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TRANSMITTED VIA EMAIL

December 6, 2016

Mayor Hendricks and Members of the City Council  
City of Sunnyvale  
456 W. Olive Avenue  
Sunnyvale, CA 94086

Dear Mayor Hendricks, Vice Mayor Larsson, and Councilmembers Meyering, Martin-Milius, Davis and Klein:

Re: December 6 Council Meeting Agenda Item 3 (Accessory Dwelling Units)

On behalf of our members, SV@Home thanks you for your consideration of potential updates to the City of Sunnyvale’s Accessory Dwelling Unit (ADU) Ordinance. In light of the recent passage of SB 1069 and AB 2299 in the State Legislature, we commend the City for taking action to ensure compliance with the new State law, and we hope to work with Sunnyvale and all other Santa Clara County jurisdictions to advance local efforts to further facilitate the development of ADUs. To guide cities in these efforts, we have developed the attached set of broad policy recommendations to increase feasibility and affordability of ADU construction. We urge you to consider these recommendations throughout your discussion of Sunnyvale’s Accessory Dwelling Unit Ordinance.

We acknowledge the City of Sunnyvale for the steps it has already taken to address regulatory constraints to ADU construction, such as providing a process for unpermitted ADUs to become legal, and including a program to consider modifications to development standards for ADUs as part of the 2015-2023 Housing Element. We also understand that staff plans to analyze potential constraints caused by City’s minimum lot size requirement, and we look forward to future Council discussions on this issue.

Further easement of the minimum lot size requirement and other potential changes to Sunnyvale’s ADU ordinance are important because, while we celebrate the passage of SB 1069 and AB 2299, the required statewide changes alone are not enough. In order for Sunnyvale and all cities in Santa Clara County to fully leverage the opportunity that ADUs provide, cities must institute further policy changes that simplify building requirements, streamline permitting processes, and lower costs associated with the construction of ADUs. For example, further reduction or elimination of fees

as well as other requirements related to design and development standards, parking, and setbacks would allow many more homeowners to build ADUs. Additionally, the creation of local programs that centralize information and assist homeowners in understanding development requirements would greatly increase feasibility for homeowners. We also urge cities to consider new approaches, such as allowing for junior accessory dwelling units (JADUs), which could greatly expand and preserve our region's stock of naturally occurring affordable housing.

ADUs are a critical tool for addressing our region's severe housing crisis. 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. Furthermore, ADUs promote equitable homeownership; as a potential source of rental income, ADUs can open up doors to homeownership for those who otherwise cannot afford a mortgage.

However, the number of ADUs actually built each year does not allow for these benefits to be significantly scaled. SV@Home estimates that on average, fewer than 90 permits for ADUs have been issued annually throughout the County in recent years. We can and must build more. SV@Home has joined a coalition of eight Bay Area organizations led by the Bay Area Council in support of this goal. This diverse grouping of organizations – ranging from representatives of business, realtor, and senior communities, to advocates from the environmental, affordable housing, and smart growth movements – demonstrates the broad regional support for second living units. Despite our very different missions, we all agree that accessory dwelling units provide a key tool for addressing the needs of the communities we serve and advocate for. Also attached, please find a letter from our coalition that explains our position and provides additional recommendations for local action.

SV@Home looks forward to partnering with you to create thriving, sustainable communities that welcome people from all walks of life. Please let us know if we can provide you with any technical assistance or examples of best practices for ADU programs from other jurisdictions.

Thank you for the opportunity to provide our input.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pilar', with a long horizontal flourish extending to the right.

Pilar Lorenzana-Campo  
Policy Director



**Recommended Standards for Accessory Dwelling Unit Ordinances**  
*Updated November 29, 2016*

**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>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 - and some potentially unsafe – ADUs provide an existing home for someone. A legalization program would encourage owners of such units to come forward and comply with the law by bringing their units into compliance with building and safety codes, thus ensuring the safety of potential tenants. Additionally, these newly legalized units would provide additional property tax revenues for the City.
<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.	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>Maximum Floor Area</b>	The increased floor area of an attached ADU shall not exceed 50% of the existing living area, with a max. increase in floor area of 1,200 sf. The total area of floorspace for a detached ADU shall not exceed 1,200 sf. (Section 5)	We recommend eliminating the maximum floor area requirement to allow for the maximum floor area set by SB 1069.	The maximum floor area combined with minimum lot size, setback, and rear yard coverage restrictions are overly onerous, making it complicated for homeowners to determine the potential for an ADU and dampening enthusiasm for pursuing a project. These requirements can be replaced by a single requirement related to lot coverage. On its own, a lot coverage requirement is an effective regulatory mechanism that is easily implemented and responsive to individual lot conditions that exist across many neighborhoods.
<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.

**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>	We recommend compliance with the parking requirements outlined in SB 1069.	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.

August 15, 2016

***RE: Unlocking the market for Accessory Dwelling Units (ADUs) to address the Bay Area's housing crisis***

**Dear Public Official,**

In the face of an unprecedented housing crisis that threatens our families, economy, and environment, we appeal to your city to help us increase housing opportunities in the Bay Area through an exciting new campaign to unlock the market for Accessory Dwelling Units (ADUs).

Everyone deserves a home they can afford. Yet today, far too many couples, seniors, young people, and families are being priced out of the Bay Area and forced into long commutes that increase greenhouse gas emissions and traffic congestion. Our returning college graduates, our teachers, nurses, police and fire officers, service workers, and retirees all need a place to live. We want to have them here, near to us, in our neighborhoods, rather than be forced out—and encourage you to join us in our efforts.

Our groups are all supporting more funds for dedicated affordable homes, but that alone cannot solve this crisis. We need many more “tools in the toolbox.” That is why we are urging every city in the region to immediately modify their codes to expand the construction and legalization of ADUs with building permit approvals only. This will provide a rapid means of providing workforce infill housing within the existing fabric of Bay Area neighborhoods.

ADUs are simply a small second dwelling on the same property as a primary home, whether a basement in-law apartment, a unit over a garage, or a tiny house in the backyard. ADUs can create homes more easily than any other type of building, with no additional subsidy, and assist local homeowners in the process.

This is the first time our organizations have collaborated on a regional policy program of this magnitude. We have come together because the environmental, smart growth, senior, and business community all agree that the Bay Area needs our cooperation in response to the pervasive and alarming housing crisis facing our region. We look forward to working together with our local government partners to tackle this crisis and make the Bay Area an even better place to live.

**The Case for Accessory Dwellings**

Accessory dwellings offer a number of advantages to communities who have adopted them.

**1. ADUs are a popular tool to provide more housing choices**

Many cities around the world have recognized the power of ADUs to increase middle income housing and have amended their local policies to facilitate ADU development. In the United States a wide variety of jurisdictions—including Portland, Seattle, Marin County cities, Oakland, Berkeley, Santa Cruz, and Honolulu—have all recently created rules that allow homeowners to build ADUs with only a building permit—taking the cost and stress out of the application process and opening up more places where these units are viable. In Vancouver, ADUs are becoming one of the most

significant sources of new smaller homes, with over 1,000 building permits issued annually. In New South Wales, Australia, “granny flats” accounted for 5,000 new homes in a single year.

## **2. ADUs are less costly to build than other forms of housing**

ADUs are the most affordable type of homes to construct in the inner Bay Area. They do not require paying for land, major new infrastructure, structured parking, or elevators. They are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multi-family infill buildings. And while ADUs are smaller than the single family homes they share a property with, they often provide as much living space as the new apartments and condominiums being built in new infill buildings and serve very well for couples, small families, young people, and seniors.

## **3. ADUs offer a green housing choice**

ADUs provide a host of environmental benefits. UC Berkeley studies show that ADU residents have fewer cars and utilize transit more often than the general population. In communities already served by transit, ADUs can provide new homes without adding traffic, instead fostering more walking, biking, and transit. And ADUs make efficient use of developed areas while helping to ease development pressure on our natural and natural lands; every new home added in transit-served Bay Area cities is a home not pushed to the edge of the region, the middle of California, or out of state entirely, where the greenhouse gas footprint of development is much higher.

## **4. ADUs promote intergenerational living and can be a form of family insurance against catastrophic life events that could force foreclosure or relocation**

ADUs give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care and helping extended families to be near one another while maintaining privacy. They also provide a source of income for homeowners who have experienced a tragic illness, job loss, or divorce that puts them at risk of losing their home.

## **5. Many existing large homes are underutilized and can accommodate ADUs**

Studies from cities considering expansions of their ADU programs document that many existing single family homes are occupied by fewer people than they were designed to accommodate. An expansion of ADUs allows extra space to become a home for someone who would otherwise be priced out of a community, while maintaining the character of single family neighborhoods.

## **6. Barriers to ADUs must be removed to grow this housing source**

Research completed at UC Berkeley has documented that homeowners will not try to get the approval of their neighbors or the city to add an ADU if the process is cumbersome, expensive, or controversial. Many local zoning codes and plans create standards that homeowners cannot achieve in order to rent a space in their home or converted garage. Ironically, it is easier to add a temporary rental in a home than a permanent one, and yet the need for permanent housing is so much greater. The explosive popularity of temporary rentals demonstrates that local homeowners are interested in ways to allow their homes to be fully utilized, add a source of income for their families, or allow aging in place. Allowing ADUs to be added on existing properties with an over the counter building permit encourages more long term housing within existing neighborhoods. In fact, ADUs offer cities that wish to require owner occupancy a better tool to control for temporary rentals, as the building permit process can be used to enforce local short term rental laws.



## **7. Local cities offer a number of models that could form the basis for a new ADU law in your city**

We have compiled here for you several models from cities that have expanded opportunities for ADUs on a ministerial basis. We have also included recent studies from UC Berkeley about the types of local standards that prevent or facilitate ADUs in a number of Bay Area cities. These materials offer examples of development standards to encourage ADUs, academic research on ADUs, and press articles about cities that have shown leadership on this issue.

### **Recommendations for Local Action**

Based on findings from UC Berkeley and elsewhere, we encourage local jurisdictions to adopt the following standards for ADU approval:

#### **1. Relax parking requirements—particularly if the ADU is located within an existing home or within ½ mile of transit.**

Off-street parking requirements, requiring additional spaces to be added, are among the most frequently cited reasons homeowners cannot add ADUs.

These requirements unfairly penalize ADUs, since homes are often occupied below their intended density, as in the case of empty nesters or single parent homes. If an ADU improves utilization of an existing home by renting extra bedrooms with a kitchen and a bath, then the number of cars associated with the property is likely to be similar to that of a single family occupying the same home.

Such requirements also fail to reflect the lower rates of car ownership and higher rates of transit use among ADU residents. In an era when many families are shedding an extra car as Uber, Lyft, car sharing and other on-demand transportation programs expand, many Bay Area communities are wisely reducing off-street parking requirements for ADUs. If parking is required, consider allowing tandem parking in existing driveways.

#### **2. Reform land use controls to allow more ADUs with simple building permit approvals**

Development standards are highly effective at preventing homeowners from adding ADUs. In particular, lot coverage ratios and setbacks that are not needed for fire safety prevent many otherwise appropriate areas on a single family lot from incorporating an ADU. If building and fire safety standards can be met, we encourage your city to add no or very minimal additional development standards to restrict ADUs. Creating clear standards for owners to simply obtain a building permit to add an ADU with a minimum of restrictions will significantly increase the number of owners willing and able to pursue this housing option.

#### **3. Allow ADUs without cumbersome permitting or reporting requirements**

Many homeowners will not create ADUs if it means high upfront costs, cumbersome permitting and fee burdens, or long-term contractual obligations that owners are not familiar with.

In order to expand ADUs enough to add to urgently needed housing supply, we need to make the economics work through reduced fees, to reduce the work required with easier permitting and less process, and even to provide technical assistance for interested owners to explain the “how to” of ADUs.

#### **4. Broadly legalize existing ADUs that can meet basic building, health, and safety standards even if they are non-compliant with current planning codes**



Today, many homeowners illegally rent portions of their property as ADUs. Many of these ADUs might not comply with current zoning or development standards, but they provide an existing home for someone. If that home is safe for occupants and neighbors, it should be allowed to come into compliance with building and safety codes and legally rented.

## **5. Relax utility service and hookup requirements and reduce other local fees**

Requirements that treat an ADU like a new use rather than an accessory to a single family home—such as new water or sewer hookups, new sprinklers, or new utility meters—often drive up the cost of adding an ADU beyond what a homeowner can afford and may not be necessary when the existing home is already served by utilities and the ADU is fire-safe. Likewise, high fees charged for building, planning, or utility permits and review can amount to tens of thousands of dollars and prevent homeowners from seeking permission to add an ADU. In Marin County, cities have worked with their departments and local utilities to reduce the up-front fee and hook-up cost of ADUs to encourage this form of housing. Cities can also allow ADUs to utilize the existing utility services serving the primary residence, eliminating the need for costly new hookup fees and installation costs.

### **Next Steps**

We would like to assist you in promoting more ADUs within your jurisdiction. In addition to providing you with the materials in this correspondence, we offer you the following:

#### **1) Our public support for your ministerial ADU laws**

Our organizations can write letters, send people to testify, and help educate the community about the many benefits of ADUs.

#### **2) Lenders who will help your homeowners finance their ADU work**

The Bay Area Council is working with member banks and loan originators to develop a specially targeted loan program for homeowners who would like to add ADUs.

#### **3) Help publicize your program**

We will help your city develop public outreach to inform homeowners of the existence of new ADU rules so they can consider this option for their property.

We will be contacting your city to make an in-person presentation and offer our assistance and relevant materials. We hope we can assist you in revising your ADU policies to help create thriving, sustainable neighborhoods that welcome people from all walks of life and ensure that everyone can remain a part of their community and live in a place they are proud to call home.

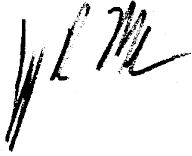
**Sincerely,**



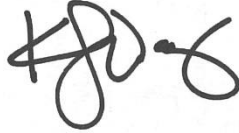
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