



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: October 18, 2017
TO: Members of the Planning Commission
FROM: Elizabeth Greene, Senior Planner
SUBJECT: Zoning Requirements for Dwelling Units in the R-1A District

INTRODUCTION

The focus of this report and agenda item is to receive direction from the Planning Commission (PC) on the relationship of the two Dwelling Units allowed by the R-1A District regulations.

The PC and community appear split on proposed changes to the R-1A: should the development of a second Dwelling Unit (“second unit”)¹ continue under the current standards, or should the development capacity of the second unit be restricted to a single or two-story structure with a more limited building envelope? Under any scenario, the development would still require a Use Permit with Public Hearing.

Particular issues of concern raised at the previous eight meetings include: potential privacy and shadowing issues to adjacent properties if a second unit is constructed in a rear yard; whether or not development of second units as a profit-making endeavor is appropriate and whether that should be considered in limiting the capacity of development; and whether the development potential in the R-1A is an anomaly in the Zoning Ordinance, compared to other zoning districts. Parallel but separate discussions regarding the Accessory Dwelling Unit (ADU) development standards has brought comparisons of the R-1A and ADUs into focus.

This report includes two scenarios or options that would reduce impacts resulting from a second unit in the rear yard of an R-1A parcel. These scenarios do not propose

¹ In this context, the “second unit” must be distinguished from an Accessory Dwelling Unit (ADU) under State and local law. ADUs are allowed by right and must meet stringent development and operational standards, and have certain flexibility (especially reduced parking) that is not available to completely independent dwelling units.

development standard changes for the front Dwelling Unit², or changes in minimum parcel size. These two concepts have been dismissed in prior meetings.

Staff provided options and recommendations for amendments to these development standards, as well as for aligning the regulations in the Westbrae neighborhood (east of San Pablo) with those portions of the R-1A District west of San Pablo Avenue. All of the proposed changes were designed to apply to second units built in the rear yard, rather than both units on the property.

Two separate Public Hearings (PH) were held on April 19, 2017 and July 19, 2017. The PH subjects included Zoning Ordinance amendments to set specific development standards, such as reduced height for second units, increased open space requirements, creation of a Floor-Area Ratio, etc. The two staff reports for these agenda items detail the issues and are included as Attachments 1 and 2 to this report. The complete reports, with attachments, can be found at the following links: [4/19/17](#), [7/19/17](#).

See Attachments 1 and 2 for the April 19th and July 19th staff reports for the options, analysis and recommendations related to the development standards considered in the Public Hearings.

DISCUSSION

At the July 19th meeting, the Planning Commission decided to not recommend changing the 4,500 square-foot minimum lot size for a second unit, but did not take action on any other changes. The Commission asked Staff to develop two scenarios for consideration, one with a one-story limit and the second with a two-story limit for the second unit. These two scenarios, with analysis, follow.

Staff Considerations and Analysis

The main development concerns with second units identified to date are the privacy and shadow impacts to neighboring properties. Staff prepared two scenarios with development standards modifications intended to reduce these impacts for one-and two-story second units.

Staff determined that the development standards discussed in previous meetings fall into three categories. The first category are development standards which could mitigate shadow and privacy impacts; these are included in the two scenarios provided in this report. The two other categories are 1) changes which would not mitigate shadow and privacy impacts, and 2) changes which would be unique to the R-1A district and would require significant staff time to develop. The three categories of development standards are shown in Table A.

² Both dwelling units also qualify in the zoning ordinance as follows: **Main Building:** A building which is designed for, or in which is conducted, the principal use of the lot on which it is situated. In any R District any dwelling, except an accessory dwelling unit as defined in this sub-title, shall be deemed to be a main building on the lot.

Table A: Development standard categories

Changes to consider to mitigate shadow and privacy impacts	No change recommended; no mitigation for shadow and privacy impacts	No change recommended; change would be unique to R-1A
Height / stories	Separation of buildings	FAR (no FAR standards exist in any residential districts)
Rear yard setback	Lot coverage	Daylight plane (this standard is currently not used in Berkeley)
Side yard setback	Open space	Location of open space relative to units (remains the same)
		Reduced front yard setbacks (remains the same)

Analysis of the development standards in the first category is included below. Development standards in the second and third categories were considered by staff in previous staff reports; see Attachments 1 and 2. Attachment 3 is a matrix of the development standards in the R-1, R-1A, R-2 and R-2A Districts for purposes of comparison.

Scenarios to Mitigate Shadow and Privacy Impacts

Two scenarios are provided below to show how other development standards could be modified to respond to height limits for second units. The heights, side yards and rear yards proposed in these scenarios would only apply to a second unit in the rear yard; no changes are proposed to the development standards for the front unit. The proposed changes would apply throughout the R-1A district – East and West of San Pablo Avenue. Reasoning for these changes follow the table.

Table B: One- and two-story height scenarios

Development Standard	One-story scenario	Two-story scenario	Current development standards
Height of second unit	1 story, 14 ft average ht.	2 stories, 24 ft average ht. No AUP for additional height.	3 stories, 28 ft, average ht. up to 35 ft average ht. with an AUP (Same as front unit)
Side yard setback for second unit	4 ft (no AUP possible for reduction)	6 ft (no AUP for reduction)	4 ft, reduction allowed with AUP (Same as front unit)
Rear yard setback for second unit	20 ft, reduction to 12-foot minimum rear yard allowed with AUP	20 ft, reduction to 12-foot minimum rear yard allowed with AUP	20 ft, unspecified reduction allowed with AUP (Same as front unit)

The staff analysis for these three development standards is included below.

Height of rear unit

One of the primary concerns voiced regarding second units in the rear yard is the impact the height could have on neighboring properties. The taller the building, the greater the visual impact, and privacy and shadow impacts become a concern.

Existing standard: The R-1A allows for two Dwelling Units on a parcel/site. Main Buildings (i.e. primary Dwelling Units, not ADUs), can be 3 stories and 28 feet tall (35 feet with an AUP). There is no height distinction made between Main Buildings sharing a parcel. (Sections 23D.20.070.C and D).

Impacts of changes to height/stories: Single Story: Limiting a rear second unit to one story would address those concerns, but has its own impacts. One-story limits could lead to buildings with a larger footprint, up to the maximum 40% total lot coverage. Limiting a building to one-story could also impact the ability to park a car for the rear unit on the property, as many units use a portion of the ground floor as an attached garage. Finally, a one-story limit could reduce the size of the second unit to the point where it is not significantly different from an ADU, making it a less viable option for property owners.

Two-Story: A two-story second unit with 24-foot average height allows for a pitched roof and two full stories. This gives more roof options for the second unit. The average height could be reduced further, but that would result in a low-pitched or flat roofs, limiting the ability of designers to conform to existing development patterns. The overall height reduction from the existing 28 to 35 feet, to a new maximum of 24 feet average height, could also reduce the visibility of the second unit from the street.

Side yard setback

Proximity of the second unit to adjacent backyards, private areas and gardens was another point of concern raised. Modifying side yard setbacks brings a building further away from adjacent properties.

Existing standard: The R-1A requires a 4-foot setback for any Main Building. In the portion of the District that is west of San Pablo Avenue, the side yards may be reduced to construct a second dwelling unit.

Impacts of changes to side yards: Increasing side yard setbacks would push the second unit further away from neighbors to the left and right of the new second unit, which are generally the closest properties to new development in a rear yard. This could increase privacy and limit shadowing for adjacent neighbors. Greater side setbacks would also create larger side yards which could allow more landscaping options to provide additional privacy for neighbors.

A six-foot side yard reduces the privacy and shadow impacts of a two-story second unit for adjacent neighbors. Increasing the side yard in this way also reduces the building envelope for the second unit, but not significantly enough to encourage the development of two-story structures over one-story structures.

Rear yard setback

Rear yard setbacks retain some space between the second unit and back property line. Placement of the second unit should include some flexibility, so that placement of the unit can help with privacy and shadows.

Existing standard: New dwelling units must be 20 feet from the rear property line. There is an exception for properties west of San Pablo Avenue, which can reduce the rear yard with an AUP in order to construct a dwelling unit. There is no limit on the amount of reduction that can be considered.

Impacts of changes to rear yards: Maintaining a 20-foot rear yard setback could reduce privacy and shadow impacts for neighbors located behind the subject property. Since rear units are not usually as close to the rear property line as they are to side property lines, it would not have as great an impact as the increase to the side yard setback. Maintaining the rear yard setback could result in significantly smaller building envelopes. This could lead to an increase in two-story second units in rear yards. It also would limit the ability of staff or the Zoning Adjustments Board from considering reductions when surrounding development would not be impacted.

Allowing for a reduction to a rear yard with an AUP would give some flexibility to properties based on the surrounding development pattern. Limiting that reduction to 8 feet (ensuring a minimum 12-foot setback) would set expectations for property owners and neighbors.

Both of the scenarios in this report modify the existing height and setback development standards for second units in rear yards. The reductions of height and setbacks described in the scenarios address the concerns expressed by the PC and the public about impacts of second units on adjacent properties while meeting the purpose of the District to allow two Dwelling Units on one lot.

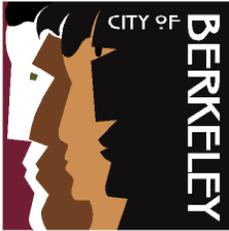
CONCLUSION / NEXT STEPS

Staff recommends that the Planning Commission:

1. Review the scenarios proposed by staff;
2. Identify a preferred option through a vote of the Commission; and
3. Direct staff to develop Zoning Ordinance language to consider at a future meeting.

ATTACHMENTS

1. April 19, 2017 staff report
2. May 17, 2017 staff report
3. Matrix of development standards in the R-1, R-1A, R-2 and R-2A Districts



Item 10
April 19, 2017

Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: April 19, 2017

TO: Members of the Planning Commission

FROM: Elizabeth Greene, Senior Planner

SUBJECT: Zoning Requirements for Second Dwelling Units in the R-1A District

RECOMMENDATION

Recommend to the City Council amendments to the Zoning Ordinance to set specific development standards for second Dwelling Units in the R-1A District.

BACKGROUND

The R-1A District allows for second Dwelling Units (“second units”) as well as Accessory Dwelling Units (ADU). Both the City Council and Zoning Adjustments Board have asked for guidance regarding the size of second units and the relationship to the existing residence on the lot. This subject has been brought up in Council referrals on September 21, 2010, and July 14, 2015, and a letter from ZAB to the City Council and the Planning Commission on March 31, 2016.

On February 15, 2017, the Planning Commission discussed development standard modifications for second units and other issues which could affect how second units are considered in the R-1A district. Those discussions have lead the Commission to consider modifications to R-1A development standards that may be applied to second Dwelling Units. This Public Hearing is set to consider Zoning Ordinance (ZO) amendments focusing on the following R-1A development standards and that would be applied throughout the district:

- A. The minimum lot size required to establish two Dwelling Units;
- B. The distance between Main Buildings;
- C. The height of second units; and
- D. The rear and side yard setbacks for second units.

Staff has responded to those issues and has provided draft zoning language for the Commission’s consideration. Two members of the public have provided differing proposals addressing second units on a lot. The proposals are included as Attachments 2 and 3.

These changes will relate to two different types of uses:

- Dwelling Unit - defined by the ZO as “a building or portion of a building designed for, or occupied exclusively by, persons living as one household”
- Main Buildings – defined by the ZO as “a building which is designed for, or in which is conducted, the principal use on the lot on which it is situated. In any R District and dwelling, except an accessory dwelling unit as defined in this sub-title, shall be deemed to be a main building on the lot.”

For the purpose of this document, the term “second unit” shall be used to describe a detached Dwelling Unit that is also considered to be a Main Building. The terms “Dwelling Unit” and “Main Building” will be used when referencing specific ZO language. The term “Dwelling Unit” will also be used when referring to a single dwelling unit on a property.

DISCUSSION

At the February 15, 2017 meeting, the Planning Commission generally agreed that zoning amendments should focus on modifying development standards and asked staff to bring forward information related to changes to standards for height, setbacks, distance requirements for second units and minimum lot sizes for second units. The Commission did not agree to specific changes in these standards, therefore staff is presenting options within each standard for the Commission to consider. These options are listed and evaluated below.

Staff Considerations and Analysis

The majority of second units are added behind (in the rear yard) an existing Dwelling Unit. The community concerns expressed regarding these units generally relate to privacy, shadow and visual impacts on the neighbors. In order to address the impacts that can occur when a Dwelling Unit is built in a rear yard, and to clarify how the standards would apply when two Dwelling Units are being built simultaneously, staff has proposed Zoning Ordinance amendments which would apply to the Dwelling Unit at the rear of a property.

There are instances where an existing Dwelling Unit is demolished, and the lot is developed with two new Dwelling Units. In these cases, the unit in the front of the parcel would be assessed based on existing zoning ordinance development standards.

Possible results of Zoning Ordinance amendments

Every lot that currently large enough to permit a second unit would be impacted by changes to the development standards.

- Setback limits and building separations: Generally, it can be assumed that the footprint of a second unit would be reduced if the setbacks are increased and building separations are placed, and exceptions to setbacks are removed. A reduction in the footprint could result in an increase in the number of rear units that include a second story.
- Height limits: If the height is reduced, buildings will tend to cover more of the lot.
- Reducing height or increasing setbacks will limit the building envelope for the second unit, which could lead to less articulation and bulkier buildings.

- Increased limits on detached second units could lead to an increase in the number of attached second units, since the proposed changes would apply only to detached second units rather than additions to the original building.

Analysis of Modified Development Standard Proposals

Minimum lot size for second units.

Existing standard: The R-1A permits properties with a minimum lot size of 4,500 square feet to establish two Dwelling Units with a Use Permit (Section 23D.20.070.B).

Options:

- A. The minimum lot size where a second unit might be added could be increased to 5,000 sf; or
- B. The existing minimum size (4,500 sf) could be maintained.

Impacts of increased parcel size: According to the City's records, there are 1,419 lots in the City which are entirely within the R-1A District. Of these lots, 716 (50%) are 4,500 sf or greater, and are eligible for a second unit. If the minimum lot size for second units is increased to 5,000 sf, the number of lots eligible for a second unit would decrease to 589 (41.5% of the R-1A lots). This would mean that 127 lots would no longer be eligible for a second unit.

Minimum separation between Main Buildings.

Existing standard: The R-1A does not have a building separation requirement between Main Buildings.

Options:

- A. A distance requirement could be added to the R-1A district that is equal to the R-2 and R-2A distance requirements (8 feet for one story, 12 feet for two stories and 16 feet for 3 stories);
- B. A distance requirement that is specific to the R-1A district could be added; or
- C. The existing condition (no distance requirement) could be maintained.

Impacts of building separation requirement: A distance requirement would limit the building envelope for a detached second unit. Often, the area between the units is used to provide required parking for one of the units; when this is the case, the distance between the Main Buildings is generally at least 12 feet wide in order to allow for a vehicle to maneuver into the space and allow passengers to access the vehicle.

Maximum height for second units.

Existing standard: Main Buildings can be 3 stories and 28 feet tall (35 feet with an AUP). There is no height distinction made between Main Buildings sharing a parcel. (Sections 23D.20.070.C and D)

Options:

- A. Limit the number of stories of second units in rear yards;
- B. Limit the height of second units in rear yards; or
- C. Do not have different height requirements for Main Buildings sharing a lot.

Impacts of height restrictions: One of the primary concerns heard by staff regarding second units in the rear yard is the impact the height will have on neighboring properties. The taller the building, the greater the visual impact, and privacy and shadow impacts become a concern. Limiting a rear unit to one story would address those concerns, but has its own impacts. One story limits could lead to buildings with a larger footprint, up to the maximum 40% total lot coverage. Limiting a building to one story could also impact the ability to park a car for the rear unit on the property, as many units use a portion of the ground floor as an attached garage. Finally, a one-story limit could reduce the size of the second unit to the point where it is not significantly different from an ADU, making it a less viable option for property owners.

Side yard setbacks.

Existing standard: New dwelling units must be four feet from the side property lines. There is an exception for properties west of San Pablo Avenue, which can reduce the side yard with an AUP in order to construct a Dwelling Unit.

Options:

- A. Increase side setbacks for second units in rear yards regardless of height;
- B. Increase side setbacks for second units in rear yards based on the height of the unit;
- C. Remove the ability to reduce the side yard setback with an AUP; or
- D. Do not have different setback requirements for front and rear units.

Impacts of increased side yard setbacks: Increasing side yard setbacks would push the second unit further away from neighbors to the left and right of the property, which are generally closest to new development. This could increase privacy for these neighbors and lead to a reduction in shadow impacts. Greater side setbacks would also allow for larger side yards which could allow more landscaping options to provide additional privacy for neighbors.

Rear yard setbacks.

Existing standard: New dwelling units must be twenty feet from the rear property line. There is an exception for properties west of San Pablo Avenue, which can reduce the rear yard with an AUP in order to construct a dwelling unit.

Options:

- A. Remove the ability to reduce rear yard setbacks with an AUP;
- B. Allow rear yard setbacks to be reduced based on the height of the dwelling unit;
or
- C. Continue to allow unlimited reduced rear yard setbacks.

Impacts of reduction in rear yard setback flexibility: Prohibiting or restricting the reduction of rear yard setbacks could result in smaller building envelopes. This could lead to an increase in two-story second units in rear yards. It also limits the flexibility of staff or the Zoning Adjustments Board from considering reductions when surrounding development would not be impacted.

Aligning regulations throughout the R-1A District.

Existing standard: The R-1A is located in two discrete areas of the city: the residential area west of San Pablo Avenue, and a smaller area north of Gilman (Westbrae). The two areas were both originally zoned R-2 and R-4. Only the area west of San Pablo Avenue allows for an exception to side and rear setbacks with an Administrative Use Permit; the Westbrae area does not allow that option.

Options:

- A. Modify setback requirements so that they are consistent throughout the R-1A District
- B. Maintain distinction between the Westbrae and west of San Pablo sections of the district.

Impacts of applying same regulations throughout the R-1A district: The only differences between the two sections are the flexibility of the side and rear setbacks. The impact of changes to development in both sections will depend on the actual changes adopted.

Staff Proposal

Based on the analysis above, staff proposes the changes shown below. See Attachment 4 to see how these changes compare to the R-1 and R-2 development standards.

	Existing ZO language	Staff Proposed Changes
Minimum lot for second unit	4,500 sf	4,500 sf (no change)
Separation btw Main Buildings	None	12', reduction with AUP
Maximum stories	3	2, no AUP to exceed
Average height	28', up to 35' with AUP	24', no AUP for addl height
Side yard setbacks	4', reduction with AUP	6', no reduction
Rear yard setbacks	20', reduction with AUP	20', reduction with AUP, up to a limit of 12 feet
Apply to entire R-1A	Different side and rear yard setbacks in area west of San Pablo	No distinction between Westbrae and west of San Pablo area

Lot size – Staff recommends keeping the minimum lot size for a second unit at 4,500 square feet. This will allow all property owners who currently could apply for a second unit to maintain that right.

Building separation – Staff recommends a 12-foot building separation between Main Buildings, regardless of height. This separation could be reduced with an AUP, using the same findings as for allowing a reduction in the rear yard setback. Allowing this flexibility could allow the building to be placed further away from the rear yard setback or from other buildings, both on the subject property or on neighboring properties.

Building height – Staff recommends limiting the rear Main Building to 2 stories, 24 feet average height, with no option to exceed either standard with an AUP. The 24-foot average height will allow for a pitched roof, while still being tall enough to allow for two full stories. This reduction could reduce the visual impact of the second unit from the street.

Side setback – Staff recommends increasing the side yard setback for second units in the rear yard to 6 feet, with no option for a reduction with an AUP. The increased side yard setback, along with the height reduction, will reduce shadow impacts on neighboring properties and could reduce the visual impact of the second unit from neighboring properties.

Rear yard setback – Staff recommends maintaining the 20-foot setback, and allowing a limited reduction up to 12 feet with an AUP for lots that are less than 120 feet deep. Some yards are only 100 feet deep, and will have a hard time adding a second unit without some flexibility.

Alignment in R-1A – Staff recommends that all development standards apply to all properties in the R-1A district. All of the proposed changes would impact the west of San Pablo section of the R-1A district. The only changes that will impact the Westbrae section are the increased side yard setback, and the possibility of a rear yard setback with an AUP for a second unit. This could allow more area for a building envelope in that section of the R-1A district.

Environmental Review

The environmental impacts of regulating the development standards of a dwelling unit, from a CEQA standpoint, are not significant. CEQA is used to evaluate physical impacts resulting from changes in use and activity, such as increased development or traffic, on an identified area.

The proposed Zoning Ordinance changes could reduce the size of second units allowed in R-1A districts. Depending on the changes selected, it could prevent second units from being considered on some lots based on the size or shape of the lot.

For this reason, the project can be considered “exempt” from CEQA, per Section 15061.b.3, which states:

“...CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

Dutra Analysis

Per Section 65863 of the California Planning and Zoning Code (Attachment 5), a legislative action that will reduce or permit the reduction of the residential density for any parcel to a lower residential density cannot be approved unless the City makes two written findings:

1. The reduction is consistent with the adopted general plan, including the housing element; and
2. The remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584.

While the changes proposed by staff could reduce the size of a second unit or could make it challenging for certain parcels to accommodate a second unit, it would not reduce the residential density for any parcel. In this case, the Dutra findings would be unnecessary.

If other changes are proposed that would reduce the residential density of a parcel, staff would need to consider whether those changes would trigger a Dutra analysis.

General Plan Review

Staff has determined that no changes are necessary to the General Plan as a result of this draft zoning amendment. The proposed changes would add development standards designed for second units located at the rear of a property, while still allowing a building intensity of 10 – 20 dwelling units per net acre as permitted in the Low Medium Density Residential land use classification.

The General Plan has specific policies that support these proposed zoning ordinance changes:

Policy LU-3 Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.

Policy LU-7 Neighborhood Quality of Life: Preserve and protect the quality of life in Berkeley's residential areas through careful land use decisions.

Action LU-7.A: Require that new development be consistent with zoning standards and compatible with the scale, historic character and surrounding uses in the area.

Action LU-7.B: Carefully evaluate and monitor new and existing uses to minimize or eliminate negative impacts on adjacent residential uses.

Action LU-7.D: Strengthen Zoning Ordinance language to ensure greater protection of solar access to adjacent properties when new projects or additions are proposed.

If other changes are proposed that would reduce the building intensity allowed in the R-1A district, staff would need to re-evaluate the consistency of those changes with the General Plan.

CONCLUSION

Staff recommends that the Planning Commission:

1. Consider the attached Zoning Ordinance language (Attachment 1);
2. Identify preferred options through a vote of the Commission; and
3. Forward the approved zoning language to the Council for consideration.

If the Commission requires more time to consider these options, the Public Hearing should be continued to a date certain.

ATTACHMENTS

1. Proposed Ordinance Language
2. Friends of R-1A proposal
3. John Newton proposal
4. Matrix of development standards in the R-1, R-1A, R-2 and R-2A Districts (see January 18th matrix)
5. Section 65863 of the California Planning and Zoning Code (Dutra)
6. Public Hearing Notice

**Item 11 – Attachment 3
Planning Commission
July 19, 2017**

**Item 13
May 17, 2017**



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: May 17, 2017

TO: Members of the Planning Commission

FROM: Elizabeth Greene, Senior Planner

SUBJECT: Public Hearing Continued from 4/19/17: Zoning Requirements for Second Dwelling Units in the R-1A District

RECOMMENDATION

Recommend to the City Council amendments to the Zoning Ordinance to set specific development standards for second Dwelling Units in the R-1A District.

BACKGROUND

The R-1A District allows for second Dwelling Units (“second units”) as well as Accessory Dwelling Units (ADU). Both the City Council and Zoning Adjustments Board have asked for guidance regarding the size of second units and the relationship to the existing residence on the lot. This subject has been brought up in Council referrals on September 21, 2010, and July 14, 2015, and a letter from ZAB to the City Council and the Planning Commission on March 31, 2016.

On April 19, 2017, the Planning Commission held a Public Hearing to consider amendments to the Zoning Ordinance to set specific development standards for second Dwelling Units in the R-1A District. The changes focused on the following R-1A development standards and that would be applied throughout the district:

- A. The minimum lot size required to establish two Dwelling Units;
- B. The distance between Main Buildings;
- C. The height of second units; and
- D. The rear and side yard setbacks for second units.

Staff provided options and recommendations for amendments to these developments standards, as well as for aligning the regulations in the Westbrae and west of San Pablo portions of the district. Most of the proposed changes were designed to apply to second Dwelling Units built in a rear yard, rather than both units on the property. See the April 19th staff report (Attachment 2) for the options, analysis and recommendations.

DISCUSSION

Additional Research

At the April 19, 2017 meeting, the Planning Commission requested additional information related to two issues:

1. The number of lots that would be impacted by increasing the minimum lot size for second units to 5,000 sf; and
2. The number of Accessory Dwelling Units (ADU) that have been built in Berkeley.
3. Options for reducing a front yard setback.

Lots that would be impacted by an increased minimum lot size for second units.

Staff researched the lots that had been identified as larger than 4,500 sf and smaller than 5,000 sf. Of these 127 lots, 11 had been developed with at least one additional unit, either a second Dwelling Unit or an ADU. For more detailed information and the methodology used to determine this figure, see Attachment 3.

ADUs in Berkeley.

ADU regulations have changed significantly over the past three years. Based on state requirements and Council direction, the regulations have changed to make it easier for property owners to build ADUs without discretionary review.

Staff reviewed building permits and AUP applications from 2012 through 2017. This allowed staff to count applications for “by-right” ADUs, and those ADUs that required discretionary review. The total applications by year are shown below:

	2012	2013	2014	2015	2016	2017 (partial)
ADU applications	14	11	7	10	18	4

For more detailed information, see Attachment 4.

Staff Considerations and Analysis

The Planning Commission already requested staff to evaluate options for reducing front yard setbacks. The staff analysis is included below.

Existing standard:

New dwellings must be 20 feet from the front property line. There are exceptions that allow architectural features, such as uncovered stairs and porches to extend up to six feet into a required front yard. The Planning Commission expressed interest in considering reduced front yard setbacks in order to allow more open space in the rear yard and flexibility in positioning a second dwelling.

Options:

- A. Allow reduced front yard setbacks with an AUP if the reduction will allow a rear yard setback that is larger than required; or
- B. Do not change the front yard setback requirement.

Potential Issues of a modified front yard setback:

- Reducing the front yard setback would create a different standard in the R-1A than in other districts. Only the R-S and R-SMU (higher density districts) allow reduced front yards in cases when a smaller setback is appropriate given the setback and architectural design of surrounding buildings.
- In most cases, the front yard setback has already been established by an existing Dwelling Unit. Reducing the front setback is generally not feasible with an existing building, and could result in more teardowns of existing Dwelling Units.
- In cases where the front Dwelling Unit is demolished, allowing the replacement structure to be placed closer to the front of the lot could provide some additional space in the rear yard.

Staff Recommendation:

Staff recommends no change to the front yard setback requirements, since this would be unique to the R-1A and could provide additional incentive to demolish existing Dwelling Units. Reductions to front yard setbacks could be considered as part of a comprehensive review of the residential districts.

CONCLUSION

Staff recommends that the Planning Commission:

1. Consider the research and recommendation included with this report;
2. Consider attached Zoning Ordinance language from the April 19, 2017 meeting (Attachment 1);
3. Consider other options put forward by other Commissioners and the public;
4. Identify preferred options through a vote of the Commission; and
5. Forward the approved zoning language to the Council for consideration.

If the Commission requires more time to consider these options, the Public Hearing should be continued to a date certain.

ATTACHMENTS

1. Proposed Ordinance Language (from April 19, 2017 staff report)
2. April 19, 2017 staff report and attachments
3. Chart showing development of R-1A lot between 4,500 sf and 5,000 sf
4. Chart of ADU applications, 2012 – 2017

Comparison of Development Standards for City of Berkeley Districts

Dwelling Unit Development Standards	R-1	R-1A	R-2	R-2A
	Single-Family Residential	Limited Two-Family Residential	Restricted Two-Family Residential	Restricted Multiple-Family Residential District Provisions
General Plan Designation	Low Density Residential	Low Medium Density Residential	Low Medium Density Residential	Medium Density Residential
Allows additional main dwelling units?	NO	YES , limited to two units	YES , limit based on lot size	YES , limit based on lot size
Minimum Lot size for more than one unit	N/A	5,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.
Minimum Useable Open Space	400 sq. ft. / dwelling unit	400 sq. ft. / dwelling unit	400 sq. ft. / dwelling unit	300 sq. ft. / dwelling unit
Maximum Lot Coverage	40%: all types of lots	40%: Interior and Through Lots 45%: Corner Lot	35% to 50%, depending on the main building height, whether interior, through, or corner lot. Doesn't say what to do with multiple main buildings	35% to 50%, depending on the main building height, whether interior, through, or corner lot. Doesn't say what to do with multiple main buildings
Number of Dwelling Units	1 dwelling unit per parcel	2 dwelling units per parcel having a minimum of 4,500 sq. ft.	1 dwelling unit per 2,500 sq. ft., plus 1 if remaining lot area is > 2,000 sq. ft.	1 dwelling unit per 1,650 sq. ft., plus 1 if remaining lot area is > 1,300 sq. ft.
	Example: 1 dwelling unit on a 5,000 sq. ft. lot	Example: 2 dwelling units on a 5,000 sq. ft. lot	Example: 2 dwelling units on a 5,000 sq. ft. lot	Example: 3 dwelling units on a 5,000 sq. ft. lot
Average Height Limits	28' / 35' with an AUP	28' / 35' with an AUP	28' / 35' with an AUP	28' / 35' with an AUP
Maximum Stories	3	3	3	3
Setbacks: Front	20'	20'	20'	15'
Setbacks: Rear	20'	20' (If west of San Pablo, reduction permitted to construct a main building, with AUP and special non-detriment finding)	20' (reduction permitted to construct a additional main dwellings with AUP)	15'
Setbacks: side	4'	4' (If west of San Pablo, reduction permitted to construct a main building, with AUP and special non-detriment finding)	4' (for 3rd floor -- 6' separation)	4' (for 3rd floor -- 6' separation)
Building Separation	not specified	not specified	Specified: 8' for 1-story, 12' for 2-stories, 16' for 3-stories	Specified: 8' for 1-story, 12' for 2-stories, 16' for 3-stories
FAR Limits	None	None	None	None
Daylight Plane	None	None	None	None