

TRANSMITTED VIA EMAIL

March 6, 2017

Honorable Mayor Scharff and Members of the City Council  
 City of Palo Alto  
 250 Hamilton Avenue  
 Palo Alto, CA

**Re: March 7, 2017 City Council Agenda Item 2 (Accessory Dwelling Units)**

Dear Mayor Scharff, Vice Mayor Kniss, and Councilmembers DuBois, Filseth, Fine, Holman, Kou, Tanaka, and Wolbach:

On behalf of our members, SV@Home thanks you for your consideration of the proposed amendments to the Palo Alto Zoning Code's provisions regarding accessory dwelling units (ADUs). We believe that ADUs are an important tool for responding to our region's housing crisis, and we must make every effort to make them easier and more affordable for homeowners to build. The recent passage of SB 1069 and AB 2299 helps to ease some of the major barriers to ADU development, but the actual creation of more accessory dwelling units in Palo Alto hinges upon Council's adoption of a flexible ADU ordinance that does not bar any interested homeowners from the option to build ADUs on their lots.

We strongly support the City of Palo Alto's efforts to comply with, and in some cases, go beyond the state requirements, but we also write to share our concerns regarding some aspects of the proposed ordinance – including those related to setbacks, parking and minimum lot size – that may limit the opportunity for Palo Alto residents to build ADUs.

**SV@Home supports the staff recommendations to:**

- Expand the State-required parking exemptions for ADUs to lots within 0.75 miles of a CalTrain Station,
- Include provisions to allow for the construction of Junior Accessory Dwelling Units (JADUs),
- Prohibit the use of ADUs and JADUs for short-term rentals (STRs),
- Require owner occupancy of either the primary residence or ADU/JADU, and
- Establish a maximum unit size of 900 feet for detached ADUs (except for detached ADUs in R-2 districts, which are limited to 450 feet) and 450 feet for attached ADUs.

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**Staff**

Leslye Corsiglia  
*Executive Director*

These measures will help to make ADUs a more feasible option for a greater number of homeowners, and furthermore, ensure that ADUs are used to provide more affordable housing options for Palo Alto residents. However, while they are a great start, we believe it is critical that the new ordinance makes ADUs feasible on as many lots as possible, with the recognition that even with loosened regulations, studies show that only one or two ADUs will likely be built on any given block.

**We are concerned that a number of remaining provisions in the draft ordinance will significantly limit the feasibility of ADU creation on many lots throughout the City, and thus, we strongly recommend that the Council address the constraints created by these requirements. They include:**

- **Setback requirements.** Existing setback requirements for ADUs are extremely high and may make a significant number of lots ineligible for ADU development, thus undermining the intent of the other proposed regulatory changes. We recommend that the City establish separate setback requirements for ADUs that are less restrictive than those required for general development in residential districts.
- **Minimum lot size requirements.** We commend the proposed reduction of existing minimum lot size requirements to allow ADU development on all standard lots. However, we are concerned that, if substandard lots comprise a significant share of parcels throughout the city, the proposed requirements still leave out many lots that could reasonably accommodate ADUs. Instead of a reduced minimum lot size, we support the elimination of a minimum lot size requirement, as the Mountain View City Council voted to do in 2016 – especially since the minimum feasible lot size is already indirectly determined by existing FAR and setback requirements.
- **Parking requirements.** While we support staff’s proposal to more broadly apply the SB 1069/AB 2299 parking exemption as it relates to rail, we recommend applying the exemption to all lots within 0.5 miles of any bus stop, regardless of headway/service intervals. Additionally, because research shows that ADU residents have low rates of car ownership and high rates of transit use, we support further easement of parking requirements beyond the SB 1069/AB 2299 requirements. We thus also urge the Council to revise existing parking requirements to allow for uncovered parking in front setbacks, and furthermore, eliminate the replacement parking requirements for garages that are converted to ADUs. These changes will allow us to better utilize the very limited amount of land we have available to meet the City’s housing need without requiring the provision of unnecessary parking.
- **Prescriptive development and design standards.** While we understand that concerns over privacy and the desire to ensure that ADUs blend into the surrounding neighborhood, we are concerned that some of the proposed development and design standards for ADUs – such as limitations on the placement of windows and doors on detached units located at the property line – may be too prescriptive and may unintentionally limit feasibility on many sites. Additionally, we recommend that the city allow for ADUs with different exterior materials and/or roof pitch from the primary residence, which will enable more homeowners to consider alternative building types, including manufactured structures (like tiny homes) on permanent foundations, as a means of reducing costs and time required for construction.

- **Cutoff date for conversion of space in existing single family residences or accessory structures.** Section 18.42.040(a)(5)(b) of the proposed ordinance specifies that “the portion of the single-family residence or accessory structure subject to the conversion, must be legally permitted and existing as of January 1, 2017.” We do not support this provision, which would prohibit garage conversions on newly constructed homes. We believe that owners of newly constructed units should be allowed to convert their garages or space within their residences if desired, as long as they meet the other City requirements.

In addition to these recommendations, we offer several additional suggestions in the attached document, which summarizes SV@Home’s recommended standards for ADU ordinances throughout Santa Clara County.

Finally, **SV@Home strongly recommends that, in addition to these policy changes, the City of Palo Alto create a robust ADU program that provides resources and guidance to homeowners who are interested in creating ADUs on their property.** The City of Santa Cruz’s ADU Program provides a strong model; as part of the program, the City has created a comprehensive ADU manual for residents, implemented an ADU fee waiver program, and developed a set of ADU design templates that residents can utilize. ADU production rates in Santa Cruz demonstrate the positive impact of these programmatic efforts combined with the easing of regulatory barriers; between 2003 and 2015, the City has built nearly 350 secondary dwelling units.

ADUs are an important tool for ensuring that every Santa Clara County resident can remain a part of their community and live in a place they are proud to call home. These units can help keep families together, often providing a way for retirees or returning college graduates to continue living near family, when they otherwise wouldn’t be able to afford housing in Santa Clara County. For these reasons, we look forward to the positive changes that the amendments to the Palo Alto Zoning Code will bring.

SV@Home hopes to partner with you to develop ADU policies and programs that support the creation of thriving, sustainable, and affordable communities throughout Palo Alto. We would welcome the opportunity to provide you or staff with technical assistance or additional examples of best practices for ADU programs from other jurisdictions. Thank you for the opportunity to provide input.

Sincerely,



Pilar Lorenzana  
Deputy Director





**Recommended Standards for Accessory Dwelling Unit Ordinances**  
*Updated March 6, 2017*

**Standards to Improve Feasibility and Affordability that Exceed SB 1069/AB 2299 Requirements**

While SB 1069 & AB 2299 require several changes to local ordinances that will allow homeowners to more easily develop accessory dwelling units (ADUs), local jurisdictions can do more to improve the feasibility and affordability of construction. SV@Home recommends that cities throughout Santa Clara County adopt the following additional policies as part of their accessory dwelling unit ordinances to support the creation of ADUs.

In addition to these policy elements, SV@Home strongly recommends the implementation of strong ADU programs that provide a central point of contact as well as resources to simplify processes for homeowners desiring to create ADUs. Best practices for such programs include: developing easily understood resources for homeowners interested in building ADUs, establishing a program that centralizes all ADU-related procedures and information, including the cost of all associated fees, and creating an expedited process for the approval of ADUs.

Standard	SB 1069/AB 2299 Provisions	SV@Home Recommendation	SV@Home Comments
<b>Existing Accessory Structures / Detached Garages</b>	No setback shall be required for an existing garage that is converted to an ADU, and a setback of no more than five feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage. (Section 5.5)	We recommend allowing the conversion of detached garages or other existing accessory structures into secondary units, and compliance with the SB 1069 stipulation that no new setbacks shall be required for existing garages that are converted. To further facilitate the conversion of garages into ADUs, we support the elimination of replacement parking requirements for such units.	Allowing the conversion of existing structures is one of the easiest and most affordable way for homeowners to create new ADUs, especially in neighborhoods where legal detached accessory units are located near or on the property line. Additional requirements, such as placement of doors and windows, can be adopted to ensure that the ADU is integrated with the primary residence.
<b>Minimum Lot Size</b>	A local agency may, by ordinance, provide for the creation of ADUs in single-family and multifamily residential zones. The ordinance shall do all of the following... (C) Provide that ADUs do not exceed the allowable density for the lot upon which the ADU is located, and that ADUs are a residential use that is consistent with the existing general plan and zoning designation for the lot. (Section 5)	We strongly recommend eliminating minimum lot size requirements and simplifying the overall regulations governing ADUs to maximize opportunities for ADUs, recognizing that data shows that, in the most optimistic case, only one or two homeowners on a block would create an ADU.	As a practical matter, setback and lot coverage requirements, however determined, dictate the minimum lot size that works. A separate minimum lot size requirement is unnecessary.

**Standards to Improve Feasibility and Affordability that Exceed SB 1069/AB 2299 Requirements (continued)**

Standard	SB 1069/AB 2299 Provisions	SV@Home Recommendation	SV@Home Comments
<b>Lot Coverage</b>	A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall... (B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. (Section 5)	We recommend using an overall lot coverage requirement instead of a minimum lot size requirement.	See comments on “Minimum Lot Size” and “Maximum Floor Area.” A lot coverage requirement, in combination with setback requirements, would effectively serve the same function of limiting the size of an ADU. Additional maximum floor area and minimum lot size requirements would be redundant.
<b>Rear Setbacks</b>		We recommend a 5-foot rear setback (with the exception noted on Page 1 regarding “Existing Accessory Structures/ Detached Garages”).	A smaller setback requirement will allow more homeowners to locate an ADU on their property while maintaining adequate open space in the backyard.
<b>Design Standards</b>		We recommend allowing exterior materials and roof pitch to differ from the primary residence.	Allowing different exterior materials and roof pitch will enable more homeowners to consider alternative building types, like tiny homes and other manufactured structures on permanent foundations, as a means of reducing costs and time required for construction.
<b>Short-Term Rentals and Owner-Occupancy</b>	...a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days. (Section 5)	We recommend prohibiting short-term rentals of ADUs and a requirement for the primary homeowner to occupy either the primary or secondary unit. Additionally, we recommend that the City establish meaningful penalties for violations.	Prohibition of short-term rentals will ensure that ADUs provide affordable housing for residents and increase our region’s stock of naturally-occurring affordable housing.
<b>Junior Accessory Dwelling Units (JADUs)</b>	AB 2406: Allows local jurisdictions to create an ordinance to allow JADUs, or the conversion of existing bedrooms containing a kitchenette and not exceeding 500 square feet.	We recommend allowing for the construction of JADUs as specified in AB 2406, without minimum lot size or parking requirements.	JADUs are one of the most affordable way for homeowners to create new dwelling units on their property, which would allow them to take advantage of unused living space and potentially benefit from additional rental income.
<b>Legalization of Existing Illegal ADUs</b>	Not applicable.	We recommend that cities allow owners of existing ADUs that were constructed without necessary permits to retroactively apply for the proper building permits without facing penalties, with the requirement that the existing ADU is brought into compliance with building and safety codes.	Many illegal nonconforming ADUs provide an existing home for someone. A legalization program for such units would encourage owners to come forward and bring their units into compliance with building and safety codes. While they may not comply with current zoning or development standards, if they are safe for occupants and neighbors, they should be allowed to come into compliance with building and safety codes and be legally occupied.

**Standards Defined by SB 1069/AB 2299**

SV@Home recommends compliance with the following statewide requirements created by SB 1069 and AB 2299.

Standard	SB 1069/AB 2299 Provisions	SV@Home Recommendation	SV@Home Comments
<b>Fees</b>	ADUs shall not be considered new residential uses for purposes of calculating local agency connection fees or capacity charges for utilities... shall not require the applicant to install new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge. (Section 5)	In addition to compliance with the SB 1069 requirements regarding utility fees, we suggest that that the City identify additional ways to reduce the costs of other fees incurred when building ADUs.	Fees can add tens of thousands of dollars to the cost of creating ADUs. Reducing financial burden for homeowners through reduced fees, as was recently done by Mountain View, or a fee-waiver program, as is the practice in Santa Cruz, are two ways cities can make ADUs more affordable.
<b>Parking</b>	<p>(d) Parking requirements for ADUs shall not exceed 1 space per unit or bedroom. These spaces may be provided as tandem parking on an existing driveway. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions. This subdivision shall not apply to a unit that is described in subdivision (e).</p> <p>(e) A local agency, whether or not it has adopted an ordinance governing ADUs shall not impose parking standards for an ADU in any of the following instances: (1) The ADU is located within one-half mile of public transit. (2) The ADU is located within an architecturally and historically significant historic district. (3) The ADU is part of the existing primary residence or an existing accessory structure. (4) When on-street parking permits are required but not offered to the occupant of the ADU. (5) When there is a car share vehicle located within one block of the ADU. (Section 5)</p> <p>(xi) When a garage, carport or covered parking structure is demolished in conjunction with the construction of an ADU, and the local agency requires they be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. (Section 5.5)</p>	<p>We recommend compliance with the parking requirements outlined in SB 1069.</p> <p>In regard to the definition of "public transit," we recommend applying the parking exemption to all passenger rail and bus stops within a half mile of public transit, regardless of headways/service intervals.</p> <p>Additionally, to facilitate the conversion of garages into ADUs, we support the elimination of replacement parking requirements for such units.</p>	Research shows that ADU residents have low rates of car ownership and high rates of transit use. Additionally, many single-family homes are underutilized and consequently, over-parked. The SB 1069 requirements thus ensure that limited available land can be used to meet housing need without requiring the provision of unnecessary parking.
<b>Existing Accessory Structures/ Detached Garages</b>	No setback shall be required for an existing garage that is converted to an ADU, and a setback of no more than five feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage. (Section 5.5)	We recommend compliance with the SB 1069 stipulation that no new setbacks shall be required for existing garages that are converted.	Allowing the conversion of existing structures is one of the easiest and most affordable way for homeowners to create new ADUs, and the new SB 1069/AB2299 requirements will allow more homeowners to take advantage of this option.