



# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** November 10, 2022  
**AGENDA DATE:** November 17, 2022  
**PROJECT:** Accessory Dwelling Unit Ordinance Amendments (PLN2022-00391)  
**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470  
 Daniel Gullett, Interim City Planner  
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### I. RECOMMENDATION

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

### II. BACKGROUND

New state legislation intended to increase production of Accessory Dwelling Units (ADUs) necessitates the City to update zoning regulations. Assembly Bill (AB) 221 and Senate Bill (SB) 897, which both take effect on January 1, 2023, include numerous changes to the state ADU laws. The changes proposed by the new state laws include an increase to the maximum building height limit and a number of technical changes intended to make ADUs easier to build.

In addition to the changes mandated by state law, the City's Draft 2023-2031 Housing Element includes policy recommendations to facilitate production of ADUs. These recommendations include consideration of conversion of commercial portions of mixed-use buildings to ADUs, and additional flexibility to construct two ADUs (double-ADUs) on existing multi-unit properties.

#### **History of Local Amendments to Accessory Dwelling Unit Regulations**

- In 2017, the state made significant changes to how cities can regulate ADUs, primarily with respect to parking, types and sizes of ADUs, approval process, and timelines. In response, the City of Santa Barbara adopted new local regulations for ADUs and Junior Accessory Dwelling Units (JADUs) consistent with 2017 state law for Inland Zoning (Title 30).
- In 2019, City Council adopted an Interim Ordinance to:
  - Temporarily prohibit ADUs and Junior ADUs in the Foothill and Extreme Foothill High Fire Hazard Areas, and

- Prohibit ADUs on property containing, or immediately adjacent to, a historic resource if it might result in a substantial adverse change to the significance of that resource.
- In 2020, City Council adopted amendments for ADUs in the Inland and Coastal Zoning Ordinances (Title 30 and Title 28) to regulate ADUs consistent with state law. (The Title 28 amendments required certification as a Local Coastal Program (LCP) amendment by the California Coastal Commission before they became effective in the Coastal Zone.) In addition, an Interim Urgency Ordinance (Interim Ordinance) was proposed by staff for ADUs and JADUs to provide staff, City Council, and the Planning Commission the opportunity to consider additional information before amending the ADU ordinance in compliance with the new state laws. Specifically, there were concerns that ADUs and JADUs allowed by right under state law could result in significant adverse impacts, primarily regarding 1) traffic congestion and on-street parking demand, 2) adverse changes to or destruction of significant historic resources, and 3) public safety threats in High Fire Hazard Areas.
- In 2021, City Council adopted a resolution approving a LCP amendment to add Chapter 28.86 to regulate ADUs in the coastal zone, and amending related sections within Title 28. On December 17, 2021, the Coastal Commission approved the LCP Amendment to regulate ADUs in the Coastal Zone and certify amendments to Coastal Zoning (Title 28). Those amendments became effective in February 2022.

### **Types of Accessory Dwelling Units Allowed**

The City allows for three different types of ADUs: Special ADUs, Standard ADUs, and Junior ADUs. An ADU is defined as an attached or a detached residential unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residential unit. Special ADUs are specific types of smaller accessory dwelling units, that include Junior ADU's, with certain size, height, and setback standards that, if followed, allow for an accessory dwelling unit to be permitted on lots in a Very High Fire Hazard Severity Zone (Extreme Foothill and Foothill), or more than one accessory dwelling unit on a lot, and allows additional reductions and exceptions to development standards for open yard and maximum floor area. Standard ADUs are typically larger accessory dwelling units with size, height, and setback standards. Junior ADUs are units with no more than 500 square feet and contained entirely within the structure of an existing or proposed single residential unit.

ADUs are allowed in any zone that allows residential use on a lot developed or proposed to be developed with one or more residential unit(s). Certain locations such as lots within the Very High Fire Hazard Severity Zone (Extreme Foothill and Foothill) are limited to Special ADUs.

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

Since 2018, there has been a consistent steady stream of permit applications for ADUs, including legalizing existing units, adding ADUs to existing homes and garages, converting rooms and structures to ADUs, and constructing new detached ADUs. As of October 2022, the City has received 909 applications. Of those, 397 have received certificate of occupancy, 229 are under

construction, 283 are in the permit process, and 151 have been denied, expired, or withdrawn. This volume of permit applications, along with responding to continuous changes and ambiguities in state law, has added a significant workload to the Planning and Building & Safety Divisions.

### III. **DISCUSSION**

Amendments are proposed for both the Inland Zoning Ordinance, Title 30 Section 30.185.040 *Accessory Dwelling Units* (Exhibit C) and the Coastal Zoning Ordinance, Title 28 Chapter 28.86, *Accessory Dwelling Units* (Exhibit D). After adoption by City Council, the Title 28 amendments would be submitted to the California Coastal Commission as a stand-alone Local Coastal Program amendment.

The proposed amendments can be summarized into three categories: 1) clean-up items, 2) state-mandated requirements, and 3) amendments to local standards to facilitate ADUs; all of which are discussed in more detail below.

#### **Summary of Proposed Amendments:**

- **Clean-Up Items.** Minor changes to wording, formatting, or location within the Ordinance for clarification. May include minor content change for ease of use that maintains the intent of the previously adopted ordinances. Please refer to Exhibit A.
- **State Requirements.** New or changed content necessitated by Senate Bill (SB) 897 and Assembly Bill (AB) 221 – effective January 1, 2023. Please refer to Exhibit B.
- **Local Standards.** New or changed content intended to facilitate the production of ADUs and consistent with the City’s Draft 2023-2031 Housing Element. These changes are discussed below and summarized in Table 1.

The discussion in this staff report will focus on the proposed amendments to the local standards with new or changed content, and on the state requirements that amend the maximum height for ADUs. All of the other changes will be noted in the exhibits, but due to their minor nature, are not discussed in this staff report.

#### **Summary of Local Standards Changes**

Table 1 includes a summary of amendments to local standards for discussion. It is not a comprehensive list of all changes proposed; it is intended to provide an overview of key topics. The California Government Code section that regulates ADUs (Gov. Code, §65852.2) allows local jurisdictions to impose (by ordinance) certain standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, and maximum size of a unit. While the majority of the City’s ADU regulations are mandated by state law, there are some local standards City staff included for discussion that are unique to our community. The proposed amendments to the local standards discussed below are the result of five years of reviewing permit applications for ADUs and staff observations of minor improvements that should help remove barriers to ADU construction and facilitate development.

Open Yard Reduction. The current ADU Ordinance allows an ADU to encroach into the minimum open yard area for single-unit and two-unit residential development. The ordinance also allows this same open yard reduction for an ADU built over a new 500 square foot garage. However, if there is not enough open yard area, the only way to accommodate a small laundry room or storage area is through a zoning modification. A small 150 square foot addition is proposed to be allowed to encroach into the open yard area, along with a new ADU built over a two-car garage.

Greater Flexibility for Double-ADUs. Under the current rules, if the owner of a multi-unit development wants to build two new ADUs, the double-ADU must either be new construction, or the lot must be currently developed with 8 existing dwelling units. This is because the law only allows 25% of the existing number of units to be converted from existing floor area. Staff is recommending an amendment to the local standards for a double-ADU to allow up to two ADUs – instead of one – to be converted from existing floor area. This will facilitate the conversion of an existing garage or basement to two ADUs instead of requiring the garage to be demolished in order to build new construction.

Convert Upper-Floor Commercial Areas to ADUs. State law allows residential floor area to be converted to ADUs – but it does not allow commercial floor area such as retail or office to be converted. Amendments to the City’s local ordinance would allow upper-floor commercial spaces to be converted to ADUs and provide more flexibility and the adaptive reuse of existing buildings. Staff recommends only the upper-floor areas, not the ground floor commercial spaces, be allowed to convert to an ADU to support and maintain mixed-use development along commercial corridors and activation of the street.

<b>Table 1: Amendments to Local Standards to Facilitate ADUs</b>	
<b>LOCAL STANDARDS</b>	<b>Applicable Code Section</b>
<b>Open Yard Reduction for ADU Over Detached Garage</b> – Revised the open yard encroachments to allow an additional 150-square-foot area for a staircase or laundry/storage.	SBMC §30.185.040.G.4.d / §28.86.055.E.4
<b>Converted Non-Livable Space</b> – Allows up to two – rather than just <i>one</i> – special ADUs on lots with existing multi-unit development to be converted from existing non-livable floor area (garage, basement etc.).	SBMC §30.185.040.L.3.a / §28.86.090.C.1
<b>Configuration – Two-Unit, Multi-Unit or Mixed-Use Lots</b> – Allows existing upper-floor <i>commercial</i> floor area in a mixed-use development – rather than just floor area of an existing <i>residential</i> structure – to be converted to one or more special ADUs.	SBMC §30.185.040.L.3.a / §28.86.090.C.1

<p><b>Maximum Height &amp; Bedrooms</b> – In response to the state-mandated height increase from 16 feet to 18 feet, newly constructed special ADUs may not exceed two bedrooms and a maximum of one story.</p>	<p>SBMC §30.185.040.L.4 &amp; 5 / §28.86.090.D &amp; E</p>
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**Summary of ADU Building Height Changes**

One of the more significant changes made to the state ADU law is related to maximum building height. The City’s current ADU height regulations are less restrictive than state law for standard ADUs; and are the same as state law for special ADUs. The City’s proposed amendments attempt to balance the concerns of the community to ensure ADUs are compatible with existing residential development while incorporating the state-mandated changes intended to facilitate the construction of new housing.

Local agencies must allow ADUs taller than 16 feet in the following circumstances:

- If located within a half-mile of a major transit stop or high-quality transit corridor, a detached ADU that is on a lot with a single-family or multi-family dwelling may be up to 18 feet in height by right, and the ADU may be up to 2 feet taller (for a maximum of 20 feet) if necessary to match the roof pitch of the ADU to that of the main house. Before this most recent legislation, local agencies could cap the height of a detached ADU at 16 feet.
- If a detached ADU is on a lot with an existing or proposed multistory multi-family dwelling, the ADU may be up to 18 feet in height (again, by right), regardless of how close it is to transit.
- An attached ADU may now be up to 25 feet in height or as tall as the primary dwelling may be under the underlying zone, whichever is lower. A city may, however, still limit the ADU to two stories.

Staff recommends increasing the maximum height for a Standard detached ADU from 17 to 18 feet and for a Special detached ADU from 16 to 18 feet to be consistent with State law. Allowing an 18-foot height maximum for Standard and Special ADUs regardless of the ADU’s location to a major transit stop or high-quality transit corridor, or location on a lot developed with a multi-unit development, creates a uniform measure that is easier to implement and understand. Since a significant portion of the City is located within a half-mile of a major transit stop or high-quality transit corridor, staff recommends the height increase be applied city-wide.

Due to the State-mandated height increase from 16 feet to 18 feet, staff also recommends that newly constructed Special ADUs may not exceed two bedrooms and a maximum of one story. This recommendation is made to limit the density/intensity of ADUs in fire prone neighborhoods because when more people and cars need to evacuate in an emergency situation, often on narrow, winding roads, it makes evacuation more complex.

The proposed amendments to ADU building height are shown in Table 2 below. The changes from existing are shown as underlined text.

<b>Table 2: Amendments to ADU Building Height</b>	
<b>CURRENT HEIGHT</b>	<b>PROPOSED HEIGHT</b>
<b>Standard ADU</b>	<b>Standard ADU</b>
<p>The greater of:</p> <ul style="list-style-type: none"> <li>• Height of the primary residential unit; or</li> <li>• Number of stories of the primary residential unit; or</li> <li>• 17 feet; or</li> </ul> <ul style="list-style-type: none"> <li>• If ADU is over a garage –maximum height or number of stories allowed in the zone; or</li> <li>• With discretionary approval – maximum height or number of stories allowed in the zone</li> </ul>	<p>The greater of:</p> <ul style="list-style-type: none"> <li>• Height of the primary residential unit; or</li> <li>• Number of stories of the primary residential unit; or</li> <li>• <u>18 feet; with an additional two feet in height if necessary to match the roof pitch and height of the primary residential unit;</u> or</li> <li>• <u>25 feet for an attached unit;</u> or</li> <li>• If the ADU is over a garage –maximum height or number of stories allowed in the zone; or</li> <li>• With discretionary approval – maximum height or number of stories allowed in the zone</li> </ul>
<b>Special ADU</b>	<b>Special ADU</b>
<ul style="list-style-type: none"> <li>• 16 feet</li> </ul>	<ul style="list-style-type: none"> <li>• <u>18 feet; with an additional two feet in height if necessary to match the roof pitch and height of the primary residential unit; and maximum one-story</u></li> </ul>

**IV. ENVIRONMENTAL REVIEW**

Under California Public Resources Code 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 and 65852.22 of the Government Code, which is the State Accessory Dwelling Unit law.

**V. NEXT STEPS**

Following Planning Commission discussion and recommendations, the draft ADU ordinances will be presented to the City Council Ordinance Committee, who will review the draft ordinances with consideration of the Planning Commission’s recommendations. The final draft ADU Ordinances will then be presented to City Council for introduction and adoption. After adoption,

staff will submit the ordinance to the State Department of Housing and Community Development for review within 60 days after adoption and process the LCP amendment per Coastal Act requirements.

Exhibits:

- A. Proposed Title 30 & Title 28 Clean-Up Items
- B. Proposed Title 30 & Title 28 State Requirements
- C. Proposed Amendments to SBMC Title 30 Related to Accessory Dwelling Units
- D. Proposed Amendments to SBMC Title 28 Related to Accessory Dwelling Units