

DATE: **October 2, 2003**

TO: Honorable Chair and PI~ Commission Members

FROM: Steve Duran, Community & Economic Development Director
Lisa Hamburger, Community & Economic Development Deputy Director
James Branch, Community & Economic Development Project Manager

THRU: Jay Corey, Assistant City Manager

SUBJECT: Zoning Ordinance Changes for Non-Conforming and Small Size Lots

RECOMMENDADON

It is recommended that the Planning Commission recommend to the City Council that Staff be directed to proceed with the preparation of specific text changes to the Zoning Ordinance, including the processing required under California Environmental Quality Act (CEQA), and to the General Plan" if necessary, in order to clarify the regulations and development application processing concerning small-size and non-conforming lots.

BACKGROUND

In July 2001, the Richmond City Council directed the Community & Economic Development Department-Housing Division to structure a program to develop 400-500 vacant lots and abandoned properties in developed Richmond neighborhoods (Le. North Richmond, Iron Triangle, and Santa Fe) and, by mid 2006, make these homes available to first-time homebuyers with annual incomes between 65% and 100% of Area Median Income (AMI), \$49,790 and \$76,600, respectively, for a family of four. The rationale for the program is that these developments would serve as a catalyst for transfonning over-grown, debris collecting parcels into affordable single-family homes.

In response to the City Council's direction, CED Housing Staff developed the Infill Housing Program. The center pieces of the Program are

- ∴ A Pattern Boo~ consisting of alternative designs for Single-family homes that can be accommodated on 25 and 37.5 foot wide lots,
- ∴ An expedited City approval and permitting process that reduces the time and costs to improve these lots for designs picked from the Pattern Book, and

0 Adopt a Resolution to create the Infill Progr~ that shall provide staff, the Design Review Uoard and the Planning Commission direction on how to proceed with the adoption of designs for the pattern book, the administrative review process for future applications under the Infill Program, specific text changes to the. Zoning Ordinance, and to the General Plan, if necessary. Scheduled for October 16, 2003, Special City Council Meeting.

0 Adopt amendments to the Zoning Ordinance and, if necessary, the General Plan and establish the Pattern Book, an administrative review process, and the fee structure for Planning and Building Regulation services for future applications under the Infill Program. Anticipated action date is early January 2004.

ANALYSIS

To achieve the Infill Housing Program's objective, two Zoning Ordinance changes are needed.

- 1) Eliminate the Need °ances for Non-Co ° Lots and Allow Ex e ited Process fi roval and Permittin

The 50' wide and minimum 5.000 square feet lot pattern was codified in the Zoning Ordinance in 1949 as the minimum size developable lot. Owners proposing to build homes on smaller lots, considered as non-conforming lots by the Zoning Ordinance, may be required to obtain a Conditional Use Permit (CUP) to accommodate tandem parking. This process normally takes 2-3 months, including DRB and Planning Commission action. In addition, cuurent Zoning Ordinance regulations do not allow for optimum site development of small-sized lots.

StaffPrOI2osal: Staff proposes changing the Zoning Ordinance so that non-conforming lots can routinely accommodate the minimum dimensions for a well designed and functional single-family home without further Planning Commission action. In addition, this proposal would eliminate further **DRB** action, since the designs were originally approved by the **DRB** as part of the Pattern Book.

In practical terms, if an owner proposed to build a home on a non-conforming lot. s/he would be able to proceed with an application to Building Regulations for a building permit provided that the proposed home was previously adopted by DRB and approved for inclusion in the Pattern Book and that the front-yard set back is no less than the average of the two adjoining lots. Otherwise, the owner would be able to seek approval under the City's Administrative Design Review Process, recently recommended by the Planning Commission and adopted for 1st Reading by the City Council. These changes would reduce the current planning and the building permitting process from 4-5 months to less than 1month.

- (2) Conforming Lots. which at some time since 1949 were jointly belg,

The impact of the number of lots for each site that would be allowed under each proposal is shown below. Please note that in all instances, the current zoning regulations regarding maximum slope of 5% would still apply.

Number of non-conforming lots on site	Min. Width of each/size of site	No./size of lots that would be developed		
		Currently	(a) or (b)	(c)
1	25'/2,500	1@25'/2,500	na	na
1	37.5'/3,750	1@37.5'/3,000	na	na
2 with Common ownership	25'/6,250-7,500	2@30'/3,000	na	na
2 with Common ownership	25'/5,000	1@50'/5,000	2@5'/2,500	1@50'/5,000
3 with Common ownership	25'/7,500	1@50'/7,500	3@25'/2,500	2@37.5'/3,000
3 with Common ownership	25'/8,500	1@50'/8,500	4@25'/2,500	1@25'/2,500 + 2@37.5'/3,000
4 with Common ownership	25'/10,000	2@50'/5,000	4@25'/2,500	1@25'/2,500 + 2@37.5'/3,750
5 with Common ownership	25'/12,500	2@50'/6,250	5@25'/2,500	2@25'/2,500 or 1@50'/5,000 + 2@37.5'/3,750 or 3@37.5'/3,750

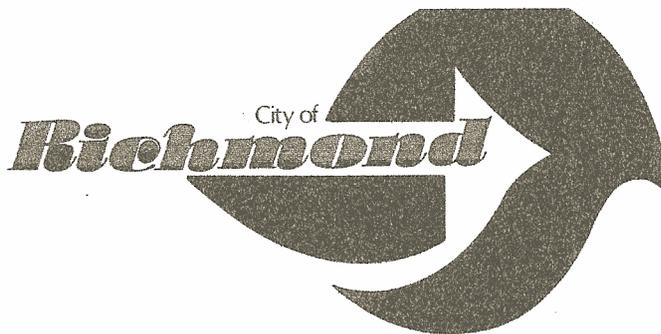
In addition, it may be defensible to redraft the Zoning Ordinance to exclusively disallow the unmerging of parcels, if the specific parcels in question have been the subject of a merger action undertaken by the owner or City" and subsequently improved upon.

Regardless of which direction the redrafting of the Zoning Ordinance takes. much public awareness should occur in the community and with the real estate industry to ensure that owners understand their ability to develop on a non-conforming lot.

COORDINATION

Three City departments are involved in the development and implementation of the Infill Housing Program. Community & Economic Development, Planning and Building Regulations.

PUBLIC OUTREACH



SUPPLEMENTAL REPORT

DATE: October 2~ 2003

TO: Planning Commission

FROM: Planning Department

SUBJECT: SMALL SIZED LOT DEVELOPMENT REGULATIONS: Issues and Policies

Zoning Ordinance Amendments for In-Fill Initiative

The City's current residential development standards (set backs, yard space, parking...) were adopted in 1997 at the time of a general Zoning Ordinance revision. In the course of studying designs for the In-Fill Housing initiative, the project architects found that several Zoning Ordinance standards, as they related to small-sized lots, impeded development of efficient and aesthetically pleasing dwellings that also conformed to the "Portland Standards," the official design standards for in-fill residential housing.

Independently of the In-Fill architect's design process, staff and the Design Review Board came to similar conclusions regarding the desirability of amending certain development standards as they related to small-sized lots, not only for the benefit of the Initiative, but in the general interests of the City as well.

As a result, several of the designs earmarked for the In-Fill Initiative pattern book anticipate the following refinements to the Zoning Ordinance:

Allow provision of tandem parking on minimum 20' deep driveways on small-sized lots.

Reduce the mandatory rear yard setback for lots under 3,000 SF from 25% to 20% of the lot depth and the minimum Interior Yard Space requirement from 25% of lot area to 20%.

Allow covered porches to encroach a maximum of six feet into a required front-yard

Allow accessory structures on lots less than 40' wide to be built to property lines in rear yards as is allowed on larger lots. This will facilitate placement of detached garages behind dwellings.

- c. Establishing maximum Floor Area Ratios or other means to limit the potential size of homes built upon small-sized lots in order to reduce potential impacts from such developments, or
- d. Maintaining prohibitions against development on corecorded small-sized lots on sloping sites, allowing such development on flat lots only.

In regards to the first factor, the City itself has been following a policy that sees the existing stock of small-sized lots as a resource for the provision of lower cost housing. In particular, the Redevelopment Agency's In-Fill Housing initiative has largely been crafted to produce prototype homes for those lots. The Housing Agency, through the Hope VI program also envisions small sized lot homes.

Regulations

On the regulatory side, the City Attorney recently found that commonly owned small-sized lots can not be considered to have been legally merged. The Planning Department took that opinion to mean that Zoning Ordinance regulations prohibiting individual development of legally created small-sized lots could no longer be enforced and began accepting proposals to develop many small sized lots that had been held under a common ownership, if those proposals did not create non-conformities for existing or proposed structures. Based upon that interpretation, Planning Staff prepared a draft Zoning Ordinance revision codifying the buildability of small sized lots in conjuncture with other changes intended to support the In-Fill Housing Initiative.

Upon a closer scrutiny) however) the City Attorney's office made a distinction between the merger issue and the buildability issue. That opinion reinstated the applicability of the Zoning Ordinance prohibition of individual development of commonly owned small sized lots, and even tightened application of those provisions in relation to past enforcement practices. As a result) the Planning Department must reverse its recent practice of accepting applications for development on small sized lots that have been commonly owned and even prohibit additions and enlargements on many lots on sloping properties (see attachment C).

Implications

One implication of this new direction could be a wholesale increase in applications for Variances. It could also severely constrain the number of sites eligible for development through the In-Fill Initiative.

In making his findings, the Attorney has further noted that the small-sized lot development controls, as they exist, are in part contradictory and poorly composed and need revision and clarification, even if the policy goal, restricting development of small-sized lots, is to be retained.

In light of the contradictory goals and interpretations regarding this issue, staff would like to receive direction from the Council, prior to revising the Zoning Ordinance provisions for the creation **and** development of small-sized lots.

Specifically, *should it be the City's policy to encourage use and development of small-sized lots or should the City continue to restrict and limit the build ability of such lots?*

Should a nonconforming structure be damaged or destroyed by any means to an extent of more than 75% of the replacement cost of the structure immediately prior to the damage as determined by the Chief Building Inspector, the nonconforming structure shall not be reconstructed, except in conformity with this Zoning Ordinance or a conditional use permit as granted by the Planning Commission.

The application for a conditional use permit shall be made within one year of the date of damage or destruction.

Should a structure of which the use does not conform with the regulations for the district in which it is located, be damaged or destroyed by any means to an extent of more than 75% of the replacement cost of the structure immediately prior to the damage as determined by the Chief Building Inspector, the nonconforming use shall not be resumed, except in conformity with this Zoning Ordinance or a conditional use permit as granted by the Planning Commission.

The application for a conditional use permit shall be made within one year of the date of damage or destruction. (COrd. 31-97 N.S., "1 2/23/97)

15.04.940.030 Restrictions on Nonconforming Uses, Structures and Lots

A. Existing structures which have a nonconforming use, the lot is nonconforming or the structure is nonconforming are subject to the following restrictions:

Existing structures may be externally enlarged or extended, moved, or structurally altered only after the use of this structure is changed to a permitted use for the district in which it is located.

2. A vacant property/building in which the last use was nonconforming may be occupied by the same use if occupied within a period of one year after the building became vacant. If the last nonconforming use was for vehicle service station purposes, then the vacant building/property must be occupied by a similar use within a period of six months after a use was granted a CUP or the last nonconforming use ceased. If the building/property is not occupied by a similar use within the time periods set forth, then the building/property must comply with the applicable district located as set forth in the Zoning Ordinance.

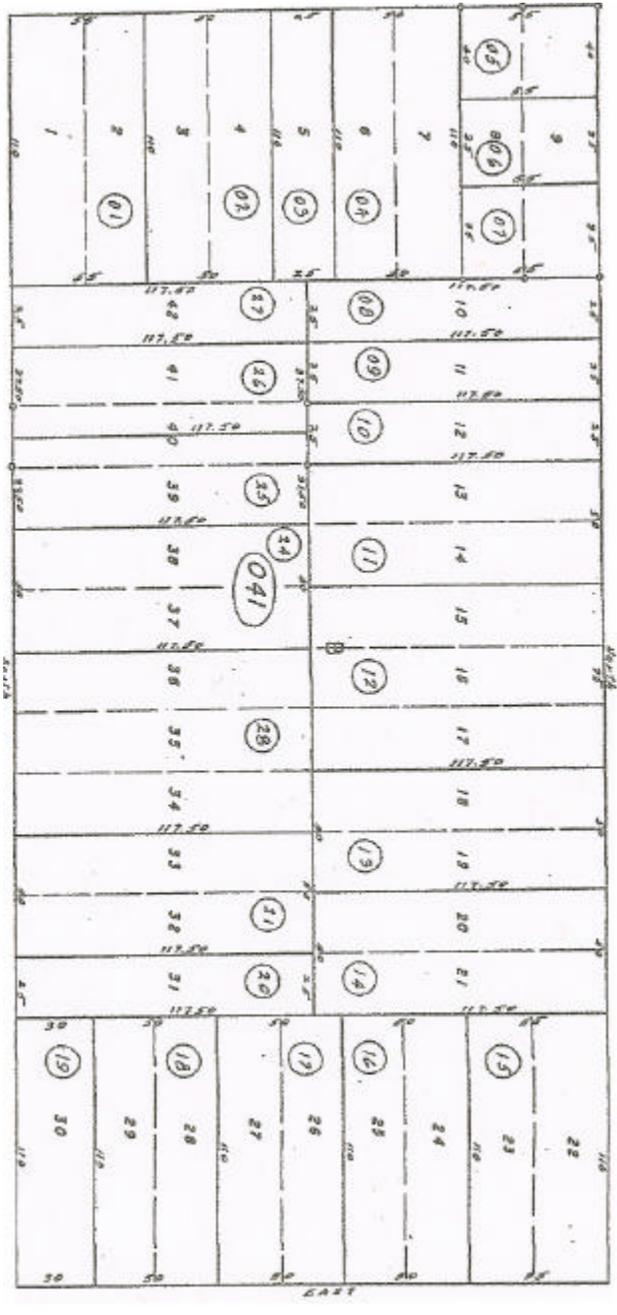
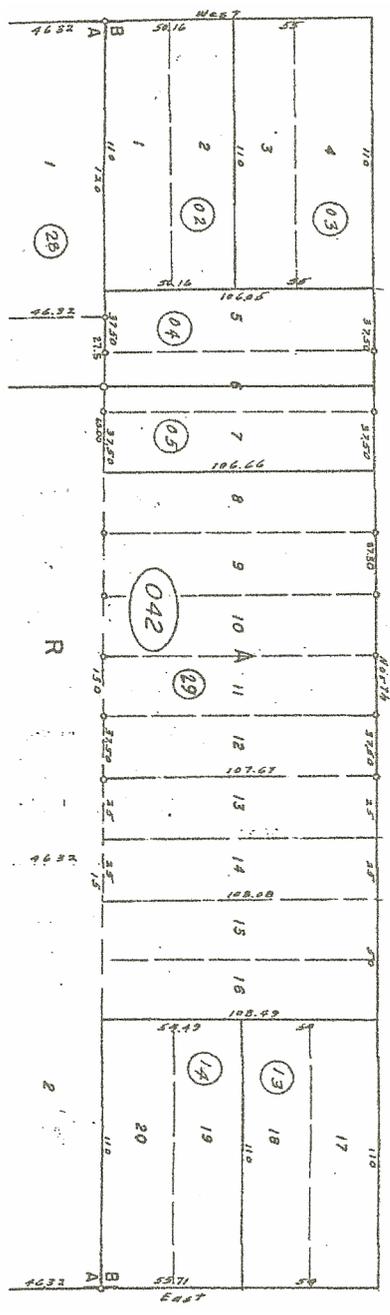
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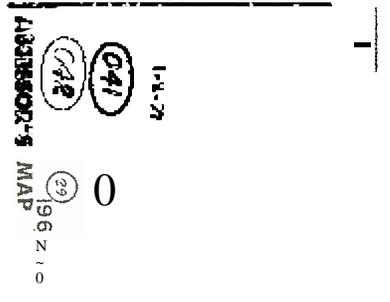


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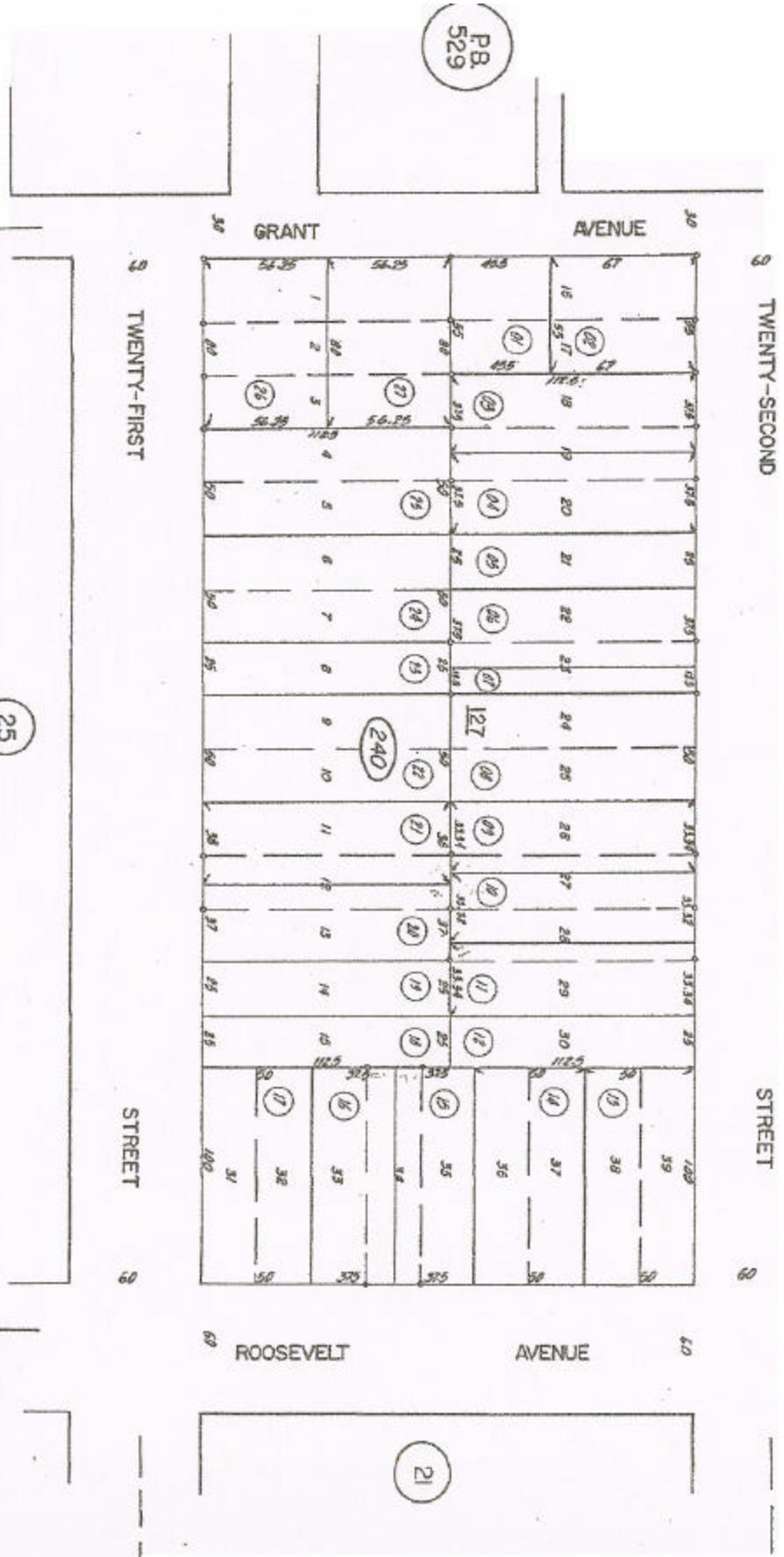
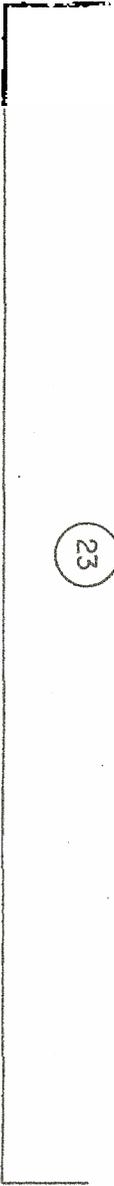
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~stabfish the minimum 3,000 SF building sites.

On the other hand, a Lot Line Adjustment (or Subdivision) may not be granted if a consolidated property is vacant (or if a structure on said consolidated lot were constructed after 1959 in the case of lots between 6,250 and 7,500 SF in area) and if the lot line adjustment would result in lots less than the minimum size required in the base residential zoning district. For example, in the case of three adjoining 25' wide lots of record once recorded in common, although the three lots are not merged, a lot line adjustment may not be granted to alter the configuration of those existing lot lines since at least one of the resulting lots would be less than minimum base zone sizes. Furthermore, since those three vacant lots were recorded under a common ownership they could not be independently developed as three building sites (per section 15.04.940.030.3) and if a dwelling were erected on two of those lots whose combined size met the base standards, the third remainder lot would not be developable.

Lots of record regardless of the issue of common recordation, that are less than the 5,000 SF and which have an average longitudinal and cross slope of 5% or more, may not be developed with uses permitted in the base zoning district. For example, a 4,000 SF lot in Pt. Richmond with a slope in excess of 5% that is in a SFR-2 Zoning District (6,000 SF minimum lot size) may not be developed (Ref. Section 15.04.940.030 Non-Conforming Lots). Similarly, in the case where such a lot is already developed with a dwelling, the dwelling could not be enlarged or extended, moved or structurally altered because of the non-conforming status of the lot. However, a lot in Pt. Richmond that is between 5,000 and 6,000 SF in the SFR-2 district with a slope in excess of 5% that has not been recorded in common with an adjoining, it may be developed with uses allowed in the base District.

Please advise whether or not the above interpretations conform to your opinion.

See attachments:

0 Deadline for opinion? 6/6/03 0 Meeting Agenda (circle one)

City/Agency/Authority _/~-

(ITEMS MUST HAVE COMPLETED THE REVIEW PROCESS BEFORE PLACEMENT ON AGENDA)

RESPONSE BY CITY ATTORNEY'S OFFICE

APPROVED AS TO FORM.

0 APPROVED SUBJECT TO THE CHANGES SHOWN ON ATTACHED DRAFT

0 REPLY ATTACHED

OTHER :

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Please make a copy of this form for your file.

Attorney

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BEQUEST fIR I1U18'111811

Dated: 5/27/03

.From: Planning' J. Light x6703

Department - . Ini tiated by - Telephone Number -

S'ubject: Sma' J Size Lot p:'~Jj'~abiLit...:T

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Attach a hard copy of the Purchase Requisition for the subject contract.

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2. Identify funding in subsequent Fiscal Year(s):

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Please indicate the nature of request !!].t:!/of the parties to and ~e purpose of contract or document to be reviewed: Everett

On May 8, 2002 Judith Battle, Principle PI~nner and I (J. Light, Assoc. Planner) met with you to discuss the developability of small sized residential lots. My understanding of your interpretation of the merger/buildibiJity issu~s were as follows:

a) Lots of record that are smaller than the minimum size specified in the ruling residential district that hav~ b~en recorded in common with an adjoining lot of record at any time since January 31,1949 (e.g. bare a common APN#) !}gveQot Queen m~rged unless a specification action to so merge has been undertaken either by the owner or by the City pursuant to the procedures set forth in Section 15.06 of the City's Subdivision Ordinance. Absent of such a merger action, the common recordation of said lots may be rescinded by the owner at any. time and the lots must be treated as individual stand alone -lots of record.

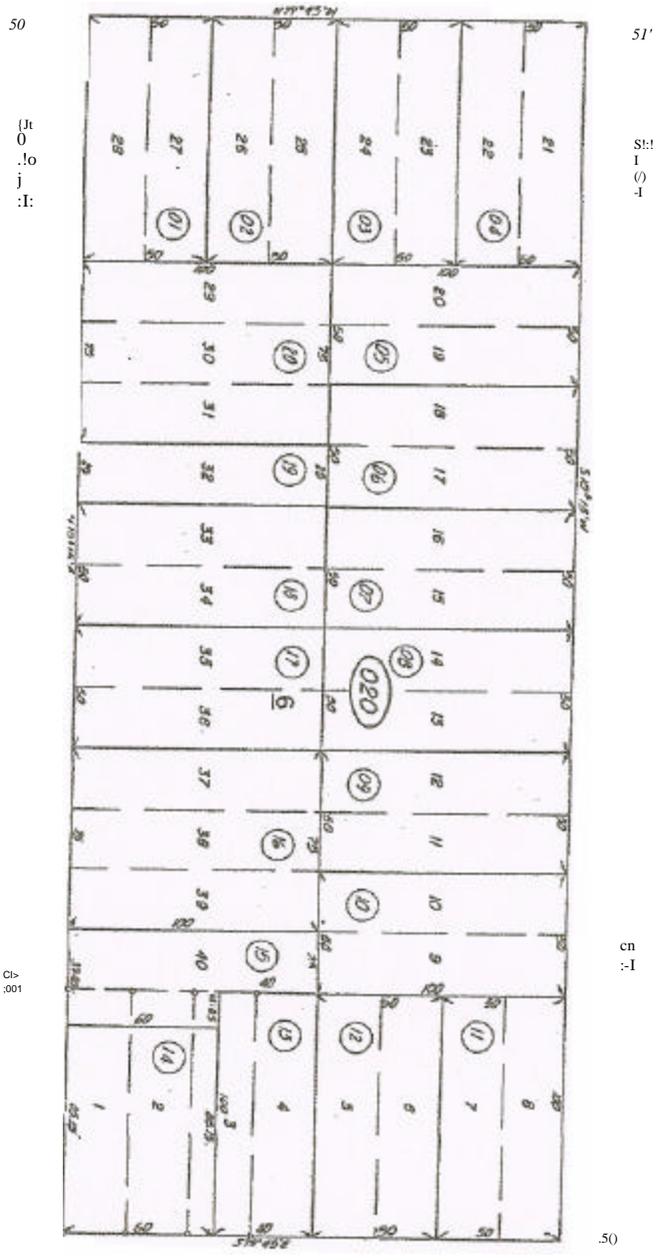
b) Not withstanding the above, *lots* of record that are smaller than the minimum *size* specified in the ruling residential district, but no larger than 5,000 SF, and that !!g~e been recorded in common with an adjoining lot of record at any time since January 31,1949 ffi?XQQt be developed unless said lot is developed in concert with the lot with which it has been commonly recorded. (ref. Section 15.04.940.030.3. Non..conforming Lots) except,

Where two or more substandard lots are. or have been at anytime since January 31,1949) commonly recorded, and a dwelling, either constructed prior to 1959 in the case of 6,250 SF lots and 7,500 SF in the case of dwellings erected after said year) exists on one of those commonly recorded lots, and the lots have an average slope of 5% or less, then the undeveloped lot(s) may built upon subject to the regulations of the ruling district if that undeveloped lot(s) [and the remainder lot(s)] are a minimum of 3,000 SF in area. If either of the newly recognized lot(s) are less than 3,000 SF the vacant portion may not be developed.

In a case where a consolidated1 level parcel contains a dwelling as described above1 a Lot Line Adjustment may be allowed to estabstish the minimum 31000 SF lot(s). Or, if the 6,250+ SF

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~ D. Lot Area: The minimum lot area shall be as indicated in the base zoning district or as approved under a Planned Area permit.

t E. Small-Sized Lot Creation - Existing Dwelling: Where a level parcel, having an average longitudinal slope of less than 5 percent and average slope of less than 5 percent, with an existing dwelling meets anyone of the conditions below:

Condition 1: If the dwelling consists of no more than two (2) dwelling units and was erected prior to December 14, 1959. and the overall consolidated parcel is at least sixty-two and one-half (62-1/2) feet in width and six thousand two hundred fifty (6,250) square feet in area (Ord. 37-96 N.S.. 12/17/96); or

Condition 2: If the dwelling is erected after December 14, 1959, and the overall consolidated parcel is at least seventy-five (75) feet in width and seven thousand five hundred (7,500) square feet in area,

Said parcel may be divided into two separate building sites of no less than thirty (30) feet frontage and three thousand (3,000) square feet in area provided that the occupied portion shall be afforded rear yard, Interior Yard Space, side yards, off-street parking, and driveway width as required by this chapter for lots of similar size.. Said split may occur when the occupied portion has a nonconforming side yard on the opposite side from the proposed split line..

When thus divided, the new, vacant portion shall become a separately recognized building site upon arrival of a plot plan and survey showing the division and the existing lot, use of both components, and when the survey is filed with the County Recorder.

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A. Interior Yard Space: In single. family residential developments, interior yard space equal to 16% of - . ,

the lot area shall be provided. Such lot area shall be. completely open except for a pano or pergola, etc. and shall be effectively separated from areas of automobile circulation,

1. . The interior yard space may be in the rear yard or within the building envelope (ex. as in an interior courtyard). The interior yard space may also include the interior side yard, which must have a minimum dimension of 15 ft. The minimum dimension of the interior side yard may be reduced to a minimum dimension of 12 ft. if the area represented by the side yard is not more than 33% of the total interior yard area. Accessory buildings, such as patio or pergola, may encroach into the interior yard space as long as such encroachment does not exceed 50% of the required interior yard space.

2. Where small size lots exist, (i.e., parcels of 30 ft. or less in width and of 3000 sq. ft. or less in area), an interior yard space equal to 25% of the total lot area shall be provided. An accessory building of not more than 60 sq. ft. in area and 9 ft. in height may be allowed to encroach into the interior yard space. Such accessory building should be located so that it is no more than 3 ft. from the rear corner property lines.

B. Open Space: Open space shall be provided for each dwelling unit in a structure with two or more units on the same lot as follows:

Some of the applications of encouraging small sized lots would be:

- a) Increase residential density in developed neighborhoods based upon 25' wide plots. In principle, two primary units could occupy a site otherwise restricted to one main dwelling.
- b) Replacing sites developed at a 50' width with 25' wide ones could alter the development pattern in existing neighborhoods by increasing the number of homes on a frontage, reducing yards and the sensation of openness and increasing the number of curb cuts and driveways on a block.
- c) Reducing on-street parking while adding more potential automobiles onto a block as the additional curb cuts would reduce available curbside parking.

The potential for a wholesale parcelization of commonly recorded small sized lots and their development in 25' wide segments appears to be limited in many neighborhoods at the present time. The potential is greater, however, in some neighborhoods, particularly North Richmond and portions of the Iron-Triangle and the South Side, where the supply of underutilized, run-down or vacant properties could prove attractive to developers. These also tend to be the neighborhoods with the greatest preponderance of existing homes on small sized lots. Impacts of increased small sized lot development could tend to concentrate in those neighborhoods.

Restricting building on small-sized lots could:

- a) Limit the supply of building sites, particularly those of a relative affordability
- b) Limit the scope and applicability of the In-Fill Initiative.
- c) Increase somewhat the number of vacant lots in need of maintenance and upkeep.
- d) Place a burden on staff to police parcelization of commonly recorded lots.

Staff is committed to revising the Zoning Ordinance to clarify these issues (as directed by Council) at the same time that other modifications to some development standards that would support the In-Fill Initiative are presented. Staff is also committed to clarifying provisions in the Zoning Ordinance that would prevent the creation of non-conforming conditions on lots that might be re-parcelized as well as to reformulate provisions that now could prevent additions and new development on legally created sloping lots that have never been commonly recorded (see attachment C).

Planning Staff Recommendation: Ease restrictions on the buildability of legally created small-sized lots due to recordation of common ownership and revise the Zoning Ordinance to clarify provisions to avoid creation of nonconforming conditions for existing buildings as a result of small sized lot development.

COMMUNITY & ECONOMIC DEVELOPMENT GROUP
PLANNING DEPARTMENT, CffY HALL
1401 MARINA WAY SOUTH
RICHMOND, CA 94801
(510) 620-6706-



DATE: September 18,2003

TO: Planning Commission

FROM: Planning Department

SUBJECT: SMALL SIZED LOT DEVELOPMENT REGULATIONS: Issues and Policies

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Most of the residential lots located in central flatlands (Iron Triangle, Belding Woods, North & East, Southside, North..), Point Richmond and the Annex were created in the first decade of the last Century. These lots were almost all plotted at a 25' width, usually with a depth of between 100' and 120..

When developing those lots, it was a very common practice to place structures on two or three lots, or a fraction thereof and treat those side by side lots as a single, common property without formally merging them. As a result, although there are and have been many examples of homes placed and maintained on single, 25' wide lots (and in more than a few instances 33' and 37.5' wide lots), development in these areas has often been based upon a 50' wide pattern (see attachment A).

That defacto 50' wide pattern was codified when the Zoning Ordinance was first adopted in 1949. After that date, newly created lots were to have a minimum size of 5,000 SF or greater. The Zoning Ordinance recognized that prior existing lots of record smaller than that size continue to exist and be built upon as non-conforming lots. However, the Ordinance specified that where small sized lots of record were held and recorded under a common ownership (even if not officially merged) they could not be returned to their original 25' plotting and developed except under certain specific conditions.

Those exceptions, were modified somewhat in the 1997 Zoning Ordinance rewrite (see attachment B), but the intention of prohibiting individual development of jointly held small-sized lots was retained and even tightened (even though enforcement of those provisions was occasionally circumvented both before and after that date).

Since that time two factors have arisen to put that policy in question. The first has been a higher than ever interest in developing small-sized lots as a result in the rapid rise of housing costs in the region. The second has been a closer scrutiny of the actual applicability of the existing regulations by the City Attorney in the context of recent court cases.

Building on Commonly Recorded Small-Sized Lots

Coincidental with the commencement of the In-Fill project was the calling into question of the validity and functionality of the Zoning Ordinance restrictions on building on commonly recorded small-sized lots by the City Attorney's Office (see attached Planning Commission report of 9/18/03). In so far as it relates to the In-Fill Housing Initiative (as well as to private developers), the question of common recordation only impacts the ultimate supply of sites, but not the viability of the Initiative itself. Staff had been approaching the issues in tandem due to the affinity of goals and the coincidence of timing, but the two issues perhaps could be pursued independently-

Number of sites affected

At this time, Staff cannot say with precision how many additional small sized lots could be developed if the common recordation prohibition on development were to be removed from the Zoning Ordinance. At the previous hearing staff estimated that around one-hundred sites might be affected by such a repeal out of the 400+ vacant lots identified by a Redevelopment Agency investigation from 2001.. Many of those lots have already been developed since that survey as a result of private initiative, so the ultimate number might be lower.

If future conditions make the demolition of existing habitable buildings that occupy more than one lot of record economically attractive, then impacts, of course, could be substantially greater than they now appear, but, that incentive does not now exist nor appear imminent-

Alternative Amendments

If the Commission does not believe that a wholesale easing of restrictions on building on 2,500 SF lots that have been commonly recorded with an adjacent property at anytime since January 31, 1949 is in the best interests of the City, staff could study the possibility of changes to the regulations that would more clearly and effectively regulate building on smaller lots than does the present Ordinance, without simply granting a blanket waiver for their development. Possibilities include:

- a. Prohibiting or regulating demolition of existing structures occupying two or more substandard lots of record for the purpose of replacing them with more than one structure on separate lots,
- b. Setting a minimum developable lot size in excess of 2,500 SF in instances where more than two contiguous small-sized lots are recorded in common (e.g. allowing three contiguous 25' x 100' (2,500 SF) lots to be developed as two minimum 3,750 SF sites,

Once the direction from Planning Commission and the City Council is provided, staff will be meeting with the three neighborhood Councils who are most affected by the blight ridden non-conforming lots, North Richmond, Iron Triangle and Santa Fe.

FIS~AkIMP ACT

There are no budget implications by this proposed action.

CEQA

Not Applicable at this time. Depending on the direction provided, CEQA will be triggered and the appropriate assessment and processing completed.

ATTACHMENTS:

- A At the time of the meeting, staff will present the current designs that have been preliminarily approved by DRB, along with samples of homes currently occupying non-conforming lots. In addition, the results of the GIS survey and walking tour will be presented to demonstrate the potential impact of the proposed changes on the existing development pattern.

- B. Supplemental memorandum from Planning Department

The Zoning Ordinance specifies that where adjoining small sized lots of record are recorded under a common ownership at any time since 1949, they could not be returned to their original 25' plotting and developed. This regulation is problematic in the context of the Infill Program only in that it limits the number of non-conforming lots that can be built UpOfi- More, importantly however, is that the provisions are flawed in the context of implementing them in a fair and un-arbitrary manner. Specifically,

- .. the regulation may have legal defensibility problems. Concerns have been raised that while an individual non-conforming lot can be developed under certain conditions, two adjoining lots, where each lot met the specific conditions, cannot each be built upon simply because of common ownership at some time since 1949. Hence while one or both of the adjoining non-conforming lots can be sold/purchase, it is probable that neither seller nor buyer would know that the lot cannot be improved.
- .. the implementation of the current regulation is problematic. The City does not have access to adequate and reliable infofilation to confirm the common ownership of lots back to 1949 to deternline who can or cannot develop their lots. As a result, staff cannot precisely respond to the Planning Commission members' request regarding the number of lots affected by these regulations. Based on Geographic Information Services (GIS) random review of four block sections in various neighborhoods and a walking survey of North Richmond and the Iron Triangle, staff anecdotally believe that there may be 100-125 sites affected.

St~P!op;Q~:

(a) The most conservative approach to limiting the City's liability exposure would be to redraft this section of the Zoning Ordinance to allow adjoining non~onforming lots held under a common ownership at any time since 1949 to be returned to their original plotting and thus developed under the non-conforming lot provisions of the Zoning Ordinance.

(b) The next most conservative approach would be to allow the lots to be returned to their original plotting, but only developed under certain provisions that would be added to those provisions currently defined for non-conforming lots. Those newly added conditions would be developed in order to prevent the deliberate intensification of use on property, such as the purposeful disinvestment of a home in order demolish and rebuild two homes. Such provisions to allow development might include that the improvements, if any, must be at least 60 years old or that no improvements have existed for at least 3 years prior to the application for a building permit. Ideally, much public awareness should occur in the community and with the real estate industry to ensure that owners understand their ability to develop on a non-conforming lot.

(c) Another approach, but which may have the same defensibility problems as the current Zoning Ordinance, but impacts fewer sites would be to continue the existing regulation for 2 adjoining non-conforming lots whose combined size is 5,000 square feet or less, but allow three or more conforming lots to be developed.

- ∴ Planning and Building Regulation fee reductions and Redevelopment Agency below market rate financing to reduce the cost of development and aid with down payment assistance for first-time home buyers with incomes less than 100% AMI.

Since mid-2001, staff has strived to resolve various issues impeding the achievement of the Program's objectives. At this time Staff expects that 150-200 homes may be built by mid-2006, with additional homes coming on-line thereafter. However, in order to achieve even this more modest objective? there are critical actions that the Design Review Board, Planning Commission and City Council must take in a timely fashion. These actions are reviewed below:

1 Design Review Board -

- 0 Adopt 5 to 12 specific designs for 25,37.5 and 50 foot wide lots that can be repeated on multiple lots in the future. This action will be made contingent of future actions by the Planning Commission and City Council to amend the Zoning Ordinance. Anticipated action date is late October/early November 2003.

On several occasions DRB members have met with the architects who are designing new homes. On April 14th DRB met as a body and preliminarily approved five of eight originally contracted designs and a sixth new concept. In order to improve upon the variety of designs for the Pattern Book, staff will also assemble several designs that DRB has previously approved for specific 25 foot and 37.5 foot wide lots for their consideration to be included in the Pattern Book.

2 Planning Commission -

- 0 Recommend to City Council that staff be directed to proceed with the preparation of specific text changes to the Zoning Ordinance, including the processing required under California Environmental Quality Act (CEQA), and to the General Plan, if necessary. Proceedings of this meeting will be reflected in the October 16, 2003 City Council Meeting.

- 0 Recommend adopting by the City Council designs to for a Pattern Book, an administrative review process for future applications under the Infill program, and recommend to City Council specific text changes to the Zoning Ordinance, including the CEQA Assessment and amendments to the General Plan, if necessary. Anticipated action date is December, 2003.

On September 18, staff requested Planning Commission direction for text changes to the Zoning Ordinance that are necessary so that development could more easily occur on adjoining non-conforming lots, which at some time since 1949 were jointly held. Though a quorum was not established, various members of the Planning Commission expressed concern about the potential number of lots affected~ the impact of such development on the existing development pattern, potential increased parking, the neighborhoods in which such developments would be allowed~ and the construction of substandard housing.

3 City Council-

Department: ~1!DniDQ

----- Initiator: B.
Cromartie

Phone: §20-67Q§

Deadline for
Final decision:-

For review:

For meeting: _10/2/2003.

AGENDA ITEM FOR:

City Council
0 Surplus Property Authority

0 Redevelopment Agency

0 Housing Authority

0 Jt. Powers Financing Authority

0 Other: Planning Commission

X Public Hearing Item 0

Contract/Agreement 0

Resolution

0 Ordinance

0 Grant Application

0 Information Only STUDY SESSION 0 Information

Requested Estimated

0 Status Report Presentation!

0 Public Comment Expected Discussion

Consent Agenda Time: 45 minutes

~ Retain Attachments For Meeting (If Checked)

ITEM/SUBJECT TITLE

STUDY SESSION: Study Session to consider and discuss the status of small-sized in-fill lots and recommend to the City Council measures to clarify the Zoning Ordinance to allow development of small-sized lots that have been recorded as being owned in common with an adjacent lot.

STAFF EXPLANATION OF ITEM

Staff is currently preparing Zoning Ordinance amendments to facilitate and better regulate development on small-sized lots (under 5,000 SF). These revisions will correct and revise poorly functioning provisions in the existing ordinance, encourage quality design of structures and facilitate the implementation of the City's Infill-Housing Initiative.

Recent review of existing Ordinances regarding small sized lot development, however, has underscored

inconsistencies in the City's goals and policies in regards to small sized lot development. Namely, whether to encourage or limit development on existing substandard, small sized lots.

Staff is seeking Commission direction on this issue prior to proceeding with necessary Zoning Ordinance Amendments.

See attached background reports for a more detailed discussion on the issue.

STAFF RECOMMENDATION

- Attachments: Attachment A- Redevelopment Agency Background Report
- Attachment B. Planning Department Background Reports
- Attachment C Zoning Ordinance Sections 15.04.940.030.3 Non-Conforming lot regulations &
- Attachment D. Misc. Zoning Map pages showing lot parcelization
- Attachment E Request for Attorney Opinion document dated 5-27-03 with interpretation of small sized lot build ability rules (Attachment C)

AGENDA ITEM NO: