Public Comment for:
ADU Ordinance
Recommendations to Council
(Attached public comment received prior to 01/25/2018 Special PC Hearing)

Public comment check for this item:

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<td>Alex Pujo</td>
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<td>Everett Jay Woody</td>
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<td>Cassandra Ensberg (AIASB)</td>
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<td>Joan Sanger</td>
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<td>Alyssa Perex</td>
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<td>Nancy Mulholland</td>
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<td>Valerie Froscher</td>
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<td>Suzanne Elledge (SEPPS)</td>
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<td>Mark Manion (Price, Postel, Parma)</td>
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<td>13.</td>
<td>Helen Couclelis</td>
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(And a request for copies of all rcvd public comment to Planners: N. Scott Vincent; Bea Gularte; Rosie Dyste; Debra Andaloro.)
January 4, 2018

Planning Commission members
City of Santa Barbara, CA
By email

Re: Draft ADU ordinance

Chair Higgins and Commission Members,

Thank you for the opportunity to provide additional comments regarding the proposed 12/7/17 draft. This letter supplements other comments submitted before the holidays.

The original (8/31/17) draft ordinance contained a number of provisions that were identified as impediments to the construction of accessory dwelling units by members of your commission, City Council, the state Housing and Community Development, the American Institute of Architects, the Board of Realtors and numerous public members. As a result, staff revised the draft ordinance and successfully resolved many of the problematic requirements. However, eight areas remain in need of further review:

1. Owner-occupancy
2. Open yard
3. Unit size
4. High fire area restrictions
5. Solar envelope setback
6. Parking in setbacks
7. Permitting process
8. Ministerial design review

1. **Owner Occupancy.** Beyond a ‘yes’ and ‘no’ answer, there are nuances regarding where, when and how this requirement should be applied. Staff proposes the most restrictive type (recorded covenant, everywhere, forever) but there are other options:
   a. **WHERE:** ADUs are allowed in all zones that have a legal SFD. It seems arbitrary to require owner-occupancy in multi-family or commercial properties where most neighboring residences are likely not owner-occupied. According to the official census, 60% of Santa Barbara dwellings are rented.
   b. **WHEN:** As Senator Wieckowski famously said, “Homeowners don’t build schlock in their properties”. But after the ADU is built, occupied and lived in
for some time, what is the purpose of this requirement? Should this “pride of ownership” requirement apply only to properties with ADUs when it does not apply to properties with a single family dwelling? How about an owner-occupancy sunset, for example, 3 years after certificate of occupancy?

c. **HOW**: The standard ways to prove occupancy are: driver’s license, utility bills and homeowners’ tax exemption. This exemption warranties one ADU per homeowner. The recorded covenant adds a cloud to the property title.

2. **Open Yard.** The open space requirement in single family zones is 1,250 sf with a minimum dimension of 20’. The requirement drops to 800 sf in lots smaller than 5,000 sf. While most properties in the suburbs meet this requirement, a large percentage of lots in older neighborhoods do not. These lots are usually closer to downtown, transit and amenities – ideal locations for ADUs. In order to facilitate their existence, ADUs should be required to meet multi-family open yard standards: 15% of lot size, 10’ min. dimension on ground or 6’ in balcony, etc.

3. **Unit Size.** The draft proposes three separate standards:
   a. A maximum ADU size according to lot size,
   b. FARs and
   c. A maximum, sum-total area for all accessory structures on site (garage, tool shed, hobby room, etc.) according to lot size.

Overlaying these three standards, one on top of the other, is not only confusing but also overly restrictive. The first one (number of sf) is simple; the second one (FARs) is complex but not unusual; the last one (max. accessory area) is completely unnecessary. Only one standard, please!

4. **High Fire Areas.** The current draft retains restrictions for ADUs in all of the inland high fire areas, although some of them have the water and road infrastructure to sustain additional, small dwelling units. If new houses and additions are allowed there, why not ADUs? A blanket prohibition is not in the spirit of the state law. The Fire Department should comment on what specific areas should and should not be eligible for ADUs. In addition, special regulations to keep automobiles off the road should be enacted in these specific areas.

5. **Solar Envelope Setback.** The state law allows ADUs above existing garages with a 5’ setback from the property line. The City’s solar ordinance envelope (12’ high, 30 degrees across from the north property line) does not allow this; an exemption needs to be made to correct this conflict.

6. **Parking in setbacks.** The revised draft complies with the state’s mandate to restrict parking only on the basis of topography and safety, but it adds a provision forbidding ANY new paving on setback areas. While this makes sense in many places (nobody wants paved front yards), in San Roque or Cheltenham Road the property line is in
the middle of the street and all street parking is, in fact, within the front yard setback(!). This provision needs further study because, in some specific cases, a small amount of new paving may be necessary and beneficial.

7. **Permitting process.** There is clearly a need to simplify the process for small projects like ADU conversions. Adding plumbing and insulation to a garage is not rocket science. The ADU ordinance needs to clarify and exempt specific items, like soils reports for 1-story structures less than 1,000 sf in flat, known areas. For clarity and simplicity, a successful ADU ordinance must contain all requirements without making references to other provisions of the municipal code. We recommend an application form (or seal, or stamp) that differentiates ADUs from other, more complex projects so that they can be prioritized and resolved promptly.

8. **Ministerial design review.** Single family dwellings are exempt from ANY design review if they are less than 17’ or outside special districts. This exemption must also apply to ADUs. Details of the guidelines that will guide the ministerial review of ADU projects by staff are not available for review at the time of this writing.

In conclusion, the ADU ordinance draft continues to move in the right direction but there are a number of standards that need more analysis and detail. Thank you for taking the time to review this letter.

Best regards,

H. Alexander Pujo, AIA
alex@pujo.net
Santa Barbara Planning Commission  
735 Anacapa Street  
Santa Barbara, California, 93101  

Phone: (805) 963-0611  
Email: pcsecretary@santabarbaraca.gov

**RE:** Accessory Dwelling Unit Hearing  

Dear Commissioners,  

I have thoroughly reviewed the staff report and noticed that a critical City Council directive was missing from the proposed ordinance. The City Council directed planning staff to process all current applications using the current Government Code Section 65852.2. Not the proposed ordinance as all of the applicants would be financially vested in the Government Code not the future ordinance. I respectfully request that you direct planning staff to include the City Council direction in the proposed ordinance.

Regards,  

Everett Jay Woody, N.C.A.R.B
Dear Ms Goo,

For the past several months and as a way to communicate and assist the City in the drafting of an ADU Ordinance, the AIASB ADU Advocacy Committee has been meeting regularly to discuss and address the issues from our perspective as architects and as we understand the intent of the state law. In addition, several members of our group serve on design review boards have been meeting with City Planning Staff to communicate our suggestions.

We appreciate all the work by all parties as we work together to realize a new ordinance that will assist in the realization of new ADU's in Santa Barbara. We feel that progress is being made.

In addition, and in an effort to best communicate our suggestions for an ADU Ordinance, the AIASB ADU Advocacy Committee has prepared this draft of a Proposed ADU Ordinance for the City of Santa Barbara.

We hope this format and the suggestions are clear and helpful as we continue to work together for a successful ordinance. The AIASB ADU Advocacy Committee is committed to this important work.

Please forward our proposed ordinance (attached) onto the Planning Commissioners as well as to Renee Brook to distribute.

Thank you,

Cass Ensberg

AIASB ADU Advocacy Committee Chair

Cassandra Ensberg

Art & Architecture
Cell: 805 455 8332
EnsbergJacobsDesign.com
CassEnsberg.com

This message is intended only for the individual named and may contain confidential information. If you are not the addressee, please respond via email to notify us that you have received this email by error, and please delete all email and contents permanently.
This ordinance is intended to comply with State Government Code Section 65852.2.

This ADU Ordinance is a standalone document that governs development of accessory dwelling units and junior accessory dwelling units in the city of Santa Barbara. No other planning or zoning ordinance governs the development of accessory dwelling units and junior accessory dwelling units in the city of Santa Barbara.

Section I: Purpose

Notwithstanding any other ordinance, this Chapter provides for the creation of accessory dwelling units on all lots with a legal existing single family dwelling or proposed single family dwellings in single family or multifamily zones. See exception II, B (a).

The purpose and mission of the accessory dwelling unit ordinance is to increase housing stock by incorporating or adding an accessory dwelling unit to an existing property through a simple permit process that keeps regulatory cost / fees low so as to enable a property owner to provide low cost housing for themselves or another and remain in their existing home and neighborhood.

Section II: General Requirements

A. **Allowed Lots:** The provisions of this section apply to all lots with a legal single family residence that is zoned residential. An accessory dwelling unit may not be approved on any lot with a multifamily residence or an existing secondary dwelling unit created under a previous ordinance.

B. **Allowable Zones:**
   a) Due to the critical housing need, an accessory dwelling unit may be created on any lot regardless of zoning, if the lot contains a legal single family residence.
   b) Accessory dwelling units shall not exceed the allowable density for the lot upon which the accessory dwelling unit is located.

Section III: Development Standards

A. All Accessory Dwelling Units shall meet the following requirements:
   (a) California Building/Safety and Fire codes.
   (b) Have Independent exterior access.
   (c) Accessory dwelling units proposed in extreme high fire areas shall be reviewed and approved on a case-by-case basis. Accessory dwelling unit construction shall include fire safe design and construction, fire sprinklers, and shall be approved by the Fire Marshall. If the fire Marshall chooses to deny the project on the grounds of public safety, the fire Marshall must reasonably demonstrate to the applicant why the project is denied.

B. The permit application for an accessory dwelling unit shall be processed ministerially, approved, and issued a building permit within a maximum of 120 city processing days. Process days are the days that the city is in possession of the permit application documents starting from the date of the initial intake by the city. The application shall be deemed complete at the time the Permit is issued.
C. An accessory dwelling unit shall not be sold separately from the primary residence.
D. An accessory dwelling unit may be rented according to city rental ordinance.
E. The accessory dwelling unit can be internal to or attached to the existing residence, or detached from the existing residence.
F. Junior accessory dwelling units, an interior physical connection such as a door, from the accessory dwelling unit to the existing residence, is allowed but shall not be required.
G. Accessory dwelling units shall connect to existing power, water, and sewer. A separate water meter, connection fee, or impact fees for water and sewer connections regarding accessory dwelling unit are not allowed.
H. Separate heating and/or cooling controls may be provided in JADUs.
I. All accessory dwelling unit applications for permit submitted prior to adoption of a city ordinance shall be governed by the State Government Code Section 65852.2. At such time that the city may adopt an ordinance, accessory dwelling unit permit applications submitted after said ordinance is adopted, shall be regulated with the additional requirements in that ordinance in accord with the overriding State Law. Elements of a city ordinance shall not apply to any accessory dwelling unit permit applications submitted prior to any adoption of a city ADU ordinance.

Section IV: General Design Requirements

A. Building height:
   (a) A single (1) story accessory dwelling unit shall not exceed a height of eighteen (18) feet.
   (b) A two (2) story accessory dwelling unit shall not exceed a height of thirty (30) feet.

B. Setbacks:
   (a) Front yard building setbacks are per the zone designation for the lot.
   (b) Rear and side yard building setbacks per the zone designation for the lot.
   (c) No setback shall be required for an existing non-conforming garage or existing accessory structure converted, or partially converted to an accessory dwelling unit. An accessory dwelling unit that is constructed above a proposed or existing garage, existing non-conforming garage, existing accessory structure, or existing nonconforming accessory structure shall require a setback of no more than five (5) feet from the side and rear lot lines.

C. Distance between buildings:
   (a) The minimum distance between buildings shall not be less than five (5) feet.

D. Open yard area requirement shall be 10% of the gross lot area and may include open areas in the setbacks as long as a rectangle with a dimension of ten (10) x ten (10) feet is provided. The open yard area can overlap a driveway.

E. Floor area:
   (a) The total area of floor space of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.
   (b) The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet.
   (c) Floor area maximum size for detached accessory dwelling units:

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<th>LOT SIZE</th>
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Lots 5,000 SF up to 9,999 SF 800 SF maximum.
Lots 10,000 SF up to 14,999 SF 1,000 SF maximum.
Lots 15,000 SF or larger 1,200 SF maximum.

Section V: Ministerial Architectural Review
A. Ministerial architectural review shall be conducted by a city staff member approved by a majority vote of the appropriate architectural review committee.
B. City staff shall ministerially review and approve the application using the following checklist:
   (a) Photographs of the existing site and residence.
   (b) Colors, materials, and eave details.
   (c) Doors and windows manufacturer specifications.

Section VI: Parking:
A. Required parking spaces may be allowed in a front and interior setbacks.
B. Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking including, but not limited to on an existing driveway and is allowed in setback areas.
C. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, and off-street parking spaces are required to be replaced, the replacement parking spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered space, uncovered space, tandem spaces, or by the use of mechanical automobile parking lift that is within a covered space. Parking is not required in the following instances:
   (a) The accessory dwelling unit is located within one-half mile of a public transit stop or station.
   (b) The accessory dwelling unit is located within an architecturally or historically significant historic district.
   (c) The accessory dwelling unit is internal to a proposed or existing primary residence or accessory structure.
   (d) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
   (e) When there is a car share vehicle located within one block of the accessory dwelling unit.

Section VII: Permit Requirements
A. Any short or long term rental of an accessory dwelling unit must meet city rental ordinances.
B. Fees charged for the construction of accessory dwelling units shall be determined in accordance with GOVERNMENT CODE – GOV; TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.), DIVISION 1. PLANNING AND ZONING [65000 - 66210] (Heading of Division 1 added by Stats. 1974, Ch. 1536.) Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
C. Single story accessory dwelling units under 1,000 square feet or built above and within the footprint of an existing structure shall not require a soils report unless the site has known soils instabilities.

Section VIII: Definitions

120 days is defined as the maximum time for the city to process and have the permit application documents in their possession.

Accessory dwelling unit or “ADU”

Is a residential dwelling unit - internal, attached, or a detached to an existing single family dwelling that provides complete independent living facilities for one or more persons per Section 17958.1 of State Health and Safety Code. The ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. A clothes washer / dryer unit is allowed. Accessory dwellings also include efficiency units, pre-manufactured units, and junior accessory dwelling units.

Types of Accessory Dwelling Units

(A) Junior accessory dwelling unit or “JADU” is a unit within an existing residence.

(B) Accessory dwelling within an existing garage or other existing accessory structure.

(C) Accessory dwelling unit within existing residence, garage or other accessory structure that includes a new addition.

(D) New detached Accessory Dwelling Unit.

City Staff is defined as an employee that implements and enforces city ordinances and policies.

Existing Structure for the purposes of defining an allowable space that can be converted to an ADU, existing structure means within the four walls and roofline of any structure existing on or after January 1, 2017 that can be made safely habitable under local building codes at the determination of the building official regardless of any non-compliance with zoning standards.

Floor Space is defined as the net interior floor area.

Living Area is defined as the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

Local Agency Authority The local agency is defined by the city charter as single entity with many parts. The city council is the only part of the local agency authorized by the city charter to adopt policies and ordinances.

Tandem parking is defined as two or more automobiles parked one behind the other.
Hi

Here is another public comment received this weekend. \n
Thanks,

Rosie Dyste  
Project Planner  
CITY OF SANTA BARBARA, Community Development  
(805) 564-5470 x 4599 | rdyste@SantaBarbaraCA.gov

From: Joan Sanger  
Sent: Sunday, January 07, 2018 2:51 PM  
To: Rosie Dyste

Subject: Public comment on ADUs for the Planning Commission January 11 meeting

Adding ADU’s is fine but it defeats the purpose if they are not adding to affordable housing. Please devise a system of incentives for this purpose. One example could be that the home owner gets all permitting free, and all past non permitted actions, not safety related, grandfathered in if they agree to rent the unit for 3-5 years or however long at 60-70% below market. After that, they are free to rent it at FMV.

Joan Sanger  
241 Las Alturas, Santa Barbara, 93103  
1 805 845 8588
Hi,

I wanted to express my interest in attending the planning commission scheduled for this Thursday 1/11. However, due to the flooding and road closures I will be unable to attend. I am certain that I will not be the only one interested and unable to attend due to these unforeseen circumstances, so I am requesting that the city consider rescheduling this hearing for a later date. Thank you for your understanding.

Regards,

Alyssa Perez
January 8, 2018
City of Santa Barbara
Planning Commission members

Dear Commission Members,

Thank you for your time in considering the proposed ADU ordinance which will be presented to you this Thursday. And for your attention to the comments from the public.

I am supportive of SB1069 and its goal of facilitating the construction of Accessory Dwelling Units to increase housing stock, preferably more affordable options, in our City. As such, I hope the City will embrace the elements of this State law and not impose additional burdens on property owners in Santa Barbara who wish to avail themselves of this option.

In reviewing the 12/12/17 draft ordinance presented by staff, I am pleased to see the elimination of many of the objectionable restrictions that were proposed last August. There remain two elements that I believe need further study:

1) Prohibition of all ADUs in High Fire Hazard zones. Although the Thomas Fire experience is still fresh in all of our minds, the question of why new single family residences or additions to the same can be permitted in these areas but not smaller ADUs seems to need further study/discussion. And

2) The requirement for legal Covenants for permitting an ADU. The existing Covenant raises a number of worrying questions.

A) How can Covenants be required for ADUs currently being permitted under State law since existing local ordinances are null and void? Applications for permits to build an ADU under State law provisions are currently being denied unless a Covenant is signed and recorded. This seems to be in violation of SB1069.

B) What effect will these Covenants have on existing mortgage agreements or refinancing applications?

C) How will these Covenants effect properties held in Trust(s), specifically Living Trusts which name a family member as beneficiary? Will a spousal beneficiary be permitted to live on the property and rent out the ADU when the Trust is the legal owner?

D) If the underlying concern is that the ADU not be sold separately or rented as a short term rental, can this be assured another way?

I would appreciate your directing staff to find the answers to these questions before moving forward to codifying a local ordinance.

Thank you,
Nancy Mulholland
115 W Pedregosa St
January 08, 2018

Planning Commission Members
City of Santa Barbara, CA

by email

Re: Draft ADU Ordinance

Dear Chair Higgins and Commission Members,

Thank you for the opportunity to express further comments on the Draft ADU ordinance. The local AIA community of architects has been very active in trying to assist with input from the community, to the planning process regarding local ordinance amendments to the State Law. We have interacted directly with Planning staff over the past few months and many concerns have been alleviated. We all share the common goal of wanting to allow for more infill low density housing while also protecting the community. Several areas are still of concern and are being addressed in letters from our members and the public.

One specific area that needs more research and community input is that of the Open Yard requirement. Implementing this for ADU’s in the same manner as is done for single family homes may be the single largest impediment to enabling ADU’s as a low impact form of additional housing in our community. The current City Open Yard requirement is 1250 sq feet with minimum dimensions of 20’ x 20’. On a typical 50’ x 100’ lot with a house and separate garage, there is no room left for an ADU that could actually be inhabited.

The language as presented in the draft reads as below:

"The proposed ordinance requires ADUs to comply with the development standards applicable to accessory buildings, including prohibiting ADUs in required Open Yards. This promotes desirable living conditions, a sense of openness, and minimum useful space for outdoor living applicable to all residential development. “

NZO 30.140.140 DEFINITION OF OPEN YARD for single family zones:
Minimum Area and Dimensions. The minimum area and dimensions of required open yards shall be provided as follows: 1. Lots Developed with Single-Unit and Two-Unit Residential:
a. Minimum Area:
i. 800 square feet on lots less than 5,000 square feet.
ii. 1,250 square feet on lots 5,000 square feet or greater.
b. Minimum Dimensions: 20 feet long and 20 feet wide.
Prohibited in vehicle areas and cannot be in primary front setback.

There are so many other limitations being placed on the ability to provide an ADU that we would highly recommend that this requirement be modified. The AIA has crafted language that reads:
Open yard requirement shall be 10% of the gross lot area and include open areas in the setbacks as long as a rectangle/square with a dimension of ten\[10\] x ten\[10\] is provided. The open yard can overlap a driveway.”

This language is closer to the multifamily zone district open yard requirement, but allows for flexibility in different lot configurations. Please do not let the current language of the draft ordinance go forward, and allow more time to evaluate and modify this so that it does not singlehandedly destroy the viability of most ADU applications.

Sincerely,

Valerie Froscher
Architect, AIA
Froscher Lewis Inc.
226 East Canon
Perdido Street
Suite H
Santa Barbara Ca
93101
ph/fax 805.965.4744
frolew@gmail.com
January 8, 2018

VIA HAND DELIVERY

Planning Commission
City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

Re: Proposed ADU Ordinance
Planning Commission Meeting of January 11, 2018

Dear Members of the Planning Commission:

The purpose of this letter is to object to City staff’s proposed municipal ordinance for regulation of Accessory Dwelling Units (ADUs) in the City. We also wanted to report our conclusions that City staff are blatantly violating State law in processing existing ADU applications.

The following items are my preliminary list of significant legal issues which are presented by staff’s proposed ordinance. To summarize, the proposed ordinance is illegal under State law.

1. The Staff Report Does Not Include Current State Law and is Confusing.

The staff report includes an entire copy of recent Assembly Bill No. 494, which is actually an amendment of the existing Government Code section 65852.2, which is the result of the State’s first enactment of the ADU law in 2016. AB 494 includes two alternative versions of proposed section 65852.2. Only one of them went into effect on January 1, 2018. The current
adopted section 65852.2 should have been attached to the staff report. As a result of staff’s failure to accurately specify existing state law, the staff report is confusing to the public, which deserves to have a clear statement of state law that must be considered in reviewing staff’s proposal for the new City legislation. Final consideration of this matter should be based on current legislation, and the staff report should be modified to only include current state law.

2. **Staff's Proposed Legislation Gives Complete Discretion to the City's Community Development Director Regarding Approval of an ADU Application.**

State law regulating ADUs is very specific in removing discretion from staff review of ADU applications. Local review is to be ministerial only. In pertinent part, current State law provides as follows:

(a)(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(a)(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision. (Government Code section 65852.2(a)(4) and (5); emphasis added.)

The City legislation proposed by staff goes far beyond the “ministerial” approval process mandated by State law. Proposed section 30.185.040(T) is entitled “Architectural Review.” But the actual provision contemplates far more than ministerial architectural review. Instead, the City’s Community Development Director is given complete authority, by himself/herself, to “ensure” that a proposed ADU complies with the City’s Single Family Design Board General Design Guidelines. Those Design Guidelines include more than 100 pages of single family home regulations that are extremely broad in their scope and application, and go far beyond “architectural review.” The proposed ordinance creates an obvious “discretionary process” which is forbidden by State law.
3. **Staff’s Proposed Legislation Regarding Utility Connections Does Not Comply With State Law**

State law provides that an ADU contained within an existing residence may not be required to install new utility connections. Section 65852.2(f)(2)(A). Detached ADUs may be required to install new utility connections, but the resulting connection fees must be “proportionate” to the burden of the proposed ADU on the existing system. Government Code section 65852.2(f)(2)(B). Staff’s proposed legislation states only that “provision of utility connection or meter shall comply with Title 14, Section 14.08.150.” Section 30.185.040(R). I have reviewed the newly-enacted section 14.08.150 (which is not included in the staff report), and it provides only that: 1) no new utility connection shall be required for an ADU contained within an existing residence; and 2) a separate utility connection may be required for a stand-alone ADU. However, there is nothing indicating that the City will only charge a connection fee which is “proportionate” to the burden of the proposed ADU upon the existing water or sewer system. Government Code section 65852.2(f)(2)(B). This must be added to staff’s proposed legislation so that the City’s new enactment will comply with State law.

4. **Staff’s Proposed Legislation Says Nothing About Fire Sprinklers.**

Government Code section 65852.2(c) states that ADUs “shall not be required to provide fire sprinklers if they are not required for the primary residence.” Staff’s proposed legislation says nothing about fire sprinklers, and the requirements of section 65852.2(c) must be added.

5. **Complete Elimination of ADUs From The Foothill and Extreme Foothill High Fire Hazard Areas is Illegal.**

State law states that the designation of areas appropriate for ADUs is to be based on “criteria, that may include, but are not limited to the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.” Government Code section 65852.2(a)(1)(A). Staff’s proposed legislation states that ADUs will not be allowed in the Foothill and Extreme Foothill High Fire Hazard Areas, but no criteria is made available supporting such determination, based on “traffic flow and public safety.” The staff report indicates that the Foothill and Extreme Foothill areas are “characterized by steep slopes, a number of existing non-conforming narrow and curving streets, driveways, and bridges that do not meet current Fire Department Access Standards, and restricted traffic flow.” However, there is no effort to identify where such locations are in particular. These comments in the staff report do not measure identifiable “criteria.” It is illegal to say that portions of these fire hazard areas are characterized by poorly-defined conditions, and henceforth make a blanket determination that all of the fire hazard areas are off-limits to ADUs. Later in the staff report, it states that the ordinance could be amended in the future “to allow ADUs in these areas if they prove to not
exacerbate existing fire hazard conditions.” It is illegal for the City to give property owners the burden of proving that their neighborhoods do not exacerbate fire hazard conditions. This is not a measurable criteria. The City, rather, is obligated to set measurable criteria by which proper determinations of “public safety” can be made.

On this issue please also note that in its meeting on October 24, 2017, the City Council made several instructions to staff, including a direction to “allow ADUs in some high fire hazard areas.” Staff appears to have not complied with this directive.

6. **Staff’s Proposal Does Not Include An Exemption For Existing Applications, As Required By The City Council**

The staff report states that at the prior City Council meeting on October 24, 2017 regarding ADUs, the Council directed that the City’s legislation for ADUs contain an exemption for previously-filed ADU applications. This exemption does not appear anywhere in staff’s proposal. The City Council’s clear directive must be followed.

7. **State Law Does Not Allow The City To Require An ADU Owner To Execute And Record An Agreement Limiting Use Of The Property**

Section W of staff’s proposed legislation contains a requirement that an ADU owner execute and record an agreement that the ADU will not be sold separately, that the ADU or the Primary Residential Unit shall be owner-occupied, and that the ADU shall be rented for terms of not less than 31 consecutive days. There is no basis for requiring such an agreement from a property owner. This requirement is not imposed by State law. Further, laws on these issues might change in the future, yet the recorded agreement would remain perpetually on the record. This is an inappropriate requirement, and raises takings and inverse condemnation issues as well.

Section 65852.2(a)(6) merely says that a “local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.” (Emphasis added.) The City’s proposed covenant requires that the property be perpetually owner-occupied and not rented for less than 30 days. The requirement is clearly illegal.

There is no authorization that the City may require the owner to record a permanent covenant on the property that will perpetually remain regardless of future changes in law or modifications of the property’s future use. For instance, a property with an ADU may be zoned for condominium development. The recorded covenant would prevent such legal conversion of use. In addition, the covenant clearly affects the future use and value of the property, and its recordation may be an event which requires an owner to notify his/her lender and obtain
permission to execute. The covenant amounts to an illegal restraint on alienation and should be eliminated from the City’s proposed ordinance.

8. **City Staff Are Currently Violating State Law For Existing ADU Applications**

We understand from our clients that staff are improperly processing existing applications for ADUs. First, staff are refusing to issue ministerial permits within 120 days after the applications have been filed. This unwarranted refusal to follow the law must immediately cease. Second, staff is currently requiring that all ADU applicants immediately sign a covenant which states that the property will be owner-occupied, that it will not be rented for less than 30 days, and that the ADU will not separately be sold. This is a blatantly illegal requirement. Current city law has no such requirement. State law forbids such a covenant also, as discussed above. We have also heard that staff have indicated to some property owners that staff are willing to negotiate the terms of the required covenant. However, there is no public information available regarding how other covenants have been modified. All members of the public must be treated equally.

There is no doubt that City staff do not support the clear requirements of Government Code section 65852.2. This is abundantly clear, based on Mayor Schneider’s May 16, 2017 letter to the State Senate. (A copy of the letter is enclosed.) However, City staff have absolutely no right to take the law into their own hands. It is unfortunately clear that this is exactly what is occurring. We strongly advise that the Planning Commission should instruct City staff to immediately approve all ADU applications which have been on file for more than 120 days, and also direct staff not to require execution of an illegal ADU covenant in connection with existing ADU applications. We have no doubt that the Superior Court would rule accordingly, if legal proceedings are necessary to enforce compliance with State law.

I am unfortunately unavailable to attend the Planning Commission meeting regarding this matter on January 11, but I respectfully request that this letter be entered into the record for these proceedings.

Very truly yours,

Todd A. Amspoker
for PRICE, POSTEL & PARMA LLP

TAA:kds
Enclosure

cc: Clients
May 16, 2017

The Honorable Scott Wiener  
California State Senate  
State Capitol Building, Room 4068  
Sacramento, CA 95814-4900

RE: SB 35: Affordable Housing: Streamlined Approval Process  
Notice of Opposition

Dear Senator Weiner:

On behalf of the City of Santa Barbara, I am writing to express my strong opposition to your Senate Bill (SB) 35, which would pre-empt local discretionary land use authority by making approvals of multifamily developments that meet inadequate criteria, "ministerial" actions.

SB 35 is devised as a solution to the state's needs for market rate and affordable housing, however it fails to acknowledge that state and federal affordable housing funding have slowed to a trickle. For example, more than $1 billion annually in affordable housing money has evaporated with the elimination of redevelopment agencies in 2011. Funds from the 2006 state housing bond have been exhausted and federal dollars have been declining for decades. This massive withdraw of resources has contributed to the current challenges, yet no significant source of ongoing affordable housing funding is on the horizon. Furthermore, the City of Santa Barbara has had tremendous success incentivizing infill, multifamily rental housing subject to a streamlined review process and reduced parking requirements, consistent with the intent of SB 35.

The built environment in the City of Santa Barbara is widely recognized for its unique character. The City builds and maintains this aesthetic through strict development design standards and strong oversight provided by Council-appointed commissions, including the Architectural Board of Review and Historic Landmarks Commission. These boards and commissions ensure that proposed development is compatible with the City's high standards. Eliminating opportunities for public review of major multifamily developments goes against the principles of local democracy and public engagement.

Public hearings allow members of the community to inform their representatives of their support or concerns. "Streamlining" in the context of SB 35 appears to mean a shortcut around public input.

Please consider the environment before printing this letter.
While frustrating for some to address neighborhood concerns about traffic, parking and other development impacts, those directly affected by such projects have a right to be heard. Public engagement also often leads to better projects.

Limiting such outlets will increase public distrust in government and additional ballot measures dealing with growth management. For these reasons, the City of Santa Barbara opposes your SB 35.

Respectfully,

Helene Schneider
Mayor

cc: Senator Hannah Beth Jackson
    Assembly Member Monique Limón
    Meg Desmond, League of California Cities
City of Santa Barbara  
Planning Commission  
c/o PC Secretary  
PO Box 1990  
Santa Barbara, CA 93102-1990

Sent via email: PCSecretary@SantaBarbaraCA.gov

Subject: Accessory Dwelling Unit Ordinance

Dear Planning Commissioners:
As local planners actively engaged in land use projects throughout the South Coast for more than 30 years, we are strong supporters of the State Accessory Dwelling Unit (ADU) legislation. We are passionate in our recommendation to adopt an ADU ordinance that fully embraces the intent of the State to facilitate and encourage the creation of these units in our community. We hold the conviction that there are a multitude of diverse housing needs satisfied by these small units and that they are a critical component of a strategy to increase housing supply locally and in jurisdictions throughout the State.

We are very appreciative of staff’s responsiveness to many of the comments made following release of the previous draft ordinance. The current version is much improved and more closely reflects the community’s interest to increase its supply of small units for the benefit of our local residents and workforce. This interest was clearly articulated at last year’s hearings by a majority of the public, Planning Commission, and City Council.

We have a number of comments and questions about the current version of the Ordinance that hope you will consider as you move this ordinance forward.

We strongly support provisions in the draft ordinance that allow:

1. ADUs in all zone districts where single-family residences are allowed and where a single-family residence exists or is proposed.
2. An ADU maximum floor area based on a sliding scale related to parcel size.
3. The provision that requires height limits in compliance with the development standards applicable to an accessory building.

We strongly oppose the blanket prohibition of ADUs in the Foothill and Extreme Foothill High Fire Hazard Areas (see Ordinance Section 30.185.040C.).

Certainly, there are properties in these areas where ADUs are not appropriate. However, it is also true that there are many properties in these areas that have multiple acres, City services, good access, on-site parking and could safely accommodate...
ADUs and JADUs. State Senator Weickowski, the sponsor of the state ADU and JADU legislation has gone on record to say that it was not the lawmakers’ intent to have blanket prohibitions in High Fire areas when they provided local jurisdictions the discretion over the designation of areas where ADUs and JADUs are allowed.

Instead of a blanket prohibition which serves to unnecessarily and substantially reduce the number of potential ADUs and JADUs (by more than 20% according to the staff report), we recommend the ordinance establish criteria in the High Fire Hazard areas that when met, would allow an ADU or JADU to be created; such criteria might include:

- Property has adequate access and more than one route for ingress/egress.
- A fire hydrant exists on or near the property within a certain distance recommended by the fire department.
- The ADU will be equipped with fire sprinklers.
- The structures are located in an area of low density or meet a required distance from the property boundary.
- The provision of off-site parking for the main residence and ADU.

The staff report recommends that perhaps ADUs and JADUs could be allowed in the future “if they prove to not exacerbate existing fire hazard conditions” yet how this would be determined is not described. We believe it is clear that properties meeting objective criteria such as what is suggested above, would not exacerbate fire hazard conditions and should be allowed.

Our Questions:

1. Ordinance Section 30.140.150c.5.
   This requirement does not allow interior access between abutting residential units; why could this not be an option? We can think of many instances, such as true “granny units” and other family scenarios where interior access would be desirable.

2. Ordinance Section 30.185.040B.V.
   This section requires that the City approve ADUs and JADUs within 120 days of receiving a complete application; we believe this requires clarification. It is typical for a complete application to be filed with plans that may have plan check corrections. When does the clock start?

3. Ordinance Section 30.185.040B.W.1-3
   This section sets forth three requirements that are to be included in the Recorded Agreements, all of which we support; is the City providing agreement forms for the applicant to execute or may the applicant provide an agreement with these provisions?

Also, permits have already been issued for ADUs using recorded agreement forms provided by the City that contain additional provisions such as the ability of the City to collect back rent under certain circumstances (see attached form); if such additional provisions are no longer required by the City, what will
be the process for bringing these previously recorded agreements into compliance with the new ordinance?

***

Our community has always been challenged by a lack of housing that is affordable to its workforce and the problem has only gotten worse in recent years. We have been struggling for decades to meet housing demand; ADUs and JADUs appear to be a cost-effective way to quickly provide a significant number of small units.

Thank you for your thoughtful analysis of this important issue to date.

Sincerely,

SUZANNE ELLEDGE
PLANNING & PERMITTING SERVICES, INC.

(Signature)

Suzanne Elledge
Principal Planner

cc: Beatriz Gularte
    Rosie Dysle
ACCESSORY DWELLING UNIT COVENANT

THIS ACCESSORY DWELLING UNIT COVENANT ("Covenant") is made for the benefit of the City of Santa Barbara, a municipal corporation ("City") by [OWNER'S NAME] ("Owner"), as of this [DAY] day of [MONTH], [YEAR].

This Covenant applies to the Owner’s interest and Owner’s successors’ interest in the real property commonly known as [ADDRESS], Santa Barbara, California ("Property"), more fully described in Exhibit “A” attached and incorporated by this reference herein.

RECITALS

WHEREAS, Owner seeks City approval for two separate residential units consisting of the [PROPOSED NET SQUARE FEET OF PRIMARY UNIT] square foot Residential Structure ("Primary Dwelling Unit") and the other unit to be [PROPOSED NUMBER OF BEDROOMS IN ADU] bedroom(s) and [PROPOSED NET SQUARE FEET OF ADU] square feet ("Accessory Dwelling Unit") to be occupied pursuant to the terms of this Covenant; and

WHEREAS, regarding the creation of the Accessory Dwelling Unit, approval of application number BLD20[BLD CASE NUMBER] is contingent upon the execution and recordation of this Covenant; and

WHEREAS, the Property shall be subject to ownership, occupancy, and rental requirements, which set of requirements shall be recorded against the Property and is the subject of this Covenant; and

WHEREAS, Owner and City now wish to clarify their respective rights and obligations regarding the requirements on the Property.

NOW THEREFORE, in consideration of the benefits received by Owner for the City’s approval of the Accessory Dwelling Unit, Owner hereby covenants and agrees with the City to
impose the following covenants, conditions, restrictions and limitations upon the possession, use and enjoyment of the Property. Owner and City agree as follows:

I. **TERM, ENFORCEABILITY, AND SECURITY:**

   A. This Covenant shall be binding upon Owner and the successors and assigns of Owner and the heirs, personal representatives, grantees, lessees, sublessees, contract purchasers, and assignees of Owner and any subsequent owner of the Property. This Covenant shall lapse only upon removal of the Accessory Dwelling Unit.

   B. The Property is held and hereafter shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied subject to these covenants, conditions, restrictions and limitations. All of the covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

   C. Any purchaser or transferee of the Property or of any portion or interest in the Property, shall, by the acceptance of any interest in the Property, or by the signing of a contract or agreement to purchase any interest in the Property, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

   D. The use of the Property is subject to the ownership, occupancy and other restrictions listed below. In the event that the Property is not developed and used as a Primary Dwelling Unit and an Accessory Dwelling Unit in accordance with this Covenant, then Owner shall reconfigure the improvements on the Property to eliminate the Accessory Dwelling Unit and reestablish one single residential unit. Such reconfigurations shall require a Building Permit and shall include, but are not limited to, the elimination of any kitchen and cooking facilities and bathing facilities from the former Accessory Dwelling Unit, and may also require that the Property be redesigned, reconstructed, or possibly demolished in order to eliminate the Accessory Dwelling Unit and reestablish one single residential unit that complies with all provisions of the Santa Barbara Municipal Code.

II. **OWNERSHIP, SIZE, AND OCCUPANCY CONDITIONS:**

   The Property shall be subject to the following conditions for the term of this Covenant:

   A. The Accessory Dwelling Unit shall not be sold separately from the Primary Dwelling Unit.

   B. The Accessory Dwelling Unit may be rented, however rental terms shall not be less than 31 consecutive days.

   C. Owner shall reside in and maintain either the Primary Dwelling Unit or the Accessory Dwelling Unit as the Owner’s principal place of residence (“Owner’s Unit”). For purposes of this covenant, “principal place of residence” shall mean the place where Owner actually lives for the greater part of time, or the place where Owner remains when not called elsewhere for some special or temporary purpose and to which Owner returns frequently and periodically, as from work or vacation. There may be only one “principal place of residence,” and where more than one residence is maintained or owned, the burden shall be on Owner to show that the
Owner’s Unit is his or her principal place of residence as evidenced by qualifying for the homeowner’s tax exemption, voter registration, vehicle registration, or similar means. Owner may re-designate the Primary Dwelling Unit or the Accessory Dwelling Unit as the Owner’s Unit upon written notice to the Community Development Director and written approval of the re-designation by the Community Development Director, which approval shall not be denied unreasonably. Any simultaneous rental of the Primary Dwelling Unit and the Accessory Dwelling Unit shall constitute a violation of this Covenant.

D. No residential units in excess of one Primary Dwelling Unit and one Accessory Dwelling Unit shall be developed or maintained on the property. The installation of unauthorized or unpermitted food preparation facilities apart from the kitchens shown on the approved plans on file with the City of Santa Barbara shall constitute a violation of the terms of this Covenant.

III. BREACHES AND REMEDIES:

A. Upon receiving notice of any violation of the terms of this Covenant, the City may declare a default by delivering written notice to the Owner specifying the nature of the violation. Upon the declaration of a default, the City may apply to a court of competent jurisdiction for specific performance of the Covenant, for an injunction prohibiting the violation of this Covenant, or for any such other relief as may be appropriate.

B. Owner acknowledges that occupancy of the Accessory Dwelling Unit in violation of this Covenant is prohibited. The City may enforce these and other rights by any legal means. The City may also pursue code enforcement actions including, but not limited to fines, the assignment of all rents due or collected in violation of this Covenant, and may also require that the Property be redesigned, reconstructed, or possibly demolished in order to eliminate the Accessory Dwelling Unit and reestablish one single residential unit that complies with all provisions of the Santa Barbara Municipal Code.

C. The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

IV. ADDITIONAL PROVISIONS:

A. The Accessory Dwelling Unit shall not be leased or rented in the absence of a written lease or rental agreement between the Owner and the occupant household. Any change or amendment to a lease or rental agreement shall also be made in writing.

B. The Owner covenants that he or she has not and will not execute any other agreement or covenant with provisions contradictory to or in opposition to the provisions hereof and that in any event this Covenant is controlling as to the rights and obligations between and among the Owner, the City, and their respective successors.

C. If any one or more of the provisions contained in this Covenant shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in
this Covenant and this Covenant be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

D. The terms of this Covenant shall be interpreted under the laws of the State of California.

E. All notices required herein shall be sent by Certified mail, return receipt requested, to the Owner at the address provided to the City by Owner, and to the City at: City of Santa Barbara, Community Development Department, Attn: Planning Division, P.O. Box 1990, Santa Barbara, CA 93102-1990, or such other address that the City may subsequently notice in writing to the Owner.

V. DECLARATION OF OWNER:
A. I own and occupy the Property as my principal place of residence.

B. The documentation supporting this declaration of ownership and occupancy of the Property provided by me is true and complete.

C. I have received a copy of this Covenant and agree to comply with all of the requirements of this Covenant.

D. I understand that any false statements or misrepresentations to the City in this declaration shall constitute a default under this Covenant, and may constitute fraud.

IN WITNESS WHEREOF, the Parties have executed this Covenant as of the date first written above.

APPROVED AS TO CONTENT:

George Buell
Community Development Director

OWNER:
[OWNER'S NAME AS SHOWN ON TITLE]

APPROVED AS TO FORM:
City Attorney

By:
N. Scott Vincent
Assistant City Attorney

Note: This Agreement will be recorded; the signatures of the parties (not including approvals as to form) must be acknowledged by a notary.
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT  

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of ____________________________

On ____________________, before me, ____________________________,

Date

personally appeared ____________________________,

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ____________________________

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: ____________________________ Document Date: ____________________________
Number of Pages: ________ Signer(s) Other Than Named Above: ____________________________

Capacity(ies) Claimed by Signer(s)
Signer’s Name: ____________________________

☐ Corporate Officer — Title(s): ____________________________
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: ____________________________

Signer Is Representing: ____________________________

Signer’s Name: ____________________________

☐ Corporate Officer — Title(s): ____________________________
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: ____________________________

Signer Is Representing: ____________________________

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EXHIBIT A
Real Property
To: City of Santa Barbara Planning Commissioners  
Re: Accessory Dwelling Unit (ADU) Ordinance (January 25, 2018 hearing)  
Date: January 16, 2018

Dear Chair Wiscomb and Members of the City Planning Commission,

It came to my attention that three garage conversions on the Mesa have been allowed to convert their existing covered parking spaces associated with the primary dwelling into ADUs, without replacing parking lost onsite. With planning staff’s support, the Single-Family Design Review Board approved converting existing garages into ADUs, with no replacement for the primary residence’s parking, and, per State Law, no onsite parking for the ADU. Thereby eliminating the need for driveways! The City Housing Element may have recommended easing parking requirements for secondary-dwelling units, but not eliminating them for the primary residence.

I understand that existing State Law allows ADUs the option of not providing onsite parking space(s) when the ADU is located within ½ mile of transit. However, a garage conversion loses two parking spaces in addition to not requiring any for the ADU, displacing vehicles to the street. Therefore, I support clear wording that the primary residence shall retain covered parking spaces onsite.

Placing parking on public streets affects vehicle sight distances, bicycle safety, and burdens city transportation services, such as MTD buses, street cleaning trucks, fire and other large vehicles, as streets narrow with additional long-term resident parking. Allowing private vehicles on public roads is an example of bestowing a private benefit to the public "commons."

By approving language in the new ordinance that requires replacement or retention of covered parking onsite upon garage conversion into ADUs (incorporated, junior or full), the city would be consistent with the County of Santa Barbara and City of Goleta ADU ordinances.

Thank you for your consideration of this important traffic safety issue.

Lisa Knox Burns  
2319 Garden Street  
Santa Barbara, CA 93105  

Via email: Ms Rosie Dyste
I appreciate this info and have a fairly simple personal comment concerning granny flats.

My husband and I own and live in a condo here in Santa Barbara. We have and owned since 2010. For 10 years previous we rented not knowing if we wanted to settle here for my husbands job. During a layoff at Superconductor my husband took a new position at HRL Labs in Malibu. Despite the drive we decided at that time to stay.

About this time we decided that my mom needed to live closer to us. She was 73 at the time so we got her on the senior housing list where we were told she would be lucky to hear from them before 7 years. It has been 3 1/2 years. Now with the recent passing of my brother and father we want to get mom here sooner rather than later. We have searched and searched in this area with an agent (Stan Tabler of Compass and Caldwell Banker) for affordable housing for her or for us to have room for her. To no avail. It pains us but we have now widened our search to Ventura, Thousand Oaks, Camarillo and Agoura hills where we have found some lovely affordable housing for all of us.

At some point Santa Barbara really has to face the truth. You are turning out people who would be wonderful neighbors and assets to this community because we cant afford the housing costs.

The sad thing is I see the young people leaving too. A lovely young couple both with their masters degree and a young child said they had to leave to start their life in a more affordable community.

This may not help me right now but I hope it helps someone on the future.

Terri Prophet
Sent from my iPad
January 18, 2018

HAND DELIVERY AND E-MAIL (PCSECRETARY@SANTABARBARACA.GOV)

City of Santa Barbara Planning Commission
Attn: PC Secretary
630 Garden Street
Santa Barbara, CA 93101

Re: Accessory Dwelling Unit ("ADU") Ordinance

Honorable Chair and Members of the Planning Commission:

This letter is provided on behalf of clients of this law firm in connection with the Planning Commission’s review and consideration of the draft ADU ordinance. We respectfully request that the Planning Commission recommend revising the “Owner Occupancy” requirements set forth in Section 30.185.040 (J) of the draft ADU ordinance to allow property owners to lease out their entire property (i.e. both the Primary Dwelling Unit and the Accessory Dwelling Unit) to a single tenant. The current draft ADU Ordinance prohibits from such action.

Section 30.185.040(J) of the draft ADU ordinance provides as follows:

"Owner Occupied. The property owner shall reside in and maintain either the Primary Dwelling Unit or the Accessory Dwelling Unit as the property owner’s principal place of residence ("Owner’s Unit"). Owner may re-designate the Primary Dwelling Unit or the Accessory Dwelling Unit as the Owner’s Unit upon written notice to the Community Development Director, which approval shall not be denied unreasonably. The property owner shall not rent or lease both the Primary Dwelling Unit and the Accessory
Dwelling Unit simultaneously. Any simultaneous rental of the Primary Dwelling Unit and the Accessory Dwelling Unit shall constitute a violation of this ordinance.” (Emphasis added)

While we understand that the primary purpose of the “Owner Occupancy” requirement is to prevent the unsupervised creation of duplexes in single family residential zones, we believe that there are unintended consequences that have not been carefully considered by the City. Specifically, by imposing the “Owner Occupancy” requirements on all properties that include an Accessory Dwelling Unit the City has inadvertently precluded such property owners from renting out the entire property in the event of certain life changing circumstances.

For example, if a property owner is required to temporarily move away from Santa Barbara due to work or other obligations such property owner would either be required to leave the entire property vacant during his or her absence from Santa Barbara or would be required to sell the property. Similarly, if a property owner were to become ill and require hospitalization for an extended period of time, such property owner would be confronted with a similar choice (i.e. leaving the property vacant or selling the property). This seems like a particularly harsh consequence associated with the construction of an Accessory Dwelling Unit and we believe a consequence that was not intended by the City.

This impact could be easily mitigated by allowing property owners to rent the entire property (i.e. both the Primary Dwelling Unit and the Accessory Dwelling Unit) to a single tenant and precluding such tenant from subleasing either the Primary Dwelling Unit or the Accessory Dwelling Unit to another tenant.

Thank you for your consideration of these comments and we look forward to participating in the Planning Commission’s hearing on this matter on January 25, 2018.

Very truly yours,

Mark S. Manion
for PRICE, POSTEL & PARMA LLP

cc: clients
Dear Planning Commission Secretary,

This is in view of the 1/25/2018 Public Hearing on the ADU Ordinance. I was not able to find the attached document, emailed to Ms. Dyste on 9/1/17, on the list of public comments circulated along with the 1/25/18 Agenda. Indeed, I was never able to locate it anywhere on your web site, even though it had been acknowledged earlier at some point. Since the issues mentioned in this document are all still valid, I would like to ask you to please include it with the other public comments currently available.

With thanks,
Helen Couclelis

---------- Forwarded message ----------
From: Helen Couclelis <cook@geog.ucsb.edu>
Date: Fri, Sep 1, 2017 at 2:01 PM
Subject: Your 8/31 Staff Report on the draft ADU Ordinance
To: ADU@santabarbaraca.gov
Cc: Rick Church <rick.church@ucsb.edu>

Dear Ms. Dyste,

I enthusiastically commend you and your staff for the very professional and responsible report published yesterday. I was also reassured and gratified to see that you included my letter of June 27 among the attachments. But judging from the 'preparations' I see all around me, I expect that there will be widespread resistance to the proposal to not allow ADUs on fire-prone Hillside neighborhoods.

Very unfortunately I will be out of the country as of this Sunday Sept. 3 through the 24th, so I will miss the Sept. 7 public hearing and subsequent discussions, though I have subscribed to the ADU Newsletter.

A request: I was planning to post a shortened and updated version of my 6/27 letter as a public comment, but cannot find a suitable page on your web site. If there is a place for written comments on the ADU issue, would you please post the attached on my behalf? Most people will probably not read your report as far down as the Attachments.

I copy this message to my colleague Prof. Richard Church, who has worked extensively on urban emergency evacuation and first responder access issues, both in general and specifically in the case of Santa Barbara. If you do respond with a link to an ADU comments page, please include him too.

Hoping that reason and professionalism will prevail,
With thanks,
Helen Couclelis
ADUs on the Riviera (and other Hillside neighborhoods): A Risk Not Worth Taking

The benefits of the Accessory Dwelling Units (ADU) legislation for interested homeowners and the City are obvious and very real. Equally real but less well understood by some of the public are the risks of allowing ADUs in areas unsuitable for additional development. While this note focuses on the Riviera neighborhood, likely the most extreme local example of an unsuitable for ADUs residential area, the following applies in varying degrees to all Hillside residential areas across the City of Santa Barbara.

(a) It is well-known that the Riviera is a high-fire-risk area that still retains traces on the NE side from the Tea Fire of nine years ago. We are told to expect more, not fewer wildfires in the coming years.

(b) The California Earthquake Authority has recently added ZIP Code 93103 to the list of high-seismic-risk areas in the State, based on the updated USGS earthquake-hazard map for California. Several structures on the Riviera are pre-1925, and many more are pre-1950s.

(c) Due to the hilly terrain and early-20th-C development, the Riviera’s road network largely consists of steep, narrow, winding roads affording very limited visibility around curves, and is clearly insufficient for today’s population and automobile densities.

(d) Some numbers: (1) Mission Ridge Rd. is one of only two main access roads to/from the West Riviera. Yet at its Mountain Dr. end, by the very challenging 3-way intersection, it is just under 20 ft. wide. (2) Ridge Lane, (street parking allowed), a feeder street to western Mission Ridge Rd. and typical of many Riviera side streets, is 17 ¼ ft. wide on average, and 16 ¾ ft. on the blind curve. For reference, the City of Berkeley will not approve an ADU unless it is located on a lot with access from a roadway with a minimum 26 ft. in pavement width. The City of Los Angeles excludes ADUs from Hillside areas, except when located within a half mile of public transit and adjoining a ‘standard street’.

(e) The West Riviera in particular is home to several CUP facilities, including an industrial park, a movie theater, a hotel, a school (not counting Roosevelt Elementary), and potentially, a restored Franceschi House hosting ‘events’. These facilities, including Marymount Academy, generate intense traffic on the impacted western end of Mission Ridge Rd.

(f) The Riviera’s hills are themselves a threat to its road network in case of an earthquake or major storm. Just a few months ago, the very steep slopes in the N. Franceschi Park area produced a rock- and mud-slide that closed one lane of Mission Ridge Road (of “Mission Ridge fault” fame), which is the neighborhood’s main artery, for several days. Similar very steep slopes exist along Mountain Drive, along Route 192, and elsewhere.

(g) The average age of the Riviera residents (excluding the parts of ZIP Code 93103 below the Riviera) is much higher than the City average. A high percentage of this older population can be expected to be mobility- and/or partially visually impaired. Most of these seniors can and do drive safely - in light traffic, and on clear days. It is sobering to think of x% additional, new to the area resident drivers (and their visitors, and service personnel), trying to navigate out of the Riviera in an emergency.

(h) Neighborhood evacuation is only one half of the problem. Access to the area by emergency responders and their heavy vehicles is the other half. Responder access difficulties due to road network congestion and damage were a major reason why the Oakland firestorm of 1991 killed 25 people, injured 150 others, and destroyed 2,843 single-family dwellings.
(i) As elsewhere, there is a number of illegal second dwelling units on Riviera residential properties (typically converted garages). Some of these property owners will very likely seek permits for additional, legal units. The first case known to me is a couple of minutes’ walk from my house, and another car is now regularly parked on the street.

(j) Several Riviera properties have large open yards that may offer shelter of last resort to the homeowners and their immediate neighbors. Losing these accessible shelter-in-place possibilities to ADUs is an uncomfortable thought for some. This may be a minor point compared to all the others, but it was mentioned to me by an elderly Riviera resident and is worth repeating.

In other words, environmental safety on the Riviera has been marginal for years and will cross the line if further densification through ADUs is allowed. This is before we even mention environmental quality and quality of life in the area. Deteriorating quality of life as well as worsening environmental safety conditions will likely offset any gains in property values anticipated by property owners. Our City planners understand these issues very well and are proposing a responsible and professionally drafted ADU Ordinance aimed at protecting life and property on all Santa Barbara Hillside neighborhoods. We must support them in their efforts, and we must garner the political will to do the right thing for our beautiful city and ourselves.

Helen Couclelis
2138 Ridge Lane
Santa Barbara, CA 93103
To the Santa Barbara Planning Commission,

I have submitted a letter relating to each of the ADU draft ordinances on behalf of the Sea Ledge Lane Property Association. Unfortunately, due to travel on the east coast I cannot attend the 1/25 hearing in person.

In light of the letters submitted in opposition to the ordinance, I would like to reiterate the importance of the owner occupancy requirement and the related covenant as explained more fully in our letters. These requirements are particularly important at larger size ADUs and the fact that under the state statute no discretionary review is allowed. **We urge the Commission to maintain the current ordinance protections for permanent Santa Barbara residents that do not permit an out of town investor to rent both a 2400 square foot primary residence and a 1200 square foot 3 bedroom apartment on one property in a RS-1 zone.**

Thank you

Tom Dunlap on behalf of the Sea Ledge Lane Property Association