

From: [Planning](#)
To: [Melissa Zak](#)
Subject: FW: Agenda Item 9-A May 13 Planning Commission Meeting
Date: Tuesday, May 12, 2020 5:55:13 PM

From: Robert Posek <rposek@gmail.com>
Sent: Tuesday, May 12, 2020 4:57 PM
To: Clerk Mailbox <Clerk.Mailbox@SMGOV.NET>; Planning <Planning@SMGOV.NET>
Subject: Agenda Item 9-A May 13 Planning Commission Meeting

EXTERNAL

To the members of the Planning Commission:

On the May 13th Planning Commission meeting, you will be voting on various proposed amendments to the Zoning Ordinance. In reference to changes in Accessory Dwelling Units, Staff has recommended (page 9) the current restrictions regarding size of second story ADU stepbacks **"should continue in the proposed amendments to ensure that the second floor of ADUs are proportional to the first floor so as not to minimize impacts on adjacent properties"**.

I fully support this recommendation and urge you to vote to accept this recommendation. This will help insure the the impact on the neighbouring property will be minimized while still allowing the construction of an ADU. Thank you in advance for your support in this matter.

Sincerely,

Robert Posek



May 13, 2020

Santa Monica Planning Commission
City Hall
1685 Main Street
Santa Monica, CA 90401

RE: May 13, 2020 Agenda Items

Dear Planning Commissioners,

My name is Matthew Stevens. I am a Wilmont area resident and the Santa Monica Lead for Abundant Housing LA (AHLA). AHLA is a pro-housing education and advocacy organization working to help solve Southern California's housing shortage. I write to you in both my personal capacity as a Santa Monica resident and on behalf of AHLA.

On Wednesday, you will be considering several proposals related to housing production. AHLA respectfully asks that you consider the following feedback on these proposals:

Tier 3 Streamlining (Item 8-A)

We strongly support this proposal. The DCP was intended to be a pro-housing plan but it has so far failed to produce the housing that Santa Monica hoped for. As [stated by Staff](#) in December last year, "since [DCP] Plan adoption, very few, if any, new housing projects have been submitted despite process incentives that expedite entitlements for housing projects."

The failure of the DCP to produce new housing is not without consequence. Since its adoption in 2017, Santa Monica home values have [increased by nearly 30%](#). This means higher rents, higher rates of homelessness, and more traffic on our roads as our workforce, increasingly unable to afford housing locally, is forced to move farther away.

This proposal is not a "knee-jerk" response as some others have stated nor will it lead to any immediate changes. Rather, it is simply an opportunity for this Commission to study process streamlining further. We appreciate this willingness to reflect on the efficacy of Santa Monica's policies.

ADU Zoning Changes (Item 9-A)

Consistent with the previously stated views of this Commission and City Council, AHLA supports incentives to encourage ADU construction. However, we are concerned about the following two proposals within Item 9-A:

Parcel Coverage Exemptions

ADUs are exempt from parcel coverage limitations in our R1 neighborhoods. This policy encourages ADU construction by giving homeowners flexibility to build the ADU that best fits their needs.

Item 9-A asks you to treat our multifamily and commercial neighborhoods differently by applying parcel coverage limitations in these neighborhoods. We disagree with this approach: there is no clear reason why different neighborhoods should be subject to different treatment, and we believe this policy will discourage ADU production by limiting flexibility on our multifamily and commercial parcels.

Moreover, most buildings in our multifamily neighborhoods already exceed their parcel coverage limitations due to downzonings which have occurred since original construction. We are concerned that this could effectively cap most ADUs in our multifamily neighborhoods at 800 square feet even though state law allows construction of two-bedroom ADUs that are up to 1,000 square feet in size.

To encourage ADU construction, and to ensure fair treatment across Santa Monica, we ask you to treat all ADUs equally and exempt all ADUs from parcel coverage limitations.

Owner Occupancy Requirements

The State law governing owner occupancy requirements sunsets on January 1, 2025. The proposal before you would implement owner occupancy requirements immediately thereafter. We disagree: owner occupancy requirements limit options for our residents, cause financing issues for homeowners, and depress ADU production.

Perhaps the largest issue with owner occupancy requirements is that they limit the number of parcels that ADUs can be constructed on. By requiring a homeowner to live in one of the two units, we would eliminate the ability to build an ADU on any property that is currently occupied by renters. We believe this restriction would apply to many properties in our city considering that almost 75% of Santa Monica residents are renters.

Moreover, owner occupancy requirements would limit the ability of homeowners to build an ADU for renters and later move away if personal circumstances dictate. In this scenario, perhaps the homeowner would want to rent their house instead of sell but they would be unable to do so unless they evict their ADU tenant. The other option would be to sell the house, which they may not want to do, and the new owner could then choose to evict the ADU tenant anyways. These are undesirable options which can easily be avoided if we do away with owner occupancy requirements.

Owner occupancy requirements can also cause financing issues, because banks do not occupy properties they foreclose on. This was one of the key justifications [given by Assemblymember Richard Bloom](#) in his bill, AB 881, which eliminated owner occupancy requirements on ADUs.

Pursuant to financing issues, owner occupancy requirements may also increase evictions by forcing banks to evict any tenant living in an ADU on a foreclosed property.

For the above reasons, homeowners may also become more reluctant to build ADUs. This would short-circuit Santa Monica's goal of increasing ADU production at a time when more homes are needed than ever before. Considering Santa Monica's daunting RHNA obligation of almost 10,000 new homes, and the possibility for ADUs to address part of this requirement, we believe it would be short-sighted to forestall ADU production.

We understand there may be concerns related to short-term rentals. To avoid the risk of affecting production of all ADUs, we respectfully suggest you address those concerns in policy specifically targeted for short-term rentals.

We ask you to permanently eliminate ADU owner occupancy requirements. We do not believe they will serve Santa Monica's goals.

Thank you for your consideration.

Sincerely,

Matthew Stevens

Wilmington resident, and Santa Monica Lead for Abundant Housing LA

From: [Shawn Landres](#)
To: [Melissa Zak](#); [Cori Newlander](#)
Cc: [Leslie Lambert](#)
Subject: Fwd: Agenda Fwd: Item 9A - ADUs - Santa Monica Forward Letter
Date: Tuesday, May 12, 2020 6:42:11 PM
Attachments: [051220 - Item-9A - ADUs - SM Foward Letter.pdf](#)

Melissa, Cori,

I received a copy of this to my personal email - and noticed that it was sent this morning at 10:53 to my city address - but it never arrived. It seems intended to be distributed to PC members as public comment but don't know whether others have received it.

Cori - email wise, do you know what's going on and why this didn't show up in my inbox or even in spam?

Thanks.

----- Forwarded message -----

From: **Santa Monica Forward**<santamonicaforward@gmail.com>
Date: Tue, May 12, 2020 at 10:53 AM
Subject: Agenda Item 9A - ADUs - Santa Monica Forward Letter
To: <leslie.lambert@smgov.net>, <richard.mckinnon@smgov.net>, <Elisa.Paster@smgov.net>, <shawn.landres@smgov.net>, <mario.fondabonardi@smgov.net>, <jim.ries@smgov.net>, <nina.fresco@smgov.net>
Cc: David Martin <david.martin@smgov.net>, <jing.yeo@smgov.net>, Melissa Zak <Melissa.Zak@smgov.net>

Dear Chair Lambert and Commissioners,

Please find attached a letter from Santa Monica Forward addressing Item - 9A on your agenda.

Best,

Abby Arnold and Carl Hansen
Co-chairs, Santa Monica Forward

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We are working for a diverse, progressive, sustainable and equitable Santa Monica.

SantaMonicaForward.org



May 12, 2020

RE: Agenda Item 9-A: Accessory Dwelling Units

Dear Chair Lambert and Commissioners:

Santa Monica Forward generally supports the staff's recommendations in Item 9-A as important steps toward encouraging the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). SMF strongly supports measures that result in an increase in the city's housing supply and contribute to the City's attainment of the next round of RHNA goals. New State Law also demonstrates the State's commitment to promoting this housing model as a means to address the housing crisis.

Our specific recommendations with respect to accessory dwelling units are as follows.

Size and Affordability.

- Set the maximum ADU square footage at 1,000 square feet for R1 parcels of less than 10,000 square feet.
- Allow ADUs of up to 1,200 square feet on R1 parcels that are at least 10,000 square feet in size.
- To contribute to the City's RHNA goals, explore the use of incentives for voluntary affordability covenants through deed restrictions.

Applicability of Parcel Coverage Exemption.

- Exempt ADUs and JADUs - up to the maximum size - from parcel coverage calculation in R1 districts, in order to avoid disincentivizing production, especially on smaller lots.
- ADUs and JADUs on properties zoned for mixed use should not be counted as part of the FAR. On R2, R3 and R4 zoned properties, neither ADUs nor JADUs should be counted toward the maximum number of units allowed on the site. Height limits should remain.

Location of JADUs.

- Allow JADUs in multi-family zones but do not limit their location to properties with single-unit dwellings. JADUs should also be allowed on properties with multi-unit development.

Size of Second Floor of ADUs and Stepback Requirements.

- Any second floor stepback required should only apply to the side(s) of the ADU abutting the adjacent rear property or the closest side property. Further, stepback requirements should not compromise nor make infeasible providing livable space on the second floor.

Applicability of Owner Occupancy Requirements.

- Remove the owner occupancy requirement for ADUs permitted after January 1, 2020, but do not sunset this provision on January 1, 2025, unless necessary to comply with State Law.
- Require twelve-month initial leases for new ADUs except in the cases of occupants affiliated with an academic or medical institution or those displaced as the result of a State or National Disaster or uninhabitable conditions in their primary dwelling.

Required Parking.

- Eliminate parking and parking replacement requirements for ADUs and JADUs, pursuant to state law.
- Preserve current limits on annual residential and visitor parking permits on a *per parcel* rather than *per unit* basis. Doing so would retain flexibility for owners and occupants while supporting the sustainability goals of the City while contributing to citywide climate and mobility goals.

Santa Monica Forward appreciates the opportunity to provide its input on this important issue. We believe, as do many, that encouraging the production of ADUs and JADUs as one way to meet our rental housing shortage is sound policy.

Sincerely,

Abby Arnold and Carl Hansen
Co-Chairs, Santa Monica Forward

From: [Dave Rand](#)
To: [Planning Commission Comments](#)
Subject: Re: PC meeting tonight
Date: Wednesday, May 13, 2020 1:36:31 PM

EXTERNAL

Melissa I am so sorry my letter should have been for 9-A not 8-A. I mislabeled it - totally my fault. Is there any way to copy my letter into the public correspondence for 9-A? There are so many more letters for 8-A I am afraid mine will be lost as compared to only 7 pages of correspondence in 9-A. Thanks!

Sent from my iPhone

> On May 13, 2020, at 12:08 PM, Dave Rand <dave@agd-landuse.com> wrote:

>

> Thanks!

>

> -----Original Message-----

> From: Planning Commission Comments <planningcomment@smgov.net>

> Sent: Wednesday, May 13, 2020 12:02 PM

> To: Dave Rand <dave@agd-landuse.com>

> Subject: RE: PC meeting tonight

>

> Hi Dave,

>

> Yes, it is included in the PDF I am sending them now containing all new comments from last night / this morning.

> It will also be included in the online posting shortly and is part of the permanent record.

>

> Thank you!

>

> Melissa Zak | Staff Assistant III

> City of Santa Monica | City Planning

> 1685 Main Street, Room 212 | Santa Monica, CA 90401

> P: (310) 458-8341

>

> -----Original Message-----

> From: Dave Rand <dave@agd-landuse.com>

> Sent: Wednesday, May 13, 2020 11:52 AM

> To: Planning Commission Comments <planningcomment@smgov.net>

> Subject: RE: PC meeting tonight

>

> EXTERNAL

>

> Hi Melissa

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> Can you please confirm you received by earlier correspondence and that it will be distributed to the

> Commissioners? Thanks!

>

> -----Original Message-----

> From: Planning Commission Comments <planningcomment@smgov.net>

> Sent: Wednesday, May 13, 2020 7:15 AM

> To: Dave Rand <dave@agd-landuse.com>; Planning Commission Comments <planningcomment@smgov.net>

> Subject: RE: PC meeting tonight

>

> Good Morning Dave,

From: [Dave Rand](#)
To: [Planning Commission Comments](#)
Cc: [David Martin](#); [Jing Yeo](#); [Heidi von Tongeln](#)
Subject: Item 8A on May 13th Planning Commission Agenda - State Density Bonus Law Implementation
Date: Wednesday, May 13, 2020 11:21:48 AM

EXTERNAL

Dear Planning Commissioners and Planning Department staff:

I hope you are all doing well these days amidst the many challenges. Thank you all for continuing to work on these important housing issues in light of all of the City's budget difficulties and technical impediments associated with conducting municipal business while adhering to social distancing requirements. Your service and dedication is extremely appreciated.

There is much to applaud in this item, particularly the City's embrace of AB1763 – a recent amendment to the State Density Bonus Law (State DBL) that offers significant benefits for 100 percent affordable housing projects. However, I am disappointed that a decision appears to have been made to defer implementation of the State DBL along the commercial boulevards, the Bergamot Area Plan (BAP) and the DCP to 2021. This after both the City Council and the Planning Commission have provided clear direction to unlock the potential of the State DBL to spur housing production in the areas of the City where its desired most. This has been described in multiple hearings on the topic as the “low hanging fruit” of housing production. Furthermore, as a legal matter, municipalities cannot cherry pick certain elements of the State DBL to apply locally while ignoring others. The entirety of the State law must be followed – including the provisions awarding incentives and concessions for mixed income projects throughout the City. For now, I want to focus my comments on how the State DBL could work along the boulevards and in the BAP – as opposed to the downtown. (While I believe the State DBL incentives should apply downtown every bit as much as to the boulevards and BAP, there are additional complications given the DCP affordable requirements are pegged to building height and not the development Tier. I will be submitting separate recommendations on how to apply the State DBL to the downtown in the future).

State Density Bonus Law Basics

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The State DBL awards up to a 35 percent density bonus (i.e., increase in the number of units per lot area) for mixed income projects that include affordable housing based on a sliding percentage and affordability scale. Projects that include either 11% Very Low Income (VLI) or 20% Low Income (LI) of the “base density” (i.e., pre density bonus units) units are awarded the maximum 35% density bonus. Qualifying density bonus projects are also awarded a specified number of development incentives/concessions (as well as waivers of development standards) depending on the amount of affordable housing provided, as follows:

- One incentive/concession for projects that include 5% VLI or 10% LI
- Two incentives/concessions for projects that include 10% VLI or 20% LI
- Three incentives/concessions for projects that include 15% VLI or 30% LI
- Four incentives for 100% affordable projects (i.e., AB1763)

The State DBL also awards various automatic parking reductions that do not count towards the

number of permitted incentives.

The State DBL Santa Monica Zoning Disconnect

As the staff report points out there is a disconnect between the City's boulevard and BAP envelope based development standards (e.g., height and FAR) as compared to the "density" (i.e., number of unit per lot area) formula prescribed in the State DBL. However, this is really a red hearing issue that many cities have reconciled (as discussed in greater detail below). Municipalities cannot simply opt out of the State law requirements because they may have chosen a different way to regulate housing development intensity.

The following two main implementation issues should be addressed:

1. How to award development incentives/concessions to the boulevard/BAP envelope based zoning standards; and
2. How to develop a "base density" formula to calculate the affordable housing requirement as required by the State DBL.

As the staff report outlines many cities have answered these questions. Based on the helpful examples provided in the chart attached to the staff report, it appears that West Hollywood has the superior model.

The City of West Hollywood Model

The City of West Hollywood has a fairly simple formula that converts the maximum 35% "density bonus" into a corresponding 35% FAR increase. Developers may then request a single story height incentive/concession to accommodate the additional FAR. The City then reverse engineers a base density to calculate the affordable housing requirement consistent with the State law by dividing the total number of units in the project (inclusive of the 35% FAR increase and additional story) by 1.35. In other words if a project includes 100 total units (after the FAR increase and single story incentive) the base density would be 75 units ($100/1.35 = 75$ units rounded up). Staff cites concerns that this formula may unintentionally result in extra commercial FAR. However, West Hollywood's Density Bonus Ordinance clearly only allows the 35% FAR increase to apply to residential floor area. See West Hollywood's applicable commercial boulevard density bonus language below:

"For the purposes of calculating the permitted housing bonus in commercial zones, "density" shall refer to the maximum floor area ratio ("FAR") permitted in the zone in which the project is located, inclusive of applicable mixed-use bonuses. Because these projects are in the commercial zone, the FAR is not translated into a unit count for purposes of calculating the density bonus. **In the commercial zones, the affordable housing density bonus authorized under this section shall only be used to increase the residential floor area of the project** (unless otherwise authorized by Government Code 65915.7 as set forth in Section 19.20.020.B.3), but may be used in addition to any other applicable bonus available under the West Hollywood Municipal Code. In such event, the base FAR may be combined with any available mixed-use bonus to determine the density from which the affordable bonus will be calculated. Any other applicable bonus (e.g., senior housing, etc.) shall be added after the affordable housing density bonus calculation. (West Hollywood Municipal Code Section 19.22.050D.3.b)"

Sample Tier 2 DBL Project in the Mixed Use Boulevard (MUB) Zone

Here is how the City of West Hollywood model would apply State DBL incentives/concessions using Santa Monica's typical MUB Tier 2 standards (i.e., 50 feet in height and 2.25 FAR) for a project that provides 15% VLI units per the City's Tier 2 community benefit requirement:

- Step 1 – Convert the 35% density bonus to a 35% FAR increase
 - $2.25 \text{ FAR} \times 1.35 = 3.03 \text{ total FAR}$
- Step 2 – Allow a single story 11/12 foot height increase to accommodate the 35% FAR increase for a 6 (rather than a 5) story building
 - 50 feet/5 stories becomes 61/62 feet and 6 stories
- Step 3 – Calculate the total number of units that fit in the post density bonus 3.03 FAR/6 story envelope
 - Assume for purposes of this calculation that 100 total units fit within the density bonus project
- Step 4 – Reverse engineer a “base density” and calculate the 15% VLI inclusionary requirement only on the base density consistent with the State DBL
 - $100 \text{ total units} / 1.35 \text{ FAR bonus} = 75 \text{ “base density units”}$
- Step 5 – Calculate the project affordable requirement on the 75 unit base density
 - $75 \text{ base density units} \times 15 \text{ percent VLI} = 12 \text{ VLI required units (rounded up)}$
 - 100 unit project = 88 market rate units and 12 VLI units

This formula is entirely consistent with the State DBL. It ensures the density bonus FAR and height incentives only increase residential – and not commercial floor area. It provides a clear roadmap for applicants to follow rather than a “wild west” system where each individual developer requests its own incentives and concessions causing confusion and lack of transparency. Most importantly, it will encourage property owners to redevelop their sites with new housing projects in areas where (1) the City most wants new housing and (2) the current standards do not provide sufficient incentives. It's an economic and housing stimulus at a time when its desperately needed! This also demonstrates to HCD that the City is employing all legally required State mandated tools to achieve the approximately 8,000 required RHNA units in the next Housing Element cycle.

Therefore, on behalf of numerous housing providers (and property owners who would like to become housing providers), I respectfully request that you embrace the housing production potential of the State DBL *in full*. This should not be about pitting 100 percent affordable housing projects against mixed income projects. The City needs housing of all types – and the units are needed now more than ever. Please consider amending this resolution to include full implementation of the State DBL to the Boulevards and the BAP rather than deferring this until 2021 or beyond.

Thank you for your attention to this matter.

All my best,

Dave

Dave Rand, Esq.

ARMBRUSTER GOLDSMITH & DELVAC LLP

12100 Wilshire Blvd. | Suite 1600 | Los Angeles | CA | 90025

Direct: 310.254.9025 | Main: 310.209.8800

dave@agd-landuse.com

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