

April 9, 2003

To: Sutter County Planning Commission

Re: Agenda Item #6: Public hearing on Zoning Code Amendment #03-02 - provisions for second residential units as a permitted use in the R-1 (One Family Residence) District; located Countywide; initiated by the Sutter County Board of Supervisors

### **Background**

Currently, the Sutter County Zoning Code allows second dwelling units by use permit in R-1 Districts. The provisions allowing the second unit were as a result of changes to the Government Code that occurred in 1994. The changes by the State that occurred that year allowed local agencies to adopt a local ordinance that limited where and how a second unit would be allowed. When Sutter County adopted its ordinance, among other provisions, the County included provisions that required the approval of a use permit for a second unit and limited them to the R-1 District.

In 2002, the State Legislature adopted Assembly Bill 1866 (AB 1866). That bill amended Government Code Section 65852.2 to allow two dwelling units on parcels that are zoned “for single-family or multiplefamily use” as a permitted use (see attached Exhibit A, “Excerpts from AB 1866”). This section becomes effective on July 1, 2003. The change is not specifically limited to just residentially zoned property. The change allows two residential units as a permitted use in any zoning district where residential uses are otherwise permitted uses; e.g., R-1 (One-family Residential) Districts, RE (Residential Estates) Districts, AG (General Agricultural) Districts, A-2 (Exclusive Agricultural) District, etc.

Similar to the changes that occurred in 1994, the language of the AB 1866 change allows a local jurisdiction the option of adopting an enabling ordinance that may limit the area where the new provision would apply - e.g., allowing the second unit in the R-1 District only rather than in any district where a residence is a permitted use - and to apply specific standards to the second unit’s implementation - e.g., unit size, parking requirements, conformance with general plan density, et cetera.

On March 25, 2003, staff discussed this issue with the Board of Supervisors and recommended that the Board initiate an amendment to the Zoning Code pertaining to second units.

In the summary of possible provisions for inclusion in a new second unit ordinance, staff offered the following suggestions, many of which are taken from the County's existing Zoning Code provisions for second dwelling units by use permit:

#### Suggested Provisions for Second Units on Residential Lots

- Second units shall be allowed only in the R-1 Districts.
- Second units shall conform to the General Plan density for the subject property.
- The property owner shall reside in the primary residence.
- The second unit may be an attached addition to an existing single-family home, a conversion of existing space within a single-family home or a detached unit on the same lot meeting setback requirements. If a mobile home is used as the second unit, it shall comply with the Performance Standards for Mobile homes in a Residential District as specified by this Chapter.
- If the second unit is attached to the primary residence, its size shall not exceed 30 percent of the living area or floor area of the primary residence and in no case shall the second unit exceed 1,200 square feet in living area.
- Both units must comply with current Environmental Health Division's requirements for on-site septic systems.
- The second unit shall meet the parking requirements for second units found in section 1500-8112 of the Zoning Code.
- Tandem parking shall not be allowed.
- Parking in the frontyard setback shall not be allowed.
- The size of the parcel on which the second unit is to be constructed shall be at least fifty (50) percent greater than the minimum lot area required for the R-1 Zone.
- The design and exterior finish of the second unit shall be substantially similar to the existing primary residence in architectural style, color, exterior materials, and roofing color, materials and design.
- The second unit shall have a separate entry way.
- The paved driveway area within the required front setback area shall not exceed six (6) percent of the lot area.

At the conclusion of the discussion, the Board initiated a change in the Zoning Code and directed staff to proceed with preparation of an ordinance and public hearing.

#### **Environmental Consideration**

As part of its actions mandating second units as permitted uses, the State also adopted a new statutory exemption under the California Environmental Quality Act for second unit ordinances. The proposed Zoning Code amendment is exempt from further environmental review under statutory exemption section 15282(i).

## **Staff Comments**

The attached, proposed ordinance allows second dwelling units in the R-1 District as a permitted activity when those units meet the standards outlined (see Exhibit B). Many of the requirements or standards are substantially the same as now required by use permit for second units. Staff has included a few new provisions allowed by AB 1866 pertaining to site design and minimum requirements, as well as provisions requiring that the new unit match the existing dwelling in architectural style, color, exterior materials, and roofing color, materials and other design features.

Without some form of local ordinance as noted above, any property that allows residential uses as a permitted use would be allowed two residences. This provision would apply to all agricultural districts, the non-open space portion of the FPARC District, the Ranchette District, the Residential Estate District, and all residential districts. The ordinance as proposed limits second units as permitted uses to only the R-1 District and also requires any such units to meet General Plan density requirements, thereby, conforming to the General Plan.

Staff has also included in the ordinance requirements that all second units shall comply with the requirements for yard setbacks, lot coverage, and parking requirements as found in the Zoning Code. Although seemingly an obvious requirement, the provisions of AB 1866 allows both tandem parking and parking in the required front setback area for the second unit unless the local agency prohibits it by special action. Along with the special action, the local agency is required to make findings supporting the action.

In Sutter County, the front yard setback area generally has three important purposes. First, the setback provides an aesthetically appealing buffer along residential streets providing separation from buildings and the street. This buffer lessens the harsh appearance found in many downtown urban settings of larger cities where no such setback exists by providing an area for landscaping to softening of the structure's appearance and separate it from the street.

Second, the front yard provides a public safety function for separation of the street and property. This separation is important to remain open in order to (1) provide for the safe backing movement of vehicles from the garage to the public street, (2) to provide a clear view of the property to discourage trespassers and other criminal intent, and (3) and to provide a separation for fire safety purposes

The last purpose is that since most unincorporated properties in Sutter County are on an individual sewage disposal system, the frontyard setback provides a location for the sewage disposal system and required sewage field replacement area.

## **Recommended Findings**

1. Adoption of the proposed Zoning Code amendment is a statutory exempt activity under the California Environmental Quality Act guideline section 15282(i).

2. The proposed amendment would allow residential uses in the Low Density Residential designation of the General Plan at a density that is within the allowable density range for that designation; therefore, the amendment is consistent with both the land use designation or the General Plan and the residential density ranges policies allowed by the General Plan.
3. The proposed use is for residential uses allowed in the R-1 District and is therefore consistent with the Sutter County Zoning Code.
4. Parking for the proposed second unit shall conform to existing community standards pertaining to the location and design requirements in that those standards provide for the aesthetic enhancement of the community, for the enhanced public safety of the community, and in order to meet the minimal environment health requirements for sewage disposal.

### **Recommended Action**

Recommend to the Board of Supervisors that the Board:

1. Adopt the recommended findings.
2. Approve adoption of the attached Zoning Code amendment (Exhibit B).

Sincerely,  
LISA PURVIS WILSON  
INTERIM PLANNING DIVISION CHIEF

Dale Follas  
Associate Planner

Attachments: Exhibit A - Excerpt from Assembly Bill 1866 of 2002 Section 65852.2  
Exhibit B - Proposed Second Unit Ordinance

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