

## **POLICY FOR SECONDARY UNITS IN RURAL RESIDENTIAL AND AGRICULTURAL AREAS**

Recommended by the Planning Commission May 18, 1998

Adopted by the Board of Supervisors July 2, 1998

Revised October 1, 2001<sup>1</sup>

### **Parcels in the R-1 (Single Family Residence) District Requiring a 40,000 square foot or Larger Parcel Size and Parcels in the A (Agriculture) District that are Twenty-five Acres or Less in Size**

This policy applies to:

- 1) All R-1 (Single Family Residence) zoned properties requiring a 40,000 square foot or larger parcel size;
- 2) All PD (Planned Development) Districts based on R-1 (Single Family Residence, 40,000 square foot [or larger] m.b.s.a.) District requirements;
- 3) All parcels that are 25 acres or less in size in the A (Agriculture) District; and
- 4) All parcels that are 25 acres or less in size in PD (Planned Development) Districts that are based on the A (Agriculture) District requirements.

Parcel size should be a minimum of 40,000 square feet unless the site is served by public sewer and water. Secondary units on all rural residential parcels and on agricultural parcels that are 25 acres or less in size will be processed through individual rezoning applications to a PD (Planned Development) District that will be submitted to the Planning Commission and Board of Supervisors for consideration. This process will allow the merits of each case to be evaluated individually, with due consideration given to any other applications that might have been approved or disapproved in the past. This case-by-case analysis will ensure that the appropriate standards will be met and the character of the neighborhood maintained.

The standard conditions of approval attached to this policy, as well as such other conditions as deemed appropriate, should be imposed on secondary units on rural residential parcels and on agricultural parcels that are twenty-five acres or less. In addition, a condition requiring the periodic monitoring of septic systems should be imposed on parcels five acres or less in size.

The following are general criteria for the evaluation of applications for secondary dwelling units on all rural residential parcels and on agricultural parcels of 25 acres or less in Alameda County:

1. A property should have at least 3 legal parking spaces independently accessible from the street, not located in the front or street side yards, plus 1 additional parking space anywhere on the lot; b) attached secondary units should have a direct external entry and be a maximum of 1,200 square feet in living area; c) detached secondary units are limited to one story, a minimum of 10 feet from the existing dwelling, a maximum of 1,200 square feet in living area, subordinate to the existing principal single family residence by size, appearance, and location. The 1,200 square foot secondary unit size should be the maximum; the actual size should be determined through the rezoning process and be based on such issues as topography, building envelope, building setbacks, size of the principal residence, relationship of the secondary unit to the principal unit, grading, access, water and sewage disposal

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1. Revised to reflect resolution of North Livermore Subarea B as a result of passage of Measure D, November, 2000. See page 6.

systems, neighborhood issues, and other environmental constraints. Detached secondary units may be higher than 15 feet in order to be architecturally consistent with the principal dwelling.

2. Secondary units should be permitted only on the same building envelope as the principal residence and access to the secondary unit should be provided only from the same road that provides access to the principal residence. The building envelope will be determined through the rezoning process.
3. Secondary units should not be permitted on lots where gaining access to the lot will create a traffic hazard.
4. Secondary units should be permitted only on lots where adequate water and sewage disposal systems are or can be made available. Shared water and sewage disposal systems between the principal unit and the secondary unit are permissible subject to the approval by the Alameda County Environmental Health Department. Water and sewage disposal systems should be subject to periodic review by the Environmental Health Department. For parcels that are less than ten acres in size and are within the boundary of the Alameda County Flood Control and Water Conservation District, Zone 7, approval from Zone 7 for additional septic loading must be provided at the time of application for a secondary unit.
5. Secondary units should be permitted only on properties that are well maintained. The secondary unit should be architecturally consistent with the principal dwelling on the property.
6. Secondary units should only be permitted on properties that have adequate water supply and access to meet the State Response Area Rural Fire requirements.
7. An existing primary unit that is 1,200 square feet or less in size may be declared a secondary unit for the purposes of meeting secondary unit size restrictions.

### **Parcels in the A District Larger than 25 Acres and Less than 100 Acres**

This policy applies to:

- 1) All parcels that are larger than 25 acres but less than 100 acres in the A (Agriculture) District; and
- 2) All parcels that are larger than 25 acres but less than 100 acres in PD (Planned Development) Districts that are based on the A (Agriculture) District.

Secondary units located on the same building envelope as the primary unit on agricultural parcels that are larger than 25 acres but less than 100 acres will be processed through Site Development Review for which the Planning Commission shall be the approval authority, with appeal to the Board of Supervisors. While the intent of this policy is to discourage secondary units not located on the same building envelope as the primary unit (see below), they may be considered through a rezoning of the site to a PD (Planned Development) District. This process will allow the merits of each case to be evaluated individually, with due consideration given to any other applications which might have been approved or disapproved in the past. This case-by-case analysis will ensure that the appropriate standards will be met and the character of the area will be maintained.

The following are general criteria for the evaluation of applications for secondary dwelling units on agricultural parcels that are larger than 25 acres but less than 100 acres in Alameda County:

1. The secondary unit should be a maximum of 2,000 square feet; the actual size will be determined through the review process and be based on such issues as topography, building envelope, building setbacks, size of the principal residence, relationship of the secondary unit to the principal unit, grading, access, water and sewage disposal systems, neighborhood issues, and other environmental constraints. The secondary unit should meet all development standards that apply to primary dwelling units in the A (Agriculture) District.
2. Secondary units should be permitted only on the same building envelope as the principal residence. Access to the secondary unit should be provided only from the same road that provides access to the principal residence, unless need can be demonstrated for separate access. The building envelope will be determined through the review process. The building envelope should not exceed two acres in size.
3. Secondary units should not be permitted on lots where gaining access to the lot will create a traffic hazard.
4. Secondary units should be permitted only on lots where adequate water and sewage disposal systems are or can be made available. Shared water and sewage disposal systems between the principal unit and the secondary unit are permissible subject to the approval by the Alameda County Environmental Health Department. Water and sewage disposal systems should be subject to periodic review by the Environmental Health Department.
5. Secondary units should be permitted only on properties that are well maintained. The secondary unit should be architecturally consistent with the principal dwelling on the property.
6. Secondary units should be permitted only on properties that have adequate water supply and access to meet the State Response Area Rural Fire requirements.
7. An existing primary unit that is 2,000 square feet or less in size may be declared a secondary unit for the purposes of meeting secondary unit size restrictions.

### **Parcels 100 Acres or Larger**

This policy applies to:

- 1) All parcels that are 100 acres or larger in the A (Agriculture) District; and
- 2) All parcels that are 100 acres or larger in "PD" (Planned Development) Districts that are based on the A (Agriculture) District.

Secondary units located on the same building envelope as the primary unit on agricultural parcels that are 100 acres or more in size will be processed through Site Development Review. While the intent of this policy is to discourage secondary units not located on the same building envelope as the primary unit (see below), they may be considered through a rezoning of the site to a PD (Planned Development) District. This process will allow the merits of each case to be evaluated individually, with due consideration given to any other applications which might have been approved or disapproved in the past. This case-by-case analysis will ensure that the appropriate standards will be met and the character of the area will be maintained.

The following are general criteria for the evaluation of applications for secondary dwelling units on agricultural parcels that are 100 acres or larger in Alameda County:

1. The secondary unit should be a maximum of 2,500 square feet; the actual size will be determined through the review process and be based on such issues as topography, building envelope, building setbacks, size of the principal residence, relationship of the secondary unit to the principal unit, grading, access, water and sewage disposal systems, neighborhood issues, and other environmental constraints. The secondary unit should meet all development standards that apply to primary dwelling units in the A (Agriculture) District.
2. Secondary units should be permitted only on the same building envelope as the principal residence. Access to the secondary unit should be provided only from the same road that provides access to the principal residence, unless need can be demonstrated for separate access. The building envelope should be determined through the review process, unless previously determined as part of a subdivision or site development review in accordance with ECAP Table 9. The building envelope should not exceed two acres in size.
3. Secondary units should not be permitted on lots where gaining access to the lot will create a traffic hazard.
4. Secondary units should be permitted only on lots where adequate water and sewage disposal systems are or can be made available. Shared water and sewage disposal systems between the principal unit and the secondary unit are permissible subject to the approval by the Alameda County Environmental Health Department. Water and sewage disposal systems should be subject to periodic review by the Environmental Health Department.
5. Secondary units should be permitted only on properties that are well maintained. The secondary unit should be architecturally consistent with the principal dwelling on the property.
6. Secondary units should be permitted only on properties that have adequate water supply and access to meet the State Response Area Rural Fire requirements.
7. An existing primary unit that is 2,500 square feet or less in size may be declared a secondary unit for the purposes of meeting secondary unit size restrictions.

## **General Policies**

### Referral of Applications for Secondary Units

All applications for secondary units in the A (Agriculture) District will be referred to the Alameda County Agricultural Advisory Committee for recommendation as to potential impacts on agricultural activities on the property and the surrounding area, the location and configuration of the secondary unit, and any other factors related to agriculture. All applications for secondary units in the North Livermore Planning Area shall be referred to the North Livermore Joint Planning Staff. Applications shall also be referred to local homeowners organizations and to any other body or agency requesting referral of such applications.

### Two-year Monitoring

Planning Department staff will monitor all applications for secondary units in the A (Agriculture) District for a period of two years after adoption of this policy by the Board of Supervisors. At the end of the two-year

period, staff will report to the Planning Commission on the quantity, type, and quality of applications received during this period, and will make recommendations regarding amendments to the policy as appropriate.

### Amnesty

For a period of six months after the adoption by the Board of Supervisors of the Policy for Secondary Units in Agricultural and Rural Residential Areas, there will be an “amnesty” program available to property owners who own agricultural or rural residential sites on which illegal secondary units have been constructed. The program will allow for the processing and evaluation of the request for legalizing the secondary unit in the same manner as outlined above. Secondary units must meet the standards outlined in the policies above in order to be approved; approval of existing illegal units is not automatic. Fees and expenses associated with the processing of an illegal unit will be the same as with the processing of a standard rezoning or site development review application for a new secondary unit. The only fee that would be waived would be the standard \$5,000 fee imposed by the Board of Supervisors through the approval process for the retention of illegally constructed units.

### Conversion of Existing Caretaker Units to Secondary Units

A landowner with an existing caretaker unit that is permitted through a valid conditional use permit that was issued prior to June, 1998, may petition to have one existing caretaker unit declared a secondary unit.

An existing caretaker unit would not be required to be subordinate in size or appearance to the primary dwelling unit. Conversion of caretaker units may occur only if the following conditions are met:

1. The converted caretaker unit is to be placed on a permanent foundation;
2. Requests for conversion to secondary units on these parcels is to be processed and evaluated in the same manner as outlined above;
3. The converted caretaker unit is not to be increased in size;
4. If sufficient need is demonstrated (a function, for example, of the type of agricultural operation on the property, security, environmental constraints, septic limitations, or visual impacts), the converted caretaker unit may not be required to be located in the same building envelope as the main residence or to use the same road that provides access to the main residence, however, the unit may not be converted if its access creates or would create a traffic hazard;
5. Conversion of a caretaker unit to a secondary unit is to be permitted only on lots where adequate water and sewage disposal systems are or can be made available. Shared water and sewage disposal systems between the principal unit and the converted caretaker unit would be permissible subject to the approval by the Alameda County Environmental Health Department. Water and sewage disposal systems may be subject to periodic review by the Environmental Health Department;
6. Conversion of a caretaker unit to a secondary unit is to be permitted only on properties that are well-maintained;
7. Conversion of a caretaker unit to a secondary unit is to be permitted only on properties that have adequate water supply and access to meet the State Response Area Rural Fire requirements.

### Location of Secondary Units on Property

The secondary unit should be located on the same building envelope as the primary unit. However, there may be situations where this is not practical or desirable, such as the need for security on remote areas of the property. Where property owners feel that there are circumstances that justify the secondary unit being located away from the primary unit, they may apply for rezoning to a PD (Planned Development) District. Criteria against which the specific request will be evaluated include, but are not limited to, visual impacts, biological impacts, impacts on agricultural potential, access, and fire protection. The applicant shall have the responsibility to demonstrate why the secondary unit should not be located on the same building envelope. The specific location of the unit will be determined through the review process.

#### Secondary Units in North Livermore Planning Area

~~Pending resolution of the North Livermore Plan, secondary units are not allowed in Zone B.~~

The purpose of this section was to defer setting policy for secondary units in this portion of the North Livermore Planning Area, since it was anticipated that there would be specific policies for the area established as part of the overall North Livermore Planning Area planning process. With passage of Measure D, the planning for that area ceased, and the question of secondary units in the North Livermore Planning Area became no longer an issue. Therefore, secondary units are allowed throughout the North Livermore Planning Area subject to the provisions of this policy.