



December 9, 2021

The Planning Department recently published a DRAFT Housing Action Package (dated November 19) that revises ADU regulations, implements SB 9, and proposes some other local housing programs. This letter specifically addresses the proposed ADU changes (Section 3).

A close reading of Section 3 of the Housing Action Package and the existing ADU code suggests a number of changes that would mitigate impacts and clarify areas that have been left up to the interpretation of Development Services. These have been detailed in full in our **Housing Action Package NFABSD Responses**. It is also important to provide an understanding of why these changes are important to San Diego residents.

Accordingly, we highlight the most important issues of concern to homeowners, including the bonus density; height and setbacks; fire safety; collection of fees; and parking requirements.

ADU Bonus Density

The bonus density program allows property owners to add additional ADUs beyond the single ADU allowed by state law. The number of ADUs is determined by whether the development is inside or outside of a Transit Priority Area, with an allowance outside of a TPA being a single bonus ADU if the first ADU is deeded affordable and an unlimited number of ADUs (up to the FAR) inside the TPA.

It might have been difficult to visualize what “unlimited up to the FAR” would equate to when the ordinance was first presented, but we are now seeing projects of up to seven ADUs being permitted and constructed. All of these projects are being built by investors, not resident homeowners.

Because it allows investors to transform single-family zoned properties into de facto apartment complexes, this program has generated the greatest pushback from homeowners.

Despite the severe negative impact that overbuilt, multiple-ADU projects have on neighborhoods, our outgoing Planning Director, Mike Hansen, justifies these projects as the city's primary moderate-income affordable housing strategy, even though ADUs produce a fractional percentage of the units that the city needs to meet its housing goals. Even by the Planning Director's own math, ADU production would have to increase 300 times to meet the city's goals. This is not a realistic expectation, and San Diego needs to develop viable mechanisms for producing mixed-income housing instead of gaming the RHNA goals with ADUs.

Providing incentives for affordable ADUs is a mandate of state law, but the specific form of the incentive was not mandated. Instead of the current density bonus, Neighbors For A Better San Diego is proposing

a size bonus, whereby the property owner would be allowed to build the ADU 200 sf larger if deemed affordable. In this case, as allowed by state law, the base unit would be 850 sf for a studio or 1 bedroom ADU or 1,000 sf for 2 or bedrooms, up to the state maximum ADU allowance of 1,200 sf. This would have several benefits:

- By reducing the number of units, the localized impacts on parking, trash, and building mass would be reduced.
- By building larger units, affordable ADUs could accommodate larger families, which is especially important for ADU development in high-opportunity neighborhoods.
- By providing an affordability incentive to building a single ADU, it is more likely that Affordable ADUs could be built by resident homeowners. This would result in potentially as many or more affordable ADUs being built and distribute the impacts of ADUs in a way that can be more readily absorbed into existing neighborhoods.

Regardless of revision of the current ADU code, our analysis of the code in comparison with permits issued by Development Services indicates that DSD is allowing an additional market-rate ADU for which we cannot find support in the code.

Transit Priority Areas

A particular defect of San Diego's ADU density bonus program is the use of Transit Priority Areas (TPAs), which are defined to be areas within one-half mile of major transit stops. In addition to the questionable inclusion of future transit stops in TPAs, which may in fact never be funded and built, the fundamental flaw of San Diego's TPA interpretation is that it measures the distance to transit "as the crow flies". Given San Diego's complex topography and placement of freeways and other impassable barriers, this means that it is very common that a single-family residence is designated to be in a TPA, even though someone would have to walk a mile or more (we have seen examples of up to 3 miles) to reach the designated transit stop.

The result of the overly broad TPA interpretation is that 60% of San Diego's residents live in TPAs. The concept of TPAs is that they should be concentrating development towards commercial and transit corridors, lessening the need for residents to own and drive automobiles. The smearing of TPAs beyond reasonable walking distance, however, produces the opposite of this objective by encouraging sprawl away from transit. Ideally, transit adoption would be driven by construction at or very near transit corridors.

This issue also applies to parking regulations and other development ordinances, and resolution of the measurement of distance to transit would benefit the application of those regulations as well.

Height and Setbacks

The state defined its ministerial requirements for ADUs to be no more than 4 foot rear and side yard setbacks and no less than 16 foot height limits, with exceptions for the conversion of existing structures, such as garages, which are often built on property lines. Any setback and height allowances outside of this "ministerial envelope" are at the discretion of the city. An analysis of San Diego's permit records

since the current ADU ordinance was enacted shows that the most common developments are either the conversion of a garage or construction over a garage. We do not want to deter these developments, as they have been common and accepted practice in San Diego for many years. We do, however, recommend that new detached ADUs adhere more closely to the state allowances.

Fire Safety

State ADU law allows areas to be excluded for public safety, including Very High Fire Hazard Severity Zones. San Diego has included such exclusions in the Housing Action Package proposed implementation of SB 9 but has not imposed a comparable exclusion for ADU development. Accordingly, we propose that ADU developments of more than three units (combination of single-family dwelling unit, JADU, and ADUs) be excluded from Very High Fire Hazard Severity Zones, in the same manner as such multiple-dwelling development would be excluded by San Diego from SB 9 developments.

Development Fees

San Diego is going to be adding thousands, if not tens of thousands, of units through ADUs, in the coming years. Many of these ADUs will be built in neighborhoods with aging water and sewer lines and a lack of parks, libraries, and other supporting infrastructure. San Diego already has a significant deficit of infrastructure funding, and even when the residents of San Diego voted to direct city funds to infrastructure via Proposition H, the Council overrode the will of the voters and re-directed those funds back into the general budget.

We cannot continue to pile more housing onto insufficient infrastructure. We ask that San Diego's ADU code be revised to collect those fees as allowed by state ADU code, including Development Impact Fees (DIFs), Regional Transportation Congestion Impact Fees (RTCIPs), and General Plan Maintenance Fees (GPMFs).

Note that imposition of fees would only apply to ADUs of more than 750 sf, so the proposed changes would impose a minimal burden on smaller projects, including typical homeowner-driven projects.

We also propose continuing to waive fees for deeded-affordable ADUs of any size, providing additional encouragement for the development of affordable ADUs, in addition to the proposed size bonus incentive.

Parking

As a consequence of TPAs extending beyond reasonable walking distance to transit (which may be planned and not yet available), we expect that most ADU owners will require the use of an automobile to work or shop. For this reason, we ask that the city re-examine and revise its parking regulations for ADU development.

Summary

Neighbors For A Better San Diego recognizes that California has a housing shortage and appreciates that legislation has been enacted to address that problem. Our goal with the above-described changes is to mitigate the negative impacts of infill development in single-family zones, and to enhance the affordability components of local implementation of these measures. By appropriately balancing the need for more housing with the capacity of neighborhoods to absorb additional units, these projects can be a meaningful contributor to San Diego's housing stock compatible with their neighborhoods.

Geoffrey Hueter
Chair, Neighbors For A Better San Diego