amendments support protecting and promoting the comfort, convenience, and general welfare of the community, advance the goal of providing a precise guide for physical development of the city, and fulfill the General Community Goals and Policies of the General Plan.

Section 1: NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Belmont that the following Section 2 (Definitions) text of the Belmont Zoning Ordinance be hereby amended to read as follows (Language for 2.66 – Guest House is removed in its entirety):

STAFF REPORT

RE: Zone Text Amendments – Secondary Dwelling Units

April 13, 2004

Page 19

2.2 ACCESSORY BUILDING - A building which is subordinate to, and the use of which is incidental to that of the main building or use on the same lot, including detached secondary dwelling units.

2.25 BUILDING, PRINCIPAL - A principal building in which the principal use of the lot upon which it is situated is conducted. Every dwelling in any R District is a principal building.

2.55 DWELLING, SINGLE-FAMILY - A building designed for use and occupancy by no more than one family, and containing not more than one kitchen or kitchen facility. A secondary dwelling unit, as defined herein, is not a single-family dwelling.

~~2.66 GUEST HOUSE - A detached accessory building containing living quarters, but no kitchen or kitchen facilities, located on the same premises with the principal building, for use by nonpaying guests of the occupants of the premises.~~

2.104b SECONDARY DWELLING UNIT - A secondary dwelling unit is a separate dwelling unit which provides complete, independent living facilities for one or more persons, located on a lot containing a single-family dwelling as the principal building. It includes permanent provisions for living, sleeping, cooking, eating, and sanitation.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City Council of the City of Belmont that the following Section 4 (Residential Districts) text of the Belmont Zoning Ordinance be hereby amended to read as follows:

4.2 REGULATIONS FOR SINGLE FAMILY RESIDENTIAL DISTRICT - R-1E, R-1H, R-1A, R-1B AND R-1C - The regulations in this Section shall apply to all land in the R-1E, R-1H, R-1A, R-1B, and R-1C Districts referred to collectively hereinafter as the R-1 Districts, and shall be subject to all the general provisions and regulations of this Ordinance.

4.2.1 PERMITTED USES

- (a) One-family residences in which not more than two paying guests may be lodged and/or furnished meals.
- (b) Secondary dwelling units in compliance with development standards outlined in Section 24.3, Secondary Dwelling Unit, as set forth herein.
- (c) Crop and tree farms and gardens.

- (d) Accessory structures and uses located on the same site as a one-family residence for which the use is clearly related to single family dwelling, including the following:
 - 1) Garages and carports. (See Section 9.5.4(a).)
 - 2) Garden structures.
 - 3) Greenhouses.
 - 4) Storage buildings.
 - 5) Recreation rooms.
 - 6) Hobby shops provided that no noisy or otherwise objectionable machinery or equipment is used and provided that no sales are made therefrom.
 - 8) Private swimming pools.
- (e) Home occupations as defined in Section 2.68.
- (f) Temporary subdivision sales offices in accordance with the provisions of Section 9.5.2 of this Ordinance.
- (g) Temporary buildings or trailers used during construction on the site, for a period not to exceed the duration of such construction.
- (h) Signs as regulated in Section 4.2.8 herein.
- (i) Television antennas provided that all such antennas shall be attached to the residence structure.

4.2.2 **CONDITIONAL USES** - The following uses shall be permitted only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:

- (o) Secondary dwelling units which exceed development standards as outlined in Section 24.3(d), Secondary Dwelling Unit, as set forth herein.

4.2.3 **SITE AREA, DIMENSION AND DENSITY LIMITATIONS.**

- (f) NUMBER - Not more than one building designed or used as a single family dwelling, and not more than one secondary dwelling unit, as defined herein, shall occupy a lot.

4.2.6 REAR YARD - The minimum depth of any rear yard shall be 30 feet in the R-1E and R-1H Districts, 20 feet in the R-1A Districts, and 15 feet in the R-1B and the R-1C Districts; provided however, that nonhabitable accessory buildings (i.e. garages and storage sheds) may be built to within five feet of any rear lot line in the R-1A, R-1B, and R-1C Districts. Detached buildings which include habitable floor area (including secondary dwelling units) shall meet the minimum rear yard depth requirements of the aforementioned residential zoning districts.

4.3 REGULATIONS FOR DUPLEX RESIDENTIAL DISTRICTS - R-2 - The regulations in this Section shall apply to all land in the R-2 Districts and shall be subject to all the general provisions and regulations of this Ordinance.

4.3.1 PERMITTED USES

- (a) One-family residences in which not more than two paying guests may be lodged and/or furnished meals.
- (b) Secondary dwelling units in compliance with development standards outlined in Section 24.3, Secondary Dwelling Unit, as set forth herein.
- (c) Two family dwellings or duplex structures.
- (d) Accessory structures and uses located on the same site as a single family or duplex dwelling for which the use is clearly related to a single family dwelling, including the following:
 - 1) Garages and carports. (See Section 9.5.4(a).)
 - 2) Garden structures.
 - 3) Greenhouses.
 - 4) Storage buildings.
 - 6) Recreation rooms.
 - 6) Hobby shops provided that no noisy or otherwise

objectionable machinery or equipment is used and provided that no sales are made therefrom.

- 8) Private swimming pools.
- (e) Home occupations as defined in Section 2.68.
- (f) Temporary subdivision sales offices in accordance with the provisions of Section 9.5.2 of this Ordinance.
- (g) Temporary buildings or trailers used during construction on the site, for a period not to exceed the duration of such construction.
- (h) Signs as regulated in Section 4.2.8 herein.
- (i) Television antennas provided that all such antennas shall be attached to the residence structure.

4.3.3 SITE AREA, DIMENSION AND DENSITY LIMITATIONS

- (f) NUMBER - Not more than one building designed or used as a two family dwelling (duplex), or a single family dwelling and secondary dwelling unit, as defined herein, shall occupy a lot.

4.4 REGULATIONS FOR MULTI-FAMILY RESIDENTIAL DISTRICTS - R-3, (GARDEN APARTMENTS) - The regulations in this Section shall apply to all land in the R-3 Districts and shall be subject to all the general provisions and regulations of this Ordinance.

4.4.2 CONDITIONAL USES - The following uses shall be permitted only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:

- (d) Any new multi-family residential buildings, additions to floor area for existing multi-family residential buildings, and the addition of dwelling units within existing multi-family residential buildings.

4.7 HILLSIDE RESIDENTIAL AND OPEN SPACE (HRO) DISTRICTS (note: HRO-1 applies to unsubdivided, HRO-2 applies to subdivided)

4.7.3 CONDITIONAL USES - The following uses shall be permitted in the

STAFF REPORT

RE: Zone Text Amendments – Secondary Dwelling Units

April 13, 2004

Page 23

HRO-1, HRO-2, and HRO-3 Districts, except as otherwise specified, only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:

- (o) Secondary dwelling units in compliance with development standards outlined in Section 24.3, Secondary Dwelling Unit, as set forth herein.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City Council of the City of Belmont that the following Section 8 (Off-Street Parking and Loading) text of the Belmont Zoning Ordinance be hereby amended to read as follows:

- 8.1.5 At the time of erection or enlargement of any building containing one or more dwelling units, or of the addition of one or more dwelling units to or within an existing building, unless otherwise prohibited in this Ordinance, there shall be provided and maintained not less than four vehicle spaces - two (2) automobile garage spaces and two (2) spaces which need not be covered – for each new or added dwelling unit in any one or two family structures, and not less than one (1) automobile garage space plus one (1) additional on-site parking space for each new or added unit in any multi-family.

Furthermore, there shall be provided and maintained not less than four vehicle spaces – two (2) automobile garage spaces and two (2) spaces which need not be covered – for each dwelling unit in any one or two family structure when more than one bedroom is being added to such dwelling unit. For purposes of this section, a bedroom shall be defined as any room which is at least 70 square feet in area and includes both a built in closet framed within the walls of the room and a door which separates the room from adjoining floor area within the dwelling unit.

Notwithstanding this section, all secondary dwelling units shall comply with the parking standards set forth in Sections 8.4.1(f) and 24.3(i) of the Belmont Zoning Code.

8.4.1 RESIDENTIAL USES, AS FOLLOWS:

- (f) A Single Family Dwelling with a Secondary Dwelling Unit - Notwithstanding Section 8.1.4, either an existing or new single-family detached dwelling with either a new studio, one-bedroom, or two bedroom secondary dwelling unit shall be provided with four off-street parking spaces (minimum of two automobile garage spaces).

NOW THEREFORE, BE IT FURTHER ORDAINED by the City Council of the City of Belmont that the following Section 9 (General Regulations) text of the Belmont Zoning Ordinance be hereby amended to read as follows:

9.5.4 ACCESSORY BUILDINGS - Accessory buildings as regulated herein are permitted in any district, if constructed either at the same time as the main building on the lot, or subsequently.

- (a) In any R District, nonhabitable one story detached accessory buildings (i.e. garages and storage sheds) may occupy part, but not more than 40 percent, of the required yard areas; provided however, that no detached accessory building shall be located in front of the main building. Detached accessory buildings which include habitable floor area (including secondary dwelling units) shall not occupy the required yard areas.

9.7.3 YARD REQUIREMENTS - ACCESSORY USES

- (b) Nonhabitable accessory buildings (i.e. garages and storage sheds) may occupy part of the yard area subject to the limitations contained herein; and shall be included in the calculation of lot coverage.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City Council of the City of Belmont that the following Section 24 (Secondary Dwelling Unit) text of the Belmont Zoning Ordinance be hereby amended to read as follows:

SECTION 24 - SECONDARY DWELLING UNIT

24.3 Purpose. This chapter is designed to provide for, and to regulate, the establishment of secondary dwelling units in all residential zoning districts. The purpose of permitting secondary dwelling units is to promote more efficient use of the City's existing housing stock and to help meet the need for small rental units while preserving the character of the City.

24.4 Location. Secondary dwelling units shall be allowed in the following residential zoning districts:

- All R-1 Single Family Residential zones.
- For Single Family Dwellings located in R-2, R-3, and R-4 Residential Zones.
- HRO Hillside Residential & Open Space zones upon approval of a Conditional Use Permit by the Planning Commission, as set forth herein.

24.3 Property Development Standards. A secondary dwelling unit shall be allowed only if it can exist in compliance with the following standards:

STAFF REPORT

RE: Zone Text Amendments – Secondary Dwelling Units

April 13, 2004

Page 25

- (a) Zoning Requirements. All site area, density, height and yard area standards of the R-1 zoning districts shall apply to the property proposed for conversion. Both the principal and secondary dwelling unit must conform to these zoning requirements.
- (b) Lot Size. The minimum lot size for a secondary dwelling unit shall be 5,000 square feet. Conditional Use Permit approval by the Planning Commission shall be required for all properties having less than 8,000 square feet of total area.
- (c) Minimum Unit Size. The minimum size for a second unit shall be 275 square feet.
- (d) Maximum Allowable Unit Size with approval of a Building Permit (Administrative)
 - A detached unit not greater than 399 square feet
 - A unit constructed within the building envelope of the existing main dwelling not greater than 640 square feet
 - A unit combining existing floor area with new floor area not greater than 640 square feet (maximum of 399 square feet outside of building envelope).
- (e) Maximum Allowable Unit Size with approval of a Conditional Use Permit by the Planning Commission
 - Units greater than 640 square feet and up to 1,200 square feet or maximum of 30% of the total floor area of the principal dwelling, whichever is smaller.
- (f) Number of bedrooms. A maximum of two bedrooms is allowed for any new secondary dwelling unit.
- (g) Height. Detached secondary dwelling units shall not exceed 15 feet in height and shall comply with all development requirements of the R-1 Single Family Residential Zoning District.
- (h) Design. The secondary dwelling unit shall be subordinate to the principal building in size and shall be designed so that the appearance of the principal building remains that of a single-family residence. The secondary dwelling unit shall be architecturally compatible with the main structure and shall be constructed of similar materials. The roof forms and pitches of a secondary

dwelling unit shall be consistent with those of the principal building.

- (i) Off-Street Parking. Notwithstanding Section 8.1.4, either an existing or new single-family detached dwelling with either a new studio, one-bedroom, or two bedroom secondary dwelling unit shall be provided with four off-street parking spaces (minimum of two automobile garage spaces).

Spaces provided shall meet the size requirements pursuant to Section 8.3.1 and must be paved and located wholly upon the property in fee. Parking spaces may be permitted in tandem in the driveway of a two-car garage if the garage meets minimum setback requirements, adequate on-street parking is available, and the lot configuration precludes placement elsewhere on the property.

- (j) Occupancy. At least one unit shall be owner occupied.
- (k) Sale of unit. Title to a secondary dwelling unit may not be transferred separately from title to the primary unit or the underlying land.

24.4 Additional Development Standards.

- (a) Secondary dwelling units shall be allowed only on parcels on which one dwelling unit is located.
- (b) Secondary dwelling units must comply with all applicable building, health, and fire codes and shall be served by sanitary sewer.
- (c) Secondary dwelling units are allowed for legal non-conforming principal buildings only if existing setbacks are conformed to.
- (d) Exterior access (such as exterior doors, stairways, and landings) to attached secondary dwelling units shall not be located on the front of the primary dwelling, unless approved by the Planning Commission pursuant to Sections 13A.1(c) & 13A.2 – Single Family Design Review.
- (e) No separate curb cuts shall be allowed in the creation of off-street parking for any new unit. A detached secondary dwelling unit shall be served by the same driveway access to the street as the existing main dwelling.
- (f) A restrictive covenant which mandates owner occupancy of at least one of the units shall be a recorded with the establishment of a new secondary dwelling unit. The restrictive covenant shall be binding upon any successor in ownership of the property and lack of compliance shall void the approval

of the unit and may result in legal action against the property owner. The restrictive covenant shall be subject to approval by the City Attorney as to its form and content.

- (g) The conversion of any detached accessory structure with non-conforming yard setbacks into a secondary dwelling unit shall be subject to variance review and approval by the Planning Commission pursuant Section 14 (Variances), as set forth herein.
- (h) Vehicles of any kind, with or without wheels, and trailers are prohibited as secondary dwelling units.

SECTION 2: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 3: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 4: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

INTRODUCED this _____ day of _____, 2004.

* * * * *

PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the _____ day of _____, 2004.

AYES,
COUNCIL MEMBERS: _____

NOES,
COUNCIL MEMBERS: _____

ABSENT,
COUNCIL MEMBERS: _____

ABSTAIN,
COUNCIL MEMBERS: _____

RECUSED,
COUNCIL MEMBERS: _____

STAFF REPORT
RE: Zone Text Amendments – Secondary Dwelling Units
April 13, 2004
Page 28

MAYOR, City of Belmont

ATTEST:

CITY CLERK, City of Belmont

PLEASE NOTE:

Attachments 2, 3, and 4 are not included as part of this document – please contact the City Clerk’s Office at (650) 595-7413 for further information on these attachments.

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