



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Nick Tarbet
Policy Analyst

DATE: April 10, 2018

**RE: Text Amendment: Accessory Dwelling Unit Regulations
PLNPCM2014-00447**

Item Schedule:

Briefing: April 10, 2018

Set Date: TBD

Public Hearing¹: TBD

Potential Action: TBD

ISSUE AT A GLANCE

The Council will receive a follow-up briefing about an ordinance that would amend the City's Accessory Dwelling Unit (ADU) regulations. ADUs are small apartments that share a lot with a single-family home. They can be basement apartments, above and inside garages, or entirely separate buildings. Currently, new ADU permits are only available for properties located a half mile or less from a fixed rail transit stop.

The Council discussed the ADU ordinance during many briefings in 2017. During the December 5, 2017 work session the Council conducted a straw poll and voted unanimously to send the ADU ordinance back to the Planning Division for modifications and return to the Council with a revised ordinance for consideration, particularly related to recommendations to consider ADUs as a conditional use permit.

Based on the Council's feedback, Planning Staff transmitted a revised ADU ordinance that incorporates the following changes:

1. Eliminate the boundary in the Planning Commission Proposal – allow ADUs citywide.
 - a. Make ADUs a conditional use in the FR (Foothill Residential District) and R-1 (Single Family Residential) zoning districts. *These are the zoning districts that only allow detached single family dwellings.*
 - b. Allow ADUs a permitted use in all other residential zoning districts that already allow duplexes, triplexes, and multi-family as permitted uses. (SR-1, SR-3, R-2 RMF-30 RMF-35, RMF-45, RMF-75, RB R-MU-35, R-MU-45, R-MU, and RO)
2. Prohibit ADUs from being used as short term rentals.
3. Require properties with ADUs to have a deed restriction stating that the owner must occupy the property.
4. Provide different standards for Attached and Detached ADUs.
5. Amend the wording of some standards for clarity.

6. Add design standards to address compatibility with principle structures.

OUTLINE OF PLANNING STAFF REPORT

The Administration's Transmittal Letter is divided up into the following sections:

- ADUs and the Conditional Use Process (pages 2-4)
- Impact to Planning Division and Planning Commission Workloads (pages 4-5)
- ADUs and Short-term Rentals (pages 5-6)
- Addressing Enforcement Issues (pages 6-7)
- Technical Issues associated with Planning Commission Recommendation (page 7)
- How the Ordinance Address Concerns Raised by Neighbors (pages 7-8)
- ADUs in SLC Report from Planning Division (*Attachment A*)
 - History of ADUs in SLC (pages 1-3)
 - What the City can expect from the updated ADU ordinance (pages 3-5)
 - University of Utah Urban Design Studio Study (pages 5-6)
 - How the ADU ordinance could help address Housing Issues (pages 6-7)
 - Other Possible Improvements to ADU ordinance (pages 7-9)

PUBLIC PROCESS GOING FORWARD

One of the major concerns expressed last year about the ADU ordinance is that the public was not adequately notified about the changes. Especially because the Council was considering allowing them Citywide, many felt a more significant outreach effort to the public was needed.

The Council may wish to discuss what type of public outreach should be conducted going forward. At a minimum, the Council could consider the notification tools below to invite the public to provide feedback on the changes. The Council schedule would automatically include a new public hearing, and possibly more than one, as has been the Council's practice for large issues. The Council may also consider requesting additional outreach, such as an open house or other public meetings.

The following list outlines public engagement tools that Council staff uses:

- Direct email to Community Council Chairs/recognized community organizations
 - Include key dates
 - Include link to Open City Hall (OCH) site
 - Provide an option to be added to the email list for the topic.
 - Ask them to share with their membership lists
- Open City Hall
 - Includes key meeting dates
 - Ways to provide feedback
 - Fact sheet
- Distribute information via website/email updates/social media
 - Link to OCH website
 - Ways to provide feedback
- Postcard mailing or other notification about proposed changes (delivered citywide to all residential properties)
- Following Council action, provide information back to those who have provided feedback or asked questions throughout the process.

ADDITIONAL INFORMATION

The City's existing ADU ordinance has been in effect since September 2012. According to Planning Staff, City staff has responded to dozens of inquiries from residents interested in establishing an ADU. However, only one ADU has been constructed since 2012. "Staff found that the primary reason the ordinance failed to achieve its purpose is the requirement to locate ADUs within one-half mile of an operational fixed transit stop, which narrows the applicability of the ordinance."

In June of 2014, former Mayor Ralph Becker initiated a petition to amend the City's ADU regulations.

Over the course of 2017, the Council held seven briefings on the proposed ADU ordinance. There were many revisions to the ordinance. *Attachment B - Council Staff Report, December 5, 2017*, includes a summary of the straw polls the Council conducted over the course of the many briefings.

Additionally, the Council received lots of feedback from interested constituents about the proposed ADU ordinance. *Attachment C* includes the most current ADU Open City Hall and Council Office Public Comment Matrix. A general summary of the comments and concerns includes:

- Parking
- Privacy
- Maintenance of property
- Used as short term rentals
- Building and site design (scale primarily, but also some desire to have ADU match existing architecture of principal structure)
- Height, size, setbacks, etc.
- Taking into account local context (comparing a proposed ADU to what is around it in terms of size)
- Access (parking access, entrances to ADU)
- Utility capacity
- Owner occupancy
- Number of people living in an ADU
- Revoking an ADU approval
- ADUs essentially change single family zoning
- Appropriateness of a boundary
- Possible Fair Housing concerns
- Sample ADU drawings that could be used to construct an ADU
- ADU focused staff person to help navigate the process
- Enforcing the regulations
- Abating nuisances
- Negative impact on neighborhood character
- Enforcement/compliance issues

Summary of Council requested changes

On December 5, 2017 the City Council held the final work session discussion on ADUs for 2017. At that meeting, the Council asked that the Planning Division to take back the proposed ADU ordinance for further refinement and consider including the following items in the revisions:

- Consider using the conditional use process for reviewing ADUs;
- Address issues related to using ADUs as short term rental units;
- Address enforcement issues, particularly through recording deed restrictions for approved ADUs;
- Correct some of the technical issues associated with the proposed ordinance so that it is easier to understand and administer; and
- Review some of the public concerns with ADUs and consider addressing those concerns

Since these changes are within the scope of the petition, and the Council has the ability to modify recommendations from the Planning Commission. The Council felt the changes did not need to go back to the Planning Commission for consideration and they did not request the Planning staff to do additional public outreach on the proposed changes to the ordinance.

Summary/Comparison of Changes

The following table outlines the notable changes in the proposed ADU ordinance compared to the existing ordinance.

ADU Ordinance Summary of Proposed Changes		
Regulation	Existing	Proposed
Location where ADUs are allowed in the City	ADU must be located within (1) a permitted residential district, and (2) ½ mile of an operational fixed rail station.	ADUs would be allowed Citywide as: A conditional use in the FR and R-1 zoning districts. Permitted use in all other residential zoning districts that already allow duplexes, triplexes and multi-family uses.
Permit Limit	None	None
Building Height	Underlying zoning district standards apply, however ADU may not be taller than principal dwelling.	Shall not exceed the height of the single family dwelling on the property or 17’, whichever is less. <i>Exception: if the single family dwelling if over 17’, and ADU may be equal to the height of the dwelling up to a maximum of 24’ for pitched roofs and 20’ for flat roofs.</i>
Maximum Square Footage	50% of principal dwelling, or 650 square feet, whichever is less.	Attached ADUs: must comply with building coverage requirements of underlying zoning, may not occupy more than 50% of the gross square footage of the single family dwelling. Detached ADUs: must comply with general yard, bulk and height limitations (21.A.40.050), may not exceed 650 square feet.
Lot Area	Minimum 5,000 square feet for detached ADU, no minimum for attached ADU, however lot coverage restrictions apply.	No minimum lot area

<p>Parking</p>	<p>One parking stall for one bedroom ADU, and two parking stalls for two (or more) bedroom ADU.</p>	<p>A minimum of one on-site parking space that is a minimum of 9’ wide by 20’ deep.</p> <p>Planning and Transportation Director may approve parking waiver if: (1) street parking is available immediately in front of the lot, (2) the lot is located within ¼ mile from a fixed transit line or arterial street with designated bus route.</p> <p>Tandem Parking may be allowed.</p>
<p>Entrance Requirements</p>	<p>Additional entrance not allowed on front façade unless setback 20 feet from front façade.</p>	<p>Attached ADU: (1) An existing entrance to the single family dwelling, (2) When located on a building façade that faces a corner side yard, the entrance shall be setback a minimum of 20’ from the front building façade, (3) Exterior stairs leading to an entrance above the first level of the principal structure shall only be located on the rear elevation of the building.</p> <p>Detached ADU: Must face an alley, public street or face the rear façade of the single family dwelling on the same property. (2) Face a side or rear property line provided the entrance is located a minimum of 10’ from the side or rear property line. (3) Exterior stairs leading to an entrance shall be located a minimum of 10’ from a side or rear property line unless the applicable side or rear property line is adjacent to an alley, in which case the minimum setback for the accessory building applies to the stairs.</p>
<p>Existing Windows</p>	<p>Must be removed if not compliant with ADU regulation.</p>	<p><u>Attached ADUs</u>: No Specific requirements.</p> <p><u>Detached ADUs</u>: Shall be no larger than necessary to comply with the minimum building code requirements for egress.</p>

		<p>Glazing shall be used when facing a side or rear property line.</p> <p>Windows on ground floor of an existing accessory structure may be retained if compliant with building/fire codes, However, windows on second level shall be brought into compliance with this section.</p>
Owner Occupancy	Owner occupancy required in either principal or accessory dwelling.	Owner occupancy required in either principal or accessory dwelling.
Deed Restriction	None	Yes. Must be filed with the County Recorder's Office and shall run with the land until the ADU is abandoned or revoked.
Business License	Required	Required
Certificate of Occupancy	Not Required	A certificate of occupancy will be not granted until the property owner completes the registration process.
Short Term Rentals	Does not address short term rentals.	Prohibits ADUs from being used as a short term rentals.
Rooftop Decks	Prohibited	Prohibited

Conditional Use Process Summary

According to the transmittal letter (*page 2*), the conditional use process was chosen because:

- It is a public process that allows neighbors the opportunity to help identify specific impacts;
- The approval body is the Planning Commission, not staff; and
- The zoning ordinance already has a list of detrimental impacts that are to be considered when reviewing a conditional use.

Legally the City cannot deny a conditional use based on lack of support. The only way a conditional use can be denied is if there is a detrimental impact that cannot be reasonably mitigated.

The conditional use process does provide the City with additional enforcement tools if an owner of an ADU violates any applicable regulation or condition of approval.

A Conditional Use is defined by the City's zoning ordinance as:

- A land use which, because of its unique characteristics or potential impact on the municipality, surrounding neighbors or adjacent land uses, may not be compatible or may be compatible only if certain conditions are required that mitigate or eliminate the negative impacts.

- Conditional uses are allowed unless appropriate conditions cannot be applied which, in the judgment of the planning commission, or administrative hearing officer, would mitigate adverse impacts that may arise by introducing a conditional use on the particular site.

[21.A.54.080: Standards for Conditional Uses](#) outlines the standards that must be met in order for a conditional use to be approved:

- **Approval Standards:** A conditional use shall be approved unless the planning commission, or in the case of administrative conditional uses, the planning director or designee, concludes that the following standards cannot be met:
 - The use complies with applicable provisions of this title;
 - The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;
 - The use is consistent with applicable adopted city planning policies, documents, and master plans; and
 - The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions.
- **Detrimental Effects Determination:** In analyzing the anticipated detrimental effects of a proposed use, the planning commission, or in the case of administrative conditional uses, the planning director or designee, shall determine compliance with each of the following:
 - This title specifically authorizes the use where it is located;
 - The use is consistent with applicable policies set forth in adopted citywide, community, and small area master plans and future land use maps;
 - The use is well suited to the character of the site, and adjacent uses as shown by an analysis of the intensity, size, and scale of the use compared to existing uses in the surrounding area;
 - The mass, scale, style, design, and architectural detailing of the surrounding structures as they relate to the proposed have been considered;
 - Access points and driveways are designed to minimize grading of natural topography, direct vehicular traffic onto major streets, and not impede traffic flows;
 - The internal circulation system is designed to mitigate adverse impacts on adjacent property from motorized, nonmotorized, and pedestrian traffic;
 - The site is designed to enable access and circulation for pedestrian and bicycles;
 - Access to the site does not unreasonably impact the service level of any abutting or adjacent street;
 - The location and design of off street parking complies with applicable standards of this code;
 - Utility capacity is sufficient to support the use at normal service levels;
 - The use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts;
 - The use meets city sustainability plans, does not significantly impact the quality of surrounding air and water, encroach into a river or stream, or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke;
 - The hours of operation and delivery of the use are compatible with surrounding uses;
 - Signs and lighting are compatible with, and do not negatively impact surrounding uses; and
 - The proposed use does not undermine preservation of historic resources and structures.
- **Conditions Imposed:** The planning commission may impose on a conditional use any conditions necessary to address the foregoing factors which may include, but are not limited to:

- Conditions on the scope of the use; its character, location, hours and methods of operation, architecture, signage, construction, landscaping, access, loading and parking, sanitation, drainage and utilities, fencing and screening, and setbacks; and
- Conditions needed to mitigate any natural hazards; assure public safety; address environmental impacts; and mitigate dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, and radiation.

POLICY QUESTIONS / POINTS FOR CONSIDERATION

1. The Council may wish to weigh the benefits of ADUs with the concerns that have been raised. Does the Council feel the proposed ordinance sufficiently balances the Council priorities with the benefits and concerns which have been raised?

The purpose statement of the proposed ADU ordinance outlines some potential or intended benefits:

- Create new housing units
- Provide more housing options in residential districts
- Allow more efficient use of existing housing stock
- Support affordable housing options
- Support transit oriented development and reduce automobile dependency
- Support economic viability of historic structures

Additionally, though not in the purpose statement:

- Support aging in place for older residents

Concerns that have been raised in relation to ADUs include:

- Negatively impacting the character of single-family residential neighborhoods through increased density
- Impacts to adjacent properties due to poor building and site designs
- Loss of privacy and general nuisance issues
- Increases traffic and parking issues
- Inability to adequately enforce the ordinance and monitor for these impacts

In *Attachment A - ADUs in SLC Report from Planning Division*, staff notes a few potential conflicts and potential changes the Council may wish to consider.

The Council may wish to further discuss these items with the administration.

2. Potential conflict with State Statute (*page 5: transmittal letter*)
 - Utah Code 10-6-160(3)(a) states that “a city shall complete an initial plan review for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the town.”
 - This is due to the Zoning Certificate requirement and 30 day hold for noticing
 - ***Does the Council wish to discuss this potential conflict with the Administration?***
3. Proposed Owner Occupancy requirements may be too restrictive (*page 6-7: Transmittal Letter and pages 7-8: ADUs in SLC Report from Planning Division*)

- If the goal of the owner occupancy requirements is to avoid absentee owners, the current requirements may be more restrictive than necessary
 - Pages 7-8 of the Planning Division report outlines sample language for a simplified definition of “Owner Occupied.”
 - ***Does the Council wish to consider making changes to the Owner Occupied requirement?***
4. Streamline process by making attached ADUs a permitted use in all zoning districts. (*page 8: ADUs in SLC Report from Planning Division*)
 - Planning Staff notes that internal ADUs do not have the same physical impacts on a property as a detached ADU. Allowing them as permitted in all zoning districts would result in more ADUs being built in the City.
 - ***Does the Council wish to further discuss this potential change to the ADU ordinance?***
 5. Allow for the ADU parking requirement to be eliminated even if the primary dwelling does not meet the current parking requirement. (*pages 8-9: ADUs in SLC Report from Planning Division*)
 - Planning Staff notes many older properties in the City do not meet current parking requirements and could not qualify for a waiver.
 - ***Does the Council wish to further discuss potential changes to the parking requirements of the ADU ordinance?***
 6. Notice to Neighbors (*page 9: ADUs in SLC Report from Planning Division*)
 - The proposed ordinance includes a requirement for a zoning certificate and requires a 30 day notice period before the certificate can be issued.
 - The purpose is to let the property owners know that a building permit has been submitted for an ADU, though this does not create any appeal rights for the neighbors.
 - ***Does the Council wish to further discuss potential changes to the noticing requirements of the ADU ordinance?***
 7. Business License Requirement (*page 9: ADUs in SLC Report from Planning Division*)
 - If an ADU is occupied by a family member, there may not be a rental contract or any sort of financial transaction, and any rental unit is already required to have a business license
 - ***Does the Council wish to discuss the business licensing requirements of the ADU ordinance?***
 8. Abandonment of an ADU(*page 9: ADUs in SLC Report from Planning Division*)
 - Planning Staff notes the abandonment section of the ADU ordinance may be difficult to enforce.
 - ***Does the Council wish to ask the Administration if they have recommendations for further clarifications to the abandonment section of the ADU ordinance***