OAKLEY ————

CALIFORNIA

Agenda Date: 05/09/2017

Agenda Item: 4.2

Approved and Forwarded to City Council:

Bryan H. Montgomery, City Manager

STAFF REPORT

Date:

May 9, 2017

To:

Bryan Montgomery, City Manager

From:

Kenneth W. Strelo, Senior Planner

SUBJECT:

Accessory Structures Zoning Text Amendments to Sections 9.1.404 (Single Family Residential Districts), 9.1.1122 (Yards), and 9.1.1802 (Accessory Structure Development Regulations) of Chapter 1 of Title 9

of the Oakley Municipal Code (RZ 01-17)

Summary

This is a public hearing on a request for text amendments to portions of the zoning ordinance to address residential accessory structure regulations related to the placement of certain structures in front yards, including attached accessory structures to the definition for "accessory structures", and increasing the amount of maximum coverage in rear yard setbacks. Applicable parts of the Oakley Municipal Code proposed to be amended include:

- Section 9.1.404 (Single-Family Residential Districts (R-6; R-7; R-10; R-12; R-15; R-20; R-40));
- Section 9.1.1122 (Yards); and
- Section 9.1.1802 (Accessory Structures Development Regulations).

Staff recommends the City Council waive the first reading and introduce the ordinance approving zoning ordinance text amendments to 1) Sections 9.1.404 (Single Family Residential Districts), 9.1.1122 (Yards), and 9.1.1802 (Accessory Structure Development Regulations) of Chapter 1 of Title 9 of the Oakley Municipal Code (RZ 01-17).

Background

Over the past several years, Staff has brought zoning text amendments related to residential accessory structures to the City Council for consideration. Initially, the Council adopted an ordinance amending the maximum square footage allowed for accessory structures on residential lots. Through communication with the Oakley Code Enforcement Division and community feedback, the Council eventually amended the Code twice more to allow less restrictions on property owners while still maintaining and protecting property values through design criteria. With the popularity of private backyard improvements to single-family homes, Staff has discovered a growing number of structures started without permits that do not comply with the current applicable Zoning Codes. During code enforcement of these cases, which involved finding a solution to modify the structure type, size or location to comply with the Code, Staff has received feedback from home owners and contractors that

the option to build attached patio covers is sometimes extremely difficult on smaller lots (i.e. less than 6,000 sf.) due to the limitation to encroach into rear yard setbacks, versus detached structures, which are allowed much more leniency. After much internal discussion, Staff has come to the conclusion that the Code should be amended to treat attached and detached accessory structures the same in most circumstances. These amendments are not meant to eliminate the existing requirements, or to legalize all non-permitted structures, rather to provide property owners much more flexibility in improving their private yards, while still maintaining the same prudent design standards to protect property values and the aesthetics of Oakley's neighborhoods. In the interest of consolidating zoning text amendments into one action, other related proposals are included and explained below.

Narrative of Amendments

This section will provide a narrative explanation of the proposed amendments. For a tracked changes version of all additions and deletions, please refer to the attachments.

There are three main changes proposed with these text amendments:

- Adding attached structures, such as an attached rear patio cover, to the general definition of "Accessory Structure."
- 2. Increasing the amount of rear yard setback maximum coverage from 30% to 50%.
- Allowing certain decorative landscape features, such as trellises and arbors in required front yards, and certain other structures in front of the main house, under specific circumstances.

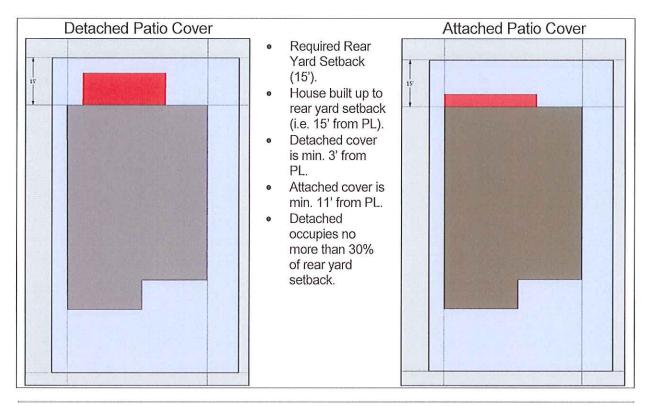
Attached Structures

The definition for "Accessory Structure" would now include both detached (from main home) and attached (to main home) structures, as well as additional information differentiating between "fully enclosed, partially enclosed, and unenclosed" structures (also added to "Yards"). The result of this will be the elimination of an inherent restriction that prohibits attached patio covers from being placed on site in the same manner as a detached patio cover. The current code allows most detached accessory structures to be placed within side and rear yard setbacks as close as three (3) feet from the side and rear property lines, and occupy no more than 30% of the respective setback area. However, an attached patio cover does not currently fall under the "Accessory Structure" definition, and instead is subject to the regulations found in the "Yards" section, which permits encroachment into a rear yard setback of four (4) feet, and side yard setback of five (5) feet, but no closer than three (3) feet to a property line. Figure 1 (next page) shows an illustrative example of how the current code is implemented.

Under the current regulations, there is sometimes significant differences in how a detached accessory structure and attached accessory structure, such as a patio cover, can be placed in a rear yard. A standard residential lot has a 15 foot minimum rear yard setback. In situations where the house is constructed at or very near that setback, which is more common on smaller lots, the current regulations allow for much more flexibility in placement of a detached accessory structure. For example, an attached accessory structure could

only encroach four (4) feet into the rear yard setback, but a detached accessory structure could be as close as three (3) feet from the rear property line. In the example with a house built at the rear setback line, an attached patio cover could only be four (4) feet deep and a detached patio cover could be 12 feet deep. A four (4) foot deep patio cover is insufficient for most practical purposes. The text amendment adding attached structures to the accessory structure definition will allow both type structures to be an option to home owners, and increasing the maximum required rear yard coverage from 30% to 50% will allow the overall amendments to be implemented with consistency.

Figure 1. Detached and Attached Patio Cover Examples



In addition to allowing attached accessory structures to be placed in the same manner as detached accessory structures, the "Building Projections into Yards" subsection of 9.1.1122 (Yards) is proposed to be amended to more clearly only apply to structures attached to the main building. Also, since definitions that differentiate between fully enclosed, partially enclosed, and unenclosed structures are being proposed, unenclosed structures (e.g. a patio cover open on at least three (3) sides) would be allowed to project as written in the "Accessory Structure" section, and partially enclosed structures (e.g. a California room closed on at least two (2) but no more than three (3) sides) would be allowed to encroach as the current code states. "Fully enclosed" structures would be subject to the main building setbacks.

The proposal to allow certain structures to be located in front of the main house, or in some cases in the required front yard, was drafted to allow attractive front yard improvements to standard sized lots, and eliminate the need for requesting a variance for larger lots that have the main house setback in the rear half of the lot. In the former situation, the text

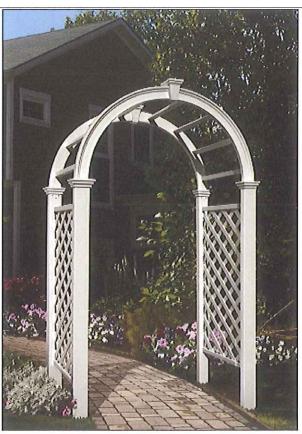
amendments would allow unenclosed and non-solid roof structures in front of the house, but still behind the front yard setback. An example would be a small garden pergola in the front yard where the main entrance is setback behind the garage so that the structure is still behind the front setback. Smaller decorative structures, such as garden arbors, would be allowed in the front yard setback so long as they cover no more than 32 square feet and are no more than eight (8) feet tall. Examples of this would be a pedestrian arbor spanning a portion of a walkway to front door. For larger lots, the amendments would allow all types of accessory structures to be located in front of the main house when the house is located in the rear portion of the lot. This proposed amendment includes design standards to ensure the structures are not an eyesore.

Figure 2. Examples of Garden Pergola and Garden Arbor

Garden Pergola (www.gardenchi.co.uk)

Garden Arbor (www.homedepot.com)





Environmental

This project is exempt from further analysis under the California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3) in that adoption of the ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Analysis

The proposed text amendments will allow more flexibility for residents wanting to improve their backyards when it comes to implementation of the Code on different type structures, especially on lots with smaller backyards. The amendments would eliminate a potential loophole where a detached structure is currently allowed to be constructed in a manner where a more permanent attached structure is currently not allowed to be constructed, the latter of which is often better designed to function with windows and other design elements of the home. This should also result in less code enforcement cases and better overall consistency within the Code while maintaining the goals of open air and aesthetics on neighboring properties. The amendments will also better define different types of structures so that residents have options available to meet their specific needs. Allowing certain types of structures to be installed in front yards and required front yards will allow residents to beautify their properties with attractive and decorative garden structures without the potential of enforcement actions.

Recommendation

Staff recommends the City Council waive the first reading and introduce the ordinance approving zoning ordinance text amendments to 1) Sections 9.1.404 (Single Family Residential Districts), 9.1.1122 (Yards), and 9.1.1802 (Accessory Structure Development Regulations) of Chapter 1 of Title 9 of the Oakley Municipal Code (RZ 01-17).

Attachments

- 1. Tracked Changes Version of Additions and Deletions
- 2. Proposed Ordinance

Accessory Structures - 2017 Amendments

"9.1.1802 Accessory Structures Development Regulations"

a. Definitions.

- "Accessory structure" is an attached or detached building, carport, gazebo, shed, playhouse, or other similar above-ground structure, the use and size of which is subordinate and incidental to that of a main building on the same lot.
- 2) "Fully enclosed" (closed on all sides), such as an outdoor room with walls or windows surrounding: subject to main structure setbacks;
- 3) "Partially enclosed" (closed on at least two (2) but no more than three (3) sides) structures, such as an outdoor room (e.g. California room), and covered deck, patio, or porch: four feet into a required rear yard and five feet into required side yard;
- 4)4) "Unenclosed" (open on at least three (3) sides) covered deck, covered patio, and carport: Subject to Section 9.1.1802 Accessory Structures Development Regulations;
- 2)5) "Shipping Container" (also referred to as intermodal freight transport, sea container, or cargo container) is typically a 20-40 foot long durable closed steel containers capable of handling large capacity and weight loads over land and sea.

b. Maximum Size and Height.

- Maximum Size. The maximum size of an accessory structure or combination of accessory structures on any single lot shall be whichever results in a greater allowance of accessory structure square footage between the following two options: 1) as measured in conjunction with all structures on the lot so that the total lot coverage shall not exceed forty percent (40%); or 2) five hundred (500) square feet. Square footage of structures shall be measured as follows:
 - For enclosed structures, such as the main house, detached garages, detached guest rooms/pool houses, enclosed patios, etc., floor area (interior walls to interior walls) shall be used to measure square footage;
 - ii. For unenclosed structures, such as gazebos, attached and detached carports, patio covers, trellises, etc., roof area coverage (as

measured perpendicular to ground) shall be used to measure square footage.

- 2) Maximum Height. The maximum height for any single accessory structure as measured to the peak of the roof or highest portion of <u>the</u> structure, whichever is higher, shall be as follows:
 - Fifteen (15) feet in height when the accessory structure or portion thereof is located within any of the required yards for the applicable zoning district.
 - ii. Accessory structures completely located outside of all required yards, subject to the applicable zoning regulations, may exceed fifteen (15) feet in heightmatch the height of the existing main structure. All accessory structures exceeding fifteen (15) feet in height shall use materials, design, and colors that compliment and/or match the main structure, subject to the review and approval of the Community Development Department Planning Division.

c. Minimum Setbacks.

- 1) All Residential Lots.
 - i. Accessory structures shall be located outside of the required front yard (front yard setback) and shall not have any portion closer than the main housestructure to the front property line, except: 1) unenclosed, non-solid roof gazebos, pergolas or similar structures may be located in front of the house, but not within the required front yard setback; 2) decorative landscape trellises and arbors covering no more than 32 square feet and no more than eight (8) feet tall may be located within the required front yard, but not within the public right-of-way; and 3) accessory structures that match the design, materials, and colors of the main house on large lots where the main house is located in the rear half of the lot may be located in front of the main house, but not within the required front yard setback, subject to the review and approval of the Planning Division;
 - ii. Accessory structures that are exempt from a building permit and are no higher than the height of the adjacent fence to which they are to be placed may be located within the required side or rear yard of any lot, up to the property line, only if the accessory structure maintains a minimum clearance of five feet to any other structure, excluding the fence. No accessory structure may be attached to a shared fence;
 - iii. Single <u>unenclosed</u> structures that are one thousand five hundred (1,500) square feet or less shall maintain a minimum setback of three

feet to the side and rear property lines. No portion of an accessory structure, its roof, or any other material that is a part of the accessory structure (i.e., overhang, gutter, support beam, etc.) shall project into the minimum setback; and

- Single structures that are greater than one thousand five hundred (1,500) square feet shall maintain the generally applicable setback standards for the relative zoning district.
- iv.v. For partially enclosed and fully enclosed structures, refer to Section 9.1.1122(g).
- Nonresidential Districts. The minimum setbacks for accessory structures in nonresidential districts shall be the generally applicable setback standards for each district.
- d. Maximum Coverage in Required Rear and Side Yards.
 - 1) Consistent with Section 9.1.404(f)(5), accessory structures shall occupy no more than thirty percent (530%) of a required rear yard. This shall also apply to the maximum coverage of a required side yard as measured from the front setback line to the rear property line. For structures located within both a required rear yard and required side yard, the area of coverage shall apply to the maximum allowable coverage for each required yard separately.
- e. Design Standards.
 - 1) Accessory structures shall be consistent with the City of Oakley Residential Design Guidelines, which include having matching materials and architectural style to that of the primary unit.
 - 2) Accessory structures may consist of pre-built or pre-fabricated sheds, carports, gazebos, etc. that do not match the material of the primary unit so long as the accessory structure's original design, intent,—and purpose, and placement is as a residential backyard structure.
 - 3) Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:
 - i. The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the additional of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit.

- ii. The shipping container is structurally modified to include at least one residential man door that can be unlocked and opened from inside the container.
- iii. Subject to review and approval of the Community Development Director, exceptions may be made for the standard (i) of this subsection if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

f. Variance Requests.

1) Any request for an exception to this article shall be subject to Section 9.1.1602, Variance and Conditional Use Permits.

"9.1.1122, Yards"

- g. Building projections into yards.
 - 1) The following projections into yards shall comply with all applicable building code requirements. The following features of permanent structures that are attached to the main building may project into a required yard as follows, except that no projection shall be any closer to three feet from any property line:
 - i. Cornice, eave, overhang and ornamental feature: two and one-half feet;
 - ii. Chimney, fireplace or entertainment media pop-out no more than eight feet wide: three feet into a front or rear yard and two feet into a side yard;
 - iii. Greenhouse and bay window: two and one-half feet into a front or rear yard and one and one-half feet into a side yard;
 - iv. Porch, fire escape, landing and open staircase: four feet into a front or rear yard and two feet into a side yard;
 - v. Awning or canopy: four feet;
 - vi. Uncovered deck, patio, porch and steps, and subterranean garage and basement: four feet into front or rear yard and two feet into side yard if over one and one-half feet above adjacent grade; if not more than one and one-half feet above grade, then the object may project to within three feet from all property lines;

- vii. <u>"Unenclosed" (open on at least three (3) sides) Cc</u>overed deck, covered patio, and carport: <u>Subject to Section 9.1.1802 Accessory Structures</u> Development Regulations;
- viii. "Partially enclosed" (closed on at least two (2) but no more than three (3) sides) structures, such as an outdoor room (e.g. California room), and covered deck, patio, or porch: four feet into a required rear yard and five feet into required side yard;
- ix. "Fully enclosed" (closed on all sides), such as an outdoor room with walls or windows surrounding: subject to main structure setbacks;
- <u>xviii</u>. Decks and balconies located above the first floors, whether supported or unsupported: subject to all setbacks for the main building.
- "9.1.404 Single-Family Residential Districts (R-6; R-7; R-10; R-12; R-15; R-20; R-40)"
- f. Yard Requirements.
 - 5) Accessory Structures in Rear Yards. An accessory structure, or combination of more than one accessory structure, may occupy not more than <u>fiftythirty</u> percent (<u>5</u>30%) of a required rear yard.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADOPTING TEXT AMENDMENTS TO SECTIONS 9.1.404 (SINGLE FAMILY RESIDENTIAL DISTRICTS), 9.1.1122 (YARDS), AND 9.1.1802 (ACCESSORY STRUCTURE DEVELOPMENT REGULATIONS) OF CHAPTER 1 OF TITLE 9 OF THE OAKLEY MUNICIPAL CODE RELATED TO ACCESSORY STRUCTURES (RZ 01-17).

The City Council of the City of Oakley does ordain as follows:

<u>SECTION 1</u>. Section 9.1.1802 of the Oakley Municipal Code, titled "Accessory Structures Development Regulations," is hereby amended in its entirety as follows:

9.1.1802. Accessory Structures Development Regulations.

Definitions.

- 1) "Accessory structure" is an attached or detached building, carport, gazebo, shed, playhouse, or other similar above-ground structure, the use and size of which is subordinate and incidental to that of a main building on the same lot.
- 2) "Fully enclosed" (closed on all sides), such as an outdoor room with walls or windows surrounding: subject to main structure setbacks;
- "Partially enclosed" (closed on at least two (2) but no more than three (3) sides) structures, such as an outdoor room (e.g. California room), and covered deck, patio, or porch: four feet into a required rear yard and five feet into required side yard;
- 4) "Unenclosed" (open on at least three (3) sides) covered deck, covered patio, and carport: Subject to Section 9.1.1802 Accessory Structures Development Regulations;
- 5) "Shipping Container" (also referred to as intermodal freight transport, sea container, or cargo container) is typically a 20-40 foot long durable closed steel containers capable of handling large capacity and weight loads over land and sea.

b. Maximum Size and Height.

1) Maximum Size. The maximum size of an accessory structure or combination of accessory structures on any single lot shall be whichever results in a greater allowance of accessory structure square footage between the following two options: 1) as measured in conjunction with all structures on the lot so that the total lot coverage shall not exceed forty percent (40%); or 2) five hundred (500) square feet. Square footage of

structures shall be measured as follows:

- For enclosed structures, such as the main house, detached garages, detached guest rooms/pool houses, enclosed patios, etc., floor area (interior walls to interior walls) shall be used to measure square footage;
- ii. For unenclosed structures, such as gazebos, attached and detached carports, patio covers, trellises, etc., roof area coverage (as measured perpendicular to ground) shall be used to measure square footage.
- 2) Maximum Height. The maximum height for any single accessory structure as measured to the peak of the roof or highest portion of the structure, whichever is higher, shall be as follows:
 - Fifteen (15) feet in height when the accessory structure or portion thereof is located within any of the required yards for the applicable zoning district.
 - ii. Accessory structures completely located outside of all required yards, subject to the applicable zoning regulations, may exceed fifteen (15) feet in height. All accessory structures exceeding fifteen (15) feet in height shall use materials, design, and colors that compliment and/or match the main structure, subject to the review and approval of the Planning Division.

c. Minimum Setbacks.

- 1) All Residential Lots.
 - i. Accessory structures shall be located outside of the required front yard (front yard setback) and shall not have any portion closer than the main house to the front property line, except: 1) unenclosed, nonsolid roof gazebos, pergolas or similar structures may be located in front of the house, but not within the required front yard setback; 2) decorative landscape trellises and arbors covering no more than 32 square feet and no more than eight (8) feet tall may be located within the required front yard, but not within the public right-of-way; and 3) accessory structures that match the design, materials, and colors of the main house on large lots where the main house is located in the rear half of the lot may be located in front of the main house, but not within the required front yard setback, subject to the review and approval of the Planning Division;
 - ii. Accessory structures that are exempt from a building permit and are no higher than the height of the adjacent fence to which they are to

be placed may be located within the required side or rear yard of any lot, up to the property line, only if the accessory structure maintains a minimum clearance of five feet to any other structure, excluding the fence. No accessory structure may be attached to a shared fence;

- iii. Single unenclosed structures that are one thousand five hundred (1,500) square feet or less shall maintain a minimum setback of three feet to the side and rear property lines. No portion of an accessory structure, its roof, or any other material that is a part of the accessory structure (i.e., overhang, gutter, support beam, etc.) shall project into the minimum setback; and
- iv. Single structures that are greater than one thousand five hundred (1,500) square feet shall maintain the generally applicable setback standards for the relative zoning district.
- v. For partially enclosed and fully enclosed structures, refer to Section 9.1.1122(g).
- 2) Nonresidential Districts. The minimum setbacks for accessory structures in nonresidential districts shall be the generally applicable setback standards for each district.
- d. Maximum Coverage in Required Rear and Side Yards.
 - 1) Consistent with Section 9.1.404(f)(5), accessory structures shall occupy no more than thirty percent (50%) of a required rear yard. This shall also apply to the maximum coverage of a required side yard as measured from the front setback line to the rear property line. For structures located within both a required rear yard and required side yard, the area of coverage shall apply to the maximum allowable coverage for each required yard separately.
- e. Design Standards.
 - 1) Accessory structures shall be consistent with the City of Oakley Residential Design Guidelines, which include having matching materials and architectural style to that of the primary unit.
 - 2) Accessory structures may consist of pre-built or pre-fabricated sheds, carports, gazebos, etc. that do not match the material of the primary unit so long as the accessory structure's original design, intent, purpose, and placement is as a residential backyard structure.
 - 3) Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:

- i. The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the additional of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit.
- ii. The shipping container is structurally modified to include at least one residential man door that can be unlocked and opened from inside the container.
- iii. Subject to review and approval of the Community Development Director, exceptions may be made for the standard (i) of this subsection if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

f. Variance Requests.

1) Any request for an exception to this article shall be subject to Section 9.1.1602, Variance and Conditional Use Permits.

<u>SECTION 2</u>. Subsection 9.1.1122(g) of the Oakley Municipal Code section 9.1.1122, titled "Yards," is hereby amended in its entirety as follows:

- g. Building projections into yards.
 - The following projections into yards shall comply with all applicable building code requirements. The following features of permanent structures that are attached to the main building may project into a required yard as follows, except that no projection shall be any closer to three feet from any property line:
 - Cornice, eave, overhang and ornamental feature: two and one-half feet;
 - ii. Chimney, fireplace or entertainment media pop-out no more than eight feet wide: three feet into a front or rear yard and two feet into a side yard;
 - iii. Greenhouse and bay window: two and one-half feet into a front or rear yard and one and one-half feet into a side yard;
 - iv. Porch, fire escape, landing and open staircase: four feet into a front or rear yard and two feet into a side yard;

- v. Awning or canopy: four feet;
- vi. Uncovered deck, patio, porch and steps, and subterranean garage and basement: four feet into front or rear yard and two feet into side yard if over one and one-half feet above adjacent grade; if not more than one and one-half feet above grade, then the object may project to within three feet from all property lines;
- vii. "Unenclosed" (open on at least three (3) sides) covered deck, covered patio, and carport: Subject to Section 9.1.1802 Accessory Structures Development Regulations;
- viii. "Partially enclosed" (closed on at least two (2) but no more than three (3) sides) structures, such as an outdoor room (e.g. California room), and covered deck, patio, or porch: four feet into a required rear yard and five feet into required side yard;
- ix. "Fully enclosed" (closed on all sides), such as an outdoor room with walls or windows surrounding: subject to main structure setbacks;
- x. Decks and balconies located above the first floors, whether supported or unsupported: subject to all setbacks for the main building.

<u>SECTION 3</u>. Subsection 9.1.404(f)(5) of the Oakley Municipal Section 9.1.404, titled "Single-Family Residential District (R-6; R-7; R-10; R-12; R-15; R-20; R-40)," is hereby amended, as follows:

f. Yard Requirements.

5) Accessory Structures in Rear Yards. An accessory structure, or combination of more than one accessory structure, may occupy not more than fifty percent (50%) of a required rear yard.

SECTION 4. California Environmental Quality Act (CEQA).

This project is exempt from environmental analysis under the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that the proposed amendments will not have a significant effect on the environment.

SECTION 5. Effective Date and Posting.

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted w Oakley City Council on	vith the reading waived at a regular meetin _, 2017 by the following vote:	g of the
AYES:		
NOES:		
ABSTENTIONS:		
ABSENT:		
	APPROVED:	
	Sue Higgins, Mayor	Date
ATTEST:		
Libby Vreonis, City Clerk Date		