



# Maryland

## DEPARTMENT OF PLANNING

### Accessory Dwelling Unit Task Force 1.16.24

#### Meeting Summary Notes

9:30 – 9:45 Welcome & Overview

- Roll Call:
  - Senator Mary Washington – Represented by Melanie Wellstein, Chief of Staff.
  - Delegate Vaughn Stewart, III- no
  - Secretary Rebecca L. Flora, Chair - yes
  - Theo Williams - yes
  - Lori Parris - yes
  - Amy Moredock - yes
  - James Gaston, III – yes
  - Dan Hoff - yes
  - David Thaler - yes
  - Tiffany Harris - yes
  - Quinn Griffith - yes
  - Deborah Buelow - yes
  - Priscilla Kania - yes
  - Mandy Gitt - yes
  - Jennifer Ray - yes
  - Chelsea Hayman - no
  - Isabella Shycoff - yes
  
- 9:45 – 10:00 Administrative Updates
  - Meeting Objectives (see slides) - Joe introduced five objectives of the meeting.
  - Public comment reminders
  - Builders and developers survey open until February 2nd, only 16 responses so far so. Please send forward in reminding your contacts of this important survey.
  - Focus Groups and Panel Formation - HOA and Civic Community associations, we need more panelists.
  - Glossary of terms – ongoing project, invited TF members to contribute adding terms and updating.
  - Reoccurring topics – Short term rentals, HOA covenants, Familiar requirements, etc...

10:00-10:45 Guest Speaker Lisa R. Hodges-Hiken, Esq.

[lisa@westportcedc.org](mailto:lisa@westportcedc.org)

[Housing and Racial Discrimination Policies Presentation](#)

10:45-11:00 Preliminary Lot Requirements (Summary Document)

- Local requirements look at the structure as either it must meet the bulk requirements of the primary dwelling unit, or it must meet the requirements of an accessory structure.

**Note:** There are exceptions when the ADU is a conversion of an existing structure on the property, generally contingent of the existing structure being properly permitted at the time of its construction. If the existing structure is non-conforming, then issues could arise unless there is a clause in legislation that allows that the use of a non-conforming structure will not be considered non-conforming for the purpose of conversion into an ADU.

- State government guidelines and examples
- Best Practices presented

The TF expressed some concern over the details of the statements, including possible unintended impact or discriminatory consequences, especially the financial aspects.

11:05 Panel discussion overview

- January 5, 2023- ADU Owners, Residents, Accessibility advocates.
- TF response was that the insurance on ADUs is a complex process relating to the variation in polices and cost. This is an issue that will affect affordability.
- Secretary Flora asked if we had a geographic representation of the panelists.
- Again, the concern of unintended consequences was raised by the TF, including concerns relating to:
  - Defer requirements of the primary dwelling unit;
  - Interpreting the owner occupancy use;
  - Accessibility for conversion units, such as on a second story;
- Secretary Flora mentioned that the concerns will be in the findings and observations of the final report.
- In regard to affordability and accessibility, the TF suggested that more diversity discussions are needed to address these issue along with other concerning issues such as:
  - Single parenting and ADUs
  - Financial considerations;
  - Race and multigenerational families.
- The ADA features a wide range of handicaps, it is not just about accessibility. There are things we can do to make housing better in terms of safeguards to enrich people's lives.

11:35 Design and Building Codes

- Resources and examples
- See [Local Housing Solutions for ADUs](#)

- Reviewed best practices to consider and examples around the State.
  - Special exceptions approval criteria includes the need for the dwelling unit to be deemed compatible and that the exterior finish material should be compatible.
  - Other state summaries were presented at a high degree and low degree of specificity, with emphasis placed on the preambles of the bills for a list of the purpose of the ADU legislation. Most do not include design guidelines and for ADUs and only one other state included a covenant override. Some of the points made include:
    - Requires aesthetic continuity;
    - Requirements shall not exceed the architectural design requirements of the primary dwelling unit.
    - Nonconforming clause.
  - TF discussion of these points focused on the asking the question “Can the legislature override the HOA or other covenants?”
- 12:00 Public Comments
  - Stormwater management has not been discussed and requirements for it should be included in the case where new impervious areas are added to a lot for an ADU.
  - Size restrictions of primary dwelling should be considered.
  - Septic and sewer need to be addressed
  - Reflect on one of participants who sat on the Task Force.
  - GIS research and identification of ADU existing and possible structures on the site.
  - Historic districts and sites need regulations of compatibility and are often excluded in zoning ordinances as a matter of right and are required to be a special exception.
  - ADUs must be reviewed for emergency service accessibility.
- Next steps and final comments from the TF
  - ADUs should not be more restrictive in design requirements than the primary dwelling unit.
  - Investigate the possibility of the State legislature removing the covenants in communities that have restrictions relating to ADUs and determine if the legislature would be overreaching if they removed covenant restrictions.
  - Some of the information presented today was overwhelming.
  - More information relating to affordability for financing purposes is needed.
  - Interested in hearing more about the Builders and Developers survey.
  - Affordable housing means affordable construction of an ADU. Regulations should not drive up the costs of construction.
  - ADUs should be a form of “responsible housing product”. Using the 2024 International Energy Conservation Code as a resource.
  - Exterior finish material should not have to be a design requirement.
  - Additional research into tiny homes vs. tiny homes on wheels is needed.
  - Promote ADUs housing for seniors.
  - Recommendations should be simple considering the urgent need to address the shortage of 93,000 dwelling units in the State are being addressed.

- The final report can be both educational and informative and staff will work toward framing the report.

#### 9:15 – 9:30 Draft Zoning Use and Approval Process Recommendations

- Recommendations
  - Broken up by local and state.
  - Overall recommendation of by-right and specific areas that need more oversight should have special exception (historic preservation areas as an example)
  - Councilman Hoff is asking about by-right in concert with sewer and water capacity issues in a place like Westminster. Can we give a broad recommendation for all of Maryland when there are issues like that in some localities? Joe answered that we are building the recommendations in pieces - currently considering by-right in a bubble but will come back to capacity issues before we issue a final recommendation report. Can limit our recommendations based on capacity issues for specific localities.
- Best Practices
  - Gray area between recommendations and best practices
  - Always use objective performance standards
- Local Governments (see slides):
  - Clear preference for by-right
- State Governments (see slides):
  - No state mandates about requiring any of what we spoke about in the last meeting, but there is still a strong role for the state. Recommendation of by-right and providing tools to local governments on how to execute that.

#### 9:30 – 10:30 Planning Director Panel Discussion

PLEASE SEE SEPARATE PANEL DISCUSSION SUMMARY DOCUMENT FOR NOTES

#### 10:30 – 11:30 Lot Requirements

- Defined
  - Looking at lot size, density, unit size, lot coverage, setbacks, height.
- Maryland Inventory of ADU Ordinances (see Maryland Summarized slide for context):
  - Going through Maryland lot size examples slide
  - Going through Maryland density examples slide
  - Now Maryland unit size examples slide
  - Maryland lot coverage examples slide
  - Maryland setbacks examples slide
  - Maryland height examples slide
    - Correction: Frederick County example is actually for Frederick City
  - A lot is going on with lot requirements.
  - One task force member says that we should not get too into the weeds of these requirements. These requirements are very context dependent so our

recommendations should account for that, ensuring localities know that they can still deal with prior zoning requirements.

- Jennifer Ray says that dealing with impervious surface requirements is going to be important for us. Mandy Gitt says that impervious surfaces are already being considered by local jurisdictions.
- Other State Legislation (more info in slides)
  - Lower-Degree lot requirements slides
    - New Hampshire
    - Maine - A municipality shall exempt an accessory dwelling unit from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed.
  - Moder-degree lot requirements state pre-emption
    - Connecticut -
    - Montana
  - Higher-Degree Lot Requirements State Pre-Emption
    - California - Some restrictions on zoning such as an ADU cannot be within 100 ft of a California Resources Zone.
      - One task force member says that 2 ADUs are allowed per property in California, which diverges from virtually all other states.
  - Councilman Huff wants to investigate the recommendation of passing a law that overrides any ADU rules set by HOAs.
  - Going over public comment on ADU lot requirements now
- Scenario Exercise (see slide):
  - Assumption that both the property owner and the jurisdiction want to support ADU development
  - Q: are they trying to expand the garage or simply convert it?
    - A: We don't have that answer, but that is something that local jurisdictions would need to investigate.
  - Need to see if you are allowed to make the garage taller than the principal structure.
  - Another task force member says all they see is dollar signs when we are discussing these requirements. Changing the driveway is a huge cost. Having all these requirements affects the ability to build ADUs at varying incomes.
  - The garage most likely won't have sewer, so taking out the concrete to connect sewer is difficult. Are you allowed to connect to the principal property? There would be a series of hoops to jump through that each individually are not a big deal but can add up to a heavy lift for the property owner if they must check off all of them.
- Discussion Questions
  - What preliminary legislative and policy recommendations, related to lot requirements, should the Task Force include in its final report to the Governor and General Assembly?
    - Theo: lots of jurisdictions thread the needle around not being any more restrictive than the principal property, and that should be our baseline for all policy.

- Councilman Hoff: tie into existing zoning, which some in the room agree with.
- Some communities that do not have existing ADU zoning, so not everyone is at the same place. All zoning areas already have something regarding accessory use, but the boundaries of accessory use are different across counties so a general recommendation may not mesh well with all localities. May lead to the need for the adoption of new zoning ordinances. Prince George's is very different, for example.
- What preliminary best practices, related to lot requirements, should the Task Force include in its final report to the Governor and General Assembly?
- What additional research, if any, is needed to address this topic?
- Should we make ADUs just like all other accessory uses? David Thaler made that recommendation.
- Importance of everyone having a safe place to live.
- For accessory use, why are there new setbacks for an ADU in comparison to say a garage?
- Removing density for ADUs could be great at the state level so that they could be considered as only accessory use instead of having added setbacks.
- If we are going to make accommodation for x use, that opens us up to being seen as inequitable when it comes to what we allow land to be used for on other fronts.
- Another task force member asks why would ADUs not be included in a density conversation? We should assume that there are additional people living within the property. Saying ADUs count against density in some areas would be saying that no ADUs would be allowed at all. When you're talking about density here you need to consider what their considerations apply and what would not apply if the density report is lifted.

11:30 – 11:45 Public Comment

11:45 – 12:00 Summary and Final Thoughts

- Closing Round
  - Theo: should not be more restrictive than the principal unit, also adopting size requirements of 50% or 1,000sqft, whichever is lower.
  - Laurie: echoed a lot of what Theo says. Whatever recommendations we circulate make sure they are applicable to all of Maryland. Shocked that parking in Annapolis is not an issue.
  - Amy: passes
  - James: rental units in Brentwood must be renewed annually. Code enforcement will come to the property annually to make sure it looks good.
  - Hoff: not overly obsessed with the idea we have a minimum size. Do need discussion around maximum size, believes it should not be bigger than the principal property.
  - David: Everyone's doing great and we are on the right track. Surprised how many jurisdictions have ADUs, how they are all different, and how the feedback has varied.

- Tiffany: no longer here.
  - Quinn: no surprises and nothing extra to add.
  - Deborah: should be tied into existing zoning around accessory use. Agrees that we should discuss maximum sizes.
  - Priscilla: agree with no minimum and a set maximum. HOAs are a big concern, and we could investigate limiting some of their ADU blocking abilities. Existing ADUs will not come to the Annapolis government for example and ask to be put on the list since they will be asked to be brought up to code.
  - Mandy: let the existing zoning government govern. Updating codes to make sure people are safe within this space.
  - Jennifer: allowing local zoning code to do what it needs to do locally, and there needs to be a maximum from the state level to oversee what that looks like. Interested that many jurisdictions have a consistent 15-20k fee.
  - Sec. Flora: These prices do not make it accessible for most folks. Need to simplify the process to ensure people can get through the construction process and get another housing option available.
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- Next Steps
  
  - Adjourn