



SPUR

San Francisco | San Jose | Oakland

November 8, 2016

San Jose City Council
San Jose City Hall
200 East Santa Clara Street
San Jose, CA 95113

**RE: November 15 Council Meeting, Item 4.3
Title 20, Residential Zoning Districts, including Secondary Dwellings**

Dear Mayor Liccardo, Councilmembers Jones, Kalra, Peralez, Manh Nguyen, Carrasco, Oliverio, Tam Nguyen, Herrera, Rocha and Khamis:

Thank you for the opportunity to provide feedback on the proposed changes to Chapter 20.30 for Residential Zoning Districts in San Jose, particularly the recommendations on Secondary Dwellings. SPUR is a nonprofit member-supported organization that promotes good planning and good government in the Bay Area.

SPUR is a long-time supporter of accessory dwelling units, and we are glad to see that San Jose is taking steps toward making them easier to build. As you probably well know, these units provide many benefits:

- They are typically less expensive to rent than other market-rate units
- They are less expensive to build than new construction units
- They meet the needs of many kinds of households and families at different phases of life
- They appropriately add density in many kinds of neighborhoods with little impact on neighborhood aesthetics or character

We appreciate that Planning and Housing staff have been open to suggestions from the public, but we wanted to provide some additional thoughts. **We support the general direction of staff's recommendations**, and are particularly supportive of staff's proposed changes related to shrinking parking requirements, smaller minimum setback requirements and less prescriptive design standards, especially since these are regulations that are frequently cited as barriers to the creation of secondary units. However, we also urge the city to go further to enable and encourage property owners to create secondary units. The table below summarizes a set of additional modifications that will support this goal.

SAN FRANCISCO

654 Mission Street
San Francisco, CA 94105
(415) 781-8726

SAN JOSE

76 South First Street
San Jose, CA 95113
(408) 638-0083

OAKLAND

1544 Broadway
Oakland, CA 94612
(510) 827-1900

spur.org

SPUR Recommendations on Secondary Dwellings (as of 11/1/16)

Code Section	Standard	San Jose Existing	San Jose Proposed	SPUR Recommendation
20.30.100 Table 20-50 Note 2	Number of Units	Only one primary dwelling structure per lot in the R-2 district.	Maximum of 2 units per lot in the R-2 District. Secondary unit in R-2 allowed if only 1 primary unit on lot and it is a single-family dwelling.	We believe that on an R-2 lot, two units plus a secondary dwelling (total of 3 units) should be permitted without a Development Permit.
20.30.150.B	Minimum Lot Size	Attached unit - 6,000 sf Detached unit - 8,000 sf	Attached unit - 5,445 sf Detached unit - 5,445 sf	We support reducing minimum lot size but suggest that minimum lot size is not needed if there are rear and side yard setbacks, open space minimums and lot coverage maximums that guide building design and size. These form controls should be sufficient for maintaining neighborhood character even without minimum lot size requirements.
20.30.150.D	Maximum Floor Area	<=9,000 sf - 600 sf 9,001-10,000 sf - 650 sf >10,000 sf - 700 sf	<=9,000 sf - 600 sf 9,001-10,000 sf - 650 sf >10,000 sf - 800 sf	We support the increased maximum floor area on larger parcels, but recommend eliminating maximum floor area altogether . What should matter is the overall lot coverage/cumulative amount of building on the site, not the size of the new unit. For instance, the cumulative impact will be different if a secondary unit is carved (wholly or partially) out of the existing house's square footage.
20.30.50.F 20.30.50.G	Bedroom/Bathroom	1 BR required (up to 400 sf) 1 BA required and 1 BA max	1 BR max (up to 400 sf) 1 BA required and 1 BA max Combined sleeping/living area allowed	We appreciate a studio unit is now possible, but we also recommend eliminating the 1BR max . to allow for 2BR units, which could fit in 800 sf (assuming lot size >10,000 sf) and would be permitted under the current proposal. It is also unnecessary to limit the number of bathrooms .

20.30.50.H	Storage/Closet	60 sf maximum	No change	We recommend eliminating the maximum storage limit . This seems unnecessary.
20.30.50.I	Required Parking	1 add'l parking space (outside front and side setbacks) plus required covered spaces for primary residence. Tandem parking allowed if all setback and paving req. met	1 add'l parking space (not w/in setbacks) plus req. off-street spaces for primary unit. Tandem parking allowed if all setback and paving req. met. Parking on driveway in front setback allowed. No add'l parking required w/in 1/2 mi of transit, w/in a historic district, w/in existing sq. footage, where on-street permits are req'd but occupant does not get, and where carshare is w/in 1 block	We support the changes made and recommend eliminating or further reducing the parking requirements for secondary units. In addition, the requirement of 15 minute headway intervals for the definition of public transit does not conform to recently passed state law and should be eliminated.
20.30.150.J.7	Private Open Space	n/a	Required minimum area of 80 sf of private open space	We acknowledge this is a desirable amenity for secondary units but think private open space should not be required . It could be difficult to design this separated space, and we would hate to see this become a barrier to secondary units
20.30.150.J.6	Detached Garage	Secondary unit can be attached to detached garage if both conform to setbacks required of secondary unit	Secondary unit can be attached to detached garage if secondary unit conforms to setbacks required of secondary unit	We appreciate the change to the setback requirement but recommend allowing secondary units to be attached to other accessory buildings besides garages.
20.30.150.J.8	Rear Yard Coverage	Cumulative total of the rear yard covered by the secondary dwelling, accessory buildings, and accessory structures cannot exceed 40%	Cumulative total of the rear yard covered by the secondary dwelling, accessory buildings, and accessory structures cannot exceed 40%	We recommend eliminating the rear yard lot coverage requirement and instead looking at total lot coverage in order to simplify the analysis.

Additional Considerations for Secondary Dwellings

SPUR is appreciative of all the work of Planning and Housing staff throughout this process. Staff's proposal addresses many known barriers to in-law units (such as parking requirements and setback requirements), but we believe there is more that can be done. SPUR's recommendations are intended to provide the most flexibility for property owners so that they will actually build these units. Some additional questions and comments that could be considered include:

- We suggest that the city review its fees (particularly impact fees) and permitting processes to ensure that they are affordable, accessible and easy. Fees are often cited one of the biggest barriers to the creation of more secondary dwellings. It would also be helpful for the city to work with its school and utility partners to review connection and non-city imposed impact fees that may be excessive for secondary units in comparison to their actual impact.
- Is it permissible to convert existing residential or accessory building space to secondary units? It is not clear from the ordinance. We recommend that this be allowed.
- We recommend allowing more than 1 secondary unit per lot as long as they fit within the lot coverage ratio and/or specified building envelope.
- We recommend the city establish a process for legalizing existing secondary units without displacing residents of units that may not meet building code.
- It would be worthwhile to create an education and outreach campaign to property owners that makes a case for investing in secondary units.


Other Amendments to Title 20

SPUR is supportive of the other amendments proposed to Title 20 in order to facilitate development in conventional Residential Zoning Districts. We support staff's recommendations to:

1. Allow mixed residential-commercial use as Conditional Use in the R-M Districts
2. Modify setbacks and other development standards and delete maximum stories in the R-M District while maintaining maximum height
3. Change the requirement from a Conditional Use to a Special Use Permit for single-event noise standards in residential districts.

If you have any questions, please feel free to contact me at kwang@spur.org or 415-644-4884. Thank you again for your consideration.

Best,



Kristy Wang
Community Planning Policy Director