



# COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

**TO:** City Council Members

**FROM:** Nick Tarbet  
Policy Analyst

**DATE:** November 28, 2017

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

**Item Schedule:**

Briefing 1: Jan 17  
Briefing 2: July 11  
Briefing 3: Sept 5  
Briefing 4: Oct 17, 2017  
Briefing 5: November 21  
Briefing 6: November 28  
Set Date: July 25, 2017  
Public Hearing 1: Sept 19,  
Public Hearing 2: Oct 3  
Potential Action: TBD

## **NEW INFORMATION**

During the October 17 work session, the Council identified eight items they requested more information on from the Administration (see list below). A timeline was not set for when the information would be brought back to the Council.

1. Determine where/if a boundary is appropriate
2. Setting a follow-up date to consider revisions to the ADU ordinance (2-3 years out)
3. Identify the pros/cons of the conditional use vs. special exception process
4. Off street parking assessment/survey
  - Identify which neighborhoods have capacity vs. which don't.
5. More information on enforcement complexities
  - Specifically on owner occupied and three unrelated
6. Create staff position assigned to ADUs for processing, facilitating, design etc.
7. Create 4-6 designs for people to use.
8. Water/sewer capacity concerns.

Planning staff have indicated they will need more time to provide responses to these requests. If the Council is interested in adopting the ADU ordinance before the end of the year, it will likely need to be done without receiving an official response from the Administration on these items.



If the Council is interested in moving forward on ADUs before the end of the year, it can consider the following options:

**1. Defer Action until information is transmitted**

Defer action until the Administration is able to transmit a response the information requested by the Council during the October 17 briefing.

**2. Adopt proposed ordinance and include legislative actions**

Adopt an ADU ordinance and choose from the following options:

- a. Decide on whether ADUs will be allowed Citywide or just in certain areas.
  - i. Allow ADUs citywide
  - ii. Add the boundary delineating where ADUs would be allowed in the City
    - o Planning Commission recommended Boundary.
  - iii. Consider a different version of the proposed boundary line.
  
- b. Decide whether or not to keep the proposed citywide cap of 25.
  
- c. Include legislative action requesting the Administration come back to the Council at a time yet to be determined, with a report on ADUs and proposals for amendments.  
Some or all of the following items should be included for consideration:
  - i. Identify the pros/cons of the conditional use vs. special exception process
  - ii. Off street parking assessment/survey
    - o Identify which neighborhoods have capacity vs. which don't.
  - iii. More information on enforcement complexities
    - o Specifically on owner occupied and three unrelated
  - iv. Create staff position assigned to ADUs for processing, facilitating, design etc.
  - v. Create 4-6 designs for people to use.
  - vi. Water/sewer capacity concerns.

**Additional Items for Consideration**

The following items have been raised as discussion points during previous briefings; however, the Council has not indicated if they would like these changes incorporated in to the final draft of the ordinance. The Council may wish to discuss these items and give staff further direction as to which of these items should be changed in the final draft of the ordinance.

o Maximum size of an ADU

Some constituents have raised concerns that the maximum size of an attached ADU could be very large and have recommended the ordinance be revised to only allow smaller units in attached ADUs.

- Currently, the maximum size for ADUs depends on the whether it is an attached or detached units:
  - Attached: may not exceed 50% of the gross floor area of the principal dwelling
  - Detached: may not exceed 50% of the gross floor area of the principal dwelling or 650 sf, whichever is less.

*Does the Council wish to consider revising the ADU ordinance pertaining to the maximum size of attached units?*

o Outdoor Roof Decks and Balconies

Some constituents have raised privacy concerns about allowing outdoor roof decks and balconies with an ADU

- Currently, these are allowed if they do not exceed 86 sf, are located facing an alleyway

*Does the Council wish to consider revising the ADU ordinance pertaining to outdoor roof decks and balconies?*

### **Comments from University of Utah, Department of City and Metropolitan Planning**

- Professor Michael Larice met with a few of the Council Members to discuss ADUs. He is currently teaching an urban design studio focused on ADUs. His class has done research on other cities who have implemented an ADU ordinance.
- He provided the UPDATED attached white paper (**ATTACHMENT A**) with 12 recommendations. This updated paper incorporates feedback that the Studio received from City Staff on their original proposal.

***The following information was provided for the October 17 work session. It is provided again for background purposes.***

The Council held two public hearings on the proposed ADU ordinance. The following items have been identified by staff as points of potential discussion for the Council to consider. The Council may wish to discuss these items and give staff further direction as to which of these items should be changed in the final draft of the ordinance, and whether the Council is interested in pursuing additional public notice, such as a city-wide mailing.

#### ○ Maximum size of an ADU

Some constituents have raised concerns that the maximum size of an attached ADU could be very large and have recommended the ordinance be revised to only allow smaller units in attached ADUs.

- Currently, the maximum size for ADUs depends on the whether it is an attached or detached units:
  - Attached: may not exceed 50% of the gross floor area of the principal dwelling
  - Detached: may not exceed 50% of the gross floor area of the principal dwelling or 650 sf, whichever is less.

*Does the Council wish to consider revising the ADU ordinance pertaining to the maximum size of attached units?*

#### ○ Outdoor Roof Decks and Balconies

Some constituents have raised privacy concerns about allowing outdoor roof decks and balconies with an ADU

- Currently, these are allowed if they do not exceed 86 sf, are located facing an alleyway

*Does the Council wish to consider revising the ADU ordinance pertaining to outdoor roof decks and balconies?*

#### ○ Design Guidelines

Some have suggested the proposed ordinance needs more detailed design guidelines that will help make ADUs more compatible with the surrounding properties. Others have suggested there should be different standards for attached and detached ADUs.

Currently, the draft ordinance outlines the requirements for height, setbacks, maximum size, entrances to the ADU, parking, and the location of upper level windows.

*Does the Council wish to consider requesting more information on the process to create detailed design guidelines for ADUs?*

○ Parking Requirements

The current Draft Ordinance requires one off-street parking stall for one and two bedrooms units. Many comments received have focused on parking concerns, specifically about the impact increased demand for on street parking might have on neighborhoods where street parking is already scarce. Some comments suggested that certain neighborhoods can handle more cars parking on the street, while other neighborhoods may not have the capacity.

*Does the Council wish to discuss parking requirements and request more information on ways to potentially mitigate concerns from specific neighborhoods?*

○ Minimum Lot Area

Some raised concerns about removing the minimum lot area requirements. The current ordinance requires a minimum lot area of 5,000 sf for detached ADUs. Although there is no minimum lot area for internal or attached ADUs in the draft ordinance, underlying lot coverage restrictions still apply.

*Does the Council wish to discuss minimum lot areas for ADUs?*

○ Enforcement Issues

Many comments were focused on enforcement concerns that the City would be unable to enforce on the owner occupied requirement, ensuring that no more than 3 unrelated adults live in a property or the parking requirements.

Some suggested the Council needs to hire more staff to focus on ADUs, for both permitting and enforcements.

The Administration provided the following response on how Civil Enforcement handles complaints about illegally occupied ADUs with no record of a building permit:

- Initiate enforcement for work done without appropriate permits and approvals
- Check our records to ascertain owner information
- If the conversion took away the legally situated off street parking include that in enforcement
- Start with a friendly notice and hope for a response from responsible party (Owner)
- If the property owner is cooperative and wants to bring the property into compliance we're flexible on timeframes as long as they're reasonable.

- Consider fire and life safety concerns in expediency to force compliance
- If we get no response or it's clear that a property owner isn't interested in bringing the property into compliance a notice and order is issued. Before any fines are ever imposed there is a five day notice that goes out prior to the expiration date of a notice and order. If an extension is granted another five day notice is issued prior to the expiration of that extension.
- Building Services has only done four of these types of units since the previous ordinance was passed, so limiting these units to 25, will most likely, have little impact on the civil enforcement team.

*Does the Council wish to further discuss enforcement of ADUs, including potential staffing needs that may arise? Does the Council wish to ask the Administration what a staffing model would need to look like to fully address enforcement concerns, and how that might be funded?*

- Reporting Requirements

The Council requested reporting requirements to be included in the ADU ordinance so the City can adequately track where ADUs are being built and how they are impacting neighborhoods. The following language has been added to the draft ordinance:

Reporting: The planning division shall provide an annual report to the city council detailing the number of applications, address of each unit for which an application was submitted, a brief explanation of reasons why an application was denied, and a map showing approved accessory dwelling units. The report shall be transmitted to the city council by February 15th for the previous year.

The proposed language may not sufficiently address the Council's desire to track potential impacts from ADUs on neighborhoods.

*Does the Council wish to add more requirements in the reporting section of the ADU ordinance? Additional information may include: enforcement cases pertaining to issues such as; complaints of any kind to the City, reported parking problems and Housing and Zoning enforcement.*

## **ADDITIONAL FOLLOWUP**

- **Does the current version of the ordinance which allows ADUs citywide need a recommendation from the Planning Commission**
  - Based on public comments, Council Staff requested a legal opinion from the Attorney's Office on whether or not the current draft ordinance to allow ADUs citywide should also receive a recommendation from the Planning Commission. *(The Planning Commission's recommendation included a boundary delineating areas of the City where ADUs would be permitted.)*
  - The Attorney's Office responded that the ordinance does not need to go back to the Planning Commission for a recommendation based on the following reasons:

- The notice of the planning commission hearing from June 22, 2016 at which the planning commission voted to forward a positive recommendation to the council, indicates that the ADU regulations were proposed to apply to certain zoning districts and the notice did not include language indicating a proposal to geographically limit the ADU regulations in any other way.
  - The Planning Commission staff report listed as “options” for the commission that it could forward a recommendation to the city council with “[r]emoval or modification of proposed ‘Accessory Dwelling Units Boundary’” and the commission discussed whether its recommendation should remove that boundary area limitation. Accordingly, the planning commission was presented with a proposal that omitted the recommended ADU boundary area, though it voted to recommend its inclusion.
- **Comments from University of Utah, Department of City and Metropolitan Planning professor**
  - Professor Michael Larice met with a few of the Council Members to discuss ADUs. He is currently teaching an urban design studio focused on ADUs. His class has done research on other cities who have implemented an ADU ordinance.
  - He provided the attached white paper (**ATTACHMENT A**) with 12 recommendations. The Council may wish to discuss these comments.
- **Enforcement of ADU family Trust Rules**  
 In order for a trust owned property to have an ADU, the current ordinance states: “Each living trustor of the trust shall so occupy the dwelling unit.”

It is further clarified that all parties of a trust or 50% ownership must live in the property in order to have an ADU:

“Even if a person meets the requirements of subsection B.1 or B.2 of this section, such person shall not be deemed an owner occupant if the property on which the dwelling unit is located has more than one owner and all owners of the property do not occupy the dwelling unit with a bona fide intent to make the dwelling unit their primary residence.”

- The Council’s Attorney, Neil Lindberg, was asked to provide a response on the enforceability of provisions regarding a person who occupies an accessory dwelling unit located on property owned by a family trust.
- According to the memorandum (**Attachment B**), successful enforcement depends on the degree to which the regulations are explicit and objective because ambiguous regulations will be construed to favor the property owner. It is his opinion that these provisions should be readily enforceable based on the following reasons:
  - They are based on a Provo ordinance upheld by the Utah Supreme Court.
  - Relevant language in the proposed ordinance should be readily enforceable as written because it is consistent with the Anderson case and unambiguous

Public hearings were held on September 19 and October 3. At the conclusion of the October 3 hearing, it was noted a follow-up briefing will be held on October 17 to discuss the comments raised during the public hearings. Additionally, another public hearing could be scheduled in the future if the Council makes changes to the current DRAFT ordinance based on the public comments.

A general summary of the comments from both public hearings is provided below.

### **Comments in general support of the proposed ADU ordinance**

- Could provide new type of affordable housing.
- Communication could have been better, but generally support.
- Good policy that allows incremental growth.
- Eliminate any boundaries or limitations to where ADUs are allowed.
- The owner occupied requirement is good.
- ADUs can help alleviate the City's housing shortage
- ADUs can enhance family and community by helping families who want to live close together
- City should consider allowing tiny houses.
- ADUs can provide supplemental income to some who need it.
- ADUs can help provide affordable housing in every neighborhood
- Helps increase density
- University of Utah students are doing research that shows ADUs can be successful.
- The ordinance needs refining, but could be a good pilot program.
- More housing everywhere in the City is needed – ADUs can help create more housing.
- The limit of 25 per year is a good start.
- ADUs are good when close to transit; can help alleviate traffic.
- Eliminate the off street parking requirements when close to transit.
- ADUs could create more housing in SLC and decrease the need to commute to SLC for work.
- The cap of 25 is too low. Should allow more ADUs every year.
- The height restriction that keeps the ADU subordinate to the primary dwelling will prevent many ADUs from being built; need to eliminate that restriction.

### **Comments in general opposition to the proposed ADU ordinance**

- Survey on Council website is biased
- The proposal changes all single-family zones in the city to multi-family.
- There hasn't been sufficient public outreach and notice for this big of a change to the City's zoning.
- Poor communication with city residents about the changes.
- ADUs will simply create more rentals and more nuisance issues
- ADUs are not an affordable housing solution.
- Increases density.
- Increased nuisance issues for neighborhoods such as: traffic, parking, garbage and snow removal
- Written notice about the proposed change needs to be mailed Citywide before the Council takes action.
- This is a citywide up-zone that changes the character of the City.
- City should require two off-street parking stalls if an ADU has two bedrooms

- Because of the recent change to allow ADU citywide, a new mailing and public process is needed
- The proposal will make some neighborhoods student housing for the universities.
- There needs to be different standards for attached vs. detached ADUs
- More demolitions to existing housing will occur as a result in order to build bigger homes with ADUs.
- Don't allow greater heights for ADUs.
- Concerns that the design requirements are not done very well.
- Adding ADUs could increase taxes so that homes are no longer affordable.
- Concerns that ADUs will be used as nightly rentals.

*The following information was provided for the September 19 public hearing. It is provided again for background purposes.*

### **September 5 Work Session Summary**

During the September 5 work session the Council conducted a series of straw polls to amend the final proposed draft. The following changes were of the result of the straw poll voting:

- ADUs will be allowed Citywide (though still an annual limit of 25 per year).
- Administrative review process that includes a 30 day notification of proposed ADUs to abutting property owners (including across the street).
- Reporting requirements to be included so the City can adequately track how ADUs are impacting neighborhoods, and where they are being built, so future changes could be made if needed.
- More information was requested on how the owner occupied requirement affects properties owned by Trusts and how enforcement issues will be addressed.

***The following information was provided for the September 5 briefing. It is provided again for background purposes.***

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### **ISSUE AT-A-GLANCE**

The Council will hold a third discussion about an ordinance that would amend the City's accessory dwelling unit (ADU) regulations. The amendments would generally allow ADUs west of Canyon Road, south of South Temple, west of 1300 East and north of I-80. Currently, new ADU permits are only available for properties located a half mile or less from a fixed rail transit stop. Additionally, the amendments will limit the number of ADU permits issued per year to 25.

At the Council's first briefing, the Council asked some questions about enforcement, role of ADUs within affordable housing, and other sample city ADU ordinances. Some Council Members raised the broader questions about the ADU ordinance and its role in housing.

The Council's Affordable Housing priority identifies the following goals and potential solutions:

- **Goal** – Create more affordable housing for all income levels, with specific focus on creating affordable units for individuals at or below the poverty level.



- **Solutions** - Success includes adopting a new citywide Housing Plan, implementing action steps that will lead to the creation of more affordable housing and identifying funding sources that can help fill the financial gaps in order to create more affordable housing.
  - Funding Solutions – Identify and establish a long-term funding source for affordable housing
  - Policy Solutions – Identify and change City ordinances and policies that are roadblocks to creating more housing options.

Because Affordable Housing is one of the Council’s priorities, the Council may wish to begin with a discussion of whether there is value in having ADUs as a tool to expand affordable housing options in the City, and whether they fit in other / all areas of the City. The Council may also discuss if there are ways to make them compatible citywide and if they should they be limited geographically.

### **July 11 WORK SESSION SUMMARY**

During the July 11 work session briefing, much of the Council’s discussion revolved around the need to increase the supply of housing without creating major disruptions for existing neighborhoods. Some Council Members commented that neighborhoods could be negatively impacted if ADUs are used as short-term rentals, and asked whether or not the City can adequately enforce the ordinance.

The Council asked staff to outline a robust public engagement plan that will help inform the public about the propose ordinance. On July 25, the Council was provided the following outline for public engagement:

#### **Timeline**

- Council approval of timeline: July 25, 2017 via announcements/work session discussion  
*Begin Public Engagement & Notification to interested parties. Will continue through Council action.*
- Consent – Set Date August 8, 2017 (early notice of public hearings)
- Follow-up Work Session September 5, 2017
- Public Hearing #1 September 19, 2017
- Public Hearing #2 October 3, 2017
- Potential Action October 17, 2017 *or later*

#### **Public Engagement Tools**

- Direct email to Community Council Chairs/recognized community organizations
  - Include key dates
  - Include link to 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

- Following Council action, provide information back to those who have provided feedback or asked questions throughout the process.

## **POLICY QUESTIONS FOR CONSIDERATION**

1. The Council may wish to weigh the benefits of ADUs with the concerns that have been raised. The Council may identify priorities or policy direction based on a balance of the benefits and concerns.

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
- Increases traffic and parking issues
- Inability to adequately enforce the ordinance and monitor for these impacts

2. On January 10 the Council discussed the East Bench Master Plan. The proposed Accessory Dwelling Unit (ADU) Ordinance would prohibit ADUs east of 1300 East. However, the East Bench Master plan identifies Accessory Dwelling Units for possible consideration (page 43) in the East Bench master plan area:

INITIATIVE N-3.2: Housing Affordability, Access, and Choices:

“Additional lower density housing choices, such as allowing an additional dwelling unit in an existing single-family dwelling, should be allowed within neighborhoods that are supported by public transportation or near major transportation corridors.”

During that discussion, some Council Members expressed concern about including support for ADUs in the East Bench Master Plan area.

***The proposed ADU ordinance and the proposed EBMP have conflicting policy goals with regards to ADUs. Would the Council like to further discuss and/or resolve this policy conflict?***

## **POTENTIAL STRAW POLLS**

Over the course of the ADU discussion, potential changes to the ADU ordinance have been identified by Council Members, staff and the public. The Council may wish to consider straw polling the options identified below to determine if any of them should be included in the final draft of the ordinance.

**Does the Council support:**

1. Removing the owner occupancy requirement?
2. Increasing off-street parking requirement to: 1 parking stall for a 1 bedroom unit, and 2 parking stalls for a 2 bedroom unit (*This change would be consistent with the existing ADU regulations*)?
3. Including a minimum rental requirement of 30 consecutive days within residential zoning districts in order to minimize the impact of short term rentals of ADUs?
4. Amending the proposal to incorporate one of the following options in order to notify neighbors of a pending ADU development:
  - Specify an application and administrative review process that includes notification of abutting property owners and residents, or
  - Specify an application and administrative review process that includes notification of property owners and residents within 300 feet, or
  - Reclassify ADUs as a special exception, which would require amending section 21A.52.030, titled Special Exceptions Authorized?

5. Keeping, modifying or removing the proposed boundary where ADUs can be located throughout the City?

*If the currently proposed ADU boundary is kept, #6 could be considered.*

6. Allowing internal or attached accessory dwelling units—not detached—east of “Accessory Dwelling Units Boundary”?
7. Keeping, modifying or removing the annual permit allocation (proposed maximum of 25 units per year)?
8. Including potential exceptions to the annual permit limit of 25 ADUs, such as:
  - projects in RDA areas
  - units that meet accessibility standards
9. Changing the owner occupied requirement so properties that are owned by two or more people are not required to have both/all owners living in the principal structure?
  - *The current ordinance language requires all owners of the property to live there in order to have an ADU.*
10. Allowing a parking waiver for ADUs that are along arterial streets or bus routes that meet the following requirements, as identified in the Transit Master Plan:
  - *Adequate on street parking in the immediate vicinity is available to serve the accessory dwelling unit and will not cause congestion in the area; or*

- *The lot or parcel containing the accessory dwelling unit is located within a one-fourth (1/4) mile radius from a fixed transit line or an arterial street with a designated bus route.*

***The following information was provided for the January 17 briefing. It is provided again for background purposes.***

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## **JANUARY 17 WORK SESSION SUMMARY**

The Council first discussed the proposed ADU ordinance on January 17, 2017. At that time the Council decided to wait to hold future discussions on ADUs until after the State's legislative session because there was potential legislation that could impact the ordinance.

Additionally, during the January 17 briefing, the Council requested more information on the following items:

- Enforcement Concerns – what is the enforcement plan for the following provisions of the ordinance:
  - Owner occupied
  - Parking
  - Short term rentals / Airbnb
- Do ADUs contribute to affordable housing stock? If so, how?
- Could staff review the Durango Colorado ADU ordinance as example to learn more about establishing good feedback loops between the City and the public?

The Administration transmitted the new information requested by the Council, including a response to State legislation regarding short term rentals. The transmittal letter includes a full discussion about each issue raised by the Council. Additionally, it includes options for each issue the Council may wish to consider.

A short description of each issue raised by the Council is provided below. Please see the transmittal letter for full details and analysis.

- **How will Salt Lake City enforce ADU provisions such as owner occupancy, parking and short term rentals? (pages 1 - 5)**
  - The transmittal letter outlines how the following enforcement issues will be handled to ensure ADUs are in compliance:
    - Zoning violations
    - Permitting
    - Owner Occupancy
    - Off and On street parking
  - ***Options identified in the Transmittal letter***
    - To broaden applicability of ADU regulation, consider removing the owner occupancy requirement.
    - To increase off-street parking, require 1 parking stall for a 1 bedroom unit, and 2 parking stalls for a 2 bedroom unit, which is consistent with the existing ADU regulation.

- **How does Utah Code impact or regulate short term rentals like those advertised through Airbnb.com (pages 5-6)**
  - During the 2017 General Session, the Utah State Legislature passed House Bill (HB) 253 entitled Short-Term Rental Amendments.
  - According to the transmittal letter, HB 253 prohibits a city from using a “short term rental website” as evidence for enforcement, and a city may not “fine, charge, prosecute, or otherwise punish” an individual for “listing” a short term rental.
  - However, HB 253 does not prevent a city from prohibiting short term rentals.
  - ***Options identified in the Transmittal letter***
    - To prohibit short term rental of ADUs and promote affordable housing, specify the duration of a rental agreement for an ADU must be a minimum of 30 consecutive days within residential zoning districts that currently prohibit short term rentals.
- **How will ADUs contribute to affordable housing stock? (page 6)**
  - The Transmittal Letter provides a few bullet points on how ADUs contribute to affordable housing.
    - Internal ADUs are generally less expensive
    - Costs savings from not having to purchase the land
    - Rental fees are lower for smaller units
    - Renting to family and friends is still a factor in the overall affordable housing market
- **Does the City of Durango, Colorado have a “good feedback loop” between the city and the public regarding ADUs? (pages 6-8)**
  - The Transmittal Letter provides a summary of Durango Colorado’s ADU regulations, which includes a notification sent to property owners within 300 feet of a proposed ADU to notify neighbors and discover pertinent, unknown information.
    - The decision is administrative no public meeting is held.
  - This is similar to Salt Lake City special exception process.
  - ***Options identified in the Transmittal letter***
    - To notify neighbors of a pending ADU development, amend the proposal to incorporate one of the following options:
      - Specify an application and administrative review process that includes notification of abutting property owners and residents, or
      - Specify an application and administrative review process that includes notification of property owners and residents within 300 feet, or
      - Reclassify ADUs as a special exception, which would require amendment of section 21A.52.030, entitled Special Exceptions Authorized.

## **POLICY QUESTIONS & POTENTIAL STRAW POLLS**

2. In review of the proposal, the Council may wish to evaluate the benefits of ADUs along with some concerns about impacts that have been raised. The Council may identify priorities or policy direction based on some balance between the benefits and concerns.

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 auto dependency
- Support economic viability of historic structures
- In addition to the purpose statement: this may also relate to aging in place issues.

These potential benefits could be considered along with some concerns that have been raised in relation to ADUs, such as:

- Impact on the character of single family residential neighborhoods through increased density
- Potential impact of increase traffic and parking issues
- Ability to adequately enforce the ordinance and monitor for these impacts

3. The Council may wish to consider straw polling the options identified in the transmittal letter to determine if any of them should be included in the final draft of the ordinance.
  11. To broaden applicability of ADU regulation, consider removing the owner occupancy requirement.
  12. To increase off-street parking, require 1 parking stall for a 1 bedroom unit, and 2 parking stalls for a 2 bedroom unit, which is consistent with the existing ADU regulation.
  13. To prohibit short term rental of ADUs and promote affordable housing, specify duration of a rental agreement for an ADU must be a minimum of 30 consecutive days within residential zoning districts that currently prohibit short term rentals.
  14. To notify neighbors of a pending ADU development, amend the proposal to incorporate one of the following options:
    - Specify an application and administrative review process that includes notification of abutting property owners and residents, or
    - Specify an application and administrative review process that includes notification of property owners and residents within 300 feet, or
    - Reclassify ADUs as a special exception, which would require amendment of section 21A.52.030, entitled Special Exceptions Authorized.

***The following Policy Questions were provided for the January 17 briefing. They may still be relevant and the Council may wish to discuss these further and consider conducting straw polls to determine if any of these changes should be included in the final ordinance.***

#### **POLICY QUESTIONS**

15. The Transmittal Letter identified the following potential modifications that could be made to the proposed ADU ordinance in order to adjust where ADUs could be located throughout the City:

- Removal or modification of the “Accessory Dwelling Units Boundary”
- Permit internal or attached accessory dwelling units—not detached—east of “Accessory Dwelling Units Boundary.”
- Removal or modification of annual permit allocation (proposed maximum of 25 units per year)

***Does the Council wish to further discuss the potential changes to the proposed ordinance that would change the boundary map?***

16. The Transmittal Letter identifies potential exceptions to the annual permit limit of 25 ADUs, including: projects in RDA areas and for units that meet accessibility standards.

***Is the Council supportive of including these exemptions to the maximum annual limit?***

17. On January 10 the Council discussed the East Bench Master Plan. The proposed Accessory Dwelling Unit (ADU) Ordinance would prohibit ADUs east of 1300 East. However, the East Bench Master plan identifies Accessory Dwelling Units for possible consideration (page 43) in the East Bench master plan area:

INITIATIVE N-3.2: Housing Affordability, Access, and Choices:

“Additional lower density housing choices, such as allowing an additional dwelling unit in an existing single-family dwelling, should be allowed within neighborhoods that are supported by public transportation or near major transportation corridors.”

During that discussion, some Council Members expressed concern about including support for ADUs in the East Bench Master Plan area.

***The proposed ADU ordinance and the proposed EBMP have conflicting policy goals with regards to ADUs. Would the Council like to further discuss and/or resolve this policy conflict?***

18. A questions has been raised by a constituent regarding the owner occupied requirements. Their concern is if they own a property with a partner, but both don't live there, they would not be allowed to have an ADU.

The section regarding Owner Occupants includes the following:

Even if a person meets the requirements of subsection B.1 or B.2 of this section, such person shall not be deemed an owner occupant if the property on which the dwelling unit is located has more than one owner and all owners of the property do not occupy the dwelling unit with a bona fide intent to make the dwelling unit their primary residence.

***Does the Council wish to further discuss the owner occupied requirements?***

19. The proposed ordinance would require one parking space per ADU. However, a waiver may be obtained for the parking requirement if:

- Adequate on street parking in the immediate vicinity is available to serve the accessory dwelling unit and will not cause congestion in the area; or

- The lot or parcel containing the accessory dwelling unit is located within a one-fourth (1/4) mile radius from a fixed transit line or an arterial street with a designated bus route.

A suggestion has been raised about potentially including language about allowing the waiver for ADUs that are along arterial streets or bus routes that, as defined by the Transit Master Plan?

*Would the Council support including language about the Transit Master Plan to the parking waiver?*

***The following information was provided for the January 17 work session briefing. It is provided again for background purposes.***

### **ADDITIONAL INFORMATION**

The City's existing ADU ordinance has been in effect since September 2012. According to the Planning Commission Staff report, city staff has responded to dozens of inquiries from residents interested in establishing an ADU—however, only one ADU has been constructed to date. “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” (*Planning Commission staff report, page 2*).

In June of 2014, former Mayor Ralph Becker initiated a petition to amend the City's ADU regulations. The ordinance before the Council is the result of that petition.

The zoning districts that would be impacted include: FR-1/43,560, FR-2/21,780, FR-3/12,000, R-1/12,000, R-1/7,000, R-1/5,000, SR-1, SR-3, R-2, RMF-30, RMF-35, RMF-45, RMF-75, RB, R-MU-35, R-MU-45, R-MU, RO, FP, AG, AG-2, AG-5, AG-20 and MU.

An outline of the public process is outlined on pages 5-6 of the transmittal letter. The process included three open houses, two Planning Commission public hearings and visits to community councils.

The following table, found on page 2 of the transmittal, outlines the proposed amendments in comparison to the existing regulations.



Regulation	Existing	Proposed
Location	ADU must be located within (1) a permitted residential district, and (2) 1/2 mile of an operational fixed rail station	ADU must be located within (1) a permitted residential or special purpose zoning district, and (2) west of Canyon Road, south of South Temple, west of 1300 East, and south of I-80
Permit Limit	None	25 permits per year
Building Height	Underlying zoning district standards apply, however ADU may not be taller than principal dwelling	Up to 24 feet for pitched roof, and 20 feet for flat roof, however ADU may not be taller than principal dwelling
Maximum Square Footage	50% of principal dwelling, or 650 square feet, whichever is less	50% of principal dwelling for attached ADU  50% of principal dwelling, or 650 square feet, whichever is less, for detached ADU
Lot Area	Minimum 5,000 square feet for detached ADU, no minimum for attached ADU, however lot coverage restrictions apply	No minimum lot area requirement, however lot coverage restrictions apply
Parking	One parking stall for one bedroom ADU, and two parking stalls for two (or more) bedroom ADU	One parking stall for ADU
Entrance Requirements	Additional entrance not allowed on front façade unless setback 20 feet from front façade	Additional entrance may be allowed on front or corner façade if screened from view by architectural or landscaping features
Existing windows	Must be removed if not compliant with ADU regulation	May be retained if not compliant with ADU regulation
Owner Occupancy	Owner occupancy required in either principal or accessory dwelling	Owner occupancy required in either principal or accessory dwelling

Pages 2-4 of the transmittal letter identifies four key issues. A short description of each issue and the finding is provided below for reference. Please see the transmittal letter for full analysis.

- **Issue 1 - Location Restrictions:** Replace the 1/2-mile location restriction with a “boundary line” that permits ADUs in neighborhoods that generally favor them.
- **Issue 2 – Annual Limitation:** To address concerns with potential or unforeseen impacts of ADUs, an annual limit of 25 permits is recommended with the following exceptions:
  - Accessory dwelling units located within a Redevelopment Agency (RDA) of Salt Lake City project area, or funded in part by RDA housing funds, shall be exempt from annual permit allocation limits.
  - Accessory dwelling units that comply with all accessibility standards for Type B units, as specified in American National Standards Institute A117.1 (2009) Accessible and Usable Buildings and Facilities, shall be exempt from annual permit allocation limits.
- **Issue 3 – Building Height:** increase the height of detached ADUs to 24 feet for a pitched roof structure, and 20 feet for a flat roof structure.

- Existing maximum heights do not provide sufficient height to develop ADUs over an accessory structure.
- **Issue 4 – Amendment Options:** Based on public feedback, Planning staff has provided the following options that could be considered:
  - Removal or modification of the “Accessory Dwelling Units Boundary” as described in 21A.40.200.C.1 of the proposed amendment.
  - Permit internal or attached accessory dwelling units—not detached—east of “Accessory Dwelling Units Boundary” as described in 21A.40.200.C.1 of the proposed amendment.
  - Removal or modification of annual permit allocation (*proposed maximum of 25 units per year*)

Attachment B of the Planning Commission staff report outline the standards that should be considered as the Council reviews this proposal. *An outline of the analysis is summarized below, please see Planning’s staff report for full details.*

- **Standard 1**  
Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents.
  - **Finding:** Proposal is consistent with the purpose, goals, etc. of the adopted planning documents.
- **Standard 2**  
Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance.
  - **Finding:** Proposal does further the specific purpose statements of the zoning ordinance.
- **Standard 3**  
Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards;
  - **Finding:** The proposed text amendment is subordinate to the purposes and provisions of any applicable overlay zoning districts that may impose additional standards, such as the H Historic Preservation Overlay District.
- **Standard 4**  
The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.
  - **Finding:** the proposal is consistent with this standard.

## **POLICY QUESTIONS**

20. The Transmittal Letter identified the following potential modifications that could be made to the proposed ADU ordinance in order to adjust where ADUs could be located throughout the City:

- Removal or modification of the “Accessory Dwelling Units Boundary”
- Permit internal or attached accessory dwelling units—not detached—east of “Accessory Dwelling Units Boundary.”
- Removal or modification of annual permit allocation (proposed maximum of 25 units per year)

***Does the Council wish to further discuss the potential changes to the proposed ordinance that would change the boundary map?***

21. The Transmittal Letter identifies potential exceptions to the annual permit limit of 25 ADUs, including: projects in RDA areas and for units that meet accessibility standards.

***Is the Council supportive of including these exemptions to the maximum annual limit?***

22. On January 10 the Council discussed the East Bench Master Plan. The proposed Accessory Dwelling Unit (ADU) Ordinance would prohibit ADUs east of 1300 East. However, the East Bench Master plan identifies Accessory Dwelling Units for possible consideration (page 43) in the East Bench master plan area:

INITIATIVE N-3.2: Housing Affordability, Access, and Choices:

“Additional lower density housing choices, such as allowing an additional dwelling unit in an existing single-family dwelling, should be allowed within neighborhoods that are supported by public transportation or near major transportation corridors.”

During that discussion, some Council Members expressed concern about including support for ADUs in the East Bench Master Plan area.

***The proposed ADU ordinance and the proposed EBMP have conflicting policy goals with regards to ADUs. Would the Council like to further discuss and/or resolve this policy conflict?***

23. A questions has been raised by a constituent regarding the owner occupied requirements. Their concern is if they own a property with a partner, but both don't live there, they would not be allowed to have an ADU.

The section regarding Owner Occupants includes the following:

Even if a person meets the requirements of subsection B.1 or B.2 of this section, such person shall not be deemed an owner occupant if the property on which the dwelling unit is located has more than one owner and all owners of the property do not occupy the dwelling unit with a bona fide intent to make the dwelling unit their primary residence.

***Does the Council wish to further discuss the owner occupied requirements?***

24. The proposed ordinance would require one parking space per ADU. However, a waiver may be obtained for the parking requirement if:

- Adequate on street parking in the immediate vicinity is available to serve the accessory dwelling unit and will not cause congestion in the area; or
- The lot or parcel containing the accessory dwelling unit is located within a one-fourth (1/4) mile radius from a fixed transit line or an arterial street with a designated bus route.

A suggestion has been raised about potentially including language about allowing the waiver for ADUs that are along arterial streets or bus routes that, as defined by the Transit Master Plan?

*Would the Council support including language about the Transit Master Plan to the parking waiver?*