



City of Santa Barbara
Community Development

Memorandum

DATE: March 2, 2018

TO: Ordinance Committee

VIA: George Buell, Community Development Director

FROM: Renee Brooke, AICP, City Planner
Rosie Dyste, Project Planner

SUBJECT: Supplemental Information for the Draft Ordinance Amendments
Related to the Regulation of Accessory Dwelling Units

This memorandum is intended to provide additional information for the Ordinance Committee's consideration of draft Ordinance Amendments related to the regulation of Accessory Dwelling Units (ADUs), and includes the following:

1. Approved minutes from the Planning Commission hearing of January 25, 2018 (Attachment A);
2. Accessory Dwelling Unit Covenant (Attachment B);
3. Additional information about Fire Department review of applications for ADUs and JADUs in High Fire Hazard Areas;
4. ADU Application Completeness Requirements.

Accessory Dwelling Unit Covenant

For the Committee's reference, a blank template of the ADU covenant is provided as Attachment B. Upon application for a building permit for an ADU, staff completes the ADU Covenant and provides it to the applicant for signature and notarization. Once executed and returned to staff, the covenant is recorded on the property's title at the County Recorder's Office. Final zoning approval of a building permit is granted after the covenant has been recorded. The City Attorney can accommodate limited changes to the standard covenant template, on a case-by-case basis, when the applicant requests changes specific to their project.

Review of ADUs and JADUs in High Fire Hazard Areas

The Fire Department does not explicitly recommend prohibiting ADUs in any area of the City, including the Foothill and Extreme Foothill High Fire Hazard zones. However, Planning Staff recommends that a measured and incremental approach be taken to

allowing ADUs in the City's 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. Further discussion of this issue is provided in the February 27, 2018 Ordinance Committee Agenda Report for this item.

For purposes of understanding how applications for ADUs and JADUs are currently reviewed by the Fire Department, the following list includes those items reviewed by staff during the building permit plan check process:

1. For new structures proposed in the High Fire Hazard Areas, compliance of the structure with building code high fire requirements (e.g., roofing, exterior covering, open roof eaves, underfloor protection, decking, vents, exterior windows and doors).
2. Driveway width or other access standards, only if the proposal includes a new driveway.
3. Landscape plans/defensible space requirements.
4. Fire sprinklers, only if they are required for the primary dwelling.
5. Adequate water pressure.

The following list of items is not included in the Fire Department's review of ADUs and JADUs:

1. Public road width or an evaluation of substandard driveways or bridges used to access a parcel (although private roads may be evaluated in rare instances);
2. Total number of ADUs/JADUs being permitted on a particular street;
3. Distance between primary and accessory structures; and
4. The cumulative impact of ADUs/JADUs on evacuation capacity or other fire-related issues (note: no evacuation capacity has been determined or adopted for the City of Santa Barbara).

Application Completeness

The topic of the effective date of the City's ADU Ordinance and implications on applications for ADUs in the review process has been discussed at several hearings. Staff is recommending that "complete" applications submitted prior to the effective date of the City ordinance be allowed to continue under the provisions of Government Code 65852.2. For reference, a complete application must include the following in order for staff to adequately review the proposal:

1. COMPLETED MASTER APPLICATION. The Master Application must include required signatures or an Owner/Agent Authorization form.
2. FILING FEE. Ranges from approximately \$580 to \$9,500 (depending on the scope) as of July 1, 2017, subject to change every fiscal year.

3. ACCESSORY DWELLING UNIT WORKSHEET. Filled in and signed by the Applicant.
4. PHOTOGRAPHS. Current, color, legible photographs of the site and adjacent development including all elevations of the existing building(s).
5. PLAN COVER SHEET. The plans shall include a cover sheet that includes the following project information:
 - a. Vicinity Map.
 - b. Project Data.
 - c. Applicable Codes.
 - d. Scope of Work.
 - e. Identify the Accessory Dwelling Unit.
 - f. Floor Area.
 - g. Parking.
6. SITE PLAN
7. ELEVATIONS. Elevations are only required if there are any proposed exterior alterations to an existing building(s), or if a new building(s) is proposed.
8. FLOOR PLANS. Floor plans of the proposed Accessory Dwelling Unit. Floor plans of the Primary Residential Unit are only required if the Accessory Dwelling Unit is attached to the Primary Residential Unit, or if there are other interior alterations proposed to the Primary Residential Unit.



City of Santa Barbara

PLANNING COMMISSION

MINUTES

JANUARY 25, 2018

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

COMMISSION MEMBERS:

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

STAFF:

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

CALL TO ORDER

Chair Wiscomb called the meeting to order at 1:07 p.m.

I. ROLL CALL

Chair Lesley Wiscomb, Vice Chair Sheila Lodge, Commissioners John P. Campanella, Jay D. Higgins, Mike Jordan, Deborah L. Schwartz (until 1:16 p.m.), and Addison Thompson

STAFF PRESENT

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

II. PRELIMINARY MATTERS

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

No requests.

B. Announcements and appeals:

Ms. Gularte requested that Item IV.B, announcement of the 2018 Planning Commission Liaisons to Boards and Commissions, be moved to occur after Item II.B.

1. The 2018 Planning Commission Liaisons to Boards and Commissions were announced as follows:

Airport Commission

Addison Thompson – Primary
 Jay Higgins – Alternate

Architectural Board Of Review

John Campanella – Primary
 Sheila Lodge – Alternate

Citywide Wayfinding Signage Program Committee

Jay Higgins - Primary
 Michael Jordan – Alternate

Creeks Restoration & Water Quality Improvement Program Citizen Advisory Committee

Sheila Lodge – Primary
 Lesley Wiscomb – Alternate

Downtown Parking Committee

Lesley Wiscomb – Primary
 Jay Higgins – Alternate

Harbor Commission

Michael Jordan - Primary
 Sheila Lodge – Alternate

Highway 101 Improvements Design Subcommittee

Deborah L. Schwartz - Primary
 Addison Thompson - Primary

Historic Landmarks Commission

Sheila Lodge – Primary
 Addison Thompson – Alternate

Housing Task Force

John Campanella
 Michael Jordan
 Sheila Lodge

Local Coastal Plan (LCP) Subcommittee

Lesley Wiscomb – Primary
 Deborah L. Schwartz - Primary
 Addison Thompson – Primary
 Sheila Lodge – Alternate

Parks and Recreation Commission

Lesley Wiscomb – Primary
 Michael Jordan – Alternate

Sign Ordinance Review Committee

Sheila Lodge - Primary
 Deborah L. Schwartz - Alternate

Single Family Design Board

Addison Thompson – Primary
Michael Jordan – Alternate

Staff Hearing Officer Liaison

Jay Higgins - Primary
Lesley Wiscomb – Alternate

Sustainability Council Committee

John Campanella – Primary
Deborah L. Schwartz – Alternate

Transportation and Circulation Committee

Michael Jordan – Primary
Deborah L. Schwartz – Alternate

Water Commission

Michael Jordan - Primary
Deborah L. Schwartz – Alternate

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

1. January 11, 2018 Minutes
2. PC Resolution No. 002-18
1540 Franceschi Road

MOTION: Schwartz/Higgins

Approve the minutes and resolution as presented.

This motion carried by the following vote:

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

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

Art Ludwig of Oasis Design spoke regarding recent manifestations of climate change in the City and State, emphasizing that climate safety is the lens through which decisions should be viewed. Jarrett Gorin ceded his time to Mr. Ludwig.

ACTUAL TIME: 1:15 P.M.

III. RECOMMENDATION TO AMEND MUNICIPAL CODE
ITEM CONTINUED FROM THE JANUARY 11, 2018 HEARING

Planning Commission review of proposed amendments to the Municipal Code to establish development regulations for Accessory Dwelling Units (ADUs). Effective January 1, 2017, state legislation superseded sections of the City’s regulations for secondary dwelling units and accessory dwelling units that were inconsistent with Government Code Section 65852.2. Until the City adopts its own ADU Ordinance, it is required to ministerially approve ADUs if the unit

complies with state standards including certain parking requirements, the maximum allowable size of an ADU, and setback requirements.

Staff recommends that the Planning Commission review proposed amendments to the Zoning Ordinance to adopt an Accessory Dwelling Unit Ordinance and forward a recommendation to the City Council for adoption.

Contact: Rosie Dyste, Project Planner
Email: RDyste@SantaBarbaraCA.gov

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

RECUSALS: To avoid any actual or perceived financial conflict of interest, Commissioner Schwartz recused herself from hearing of this item.

Rosie Dyste, Project Planner, gave the Staff presentation. Renee Brooke, City Planner, was available to answer questions.

Jerry Hittleman, Consultant from Rincon Consultants, Inc., also was available to answer questions.

Public comment opened at 2:14 p.m.

The following people spoke:

1. Chris Manson-Hing, architect/AIASB, stated that consideration should be given to how the City and neighborhoods evolve over time, and there should be a timetable for introduction into neighborhoods, open yards, and the inclusion of the ministerial document. Marti Garcia ceded time to Mr. Manson-Hing.
2. Helen Couclelis, resident/UCSB professor, spoke of the Rivera Hills area concern that the "area" should be considered on a property-by-property basis with major limitations for ADU approvals due to the high-active earthquake fault, insufficient road network for short-order evacuation and first-responder access, several mitigating infrastructure services, and that fire insurance is usually based upon area-wide criteria.
3. Paul R. Zink, architect, stated that ADUs will help address the lack of housing and should be made achievable to help protect neighborhood character and charm.
4. Andreas Blomst stated that the current draft ordinance is not sufficient as currently written, requested staff to clarify the owner-occupancy clause for small R-2 zoned lots, and listed alternatives to the covenant, such as: owner occupancy with a sunset clause of 2-3 years, no owner-occupancy covenant at all or an owner-occupancy requirement in zones for R-1 and not in multi-family zones, a limited ownership to one property with an ADU, or an affordability contract in lieu of owner occupancy. Shannon Blomst ceded her time to Mr. Blomst.
5. Bill Jansen spoke in support of ADUs that will allow critical care nurses to remain local and provide critical care for local in-home patients.
6. Carol Wesolowski spoke against the owner-occupancy covenant for ADUs.
7. Brian Kenny spoke as an advocate for families in single-family zones and requested their opinions be included in the discussion.
8. Leon Lunt spoke in support of the owner-occupancy requirement and related covenant, doubling the minimum size from 600 to 1200 square feet, elimination of the one parking space per bedroom requirement, and prevention of the RS zone changing to an R-1 zone. Chris Bastian and Sharri Anderson ceded their time to Mr. Lunt.

9. Natalie Cope Phillips, architect, spoke of concerns regarding how open yard requirements are being defined for ADUs and requested that all lots, single-family and multi-family, be required to be 10% of the lot size with a 10-foot long by 10-foot wide minimum dimension. Gil Garcia ceded his time to Ms. Cope Phillips.
10. Suzanne Elledge concurred with Ms. Cope Phillips' concerns and requested a reconsideration of the prohibition of ADUs within the foothill and extreme foothill high fire zones, as it reduces potential ADUs by 20%, in favor of standards developed with Fire Department input for safe ADUs in these areas.
11. Jarrett Gorin, architect, spoke against the owner-occupancy covenant as the state did not include this requirement, as well as the parking requirement of visible sight triangle of 10 feet on either side of a driveway and 10 feet back from a property line. He also requested Fire Department input instead of prohibition of ADUs in the foothill and extreme foothill high fire zones, and is against going beyond the state law by limiting ADUs by height. Rick Box, Richard McCandless, and Gregg Partonyti ceded their time to Mr. Gorin.
12. Reyne Staplemann concurred with Mr. Gorin and Ms. Elledge regarding parking and the foothill and extreme foothill high fire zones, and stated that the ADU fee structure should be proportional to the impact of the ADU and not become a barrier. Krista Pleiser ceded her time to Ms. Staplemann.
13. Mark Sapp spoke about exclusion of ADUs within the foothill and extreme foothill high fire zones, which should be determined on a project-by-project basis, and stated that current ADU projects reviewed under state law are being held hostage to an owner-occupancy covenant requirement, which creates an undue burden on property owners to obtain a mortgage or refinance an existing mortgage and for revocable living trusts when an owner dies. Nancy Mulholland ceded her time to Mr. Sapp.
14. Todd A. Amspoker of Price, Postel, & Parma, LLC, spoke of concerns regarding the inclusion of the owner-occupancy covenant and against the use of the property for rentals terms longer than 30 days, which state law does not require.
15. Valerie Froscher spoke of concerns that the current draft ordinance does not encourage compatible low-density neighborhood infill housing as the state law does, specifically by the open yard requirement and deed restriction owner covenant.
16. Tom Jacobs spoke in support of continuing the drafting of the ADU ordinance and encouraged working closely with the AIASB toward a user-friendly, stand-alone ordinance that supports the needs of middle-class homeowners.
17. Jack Maxwell also requested Fire Department input instead of prohibition of ADUs in the foothill and extreme foothill high fire zones, since a professional should determine what defines a hazardous zone. He believes that an ADU application should be allowed to be submitted along with plan and permits for a primary residence and vest under the deadline.
18. Alex Pujo, architect, spoke on eight main ADU ordinance issues: high fire hazard area restrictions, required open yards, ADU floor area maximums, setbacks/height-solar envelope, parking setback paved area increase, ABR review, sales/rental restrictions for owner occupancy, and permitting process and requirements. He focused mainly on the issue of ADU floor area maximums, which should be kept realistic and simple. Steve Young, Tere Jurado, Dave Barter, and Duffy Smith ceded their time to Mr. Pujo.
19. Clay Stanford spoke in support of a liberal adoption of ADU standards and of high-density advantages to increase revenue and improve infrastructure. He concurred with middle-ground alternatives to an owner-occupancy covenant for detached ADUs and with the AIASB's input regarding restrictions on high-fire areas, open and floor areas, setbacks, and parking.
20. Cassandra Ensberg, architect, spoke about working together with the AIASB to draft a successful ADU ordinance and the necessity of clear ADU information for applicants.

21. Nick Koonce spoke of existing obstructions for existing ADU applicants, lack of information, exceptions for Junior ADUs, removal of owner occupancy, and concurs with AIASB recommendations.
22. Paul Poire, architect, spoke in support of ADUs to improve local infrastructure and the context of neighborhoods, and concurs with already identified problems with the draft ADU Ordinance, including that it should require a sunset clause and finance by banks instead of requiring ownership that follows the property and will inevitably be violated when the original owners pass away. Simple, affordable ADUs will help to improve housing.
23. Kevin Cravens, local mortgage lender, clarified that the owner-occupancy covenant would make it restrictive to find bank financing for owners for new loans or refinancing loans on potential ADU collateral, which can be later be required to be demolished.
24. June Pujo concurred with preceding ADU comments, and recommends extended, detailed drafting with study of all comments. She concurs with the inclusion of Junior ADUs and the expansion of zones that allow single-family dwellings. She also pointed out that even though ADUs by state law do not increase density on lots, the draft ADU Ordinance on page 4 shows a density chart on ADU lots; this contradicts state law.
25. Brent Winebrenner spoke in favor of ADUs to supplement rental income, noted that most owners have cars in their garages and not on the street, and stated that the owner-occupancy covenant is problematic for lending and property sales.
26. Everett Jay Woody is opposed to the owner-occupancy covenant, and spoke of burdensome impacts on the development of ADUs in converted existing spaces (e.g., garages), which must be approved regardless of zoning and development standards. He spoke of other development standards such as parking visibility restrictions for view corridors, and lot coverage or FARs coupled with open space, which often means no ADUs when factoring in open space and stairway requirements for upper floor development. Noreen Nath and Kathy Groh ceded their time to Mr. Woody.
27. Roy Harthorn, building code consultant, spoke on items for plan check and standards, and about zoning information reports for plan checks, which often contain misinformation and alleged violations, placing a burden on applicants and owners, and include Title 24 regulations and energy requirements, which may be burdensome for owners with ambient or portable heating sources. He spoke in support of ADUs located in foothill and extreme foothill high fire areas using performance fire-resistant standards similar to hurricane and tornado shelter-in-place requirements, and he is in favor of proprietor requirements instead of an owner-occupancy covenant, without the requirement of removal of ADUs upon non-compliance for non-conforming or modification issues. Richards Hynds ceded his time to Mr. Harthorn.
28. Kas Seefeld, architect, spoke in favor of ADUs to supplement rental income and add property value, and is in opposition to the ADU owner-occupancy covenant.
29. Kevin Dumain, architect, spoke in opposition to restrictive regulations, in favor of conversion of existing spaces, and supports the state law and more flexible mandates on ADUs.
30. George Laperle is a resident in high fire risk zone and spoke in favor of ADUs located in foothill and extreme foothill high fire risk zones and requested a liberal interpretation of state law in order to incorporate ADU senior living into his home.

Public comment closed at 3:58 p.m.

*** THE COMMISSION RECESSED FROM 3:58 TO 4:13 P.M. ***

Owner-Occupancy Covenant

MOTION: Higgins/

Recommend retention of the owner-occupancy covenant, with revisions to Section I.D (Term, Enforcement, and Security) to eliminate the requirement, in the event that the property is no longer developed and used as a primary dwelling unit and an ADU, to reconfigure the improvements on the property to eliminate the ADU to comply with the current square footage standards for accessory structures and reestablish one single residential unit, and relaxation of the hardship waiver standards.

This motion failed for lack of second.

Commissioner comments:

Commissioner Higgins:

- Is sensitive to the concerns that have prompted the owner-occupancy covenant, but would like to see a softening of some of the details (as listed in the motion).
- Suggested a maximum covenant term of 3-5 years as another way to soften.

Commissioner Thompson:

- Does not support an owner-occupancy covenant, except in the case of Junior ADUs.
- The concern about renters not maintaining a property to community standards is a red herring. For every renter who does not maintain to community standards, there is an owner who does not maintain to community standards.
- The covenant clouds the title too much and is a big overreach.

Commissioner Jordan:

- Does not completely support the covenant but recognizes the concern of residents that it attempts to address. Until it can be shown that impacts are not as feared, this tension will occur.
- Suggested instead of a requirement for owner occupancy, a requirement that the owner reside somewhere in the City.

Commissioner Campanella:

- The owner-occupancy covenant applied to commercial and multi-family properties is too global and restrictive. Commercial and multi-family properties are income properties, and the City should not expect that owners will live on these properties. Agrees that there should be a covenant for Junior ADUs.
- Concerns about what will happen without an owner-occupancy covenant are conjecture at this point.

Commissioner Lodge:

- In general, she is supportive of the ordinance, and of the owner-occupancy covenant, though there is a potential for softening it.
- The covenant will keep units affordable. If investors can buy homes and put in ADUs, the rent will be what the market can bear. Conversely, it has been shown that when properties are owner-occupied, the rent is below market rate.

Chair Wiscomb:

- Commended staff for the ordinance and for addressing issues.
- Agrees that without the owner-occupancy covenant, ADUs will become speculative.
- Agrees that the covenant should be softened, keeping in mind the goal of neighborhood compatibility.

MOTION: Higgins/Lodge

Recommend inclusion of the owner-occupancy covenant, with Section I.D (Term, Enforcement, and Security) amended to: eliminate the requirement to reconfigure the ADU, in the event that the property is longer no developed and used as a primary dwelling unit and an ADU, to conform to current square footage standards for accessory structures (the ADU kitchen and bathroom removal requirements as listed in the Section to remain); and soften the hardship waiver component such that a hardship does not have to only include the death of a property owner.

This motion was amended as follows:

AMENDED MOTION: Higgins/Lodge

Recommend inclusion of the owner-occupancy covenant *for single-family zones only*, with Section I.D (Term, Enforcement, and Security) amended to: eliminate the requirement to reconfigure the ADU, in the event that the property is no longer developed and used as a primary dwelling unit and an ADU, to conform to current square footage standards for accessory structures (the ADU kitchen and bathroom removal requirements as listed in the Section to remain); and soften the hardship waiver component such that a hardship does not have to only include the death of a property owner.

This motion failed by the following vote:

Ayes: 3 Noes: 3 (Campanella, Jordan, Thompson) Abstain: 0 Absent: 1 (Schwartz)

High-Fire Hazard Zones

MOTION: Thompson/Higgins

Recommend removal of the prohibition of ADUs in high-fire hazard zones, with the ordinance to stipulate Fire Department review of all ADU applications in these zones.

This motion was discussed and amended below.

Commissioner comments:

Commissioner Thompson:

- The prohibition of ADUs in the foothill and extreme foothill zones is not appropriate or fair, as additions to single-family homes in these zones are not restricted.

Commissioner Higgins:

- The prohibition of ADUs in these zones does not come with a quantitative analysis of ADU impacts on fire safety. Fire protection concerns should be addressed in a broader planning exercise.

Commissioner Jordan:

- In favor of removing the blanket exclusion of ADUs in these zones.

- Questioned if stipulating Fire Department review of ADU applications in these zones represents a discretionary review.

Commissioner Lodge:

- The difference between an ADU and an addition to a single-family home in these areas is that an ADU is an additional household with at least one car.
- The state law allows ADUs to be restricted if there is a genuine safety concern. Evacuation of residents from the high-fire hazard zones is such a concern.
- The County has kept its restriction of ADUs in these zones, and the City should as well.

Chair Wiscomb:

- In favor of an added parking requirement if the prohibition in these zones is lifted, as well as strict and clear guidelines set by the Fire Department with respect to safety.
- Expressed concern about tandem parking in the event of an evacuation.
- Legalizing ADUs in these zones improves public safety by legitimizing them and adding proper restrictions.

AMENDED MOTION: Thompson/Higgins

Recommend removal of the prohibition of ADUs of high-fire hazard zones, with the ordinance to stipulate Fire Department review of all ADU applications in these zones, *and with additional parking required for ADUs in these zones.*

This motion carried by the following vote:

Ayes: 5 Noes: 1 (Lodge) Abstain: 0 Absent: 1 (Schwartz)

Application Deemed Complete

Commissioner Campanella brought forward for discussion the following: which applications would be required to conform to the new ordinance, those deemed complete by its date of adoption or applications submitted by its date of adoption; and the maximum allowable square footage of units on lots of 5,000 to up to 9,999 square feet.

MOTION: Campanella/Higgins

Recommend allowing ADU projects submitted prior to ordinance adoption to continue in compliance with state law.

This motion carried by the following vote:

Ayes: 5 Noes: 1 (Lodge) Abstain: 0 Absent: 1 (Schwartz)

ADU Sliding Scale for Unit Size

MOTION: Campanella/Jordan

Recommend a proposed maximum ADU size increase from 700 square feet to 800 square feet on lots from 5,000 square feet up to 9,999 square feet.

This motion was discussed and amended below.

Commissioner comments:

Commissioner Campanella:

- Would like to see the maximum ADU size increase to 800 square feet on lots up to 9,999 square feet to allow for a two-bedroom, one-bathroom unit to meet a family's needs, even if this requires an exception to the zoning ordinance.

Commissioner Jordan:

- It is problematic to create a sliding scale that references zoning ordinance requirements for accessory structures, not accessory dwelling units. The scale should fit the goals of an ADU ordinance, not try to fit an old ordinance.
- The scale is too restrictive overall and gets to a maximum 1,200 square foot ADU unit size too slowly.

Commissioner Lodge:

- Disagrees that the ADU maximum unit sizes should increase; these units are not meant to be the size of a tract house.

Commissioner Higgins:

- Agrees that the ADU maximum unit sizes should be increased, even if an amendment to the zoning ordinance is required.

AMENDED MOTION: Campanella/Jordan

Recommend the use of the American Institute of Architects' proposed maximum unit size chart: 600 square feet on lots up to 5,000 square feet; 800 square feet on lots from 5,000 to 9,999 square feet; 1,000 square feet on lots from 10,000 to 14,999 square feet; and 1,200 square feet on lots from 15,000 to 19,999 square feet.

This motion carried by the following vote:

Ayes: 5 Noes: 1 (Lodge) Abstain: 0 Absent: 1 (Schwartz)

Requirements for Open Yard, FAR, and Total Square Footage of Accessory Buildings on a lot**MOTION: Higgins/Campanella**

Recommend that staff analyze flexibility of the open yard area standard based on ADU size and the idea that to the extent that the maximum unit sizes (as recommended earlier) reduce open yard, that is acceptable.

This motion was discussed and voted on below.

Commissioner comments:

Commissioner Jordan:

- The former idea of open yard is different from what it will be 20-30 years from now. The amount we have now will not appear a correct use of land and resources in the future.
- Supports finding a way, in each parcel size, to increase the net added square footage of an ADU as much as possible, up to the 1,200 square foot state allowance.

Commissioner Higgins:

- The approach as stated in the motion is for staff to analyze as “homework” before going to Council.
- The approach provides simplicity and serves the goal of expanding rental housing and improving livability (i.e., family-oriented, larger structures).

Commissioner Lodge:

- Cannot support this idea. Livability for families goes beyond unit size; it also includes open space where children play and access to sunlight for the landscaping that is left.

Chair Wiscomb:

- Prefers applicants use modifications to meet open yard requirements. The Commission has already recommended increases in maximum unit size; to relax the open yard requirement seems to be moving too hastily.

Commissioner Jordan:

- The goal is not necessarily to protect the traditional 1950s single-family tract residence with a large yard; the goal is to gain more housing in the least impactful manner.
- The adjustment of open yard is a personal choice for a homeowner; the FAR is a constraint by the community to protect neighborhood compatibility. Therefore, the open yard requirement is fair game for change.

The motion remained on the floor and was voted on:

MOTION: Higgins/Campanella

Recommend that staff analyze flexibility of the open yard area standard based on ADU size and the idea that to the extent that the maximum unit sizes (as recommended earlier) reduce open yard, that is acceptable.

The motion carried by the following vote:

Ayes: 4 Noes: 2 (Lodge, Wiscomb) Abstain: 0 Absent: 1 (Schwartz)

General Commissioner comments:

Commissioner Jordan:

- Would like some version of the FAR regulation to remain as the best method to regulate neighborhood compatibility.
- Finds the current draft ordinance an improvement, but also finds the inherent layers, referrals to other ordinances, and the difficulty of navigating it to indicate a conflict that is not consistent with the state law. It appears to restrict the effort of providing more housing.
- Would prefer more conversation on this, and would like to see more homeowner involvement than architect involvement.

Forward Draft Ordinance with Recommended Revisions to City Council

MOTION: Higgins/Campanella

Forward the Draft ADU Ordinance to City Council with Planning Commission comments.

This motion carried by the following vote:

Ayes: 5 Noes: 1 (Lodge) Abstain: 0 Absent: 1 (Schwartz)

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 7:12 P.M.

A. Committee and Liaison Reports:

1. Staff Hearing Officer Liaison Report:

No report.

2. Other Committee and Liaison Reports

a. Commissioner Thompson reported on the Single Family Design Board meeting of January 22, 2018.

b. Commissioner Wiscomb reported on Parks and Recreation Commission of January 24, 2018, and reported that the Cabrillo Ballfield is currently under renovation.

V. ADJOURNMENT

Chair Wiscomb adjourned the meeting at 7:14 p.m.

Submitted by,

Kathleen Goo, Commission Secretary

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City of Santa Barbara)
Community Development,)
Planning Division)
P.O. Box 1990)
Santa Barbara, CA 93102-1990)
)
) No fee per GOVT CODE 6103

Space above line for Recorder's Use

Address: [ADDRESS]

A.P.N.: [ASSESSOR'S PARCEL NO]

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], 20[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, the Property consists of one [SQUARE FOOTAGE] square foot single residential unit ("Residential Structure"); and

WHEREAS, Owner seeks to create two separate residential units consisting of the [SQUARE FOOTAGE OF PRIMARY UNIT] square foot Residential Structure ("Primary Dwelling Unit") and the other unit to be [NUMBER OF BEDROOMS IN ADU] bedroom(s) and [SQUARE FOOTAGE 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 creation 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 above-stated 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 restricted to the ownership, occupancy and other restrictions listed below. These restrictions shall be in effect until removal of the Accessory Dwelling Unit. 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 the elimination of any kitchen and cooking facilities from the former Accessory Dwelling Unit.

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. Either the Primary Dwelling Unit or the Accessory Dwelling Unit shall be occupied by the Owner ("Owner's Unit") except when disability or infirmity require institutionalization of the Owner or when the City Community Development Director or the Director's designee approves in writing Owner's written request for a temporary absence due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause. The Owner shall not rent or lease the Owner's Unit without prior written approval by the City Community Development Director or the Director's designee. Any rental without said prior written approval shall constitute a violation of this Covenant, and shall result in an assignment of all rents due or collected, as described in Section III below.

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 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.
- 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. Owner shall maintain the Property in conformance with State and local housing quality standards and code requirements. Owner agrees to allow the City to inspect the Accessory Dwelling Unit upon request, and Owner shall correct any condition out of compliance.
- C. 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.
- D. 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.
- E. The terms of this Covenant shall be interpreted under the laws of the State of California.
- F. 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 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

APPROVED AS TO FORM:
City Attorney

By: _____
N. Scott Vincent
Assistant City Attorney

OWNER:

[OWNER'S NAME AS SHOWN ON TITLE]

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 Here Insert Name and Title of the Officer

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: _____



EXHIBIT A
Real Property