

MEMORANDUM

TO: Ordinance Revisions Committee
FROM: Washtenaw County Office of Community and Economic Development Staff
DATE: February 23, 2016
SUBJECT: Third meeting - Revisiting Accessory Dwelling Units text amendment

This marks the third meeting of the ORC on text amendments to Accessory Dwelling Units (ADUs). Since the last meeting, we've held 4 coffee input sessions, met with the Old West Side Board with a community and neighborhood meeting planned in the near future. Included in the memo is a summary of the last ORC meeting, notes from the input sessions, highlights that have impacted changes to the draft ordinance, and a second draft of ordinance revisions.

The draft ordinance language includes edits discussed at the last ORC meeting as well as additions and edits that will be presented at the meeting. If ORC is comfortable with the majority of the changes, staff will be prepared to take the text amendment with relevant background information to the Planning Commission working session on Wed., March 9, 2016.

Summary of ORC meeting on Dec. 22, 2015

The ORC reviewed a staff memo, including information on comparable communities and initial draft amendments to the ordinance. Topic of interest focused on a few key topics:

- Developing a clear understanding of related building and rental inspection requirements for ADU development. In particular, related fact sheets or a guide for home owners interested in developing an ADU would be needed to help with planning costs, approvals and related issues.
- Related, there was the question of whether or not ADU or primary residence both would be inspected through the rental inspection program. ORC was interested in a clarifying point so they can be easily conveyed to the public.
- ORC seemed interested in requiring a deed restriction or other recorded covenant to maintain owner-occupancy requirement upon sale of property, and to avoid idea that ADU could be sold separately.
- Discussion around detached structures continued around how close these structures (garages, carriage houses, etc) should be to the property line. ORC requested that staff get input from the public on this and similar issues.
- Some conversation followed discussion of Traverse City's decision to allow ADUs in 2015. They have a cap of 10 new ADUs a year. It was suggested that Ann Arbor could consider a cap of 50 if there was concern about the number of new units.
- In comments, there was concern about units being used for Air BNB rather than standard rentals. Another question was raised about the owner-occupancy requirement allowing for temporary absences. What is the definition of a temporary absence?

Highlights from input sessions that impacted changes to the draft text

Since the last meeting, 4 input sessions as well as meeting with the Old West Side Board were held with about 45 members of the public in attendance overall. A more complete summary is attached at the end of this memo; however, some responses led to further investigation and/or changes to the draft text amendment. Those are noted below:

- Concern over ADUs being used as Air BNB was mentioned at several sessions. Grand Rapids and Traverse City have language limiting the minimum amount of time for a lease. Proposed language includes a minimum of 30 days for a lease.
- Residents confirmed the desire for deed restriction or similar recorded covenant to ensure owner-occupancy status is maintained. Staff will be presenting a draft deed restriction to the city attorney along with draft language prior to the Planning Commission working session.
- Detached ADUs was of general interest at input sessions with a general preference for conversion or partial use of existing garages, carriage houses, etc. When asked about how close the accessory structure should be to the lot line there, many were comfortable with the current accessory building setback of 3 feet from the property line, while others were interested in additional distance. In reviewing other communities, the vast majority use existing accessory structure setbacks, presumably to eliminate barriers and reduce costs for development of ADUs. The updated draft text allows for detached units in existing legally conforming accessory structures.
- Owner occupancy is required in the current ordinance except for temporary absences. As this is not defined in the ordinance, or even through the Homestead or Primary Exemption process, it is recommended that it be defined as 6 months.
- Several residents living in R4C districts were interested in ADUs being allowed in their district. In most cases, it was due to issues with lot size requirements prohibiting additional units, generally allowed in the district. Respecting previous Planning Commission work on the R4C district, staff does not recommend adding ADUs to the R4C district at this time.
- In regard to lot sizes overall, staff is recommending that in all the R1 districts, using the minimum lot size of 5,000 square feet as the minimum lot size for ADUs only. This would provide more access to those interested in building ADUs, in particular in older areas of the city where original lot sizes were less than current standards.
- Lot sizes in R2A were also a comment topic of discussion, mostly in reference to the difficulty of many property owners not being able to build a second unit, due solely to minimum lot size requirements. It is recommended that R2A lot sizes be reviewed separately and adjusted to provide for two units and/or duplexes.

Zoning	Non-conforming parcels	% conforming	Non-conforming parcels > 5,000 sf	% conforming	Total parcels
R1A	112	10.3%	5	0.5%	1084
R1B	224	8.1%	38	1.4%	2752
R1C	874	8.5%	137	1.3%	10236
R1D	395	12.0%	97	2.9%	3289
R1E	0	n/a	0	n/a	0
R2A	603	25.2%	187	n/a	2394

Additional Questions and Answers

- One question during input sessions was whether or not communities who have had ADUs for many years found that there was a broad distribution of ADUs, or if there was a clustering in particular neighborhoods. Staff conferred with other communities and found that most reported a broad distribution. However, Santa Cruz noted that ADUs are popular in several neighborhoods where residents have seen one constructed, and liked the idea enough to build their own. Staff in Santa Cruz noted that ADUs are broadly supported, and expected that this would not be the case in other neighborhoods. Montgomery County, MD has [mapped locations of existing ADUs for view](#). There is wide distribution in the county.

Other updates

- Staff has met with housing, building, and zoning administration staff to talk through some of the details of ADU implementation. Staff felt that all ADUs should be included in the housing inspection program, and noted that if the ADU is attached, the primary unit would likely be inspected due to shared walls, HVAC, etc.
- Staff also was in agreement that a guide for homeowners, possibly similar to Asheville, NC's [Building Safety Guide](#), would help individuals understand building and related requirements for construction.
- Property owners can legally do some of the construction work to build an ADU. However, all trade work such as plumbing, electrical, etc. would require licensed contractors to complete the work, and formal inspections.
- All construction work would require appropriate permits and inspections. In the case of an existing, illegal ADU looking to become compliant, if one were to apply, inspectors would still require plans, and may have to have walls open up to confirm the electrical, plumbing and other work is up to code, and meeting plan specs.

Input session summaries: (apologies for name misspellings from sign-in sheets)

Thur., Jan. 21 from 6 p.m. to 8 p.m., Espresso Royale – 2603 Plymouth Road Ann Arbor

Attendees:

- Sonja Karnovsky
- Prashanth Gururaja
- Jane Lumm
- Diane Giannola
- Kathy Griswold
- Jack Eaton
- Dave Diephuis
- Richard Norton
- Sam Olson
- Last commenter on way out – didn't want to provide his name.

Staff

- Teresa Gillotti, County OCED
- Chris Cheng, Ann Arbor Planning Department

Summary of discussions:

There seemed to be agreement around requiring owner-occupancy, but questions about how well that could be enforced. The idea of a deed restriction seemed appealing, although it was noted that enforcement would still be necessary. Concerns were also raised about the potential for an ADU used for Air BnB. Staff offered the idea of a minimum lease of 30 days to address this as has been applied in other jurisdictions, and that seemed to be preferred. Some owners in the R4C were interested in it being available in that district as well. There was also concern about current violations and code enforcement. In the 4th ward, it was noted that there are extra cars parked already on properties, and in the street. For detached units, some discussed allowing them to be converted only in the primary building envelope. However, some were ok with detached ADUs where the wall facing the neighbor had no windows, to limit light and sound traveling onto adjacent properties.

Written Comments:

Prashanth Gururaja

- ADU developments should be allowed also for “non-conforming” lots in the R4C and other non-R1 districts.
- For R1, ADUs of any kind (attached or detached) should be allowed.
- In general, there seem to be too many restrictions on property owners to make modest, incremental additional to their property/homes
- ADUS can be good to increase housing supply in A2, possibly leading to more affordable housing.
- Should consider removing owner-occupancy requirement for R1

- Not requiring parking spot near bus stop is good. Can consider increasing radius to ½ mile or greater.

Diane Giannola – Love the concept of ADUs in general. I would like to have an extension of this idea for R4C. I would like to see Garages considered for ADU in R4C areas. That's garages only! If Old garages were allowed to be used as an ADU using its identical footprint, it would be a way to clean up some of the student areas that have garages.

Richard Norton - We are very much in favor of allowing detached ADUs in neighborhoods that already allow multiple units. Our old garage was collapsing so we are currently building a new garage with a 2nd floor office. The space is sufficient to eventually convert to a small efficiency apartment. Both my wife's and my parents are still living and we fully expect that we will eventually need to care for at least one of them. Having the ability to house them in a true "granny flat" would be tremendously helpful to us (we don't have sufficient room in the house itself). Using the garage this way would be entirely consistent with our neighborhood which already has multiple duplex homes.

Mon., Jan. 25 from 10 a.m. to Noon., Espresso Royale – 2264 S. Main Street, Ann Arbor

Attendees:

- Ann R (Superior Township)
- Casey Pennisi
- Jesse Pennisi
- Sharon Ongaro
- Chuck Warpehoski

Staff

- Teresa Gillotti, County OCED
- Nathan Voght, County OCED

Summary of discussions:

Most were just interested in how ADUs might be allowed. There was favorable talk about the how ADUs can promote sustainability by further utilizing existing structures, and/or allowing for small additions or conversion of garages or carriage houses for housing. It was also brought up how this has worked well in other communities and seems like a good fit for Ann Arbor.

Written Comments:

Sharon Ongaro: Ann Arbor is extremely lacking in affordable housing options. I'm particularly interested in having housing options especially for Ann Arbor workers who can't afford to live here. Also, I'm very interested in having the city allow for housing in unattached buildings. I'd be happy to share my thoughts as needed.

Tues., Jan. 26. from 2:30 to 4:30 p.m., Juicy Kitchen - 1506 N. Maple, Ann Arbor

Attendees:

- Stephen & Deborah Burling
- Tony & Nancy Stokes Veit (see e-mail below)
- Karen Hart

Staff

- Teresa Gillotti, County OCED
- Nathan Voght, County OCED

Summary of discussions:

Two groups of homeowners had questions about what was being proposed. Both had interest in detached ADUs, in one case, including the conversion of a Carriage House in the Historic District. In the case of the Carriage House, it's location at the rear of a deep lot, made the idea of separate sewer line make seem infeasible. Both parties were also interested in the potential for the areas in consideration to expand to R4C for single-family structures there.

Related e-mail comments: **Nancy Stokes Veit**

Teresa, thanks for meeting with Tony and I at the ADU drop in session on January 26, 2016. As we read the literature about the proposed revisions to the accessory dwelling ordinance, I had posed several questions which you asked us to recap and send to you for your records.

1. Is it possible to permit ADUs for properties zoned R4C?

We live at 535 South Ashley St. I have owned the property since 1979. The old carriage barn in our backyard was falling down. The Old West Side Historical Commission permitted the demolition of our old carriage barn in 2002 and the city of Ann Arbor approved plans to construct a new accessory building in 2002. Currently that rebuilt carriage barn is framed and finished on the outside. The inside walls remain unfinished. There is no insulation, wiring, plumbing, heat or drywall. It has tubing for a radiant floor, all new triple pane windows, and 2x6 stud wall framing to accommodate a large insulation cavity. Once completed this building was meant to be energy efficient. The new carriage barn was originally designed to be my art studio. Now with the ADU discussions revived, we would like to consider its possible use by us, or some other artist, as a residence and studio.

2. Is it possible to improve the accessory building over time and not change the 100% Homestead Exemption until we actually rent the accessory building or our house?

We would prefer to pay for the improvements over time and not mortgage our house to fund the improvements. Under the current zoning we could complete the radiant floor, wire the building, apply insulation and drywall. This would be a significant investment and would make more sense if we knew that one day it could be inhabitable.

3. Expand the 600-800 sqft limit?

Our existing carriage barn has a 693 sqft footprint on the ground floor. We are not sure how the current storage area on its 2nd floor will be treated. Would it be possible to expand the proposed ADU area limits, or at least allow exemptions for existing structures?

4. And of course this all hinges on whether the ordinance would allow ADUs in existing buildings such as garages or carriage houses.

Thanks again for the time you and Nathan Voght spent discussing and exploring these issues. Please keep us posted as the ADU process evolves.

Old West Side Board Meeting - Wed., Feb. 3 starting at 7 p.m.

Attendees:

- Christine Brummer
- Eric Boyd
- Allison Stupka
- Barb Hall
- **Missing onel**
- Eppie Potts (guest)
- Ray Detter (guest)

Staff

- Teresa Gillotti, County OCED
- Chris Cheng, Ann Arbor Planning Dept.

Summary of discussions:

The board and guests were generally were supportive of ADUs with a few key caveats:

- The biggest concern was how the Historic district would interact with Accessory Dwelling units, in particular additions and changes to existing accessory structures.
- Some were not for detached units, while others felt there were fine if they met accessory structure setbacks
- Opinions varied on parking with several individuals interested in no parking requirement while others felt requiring off-street parking would be essential.
- There was a question about how ADUs impact housing values. Staff will make info available at neighborhood meeting.
- All agreed that owner-occupancy is essential and were interested in adding in the deed restriction requirement.
- They requested that there be a neighborhood meeting with a special emphasis on Historic Districts and including the City's preservation planner. That meeting is scheduled for Mon. March 7 at Bach Elementary from 6:30-8 p.m.

Attendees: (does not include a few who stopped in and didn't sign in)

- Gwen Nystuen
- John D. Nystuen
- Ethel Potts
- Gary Supanich
- Peter Naganvney
- Deb Odoms
- David Diephuis
- Julie Herrada
- Gretchen Suchre
- Zack Ackerman
- Lorna Hurl
- Lev Linkner
- Jean Carlberg
- Arthur Nusbaum
- Ellen Ramsburgh
- Jeff McCullugh
- Sue Maguire

Staff

- Teresa Gillotti, County OCED
- Nathan Voght, County OCED
- Chris Cheng, Ann Arbor Planning

Summary of discussions: This session had the most attendees and a series of conversations. Several residents of Burns Park were very concerned that ADUs had been discussed previously in 2003 and were shot down, and were concerned that it was coming back. In particular, they were concerned that if the goal is more affordable housing, then why isn't City Council doing more to bring more affordable housing to Ann Arbor, rather than have ADUs bring affordable housing on the backs of existing residents. Others felt that the concerns were not as severe as described on the neighborhood list-serve. Another couple was surprised that anyone was against ADUs.

- Who's problem is affordable housing? The successful downtown businesses that need lower-wage staff who can't afford to live close to work? Other employers, the city? Who should be responsible for making more affordable housing (no dispute that it's needed)
- If ADUs are permitted, can rental inspection and code enforcement keep up? Several individuals felt it was currently inadequate. Any increase should require a similar investment in additional inspectors.

- If ADUs are permitted, there is concern that individuals will not understand related costs, including construction, maintenance and change in assessment and taxes, insurance, etc.
- There was a concern about strangers living in tightly-knit neighborhoods
- There was interest in providing means for aging-in-place for seniors, and for those with family members with disabilities, as well as those with lower incomes who might be able to keep their house by supplementing it with rental income.

Written Comments:

Gwen Nystuen - R2A is already very dense. Need detailed information on what currently exists. Please provide census block data mapped out so we can see the existing density. Provide copy of our ordinance with proposed occupancy.

Lorna Hurl

- 1- Our area already suffers from too many cars and too little parking. This would only increase the problem.
- 2- Adding a ADU , especially detached, reduces yard size. This discourages young families (no play space). Already we have lost single family homes to rental and therefore lost the potential for young families. This would make this worse. We would potentially lose our current profile.
- 3- In our area, any rentals would be created with students in mind. We already have many rentals, frats and sororities.
- 4- Already there is poor enforcement of existing noise, occupancy, and cleanliness by laws. This increase the potential for more problems in our area.

Jeff McCullugh – Don't want increased traffic/parking at curb. Rental units are not as well maintained. Property values will drop with houses split into separate units – not good! Neighborhoods will become student ghettos - believe it! Lack of enforcement is the rule now. It will be far worse with the encouragement of ADUs.

Second draft of text amendments.

Black is original text. Red denotes changes to the existing zoning ordinance text.

5:10.2 R1A, R1B, R1c, R1D, R1E single-family dwelling district and R2A

Revised draft

Move:

from (3) *Special exception uses pursuant to section 5:104 €*
to (4) Permitted accessory uses (d)

Amend:

One accessory ~~apartment~~dwelling unit (ADU), subject to the following standards:

1. The owner ~~in which the accessory apartment is created~~ shall occupy one of the dwelling units, except for temporary absences not to exceed 6 months.
2. The ~~accessory apartment~~ADU shall be designed so that the appearance of the building remains that of a 1-family residence. Any new entrances shall be located on the side or in the rear of the building ~~and any additions shall not increase the square footage of the original house by more than 10%.~~
3. The ~~accessory apartment~~ADU shall not exceed ~~25% of the entire floor area of the structure, nor shall it be greater than~~ 600 square feet in gross floor area, or the size of the primary dwelling, whichever is less.
- ~~4. The dwelling to which an accessory apartment is to be added must be owner-occupied and have been owner-occupied by the current owner for the 12 calendar months preceding the date of application.~~
- ~~5. No rent shall be paid for the accessory apartment.~~
- ~~6.4.~~ _____ The ~~accessory apartment~~ADU shall not be occupied ~~only by persons related by blood, marriage or adoption to the family occupying the principal dwelling or by not more than 2 employees not related to the family occupying the principal dwelling by more than 2 individuals.~~
- ~~7.5.~~ _____ Legally conforming Accessory accessory buildings constructed before June 1, 2016 may ~~not~~ be converted for ADU accessory apartment use.
- ~~8.6.~~ _____ The total number of persons residing in the primary and accessory dwelling units combined ~~building~~ shall not exceed the occupancy permitted by section 5:7

7. At least ~~3~~1 off-street parking spaces shall be provided ~~for the dwelling and accessory apartment~~for the ADU unless the property is within ¼ mile of a bus stop. Tandem parking in a driveway can count towards off street parking requirement, if not located in the front yard setback.

8. All ADUs are subject to regular housing inspections per section 8:511.

9. Minimum lot area for ADUs in R1A, R1B, R1C, R1D, and R1E is 5,000 square feet. ADUs in R2A must meet minimum lot area for that district.

10. Leasing or rental of the ADU for less than thirty (30) days shall be prohibited.

~~9-11.~~ A deed restriction noting all the above requirements shall be filed with the register of deeds, prior to occupancy.