



April 30, 2025

To: Planning Commission

Re: Planning Department proposed amendments to Accessory Dwelling Unit regulations

Dear Commissioners:

In advance of the [May 1 Planning Commission hearing](#) on San Diego's Accessory Dwelling Unit (ADU) regulations, the Planning Department has published a Staff Report detailing proposed changes the Bonus ADU regulations.

It can't be overstated that the Planning Department is violating its promise to the Council and to the public on March 4 that there would be public workshops prior to submitting changes to the Planning Commission. A more fulsome public review process would have allowed discussion and refinement of the Planning Department's proposed amendments, as well as provide input on areas that have not been addressed in the Staff Report and matrix of code amendments.

In addition to the recommendations in the Staff Report, NFABSD supports the Community Planners Committee's (CPC) additional recommended changes [[link to CPC letter](#)], which are summarized [HERE](#).

Neighbors For A Better San Diego's responses to the proposed amendments are detailed in the attachments.

Respectfully,

Geoffrey Hueter, Chair

Neighbors For A Better San Diego

SUMMARY OF RESPONSES TO PROPOSED AMENDMENTS

NFABSD has studied the 24 recommendations in the Staff Report and offers the responses below.

Items 1-13 are being proposed in conformance with recently enacted state laws and code interpretation by the Department of Housing and Community Development (HCD).

Items 14-24 are changes to Bonus ADU program except Item 23:

April 24, 2025, Staff Report Proposed Accessory Dwelling Unit (ADU) Amendments

Item	Title (4-24-25 Staff Report)	NFABSD Response	NFABSD Comments
1	ADU Home Minimum and Maximum Size	State law	
2	ADU and JADU Zoning	State law	
3	Fire Sprinkler Requirements	State law	Fire code might require sprinklers even if primary dwelling doesn't have them.
4	Converted ADU and JADU Homes within the Coastal Overlay Zone	State law	
5	JADU Home Rental Terms	State law	HCD's comments are unclear. Regardless, San Diego should require long term rental on remaining units.
6	Number of Permitted ADU and JADU Homes with an Existing or Proposed Single Dwelling Unit	State law	Codification of HCD interpretation of state law.
7	Tree Requirements	State law	Disagree with HCD interpretation as disallowing trees. Requirement is imposed based on opt-in to Bonus program and not imposed on state allowed ADUs.
8	Number of Permitted ADU Homes with an Existing or Proposed Multiple Dwelling Unit Structure	State law	Drafting of code language warrants further examination.
9	Floor Area Ratio Maximums	State law	Conversion of existing structures isn't limited by FAR. New structures, including Bonus ADUs are limited by FAR provided that a minimum 800 square foot ADU is allowed.

Item	Title (4-24-25 Staff Report)	NFABSD Response	NFABSD Comments
10	Side Yard Setbacks for ADU Structures	State law	Unfortunately, state is obsessed with putting ADUs on every lot instead of retaining a more affordable market for smaller developments.
11	Fire Safety Setbacks	Support	San Diego must be more mindful of fire risk than the scattershot approach in the 2025 Cal Fire map, which especially ignores risks in low opportunity neighborhoods south of I-8.
12	Replacement Parking	State law	This might be all for nought if AB 1154 passes and there is no parking for units under 500 square feet.
13	JADU Homeowner Occupancy Requirement Exemption	State law	Provides a benefit to investors that was previously only available to homeowners.
14	ADU Home Density Bonus - Applicability	Support with amendment	Acreage doesn't equate to actual projects. As noted in Staff Report, only 2 Bonus ADU projects (6 ADUs) built in the affected zones. Doesn't limit bulk of large projects in RS-1-7 zones.
15	ADU Home Density Bonus - Evacuation Routes	Support	As with Item 11, need to be mindful of changes in the Fire Map.
16	ADU Home Density Bonus - Development Scale	Support with amendment	Strongly support capping FAR calculation at 10,000 square feet. Further recommendation to use existing definition of Allowed Developable Area in Chapter 14, Article 3, Division 1.
17	ADU Home Density Bonus - Required Automatic Fire Sprinkler System	Support	
18	ADU Home Density Bonus - Parking	Support with amendment	Needs to use state code, which is one-half mile walking distance requirement, and clarify that it's for each affordable and each bonus.
19	ADU Home Density Bonus - Deed Restriction Agreement for Affordable ADU Homes	Support with clarification	How is the scenario avoided where the owner occupies the unit ("rent free")? Is this covered in the Compliance proposal (Item 21)?
20	ADU Home Density Bonus - Affordable ADU Home and Accessible ADU Home Requirements	Support	Enforces the equity requirements of the affordable and accessible ADUs.

Item	Title (4-24-25 Staff Report)	NFABSD Response	NFABSD Comments
21	ADU Home Density Bonus - Compliance	Support	Request that DSD release data on non-compliance. Recommend the penalties are deposited in the Affordable Housing Fund administered by the San Diego Housing Commission, which is also where in lieu fees go.
22	ADU Home Density Bonus - Community Enhancement Fee	Support	Because state regulations only apply to state-mandated ADUs, San Diego has the discretion to impose fees on opt-in programs, such as the Bonus ADU program.
23	ADU Home Separate Sale or Conveyance	Support	This is a significant added allowance to developers. NFABSD supports this in conjunction with restrictions on number of units, as proposed by the Community Planners Committee.
24	Sustainable Development Area (SDA) – Definition Clarification	Support	Clarifies that the requirements of the Street Manual apply to the pedestrian path of travel definition of SDAs. (At March 4 meeting Planning Dir. Vonblum confirmed that the sidewalk requirement applies to current projects.)

ADU - Accessory Dwelling Unit

JADU - Junior Accessory Dwelling Unit

HCD - State Department of Housing and Community Development. Specifically refers to the comments of HCD in Attachment 3 of the Staff Report.

FAR - Floor Area Ratio. FAR is calculated as the ratio of the square footage of development (structures) to the area of the lot. The allowed maximum FAR of development on a lot depends on the size of the lot.

RS Zones - Residential Single-Family. Even though every "single-family" property in San Diego is allowed at least 4 dwelling units, there are still distinctions in development regulations between single-family and multi-family zoned properties. The most prevalent type of RS zoning in San Diego is RS-1-7, which equates to 7 primary dwelling units (i.e., houses) per acre, with a minimum lot size of 5,000 square feet.

DSD - Developments Services Department. For ministerial projects, such as Bonus ADU developments, DSD has the sole authority to approve projects. There is no mechanism for appealing ministerial (Process 1) decisions.

DETAILED RESPONSES TO SPECIFIC ITEMS IN PLANNING DEPARTMENT'S PACKAGE FOR MAY 1, 2025, PLANNING COMMISSION HEARING

ITEM 5: JADU Home Rental Terms

HCD noted that 'Section 141.0302(b)(1)(B) states: "An ADU or JADU shall not be used for a rental term of less than 31 consecutive days." While this is a valid restriction for an ADU, there is no basis in State JADU law to prohibit short-term rentals of a JADU.³ ³ Gov. Code, §§ 66323, subd. (d) & 66333-66339

The Planning Department matrix says, "Deletes the minimum rental term requirement for JADUs to align with state law, ensuring that rental term restrictions apply only to ADUs." As such, we would suggest deleting the strike through code below to avoid encouraging short term rentals of JADUs. Simply not listing them with a rental restriction should meet the requirements for HCD.

§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.~~

ITEM 7: Tree Requirements

We disagree with the Planning Department's interpretation of HCD's comment on Item 7 and subsequent scrapping of the Bonus ADU Code (Section 141.0302(b)(2)(E)).

Regarding Item 7: Street Trees, HCD said: "Section 141.0302(b)(2)(E) describes landscaping requirements for trees. However, *such requirements do not apply to an ADU described by Government Code section 66323.*" That translates to *the tree requirements cannot be applied to the two "by-right" state ADUs.* HCD did not say that the tree requirement could not apply to Bonus ADU projects.

Therefore, NFABSD recommends that the City can maintain the tree requirements and apply them only to parcels that use the Bonus ADU Program - building ADUs beyond the 2 "by-right" allowed under CA 66323.

We suggest adopting one of two modifications of the tree requirement language below and keeping it in the City's ADU code, such as:

§141.0302(b)(2)(E)(i) If the construction of an *ADU* or *JADU* brings the number of ADUs and any *JADU* on the *premises* to a total of ~~two~~ three or more, two trees shall be provided on the *premises* for every 5,000 square feet of *lot* area, with a minimum of one tree per *premises*...

§141.0302(b)(2)(E)(i) If a parcel uses the Bonus ADU Program, two trees shall be provided on the *premises* for every 5,000 square feet of *lot* area, with a minimum of one tree per *premises*...

ITEM 8: Number of Permitted ADU Homes with an Existing or Proposed Multiple Dwelling Unit Structure

We believe there may be some possible misinterpretations of state code 66323 drafted into §141.0302(b)(2) and §141.0302(b)(3) that should be reconsidered.

ITEM 11 Fire Safety Setbacks and ITEM 15 ADU Home Density Bonus - Evacuation Routes

These two fire safety items are only as good as the Fire Maps that the City of San Diego adopts. Therefore, these items come with two caveats:

- Fire Marshal *must see the plans*. The ministerial process must include a mandatory review by the Fire Marshal of all projects in a High or Very High Fire Hazard Severity Zone (VHFHSZ)
- The proposed San Diego 2025 CalFire Map eliminated almost 30,000 acres of VHFHSZs. If the City's map doesn't retain these highly flammable areas, Items 11 and 15 are significantly less meaningful, especially south of I-8 and in D2 and D7.

ITEM 16: ADU Home Density Bonus - Development Scale

We strongly support the proposal to cap Bonus ADU developments in eligible single-family zones at 10,000 sf.

We also strongly support scaling the maximum FAR based on existing San Diego Municipal Code for the allowable development area.

However, the Staff Report's proposed assessment of allowable development area for environmentally sensitive lands (ESL) is unnecessarily subjective. The Municipal Code already has objective Environmentally Sensitive Lands (ESL) code for allowable development area: Chapter 14, Article 3, Division 1. This existing code should be applied to the ADU Program and named in §141.0302(d)(3), such as:

"If the premises contains *environmentally sensitive lands*, the *lot* area used to determine the [FAR] shall be based on the allowable *development* area as described in Chapter 14, Article 3, Division 1."

ITEM 18: ADU Home Density Bonus – Parking

We support requiring on-site parking beyond a specified distance from public transit, however, the language for specifying that distance must be refined to reflect state ADU code related to parking. The state doesn't use the TPA in its ADU parking code and therefore we shouldn't either.

- **CA ADU code (66322)** uses **one-half of one mile walking distance of public transit** when discussing parking requirements.

We request replacing the TPA with the language in CA 66322, such as:

One *off-street parking space* shall be required for each affordable *ADU* and **EACH** bonus *ADU* located beyond one-half of one mile walking distance of public transit.