

2. [17-0865](#) Study of Accessory Dwelling Unit Development Standards: Forward a Recommendation to the City Council to Adopt an Ordinance Amending Sunnyvale Municipal Code Section 19.68.040 (Accessory Dwelling Units), Adopt a Resolution Amending the Master Fee Schedule to Impose Transportation Impact Fees for Accessory Dwelling Units, and Find that these Actions are Exempt from CEQA.
Project Planner: Shila Behzadiaria, (408) 730-7456, sbehzadiaria@sunnyvale.ca.gov

Assistant Planner Shila Behzadiaria presented the staff report.

Commissioner Howard asked staff about the difference between new construction of an Accessory Dwelling Unit (ADU) and a conversion ADU. Planning Officer Andrew Miner explained that there are some differences in the requirements for newly built ADUs compared to conversion ADUs, as required by state law. Housing Officer Suzanne Ise advised that the State law prevents the City from imposing a minimum lot size requirement on conversion ADUs. Commissioner Howard asked about parking requirements for converting a garage into an ADU and Planning Officer Miner explained that any parking spaces eliminated by the permitted ADU must be replaced on the site. Commissioner Howard asked staff about unit size maximums related to State law. Planning Officer Miner provided information about the scope of this study.

Commissioner Howard asked staff about preventive measures for renting out portions of a home. Planning Officer Miner provided details about short term rental unit requirements. Housing Officer Ise provided details about the requirements for a conversion ADU.

Commissioner Harrison clarified with Planning Officer Miner that per the staff recommendation, the front door of the ADU should not be on the same plane as the front door of the main home.

Vice Chair Weiss asked staff about the maximum number of ADUs that could be permitted. Housing Officer Ise and Senior Assistant City Attorney Rebecca Moon advised that the state law prohibits cities from imposing a strict cap on the number of ADUs that can be developed. Planning Officer Miner and Housing Officer Ise provided details about the current number of ADUs in the City.

Vice Chair Weiss confirmed the deed restriction requirements with Planning Officer Miner.

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Vice Chair Weiss clarified with Planning Officer Miner that an ADU can legally be used as a short-term rental if the owner lives on the property and has obtained a short-term rental permit from the City.

Commissioner Simons discussed the Transportation Impact Fee (TIF) with Planning Officer Miner and Senior Assistant City Attorney Moon. Senior Assistant City Attorney Moon advised that the City Council determines allocation of TIF funds, but that a study issue could be proposed to analyze the use of TIF fees generated through ADU permits for purposes such as ecopasses.

Commissioner Simons confirmed with Housing Officer Ise that a change in the owner-occupancy requirement would not retroactively nullify any active deed restrictions.

Commissioner Simons commented on the need for more on street parking as indicated by residents. Planning Officer Miner provided details about the parking requirements for new and conversion ADUs and advised that on-street parking is public parking, and that no changes to the current parking requirements for ADUs are being proposed at this time.

Commissioner Olevson asked staff how reducing the minimum lot size for ADUs would affect other requirements such as Floor Area Ratio (FAR), setbacks and height restrictions for a new ADU. Assistant Planner Behzadiaria stated that each project will be reviewed to ensure compliance with those standards as well. Planning Officer Miner advised that all the same standards will apply.

Commissioner Olevson asked staff why the number of available lots for ADUs should increase if only a small percentage of lots currently have ADUs. Housing Officer Ise advised that the primary reason is for owners whose properties are smaller than the current minimum lot size and want an ADU, usually to house extended family members. Housing Officer Ise noted that staff has determined that the proposed new lot sizes are a reasonable compromise. Commissioner Olevson asked staff about further justification for this change. Planning Officer Miner advised that the goal is to allow further opportunities, which will accomplish the goal of adding housing.

Commissioner Olevson stated an understanding that ADUs will have a negligible impact on transportation issues and asked staff about the consideration for different

TIF rates. Planning Officer Miner stated that the closest factor already in use is the multi-family rate and that renting an ADU likely means the use of a car, so an ADU should be subject to those fees.

Chair Rheume confirmed with Assistant Planner Behzadiaria that the deed restriction would not apply for a new owner if the 20-year period has already been met.

Chair Rheume asked staff about enforcement for owners who rent both units within an active 20-year deed restriction. Planning Officer Miner advised that it is difficult to track but noted that the goal is to inform future property owners about the standard and not develop a trend towards two rental units.

Commissioner Harrison asked staff about addressing concerns regarding unpermitted ADUs. Planning Officer Miner stated that it is outside the scope of this study, and that it would be difficult for staff to identify and track these instances.

Chair Rheume opened the Public Hearing.

Kevin Jackson, Sunnyvale resident, discussed his concerns with the need to balance additional parking with safe street configuration for cyclists.

Commissioner Howard asked questions of Mr. Jackson regarding his opinion on parking.

Sue Serrone, Sunnyvale resident, spoke in support of reducing minimum lot sizes for ADUs in pursuit of the goal to add more housing and suggested further reduction of the minimum lot sizes.

Commissioner Simons confirmed with Ms. Serrone that in her opinion it would not be an impediment to build an ADU if it was tied to an obligation for street improvements.

Daryoush Nafar, Sunnyvale resident, spoke in support of ADUs and encouraged the Planning Commission to lessen regulations.

Ladan Dalla Betta, Sunnyvale resident, spoke in support of reducing minimum lot sizes for ADUs and noted the current difficulties of meeting ADU requirements.

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Emerson Stewart, Sunnyvale resident, spoke in support of reducing minimum lot sizes for ADUs.

Valerie Soares, Sunnyvale resident, discussed her concerns with existing ADUs and asked the Planning Commission to consider removing the minimum lot sizes for ADUs and the deed restriction.

Commissioner Howard discussed the request for removal of the deed restriction with Ms. Soares. Commissioner Weiss clarified that the 20-year deed restriction is tied to the property, not the owner.

Josie Johnson, Sunnyvale resident, spoke in support of reducing minimum lot sizes for ADUs.

Chair Rheaume closed the Public Hearing.

MOTION: Commissioner Howard moved Alternative 3 – Consider other minimum lot sizes than those shown in Alternative 1. Commissioner Howard suggested that there should be no minimum lot size.

This motion failed for lack of a second.

MOTION: Commissioner Simons moved and Commissioner Harrison seconded the motion for Alternative 1 – Introduce an ordinance to reduce the minimum lot size for ADUs to 8,000 square feet in the R-1 zone and to 7,000 square feet in the R-0 zone (Attachment 7).

Commissioner Simons stated an opinion that issues need to be mitigated and that hopefully future mitigation would occur.

Commissioner Harrison stated an opinion that this proposal is moderate in regards to lot size and considers resident concerns as well as the need for more flexibility with ADUs. Commissioner Harrison commented that this is not permanent since future ADU revision can be considered. Commissioner Harrison stated that this change can create additional housing for the City.

Commissioner Howard spoke about the need for residents to expand their homes with ADUs. Commissioner Howard commented that if large minimum lot sizes for

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ADUs are maintained then residents will circumvent the rules. Commissioner Howard stated an opinion that streamlining the ADU process to align new construction and conversion of existing space would be of benefit.

Commissioner Olevson stated an opinion that based on public comments and the staff report any changes should be incremental, such as reducing the minimum lot sizes for ADUs. Commissioner Olevson commented that the outcome of this change should be analyzed before additional reductions or elimination of a minimum lot size. Commissioner Olevson stated that he will be supporting the motion.

Chair Rheume stated that he will be supporting the motion and agrees with the reduction of minimum lot sizes for ADUs as an incremental change. Chair Rheume stated that staff has done a thorough job.

Planning Officer Miner recommended that Alternative 13 be included in the motion. Commissioner Simons modified the motion to include Alternative 13. Commissioner Harrison accepted the modification.

MOTION: Commissioner Simons moved and Commissioner Harrison seconded the motion for Alternatives 1 and 13 –

1. Introduce an ordinance to reduce the minimum lot size for ADUs to 8,000 square feet in the R-1 zone and to 7,000 square feet in the R-0 zone (Attachment 7)
13. Find that the amendments to Municipal Code Section 19.68.040 are exempt from CEQA pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15378(b)(4)

The motion carried by the following vote:

Yes: 5 - Commissioner Harrison
Chair Rheume
Commissioner Olevson
Commissioner Simons
Vice Chair Weiss

No: 1 - Commissioner Howard

Absent: 1 - Commissioner Howe

MOTION: Vice Chair Weiss moved and Commissioner Simons seconded the motion for Alternative 6 –make permanent the owner-occupancy requirement and deed

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restriction.

Vice Chair Weiss stated an opinion that this modification is important to preserve the quality of single family neighborhoods. Vice Chair Weiss commented that the quality, appearance, sense of community and place are all impacted by having an owner on site. Vice Chair Weiss stated an opinion that this should not be a burden as the property can be sold with a rental unit.

Chair Rheume clarified with Vice Chair Weiss that her suggestion is to make permanent the owner-occupancy requirement and deed restriction.

Commissioner Simons noted his agreement with Vice Chair Weiss's comments. Commissioner Simons stated an opinion that the main problem in residential neighborhoods is unoccupied Airbnb rentals and noted that a more complicated enforcement issue could develop if owners are not on site. Commissioner Simons stated that he will be supporting the motion.

Commissioner Howard commented that less regulation could stimulate growth of ADUs but noted resident concerns with real estate for profit. Commissioner Howard commented that potentially in the future incentives for ADUs as affordable housing units could be analyzed. Commissioner Howard stated an opinion that this will be favorable for the City and that he will be supporting the motion.

Commissioner Olevson noted his concern that allowing an ADU with a 20-year restriction is insufficient due to the change of character in the land use. Commissioner Olevson stated that he will be supporting the motion and commented that a future homeowner could remove the ADU and apply to have the deed restriction removed.

Commissioner Harrison stated that she will not be supporting the motion. Commissioner Harrison stated an opinion that ADUs in her neighborhood are rented to family members. Commissioner Harrison commented on the concerns presented but stated an opinion that those concerns do not match the City's current reality. Commissioner Harrison commented that a 20-year deed restriction is a moderate stance.

Chair Rheume stated that he will be supporting the motion and noted his agreement with the comments provided by Commissioner Weiss, Commissioner Olevson and Commissioner Simons.

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The motion carried by the following vote:

Yes: 5 - Chair Rheaume
Commissioner Howard
Commissioner Olevson
Commissioner Simons
Vice Chair Weiss

No: 1 - Commissioner Harrison

Absent: 1 - Commissioner Howe

MOTION: Commissioner Simons moved and Commissioner Olevson seconded the motion for Alternatives 11 and 12 –

11. Modify the requirement that the entry door of ADU not face the public street (included in proposed ordinance, Attachment 7)

12. Clarify the ADU requirements in the zoning code

Commissioner Simons stated an opinion that this is a logical, non-controversial addition that would be required to support the Alternatives which have already passed.

Commissioner Olevson stated that he fully supports not having two front doors face the street to avoid neighborhood degradation.

Commissioner Howard asked for clarification on Alternative 12. Senior Assistant City Attorney Moon advised that Alternative 12 is superfluous and does not need to be included. The motion was modified to exclude Alternative 12.

MOTION: Commissioner Simons moved and Commissioner Olevson seconded the motion for Alternative 11 – Modify the requirement that the entry door of ADU not face the public street (included in proposed ordinance, Attachment 7).

The motion carried by the following vote:

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Yes: 6 - Commissioner Harrison
Chair Rheaume
Commissioner Howard
Commissioner Olevson
Commissioner Simons
Vice Chair Weiss

No: 0

Absent: 1 - Commissioner Howe

MOTION: Commissioner Simons moved for Alternative 9 – Adopt a Resolution amending the Master Fee Schedule to establish the TIF for ADUs to be same as the senior housing rate, or other specific rate.

Commissioner Simons provided details about his request regarding fees and Planning Officer Miner advised that it would best be addressed as a study issue. Commissioner Simons modified his motion.

MOTION: Commissioner Simons moved and Commissioner Howard seconded the motion for Alternative 8 – Adopt a Resolution amending the Master Fee Schedule to establish the TIF for ADUs to be same as the multi-family rate (Attachment 8).

Commissioner Simons noted his disappointment that Alternative 9 cannot accommodate his request and that a study issue would be needed per staff's recommendation.

Commissioner Howard noted that this rate would be consistent with the TIF for a small apartment unit and less expensive than the single-family rate.

Senior Assistant City Attorney Moon recommended that the motion include Alternative 14. Commissioner Simons modified the motion to include Alternative 14. Commissioner Howard accepted the modification.

MOTION: Commissioner Simons moved and Commissioner Howard seconded the motion for Alternatives 8 and 14 –

8. Adopt a Resolution amending the Master Fee Schedule to establish the TIF for ADUs to be same as the multi-family rate (Attachment 8)

14. Find that amendments to the Master Fee Schedule are exempt from CEQA

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The motion carried by the following vote:

Yes: 6 - Commissioner Harrison
Chair Rheaume
Commissioner Howard
Commissioner Olevson
Commissioner Simons
Vice Chair Weiss

No: 0

Absent: 1 - Commissioner Howe

Planning Officer Miner advised that this item goes to the Housing and Human Services Commission on September 20th, 2017 and to the City Council on October 17th, 2017.

3. [17-0756](#) **File #:** 2017-7556
Location: 801-819 Allison Way (APNs: 323-03-023 through 323-03-026 and APNs: 323-04-034 through 323-04-036), 1315-1381 Lennox Way (APNs: 323-03-027 through 323-03-038), 804-816 Lennox Court (APNs: 323-03-039 through 323-03-042), 801-814 Blanchard Way (APNs: 323-03-043 through 323-03-045 and APNs: 323-04-025 through 323-04-027), and 801-814 Beaverton Court (APNs: 323-04-028 through 323-04-033).
Zoning: R-1
Proposed Project: Introduction of Ordinance to **REZONE** 35 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)
Applicant / Owner: Tom Verbure (plus multiple owners)
Environmental Review: The Ordinance being considered is categorically exempt from review pursuant to CEQA Guidelines Section 15305 (minor alteration in land use) and Section 15061(b)(3) (a general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the activity is not subject to CEQA).
Project Planner: Aastha Vashist (408) 730-7458, avashist@sunnyvale.ca.gov

Assistant Planner Aastha Vashist presented the staff report.

Chair Rheaume opened the Public Hearing.