



**NEIGHBORS FOR A BETTER SAN DIEGO REQUESTED AMENDMENTS
FOR PLANNING DEPARTMENT'S PROPOSED 5/30/25 ADU CODE
(updated 6/10/25)**

Neighbors For A Better San Diego has reviewed the 25 proposed amendments to San Diego's ADU regulations and recommends further changes to the items below. Refer to the Planning Department [Land Development Code Updates in Process](#) page for the full list of items and other information.

NFABSD is generally supportive of the items not listed below.

Notwithstanding our responses to the Planning Department's proposed amendments, Neighbors For A Better San Diego continues to advocate for extending the current bonus ADU regulations outside the Sustainable Development Area (SDA) citywide, which would eliminate the complexities and inequities of the unlimited bonus ADU program in the SDA. NFABSD's detailed arguments were presented to Land Use & Housing on May 15 and can be viewed on our [website](#).

Number	Name of Item	NFABSD Recommendation
5	JADU Home Rental Terms 141.0302(a)(8)	NFABSD disagrees with HCD determination that JADUs cannot be restricted to long term rentals.
9	Floor Area Ratio Maximums 141.0302(b)(6)(E), 141.0302(c)(4)(A)	Code changes are imprecise. NFABSD proposes further amendments to clarify code and align with state law.
11	Fire Safety Setbacks 141.0302(b)(8)(C)	NFABSD supports staff recommendations for 5 foot brush management setbacks and further recommends default implementation of 4 foot setbacks for all ADUs, as allowed by state law.
15	ADU Home Density Bonus - Fire Safety and Evacuation Routes 141.0302(d)(2)	Staff recommends prohibiting bonus ADUs in very high fire hazard AND with single ingress/egress. NFABSD recommends prohibiting or otherwise restricting bonus ADUs if either of those conditions exist. NFABSD further recommends that the code be updated to explicitly recognize that fire codes require a 20 foot unobstructed width.

Number	Name of Item	NFABSD Recommendation
16	ADU Home Density Bonus - Development Scale 141.0302(d)(3)	NFABSD recommends that implementation of allowed developable area follow and refer to existing applicable regulations (Chapter 14, Article 3, Division 1) for primary dwelling units and bonus ADU tree requirements.
18	ADU Home Density Bonus - Parking 141.0302(d)(6)	<p>NFABSD points out that contrary to the Staff Report, there are specific state laws allowing ADU parking requirements which use one-half mile walking distance rather than the one-half mile radial distance of the Transit Priority Area (TPA).</p> <p>Given the rigorously documented shortcomings of the TPA's radial distance (crow flies) standard, NFABSD strongly recommends adopting a walking distance standard as allowed by ADU Government Code 66322.</p>
25	Structure Height 141.0302(b)(7)(B)	<p>NFABSD supports the proposal to limit detached ADUs to two stories.</p> <p>NFABSD recommends further amendment to include the intent of the Planning Commission to exclude attached two story ADUs above a one story structure (creating a three story structure).</p> <p>NFABSD also recommends that the height of attached ADUs be limited to 25 feet and the height of detached ADUs be limited to 18 feet, as allowed by state law.</p>

NFABSD's responses are detailed below.

ITEM 5: JADU Home Rental Terms

141.0302(a)(8)

Background

At the request of Housing and Community Development (HCD), the Planning Department is proposing to remove San Diego's restriction that JADUs cannot be rented for a period of less than 31 days. The HCD staff person cites Gov. Code, §§ 66323, subd. (d) & 66333-66339 in support of this position. However, those Government Code sections do not make any statements regarding the allowed rental period of JADUs.

Contrary to HCD's assertion, NFABSD's reading is that unless state law explicitly prohibits a restriction or requires an allowance, then the local municipality has discretion to make its own decision on how to regulate the use of JADUs.

This is further supported by instances in state law that do explicitly forbid local restrictions on ADUs. This was critical, for example, in the construction of San Diego's bonus ADU program, which doesn't apply to any of the state-mandated ADUs because state law prohibits.

HCD's interpretation is further disputed by the statewide intent of enacting ADU/JADU regulations, which was to address California's housing shortage, NOT to provide income opportunities for property investors.

NFABSD Recommendation

Neighbors For A Better San Diego recommends that HCD's interpretation of state law be further examined before removing the short term rental restriction on Junior Accessory Dwelling Units.

This would mean changing the proposed code language

141.0302(a)(8) An ADU shall not be used for a rental term of less than 31 consecutive days. JADUs are not subject to rental term limitations.

to

141.0302(a)(8) An ADU or JADU shall not be used for a rental term of less than 31 consecutive days.

ITEM 9: Floor Area Ratio Maximums

141.0302(b)(6)(E), 141.0302(c)(4)(A)

Background

A code change is being proposed based on the following comment from HCD:

Section 141.0302(b)(2)(C) states: “The gross floor area of an ADU and JADU shall be included in the floor area ratio for the premises.” However, ADUs described by Government Code section 66321, subdivision (b)(3) and section 66323 are not subject to floor area ratio requirements.

This is not a correct interpretation of Section 141.0302(b)(2)(C), Government Code section 66321, subdivision (b)(3), or Government Code section 66323, The state requirement is only that the floor area ratio shall not preclude an 800 square foot ADU:

66321(b)(3) Any requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

Stated a different way, the square footage of the ADU or JADU can be counted towards the floor area ratio of the premises, but the development may exceed the maximum zoned floor area of the premises to allow an ADU of 800 square feet and a JADU of 150 square feet.

NFABSD Recommendation

Revise the proposed amended Municipal Code as follows:

Recommendation 1: Restore 141.0302(b)(2)(C):

The gross floor area of an ADU and JADU shall be included in the floor area ratio for the premises.

Recommendation 2: Change proposed code amendment 141.0302(b)(6)(E):

(E) The gross floor area of an ADU shall not be included in the floor area ratio for the premises, except that it shall be included if the premises includes bonus ADU development as set forth in Section 141.0302(d).

To

(E) The gross floor area of an ADU shall be included in the floor area ratio for the premises. The maximum floor area ratio of the premises may be exceeded to allow an 800 square foot ADU.

Recommendation 3: Change proposed code amendment 141.0302(c)(4)(A)

(4) Gross Floor Area.

(A) The gross floor area of a JADU shall not be included in the floor area ratio for the premises.

To

(4) Gross Floor Area.

(A) The gross floor area of a JADU shall be included in the floor area ratio for the premises.

ITEM 11: Fire Safety Setbacks

141.0302(b)(8)(C)

Background

The Planning Department proposes to apply setbacks of 5 feet to provide defensible space in High or Very High Fire Hazard Severity Zones. Outside of these zones, the proposed setback is 4 feet for structures greater than 16 feet in height and no minimum setbacks for structures 16 feet or less in height.

Planning Department's Proposed Code: §141.0302(b)(8)(C)

- (C) Interior side yard and rear yard setbacks for ADU structures with a structure height of 16 feet or less shall be provided as follows:
- (i) For ADU structures located on a premises outside of a High or Very High Fire Hazard Severity Zone, there is no minimum interior side yard and rear yard setbacks, except that the Fire Code Official may require a greater setback to ensure compliance with the California Fire Code;

Issues

The zero foot setback creates a myriad of issues related to fire safety and protection, privacy, and the need for builders to trespass on adjacent properties in order to complete construction of properties built on the property lines. State code allows a local agency to impose objective development standards, such as setbacks, for the creation of ADUs. Per the state code, a setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU (Gov. Code, § 66314, subd. (d)(7)).

NFABSD Recommendation

NFABSD recommends that the minimum interior side and rear yard setbacks for ADUs be set at 4 ft or the minimum side yard setback of the base zone, whichever is less, for all parcels. **This would address the concerns over the 0-foot setback expressed by multiple Planning Commissioners.** This would simplify the code and remove uncertainty in development by creating a single set of regulations regardless of structure height, as allowed by state law. Proposed amendments 141.0302(b)(8)(C) and 141.0302(b)(8)(D) would be combined, as follows:

141.0302(b)(8)(C) Interior side yard and rear yard setbacks shall be provided as follows:

- (i) For ADU structures located on a premises outside of a High or Very High Fire Hazard Severity Zone, there is no minimum interior side yard and rear yard setbacks, except that the Fire Code Official may require a greater setback to ensure compliance with the California Fire Code. However, if the side or rear property line abuts another premises that is residentially zoned or developed with exclusively residential uses, the minimum interior side yard and rear yard setbacks shall be 4 feet or the minimum setback of the

applicable base zone, whichever is less, except that the Fire Code Official may require a greater setback to ensure compliance with the California Fire Code.

(ii) For ADU structures located on a premises within a High or Very High Fire Severity Zone, the minimum interior side yard and rear yard setbacks shall be 5 feet to provide defensible space between all structures on the premises and any contiguous areas of native or naturalized vegetation or as otherwise required, except that the Fire Code Official may require a greater setback to ensure compliance with the California Fire Code.

ITEM 15: ADU Home Density Bonus – Fire Safety and Evacuation Routes 141.0302(d)(2)

Background

The Planning Department is proposing to address concerns over fire safety by limiting bonus ADUs in high fire hazard zones.

Proposed Code: §141.0302(d)(2)

- (A) Within High and Very High Fire Hazard Severity Zones, the applicant shall demonstrate that the lot fronts an improved public street with at least two evacuation routes to the satisfaction of the Fire Code Official; and
- (B) Within High and Very High Fire Hazard Severity Zones, in no case shall the lot front a cul-de-sac or be located on a premises that only has one point of ingress or egress.

Issues

The proposed code requires a parcel to be BOTH in a High or Very High Fire Hazard Severity Zone AND on a cul-de-sac or road with single point of ingress/egress to be ineligible for the Bonus ADU program. This does not protect residents in Fire Zones or on cul-de-sacs or roads with single points of ingress/egress during emergency **independently**, for example during earthquakes, which create electric/gas fires unrelated to Fire Zones. Since exit roads are always evacuation choke points, regardless of being in a Fire Zone, putting excessive density on these roads will exacerbate existing evacuation challenges.

Both NFABSD and the Community Planners Committee have recommended that these situations independently make premises ineligible for the Bonus ADU Program to protect residents' safety in the event of an emergency.

NFABSD Recommendation

Recommendation 1: Revise the proposed code to make parcels **in either situation independently** ineligible for the Bonus ADU program. For example, §141.0302(d)(2) could be written as:

Premises in High or Very High Fire Hazard Severity Zones shall be ineligible for the Bonus ADU Program.

Premises fronting on cul-de-sacs or located on streets with only one point of ingress or egress or without at least two evacuation routes to the satisfaction of the Fire Code Official shall be ineligible for the Bonus ADU Program.

Recommendation 2: Clarify prohibition of new development on streets that do not have at least a 20 foot fire lane, as required by CFC Section 503.2. For example:

The applicant shall demonstrate that the lot fronts an improved public street with at least at 20 feet of unobstructed width, as required by CFC Section 503.2, and a minimum 50 foot turning radius, as required by CFC Section 503.2.4, and to the satisfaction of the Fire Code Official.

ITEM 16: ADU Home Density Bonus – Development Scale (1 of 3)

Environmentally Sensitive Lands

141.0302(d)(3)

Background

In order to clarify the applicability of regulations that reduce Allowed Developable Area based on environmentally sensitive lands and open space, the Planning Department is proposing the following code:

§141.0302(d)(3)(A)(i) Where the lot contains environmentally sensitive lands, the maximum permitted floor area ratio shall be determined using only the area of the lot that does not contain environmentally sensitive lands;

Issues

This code ignores San Diego's existing Environmentally Sensitive Lands (ESL) Code for Allowable Development Area (Chapter 14, Article 3, Division 1). This code is referenced in the ADU Tree Requirements §141.0302(d)(7) and should be included here for consistency and to avoid subjective determination of ESLs and Allowable Development Area.

NFABSD Recommendation

Include reference to Chapter 14, Article 3, Division 1 ESL Code.

§141.0302(d)(3)(A)(i) Where the lot contains environmentally sensitive lands, the maximum permitted floor area ratio shall be based on the allowable development area as described in Chapter 14, Article 3, Division 1.

ITEM 16: ADU Home Density Bonus – Development Scale (2 of 3)

Excluded Zones

141.0302(d)(3)

Background

In order to reduce the total development of bonus ADU projects, the Planning Department proposes capping the total square footage of development in certain zones:

§141.0302(d)(3)(A)(iii) For the RS-1-5, RS-1-6, RS-1-7 base zones, the applicable floor area ratio shall be determined in accordance with Table 131-04J using the adjusted lot area as described in Sections 141.0302(d)(3)(A)(i) and 141.0302(d)(3)(A)(ii).

Issues

Caps are only put on three of the six RS zones eligible for bonus ADUs. Zones RS-1-12, RS-1-13 and RS-1-14 are neither capped nor do they have environmentally sensitive lands adjustments.

NFABSD Recommendation

Treat RS-1-12, RS-1-13 and RS-1-14 zones the same as RS-1-5, RS-1-6, and RS-1-7:

§141.0302(d)(3)(A)(iii) For the RS-1-5, RS-1-6, RS-1-7, RS-1-12, RS-1-13 and RS-1-14 base zones, the applicable floor area ratio shall be determined in accordance with Table 131-04J using the adjusted lot area as described in Sections 141.0302(d)(3)(A)(i) and 141.0302(d)(3)(A)(ii).

ITEM 16: ADU Home Density Bonus – Development Scale (3 of 3)

Minimum Unit Size

141.0302(d)(3)

MINIMUM UNIT SIZE: 475 sf vs > 500 sf

Background

In conjunction with limiting the square footage of bonus ADU development, the Planning Department proposes to increase the minimum size (square footage) of bonus and affordable ADUs:

§141.0302(d)(4)(i) The affordable ADUs and bonus ADUs shall have a minimum gross floor area of 475 square feet.

Issues

The Planning Department's proposed 475 sf minimum ADU size for the Bonus ADUs is close to what developers are building now, contributing to the problems of increasingly large numbers of ADUs on single-family lots (with individual projects ranging from 40 to over 100 ADUs).

Perhaps not coincidentally, 475 sf is 25 sf below the 500 sf threshold that the Planning Department is proposing to avoid triggering the parking requirement outside 1/2 mile walking distance from public transit (inappropriately referenced as the Transit Priority Area in the proposed city ADU code).

AB 1154, working its way through the state legislature, is also written so that ADUs 500 sf or less will not trigger parking requirements. This new parking requirement threshold will create a regulatory incentive to continue production of ADUs 500 sf or less, working against the creation of family-sized units, which London Moeder Advisors have documented as sorely needed in San Diego.

Proposed AB 1154 Code:

66322(a) *A local agency shall not impose any parking standards for an accessory dwelling unit in any of the following instances:*

(7) The accessory dwelling unit is 500 square feet or smaller.

NFABSD Recommendation

NFABSD recommends that the minimum size for bonus ADUs be 510 sf or even larger, preferably family sized, which was a recommendation of several Planning Commissioners. We are unaware of any research or reason to believe that residents of smaller ADUs do not own or need cars. Please recall that these ADUs would be more than 1/2 mile walking distance from public transit.

ITEM 18: ADU Home Density Bonus – Parking 141.0302(d)(6)

Background

The Planning Department has responded to concerns about parking for ADU development by proposing code amendments §141.0302(b)(9)(B), §141.0302(b)(9)(C), and §141.0302(d)(6). For example:

§141.0302(d)(6) Minimum Required Off-Street Parking Spaces. One off-street parking space shall be required for each affordable ADU and bonus ADU located outside of a transit priority area.
[emphasis added]

Issues

The above proposed code refers to a **transit priority area** (TPA). However, the TPA is not used in the state ADU code. CA ADU code (66322) uses **one-half of one mile walking distance of public transit** when discussing parking requirements.

CA 66322 Notwithstanding any other law, and whether or not the local agency has adopted an ordinance governing accessory dwelling units in accordance with Section 66314, all of the following shall apply:

(a) A local agency shall not impose any parking standards for an accessory dwelling unit in any of the following instances:

(1) Where the accessory dwelling unit is located **within one-half of one mile walking distance of public transit.**

Note that at the May 15, 2025, Land Use & Housing Committee meeting, Planning Director Vonblum cited AB 2097 to support her use of the TPA. AB 2097 does not refer to the Transit Priority Area by name and was approved by the governor on September 22, 2022. State Code 66322 (CA ADU parking standards) was part of SB 477, which was signed by the Governor on March 25, 2024, and therefore supersedes AB 2097 both in specificity of scope and date of adoption.

Use of the TPA also reintroduces all of the problems of measuring a radial (crow flies) distance, which, as NFABSD has extensively documented in the past, results in walking distances of up to three miles to the qualifying TPA transit stop to traverse freeways, canyons, and other obstacles.

NFABSD Recommendation

Change all three TPA references in the proposed San Diego ADU Code to be consistent with the language used in CA 66322. For example, §141.0302(d)(6) would be changed to:

(6) Minimum Required Off-Street Parking Spaces. One off-street parking space shall be required for each affordable ADU and bonus ADU located outside of one-half of one mile walking distance of public transit.

ITEM 25: Structure Height 141.0302(b)(7)(B)

Background

In response to a request from the Planning Commission to limit ADU structures to 2 stories, the Planning Department proposes adding the following code:

§141.0302(b)(7) Height. Detached ADU structures shall not exceed two stories and the overall maximum structure height of the underlying base zone.

Issues

The proposed code only refers to detached ADUs and appears to still allow 2-story ADUs being built atop a garage or guest quarters, or adding guest quarters atop the 2-story ADU, creating a 3-story building within the underlying base zone height of 30 feet.

10 ft garage + 10 ft ADU 1st story + 10 ft ADU 2nd story = 3 stories/30 feet

10 ft ADU 1st story + 10 ft ADU 2nd story + 10 ft guest quarters = 3 stories/30 feet

NFABSD Recommendation

Recommendation 1: Add a reference to *attached* so that the code applies to all ADUs, detached and attached, and rewrite the code to plug the holes in the Planning Department's proposed code, which doesn't preclude two-story ADUs being placed atop a garage or beneath a third story guest quarter, as examples where the ADU itself would be two stories and meet the code restriction.

Recommendation 2: Limit the overall height of ADU structures to 25 feet for attached ADUs and 18 feet for detached ADUs, consistent with state ADU code. Combining the recommendations:

§141.0302(b)(7) Height. Detached ADU structures shall not exceed two stories and the overall maximum structure height of the underlying base zone or 18 feet, whichever is less. Attached ADU structures shall not exceed two stories, inclusive of any other attached structures, and the overall maximum structure height of the underlying base zone or 25 feet, whichever is less.