



City of Santa Barbara

PLANNING COMMISSION

MINUTES

SEPTEMBER 7, 2017

1:00 P.M.
City Hall, Council Chambers
735 Anacapa Street
SantaBarbaraCA.gov

COMMISSION MEMBERS:

Jay D. Higgins, *Chair*
Lesley Wiscomb, *Vice Chair*
John P. Campanella
Mike Jordan
Sheila Lodge
Deborah L. Schwartz
Addison Thompson

STAFF:

N. Scott Vincent, Assistant City Attorney
Beatriz Gularte, Senior Planner
Kathleen Goo, Commission Secretary

CALL TO ORDER

Chair Higgins called the meeting to order at 1:04 p.m.

I. ROLL CALL

Chair Jay D. Higgins (until 5:50 p.m.), Vice Chair Lesley Wiscomb, Commissioners John P. Campanella, Mike Jordan, Sheila Lodge, Deborah L. Schwartz, and Addison Thompson

STAFF PRESENT

N. Scott Vincent, Assistant City Attorney
Tava Ostrenger, Assistant City Attorney
Renee Brooke, City Planner
Susan Reardon, Senior Planner
Beatriz Gularte, Senior Planner
Rosie Dyste, Project Planner
Kathleen Goo, Commission Secretary

II. PRELIMINARY MATTERS

A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items:

No requests.

B. Announcements and appeals:

No announcements.

C. Review, consideration, and action on the following draft Planning Commission minutes and resolutions:

1. August 24, 2017, Special Meeting Minutes
2. PC Resolution No. 014-17
2609 De La Vina St. (Storefront Collective Dispensary Permit Appeal)

MOTION: Lodge/Thompson

Approve the August 24, 2017 minutes and PC Resolution No. 014-17, as amended.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

D. Comments from members of the public pertaining to items not on this agenda:

No public comment.

III. STAFF HEARING OFFICER APPEAL

ACTUAL TIME: 1:07 P.M.

APPEAL OF THE DECISION OF THE STAFF HEARING OFFICER TO REVOKE THE STOREFRONT COLLECTIVE DISPENSARY PERMIT ISSUED TO SANTA BARBARA PATIENTS COLLECTIVE AND HEALING CENTER, 3617 STATE STREET, APN 051-051-005, C-P/SD-2 RESTRICTED COMMERCIAL/SPECIAL DISTRICT 2 ("UPPER STATE STREET AREA") ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/MEDIUM HIGH RESIDENTIAL (MST2014-00438)

On June 15, 2017, the City's Staff Hearing Officer revoked a Medical Marijuana Storefront Collective Dispensary Permit at 3617 State Street. Dispensary management members identified in the approved permit application are Joseph Allen, Matt Armor, and Greg McGee. On June 26, 2017, Luis Esparza, attorney for Matt Armor and Greg McGee, filed an appeal of the Staff Hearing Officer's revocation of the permit. A public hearing will be held for the Planning Commission to hear the appeal. The project includes interior improvements to the existing tenant space at 3617 State Street in Ontare Plaza. A building permit has not been issued, nor has the dispensary begun operating.

The discretionary application required for this project is a Storefront Collective Dispensary Permit (SBMC § 28.80.030).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301(a), Existing Facilities.

Contact: Tava Ostrenger, Assistant City Attorney
Email: TOstrenger@SantaBarbaraCA.gov

Phone: (805) 560-7513

RECUSAL: To avoid any actual or perceived conflict of interest, Commissioner Jordan recused himself from hearing this item.

Tava Ostrenger, Assistant City Attorney, gave the Staff presentation and was available to answer Commission questions in an advocacy capacity, with Scott Vincent, Assistant City Attorney and Susan Reardon, Staff Hearing Officer, also available to answer Commission questions.

Ms. Ostrenger opened the staff presentation by outlining the appellants' grounds for appeal, which alleged that the Staff Hearing Officer's decision to revoke the permit was not in accord with the Santa Barbara Municipal Code and was an abuse of discretion because the permittee is still in the unincorporated association of SBPCHC, and the alleged misconduct was done solely by the third management member, Joseph Allen; that Conclusion of Law No. 11 was incorrect because Mr. Allen's resignation was not a transfer of control in the ownership of the dispensary; and that Conclusion of Law No. 12 was factually and legally erroneous as it mischaracterizes Matt Armor and Greg McGee's affidavit as an attempt to change ownership.

During Ms. Ostrenger's presentation, Mr. Vincent clarified for the Commission that "abuse of discretion" was a legal term referring to a standard of review that a ruling should only be disturbed upon evidence of a clear case of abuse and a miscarriage of justice, and defined as a decision that is so irrational or arbitrary that no reasonable person would be in agreement. He further stated that simply arguing a different ruling would have been better is not sufficient to claim an "abuse of discretion" has been made. To make a determination that an "abuse of discretion" has been made in this particular case, the Commission would have to make the determination that the Staff Hearing Officer made an error of procedure or abused her discretion in the revocation of the permit. He further clarified the Municipal Code and laws involved, and that any attempt to transfer a Storefront Collective Dispensary Permit either directly or indirectly would be in violation of §SBMC 28.80.130 and declared void, and the permit shall be deemed revoked.

The history of the application and the actions leading to the permit was recounted by Ms. Ostrenger for the Commission. Ms. Ostrenger explained that Joseph Allen submitted a Medical Marijuana Storefront Dispensary Permit Application on behalf of SBPCHC on September 4, 2014 for a location at 3617 State Street. The Planning Commission held a public hearing on June 4, 2015, approving the application and issuing the permit to SBPCHC subject to satisfaction of certain conditions. None of these conditions authorized a change in the management members or the permitted entity. The approved application indicates that Joseph Allen, Matt Armor, and Greg McGee are the management members of SBPCHC, an unincorporated non-profit association. On December 14, 2015, Mr. Allen filed Articles of Incorporation for SBPCHC, either to incorporate an existing corporation or creating a new corporation, without filing a request for an amendment with the Planning Division. Then, on March 29, 2016, he again filed a Statement of Information for SBPCHC, Inc. with the Secretary of State and identified Eric Anderson as the Secretary of the corporation. Eric Anderson was never identified in the approved application as a management member of the collective. This changed SBPCHC operating and management structure. When Mr. Allen submitted a revised operating plan to address Planning Commission conditions of approval on April 4, 2016, the operating plan indicated that the new corporation was Apothecary of Santa Barbara, Inc. On April 6, 2016, Mr. Allen submitted a letter indicating he was withdrawing from SBPCHC. When the City Attorney's Office learned of the changes in ownership, it filed a Notice of Hearing of Intent to Suspend or Revoke on July 19, 2016. A hearing was held on May 31, 2017, the Notice of Intent and on June 15, 2017, the Staff Hearing Officer issued a Resolution revoking the permit.

Mr. Vincent clarified for Commissioner Thompson the differences between unincorporated associations, such as the permittee, and incorporated entities such as corporations or limited liability companies. Mr. Vincent also stated that if the corporation was simply formed and there was no representation to the City and it just existed as an entity, there would be no issue about a change of control; however, since the new incorporated entity was presented to the City as the permittee, then in his opinion, there was an issue of a transfer of control. He also clarified for Commissioner Wiscomb that the name of the entity was less important than the change in identity of the management members, who were not reviewed by the City and for whom background checks were not obtained.

Luis Esparza, Attorney for Matt Armor and Greg McGee, Management Members of Santa Barbara Patients Collective and Healing Center (SBPCHC), gave the Appellant presentation.

Public comment opened at 1:57 p.m., and as no one wished to speak, it closed.

Correspondence from Gordon & Jordan Brewer and Judy Williams was acknowledged.

Mr. Vincent clarified for Chair Higgins and Commissioner Schwartz that the Commission must determine if the Staff Hearing Officer made an error in her discretionary decision that the unapproved change in the operation plan and the change in management members constitutes an attempt to change the name of the permittee and to transfer of ownership and control, and therefore provided a basis for the revocation of the permit by the Staff Hearing Officer.

Mr. Esparza clarified for Commissioner Schwartz that the process of getting the changes authorized by the association members would have been a relatively simple process of just a few steps, and that there should have been a resolution or authorization by the association authorizing the proposed changes that were being made at the time by one of the three members for submittal to the City for approval. However, his clients Mr. Armor and Mr. McGee did not have legal representation at the time and relied on the more sophisticated and educated member, Mr. Allen, to follow the appropriate protocol of City policy and procedure, and that at the time it is unclear if Mr. Allen was working as an attorney or as an individual. Mr. Esparza asked that the permit remain with the corporate entity that remains, the association. If required, a third member would be sought to replace Mr. Allen, with all protocol procedures observed, including background checks, life scans, etc.

Commissioner comments:

Commissioner Wiscomb stated that the process of application, filing, and assumption of ownership requires a level of professionalism required of managing members and responsibility to follow the rules, codes, and laws involved. Commissioner Wiscomb therefore found the appeal should be denied and the Staff Hearing Officer decision to revoke the permit should be upheld.

Commissioner Thompson and Commissioner Schwartz also found the appellant attempted to change managing members, which constitutes an attempt to change the name of the permittee and to transfer ownership and control by an entity. Therefore, Commissioners Thompson and Schwartz both found the appeal should be denied and the Staff Hearing Officer's decision to revoke the permit should be upheld.

MOTION: Thompson/Wiscomb**Assigned Resolution No. 015-17**

Deny the appeal, and uphold the decision of the Staff Hearing Officer, as outlined in the Staff Report dated August 31, 2017.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent/Recused: 1 (Jordan)

The ten calendar day appeal period was announced.

*** THE COMMISSION RECESSED FROM 2:26 TO 2:35 P.M. ***

IV. RECOMMENDATION TO AMEND MUNICIPAL CODE**ACTUAL TIME: 2:35 P.M.**

For the Planning Commission to consider proposed amendments to the Municipal Code to regulate Accessory Dwelling Units. Effective January 1, 2017, recently adopted state legislation nullified and voided the City's regulations for secondary dwelling units, now referred to as Accessory Dwelling Units (ADUs). Until the City adopts its own ordinance, a local government is required to ministerially approve ADUs if the unit complies with state standards including certain parking requirements, the maximum allowable size of an ADU, and setback requirements.

Staff recommends that the Planning Commission initiate an amendment to the Zoning Ordinance to adopt an Accessory Dwelling Unit Ordinance in accordance with the requirements of Senate Bill 1069 (SB 1069) and Assembly Bill 2299 (AB 2299), and forward a recommendation to the City Council for adoption.

Contact: Rosie Dyste, Project Planner

Email: RDyste@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4599

Renee Brooke, City Planner and Rosie Dyste, Project Planner gave the Staff presentation. Jerry Hittleman, Consulting Senior Planner and Joe Poire, Fire Prevention Division Chief, were available to answer questions.

Public comment opened at 3:02 p.m.

The following person spoke in support:

1. Catherine McCammon (submitted written letter) spoke in support, but had concerns regarding ADUs in high-fire areas and requested a review of the high-fire hazard area mapping for accuracy. She spoke of issues regarding increased traffic, parking, water supply, and sewage capacity impacts to neighborhoods. She supported the maximum unit size of 600 square feet for neighborhood compatibility. She supported the owner-occupancy requirement and the prohibition on short term rentals, but she expressed concerns for long-term enforcement.

The following people spoke in opposition or with concerns or recommendations:

1. Jarrett Gorin (also speaking for April Palencia, Michael Ober, and Katie McDowell) spoke of concerns regarding the proposed ADU Ordinance amendments in violation of State Law; he stated that State Law requires the City to allow ADUs in multi-family zones and commercial

- zones, not just single-family and duplex zones within the City. He observed that the single-family zones and duplex zones tend to lack access to transit. He opposed elements of the Ordinance that allowed relief from the ordinance's standards through discretionary reviews, stating that such allowances violated the State Law mandate for ministerial review. He opposed the proposed limit to size of accessory dwelling units. He recommends further study on the proposed ADU Ordinance amendments before initiation.
2. Art Ludwig (also speaking for Aaron Musicant, Robert Rainwater, Terence Carfner, and Skye) promoted incorporating ADUs within the City's existing environmental resources. He spoke of the environmental and economic benefits of ADUs. He spoke of concerns regarding the provision in the covenant that requires owners to agree to inspections of the property as a condition of developing an ADU. He suggested that bike parking should receive the same incentives as vehicle parking. He recommended an allowance for proportionally sized kitchen fixtures and recommended submetering of water consumption within the ADU instead of requiring a separate water meter between the ADU and the utility.
 3. Vicki Allbrett spoke of concerns regarding proposed 600 square foot size limit imposed and impacts on her own proposed ADU structure, and asked questions about how the ADU Ordinance will apply to applicants who are already in the process.
 4. Paul Zink, local architect and former ABR/SFDB member, spoke of concerns regarding prior difficulty of ADU design reviews and recommended more community input and study (including consultation with the state HCD) before proceeding with the ADU Ordinance recommendations. He expressed his support for allowing Junior ADUs.
 5. David Kim (also speaking for Santa Barbara Association Of Realtors) urged simplifying the process for creating ADUs; allowing ADUs in R3, R4, and commercial zones; increasing the maximum unit size allowed to at least 800 square feet; no minimum lot size requirement (even if the lot is non-conforming to existing zoning); and including Junior ADUs.
 6. Everett Woody spoke of parts of the ADU Ordinance in violation of State Law, including limits in high-fire areas, prohibited parking in front setbacks, architectural review, recording easements, and sub-meter issues. He clarified that State Law states that ADUs are not separate residences for purposes of utility connections and metering.
 7. Andreas Blomst spoke of issues regarding limiting ADUs to 600 square feet, administrative design and covenant, and short-term rental limits and not being able to keep ownership without rental fees.
 8. Suzanne Elledge (also speaking for Holly Garcin) spoke in support of ADUs but raised concerns with the proposed ADU Ordinance; questioned the general prohibition of ADUs in the high-fire area as some sites within it do not have limited access or safety issues, have sufficient available parking, and are larger size parcels that can accommodate ADUs; questioned the restriction of ADUs to only 600 square feet and encouraged consideration of using a sliding scale based on parcel size; strongly advocated for the City to embrace this opportunity and pass a local ordinance that fully effectuates the intent of SB 1069; believes this provides a unique opportunity to put a dent in our housing crisis and that ADUs have the potential to address in a meaningful way the housing needs of our own citizens by creating hundreds of small units over a short period of time; and stated that this kind of housing creates units for kids home from college who are transitioning to life on their own, middle-income workforce, young people who have outgrown their willingness to have multiple roommates, and older people who would like to remain on their property in a smaller space and make their larger home available to a family.
 9. Richard Box spoke of concerns regarding \$12,000 water meter cost, and recommended the proposed ADU Ordinance be sent back to staff for more review and to streamline the process for applicants.

10. Paul Poirier spoke of the following revisions to the ADU Ordinance: allow ADUs in multi-family zones to add diversity; 600 square feet is too small, 750-800 square feet is better; allow parking in existing driveways and remove the planting buffer for existing driveways; and allow under-counter refrigerators and smaller appliances. He appreciated the allowance for private sub-meters for water instead of requiring a new City meter for water.
11. Mark Sapp spoke of concerns that he would not be allowed to build his proposed ADU according to the current ADU Ordinance amendments because he has an R-4 lot.
12. Nancy Mulholland spoke of concerns that the current ADU Ordinance amendments violate State Law and regarding issues of excluding from R3 and R4 zones and on lots less than 5,000 square feet. She also raised concerns about how the ADU Ordinance will apply to applicants who are already in the process.
13. Natalie Cope-Phillips, local architect, spoke of concerns that multi-family zones should be included in the ADU Ordinance, and recommended further revisions to the ADU Ordinance.
14. Kevin Dumain, AIA, spoke against restrictions and requirements for ADUs and of the need to allow homeowners to build to suit their needs and budgets.
15. Cassandra Ensberg spoke against the prohibition against ADUs in front yards. She recommended decisions based on the best location for the specific project site.
16. Mark Edwards, local builder, spoke of concerns of proposed ADU Ordinance limits to available housing, and recommended further review of the ADU Ordinance.
17. Eve Sanford spoke of concern about limited available amenities if ADUs are limited to outer inaccessible areas and about honoring the City's multi-modal transportation goals of the Bicycle Master Plan with a reasonable parking plan.
18. Rex Ruskauff stated that revisions to ADU Ordinance should be of the date of adoption and not retroactive, and recommended further review of the ADU Ordinance. He recommended that the Planning Commission direct staff to submit the proposed ADU Ordinance to HCD for comments.
19. Anna Marie Gott reminded the Commission that the ADU Ordinance's goal is to supply lower-cost housing, and spoke of concerns regarding limits to short-term rentals and the need for longer-term leases. She raised concerns about night-time resident parking in neighborhoods near the Santa Barbara Bowl.
20. Adam Grosshans, AIA, spoke of concerns regarding proposed ADU size limits in the ADU Ordinance and spoke against minimum lot sizes, which limits families, who cannot afford larger lots and homes, to living in smaller units.
21. Clay Aurell, local architect, spoke of concerns that the ADU Ordinance amendments are not in compliance with State Law. He finds the draft ADU Ordinance restricts development.
22. Barbara Bastioni spoke against the prohibition against ADUs in high-fire zones, and promoted the economic advantages of ADUs.
23. Denise Adams stated that the State Law allows the City to consider street width for high-fire areas for public health and traffic safety, but argues against a blanket prohibition within high-fire hazard areas. She finds the ADU an opportunity to address unpermitted housing. She raised issues about water meters and sewer connection issues and will follow up on those issues.
24. Maria Friedmann finds the water meter requirement economically prohibitive and the maximum size to be too restrictive.
25. Nick Koonce spoke against ADU restrictions, including kitchen requirements. He promoted the consideration of JADUs.
26. Jason Yardi spoke against applying the proposed ADU Ordinance to units already in the process. In addition, he finds the covenant to be onerous.

The following people provided written public comment and were acknowledged:

1. Helen Couclelis
2. Nancy Mulholland
3. Fred Sweeney
4. Paul Zink
5. Thomas McNair
6. Jim Heaton
7. Dennis Thompson
8. Tom Jacobs
9. Patricia Kohlen
10. Bob Hart

Public comment closed at 4:36 p.m.

Point of Order: Chair Higgins stated he would be leaving the hearing by 6:00 p.m., and he requested the Commission give procedural and content questions and comments.

Commissioner Campanella suggested that the Commissioners provide general questions first, and then comments by topic for clear direction and eventual consensus on the major components of the Ordinance.

Ms. Brooke stated that any later amendments to adjust for future legislation would be made as necessary. As this hearing was the first public hearing, she felt it was too early in the process to submit the draft ordinance to the State Housing Community Development (HCD) department for input and comment, but stated that staff could accommodate the Commission's request to submit a draft of the ADU Ordinance amendments to the HCD, if they should choose to comment.

Mr. Vincent clarified for the Commission and the public that the proposed ADU Ordinance does not allow short-term rentals of ADUs.

Commissioner comments:

Commissioner Schwartz recommended first sending the current draft ADU Ordinance to the State Housing Community Development (HCD) department as a reliable screening resource for staff and the Commission. She also commented that Senate Bill 229 and other housing bills will be reviewed by the Governor that will severely impact local municipalities' ability to regulate and enforce amendments. She recommended waiting for further State Law changes before adopting local ADU regulations.

Mr. Vincent clarified for Commissioner Lodge that he would not present an Ordinance to the Commission that violated State Law, but there are allowances within the law for adoption of local regulations, which staff is recommending in this Ordinance.

Mr. Poire clarified for Commissioner Lodge that the high-fire hazard zones identified by the proposed Ordinance are acceptable and promote public health and safety, acknowledged reliance on Planning staff to accurately identify these zones, recognized that there are very strong public feelings and opinions on restrictions within these identified zones, and stressed the importance of safe emergency access to these areas. Commissioner Schwartz suggested

comparison and contrast between state fire and local needs and invited comment from the Fire Chief Patrick McElroy.

Commissioner Campanella suggested that some analysis of the type of projects submitted may be useful, so that some possible trends might be observed.

Chair Higgins suggested the following 12 general issues for Commission comments:

1. Allowable Zones
2. High-Fire Hazard Areas
3. Lot Size
4. Allowable Floor Area of Units
5. Development Standards (height, setbacks, fees, etc.)
6. Parking Requirements and Exceptions
7. Process of Design Review and Analysis of Historic Structures
8. Location on the Lot (structures in front, rear, etc.)
9. Junior ADUs
10. Owner Occupancy and the Covenant Requirement
11. Timing
12. Utility Connections and Fees (water, sewer, etc.)

1. **Allowable Zones:**

Commissioner Thompson asked why staff determined to eliminate the R-M Zone and R-MH Zones when the State Law states "any family residential zone." Commissioners Jordan, Wiscomb, Lodge, and Campanella concurred with Commissioner Thompson in asking why these zones are excluded, and why not allow ADUs in the downtown core areas closer to transit and work areas.

Commissioner Jordan requested clarification of the section of the State Law that mentions under "*Primary Intent ... is containing one single residential unit in zones that allow residential development.*"

Commissioner Campanella concurred with the inclusion of multi-family zones and asked to also include commercial zones. City Council discussions and Housing Task Force meetings indicate that existing units are providing affordable housing, and the ability to retain these kind of structures in any zone that allows housing is a benefit, unless impact is created on the neighborhood and other uses on the property by providing one additional unit. A number of potential Structures of Merit are located in multi-family areas, and this inclusion would be a method of being less imposing on them by allowing a detached additional unit at the rear rather than allowing the additional density of an apartment building complex. Without undermining other policies, there is room to provide housing with ADUs, and less expensive rentals, in any lot in the City that allows housing with a house on it.

Commissioner Lodge concurred that it is reasonable to consider ADUs in multiple zones on lots developed with a single-family house, per the State Law.

To provide the right kind of housing, Commissioner Schwartz questioned not including other zones where residential use is allowed, the limitation to certain zones, and

suggested other zones for consideration, such as commercial and office zones, manufacturing zones, and coastal-oriented zones.

Chair Higgins requested more input from the Coastal Commission regarding ADUs in coastal zones.

2. High-Fire Hazard Areas:

Chair Higgins asked Mr. Poire if he would prefer the Commission consider more refined tools or factors more specific to response times and road widths rather than high-fire zones. Mr. Poire clarified that the zones are partly state-mandated, and that road widths and response times are factors, among others, in determining high-fire areas. He also stated that another approach would be to use evacuation blocks that are driven by a new "reverse 9-11" system, which factors in geographic and density constraints within certain areas and allows for more orderly evacuations by zone or multiple zones.

Commissioner Schwartz also concurred that more refined tools are needed, and requested feedback from the Fire Department on whether the more generalized high-fire areas could be refined with a more strategic approach to include micro-neighborhoods or differentiated street-to-street areas to determine areas of greater to lesser concern for public safety. She also suggested that Mr. Poire seek feedback from the Department of Forestry and Fire Protection (CALFIRE) for their interpretation of high fire zones relative to housing development.

Commissioner Lodge commented that ADUs should not be allowed in high-fire zones.

3. Lot Size and Allowable Floor Area:

Commissioner Wiscomb suggested exploring a sliding scale concept of lot size and unit size, which might be a more appropriate approach to determine areas of greater to lesser concern and would provide the opportunity to include smaller lots.

Commissioner Thompson commented that he did not understand the rationale for minimum lot size limits, and that a legal single-family residence on a single lot should be included regardless of the smaller size. He suggested a sliding scale limit percentage of the existing building or percentage of the lot size up to 1200 square feet as listed in the State Law, and Chair Higgins concurred.

Commissioner Jordan suggested a sliding scale either above or below a 5,000 square foot lot size limit, as a percentage of the lot square footage for a more reasonable relationship of lot size versus development on the lot. He observed that the 600 square foot limit is too small for a lot size relationship to the primary residence, that requiring a modification may be a barrier and not within the intent of the law, that a middle ground may be lot size relationship to the primary residence, and suggested a 750-900 square foot unit maximum as a starting point before reviewing other criteria.

Commissioner Wiscomb also concurred that the use of a sliding scale is very appropriate, and that ADUs should be included in the floor-to-lot area ratio (FAR) calculations.

Commissioner Campanella concurred that a sliding scale either above or below a 5,000 square foot lot size limit would be an improvement when reviewing multi-family zones, which may have smaller lot sizes than single-family lots. He concurred that a flexible sliding scale to the State Law and a 50% factor to primary unit size are supportable scales of measurement rather than using lot sizes. Commissioner Campanella also requested more information regarding FAR calculations for primary and secondary units, and the State Law distinctions between single-family zones that require FARs and multi-family and commercial zones, which may not require FARs.

Commissioner Schwartz suggested working with the Santa Barbara Chapter of the American Institute of Architects (SBAIA) on the proposed amendments to the Ordinance.

5. Development Standards (height, setbacks, fees, etc.):

Commissioner Jordan would like clarification on staff's determination that ADUs be "subordinate" to other buildings on the lot. Commissioner Campanella concurred.

Commissioner Schwartz stated that further analysis and comparison with the State Law is needed for defining the term "subordinate" on page 4 of the proposed ADU Ordinance, "*Proposed Accessory Dwelling Unit Ordinance*": "...further, the proposed standards are designed to ensure that detached and attached ADUs would be subordinate to the primary dwelling in terms of size, location on the lot, and appearance." In her assessment, State Law cannot be interpreted for detached units subordinate to the primary structure in terms of some of the development standards, and thus further analysis and comparison with State Law is merited.

6. Parking Requirements and Exceptions:

Commissioner Wiscomb suggested having the screening component for tandem parking be covered by a waiver from the Community Development Director.

Chair Higgins would like staff to consider more flexibility with regard to allowing parking in setbacks as replacement parking, if not located near a transit stop.

Commissioner Campanella suggested staff also consider allowing parking in a tandem position in existing driveways within setbacks, as allowed by State Law.

Commissioner Schwartz concurred for staff to consider allowing parking in a tandem position in existing driveways within setbacks, but had some reservations on how to provide screening for such parking in compliance with hedge or fence ordinance requirements, yet still be able to allow smaller lots to have landscaping, access to garages, etc.

7.a. Process of Design Review:

Commissioner Jordan had some concerns regarding the ministerial process of design guidelines and their application, and requested more information on the process of merging ADU analysis into the design review process, either by checklist (preferably) or by other methods.

As no discretionary review is allowed, Commissioner Thompson questioned the role and application of guidelines in any ministerial review, especially since the Single Family Design Board has expressed concerns and confusion regarding their responsibilities and purview on ADU projects.

Commissioner Schwartz concurred that a checklist for the process of merging ADU analysis into the design review process would be helpful as long as it is not a discretionary review, which is not allowed under State Law. She also recommended that staff study allowing a solitary person, such as the chair of a design review entity, to review the architectural and design aspects of ADU projects for recommendations, similar to the Montecito Board of Architectural Review.

Chair Higgins interpreted discretionary review to involve public noticing and public hearings, and recommended staff push forward with the design review checklist or design-related review without involving discretionary review and without sacrificing existing high standards for improvements to properties.

Commissioner Thompson and Commissioner Campanella suggested staff utilize the recommended 19-item checklist provided by Fred Sweeney, architect, as a guidance for ministerial review, which might not affect the ability to produce supportable units. [For the record, it should be noted that checklist was submitted by Mr. Sweeney as an individual and not as an SFDB Board Member.]

7.b. Analysis of Historic Structures:

Commissioner Campanella requested clarification on the language distinguishing between a second ADU unit and the main unit with regard to review for any adverse change to the significance of an historic resource. He concurred that clarification is required for "shall not" language in the determination of what is historic, and whether it might be possible to accelerate the determination by the Historic Consultant of potential Structures of Merit units to the category of Structures of Merit as part of the application.

Ms. Brooke clarified for Commissioner Campanella that a review for potential adverse change to a significant historic resource would apply to either the main unit or the ADU, whichever structure has been deemed significant. Chair Higgins requested general information on historic districts for ADUs.

Commissioner Schwartz requested clarification from staff on how the proposed regulations relate to, support, or are different from some of the language in the State Law, which simply references any real property that is listed in the California Register of Historic Places. We should tighten up some definitions and determine what is allowed under State Law and what makes sense for Santa Barbara.

8. [(Skipped category) Location on the Lot (structures in front, rear, etc.)]

9. Junior ADUs:

The Commission generally concurred that a closer look at allowing Junior ADUs is warranted.

10. **Owner Occupancy and the Covenant Requirement:**

Commissioner Thompson questioned how the Ordinance requirement for owner occupancy in the covenant can be enforced.

Commissioner Campanella commented that enforcement may be possible for (secondary) accessory dwelling unit applications that must be rentals without precluding the requirement for the owner to also live in the unit, which he did not agree should still be required. Chair Higgins concurred and requested information on how many of the parcels in the allowed zones are currently owner-occupied so that an assessment can be made.

Commissioner Schwartz is also interested in this data, mentioned that next Tuesday the County Board of Supervisors will be reviewing homeowner exemptions separate from covenants, and suggested review of such tools to weigh against the collected data.

Commissioner Jordan concurred, observing that requirements for owners to live in the unit is more of a fearful reaction than a pro-active reaction, and commented on lost opportunities for lots that can absorb the impacts to add another housing unit against others that cannot.

11. **Timing:**

Chair Higgins commented on the need for a better understanding of ADU applications in the pipeline, and how long ADUs will take through the review process before a determination can be made on the effective date of the ADU Ordinance, including application delays, the reality of the 120-day duration, and requested plan check corrections. He requested staff ask State Housing Community Development (HCD) department how often it can be available to the Commission to answer questions during this ADU Ordinance review process.

Commissioner Jordan recommended sending the draft ordinance to HCD for input before the next hearing, and requested a presentation from staff on pending legislation that may contradict or affect current information so that the Commission may pose pertinent questions and comments prior to legislation taking place and City Ordinance Committee review. He also requested clarification of Ordinance Section 30.185.040.S, regarding ADU applications meeting open yard requirements; and of Section K.3 regarding the requirement for ADUs to conform to residential standards and the lack of flexibility in these requirements (i.e., living room, dining room, bathroom, kitchen, refrigerator dimensions, etc. requirements).

12. **Utility Connections and Fees (water, sewer, etc.):**

Commissioner Campanella requested a better understanding and the ramifications of meter fees, connection fees, and property tax assessments.

Commissioner Thompson requested more discussion, documentation, and factors driving covenants that property owners are being required to execute in order to get the privilege of ADUs.

Commissioner Schwartz requested staff return with an explanation of fee structures in light of the State Law, and spoke of the concern that HCD continues to have regarding high fee structures (for connections to utilities and fees) that in essence make ADU permitting prohibitively costly, and how can we streamline the regulatory process to truly promote needed housing.

Commissioner Wiscomb expressed appreciation to staff and interested parties toward the goal of an improved ADU Ordinance.

Ms. Brooke stated that, given the amount of follow-up work necessary and other workload priorities, the proposed amendments to the Municipal Code to regulate ADUs would come back to the Planning Commission in November.

MOTION: Thompson/Jordan

Continue indefinitely the discussion of the proposed Accessory Dwelling Units (ADU) Ordinance.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Higgins)

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 5:33 P.M.

A. Committee and Liaison Reports:

1. Staff Hearing Officer Liaison Report

No report given.

2. Other Committee and Liaison Reports

- a. Commissioner Campanella reported on the Architectural Board of Review meeting of August 28, 2017, specifically regarding the continued Average Unit Density Incentive (AUD) Program project at 835 E. Canon Perdido St.
- b. Commissioner Lodge reported on the Historic Landmarks Commission meeting of September 6, 2017, specifically regarding the joint City and Santa Barbara County Assoc. of Governments (SBCAG) project at the intersection of the 1700 Block East Cabrillo Blvd. and Los Patos Way.
- c. Commissioner Thompson also reported on the Historic Landmarks Commission meeting of September 6, 2017, specifically regarding the design of the AUD Program project at 214 E. De La Guerra St.

V. ADJOURNMENT

Vice Chair Wiscomb adjourned the meeting at 6:06 p.m.

Submitted by,



Kathleen Goo, Commission Secretary