PUBLIC HEARING

SUBJECT: ZONING ORDINANCE AMENDMENT 3-2002, GENERAL AMENDMENT OF THE ZONING ORDINANCE PERTAINING TO SECOND UNITS (ARTICLE 21, SPECIAL USES)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On November 19, 2002, the City Council directed Staff to prepare a Zoning Ordinance Amendment pertaining to standards for the development of Second Units to bring the City’s Codes into compliance with State Law. Currently, the City Zoning Ordinance allows construction of Second Units subject to a variety of standards and only upon approval of a Conditional Use Permit by the City Council. The proposed Zoning Ordinance Amendment would streamline that process as required by State Law by authorizing the Zoning Administrator (Community Development Director) to consider and approve applications for construction of Second Units. The proposed changes also modify certain development standards to bring them into compliance with the State Law and to clarify existing standards.

Staff has included a copy of the existing Zoning Ordinance. Also included in the attached Staff Report is a proposed Ordinance for City Council consideration.

Amendment of Articles 2, 21, and 30, as reflected in the attached staff report and draft ordinance, will accomplish the intention of bringing local ordinances into compliance with State Law.

RECOMMENDATIONS: That the City Council approve the draft ordinance.

ATTACHMENTS:

1. Complete Staff Report
PUBLIC HEARING

STAFF REPORT

SUBJECT: ZONING ORDINANCE AMENDMENT 3-2002, GENERAL AMENDMENT OF THE ZONING ORDINANCE PERTAINING TO SECOND UNITS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT-PLANNING DIVISION

PROJECT DETAILS:

Section 2103.A.(14) of the zoning ordinance allows property owners to build a second unit (granny flats) on a parcel which contains a single-family residence. A second unit is a complete residential living area including kitchen facilities. Guest houses, by contrast, lack kitchen facilities and are less tightly regulated. Second units are conditionally allowed in the R-A, R-E, R-1-8 and R-1 zoning districts only, subject to a variety of standards and only upon approval of a Conditional Use Permit by City Council.

Over time, the state has passed several pieces of legislation mandating greater flexibility and acceptance of second units. In an effort to comply with various changes to State Law, Staff is recommending approval of the proposed code amendments.

PROPOSED AMENDMENTS:

ARTICLE 21-SPECIAL USES

Section 2103.A(14) requires a Conditional Use Permit to build a second unit, however, State Law no longer allows such a process. Approval of a second unit is exempt from CEQA, however, the Zoning Ordinance requires environmental review and mitigation as a part of a second unit application. There is no need to keep this requirement in the ordinance.

Section 2103.A (14.j) requires that “The second unit shall not have any type of door, entryway or vehicle parking facilities along the same street frontage as the front entrance of the primary structure.” Staff recommends that this be reworded as follows: “The entrance to second unit shall be separate and installed in a manner as to negate an obvious indication of the two units in the same structure.” The current City Code allows an existing unit’s floor area to be increased by no more than fifteen (15) percent, however, State Law allows up to a thirty (30) percent increase in the existing floor area. Minor changes are also proposed to the list of required application materials.
All “Special Uses” listed in Article 21 require approval of a Conditional Use Permit. In order to comply with AB 1866, which prohibits the use of a discretionary process for the consideration of Second Units, Staff recommends that the entire section be relocated to Article 30, Zoning Administrator. This would give authority to review proposals for compliance with the adopted standards to the Zoning Administrator.

This action will be accompanied by various Zoning Ordinance renumbering actions.

STAFF ANALYSIS:

The proposed Zoning Ordinance Amendments will create a balance between the City and State requirements for second units. The proposed Zoning Ordinance regulations pertaining to Second Units are being moved to Article Thirty: Zoning Administrator. The Zoning Administrator will have the authority to issue permits to build Second Units. The proposal includes several recommendations from the staff.

ENVIRONMENTAL:

The general rule set forth in 14 Cal. Admin. Code 15061(b)(3) applies to the proposed amendment since it can be seen with certainty that there is no possibility that adoption of the proposed regulation will have a significant effect on the environment.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. Approval of the proposed Zoning Ordinance would significantly reduce the limitations on construction of second units. Also, the proposed Zoning Ordinance will bring the City Ordinance into compliance with the State Law.

2. Denial of the proposed Zoning Ordinance would result in keeping the current Zoning Ordinance restrictions in place, however, those portions which do not comply with the State Law would be subject to challenge.

RECOMMENDATIONS: That the City Council approve the draft ordinance.

ATTACHMENTS:

1. Draft Ordinance
2. Sample Deed Restriction
ORDINANCE NO._______

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING
ORDINANCE NO.1198 BEING THE ZONING ORDINANCE OF THE PORTERVILLE
MUNICIPAL CODE, PERTAINING TO SECOND UNITS

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of November 16, 2002, conducted a public hearing to consider a General Amendment of
Zoning Ordinance 1198 adding provisions to Articles 2 and 21 of the Zoning Ordinance of the
City of Porterville; and

WHEREAS: The proposed General Amendment of the Zoning Ordinance will allow the
construction of a second unit with an existing home.

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of
Porterville does hereby amend Ordinance No.1198 as follows:

SECTION 1: Article 2 is hereby amended as follows:

SECTION 201(A)7.
SECTION 221(A)2.

Applications for second units in R-A, R-E, R-1-8, and R-1 shall be approved by
the Zoning Administrator as described in Article 30.

SECTION 2: Article 21 is hereby amended as follows:

SECTION 2103(A)14.

ARTICLE TWENTY-ONE

SECTION 2103: USES INCLUDED

(This section of Article 21 is being moved to Article 30)

14. Second Units: A second dwelling unit, in addition to the first single family dwelling unit
on a lot may be conditionally allowed in the R-A, R-E, R-1-8, and R-1 zoning districts
only, subject to the following standards:

a. Application must be accompanied by Location Map and Site Plan drawn to
scale showing:

1. Existing and proposed structures and additions, if any;

2. Floor plan of existing and proposed structures;
3. Orientation of lot and structure(s) on the lot;

4. Access and parking:

b. The applicant for a second unit shall be an owner/occupant and shall occupy either the primary or secondary dwelling unit.

e. Either the primary or secondary unit may be for rental purposes and neither unit may be sold separately.

d. No application under this section shall be considered for lots less than 6,000 square feet in area.

e. The lot for which an application has been made shall contain an existing single-family unit on or before the effective date of this amendment.

f. The second unit shall provide, separate, independent living quarters for one family.

g. An existing single-family dwelling may be converted into two dwelling units.

h. If an increase in the floor area is involved, said increase shall not exceed fifteen (15) percent of the existing living area.

i. No detached structure or mobile home may be permitted as a second unit.

j. The second unit shall not have any type of door, entryway or vehicle parking facilities along the same street frontage as the front entrance of the primary structure.

k. Second units shall conform to the height, setbacks, lot coverage and other zoning requirements of the zoning district in which the site is located, other requirements of the zoning ordinance and other applicable City codes.

l. Second units shall be provided with one covered parking space, in addition to parking required for the existing residence.

m. The second unit shall be provided with adequate vehicle access but not from the same frontage as the primary structure, unless such access utilizes existing facilities.

n. The application shall address and demonstrate appropriate mitigation for each of the following potential environmental impacts:
1. The ordinance allows additional density of development in single-family zones, thereby resulting in increased lot coverage and increased storm water runoff.

2. The ordinance allows an increased density of dwelling units and increased population density in single-family areas.

3. The ordinance allows an increased number of rental units, affecting both the existing neighborhoods and available rental housing stock, to some extent.

4. The increased density of units in the single-family zoned areas will result in an increase in on-street parking by visitors, as well as the additional residents.

5. The increased density of development will increase the potential fire hazard in these areas.

6. There may be some additional need for maintenance or other governmental services to provide for the anticipated increase in housing units.

7. While, in most cases, the increase in density anticipated would not be such that existing service lines could not accommodate these units, the increase in density will increase demand for water and sewer and could impact some areas which are presently near capacity.

8. There would be some impact on the number of trash pickups due to the increased density of dwelling units in these areas.

9. It shall be the owner's responsibility to put a flag on the title of the property that describes the limitations of the conditional use permit, specifically that the owner shall occupy either the primary or secondary unit. No building permits shall be issued before evidence of satisfactory compliance with this section has been presented to the City Planner.

SECTION 3: Article 30 is hereby amended as follows:

Section 3001: Matters considered by Zoning Administrator.

A. The Zoning Administrator shall have and decide the following matters:

(Add) 7. Application for second unit in R-A, R-E, R-1-8, and R-1 zones.
Section 3009: Second units

A. A permit will be issued as a ministerial matter for a second dwelling unit, in addition to the first single-family dwelling unit on a single-family residential lot when all of the conditions below are met.

B. Such permits may be processed and issued as an administrative matter by the Zoning Administrator after review and consideration of the application without requirement of hearing. A second unit will be allowed in the R-A, R-E, R-1-8, and R-1 zoning districts only, subject to the following standards:

1. Application must be accompanied by Location Map and Site Plan drawn to scale showing:
   a. Application Fees.
   b. Existing and proposed structures and additions, if any.
   c. Floor plan of existing and proposed structures.
   d. Orientation and dimension of lot and structure(s) on the lot.
   e. Adjacent streets.
   f. Access and parking.

2. Notwithstanding the portions of Article 25 (Nonconforming Structures) the primary unit must meet all City codes including the height, setback, lot coverage, parking, and other zoning requirements. Any nonconforming structures must be corrected prior to construction of second unit.

3. Either the primary or secondary unit may be for rental purposes and neither unit may be sold separately.

4. The total area of floor space of a detached second unit shall not exceed 1,200 square feet.

5. The second unit shall provide separate, independent living quarters for one family.

6. An existing single-family dwelling may be converted into two dwelling units.

7. If an increase in the floor area is involved, said increase shall not exceed thirty 30 percent of the existing living area or the minimum area of an efficiency unit as described in section 17958.1 of the California Health and Safety Code, whichever is greater.
8. The second unit shall be attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot.

9. The entrance to an attached second unit shall be separate from the entrance to the first unit and shall be installed in a manner as to negate an obvious indication of two (2) units in the same structure.

10. Second units shall conform to the height, setbacks, lot coverage and other zoning requirements of the zoning district in which the site is located, other requirements of the zoning ordinance and other applicable City codes.

11. In addition to parking required for the existing residence, an additional one covered space for efficiency units and one bedroom units, two covered parking spaces for two, three, and four bedroom units, and one parking space per bedroom thereafter shall be provided.

12. Access to parking for the primary and second unit shall be provided via a paved driveway in compliance with City codes and shall be fully accessible for vehicular parking.

13. A second unit shall be designed and constructed so as to blend with and complement the existing single-family unit in terms of height, roofing, siding materials and color.

14. One unit shall be occupied by the owner of the lot as long as the second unit exists. Prior to issuance of a building permit a deed restriction shall be recorded to this effect. A covenant running with the land shall be recorded by every second unit applicant, permitting the City to enforce these provisions at the cost of the owner. Proof of recordation shall be sent to the Community Development Director and kept on file.

SECTION 4: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

___________________________
Mayor

ATTEST:

___________________________
City Clerk
CITY OF PORTERVILLE
PLANNING DEPARTMENT
291 WEST MAIN STREET
PORTERVILLE, CA 93257

COVENANT AND AGREEMENT
SECOND FAMILY UNIT

STATE OF CALIFORNIA )
COUNTY OF TULARE ) SS

That we, ____________________________, are the owners of the hereinafter described real property, and that we are the only persons having any interest in the real property described as follows:

in the Office of the County Recorder of said county which property is located and known as _______________________________ in the Office of the Porterville, California.

That we, in consideration of an approval to permit on said above described and located property a/an ___________ X ______ sq. ft. Second Family Unit do hereby promise, covenant and agree to and with said City of Porterville, a Municipal Corporation, that said Second Family Unit and usage shall comply with the following provisions:

1. The second unit may be rented but shall not be sold except in conjunction with the entire lot and the original first unit.
2. The approval for a second unit shall become null and void upon transfer of ownership of the subject property before the approval vests.
3. One unit shall be occupied by the owner of the lot as long as the second unit exists.
4. All construction and installations will be in conformity with the City of Porterville Building, Zoning and other applicable ordinances.

This covenant and agreement shall run with the land and be binding upon any future owners, heirs or assigns until such time as the Zoning Regulations of the City of Porterville automatically permit the use or purpose hereinafore referred to, or until other arrangements have been made with said City.

Dated: This ______________ day of _________________, 2 ______.

Signature ___________________________ Signature ___________________________

Address ______________________________

APPROVED AS TO FORM

City of Porterville, Planning Division

(Notary on next page)
IN WITNESS THEREOF, the parties have hereunto set their hand this

________ day of ________________, ____________.
(day)                                      (month)                             (year)

STATE OF CALIFORNIA  )
COUNTY OF TULARE  ) ss.

On __________________________, before me, ________________________________,

Date                                                                                   Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared ______________________________________________________________,

Name(s) of Signer(s)

☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

________________________________________
Signature of Notary Public

Place Notary Seal Above