



# Historic Resources Board

## Staff Report (ID # 7904)

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**Report Type:** Study Session **Meeting Date:** 3/23/2017

**Summary Title:** Report on Accessory Dwelling Unit Ordinance

**Title:** Accessory Dwelling Unit (ADU) Discussion

**From:** Hillary Gitelman

### Recommendation

Staff recommends the Historic Resources Board (HRB) receive this report.

### Background

This report transmits information related to state law changes related to accessory dwelling units and the City Council's recent action to establish new local regulations. An updated ordinance is tentatively scheduled to return to Council on April 10<sup>th</sup>.

#### State Legislation

The State of California recently adopted legislation that became effective January 1, 2017, to encourage property owners to increase the supply of ADUs. The Council report, providing background on the State's legislative action and a draft ordinance recommended for Council adoption, is viewable here: <http://www.cityofpaloalto.org/civicax/filebank/documents/56095>. The State's ADU legislation, already applicable to properties zoned for single-family or multi-family use, includes the below components:

- Conversions of existing permitted residence or accessory structures are permitted in single family zoning districts (R-1, R-2, RMD, RE). Resulting ADUs must comply with State requirements regarding habitable space. No parking is required for such conversions.
- Parking required for ADU– 1 per bedroom or 1 per unit, whichever is greater.
  - a. Notwithstanding the above, no parking is required if
    - i. ADU is located within ½ mile of public transit;
    - ii. ADU is located within architecturally or historically significant historic district;
    - iii. ADU is part of existing primary or accessory structure;

- iv. Where on-street parking permits required by not offered to ADU occupant; or
  - v. Where there is car share vehicle located within one block of ADU.
- Replacement parking for primary residence, if covered parking is demolished in conjunction with new ADU, may be located in any configuration on the same lot as the ADU, including, but not limited to as, covered spaces, uncovered spaces, tandem spaces or use of mechanical parking lifts.
  - No passageway (separation) shall be required between the ADU and the primary residence except as required by the Building Code.
  - No setback shall be required for the conversion of an existing garage and setback of no more than 5 ft. from side and rear lot lines shall be required for a new ADU constructed above a garage (if permitted in the zoning district).
  - All other ADU regulations, such as setbacks, size, etc. still apply.

### Council Hearings

On March 7, 2017, the City Council reviewed, in a first reading public hearing, a draft ordinance addressing Accessory Dwelling Units in Palo Alto. The draft ordinance had been reviewed and recommended by the Planning and Transportation Commission, as required for any modifications to the Zoning Code.

Council adopted the staff recommended ordinance with specific changes (on a 6-2-1 vote). Because the changes were substantial, the draft ordinance will return to the City Council as another first reading. *A summary of the motion below includes 'item 1' regarding historic resources. The HRB may wish to discuss item 1, italicized below:*

#### *Council Proposed Changes and Clarifications:*

- a. Require no more than 6-ft side and rear setback for ADUs;
  - b. Allow ADUs on all residential lot sizes;
  - c. Allow an additional 175 sq-ft of FAR for an ADU, but not for a two-story ADU;
  - d. Allow an additional 50 sq-ft of FAR for remainder of the primary residence if a JADU is constructed (JADU itself is limited to 500 sq-ft by the State);
  - e. Increase the maximum size of attached ADUs to 600 sq-ft;
  - f. Remove Lot Coverage requirements for ADUs on properties that are no smaller than 10 percent smaller than standard lot sizes;
  - g. Limit ADUs to 17-ft maximum height and single-story in Single Story Overlay (SSO) neighborhoods, even if the main house is a grandfathered 2-story house;
  - h. Remove design review and requirements;
  - i. Remove door orientation requirements for ADUs;
  - j. No parking required for either ADUs or JADUs;
  - k. Remove requirements for covered parking on properties with an ADU or JADU;
  - l. Allow required replacement parking on an existing driveway within the front setback; and
1. *Add the following language to Section 18.42.040 to address potential impacts on historic properties from new detached and attached ADUs: "For properties listed in the Palo Alto Historic Inventory, the California Register of Historical Resources, the National Register of Historic Places, or considered a historic resource after completion of a historic resource evaluation, compliance with the appropriate Secretary of Interior's Standards will be required, as determined by the Planning Director"; and*
  2. Add to the Ordinance Section 18.42.040 (a) 9 (xi) Tree Preservation: "No protected tree shall be removed for the purpose of establishing an accessory dwelling unit unless the tree should be removed because it is dead, dangerous or constitutes a nuisance under Section 8.04.050. Any protected tree removed pursuant to this subsection shall be replaced in accordance with the standards in the Tree Technical Manual"; and

3. Return to council next year with options and discussion of possible incentives to make ADUs available for moderate or low income residents, seniors, people with disabilities, or public employees; and
4. Return next year with options and discussion of mechanisms to bring existing ADUs into compliance, including when existing ADUs which do not meet new standards; and
5. Draft a deed restriction to allow a property owner to rent both the ADU and principal residence to one tenant.

### **Discussion**

Staff is working on a chart to provide an “at a glance” summary of existing ADU regulations, state-imposed ADU regulations currently in effect, and the draft ADU ordinance that would modify these regulations. This chart may be available in time for the HRB hearing.

The HRB has indicated an interest in reviewing future ADUs when proposed within historic districts, similar to existing procedures related to Category 1 resources. However, in consultation with the city attorney’s office, staff believes such a review for ADUs would be in conflict with the State’s objectives to process ministerial applications for ADUs. Additionally, the Council included a requirement that requires proposed ADUs to be consistent with the Secretary of the Interior’s Standards for Rehabilitation for properties listed in the City of Palo Alto Historic Inventory, the California Register of Historical Resources, the National Register of Historic Places, or considered a historic resource after completion of a historic resource evaluation. This review will be conducted by staff as part of the building permit review process.