



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Brian Fullmer
Policy Analyst

DATE: March 7, 2023

RE: Accessory Dwelling Unit Ordinance Amendment
PLNPCM2022-00475

Item Schedule:

Briefing: January 17, 2023,
February 7, 2023
Set Date: January 17, 2023,
March 7, 2023
Public Hearing: February 7, 2023,
March 21, 2023
Potential Action: March 21, 2023

ADDITIONAL INFORMATION

After the public hearing on February 7th, some Council Members expressed interest in having additional work session discussion time to consider other options, and potentially reconsider some of the straw polls which were taken at the February 7th work session.

As a reminder, the following straw polls were taken:

- Supported keeping one off-street parking space.
- Supported keeping the following exceptions to required off-street parking:
 - If the property is within 1/2 mile of a designated bicycle lane or path.
 - If the property is within 1/4 mile of transit.
- Supported removing an exception to the off-street parking requirement if sufficient space for on-street parking is available in front of the house.
- Supported increasing the maximum size of a detached ADU to 1,000 square feet.
- Did not support the Planning staff's recommended 1,200 square foot maximum size of a detached ADU on lots 12,000 square feet or larger.
- Supported retaining the owner occupancy requirement.
- Supported amending corner side yard setbacks to 20% of the lot width or 10 feet, whichever is less. This would allow an ADUs on corner lots to be located closer to the street than to an adjacent property.
- Supported removing the conditional use requirement for ADUs.
- Did not support limiting ADU height to the principal structure's height.

The following is a list of additional ideas that have been raised by Council Members since the last discussion, grouped by topic area:

1. Ideas relating to the owner occupancy requirement:



- a. Option to remove the requirement altogether.
- b. Option to require construction of ADUs to be owner occupied for 1 year, with the option to remove the restriction after one year of no substantiated zoning or civil enforcement complaints.
- c. *(could be combined with a or b)* Require a business license and institute a fee to offset costs of enforcement, and require commitment to not use as a short term rental
 - For any landlord using an ADU as a rental. Two different fees have been suggested (subject to cost justification), \$1,000 per year or \$2,400 per year (\$200 per month)
 - Allow owner occupied properties to have this fee waived
 - The fee cannot be waived by the Good Landlord program
- d. Add a sunset clause for the owner occupancy requirement citywide. If there is no additional Council action, this requirement would sunset in 24 months (or some other period).
- e. Potential ideas that may be related to owner-occupancy reconsideration:
 - reconsider straw poll relating to parking requirements for lots within ½ mile of designated bicycle lane
 - reconsider straw poll to increase the size from 720 to 1000 square feet

2. Enforcement

- a. Add 1 or more employees (FTEs) in Civil Enforcement specifically to address ADU related violations including noise, illegal Short-Term Rentals, etc. Costs could be offset by fees (idea raised in item 1.c.). *Consider allocating funds in Budget Amendment #5 as a Council-added item.*

3. Incentives

- a. Use a legislative intent or allocate funds in Budget Amendment #5, or an upcoming RDA budget amendment, to make creation of affordable ADU programs a higher priority. The funding could address staffing costs to develop and administer programs as well as direct program costs such as incentives. Ideas raised include pre-approved development plans, subsidy for utility connection fees, direct financial support in form of grants or loans, examine other way's ADUs have shown to be expensive (fire sprinklers, etc.).

4. Other questions Council Members asked staff (this section may be updated prior to the March 7 discussion. It reflects questions as of March 1. Council staff is working on gathering additional information).

- To what extent has comment from the public and community councils addressed owner occupancy?
- To what extent did the Planning Commission discuss owner occupancy?
- To the extent that studies are cited in relation to the impacts of owner occupancy requirements, can Council staff thoroughly review those studies to provide Council Members specific information about whether any owner occupancy conclusions are objectively verifiable and applicable to different markets? Is owner occupancy isolated as a specific variable, or is it grouped with a list of other possible variables?
- Are there stronger enforcement tools such as restrictive covenants that can help mitigate neighborhood impacts?

Next steps: *The Chair and Vice Chair are planning on a work session discussion March 7th, with a second public hearing and potential considerations for action March 21st, which is the next formal Council Meeting.*

FOLLOW-UP BRIEFING AND PUBLIC HEARING UPDATES

Follow-up Briefing

At the February 7, 2023 follow-up briefing, the Council reviewed five Accessory Dwelling Unit (ADU) topics discussed at the previous briefing. These topics were parking requirements, maximum ADU size, owner occupancy requirement, setback, and a conditional use requirement.

The Council held a series of straw polls indicating their positions on these various topics. The Council Chair reminded the public that these straw polls are not the final votes and Council Members may feel differently following the public hearing. (Refer to straw polls above.)

Public Hearing Update

Seventeen people spoke at the February 7, 2023 public hearing expressing support for, or opposition to, ADUs. Those in favor cited the need for additional quality, affordable housing in the city, ADUs provide a way to add moderate density to neighborhoods, and potential benefits to property owners. Suggestions were made to incentivize micro units, review fees and other permitting requirements, and require ADU compatibility with the lot's original structure.

Those who expressed opposition to the proposal noted the difficulty enforcing on illegal short-term rentals, ADUs blocking light from neighbors' gardens and solar collectors, and potential negative impacts to neighborhoods.

The Council closed the public hearing and deferred action to a future Council Meeting.

The following information was provided for the February 7, 2023 Council briefing. It is included again for background purposes.

BRIEFING UPDATE

At the January 17, 2023 briefing, Council Members focused their discussion on five topics related to Accessory Dwelling Units (ADUs): parking requirements, maximum ADU size, owner occupancy, required setbacks, and conditional use requirements. A summary of each topic is included below, as well as potential straw polls for Council consideration.

Potential Straw Polls

Staff is including the following potential straw polls to help clarify the Council's wishes regarding five main topics discussed during the briefing.

1. Is the Council supportive of maintaining the existing requirement for a minimum of one off-street parking space for ADUs where the proposed exceptions do not apply?
If so, does the Council support the following exceptions in the draft ordinance?
 - a. The property is in a zoning district with no minimum off-street parking requirement.
 - b. The property already contains at least one accessible stall above the minimum parking requirement.
 - c. The property is within one-half mile of a designated bicycle lane or path.
2. Does the Council wish to increase the maximum size of a detached ADU to:
 - a. 720 square feet as proposed by Planning staff?
 - b. 1,000 square feet as proposed by the Planning Commission?
 - c. 1,200 square feet on lots 12,000 square feet or larger?
3. Does the Council wish to maintain the current owner occupancy requirement?
4. Is the Council supportive of the proposed setback requirements shown below?
 - a. A suggestion was made for corner side yard setbacks of 20% of the lot width or 10 feet, whichever is less. Is the Council supportive of this?
5. Does the Council wish to remove the conditional use requirement for ADUs?

Parking Requirements

The proposed ordinance maintains the requirement for one on-site parking space for an ADU. Under the proposal, the following circumstances allow this requirement to be waived:

- The property is in a zoning district with no minimum off-street parking requirement.

- The property already includes at least one accessible stall beyond the minimum parking requirement.
- The property is within one-half mile of a designated bicycle lane or path.

Council Members discussed advantages and disadvantages of this requirement. It was noted the off-street parking requirement could be a barrier to some who would like to construct an ADU. Eliminating the requirement for off-street parking would potentially create additional issues for areas that have limited on-street parking or are near venues that draw large crowds and attendees often park in the nearby neighborhoods.

Maximum ADU Size

Planning staff recommended increasing the maximum size of a detached ADU from the current 650 square feet to 720 square feet. (The proposal allows detached ADUs up to 1,200 square feet on lots 12,000 square feet or larger.) During the Planning Commission briefing, Commissioners included a recommendation of increasing the maximum size to 1,000 square feet.

The Council discussed potential neighborhood impacts if the maximum size is increased to 1,000 square feet. It was noted a compact two-bedroom ADU would be feasible if the maximum size was increased to 720 square feet.

Owner Occupancy

A robust discussion was held about the requirement for a property owner to reside on the property. A suggestion was made to remove this requirement, noting a reduction of the pool of potential buyers if the property is listed for sale. Other points raised were removing the owner occupancy requirement could exacerbate issues with absentee landlords, and requiring owner occupancy may lead to higher quality ADU materials and construction.

A majority of Council Members expressed support for retaining the owner occupancy requirement.

Required Setbacks

Planning staff reviewed current and proposed setbacks for detached ADUs with the following table:

Detached ADUs		
Standard	Current Requirement	Proposed Requirement
Minimum Setback	New accessory buildings and additions to existing accessory buildings: 4 feet from any side or rear lot line.	3 feet from interior side or rear lot lines.
	Second story additions: 10 feet from any side or rear lot line, unless abutting an alley, in which case setback can be reduced to 4 feet.	10 feet from corner side lot line.
	If accessory building is taller than 17 feet, setback must be increased to 10 feet, unless abutting an alley, in which case setback can be reduced to 4 feet.	If accessory building is taller than 17 feet, setback must be increased by 1 foot for every additional foot in height above 17'.

Council Members discussed whether a 10-foot setback from a corner side yard is appropriate. Planning staff stated the current ordinance does not specify setback requirements for detached ADUs on corner lots. Rather, it defers to general accessory building setbacks, which are not allowed less than 20 feet from the side yard property line on corner lots. They noted moving a detached ADU closer to the street would have less of an impact on abutting property. On narrower lots, a 20-foot setback in corner side yards may require an ADU close enough to the opposite property line that it prohibits the abutting property owner from adding an ADU to their property due to spacing requirements between dwelling units.

A discussion was also held about potential impacts reducing the minimum side or rear yard setback from four feet to three feet.

Under the proposal balconies would be allowed on the second story of a detached ADU and face any direction. They may not encroach into the required setback areas, contain HVAC equipment, or be used for storage.

Conditional Use Requirements

Planning staff reviewed the conditional use requirement origin. They noted the Council's request for a process allowing public input on ADU petitions. Making ADUs a conditional use was the only option identified to meet this request.

Planning said the Planning Commission has not denied any ADU applications. They stated detrimental neighborhood impacts related to ADUs that are not addressed in City Code are not happening. The Planning Commission added few conditions to ADU applications in more than three years. Planning staff calculated the time required to process 25 ADU applications per year equals one full time staff person.

Some Council Members expressed concern about removing the conditional use process. They noted the public was told this would be part of the ADU process and now that may change.

The following information was provided for the January 17, 2023 Council briefing. It is included again for background purposes.

The Council will be briefed about a proposal to amend the City ordinance related to Accessory Dwelling Units (ADUs) making external units a permitted rather than conditional use, expand locations in the city where they can be built, simplify standards, and encourage their construction.

At its February 9, 2022 meeting, the Planning Commission voted to initiate a petition making ADUs a permitted use in any zoning district where residential units are permitted. This includes ADUs that are internal, attached to a main structure, or in a detached building. Current code only allows ADUs in owner-occupied properties in the City that currently have single family homes (as a conditional use in single-family districts), although internal ADUs are allowed by right due to state code. The Planning Commission expressed a stated desire to expand opportunities for ADUs. City Council and Administrative staff input was also provided resulting in proposed changes summarized in the Additional Information section below.

The Planning Commission reviewed the proposal during its September 14, 2022 meeting and held a public hearing at which three people spoke. Comments focused on making ADUs affordable, support for owner occupancy of the main house, and a suggestion for City funding to assist homeowners to construct ADUs. Concerns cited include removing the conditional use could impact adjacent neighbor privacy, a lack of public comments when ADUs are constructed, and neighborhood impacts from additional on-street parking.

Commissioners discussed increasing the maximum size of a detached ADU from the proposed 720 square feet to 1,000 square feet. A motion was made to forward a positive recommendation to the City Council that includes a modification to increase the maximum size of a detached ADU to 1,000 square feet. That motion passed 6-2. Those voting against the motion were not supportive of the 1,000 square foot maximum.

It should be noted the draft ordinance allows detached ADUs up to 1,200 square feet if the lot size exceeds 12,000 square feet, is outside a residential zoning district, or is part of a planned development that includes a minimum of four dwelling units. In response to a Council Member question, Planning staff clarified there is no minimum space between a detached ADU and the primary residence other than required fire code separation.

The draft ordinance includes a requirement that the owner reside on the property. This requirement may be met by a person related to the property owner or a trustor of a family trust that owns the property living on the property. Exceptions of up to three years are provided for property owners who are on temporary work assignments, serve in the military, are on sabbaticals, or participating in voluntary service. An additional exception is included for property owners who are placed in a hospital, nursing home, assisted living facility or other similar facility that provides medical care.

Goal of the briefing: Review the proposed zoning and future land use map amendments, determine if the Council supports moving forward with the proposal.

POLICY QUESTIONS

1. The Council may wish to discuss maximum ADU square footage of 720 square feet, 1,000 square feet, or larger based on lot size.
2. The proposed ordinance includes a requirement that the owner reside on the property as noted above. The Council may wish to discuss whether to keep this requirement.
3. The Council may wish to discuss incentive options for homeowners constructing ADUs to be rented at affordable rates, and potential sources of that funding.
 - a. The Council, acting as the RDA board, allocated funding in the 9 line project area to assist in funding construction of ADUs, although this funding was limited to that project area.
 - b. The Council has also directed funds from “Funding Our Future” sales tax revenue towards incentivizing development of affordable housing units and programs.

ADDITIONAL INFORMATION

As previously noted, there are several proposed changes to the ADU ordinance. These are summarized below. For the complete analysis, please see pages 2-10 of the Planning Commission staff report.

Remove Conditional Use Requirement

ADUs are currently permitted in two-family and multi-family zoning districts by-right when associated with a single-family dwelling. Detached ADUs in a single-family residential district are required to go through the conditional use process. It is worth noting House Bill 82 went into effect in October 2021 making internal ADUs permitted uses in single-family residential zones. The proposed ordinance aligns with that legislation.

The proposal removes a conditional use requirement for detached ADUs in single-family residential districts. This would streamline the process for applicants and reduce staff and Planning Commission time needed to review ADU applications. Planning staff noted “Potential negative impacts of ADUs would continue to be managed by the development standards in the ADU Ordinance.”

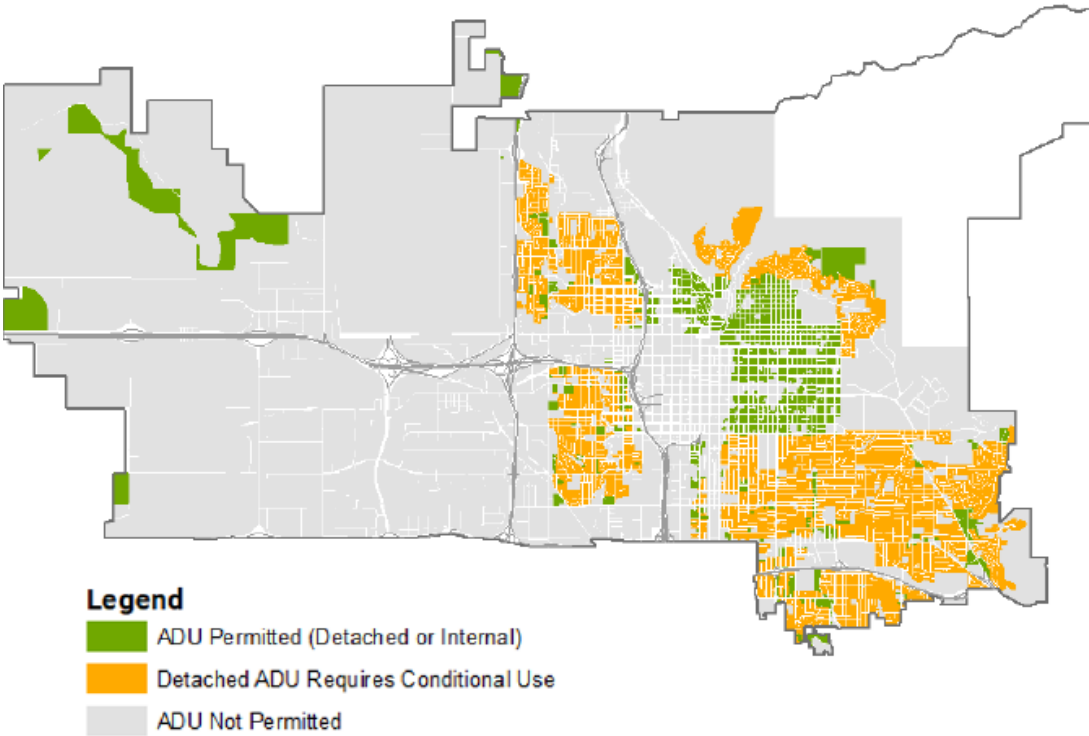
Expand Where ADUs Can Be Built

One goal of the proposed ADU amendments is to expand where they are allowed. Tables summarizing impacts to zoning districts under the proposed ADU amendments are included on pages 3-4 of the Planning Commission staff report. They are replicated in Attachment A to this report for convenience.

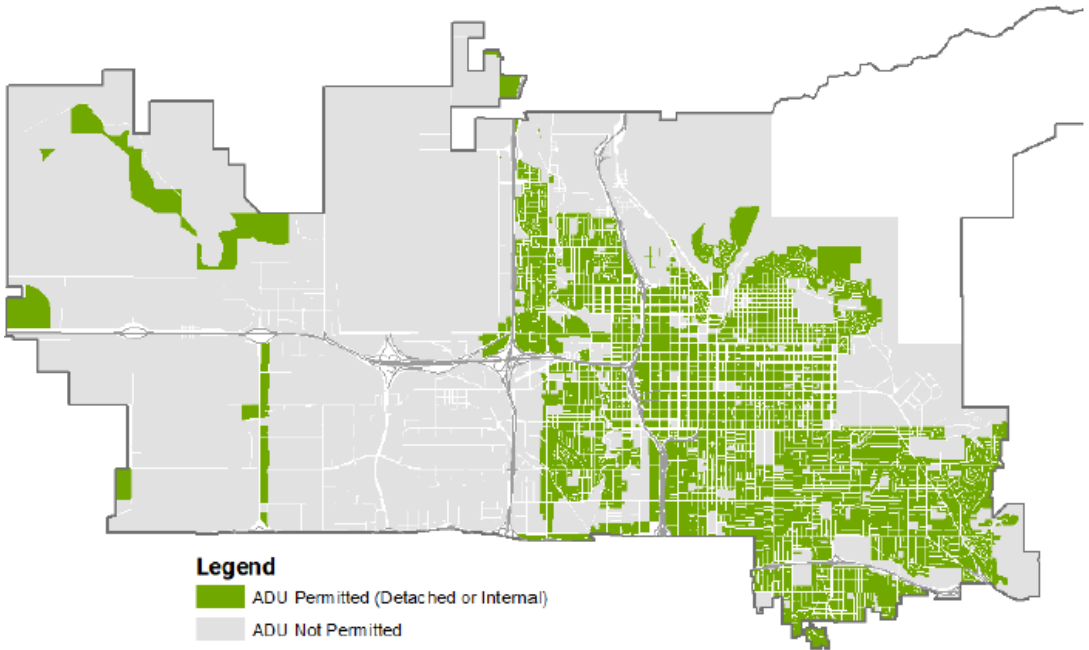
Currently ADUs are allowed as a conditional use on properties used for single-family residential in residential zoning districts. In summary, the proposed changes would allow ADUs as a permitted rather than conditional use in single-family residential zoning districts, allow them as a permitted use in several lower intensity commercial zoning districts, transit station districts, form-based, and downtown zoning districts. ADUs would continue to be prohibited in manufacturing districts, and special purpose districts.

Planning staff included the following maps on page 5 of the Planning Commission staff report showing current locations where ADUs are allowed and where they would be allowed under the proposal. The maps are included here for convenience.

Map showing where ADUs are currently allowed



Map showing where ADUs would be allowed under proposed changes
Images Courtesy Salt Lake City Planning Division



Adjust Size, Bulk, and Yard Requirements

The proposed amendment modifies size, bulk, and yard requirements to generally make them less restrictive. These are summarized in the following tables provided by the Planning Division. (Images depicting various standards are found on pages 7-8 of the Planning Commission staff report.)

Internal ADUs

<i>Standard</i>	<i>Current Requirements</i>	<i>Proposed Requirement</i>
Maximum Size	50% of gross square footage of principal structure.	No maximum. Aligns with HB82.

Detached ADUs

<i>Standard</i>	<i>Current Requirement</i>	<i>Proposed Requirement</i>
Maximum Size	50% of principal structure's footprint or 650 square feet , whichever is less	In residential zoning districts: 720 square feet maximum . Can be increased to 1,200 square feet if lot is 12,000 square feet or larger.
Maximum Height	17 feet. If principal structure is taller than 17 feet, ADU can be the same height as the principal structure, up to 24 feet.	17 feet. Can be increased up to 24 feet with an increased setback.
Minimum Setback	New accessory buildings and additions to existing accessory buildings: 4 feet from any side or rear lot line. Second story additions: 10 feet from any side or rear lot line, unless abutting an alley, in which case the setback can be reduced to 4 feet. If accessory building is taller than 17 feet, setback must be increased to 10 feet, unless abutting an alley, in which case setback can be reduced to 4 feet.	3 feet from interior side or rear lot lines. 10 feet from corner side lot line. If accessory building is taller than 17 feet, setback must be increased by 1 foot for every additional foot in height above 17 feet.

Introduce Alley Activation Requirements

Detached ADUs are often constructed adjacent to public alleys, which provides an opportunity to activate the alleys. The proposed amendment adds requirements for ADUs abutting alleys to include lighting on the ADU to illuminate the abutting alley segment, and a path between the ADU and alley.

Keep Short-Term Rental Restrictions

The proposed amendment maintains the current ordinance prohibition on short-term rentals. A definition of “short-term rental” as a dwelling unit offered for rent or lease for less than 30 days would be added.

Adjust Other Requirements

The proposal adjusts and clarifies requirements for decks, patios, and outdoor space. Rooftop patios continue to be prohibited, but balconies are permitted provided they meet setback requirements.

Parking requirements for ADUs would be maintained much as they are if the proposed amendments are adopted. Proposed additions to parking requirements include circumstances under which the required off-street parking stall may be waived. These are:

- The property is in a zoning district with no minimum off-street parking requirement.
- The property already contains at least one accessible stall above the minimum parking requirement.
- The property is within one-half mile of a designated bicycle lane or path.

KEY CONSIDERATION

Planning staff identified one key consideration related to the proposal which is found on pages 10-12 of the Planning Commission staff report and summarized below. For the complete analysis, please see the staff report.

Consideration 1-How the proposal helps implement city goals and policies identified in adopted plans

Planning staff reviewed how the proposed amendments align with goals and policies found in *Plan Salt Lake (2015)* and *Growing SLC: A Five-Year Housing Plan 2018-2022 (2017)*. They determined the proposal is consistent with several items found in the Growth, Housing, Transportation & Mobility, and Preservation chapters of *Plan Salt Lake*. Among the initiatives proposed changes align with are the following:

- Locate new development in areas with existing infrastructure and amenities, such as transit and transportation corridors.
- Encourage a mix of land uses.
- Promote infill and redevelopment of underutilized land.
- Accommodate and promote an increase in the city’s population.
- Encourage housing options that accommodate aging in place.
- Enable moderate density increases within existing neighborhoods where appropriate.

Planning also found the proposal is consistent with goals and objectives in *Growing SLC*. These include:

- Review and modify land-use and zoning regulations to reflect the affordability needs of a growing, pioneering city.
- Develop infill ordinances that promote a diverse housing stock, increase housing options, create redevelopment opportunities, and allow additional units within existing structures, while maintaining neighborhood impacts.

- Revise the Accessory Dwelling Unit ordinance to expand its application and develop measures to promote its use.
- Support diverse and vibrant neighborhoods by aligning land use policies that promote a housing market capable of accommodating residents throughout all stages of life.

ANALYSIS OF STANDARDS

Attachment C (pages 32-34) of the Planning Commission staff report outlines zoning map amendment standards that should be considered as the Council reviews this proposal. The standards and findings are summarized below. Please see the Planning Commission staff report for additional information.

Factor	Finding
Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents.	<i>Complies</i>
Whether a proposed map amendment furthers the specific purpose statements of the zoning ordinance.	<i>Complies</i>
Whether a proposed map amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards.	<i>Proposed regulations would take precedence over overlay zoning districts, except for the Historic Preservation Overlay District. Amendments would be limited by additional standards in this district.</i>
The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.	<i>Complies</i>

PROJECT CHRONOLOGY

- February 9, 2022-Petition initiated by Planning Commission.
- May 12, 2022-Petition assigned to Michael McNamee, Principal Planner.
- May 17, 2022-Application posted for online open house.
- May 18, 2022-Notice mailed to all community councils.
- March 30, 2022-45-day public comment period for recognized organizations ended.
- September 2, 2022-Planning Commission agenda posted to the website and emailed to the listserv.
- September 8, 2022-Staff report posted to Planning's website.
- September 14, 2022- Planning Commission meeting and public hearing. Positive recommendation forwarded to the City Council.

- September 29, 2022-Ordinance requested from Attorney's Office.
- November 28, 2022-Planning received signed ordinance from the Attorney's Office.
- December 12, 2022-Transmittal received in City Council Office.

ATTACHMENT A:

Proposed Accessory Dwelling Unit Use

Change from Conditional to Permitted Use in Residential Zoning Districts

<i>Zoning District</i>	<i>District Name</i>
FR-1	Foothills Estate Residential
FR-2	Foothills Residential
FR-3	Foothills Residential
R-1/12,000	Single-Family Residential
R-1/7,000	Single-Family Residential
R-1/5,000	Single-Family Residential

Continue to Be Permitted *Residential Zoning Districts*

<i>Zoning District</i>	<i>Name of District</i>
SR-1 & SR-1A	Special Development Pattern Residential
SR-3	Special Development Pattern Residential
R-2	Single- and Two-Family Residential
RMF-30	Low Density Multi-Family Residential
RMF-35	Moderate Density Multi-Family Residential
RMF-45	Moderate/High-Density Multi-Family Residential
RMF-75	High-Density Multi-Family Residential
RB	Residential/Business
R-MU-35	Residential/Mixed Use
R-MU-45	Residential/Mixed Use
R-MU	Residential/Mixed Use
RO	Residential/Office

Special Purpose Districts

<i>Zoning District</i>	<i>Name of District</i>
FP	Foothills Protection
AG	Agricultural
AG-2	Agricultural
AG-5	Agricultural
AG-20	Agricultural
MU	Mixed Use

Change From Prohibited to Permitted Use

Commercial Zoning Districts

<i>Zoning District</i>	<i>Name of District</i>
CN	Neighborhood Commercial
SNB	Small Neighborhood Business
CB	Commercial Business
CS	Community Shopping
CC	Corridor Commercial
CSHBD	Sugar House Business District
CG	General Commercial

Transit Station Zoning Districts

<i>Zoning District</i>	<i>Name of District</i>
TSA-UC	Urban Core
TSA-UN	Urban Neighborhood
TSA-MUEC	Mixed Use Employment Center
TSA-SP	Special Purpose

Form-Based Zoning Districts

<i>Zoning District</i>	<i>Name of District</i>
FB-SC	Special Purpose Corridor Core Subdistrict
FB-SE	Special Purpose Corridor Edge Subdistrict
FB-UN1*	Urban Neighborhood
FB-UN2*	Urban Neighborhood
	<i>*Detached dwelling units currently permitted and will be removed from code</i>

Downtown Zoning Districts

<i>Zoning District</i>	<i>Name of District</i>
D-1	Central Business District
D-2	Downtown Support District
D-3	Downtown Warehouse/Residential District
D-4	Downtown Secondary Central Business District

Gateway Zoning Districts

<i>Zoning District</i>	<i>Name of District</i>
G-MU	Gateway Mixed-Use

Continue to be Prohibited
Manufacturing Zoning Districts

<i>Zoning District</i>	<i>Name of District</i>
M-1	Light Manufacturing
M-2	Heavy Manufacturing

Residential Zoning Districts

<i>Zoning District</i>	<i>Name of District</i>
SR-2	(Reserved)

Special Purpose Zoning Districts

<i>Zoning District</i>	<i>Name of District</i>
RP	Research Park
BP	Business Park
A	Airport
PL	Public Lands
PL-2	Public Lands
I	Institutional
UI	Urban Institutional
OS	Open Space
NOS	Natural Open Space
MH	Mobile Home Park
EI	Extractive Industries