



**Public Hearing  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.:** 59  
**AGENDA DATE:** Thu 11/18/2004  
**PAGE:** 1 of 2

**SUBJECT:** Conduct a public hearing and approve an ordinance amending Sections 25-2-511, 25-2-774, and 25-2-1463 of the City Code relating to dwelling unit occupancy limits, two-family residential uses, and secondary apartment special uses.

**AMOUNT & SOURCE OF FUNDING:** N/A

**FISCAL NOTE:** N/A

**REQUESTING** Neighborhood Planning **DIRECTOR'S**  
**DEPARTMENT:** and Zoning **AUTHORIZATION:** Alice Glasco

**FOR MORE INFORMATION CONTACT:** George Adams, 974-2146; Greg Guernsey, 974-2387; Sylvia Arzola, 974-6448

**PRIOR COUNCIL ACTION:** : 6/24/04 – Council adopted an ordinance to establish interim development regulations related to the construction or remodeling of an existing structure to create a two-family residential or secondary apartment use.

**BOARD AND COMMISSION ACTION:** Recommended by the Planning Commission

**PURCHASING:** N/A

**MBE / WBE:** N/A

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On June 24, 2004, the City Council adopted an ordinance establishing interim development regulations, including a moratorium, prohibiting the issuance of a building permit for the construction or remodeling of a two-family residential use or secondary apartment special use or the remodeling of an existing structure to create a two-family residential use or secondary apartment use.

These interim regulations were adopted in response to concerns over the potential impacts of two-family and secondary apartment uses on single-family neighborhoods.

In response to the Council's adoption of the interim development regulations, staff proposes the following recommendations:

1. Limit the occupancy of a two-family use or secondary apartment special use, permitted after the effective date of the ordinance, to not more than four unrelated persons 18 years of age or older in the principal structure and not more than two unrelated persons 18 years of age or older in the second dwelling unit;
2. Limit the height of the second unit of a two-family use or secondary apartment special use to 30 feet or two stories;
3. Limit the gross floor area of a second unit of a two-family use or secondary apartment special use to 850 total square feet; or 500 square feet on the second story;



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4. Limit impervious cover for the site of a two-family use or secondary apartment special use to 45%;

5. Limit building cover for the site of a two-family use or secondary apartment special use to 40%.

In addition, staff recommends standardizing provisions regarding building location and spacing, location of entrance of the second unit, width of driveway and location of parking.

On October 12, 2004, the Planning Commission adopted the staff recommendation with a change to the gross floor area of a second unit of a two-family use or secondary apartment special use to 850 total square feet; or 550 square feet (instead of 500 square feet) on the second story. The Planning Commission minutes are attached.

A summary of the current and proposed two-family and secondary apartment regulations are attached.

**EXHIBIT B: SUMMARY OF CURRENT AND PROPOSED TWO-FAMILY  
AND SECONDARY APARTMENT REGULATIONS**

	<b>CURRENT TWO-FAMILY</b>	<b>CURRENT SECONDARY APARTMENT</b>	<b>PROPOSED TWO- FAMILY</b>	<b>PROPOSED SECONDARY APT</b>
<b>Areas and Districts Permitted</b>	SF-3, SF-5, SF-6 and MF-1 to MF-6	If chosen in NPCD, SF-1, SF-2, SF-3, SF- 5, SF-6 and MF-1 to MF-6	SF-3, SF-5, SF-6 and MF- 1 to MF-6 and MU overlay	If chosen in NPCD, SF- 1, SF-2, SF-3, SF-5, SF- 6 and MF-1 to MF-6 and MU overlay
<b>Minimum Lot Width</b>	50 feet	50 feet	50 feet	50 feet
<b>Maximum Height</b>	30 feet, 2 <sup>nd</sup> unit only	35 feet	30 feet or two stories, 2 <sup>nd</sup> unit only	30 feet or two stories, 2 <sup>nd</sup> unit only
<b>Spacing Requirements</b>	16 feet	15 feet (or above a garage)	15 feet or above a detached garage	15 feet or above a detached garage
<b>Entrance Requirements</b>	At least 10 feet away from nearest lot line.	Greatest distance away from corresponding lot line.	At least 10 feet away from lot line.	At least 10 feet away from lot line.

Additional Requirements			<p><b>Occupancy:</b> Principal unit is limited to not more than four unrelated persons 18 years of age or older and 2<sup>nd</sup> unit is limited to not more than two unrelated persons 18 years of age or older.</p> <p><b>Location of parking:</b> Other than in a driveway, parking is not permitted in the front yard.</p> <p><b>Other site development standards:</b> Limit impervious cover to 45% and building cover to 40% regardless of zoning district.</p>	<p><b>Occupancy:</b> Principal unit is limited to not more than four unrelated persons 18 years of age or older and 2<sup>nd</sup> unit is limited to not more than two unrelated persons 18 years of age or older.</p> <p><b>Location of parking:</b> Other than in a driveway, parking is not permitted in the front yard.</p> <p><b>Other site development standards:</b> Limit impervious cover to 45% and building cover to 40% regardless of zoning district.</p>

# MEETING SUMMARY

DRAFT- PENDING PC APPROVAL

## CITY PLANNING COMMISSION

October 12, 2004

One Texas Center

505 Barton Springs Road

Conference Room 325

CALL TO ORDER – 6:00 P.M. **COMMENCED 6:05PM; ADJOURNED 8:00PM**

**ABSENT** John-Michael Cortez

Matthew Moore, Secretary

Cid Galindo

Jay Reddy

Matt Hollon, Asst. Secretary

Chris Riley, Chair

Cynthia Medlin, Vice-Chair

Dave Sullivan, Parliamentarian

### A. REGULAR AGENDA

#### EXECUTIVE SESSION (No public discussion)

The Planning Commission will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel on matters specifically listed on this agenda. The Planning Commission may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other item on this agenda.

Private Consultation with Attorney – Section 551.071

#### CITIZEN COMMUNICATION:

1. The first four (4) speakers signed up to speak will each be allowed a three-minute allotment to address their concerns regarding items *not* posted on the agenda.

#### NO SPEAKERS.


#### APPROVAL OF MINUTES

2. Approval of minutes from September 28, 2004.

**MOTION: APPROVE BY CONSENT**

**VOTE: 7-0 (DS-1<sup>st</sup>, MM-2<sup>nd</sup>; JMC-ABSENT)**

#### DISCUSSION AND ACTION

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3. Code Amendment: C20-04-009 - Amendments to Land Development Code Chapter 25-2 Relating to Dwelling Unit Occupancy Limits, Two-Family Residential Uses and Secondary apartment Special Uses.  
Staff: George Adams, 974-2146, george.adams@ci.austin.tx.us  
Greg Guernsey, 974-2387, greg.guernsey@ci.austin.tx.us  
Neighborhood Planning and Zoning

Greg Guernsey presented the staff recommendation.

Facilitator: Katie Larsen, 974-6413

katie.larsen@ci.austin.tx.us

Commissioner Sullivan asked for the rationale for limiting the impervious cover for two-unit uses. Mr. Guernsey gave two reasons: 1) there are single-family lots with multi-family zoning, and the impervious cover insures that the development on the lots is compatible in scale with adjacent single-family uses and 2) brings those two uses in line with the duplex regulations, which also limit impervious cover.

## PUBLIC HEARING

### FOR

Karen McGraw, chairman of the Neighborhood Planning Team, said that back when the Council and staff were considering amendments to the duplex, the neighborhood requested that two-family and single-family attached also be considered. To no avail, those were not included, and now those same issues with duplex are now found with those other uses. She requested that the Commission include single-family attached uses in the new regulations.

The Commission and Ms. McGraw discussed design constraints, including designing with alley access.

Colleen Daly, representing the North University Neighborhood Association, thanked staff for their work and said her comments echo those of Ms. McGraw. She asked that the Commission address the large driveway and garage issues and requested that the Commission add single-family attached.

Commissioner Sullivan asked staff why the single-family attached is not included in the proposal. Mr. Guernsey said that staff was directed by Council to look at two-family and secondary apartment, not single-family attached. He explained that in the 1980s, single-family attached was created, but there are three limitations on where it can be used: 1) on land that has never been platted (so in the Hyde Park area not an option since all the land is platted), 2) on existing, vacant, platted duplex lots, and 3) on a lot with a duplex built before 1987.

Commissioner Medlin asked if there are occupancy limits for single-family attached and Mr. Guernsey said yes, same as single-family (6 unrelated per side).

Commissioner Riley asked Ms. McGraw if still interested in including single-family attached based on Mr. Guernsey's explanation. Ms. McGraw said she has heard of areas that have recently seen new single-family attached development.

Mr. Guernsey said he too has heard concerns about single-family attached, mostly in south Austin.

### **MOTION: CLOSE PUBLIC HEARING**

**VOTE: 7-0 (DS-1<sup>st</sup>, MH-2<sup>nd</sup>; JMC- ABSENT)**

Commissioner Sullivan said that he has noticed his neighbors take advantage of the impervious cover allowed under multi-family zoning to build additional secondary units. He asked Mr. Hersh to comment on the impervious cover issues.

Stuart Hersh said that SMART Housing must be visitable. The units he has seen through the SMART Housing program have met that requirement and stayed within the impervious cover limits. He said that the proposed amendments do not negatively impact affordable housing.

Commissioner Sullivan said that if impervious cover is limited, the units will be smaller and thus more affordable.

Stuart Hersh added that he is opposed to setting back garages because it increases the impervious cover from the driveway. Mr. Guernsey said that the City does not mandate concrete driveways, but does not necessarily consider grasscrete or other “pervious” pavement to be pervious cover due to the impervious base needed for the products.

Commissioner Sullivan made a motion to approve the staff recommendation. He offered that the Codes and Ordinances Committee could consider further refinements, such as allowing more intense development on corner lots and requiring pedestrian-oriented uses on the ground-floor (to limit the amount of façade that is garage).

Commissioner Hollon requested a friendly amendment to reduce the rear setback from 10 to 5 feet. Commissioner Sullivan said that might be a blow to the effort to make secondary apartments more appealing to neighborhoods. Commissioner Riley asked if that reduced setback could be allowed for those units next to alleys. Mr. Hersh said that the electric utility staff should be consulted because there are issues regarding electric lines and rear setbacks that need to be discussed. Commissioner Sullivan suggested that be added to the list of things for the Codes and Ordinances Committee to consider.

Commissioner Moore said that he would like more graphics to understand what the issues are. Commissioner Riley suggested the Commissioners take photos of units in their neighborhoods. Commissioner Hollon noted that Cuatro Gross, in the audience, also has a library of images.

Commissioner Hollon requested a friendly amendment to raise the second floor gross floor area from 500 sf to 600 sf. He likes the secondary story option because it lowers impervious cover. Commissioner Reddy seconded that friendly amendment.

Mr. Hersh said that allowing 600 sf on the second floor would mean the unit is less likely to be affordable because of the higher construction costs to build up instead of out.

Commissioner Medlin stated she has a problem with over-reacting to poor performance by developers, to the point that it negatively impacts private individuals who want to build units on their lot. The impervious cover limits provide good judge of what built will be compatible. If the owners can afford to build a 850sf unit, then let them build it.

Commissioner Sullivan commented that enclosed stairwells are better because exterior staircases create noise, which argues in favor of increasing the gross floor area permitted on the top floor. However a bigger allowance may reduce the attractiveness to neighborhood to accept option.

Mr. Guernsey clarified that upper-story limit is not a total limit on the unit size. A unit can still be 850sf. Also he has heard complaints about using garages as game rooms, thus reducing the parking spaces on-site and increasing “usable” space.

Commissioner Hollon asked if a guest house and secondary apartment can be built on a lot. Mr. Guernsey said yes, as long as the minimum lot size requirements are met for the guest house, which are either 10,000-15,000sf.

Commissioner Reddy moved to limit the upper story to 550sf instead of the 600sf he seconded because of his concerns that a 600sf would allow for a three car garage, as explained by Mr. Guernsey.

**MOTION: APPROVE STAFF RECOMMENDATION, BUT WITH UPPER-STORY LIMITED TO 550sf.**

**VOTE: 7-0 (MH-1<sup>st</sup>, JR-2<sup>nd</sup>; JMC- ABSENT)**

Commissioner Medlin said she is concerned about limiting cars instead of people. Commissioner Riley responded though saying that limiting parking on-site could increase on-street parking. Commissioner Hollon said he would not want to encourage 3-car garages- he’ll approve 550 sf if it will reduce that. Commissioner Moore said this was initiated by Council and will support it, but he does not support more space and less people.

4. **Site Plan:** SP-00-2024C(XT2) - Stassney Heights Retail South  
**Location:** 701 E. Stassney Ln., Williamson Watershed, Sweetbriar Neighborhood Plan NPA  
**Owner/Applicant:** Stassney Heights Ltd. (James H. Matoushek)  
**Agent:** Consort (Steve King)  
**Request:** 3 yr extension to the approved site plan  
**Staff Rec.:** **Recommended**  
**Staff:** Sue Welch, 974-3294, sue.welch@ci.austin.tx.us  
 Nikki Hoelter, 974-2863, nikki.hoelter@ci.austin.tx.us  
 Watershed Protection and Development Review

**MOTION: APPROVE BY CONSENT**

**VOTE: 7-0 (DS-1<sup>st</sup>, MM-2<sup>nd</sup>; JMC-ABSENT)**

5. **Preliminary (Subdivision):** C8-04-0093.SH - LEE MEADOWS SUBDIVISION (S.M.A.R.T. HOUSING)  
**Location:** Ponca Street, Country Club Creek Watershed, Montopolis NPA  
**Owner/Applicant:** Acclaim Property Dev. Corp. (Bill Egger)  
**Agent:** Rivera Engineers (Mike Rivera)  
**Request:** Approval of the Preliminary Plan  
**Staff Rec.:** **RECOMMENDED**  
**Staff:** Javier V. Delgado, 974-7648, javier.delgado@ci.austin.tx.us  
 Bill Andrews, 974-7649, bill.andrews@ci.austin.tx.us  
 Watershed Protection & Development Review



**ORDINANCE NO.**

**AN ORDINANCE AMENDING SECTIONS 25-2-511, 25-2-774, AND 25-2-1463 OF THE CITY CODE RELATING TO DWELLING UNIT OCCUPANCY LIMITS, TWO-FAMILY RESIDENTIAL USES, AND SECONDARY APARTMENT SPECIAL USES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Section 25-2-511(A) of the City Code is amended to read:

(A) Notwithstanding any other provision of this code, except as provided in Subsection (B):

(1) not more than six unrelated persons may reside in a dwelling unit;  
[and]

(2) not more than three unrelated persons 18 years of age or older may reside in a dwelling unit of a duplex residential use, unless:

(a) before June 5, 2003:

(i) a building permit for the duplex structure was issued; or

(ii) the use was established; and

(b) after June 5, 2003, the gross floor area and the number of bedrooms in the duplex structure did not increase, except for the completion of construction authorized before that date; and

(3) for a two-family residential use or a lot with a secondary apartment special use, not more than four unrelated persons 18 years of age or older may reside in the principal structure, and not more than two unrelated persons 18 years of age or older may reside in the second dwelling unit, unless:

(a) before (effective date of ordinance):

(i) a building permit for the second dwelling unit was issued; or

(ii) the use was established; and

(b) after (effective date of ordinance), the gross floor area and the number of bedrooms on the site did not increase, except for the completion of construction authorized before that date.

**PART 2.** Section 25-2-774 of the City Code is amended to delete Subsections (C) – (E) and add new Subsections (C) and (D) to read:

(C) The second dwelling unit:

- (1) must be contained in a structure other than the principal structure;
- (2) must be located:
  - (a) at least 15 feet to the rear of the principal structure; or
  - (b) above a detached garage;
- (3) may be connected to the principal structure by a covered walkway;
- (4) may not have an entrance within 10 feet of a lot line;
- (5) unless the second dwelling unit has vehicular access from a rear alley, it must be served by a paved driveway, and the portion of the driveway that crosses the front yard must be at least 9 feet and not more than 12 feet wide;
- (6) may not exceed a height of 30 feet, and is limited to two stories; and
- (7) may not exceed a gross floor area of:
  - (a) 850 total square feet; or
  - (b) 500 square feet on the second story, if any.

(D) Impervious cover for the site may not exceed 45 percent.

(E) Building cover for the site may not exceed 40 percent.

(F) Other than in a driveway, parking is prohibited in the front yard.

**PART 3.** Section 25-2-1463 of the City Code is amended to delete Subsections (C) – (E) and add new Subsections (C) – (F) to read:

(C) A secondary apartment:

- (1) must be contained in a structure other than the principal structure;

(2) must be located:

(a) at least 15 feet to the rear of the principal structure; or

(b) above a detached garage;

(3) may be connected to the principal structure by a covered walkway;

(4) may not have an entrance within 10 feet of a lot line;

(5) unless the secondary apartment has vehicular access from a rear alley, it must be served by a paved driveway, and the portion of the driveway that crosses the front yard must be at least 9 feet and not more than 12 feet wide;

(6) may not exceed a height of 30 feet, and is limited to two stories; and

(7) may not exceed a gross floor area of:

(a) 850 total square feet; or

(b) 500 square feet on the second story, if any.

(D) Impervious cover for the site may not exceed 45 percent.

(E) Building cover for the site may not exceed 40 percent.

(F) Other than in a driveway, parking is prohibited in the front yard.

**PART 4.** This ordinance takes effect on \_\_\_\_\_, 2004.

**PASSED AND APPROVED**

\_\_\_\_\_, 2004

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§  
§

\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Brown  
City Clerk