

## Information Item

**Date:** April 13, 2021

**To:** Mayor, Mayor Pro Tempore, and Members of the City Council

**From:** Damon Dequenne, Assistant City Manager  
Aaron King, Director of Planning and Development Services

**Subject:**

Best Management Practices for Accessory Dwelling Unit Ordinances

**Strategic Focus Area:** Livable Neighborhoods

**Strategic Objective:** Expand Housing Assistance Programs

**Strategic Plan Action Item:** Address affordable housing needs

**Key Work Item:** No



In fall 2020, City Council's Community Development/Housing/General Government Committee asked staff to research best management practices related to accessory dwelling units. Given the current concerns regarding housing availability and affordability facing Winston-Salem, accessory dwelling units are a potential tool that can be utilized to provide new housing options for residents. A core objective of the *Winston-Salem/Forsyth County Housing Study and Needs Assessment*, completed in December 2018 by Enterprise Community Partners for the Winston-Salem Community Development Department, is to create a better balance between housing units produced and household size, particularly for the growing elderly, young adult populations, and disabled. An action item identified to help achieve this objective is to address limitations to accessory dwelling unit utilization.

Accessory dwelling units (ADUs) are small dwelling units that are subordinate or secondary to the principal structure on a lot that provide similar amenities as a standard house. Sometimes referred to as granny flats, carriage houses, in-law apartments, or laneway/alley housing, an ADU can be created by converting a basement or attic in the principal structure, expanding the principal structure, or constructing a separate building on the lot. ADUs can provide more diverse housing options within a lower density, primarily single-family residential environment.

Benefits of ADUs include:

- Increasing the range of housing options available to help meet differing income and generational housing needs.
- Providing options for aging in place for the elderly, sick, or those on fixed-incomes.
- Generating income for the owner of the principal structure if the ADU is rented.
- Allowing for flexibility in infill development while retaining the scale and character of a neighborhood.
- Serving a range of different populations from students and young professionals to people with disabilities and senior citizens.
- Promoting economic stability for the property owner.

Accessory dwelling units were a popular housing option in many communities, including Winston-Salem, until World War II, when single-family zoning districts became more restrictive. Due to rising housing costs and housing shortages, the use of accessory dwelling units has become relevant again as such units offer a potential tool to help address these issues facing communities throughout the Country. The current COVID-19 pandemic has only increased the demand for ADUs as property owners look for ways to house extended family, especially those who may need special care.

The *Legacy 2030* Comprehensive Plan highlighted how accessory dwelling units provide creative housing options that can accommodate the growing population within municipal limits and promote “gentle density”, the concept of increasing density in existing neighborhoods through a variety of different housing types. Such development makes better use of existing infrastructure while retaining the character of residential neighborhoods. The National Association of Home Builders’ report, *Diversifying Housing Options with Smaller Lots and Smaller Homes* created by Opticos Design, lists accessory dwelling units as one of four recommended methods of addressing housing affordability and shortages along with small lot ordinances, cottages courts, and form-based codes.

Staff has researched available resource materials and ordinances of our peer communities and provides the following background information and best management practices for Council to consider as it discusses this item.

### **Background**

Accessory dwelling units, either attached or detached, have been allowed by the Winston-Salem Zoning Ordinance since as early as 1930. Over time they have been utilized for many different purposes, such as to house servants and family members, as starter homes, or as rental units. More recently, ADUs were regulated according to their occupancy. Prior to 2017, the Unified Development Ordinances (UDO) permitted accessory dwellings, but limited occupancy of these units to relatives, adopted persons, dependents, or servants of the property owner. These provisions also extended occupancy rights to individuals over the age of 55 and handicapped persons. Due to changes in North Carolina case law, the City Attorney’s Office recommended revising occupancy-based ordinance provisions to prevent them from being challenged in court.

Throughout 2015 and 2016, staff reviewed other North Carolina ADU ordinances and gathered input from neighborhood representatives, the City-County Planning Board, and the Community Development/Housing/General Government Committee on potential revisions to the ordinance. Staff recommended amending the ordinance by adding regulations governing building placement and size to ensure accessory units fit within neighborhoods. Ultimately in September 2017, City Council adopted a version of the ordinance that retained the existing ADU regulations, but removed the kinship (and other relationship-based) requirements and changed the approval process for ADU to the Special Use Rezoning process for both attached and detached accessory dwelling units. Previously these units were approved by the Board of Adjustment or staff.

The Special Use Rezoning process can take three months to complete and has a minimum \$1,000 application fee, which has been a detriment to using this provision. Additionally, Special Use Rezonings require a site plan produced by a licensed design professional. Fees for said site plan add several thousand dollars’ worth of expense to the rezoning process. Since the adoption of the

2017 ordinance amendment, no accessory dwelling units have been approved through the Special Use Rezoning process.

### **Key Ordinance Elements and Best Practices**

Staff reviewed resource materials and accessory dwelling unit ordinances from other communities within the State and nationwide to determine the key elements of an accessory dwelling ordinance and the best practices associated with each element. Through this research, staff noted that the best practices outlined in resource materials often did not align with peer community ordinances that were reviewed. While the resource materials aimed at providing guidance that would promote the creation of ADUs, the ordinance regulations aimed to find a common ground that would allow for the creation of ADUs but also respect the neighborhood character and address public concerns.

The general best management practices encountered by staff for encouraging ADU development are as follows:

- Allow all types – internal, attached, and detached - of accessory units.
- Allow for garage conversions without additional parking requirements.
- Minimize permit and impact fees or waive them in specific situations.
- Simplify the building permit process for ADUs.
- Adopt flexible and simple regulatory requirements for setbacks, square footage, and design.

More information on specific aspects of accessory dwelling unit regulations is provided below:

#### Permitting Process

Accessory dwelling units may be permitted either by-right (staff approval) with specific use conditions or through a special permitting process. Currently, Winston-Salem requires interested individuals to apply for a Special Use rezoning to be approved for an accessory dwelling unit. This type of process has shown to hinder the creation of ADUs and is not a best management practice as it can be perceived as presenting multiple barriers, requires a lengthy process without a clear outcome for the applicant, and can be overly complicated for interested parties. Furthermore, this process requires a substantial application fee based on acreage with the minimum fee being \$1,000.

The best management practice for permitting would be to allow ADUs by-right with conditions. Other communities throughout North Carolina and nationally, allow ADUs by-right with specific conditions in certain zoning districts. These communities include Charlotte, Raleigh, Greensboro, Durham, Wilmington, and Asheville as well as Nashville, TN; Charleston, SC; Austin, TX; Portland, OR; Portland, ME; Roanoke, VA; and Chattanooga, TN. Vermont, New Hampshire, Oregon, and California allow accessory dwelling units by-right at a state-wide level alongside primarily single-family development.

### Zoning Districts and Principal Uses

Two approaches to identifying the zoning districts which allow accessory dwelling units are utilized in ordinances: to directly specify the zoning districts in which an ADU is permitted or to specify that ADUs are permitted in conjunction with certain principal uses. Both approaches are valid and serve the same purpose.

Winston-Salem does not currently specify which zoning districts or principal uses allow an accessory dwelling unit. However, the ordinance does specify that a use accessory to a principal use is permitted if the accessory use is customarily incidental to the principal use in the opinion of the Director of Inspections (Director of Planning and Development Services). Most communities reviewed such as Charlotte; Raleigh; Wilmington; Asheville; Chapel Hill; Portland, OR; and Nashville, TN list the specific zoning districts in which ADUs are allowed. Additionally, some communities allow ADUs beyond residential districts to include certain office, institutional, and business districts. These communities include Charlotte, Asheville, and Raleigh, with Charleston, SC allowing ADUs in all base districts with a principal single-family dwelling unit.

The key best management practice here is to tie ADUs to principal uses which allow them, with such uses expanded beyond single-family residential development to include duplex, town houses, and other appropriate uses. Durham specifies that an accessory dwelling unit is permitted with household living and community service principal uses, as well as churches as a staff dwelling unit. Portland, ME allows an ADU in association with all conforming and non-conforming lots with legal residential uses.

### Siting Requirements

Siting requirements relate to where an ADU may be located on a lot, the required setbacks from property lines, and the percentage of a lot utilized for an ADU. Siting requirements are often related to detached ADUs but can also be associated with attached ADUs where the ADU is an expansion of the principal structure. Many communities, including Winston-Salem; Nashville, TN; and Lexington, KY, refer to the siting standards for accessory structures.

Other communities, such as Greensboro, refer to the standards of the underlying zoning district. In some communities, such as Charlotte, specific setbacks are required for ADUs that are more restrictive than those required for other accessory structures. This has led to situations in which a conforming accessory structure, such as a detached garage, is converted to an ADU and becomes non-conforming due to the more restrictive setback requirements for the ADU. Variances are typically required to remedy this situation. Charlotte is currently experiencing a backlog of variance requests due to this specific situation and are proposing an ordinance amendment to change the setback requirements to be more in line with those for accessory structures.

It is common for an ADU to be required to be located to the rear of the principal structure. Durham does allow a detached ADU to be located to the side of the principal structure so long as it does not extend forward of the rear of the principal structure 25% of the length of the structure. Lot coverage requirements are also often included in ADU ordinances. These requirements vary among communities and can vary within an individual ordinance depending on the zoning district.

The best management practice regarding siting requirements is to minimize additional requirements for ADUs beyond that of an accessory structure in general. The goal is to streamline the ordinance requirements to allow for a flexible application and to prevent cumbersome and confusing requirements. Additionally, an ordinance should prevent situations where conflicting requirements create non-conforming situations when accessory structures are converted to an ADU, as Charlotte has experienced.

### Parking

Off-street parking is often one of the main areas of concern when ADUs are proposed, both in terms of adjacent neighbor concerns and development challenges facing interested property owners. Most communities, including Winston-Salem, require one additional off-street parking space to be provided when developing an accessory dwelling unit. Durham does not require additional parking for an ADU, while Wilmington currently requires two parking spaces. However, Wilmington is currently in the process of updating its Land Development Code, and a proposed change to the ADU provisions is to reduce the required off-street parking to one space. Austin, TX does not require any parking for ADUs if the property is within a ¼ mile from an Imagine Austin Activity Corridor that is also served by transit.

In terms of promoting the development of ADUs, the best management practice related to parking is to eliminate additional requirements beyond those required for the principal structure. However, this may not be a feasible option given neighborhood concerns and a parking space requirement may be necessary to gain public support. The situational reduction of parking as shown in Austin may be an amenable compromise and follows trends to reduce parking requirements for other residential types, specifically multi-family residential.

### Bulk and Massing

Bulk and Massing refers to the square footage and height requirements for an accessory dwelling unit. Square footage requirements for ADUs are typically shown as a percentage of the principal structure, not to exceed a specified square footage. The common specified square footage limit is 800 square feet, with some communities requiring smaller units or allowing larger units. Winston-Salem does not specify a square footage limit for an ADU and refers to the accessory structure provisions, which state a 576 square footage limitation as minimum with larger units allowed on larger lots. Asheville allows detached ADUs up to 1,000 sf.

Height requirements for ADUs vary among communities but commonly range between 20 to 30 feet. Some communities, such as Portland, ME, specify that the accessory dwelling unit not exceed the height of the principal structure. Winston-Salem refers to the general requirements for accessory structures which set a height limit of 17 feet.

As accessory dwelling units are intended to be subordinate to the principal structure, the bulk and massing requirements should reflect this fact but should not be overly complicated or restrictive. The best management practice for bulk and massing is not requiring a specific figure but rather advocating for a straightforward requirement that maintains the subordinate nature of an ADU while allowing for some flexibility in design.

### Number

Most communities, including Winston-Salem, limit the number of accessory dwelling units to one per lot. Portland, ME allows two units per lot and Durham allows up to the three units in conjunction with community service uses.

Any efforts that are made to increase the number of accessory dwelling units on a given lot while maintaining neighborhood character and addressing public concerns will help to promote the development of ADUs. These increases could be associated with larger lots sizes or, as is the case in Durham, with specific use types.

### Design

Many communities provide some level of regulation on the design of the accessory dwelling unit relating to features such as entrances, stairways, architectural details, and/or building materials. Lexington, KY requires that only one pedestrian entrance to the structure be located on the primary wall plane of the dwelling unit and that any exterior stairs that serve as the primary entrance be located on the side or rear of the structure. Portland, OR has standards stating that the exterior finish materials, roof pitch, trim, eaves, and window orientation and dimension must be the same or visually similar to the principal structure or must be made of specific materials. Nashville, TN requires that the accessory dwelling unit be similar in style, design, and material color as the principal structure and shall use similar architectural characteristics, including roof form and pitch, to the existing principal structure. Charlotte requires that roof and exterior wall materials and finishes be similar in composition and appearance to the principal structure. Greensboro requires that the property must retain a single-family residential appearance if an accessory dwelling unit is built on a single-family residential property.

Requiring design requirements may prove to be a challenge to property owners either due to the specific nature of their property or due to the additional costs associated with certain architectural details and building materials. Conversely, providing some level of certainty that an ADU must complement the design of the principal structure may help address concerns about impacts to the overall character of the neighborhood. It is important to note, however, the North Carolina General Statutes does not allow regulation of design elements for single-family development outside of designated historic districts. Careful consideration must be given to determining if design requirements should be incorporated and how such requirements are phrased to avoid legal challenge.

### **Other Considerations Beyond Ordinance Requirements**

Two additional factors beyond ordinance requirements impact the development of accessory dwelling units: education of property owners and financing.

### Educational Information

The approval process for an accessory dwelling unit can be confusing to an interested property owner, with its multiple steps and complex considerations. Communities such as Lexington, KY; Santa Cruz, CA; and Portland, OR have all developed guidebooks to educate interested owners on each step of the process and the items that will need to be considered. Preparing these resources is a best management practice as it helps to make the process seem less daunting for property owners and ensures that property owners are fully aware of the range of items that will need to be addressed in each step of the approval process.

### Financing

Beyond zoning regulations, the ability of a property owner to finance the construction of an ADU including architectural drawings, building materials, and related development fees is the number one barrier to their development. While specific costs vary based on location and the construction materials, a general guideline is that a detached ADU can cost anywhere between \$125 to \$250 per square foot to develop. Attached ADUs, such as basement conversions, are less expensive but can still cost upwards of \$50,000. With construction costs rising during the COVID pandemic, these figures may even be low compared to current costs.

Property owners must generally carry the entire burden of these costs, as financing options for ADUs are limited. Most homeowners either utilize savings, home renovation loans, or second mortgages to finance the construction of an ADU. Local governments can minimize the costs by establishing pre-approved architectural designs for an ADU or by reducing or eliminating service/approval fees. Portland, OR waives system development fees if a property owner agrees through a restrictive covenant to not use an ADU as a short-term rental unit for a period of 10 years. Another avenue available to local governments is to develop public-private partnerships which allow for loan programs, particularly for gap funding, to assist property owners.

### **Summary**

Accessory dwelling units continue to be recognized as an effective tool in diversifying housing choice and promoting gentle density. Since 2017, peer communities have adopted ADU ordinances which are far more permissive than the City's current regulations. In order to effectively combat the housing crisis facing our community, it is important for the City to have as many housing solutions as possible.

Staff will be available to present this information at the April 12, 2021 Community Development/Housing/General Government Committee Meeting.