



# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** December 7, 2017  
**AGENDA DATE:** December 14, 2017  
**PROJECT:** **Accessory Dwelling Unit Ordinance**  
**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470  
Rosie Dyste, Project Planner  
Jerry Hittleman, Senior Contract Planner

### **I. RECOMMENDATION**

Staff recommends that the Planning Commission review proposed amendments to the Santa Barbara Municipal Code (SBMC) to establish development regulations for Accessory Dwelling Units (ADUs), and forward a recommendation to the City Council for adoption.

### **II. BACKGROUND**

#### **Planning Commission Hearing**

On September 7, 2017, the Planning Commission held a public hearing to review draft development regulations for Accessory Dwelling Units (Exhibit B – Planning Commission minutes). At the hearing, significant input regarding the draft ADU Ordinance was received from 10 members of the public in writing and the 27 persons who provided oral comments. The public comments generally covered the following topics: 1) zones in which ADUS would be allowed; 2) design review requirements; 3) parking requirements; 4) proposed prohibition of ADUs in High Fire Hazard Areas; 5) maximum size of ADUs; 6) allowance of Junior Accessory Dwelling Units (JADUs); 7) water meter requirements and cost; 8) compliance with State ADU law; 9) minimum lot size requirements; 10) owner-occupancy covenant requirement; 11) allowing the State Department of Housing and Community Development to comment on the draft ordinance; 12) effect on historic resources; and 13) effect on ADU projects currently under review for building permits.

Input from the Planning Commissioners generally mirrored the comments received from the public and emphasized the fact that further analysis and possible revision to the draft ADU Ordinance was required before the Commission could forward a recommendation to the City Council. The Planning Commission voted 6-0 to continue the ADU ordinance discussion indefinitely.

#### **City Council Hearing**

On October 24, 2017, the City Council held a public hearing to receive public comment and provide direction to staff related to ADU regulations, and to initiate amendments to Titles 28 and 30 of the Santa Barbara Municipal Code (Exhibit C – City Council minutes). At the hearing, 5 written comments were

submitted and 27 persons provided oral comments to the City Council. The City Council provided the following direction to staff:

- Allow ADUs in the single-unit and multi-unit residential zone districts (RS, R2, RM, and RMH Zones); some Councilmembers directed allowing ADUs in all zones that allow residential uses.
- Send the draft ADU Ordinance to the State Department of Housing and Community Development (HCD) for their review and comment.
- Lower the minimum lot size requirement for ADUs.
- Increase the allowable size of ADUs using a sliding scale.
- Allow ADUs in some high fire hazard areas.
- Require owner-occupancy covenant to be recorded for ADUs.
- Allow required parking in interior setbacks.
- Allow for Junior ADUs (JADUs) in the revised ordinance.
- Retain the 30-day minimum rental requirement.
- Develop ministerial ADU design standards.
- Allow ADU projects submitted prior to ordinance adoption to continue with compliance with State law.

Other related comments included: the ordinance should be as flexible as possible; the ADU should be smaller than the main residence; include the ADU in the Floor-to-lot Area Ratio (FAR) allowed for the lot; do not allow ADUs in the R2 Zone area east of Milpas Street; and general concerns with potential for parking impacts.

The Council voted unanimously to initiate amendments to SBMC Titles 28 and 30 to establish ADU regulations. The Council also directed staff to amend SBMC Title 14 to exempt all ADUs from installing a separate direct connection to the City's water system, ahead of any amendments to Titles 28 and 30.

### **State Law – Accessory Dwelling Units**

State law related to ADUs was amended in September 2016 by the state legislature through adoption of AB 2299, SB 1069, and AB 2406 (JADUs), making significant changes to the manner in which local municipalities are required to regulate such units. These laws were further refined through the adoption of AB 494 and SB 229 in October 2017. The goal of these new regulations is to make it easier for single family residence owners to add ADUs, by making local zoning codes more permissive (Exhibit D – Government Code Sections 65852.2 and 65852.22). The draft ADU Ordinance implements the original state legislation as well as the October 2017 clean-up bills.

### **Existing and Pending Accessory Dwelling Units in the City**

Since January 1, 2017, the City has received over 250 building permit applications for ADUs. This significant interest in permitting ADUs indicates that the City's previous regulations did not encourage or provide enough flexibility to develop an ADU and the relaxed regulations have made it a more feasible option. The majority of the applications received since January 1, 2017 are for conversions of existing garages and accessory structures to ADUs. In some cases, owners of existing non-conforming or illegal dwelling units have filed applications to legalize these units under the new state law. Pursuant to City Council direction, the standards of the City's ADU Ordinance would apply to building permit applications submitted after the effective date of the ADU Ordinance. Any complete applications

submitted prior to the effective date of the City's ADU Ordinance would proceed under Government Code Section 65852.2.

### **Public Outreach**

A page on the City's website ([www.santabarbaraca.gov/ADU](http://www.santabarbaraca.gov/ADU)) was created for this work effort and has been regularly updated with notification of upcoming meetings and links to relevant materials. The website also provides a link for interested parties to provide comments and request to receive updates and notices of new information or public meetings. Notifications via the City's Land Development Team e-Bulletin are also sent to alert interested parties when public documents are available for review. Display ads were published in the Santa Barbara Independent and Montecito Journal to inform the public of the previous Planning Commission and City Council hearings. Display ads were published in the Santa Barbara Independent and Santa Barbara News-Press to notify the public of this current Planning Commission meeting. A notification of the October City Council hearing was also posted on the NextDoor website.

City staff solicited early input on the proposed ADU development regulations and design standards at community meetings with the Allied Neighborhoods Association and American Institute of Architects (AIA), which were attended by a total of approximately 25 people. Since the October City Council meeting, staff has met with several members of the local AIA chapter on three occasions to discuss ADU development regulations and design standards.

### **III. DISCUSSION**

#### **Overview of Draft Accessory Dwelling Unit Ordinance**

While recently amended state law increases the constraints on how local agencies may regulate ADUs, cities do retain the ability to regulate certain aspects of ADUs. The City's draft ADU Ordinance is designed to ensure compliance with state law, while including local regulations consistent with the City's General Plan policies standards and to ensure that ADUs are compatible with surrounding development and appropriately relate to the primary dwelling in terms of size, location on the lot, and appearance to the extent possible under the State's constraints.

The revised draft ADU Ordinance (Exhibit A) was written based on direction from the City Council, input from the Planning Commission, input from the public received in the form of written and oral comments, General Plan policy direction (Exhibit E), and collaboration with members of the local AIA chapter. The key elements of the City's draft ADU Ordinance are shown in the table below. Excerpts of relevant portions of the state law for ADUs and JADUs (including recent clean-up legislation) are included in the table for comparison to the draft ADU Ordinance.

Topic	Draft Accessory Dwelling Unit Ordinance	State ADU Law	State JADU Law
<b>Allowed Zones</b>	RS (Residential Single Unit), R-2 (Two-Unit Residential), R-M (Residential Multi-Unit), R-MH (Residential Multi-Unit and Hotel), O-R (Office Restricted), O-M (Office Medical), C-R (Commercial Restricted), C-G (Commercial General), and M-C (Manufacturing Commercial)	The lot is zoned for single family or multi-family use	The lot is zoned for single family or multi-family use
<b>Allowed Sites</b>	On a lot with one existing or proposed residential unit	On a lot with one existing or proposed residential unit	On a lot with one existing residential unit
<b>Special Location Considerations</b>	Not allowed in Foothill or Extreme Foothill High Fire Hazard Areas	Can be prohibited based on health and safety issues such as water, sewer, traffic flow, or public safety	A JADU is not considered a separate unit for purposes of fire safety; no different standards may be applied to residences with JADUs
<b>Minimum Lot Size</b>	No minimum lot size	No minimum lot size	No minimum lot size
<b>Floor Area Minimum</b>	150 square feet for studio unit (consistent with state "efficiency unit" definition); 400 square feet for all other ADUs	Equivalent to an "efficiency unit"	Equivalent to an "efficiency unit"
<b>Floor Area Maximum<sup>1</sup></b>	ADUs: <ul style="list-style-type: none"> <li>• Lots &lt; 5,000 square feet: 600 square feet</li> <li>• Lots 5,000 - 9,999 square feet: 700 square feet</li> <li>• Lots 10,000 - 19,999: 800 square feet</li> <li>• Lots 20,000 square feet to one acre: 1,000 square feet</li> <li>• Lots one acre or larger: 1,200 square feet</li> </ul> JADUs = maximum of 500 square feet	<ul style="list-style-type: none"> <li>• 1,200 square feet</li> <li>• For attached ADUs, up to 50% of the existing living area or 1,200 square feet, whichever is less</li> </ul>	500 square feet

<sup>1</sup> ADUs are also subject to the maximum total square footage allowed per lot for accessory buildings (see SBMC §30.140.020 and §30.185.040.L.4)

Topic	Draft Accessory Dwelling Unit Ordinance	State ADU Law	State JADU Law
<b>Setbacks</b>	<ul style="list-style-type: none"> <li>• Compliance with setback standards applicable to residential units within the subject zone</li> <li>• No setback required for an existing garage or other accessory building that is converted to an ADU</li> <li>• For an ADU constructed above a new or existing garage, a setback of 5 feet from the interior lot lines is required for the ADU</li> </ul>	Setbacks may be required, except: <ul style="list-style-type: none"> <li>• No setback for an existing garage or other accessory building converted to an ADU</li> <li>• If an ADU is constructed above a new or existing garage, a setback of no more than 5 feet is required from interior lot lines</li> </ul>	N/A – must be interior to the existing residence
<b>Height</b>	Compliance with height standards applicable to accessory buildings.	Height may be regulated	N/A – must be interior to the existing residence
<b>Access to ADU</b>	Shall have exterior access independent from primary residential unit	Shall have exterior access independent from primary residential unit	Shall have exterior access and may have interior access
<b>ADU Configuration</b>	Permanent provisions for living, sleeping, eating, cooking, and sanitation	Permanent provisions for living, sleeping, eating, cooking, and sanitation	Efficiency kitchen required; may share sanitation facilities
<b>Number of Parking Spaces</b>	<ul style="list-style-type: none"> <li>• No additional parking spaces are required for an ADU or JADU</li> <li>• Garage or carport conversion/demolition to create an ADU: Parking for the primary unit must be replaced on-site</li> </ul>	<ul style="list-style-type: none"> <li>• May require one space per ADU or bedroom, whichever is less</li> <li>• May require replacement parking for primary unit</li> </ul>	No parking required
<b>Location of Parking Spaces</b>	<ul style="list-style-type: none"> <li>• Allowed in setbacks, if:               <ul style="list-style-type: none"> <li>• located on an existing paved driveway</li> <li>• the space maintains visibility for adjacent driveways and intersections</li> </ul> </li> <li>• May be covered, uncovered, in a mechanical lift, or in tandem configuration</li> </ul>	<ul style="list-style-type: none"> <li>• Off-street parking shall be permitted in setbacks in locations determined by the City</li> <li>• Replacement parking may be covered, uncovered, in tandem, or in a mechanical lift</li> </ul>	N/A

Topic	Draft Accessory Dwelling Unit Ordinance	State ADU Law	State JADU Law
<b>Architectural Review</b>	Administrative (ministerial) architectural review	Ministerial design review allowed	N/A
<b>Protection of Historic Resources</b>	ADU shall not be allowed if the proposal would cause a substantial adverse change in the significance of a historic resource listed on the National Register of Historic Places, California Register of Historic Places, or designated as a City of Santa Barbara Landmark or Structure of Merit, or located in a Historic District.	Prevent adverse impacts on property listed in California Register of Historic Places	N/A
<b>Sale/Rental Restrictions</b>	Recorded Agreement stating: <ul style="list-style-type: none"> <li>• The ADU or JADU shall not be sold separately from primary residence</li> <li>• Either primary residence or ADU/JADU shall be owner-occupied</li> <li>• ADU or JADU shall be rented for not less than 31 consecutive days</li> </ul>	<ul style="list-style-type: none"> <li>• ADU shall not be sold separately</li> <li>• Owner occupancy can be required</li> <li>• 31+ day rentals can be required</li> </ul>	<ul style="list-style-type: none"> <li>• JADU shall not be sold separately</li> <li>• Owner occupancy required</li> </ul>
<b>Utility Connection Fee Requirements</b>	Provision of utility connection or meter shall comply with SBMC Section 14.08.150 regarding water meters: <ul style="list-style-type: none"> <li>• New City meters not required for ADUs</li> <li>• Applicants may request a new City meter, subject to capacity charge</li> <li>• ADUs newly constructed from the ground up will be required to have a private sub-meter (or a separate City meter)</li> </ul>	ADUs within the existing space of a residence or accessory structure shall not be considered new residential uses for purposes of calculating connection fees or capacity charges for utilities. Other ADUs may require new or separate utility connections and may be subject to a connection fee or capacity charges proportionate to the ADU size or number of plumbing fixtures.	Not considered a new or separate dwelling unit for purposes of providing water, sewer, or power, including a connection fee.

### Specific ADU Ordinance Provisions

State law allows local government to designate where ADUs are permitted, including a consideration of health and safety issues such as adequacy of water or sewer services and hazard areas, and apply development standards, such as parking, height, lot coverage, lot size, and maximum unit size. Other

design considerations and an analysis of the draft ADU Ordinance provisions in relationship to state law and the former ADU regulations in the City is provided below.

### **Allowed Zones**

The primary intent of the new state law is to allow one ADU or JADU on lots containing one single residential unit, in zones that allow residential development. In accordance with state law, the draft ADU Ordinance allows ADUs and JADUs in the Residential: RS, R-2, R-M, and R-MH zones; Commercial and Office: O-R, O-M, C-R, and C-G zones; and Manufacturing: M-C zone. ADUs are allowed on lots of any size that contain an existing or proposed single residential unit. JADUs must be proposed within the space of an existing residential unit. Lots developed with anything other than one (existing or proposed) single residential unit will not be permitted to construct an ADU or JADU. On lots with an illegally constructed second unit, the owner can apply to make the illegal unit into a legal ADU if all the required standards for ADUs or JADUs can be met.

As proposed, the draft ADU Ordinance would allow ADUs and JADUs only on lots which contain an existing or proposed primary residential unit. The city contains a total of 14,233 lots developed with an existing single residential unit that are zoned to allow residential development (includes RS, R-2, R-M, R-MH, O-R, O-M, C-R, C-G, and M-C Zones).

### **High Fire Hazard Areas**

State Government Code Section 65852.2(a) states that cities may “designate areas within the jurisdiction of a local agency where accessory dwelling units may be permitted. The designation of areas may 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.”

The City’s first high fire hazard areas were identified after the 1979 Sycamore Canyon Fire based on slope and vegetation. Subsequent municipal codes and ordinances to impose fire and safety requirements were adopted by the City. In 1992, after the Oakland Hills Fire, the state required State Fire agencies to ensure that local fire agencies identified areas vulnerable to wildfire and have those areas designated as very high fire hazard severity zones. The City’s Fire Department reviewed the 1979 high fire hazard areas and determined they met the intent of the state’s legislation. In 1998, the Fire Department reviewed the high fire hazard areas and determined a hazard and risk assessment was necessary to fully analyze the City’s wildland fire threat. The 2004 Wildland Fire Plan is the result of the hazard and risk assessment and redefined the existing high fire hazard areas, separated into four fire hazard zones.

The City’s high fire hazard areas are located in the northern (Foothill and Extreme Foothill Zones) and southwestern (Coastal and Coastal Interior Zones) portions of the City. The Planning Commission and City Council directed staff to take a strategic approach to allowing ADUs in certain areas mapped as high fire hazard areas. Staff determined that the Coastal and Coastal Interior zones are acceptable areas to allow ADUs and JADUs, given that the majority of roads within these zones meet the Fire Department Access Standards and the two zones are near the coast, surrounded by existing urban development. The Foothill and Extreme Foothill zones are located where the Los Padres National Forest Lands border the City with the potential for high to extreme fire behavior and are also 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. While the Fire Department does not explicitly recommend prohibiting ADUs in the Foothill and Extreme Foothill zones, Planning Staff

recommends that a measured and incremental approach be taken to allowing ADUs in the foothill areas. The draft ADU Ordinance prohibits ADUs and JADUs in the Foothill and Extreme Foothill Zones, based on General Plan Policy direction (Housing Element Policy 15) and a recognition 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.

Of the 14,233 lots with an existing residential unit that could be eligible for ADUs/JADUs, approximately 2,961, or 21 percent, are in the Foothill and Extreme Foothill high fire hazard areas. Therefore, a remaining total of 11,272 lots would be eligible for ADUs if the prohibition in Foothill and Extreme Foothill high fire hazard areas was applied. A map showing the areas where ADUs/JADUs would be allowed per the draft ADU Ordinance is included as Exhibit F.

### **Configuration and Location of Accessory Dwelling Units**

An ADU would be allowed in three different configurations on a lot:

- Incorporated entirely within a primary residential unit or accessory building;
- Attached to and increasing the size of a primary residential unit or accessory building; or,
- Detached from and located on the same lot as a primary residential unit. An ADU that is attached by a breezeway or porch would be considered detached.

The ADU would be required to have exterior access independent from the primary residential unit. The area of the ADU must be clearly defined and distinguished from the area of the primary residential unit and any related accessory buildings. Interior access to all portions of the ADU would be required, and no interior access between the ADU and the primary residential unit would be allowed. The ADU would also be required to meet all of the standards for a residential unit in the zoning ordinance (Section §30.140.150, Residential Unit), which is proposed to be amended to remove a reference to a minimum refrigerator size.

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.

### **Configuration and Location of Junior Accessory Dwelling Units**

Pursuant to state law and the City's draft ADU Ordinance, a Junior Accessory Dwelling Unit must be configured in the following manner:

- Created within the existing walls of an existing single residential unit, and must include conversion of an existing bedroom.
- A separate exterior entry shall be provided to serve the JADU.
- The interior connection to the main living area must be maintained, but a second door may be added for sound attenuation.
- Sanitation facilities for the JADU may be provided separately, or shared with the primary residential unit.

A Junior Accessory Dwelling Unit shall include an efficiency kitchen, requiring and limited to the following components:



- A sink with a maximum waste line diameter of one-and-a-half (1.5) inches,
- A cooking facility with appliances which do not require electrical service greater than one-hundred-and-twenty (120) volts or natural propane gas, and
- A food preparation counter and storage cabinets that are reasonable to the size of the unit.

### **Minimum and Maximum Floor Area**

While state law permits local municipalities to allow a maximum size of up to 1,200 square feet for an ADU, the establishment of an appropriate size and scale limitation for ADUs is important in the context of the City of Santa Barbara as unit size plays an important role in the character of residential neighborhoods, pattern of development, and intensity of use on a site. Accessory dwelling units are intended to be accessory to the primary residence and should be subordinate to the main home.

The Planning Commission and City Council directed staff to consider a sliding scale for maximum ADU size, relative to the lot size. The draft ADU Ordinance limits an attached ADU to no more than 50 percent of the living area of the primary residential unit, or 1,200 square feet, whichever is less (consistent with current state law). The maximum floor area of a detached ADU could not exceed the following size limits based on a sliding scale:

- Lots less than 5,000 square feet: 600 square feet
- Lots 5,000 square feet up 9,999 square feet: 700 square feet
- Lots 10,000 up to 19,999: 800 square feet
- Lots 20,000 square feet up to one acre: 1,000 square feet
- Lots one acre or larger: 1,200 square feet

The sliding scale would allow ADUs that are proportional and appropriate to the lot size where they are located to ensure that they would not impact neighborhood character and would likely be subordinate to the primary residential unit. Pursuant to Housing Element Policy H15 and City Council direction, the floor area within an ADU would be included in the floor-to-lot-area ratio (FAR) calculations for RS-Zoned lots subject to that limitation (see SBMC §30.20.030.A). This further ensures compatibility of the accessory units to existing residential development in a particular neighborhood in terms of size and mass. Detached ADUs would also be subject to the maximum total square footage allowed per lot for accessory buildings (see SBMC §30.140.020.J and §30.185.040.L.4), which ranges from 1,000 square feet on small lots to 2,450 square feet of total accessory building space on lots three acres or larger.

In compliance with state law, the draft ADU Ordinance states that a studio ADU would require a minimum of 150 square feet of livable floor area, while all other ADUs would require a minimum of 400 square feet of livable floor area. The 150 square foot minimum is considered to be an efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

The maximum floor area of a Junior ADU is 500 square feet in conformance with state law. There is no minimum size required for a JADU; however, they could be configured as efficiency units as described above.

## **Height Limit**

There is no specific height limit for ADUs. SBMC §30.185.040.K requires ADUs to comply with development standards applicable to an accessory building. Per SBMC §30.140.020.G, a detached ADU could not exceed a height of 30 feet and two stories.

## **Setbacks**

In order to preserve the character and pattern of residential development, and provide some level of privacy to adjacent lots, ADUs must comply with the setback standards applicable to residential structures within the zone in which the lot is located, with the exception of the following special rules included in accordance with state law:

- *Garage Conversions.* No setback is required for an existing, legally permitted garage or other accessory building that is converted to an ADU, unless required for fire safety purposes. Any additions to a converted garage or accessory building would need to meet current setback provisions.
- *Accessory Units Constructed Above a Garage.* A setback of five feet is required from an interior lot line for ADUs constructed above a garage. This would only apply to the second story ADU; any improvements on the ground floor would have to comply with the applicable setback requirements for the zone.

## **Parking**

### *Parking for Accessory Dwelling Units*

The draft ADU Ordinance eliminates parking requirements for ADUs. This is due to the unique situation that a significant majority of the lots that would allow ADUs, outside the Foothill and Extreme Foothill high fire hazard areas, are within one-half mile of a public transit stop and would meet the parking exemption criteria included in Government Code Section 65852.2(d)(1). If an applicant opted to voluntarily provide parking for the ADU, the space(s) must be provided in compliance with SBMC Chapter 30.175, Parking Regulations. No parking is required for JADUs, consistent with state law.

If the Planning Commission recommended allowing ADUs in the Foothill or Extreme Foothill high fire hazard areas, parking criteria for ADUs in these areas would need to be formulated since most of these areas would not be eligible for the transit-related parking exclusion. Any parking requirement for ADUs would need to take into consideration the remaining four situations provided in Government Code Section 65852.2(d) that prohibit an agency from requiring parking for ADUs.

### *Parking for the Primary Residential Unit*

Parking for the primary residential unit would need to be provided in compliance with SBMC Chapter 30.175, Parking Regulations. If a garage, carport, or other covered parking structure is converted to an ADU, or demolished in conjunction with the construction of an ADU, the displaced parking spaces must be replaced on the same lot as the ADU in order to satisfy the automobile parking requirement of the primary residential unit. The replacement spaces could be covered, uncovered, in a tandem configuration, or provided in a mechanical lift.

Covered replacement parking would be required to comply with the setback standards of the zone in which the lot is located. Uncovered replacement parking would be required to meet the following criteria:

- All parking spaces must meet the minimum dimensions and development standards consistent with the City Standard for Parking Design and SBMC Section 30.175.090, Parking Area Design and Development Standards;
- In order to maintain visibility for adjacent driveways and intersections, uncovered parking spaces shall comply with the visibility requirements of SBMC Section 30.140.230 (Visibility at Driveways and Intersections);
- Parking spaces may be allowed in a front or interior setback, provided the parking space is contained within the area of an existing paved driveway and no increase to paved area occurs in the setbacks.

### **Administrative Design Review and Protection for Historic Resources**

The draft ADU Ordinance provides a process for ministerial, administrative architectural design review. The standards for such review will be incorporated into the Single Family Design Board (SFDB) General Design Guidelines & Meeting Procedures. The Community Development Director (or designee) will review the proposed ADU to ensure compatibility with the surrounding neighborhood and consistency with the design and appearance of the existing structures on the lot, pursuant to these design standards. Discretionary design review would only be required for any exterior alterations to the site or primary residential unit that are not a part of the ADU, but are proposed in conjunction with the ADU. The portions of a building or site considered to be the ADU would include all the contiguous interior livable floor area of the ADU, as well as any exterior alterations directly attached to the ADU portion of the building.

The draft ADU Ordinance includes measures for protection of historical resources listed on the National Register of Historic Places or the California Register of Historic Places, or designated as a City of Santa Barbara Landmark or Structure of Merit, or located in a designated historic district. No ADU would be allowed if the proposal would cause a substantial adverse change in the significance of a historical resource. This determination would be made by the City's Urban Historian after reviewing the proposal for compliance with appropriate Secretary of Interior's Standards.

### **Owner-Occupancy Requirement**

The draft ADU Ordinance requires that either the primary residential unit or ADU be owner-occupied. State law mandates this for JADUs and allows agencies to require this for ADUs. The intent of this requirement recognizes the stated desire of many homeowners to house extended family or adult children in the ADU, live in the ADU themselves, or rent out the ADU for additional income, allowing owners to live more affordably in the primary unit. Given the limited development standards for ADUs and ministerial review process (i.e., without public notice or hearing), requiring one of the units to be owner-occupied also provides additional assurance that the ADU will be located and designed in a manner that is sensitive to existing development on the site and in the neighborhood. Either the primary unit or the ADU may be rented for terms of not less than 31 consecutive days, but the owner is prohibited from renting or leasing the owner-occupied residence and the ADU simultaneously. Prior to obtaining a building permit for an ADU, the lot owner is required to execute and record an agreement containing the above restrictions.

Owner occupancy or the owners "Principal Place of Residence" is further defined in the draft ADU Ordinance as the residence where a property owner actually lives for the greater part of the time, or

where the owner remains when not called elsewhere for some special or temporary purpose, as from work or extended vacation.

### **Water Metering**

Under state law, ADUs created within the space of an existing single unit residence or accessory structure shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service. Other ADUs may be required to provide new or separate utility connections and may be subject to a connection fee or capacity charges that shall be proportionate to the ADU size or number of plumbing fixtures.

The draft ADU Ordinance states that provision of a utility connection or meter shall comply with Title 14, Section 14.08.150 of the Santa Barbara Municipal Code. Amendments to this section of the Code were recently introduced to City Council to comply with state ADU law. In accordance with state law, no new water meter would be required for a JADU.

### **Consultation with the California Department of Housing & Community Development**

After revising the draft ADU Ordinance based on direction from the City Council, staff forwarded the ordinance to the State Department of Housing and Community Development (HCD) for their review and comment. In general, the comments and questions from HCD staff were relatively limited and minor in nature; the majority of which are addressed in the current draft ADU Ordinance. The nature of HCD's comments involved the following topics:

- Standards for a Residential Unit – specifically, HCD staff expressed a concern with the requirement for a minimum refrigerator size in an ADU. The draft ADU Ordinance proposes to remove that reference from SBMC §30.140.150 (see Exhibit A).
- Relation to Other Accessory Buildings (SBMC §30.185.040.L.4) – HCD staff was unsure whether or not this requirement would unduly burden an applicant's ability to create an ADU on a lot. Staff believes this provision provides a reasonable amount of total accessory building floor area on a lot and will not unduly burden an applicant's ability to propose an ADU and retain an ability to have other accessory building(s) on a lot.
- Required Parking for the Primary Residential Unit (SBMC §30.185.040.Q.1.a.iii) – HCD staff expressed concern with a wholesale requirement for a 10' front setback for uncovered parking. In response, staff revised this provision in the draft ADU Ordinance to reflect the existing requirement in Title 30 to maintain visibility for adjacent driveways and intersections. This ensures that all types of obstructions (i.e., hedges, fences, parked vehicles, etc.) would be located outside of the visibility triangle for life safety purposes.
- Special Procedures for Accessory Dwelling Units or Junior Accessory Dwelling Units Constructed Entirely Within Existing Structures (SBMC §30.185.040.S) – HCD staff expressed concern with a prior reference to January 1, 2017 as the date by which a structure had to exist in order to be deemed "existing." The draft ADU Ordinance removed that reference and instead refers to buildings that exist as of the date of application submittal.

### **Necessary Amendments to Other Aspects of the Zoning Ordinance**

The New Zoning Ordinance (NZO), adopted by City Council on July 25, 2017, became effective October 1, 2017. NZO included a general statement in SBMC §30.185.040 that ADUs shall be located,

developed, and occupied pursuant to Government Code Section 65852.2. In addition to amending SBMC §30.185.040 to include these proposed local development standards for ADUs, several other minor amendments to Title 30 will be required for consistency in use of terms and development standards. These amendments are included in Exhibit A.

In addition, SBMC Title 28 (Coastal Zoning Ordinance) will need to be amended to implement the ADU Ordinance in the Coastal Zone. Although the format will differ, staff will replicate the Planning Commission-recommended amendments to Title 30 for ADU and JADU development in Title 28 so that the same regulations apply both inside and outside of the Coastal Zone. The amendments to SBMC Titles 28 and 30 will be presented to the Ordinance Committee and City Council. The amendments to SBMC Title 28 will then be submitted to the Coastal Commission to facilitate a Local Coastal Program Amendment as soon as possible.

#### **IV. ENVIRONMENTAL REVIEW**

Under California Public Resources Code (CPRC) Section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city or county implementing the provisions of Section 65852.2 of the Government Code, which is the State Accessory Dwelling Unit law. Therefore, the draft ADU Ordinance is statutorily exempt from CEQA in that the draft ADU Ordinance implements the state accessory dwelling unit law.

#### **V. NEXT STEPS**

Following Planning Commission review of the draft Accessory Dwelling Unit Ordinance, the draft amendments to SBMC Titles 28 and 30 will be presented to the City Council Ordinance Committee. Concurrently, staff will work with Single Family Design Board and the AIA to develop administrative design standards for ADUs. The final draft ADU Ordinance and administrative design standards would then be presented to City Council for review and adoption. The City is required to submit the adopted ordinance to the State Department of Housing and Community Development within six weeks of City Council adoption.

Exhibits:

- A. Proposed Amendments to SBMC Title 30 Related to Accessory Dwelling Units
- B. Planning Commission Meeting Minutes, September 7, 2017
- C. City Council Meeting Minutes, October 24, 2017
- D. Government Code Sections 65852.2 and 65852.22
- E. Applicable General Plan Policies
- F. Map of Allowed Zones and Excluded High Fire Hazard Areas