



COUNCIL COMMITTEE REPORT

Planning and Neighborhoods Committee

Date: September 21, 2015

Agenda Item #: 5

Discussion and possible action on recommendations related to amendments to City Code regarding secondary dwellings.

Vote: Votes are listed under the section titled “Action Taken”

Sponsors/Department: Planning and Zoning Department

Summary of Initial Discussion:

Council Member Casar provided a brief overview of this item. This code amendment was initiated in June of 2014. There were briefings and public meetings at the Planning Commission’s Codes and Ordinances committee throughout the fall of 2014 into the spring of this year. This item was directed to the Planning and Neighborhoods Committee at full council during its first hearing in May. At the June Planning and Neighborhoods Committee meeting, the committee identified several critical issues related to ADUs from public comment. The committee recommended to Council that the Planning Commission’s initial recommendation be approved on 1st reading and that the committee address the additional critical issues in August and September.

In August, the first of two meetings regarding ADUs was held; the committee recommended that Council direct staff to initiate an investigation of barriers to low or moderate income homeowners attempting to finance ADUs and potential solutions for financing. The committee also recommended that the Council direct staff to research and implement pre-approved design guidelines for ADUs as part of the ongoing permitting reform process.

Council Member Casar then laid out the committee’s order of discussion for the item: lot size issue, parking requirements, structure size, short-term rental use, affordability requirements, opt in/opt out issues, and any new amendments that are brought up.

Mayor Pro Tem Tovo offered her general perspective: this has been an issue for an extremely long time and there have been a lot of different discussions about whether or not to take this up outside of the Land Development Code (CodeNEXT) process. There were some very strong feelings that it should be taken up as part of the CodeNEXT process. The initial resolution was directed from Council to the Planning Commission, where it was then put through a stakeholders process for a while. Mayor Pro Tem Tovo expressed that she is uncomfortable reopening each of those points.

Public Comments

Eric Goff: is for this item asked if Council would allow ADUs on a lot that are 5,750 sq. ft., make sure that all neighborhoods have that same level of equity so that people can choose to build on the same size lots across the city. Also, supporting the recommendation from staff for parking, but make sure that within a half mile of Imagine Austin activity corridor or within a TOD that we don't have any parking requirements.

David King: spoke on the importance of whatever recommendations are passed they are based on the characteristics of the neighborhood to which they would be applied. The one size fits all rule will create a problem.

Rick Hennessy: spoke on the fact that there is already enough on-street parking to accommodate additional neighbors within the Hyde Park area. Mr. Hennessy performed a parking count to see just how many spots were being used and found that 99% of the blocks had at least some parking availability and over 90% of the blocks were more than half empty. Mr. Hennessy thinks it makes sense that we require no additional parking for ADUs less than or equal to 800 square feet and one spot for ADUs larger than 800 square feet and also facilitate transit use.

Roger Cauvin: spoke on behalf of Friends of Austin Neighborhoods, briefly providing the four key points that are relevant: the membership's resolution including urging Council to remove on-site parking requirements entirely, remove the minimum lot size requirement and that the building separation requirements should be lowered or removed.

Heidi Gerbracht: spoke on the importance of reasonable regulations for granny flats. The Real Estate Council of Austin has joined with other groups to urge Council to make backyard cottages an ADU on any lot throughout the city. Having ADUs scale with the size of the lot and remove any unnecessary set back requirements that make ADUs impossible on many lots and okay with the staff recommendation for one parking space. Please consider our unified voice in support of these reasonable recommendations.

Gerald Kinney: is in support of this item and agree with several concerns brought forward today. One being the size should be proportional to lot size. A little lot shouldn't be able to have as large of a secondary dwelling as a big lot. Also, parking in the city for all residential, whether it's multi-family, condos, single family, duplexes, secondary dwellings, there really should be a minimum of one parking space for every dwelling unit.

Andre Lubomudrov: spoke on the concept of ADUs being affordable or not and they will generally fall within the range of 81 to 120% of MFI. Asked that Council really look into this concept.

Kim Gray: spoke in favor of ADUs and allowing them on any lot or any lot bigger than 5750 square feet and increase parking of ADUs by one parking spot.

Jennifer Potter Miller: spoke in support of AURAs argument adding her own personal story. Ms. Miller would like to live in a community where there are people in different life stages and with different financial means, without ADUs in our Central Austin Neighborhoods. We run the risk of becoming more and more exclusive as the price of homes goes up and even rental homes are quite expensive.

Action Taken:

1. Council Member Casar recommended to amend Section 25-2-774B ('Two Family Residential') to make detached duplexes (accessory dwelling units) have a minimum lot size of 5750 sq. ft. rather than the existing 7000 sq. ft. In addition, Council Member Casar recommended amending Section 25-2-491 to allow 'Two Family Residential' use in SF- 2 and above zoned properties, rather than the existing minimum of SF-3 and above.
 - Council Member Renteria moved that the amendments be recommended to full Council and was seconded by Council Member Gallo on a vote of **3-1** with **Mayor Pro Tem Tovo voting against**.
2. Following discussion to lessen parking requirements even more near activity corridors and transit centers, Council Member Casar recommended the committee affirm the Planning Commission and staff recommendations of one off –street parking space requirements. Council Member Gallo made a clarification that the committee recommend if there is no parking because a house was built before there were parking requirements that a property owner would only be required to provide the one parking spot for the ADU and not be required to add additional parking to bring the main house up to the current parking code. Council Member Casar agreed and clarified that the intention was to grandfather existing legally non-compliant properties.
 - Council Member Gallo moved that the Planning Commission recommendation and grandfathering requirement be recommended to full Council and was seconded by Council Member Renteria on a vote of **3-0-1** with **Mayor Pro Tem Tovo abstaining**.
3. Regarding structure size, Council Member Casar recommended keeping the 5750 lot size minimum, but amend Section 25-2-774 (7) (A) to allow a maximum gross floor area of 0.15 F.A.R., rather than the existing 850 sq. ft. maximum. This would allow accessory dwelling units to scale with the size of the lot. Staff verified that with this amendment, the smallest allowed lot size – 5,750 sq. ft. – would still have a maximum gross floor area of only 12 sq. ft. larger: 862 sq. ft.
 - Council Member Gallo moved that the amendment be recommended to full Council and was seconded by Council Member Renteria on a vote of **3-1** with **Mayor Pro Tem Tovo voting against**.
4. Mayor Pro Tem Tovo spoke on the concept of a preservation bonus and recommended that between now and full Council, staff provide full Council with language that would achieve the effect of a preservation bonus. The bonus tool would involve having the homeowner enter into some kind of restrictive covenant ensuring that an older primary structure would stay in place in exchange for a larger ADU size. Mayor Pro Tem Tovo then recommended staff provide, in a memo, potential amendment language for Council to implement a preservation bonus section of code.
 - Mayor Pro Tem Tovo moved for the Committee to recommend that staff provide language to full Council and was seconded by Council Member Renteria passing on a vote of **3-0-1** with **Council Member Gallo abstaining**.
5. Mayor Pro Tem Tovo recommended the committee amend Code to forbid any ADU built after October 1st being issued a Short-Term Rental license.
 - Mayor Pro Tem Tovo moved for the Committee to recommend the amendment to full Council and was seconded by Council Member Renteria. The motion failed on a vote of **2-2** with **council members Gallo and Casar voting against**.

6. Mayor Pro Tem Tovo recommended amending code such that any accessory dwelling unit could not be used as an STR for more than 90 days each year. Council Member Casar clarified his support for the concept of disallowing accessory dwelling units so that they would not be year-round STRs, but at the same time, didn't want to take away the right for homeowners to do this periodically. Mayor Pro Tem then amended her motion to instead disallow accessory dwelling units being used as STRs for more than 30 days a year.
 - The motion failed on a vote of **2-2** with **council members Gallo and Casar voting against.**
7. Mayor Pro Tem Tovo proposed to amend code such that accessory dwelling units currently operating as STRs Type-I's could do so, but moving forward, they would be classified as Type 1A and would count towards the 3% cap in census tracts. Council Member Casar recommended instead that accessory dwelling units currently operating STRs should be 1Bs and that 1Bs combined with Type IIs add up to the 3% cap. In cases where a census tract already hit it's 3% cap for Type II's, existing accessory dwelling units with STRs licenses would be grandfathered.
 - Mayor Pro Tem Tovo moved to change the classification of accessory dwelling unit STRs as Type-IB's and including them in the Type-II census tract cap – while grandfathering existing accessory dwelling unit STRs - to full Council on a vote of **3-1** with **Council Member Gallo opposing.**

Recommendations:

The Planning and Neighborhoods Committee recommends City Council:

- 1) Reduce the minimum lot size for 'Two Family Residential' units from the existing 7,000 sq. ft. to 5,750 sq. ft.;
- 2) Amend the current minimum zoning for 'Two Family Residential' from SF-3 and above to SF-2 and above;
- 3) Amend the current parking requirements for accessory dwelling units to one parking space. Properties with existing residential buildings should be 'grandfathered' and not require an additional parking space. (Planning Commission/Staff recommendation).
- 4) Amend the current maximum gross floor area for accessory dwelling units from 850 sq. ft. to 0.15 F.A.R.
- 5) Direct staff to research and identify any opportunities for a preservation bonus. The preservation bonus would allow property owners to receive additional property allowances as long as they preserve the existing primary structure.
- 6) Classify accessory dwelling units that would be traditionally classified as STR Type-Is as a new Type-IB, and include these in the 3% Type-II census tract cap while grandfathering existing accessory dwelling unit STRs.

*Votes are listed under the section titled "Action Taken"