

From: [Abraham](#)
To: [City Clerk](#)
Subject: Existing ADU owner occupancy covenants
Date: Friday, September 25, 2020 1:51:05 PM

EXTERNAL

Dear city council members

I believe that in order for the ADU ordinance to be fair and just to all ADU home owners ,the city council should vote to eliminate owner occupancy of all ADUs ,including the ones that have signed an owner occupancy covenant . Property rights should be equal for all homeowners.

Thank you

Abraham Cohen

Sent from my iPad

From: [Stephen Pearson](#)
To: [City Clerk](#)
Cc: RDysta@SantaBarbaraCA.gov; [Rebecca Bjork](#)
Subject: Proposed Ordinance ADU: 30.185.040: Ordinance Committee
Date: Friday, September 25, 2020 4:38:24 PM

EXTERNAL

Re: SBMC 30.185 ADU Draft Ordinance

Dear Rosie Dyste, Rebecca Bjork, ADU Ordinance Committee Members and City Council Members.

I complement Staff, the Planning Staff and Planning Commission for their hard work in integrating needs, concerns and comments. The proposed draft ordinance is excellent. I only have some limited comments on potential clarifications. Coordinated clarifications might be needed to parallel provisions of SBMC 28.86.

1. Kitchens.

- a. 38.185.040(B)(2). Add the term "stand alone" to better address options for refrigerators, stove/ovens and the like. Suggested language: "Appliances for cooking food and refrigeration, either built-in, stand alone, or countertop."
- b. 38.185.040(B)(1) and 30.295.020(B)(1). Inclusion of the term "permanent" may give rise to uncertainties on the part of the public and staff on kitchen amenities and might also be applied inconsistently with the comments of the HCD that the ordinance cannot require specific appliances (such as e.g. built-in ovens and the like), if the term "permanent" were interpreted by staff to require that. (That has happened).
- c. Alternatives. Either allow efficiency kitchens in both JADU's and ADU's or modify 38.185.040(F)(1)(a) to read "A kitchen, consisting of a sink, cooking appliance and refrigeration facilities. Permitted cooking appliances and refrigeration include stand alone, countertop or built in units." Appliance options continue to evolve.

2. Review 38.185.040(H).

- a. As I understand staff comments in the 7/30/2020 Staff Report for the 9/3/2020 meeting, (page 8, Item III.B), the design criteria were drawn from and designed to replace review by the Architectural Committee, SFDB and HLC (and, presumably other boards or committees), in favor of ministerial review by administrative staff, consistent with State law. With that, the references to "architectural" might be deleted, or simply amend the provision to specify that the ministerial review is in lieu of all other reviews by committees and boards. That seems to be the intent.
- b. The HCD comments referenced at Page 12 and Page 27 of the Staff Report noted that some of the standards are only applicable to the creation of a new building or addition and not to an ADU or JADU located within an existing structure. The language developed by staff is probably workable, but is placed in such a way as to retain some ambiguity as to whether it might apply to existing structures. Better phraseology might be

"All new construction or exterior alterations of an accessory dwelling unit or junior accessory unit shall be subject to the following design criteria, which shall be

reviewed ministerially by the Community Development Director. . . . "

- c. Alternatively, an exception or exclusion could simply be added to the end of 38.185.040(H) to exempt or exclude ADU's and JADU's created within existing structures.
2. 30.185.040(U) High Fire Areas.
 - a. Similar concerns were noted by HCD as to High Fire Areas. In essence, ADU's or JADU's within an existing structure would be exempt from some of the fire hazard area standards (P. 13 of the 7/30/2020 staff report). The responsive staff language is a bit unclear: "All accessory dwelling units or junior accessory dwelling units located in any Fire Hazard Areas . . . shall comply with the following standards as applicable to new construction or parking."
 - b. It might be clearer to simply add an exemption or exclusion to the end of that provision exempting or excluding ADU's and JADU's created within an existing structure.

Thank you for your time and consideration. Unfortunately, I did not have the actual HCD comments readily available so I relied upon the summaries provided by staff. Hopefully, I did not misunderstand the comments.



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Neighborhoods Association

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September 27, 2020

To: Ordinance Committee

Re: Zoning Ordinance Amendments for Accessory Dwelling Units (September 29, 2020 Agenda)

Allied Neighborhoods Association appreciates the opportunity to provide comment on the Accessory Dwelling Units Amendments. We were involved with the 2018 Ordinance process, and provided comments to the Planning Commission this year on the Amendments.

Foothill and Extreme Foothill High Fire Hazard Areas. Allied's main concern (both in 2018 and now, 2020) are these two High Fire Hazard Areas (HFHAs). The State has taken away our local control to such an extent they mandate two ADUs be allowed on each property in these High Fire Hazard Areas; this is a huge change from previous State law and our 2018 ADU Ordinance. In light of this major increase in density we see no pressing need to also allow Standard ADUs, which are the largest ADUs, and not mandated by the State.

We agree with staff recommendation (pg.6) for these HFHAs, points 1 and 2, and urge their recommendation to Council.

As the past weeks point out once again (throughout California and the West), fire safety and dealing with our own fire risk is really important. From the Planning Commission staff report, July 30, 2020 (pg.10):

"The Draft CWPP confirms that the City and surrounding landscape exhibit a complex wildfire environment that presents a significant wildfire risk due to steep and varied terrain, a mosaic of different vegetation types, and a Wildland-Urban Interface development pattern. The draft CWPP modeled potential fire behavior in the City under extreme wind and weather conditions, consistent with conditions experienced during a Sundowner wind event. Other wildfire hazard variables were evaluated (terrain, weather, fuels, development patterns, fire department response, structure density, etc.) to confirm and/or identify new HFHAs of the City. Furthermore, the CWPP recognizes that California faces a dramatic increase in the severity and frequency of wildfires due to climate change.

The main concern with the addition of ADUs/JADUs in fire prone neighborhoods is more people and cars needing to evacuate in an emergency situation, often on narrow, winding roads. Factors associated with

evacuation, such as human behavior, population density, overloaded transportation routes, visitors, vulnerable populations, as well as the evacuation of pets and large animals, make the task of any evacuation more complex. Any combination of these factors may significantly increase the amount of time it takes to execute an evacuation.”

In a fire situation not only is there evacuation to consider – but also the ability of large fire-fighting vehicles (and, of course, other vehicles and personnel) to be able to get where they need to go, with numerous narrow often winding roads that pose serious ingress challenges in the Foothill and Extreme Foothill HFHAs. This Wildland-Urban Interface is a main area of risk and defense for the entire City.

HFHAs Standards. High-fire construction and defensible space standards are very important. We have concern that the defensible space requirement (requirement for permitting) may not be maintained. Between the Fire Department, Enforcement in Community Development and Enforcement in the Attorney’s Office there should be a follow-up plan to ensure ongoing compliance with the defensible space requirement. If there’s already a plan, we would love to hear about it.

Historic Resources. Our historic resources are quite important. We strongly agree with staff recommendation (pg.4), to retain language from our 2018 ADU Ordinance.

The July 30 PC staff report (pg.12) describes how successful it has been. *“Staff recommends that review of ADUs on properties with historic resources continue in the same manner that was identified in the former ordinance as the process worked well and, with small changes in the design, resulted in ADUs that benefit, rather than detract from, the City’s historic neighborhoods and streetscapes”.*

From the Ordinance Committee staff report (pg.4), *“Protection of historic resources, which is also part of administrative staff approval and conducted to ensure proposed ADUs do not cause a substantial adverse change to the significance of listed historic resources.”*

The Deadline. Because of the December 17 deadline, we agree with the staff recommendation to not include additional topics, because we don’t have the necessary time. We still need to go through Council introduction and adoption of the Ordinance Amendments once they’re decided upon. We need to meet this deadline to preserve our rights for local discretion where it’s available.

Thank you for your consideration of our comments.

Sincerely,
Allied Neighborhoods Association

Cc: Mayor Murillo, Council Members Friedman, Harmon, and A. Gutierrez, Rosie Dyste, Daniel Gullett, Nicole Hernandez, Renee Brooke, Rebecca Bjork, Ariel Calonne, Paul Casey



Santa Barbara Association of REALTORS®

September 28, 2020

Chair Oscar Gutierrez
Councilmember Michael Jordan
Councilmember Kristen Sneddon
PO Box 1990
Santa Barbara, CA 93102

RE: Zoning Ordinance Amendments for Accessory Dwelling Units

Dear Chair Gutierrez and Ordinance Committee Members,

The Santa Barbara Association of REALTORS® (SBAOR) represents roughly 1,300 REALTORS® throughout the South Coast and our mission includes engaging in real estate related community issues affecting our members and/or their clients who are homeowners, landlords, tenants, and commercial owners. Overall, the amendments to the Accessory Dwelling Unit Ordinance (ADU) coincide with the new State laws, however we do have some concerns noted below.

Owner Occupancy

SBAOR fully supports the Planning Commissions straw poll recommendation of releasing prior owner-occupancy covenant restrictions on the request of the property owner. We also support permanently eliminating the owner-occupancy requirement because of the issues of equality and financing as noted below. We request you recommend to the City Council to remove all owner occupancy covenants, from the past and the future.

- *Equality* - As of January 1, 2020, the City is prohibited from requiring an owner occupancy covenant on newly applied for ADU's. Generally, when zoning rules become less restrictive everyone gets the benefit of the new ordinance. While a restrictive covenant is not the same as a zoning law, it seems that property owners who agreed to this restriction should benefit from the fact that it is no longer required.
- *Consumer Protection* – We wonder if the property owners who had to sign the owner occupancy covenant in order to receive an ADU permit understood that by signing this agreement their ability to finance their property, or for a future buyer to finance the purchase of the property, would be impacted.
- *Financing* – The owner occupancy covenant states that at least one of the units must be owner occupied. If at least one unit is not owner occupied the City's remedies include requiring that the ADU unit be abated or torn down. This was a concern before March 2020, but now it is becoming an issue of people being able to keep their homes during the COVID-19 pandemic and the eventual aftermath. We are concerned this could become a much bigger issue because property owners are refinancing to stay afloat and there may possibly be more foreclosures due to the COVID-19 pandemic since people have lost income. Since the recording of the covenant postdates the recording of the most recent mortgage, the existing lender is not subject to the restrictive covenant in the event they foreclosed on the property. In other words, if the existing lender foreclosed, they would gain title to the property without the owner occupancy restriction. Conversely, if the client were to refinance now, the new lender would be subject to the covenant since recordation of the mortgage would occur after the covenant had been recorded. According to lenders the restrictive covenant makes the property non-lendable. They worry that if the borrower fails to maintain owner occupancy, whether intentionally or not (consider the possibility that the owner needs to move to a convalescent care facility), that the City could then enforce the remedy that the ADU would need to be torn down. There is no practical way for a lender to control how the borrower's action or inaction could result in a loss of the ADU unit and a reduction in the value of the property.

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Based upon the above concerns, we request you recommend to the City Council to remove all owner occupancy covenants, from the past and the future, and allow property owners with recorded owner occupancy covenants to remove them.

High Fire Hazard Area Development

SBAOR supports the Planning Commission straw poll recommendation to allow all types of ADU's in HFHA's. By not outright prohibiting JADU's and ADU's in these areas, you are allowing people who live in established suburban neighborhoods to add to our housing stock.

Development Standards – Posted Sign

SBAOR support the Planning Commission straw poll recommendation to remove the posted sign requirement. We do not understand the necessity of requiring a public notice (posted sign) on the property since an ADU permit is ministerially administered to the property owner and as such there is no community input. Therefore, why would a sign need to be posted at the property if the community cannot comment on it. This gives neighbors a false sense that they have any input on an ADU when they do not.

Parking Standards

In Title 28.86.080 A.1.g states “automobile movements necessary to move cars parked in a tandem arrangement shall not take place on any street or alley”. This is an unreasonable and impossible request which makes no sense. SBAOR requests you remove this unnecessary section of the ordinance.

Mixed-Use Buildings Conversion of Nonresidential Space to ADU's

SBAOR supports the Planning Commission straw poll recommendation to conceptually allow conversion of nonresidential space in a mixed-use building to ADU's upon further study.

Overall, we are pleased that the staff report and ordinances reflect the required changes set forth by the State Legislature. By allowing JADU's and ADU's to be built without undue burdens, you are helping not only homeowners that want to add a unit to their property, but also the City as a whole. By executing the various tools with the housing toolbox (ex. ADU, AUD, etc.), the City is finally adding units which are desperately needed during this housing crisis. We request you adopt our recommendations outlined above.

Should you have any questions regarding our comments, please contact Krista Pleiser, Government Affairs Director, at kpleiser@sbaor.com or (805) 884-8609. Thank you.

Sincerely,



Staci Caplan
2020 President

