



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Nick Tarbet
Policy Analyst

DATE: September 5, 2017

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

Item Schedule:

Briefing: January 17, July 11 &
September 5, 2017

Set Date: July 25, 2017

Public Hearing: Sept 19, Oct 3,
2017

Potential Action: October 17

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.

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.

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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?

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