

## Attachment 2

### **1. What is the maximum size of an ADU that we should allow? Should we require 2 bedrooms if the ADU is over a certain size? Should we allow exemption for the full sq footage of an ADU, not just 800 sq ft?**

*65852.2. (a)(1)(D)(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.*

The Town cannot have bedroom requirements for an ADU 800 sq. ft. or less. The Town can have limited bedroom *requirements*; however, the Town cannot mandate the number of bedrooms.

*65852.2. (c)(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:*

- (A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.*
- (B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:*
  - (i) 850 square feet.*
  - (ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.*

### **2. If we allow 2 ADUs on a 2+ acre parcel, should we require a deed restriction on the second, in addition to requiring compliance w Atherton setbacks.**

The Town can allow for an additional ADU. Any deed restriction should be more than 8 years (recommend 16 years) otherwise the Town will have to deal with at-risk units during the next housing element cycle. The Town would have to replace every housing unit that falls off a deed restriction. Typically, affordable housing projects are deed restricted for 55 years.

Deed restrictions may be difficult to enforce because of the staff time required to monitor compliance and the changes in parties involved over the decades can lead to protracted disputes over compliance.

### **3. Should we require 8 ft fencing if the setback for any building is less than 10ft?**

The Town can require a fence for ADUs; however, it would have to be completely ministerial and be based on objective criteria. Imposing a different fence height requirement for ADUs than we generally require would also need to be based on some articulated reason to avoid claims that the extra obligation arbitrarily singles out ADUs (e.g., ADUs with a 4 ft. setback must have a 7 ft. fence to provide privacy screening because this amount of setback does not provide space for landscape screening)

### **4. Should we enable removal of non-oak heritage trees for any ADU, not just 800 sq ft? Can we do anything to protect oaks from removal for 800 sq ft ADU?**

Allowing the removal of non-oak heritage trees for any ADU is a policy call. There is no mechanism available that would allow the Town to protect oaks from removal for 800 sf or less ADUs.

*65852.2(a)(7) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this Subdivision.*

**5. Should we eliminate the site heritage tree inventory for an ADU permit? Are there other tree related items that we can change to make the ADU process less expensive and less cumbersome?**

The Council/Commission may wish to consider this. Because tree protection remains an important issue, the Town may wish to consider a radius approach for ADUs as opposed to a full-site inventory requirement.

**6. Should we remove any arborist fee, as well as the planning fees, for ADU permits? Are there other fees that we can remove or reduce? Can we cap the total building fee for an ADU build (without a SFR) or conversion?**

Staff suggests waiving Planning Fees only. The Council can approve a capped or reduced building permit. However, in staff's experience, Town fees are not the hurdle to the construction of ADUs.

**7. Can we remove reference to ovens in the kitchen definition? How can we simplify the definitions and give more discretion to property owners?**

Staff proposes to maintain efficiency kitchen definition based on State law. All others - State definition plus "for example".

*65852.22(a)(6) for JADUs and 65852.2(j) for ADUs.*

**8. Where should the ADU entrance be? How does that change if above a car facility?**

The Council/Commission may wish to consider requiring entrances to be located away from neighboring property owners, where feasible. The Council/Commission may wish to consider requiring entrances to be on the ground floor for ADUs above garage or carport to prevent second floor balconies overlooking adjacent properties.

**9. Should we give planning discretion re: ADU sizing above a garage or carport?**

Staff recommends that ADUs be ministerial and based on objective code criteria.

**10. Should we reduce the side setback from 35 ft (?) to 25 ft if a JADU takes up the space?**

JADUs must remain in the main building footprint. AMC allows for a 20% incursion into the side setback for attached ADUs. An attached 800 sq. ft. ADU can be 4 ft. from the site property line. An ADU above 800 sq. ft. can encroach 20% into the side yard, per AMC.

*65852.22(a)(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence. For purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.*

**11. What TPZ changes make sense to encourage ADU development. Modify ordinance to eliminate different TPZ for R-1A vs R-1B.**

### TOWN Heritage Tree Preservation Standards and Specifications

*The TPZ shall be determined the following way: the TPZ radius shall be 10 times the DBH (4.5') of the trunk. For example: a 15" DBH = a 12.5-foot radius from the perimeter of the Heritage tree, or a 25-foot TPZ. Any deviation in determining the TPZ shall be in accordance with ANSI standards subject to approval by the Town Arborist.*

1. *R1-A Zoning District for lots of more than 10,000 square feet:*
  - a. *The TPZ is 10x away from all buildings and structures.*
  - b. *The TPZ is 8x away from any new driveway.*
2. *R1-B Zoning District and lots in the R1-A Zoning District that are 10,000 square feet or less:*
  - a. *The TPZ is 6x away from all buildings, structures, and new driveways.*
3. *For all lots:*
  - a. *The TPZ is 6x away from all CMU walls and 5x away from all wood or metal fences that require a permit.*
  - b. *The TPZ is 3x from all landscaping, Landscape Screening trees and bushes.*
  - c. *For replacement of existing driveways and/or new, proposed compacted surfaces, allow for replacement in the existing location, but in no cases less than 3 times (3x)*

The Council can modify the preceding as deemed appropriate.

### **12. Eliminate requirement that plans be submitted in physical form as well as online.**

Planning does not need physical plans except for Subdivisions. Most building permit submittals allow for online submittal, but some require physical plans. Building currently utilizes paper stamped copies at building permit issuance but is working to go completely digital.

### **13. Make the application process user friendly. Eliminate the monthly arborist report. It should be quarterly, and no filing required if there is no change.**

This will have a field impact, reduced arborist review of properties. This is a policy call.

### **14. Can we create a list of specific criteria for over garage ADUs (external staircase rules, windows overlooking neighboring properties, etc**

For ADUs under 800 sq. ft. our ability to provide regulations are limited. Staff is looking into ADUs over 800 sq. ft. Whatever criteria created, it will need to be objective and ministerial. See also, comment to Question 8 regarding ground floor entrances.

### **15. How big an over garage ADU will we allow? I think only 3 car garage. What about the 6-car garage? Allow any ADU over the existing garage grandfathered?**

The Council/Commission may want to limit of the size of the ADU (over the garage/carport) to be limited to the size of the garage/carport plus a ground floor entry, up to 1,200 sq. ft. The Council/Commission may want to discuss whether a 1,200 sq. ft. ADU above a garage/carport is too large (approximately 35 ft by 34 ft.)

If there is an ADU over a garage/carport, it must be allowed to continue.

65852.2. (d)(2) *The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.*

**16. Can we discuss fence height requirements in the 4' ADU scenario. What is the highest? 8 Feet 10 feet? 12 feet? What is the highest that doesn't look bad?**

Any fence requirement should be ministerial. The Council/Commission may want to consider how tall a fence is appropriate. Per building code, any fence over 7 ft. requires engineering.

**17. What screening plant requirements will we have for 4' and 10'? Are they different? In 4 feet can you actually plant things? Is it too close to the foundation for tall trees?**

The 4-foot setback presents a challenge with egress for fire safety when landscaping is added. There is more flexibility with egress and landscaping with a 10-foot setback. Future fire codes may discourage landscaping near structures.

**18. Do we need a pool house exception for an ADU. Wouldn't it be the same as any other?**

Same.

**19. New foundation technology allows us to plant trees closer. Can we ask an arborist about this? Is there some definitive criteria we can put so we don't have to have an arborist weigh in on every project?**

Staff does not recommend outlining specific technology. This may become a discretionary process. Staff recommends that there be an exception review permit process created to allow for review of proposed foundations.

**20. A few people asked about tax costs and a blanket tax agreement. Is this possible or feasible?**

The Town cannot do this.

**21. Do we still have a dishwasher requirement or did that get taken out?**

Staff proposes to use State definitions, which do not outline a requirement for a dishwasher.

*65852.22(a)(6) for JADUs. Government Code Section 65852.2(j) for ADUs.*

**22. What is the front setback for a greater than 800-foot ADU?**

120 ft, or 30 ft behind from line of main structure (detached accessory structures)

**23. Do we have rules for ADU hard scape? Are they allowed a porch, walkway? Is it calculated based on the existing hardscape? If maxed out on hardscape, can we allow just a minimum walkway?**

We do not have specific hardscape rules for ADUs. We only have lot coverage limitations in POS and PFS. All parts of the ADU would need to meet setbacks.

**24. Where did we end up on the rules around the entry to ADU? It originally said it has to face interior of the lot, we discussed allowing it to face the street and allowing it to be any side. Is it the same rules if it is 4' or 10" between neighbor property?**

The Council/Commission may want to discuss this.

**25. Do we call out any rules on prefab or is it the same?**

Prefab units would not have different regulations.

**26. I was not clear where we ended up on subdividing the utilities.**

Per Code and State law.

**27. Where did we end up on the owner occupancy after 2025?**

Per State law.

**28. Is there anything we can do about ADU on the front of the property if under 800? This looks so bad.**

No.

**29. Can the Town charge premium fees for ADU's with four foot setbacks?**

No.

**30. Where are we on gas for ADU's now?**

Electric ready only. Gas is ok.

**31. There are areas of town zoned R1A that should be zoned R1B. I don't know all the differences yet, but does that play into the ADU discussion?**

No. Land use and zoning designations are not solely lot-size based, they are part of the Town's General Plan and dictate a long-term plan for Town development. This is a discussion better suited to a General Plan Review process.

**32. Can we eliminate TPZ issues entirely when an ADU (or other structures too) is built on a slab?**

Possibly. See above question.

**33. What can we do to encourage architectural style and finish that match the rest of the property?**

Nothing on 800 sf or less; but the Town does have discretion to address objective and ministerial criteria on larger ADUs.

**34. Does the ADU require direct driveway access? Ie, can access and parking be located elsewhere on the property?**

Direct driveway access is not required. Parking can be on the property.

**35. Parking requirements ...can we require more available on-site parking for over 800 sq. ft. ADU's? Property-front parking standards (is it allowed/required for JDU/ADU combo's?)**

*65852.2. x)(I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.*

**36. Drainage requirements ... preventing on-site and off-site rainwater drainage issues caused by additional roofs/hardscape.**

Not a zoning issue per se.

**37. Addressing Neighbor Privacy concerns... plant screening/ window placement standards (no windows on neighbor side of 4' setbacks units or garage-top/carport-top units?)**

The Town has limited ability to regulate 800 sq. ft. ADUs up to 16 ft. high. The Town may be able have more regulations for ADUs over garages/carports (over 16 ft. high)

*65852.2(c)(2)(D) ...shall not establish by ordinance any of the following...any height limitation that does not allow at least the following...a height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit [or] a height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor as those terms are defined [or] a height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. ...*

**38. Determine fee standards... would a 2-year ADU/JDU fee waiver/fee reduction jump-start unit production to help meet housing plan targets?**

The Council/Commission may want to discuss this. State compliance is not solely a matter of production.

**39. Clarify access options (can a unit be faced on another street and address on that street?)**

The Fire District would like ADU the address to be on the same street as the main residence.

**40. Clarify kitchen standards for greater than 800 sq. ft. ADU's (if any).**

Staff proposes to limit the kitchen definition to the State Requirements.

*65852.22(a)(6) for JADUs. Government Code Section 65852.2(j) for ADUs.*

**41. Why no basement ADU's JDU's? seems as if that could reduce neighbor impact issues and access safety could be addressed.**

Basements are already exempt from floor area.

**42. Why wouldn't we be encouraging lot splits even more than ADU's... it seems as if that results in a more 'normal' 'neighborhood' design.**

The Council/Commission may want to discuss this. The Town already encourages/supports SB9 Urban Lot Splits.

**43. If we HAD to have multi-unit...where would we want it?**

This will be discussed as part of the Housing Element.