

**CITY-COUNTY PLANNING BOARD  
STAFF REPORT**

**DOCKET:** UDO-CC15  
**STAFF:** [Amy Crum](#)

**REQUEST**

A text amendment proposed by Planning and Development Services Staff modifying Section 5, 6, and 11 of the *Unified Development Ordinances* to revise provisions regarding Dwelling Units, Accessory, Attached and Detached; parking requirements for Dwelling Units, Accessory, Attached and Detached; and the definitions of Dwelling Unit and Dwelling Unit, Accessory, Attached and Detached.

**BACKGROUND**

Accessory dwelling units (ADUs) are small dwelling units that are subordinate or secondary to the principal structure on a lot which provide similar amenities as a standard house. Sometimes referred to as granny flats or in-law apartments, ADUs can be created by converting a basement or attic in the principal structure, expanding the principal structure, constructing a separate building on the lot, or converting an existing accessory structure such as a detached garage. They often provide more diverse housing options within lower density, primarily single-family residential neighborhoods. The *Legacy 2030* Comprehensive Plan highlighted accessory dwelling units as a tool to providing creative housing options for a growing population while promoting infill development, age-friendly communities, and gentle density. ADUs can promote more efficient use of existing infrastructure while retaining the character of residential neighborhoods. 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 space 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 personal economic stability.

**Ordinance History**

Accessory dwelling units, either attached or detached, have existed in 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. 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. Previous provisions also extended occupancy rights to individuals over the age of 55 and handicapped persons. Due to recent changes in North Carolina case law, the City Attorney's Office recommended revising the ordinance provisions to protect them from legal challenges.

Throughout 2015 and 2016, staff reviewed other North Carolina ordinances and gathered input from neighborhood representatives, the City-County Planning Board, and the City Council Community Development/Housing/General Government Committee on potential revisions to the ordinance. Based on this review, staff recommended adding additional regulations governing building placement and size to ensure accessory units were compatible with neighborhoods. In September 2017, City Council ultimately adopted a version of the ordinance that retained the original ADU regulations with the kinship requirements removed and the approval process changed to the Special Use Rezoning process for both attached and detached accessory dwelling units. The Special Use Rezoning process can take between two to three months to complete and has a minimum \$1,000 application fee.

In 2018, the ordinance was amended to allow existing accessory dwelling units previously approved by the Board of Adjustment (and which have expiring terms) to continue to be reviewed by the Board of Adjustment rather than the City Council. Since the adoption of the 2017 ordinance amendment, only two ADUs have been approved through the Special Use Rezoning process.

### Current Housing Market Challenges

Due to rising housing costs and housing shortages, the use of ADUs has become increasingly relevant, as they offer a potential tool to help address these issues facing communities throughout the Country. The 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. Given the concerns regarding housing availability and affordability facing Winston-Salem, ADUs are a potential tool that can be utilized to provide new housing options for residents. The National Association of Home Builders' report, *Diversifying Housing Options with Smaller Lots and Smaller Homes*, 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. Furthermore, the *Winston-Salem/Forsyth County Housing Study and Needs Assessment* and the Winston-Salem Affordable Housing Coalition recommended revisiting the ADU ordinance to aid in addressing housing needs, particularly regarding affordable housing.

### City Council Request

As a result of the issues described above, the Winston-Salem City Council asked Planning and Development Services staff to research best management practices related to accessory dwelling units (ADUs) in fall 2020. Best management practices identified through this research include:

- Allow all types of accessory units.
- Simplify the building permit process for ADUs.
- Require no additional parking spaces for ADUs, especially for conversions of existing structures.
- Minimize permit and impact fees or waive them in specific situations.
- Adopt flexible and simple regulatory requirements for setbacks, square footage, and design.

In spring 2021, City Council asked staff to review the current ADU ordinance and propose amendments that would provide straightforward provisions and help eliminate barriers to the development of ADUs.

## ANALYSIS

Staff reviewed the ADU provisions of peer North Carolina communities. A comparison between the current provisions and those of our peer communities (**Attachment A**) revealed that our current provisions are not in line with other communities. Furthermore, the existing provisions do not follow current best management practices for ADUs. Staff recommends amending the ordinance to incorporate best management practices and to simplify its provisions.

Proposed amendments affecting both attached and detached ADUs within the City include:

- Accessory dwelling units would be permitted with conditions in districts that allow the principal use. If the listed conditions are met, an attached or detached ADU would be approved by zoning staff. This will remove the current requirement for City Council approval and \$1,000 minimum review fee.
- The principal use of an ADU is specified in the proposed ordinance. Residential Building, Single-Family is stated as the principal use for an attached ADU and Residential Building, Single-Family or Manufactured Home, Class A for a detached ADU.
- No additional parking would be required with the development of an ADU.
- A height limit of 25 feet for detached ADUs. Attached ADUs would be limited to the height of the principal structure.

Key proposed amendments affecting provisions addressing detached ADUs in the City include:

- The size of a detached ADU would be limited to 70% of the total floor area of the principal structure, up to a maximum of 1,000 square feet. No matter the size of the principal structure, a detached ADU of 576 square feet would be allowed.
- A new detached ADU must meet a five-foot rear and side setback.
- Conversion of an existing accessory structure to an ADU would require adherence to the North Carolina Building Code's setback provisions.
- Detached ADUs are not permitted in front of the front façade of the principal structure.
- Detached ADUs must be built upon a permanent foundation. The use of RVs and trailers as an ADU is prohibited.

The proposed amendment removes the structural requirements for attached ADUs as these are either design-related provisions or address utilities which are outside the purview of the zoning ordinance. No changes are proposed regarding the size or setbacks for attached ADUs. Similarly, this amendment continues to allow only one ADU per lot.

The proposed amendment also includes changes to the definitions of Dwelling Unit; Dwelling Unit, Accessory, Attached; and Dwelling Unit, Accessory, Detached. The amendment replaces the current definition for Dwelling Unit with the definition used prior to January 2020 due to an error in the UDO ClearCode. For the definitions of Dwelling Unit, Accessory, Attached and Detached, the word occupancy is removed as it is no longer relevant. Furthermore, minor changes are proposed to Section 5.3.1, Accessory Structures. These amendments are the only changes that will go before the County Board of Commissioners for approval.

## Summary

The proposed ordinance changes will allow for better utilization of accessory dwelling units as a tool to meet the growing housing needs while preserving neighborhood character. Furthermore, the proposed amendments will bring our community in line with peer cities in North Carolina regarding how accessory dwellings are regulated. The amendment will provide another avenue for creating new, diverse housing options that will help address affordable housing concerns, encourage gentle density, and promote infill development while maintaining the character and appearance of single-family neighborhoods.

**RECOMMENDATION: APPROVAL**

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# **CITY-COUNTY PLANNING BOARD PUBLIC HEARING MINUTES FOR UDO-CC15 NOVEMBER 10, 2021**

Amy Crum presented the staff report.

George asked Amy whether there were any folks that this amendment would not affect besides County residents. Amy clarified that properties with existing single-family homes could also have an ADU in the City limits. County would follow the existing provisions. She further clarified that whether ADUs would be allowed in neighborhoods with HOAs is at the discretion of HOAs. Historic districts will follow existing guidelines. Tax implications were also discussed.

## **PUBLIC HEARING**

FOR:

Joy Truluck, 40 West Sprague Street, Winston-Salem, NC 27127

- Accessory dwelling units provide affordable housing and generate income and infill housing that is gentle density, thereby making it easier to deliver services. As Baby Boomers age and downsize, an ADU can provide housing in their later years, perhaps close to family members, and are often one level. This was crucial for me and my family when my mother's needs increased, and she could no longer live in the cottage behind my home that was upfit for her needs. I was able to rent the unit to a friend who was also in need. The usage from the ADU as a shelter and as income kept me from the poverty line in an area where the City knows we need improvement.
- Oftentimes, ADUs allow for intergenerational cohabitation that contributes to family cohesion and eases caregiving. During COVID, numerous family members saw their college-aged children returning home. In metro areas, ADUs are often a perfect option for young professionals who don't want to buy a car yet because of college debt, and college students need walkable housing that is close to their universities. We live in a college town and really need to consider walkability, because even this evening's discussions have been dominated by traffic.
- You have a greater opportunity to make sure standards are maintained because it would be in your backyard, and you know your neighbors and your neighbors know their neighbors. I live in an urban neighborhood that is walkable. ADUs really do provide affordable housing. Respectfully, we have an affordable housing crisis. There are families, elderly, veterans, and children who are not living in homes, they are living on the street. And I would propose that homelessness has a dampening affect that outweighs any objections.

We have a moral responsibility to consider safe and affordable housing that can aid our citizens.

Emma Kate Sowder, 195 Executive Park Boulevard, Winston-Salem, NC 27103

- I am the Government Affairs Director for the Homebuilders Association of Winston-Salem and the Winston-Salem Regional Association of Realtors. I am here representing these groups and to show our support of UDO-CC15.
- The 2018 Winston-Salem/Forsyth County housing study found there is a growing need for missing middle and affordable housing in our area, including small-sized units. This need continues to grow as we deal with fall-out from the COVID 19 pandemic and supply chain, and the major increases in the price of raw materials for building homes. As the cost of single-family homes is driven up, middle housing continues to get lost in the shuffle, leaving a huge gap in our city's housing economy. The ordinance change would be another tool in our toolbelt to combat affordable housing problems in our city.
- ADUs are cited by the US Department of Housing and Urban Development as a great affordable middle housing option for elderly and disabled persons, empty nesters, or for young adults just entering the workforce.
- While Winston-Salem's population of young people is growing, over half of the future housing demand predicted by the 2018 housing study is expected to come from adults 65 and older. Many adults look to downsize as they age, which then again takes from the supply of affordable middle housing options available to younger families in Winston-Salem. Allowing for aging in place with the availability of ADUs would lend itself to an increased middle housing supply in our city.
- While ADUs are a great tool for our city's affordable and missing middle housing crisis, they are not for everyone, as they can be costly in some situations. This is important to keep in mind. As renting an ADU may be affordable, and these units are a great tool to combat our crisis, it is unlikely that ADUs will be springing up in every backyard. In closing, we urge our planning department to give residents opportunities to add diversity to the Winston-Salem housing supply.

AGAINST:

Carolyn Highsmith, 3335 Anderson Drive, Winston-Salem, NC 27127

- I am representing the Winston-Salem Neighborhood Alliance and the Konnoak Hills Community Association. The Winston-Salem Neighborhood Alliance is a coalition of 16-plus neighborhoods with expertise in zoning, and we are requesting that the Planning Board postpone its decision-making for one to two months until community information meetings about this amendment can be held by planning staff so that city residents have a process that is not rushed, and where they have maximum opportunity for community dialogue and input.
- We also ask: Where are the safeguards in this proposed amendment protecting the integrity and character of our neighborhoods when the elected body process is to be eliminated? At least with the current 2017 version, less restrictive ADU standards can be considered

acceptable when the City Council, an elected body, is required for the approval of ADUs. But with this 2021 version and its new permitting approval process, ADUs will automatically be approved by right. And then, by default, this version is effectively rezoning all single-family residential areas to multifamily residential without the benefit of a comprehensive multifamily and mixed-use plan. Therefore, stricter safeguards and standards must be built into this amendment to prevent inappropriate and harmful situations from occurring in our neighborhoods.

- We have six major neighborhood concerns to consider with this amendment: (1) the proposed five-foot rear and side setback for detached ADUs is insufficient, and the 15-foot rule aligning with Greensboro and Charlotte should be implemented; (2) neighborhoods with on-street parking will be severely impacted, including their safety; (3) a cap on occupancy needs to be addressed, especially in neighborhoods with parking issues; (4) the size of the lot needs to be considered, as one size does not fit all, especially for smaller lots; (5) stormwater impacts from flooding and erosion can occur or paving changes or construction could seriously impact the older neighborhoods; and (6) ADUs as short-term rentals need to be regulated to prevent abuse, first by defining what a short-term rental is, and then by creating some special permitting processes.

Leslie Kamfman, 29 Gloria Avenue, Winston-Salem, NC 27127

- I'm here to express my concerns regarding the proposed UDO-CC15. In 2017, after a two-year discussion process and public input sessions with planning staff, it became clear that one-size-fits-all regulations would not work for all neighborhoods. City Council then approved a text amendment with special-use rezoning for ADUs that acknowledged the significant differences between neighborhoods and would allow Planning and City Council to review each case individually, with sufficient public input, and decide what would make the best sense based on the specific circumstances of each case.
- In Washington Park and other neighborhoods, properties that have been restored or converted back to their single-family use have gained significantly in tax value for the City and in property value for the owners. We should be very cautious in allowing history to repeat itself by permitting single-family-zoned properties to be divided for multifamily use again.
- The proposed UDO-CC15 would, in effect, turn any single-family lot into a multifamily duplex with no elected body review or public input. This could have far-reaching consequences for some neighborhoods. I understand the need for ADUs and the desire to streamline the process - removing the \$1000 fee, for example - and I respect the effort to better meet the need for affordable housing goals. We can do our best to provide and support diverse affordable housing options, including ADUs, but with that comes appropriate oversight, public input, and consideration of the surrounding circumstances in each neighborhood. Maintaining the special use rezoning process would allow for greater discussion among neighbors, would allow for short- and long-term impacts on the neighborhood overall to be considered, better oversight, and allow for additional requirements, if warranted, for a particular situation.

- I respectfully request that you continue your review and postpone your decision on this proposed amendment to allow for greater public discussion, consideration and understanding of the proposed changes, their potential unintended consequences, and the impact of all of these changes on our neighborhoods, including parking, occupancy numbers, setbacks, building size, stormwater impacts, and residential zoning regulations.

Julie Magness, 630 Fenimore Street, Winston-Salem, NC 27103

- I am requesting that there be a delay of this amendment being passed because there are still questions that are arising daily. I'm disappointed that my knowledge of this proposal has come through social media and not from City efforts. A perfect example is one of the proponents today said she just found out about this public meeting today.
- I am intrigued with the property value question that George Bryan raises because I think you have got two very distinct things. I think it would go without saying that when you add bedrooms and bathrooms and kitchens that you're probably going to have building property values go up, but I am curious to know how the land value would be assessed. That currently is a big question in my mind because my land sitting under my fifth of an acre is tax valued at \$95,300, which is more than I paid for my house when I purchased it. And a backdoor neighbor that has .17 acre with a collapsed storm sewer running through it is tax valued at \$102,000. I am just wondering if there has been any discussion with the tax department and our peer cities since we are trying to come and align with our peer cities.
- I want to thank staff for being very responsive to questions that I continue to have. I'm also very sensitive to the fact that there are certain issues that might make an ADU inappropriate in certain places that staff really has no jurisdiction according to the ordinance. And now we are looking at not having any special use, no tool for public comment that might provide a solution.
- The big issue on my street is stormwater. There are four or five of us that have absolutely zero way to access the stormwater situation. Even though accessories like garages can be built right now by right, now we're talking about incentivizing maybe putting ADUs in backyards where there are people such as us that are burdened in this way.
- I hear the proponents of ADUs feel the current ordinance is financially prohibitive, however, I'm only hearing this from people that would design them and are missing out on fees that they would charge. What is currently free is discussion with adjacent neighbors, staff, and a review of ordinance regulations. No money spent, nothing to try to find out if you've got a situation where you could put one. If the ordinance passes, property owners are incentivized to potentially change the density of their property, move setbacks 3 to 5 feet, if they've got an existing structure, and have income as a result. As a single-dwelling homeowner, I would still have to pay a \$1,000 fee to ask for a six-inch side yard forgiveness for an addition to my home. I have in fact done that in the past.
- I live on a street that I feel has special circumstances. Each situation needs a way to consider whether the infrastructure in these old, urban neighborhoods, much of it often antiquated, is sufficient to be able to just carte blanche put an ADU in if it meets certain restrictions.



- I do want to compliment staff because I do think that there are some very good regulations that are being considered, but I also think that we are looking at two very different animals, an ADU within a dwelling and a second dwelling unit constructed on a piece of property.
- While I do believe that ADUs can provide some infill, I do not envision that ADUs are really going to be affordable as people are claiming, unless perhaps four unrelated adults can live in the ADU and four unrelated adults could live in the main dwelling.

Templeton Elliott, 1900 Mallard Lakes Drive, Winston-Salem, NC 27106

- We need more time to look at and study this. I feel like it was sprung on us. This could change the character of many neighborhoods without meaning to. I have a real problem with no driveway being required. I can see people parking on the grass, and the grass becoming chewed up, with ruts and mud. I can see things starting to look shabby. The City has torn down small houses because they looked shabby. I think more study needs to be done with more public input on this.

### **WORK SESSION**

Melynda addressed the fact that the Board has received upwards of 13 emails that have been asking for more public discussion on this text amendment. She stated that she does not see this as opposition to ADUs but a desire to get more information. She further stated that she also sees this as a potential opportunity, if delayed, not to be a stumbling block to ADUs but an educational process to get the word out about how ADUs can fit into our housing plan in this community. She would like to embark upon a process to have some meetings with question-and-answer sessions that would allow these issues to get worked out and maybe come to some middle ground. George agreed.

MOTION: Melynda Dunigan recommended that the Planning Board continue UDO-CC15 for further citizen discussion.

SECOND: George Bryan

VOTE:

FOR: George Bryan, Melynda Dunigan

AGAINST: Jason Grubbs, Clarence Lambe, Chris Leak, Mo McRae, Jack Steelman

EXCUSED: None

Chris Leak made mention of this subject going as far back as 2017, and while he appreciated the comments from the speakers, he did not believe that any amount of discourse would change the minds of those who are in opposition and those who are proponents. In this particular case, City Council has asked the staff and the Planning Board to bring this item to them, and he personally feels there is enough information to know that the amendment meets the direction they gave, which was simply to align our ordinances with our peer communities. He went on to say that if City Council wants to allow additional discourse at that level, that would certainly be within their ability. Chris allowed each Board member two minutes to share comments.

MOTION: Clarence Lambe recommended approval of UDO-CC15.

SECOND: Jason Grubbs

VOTE:

FOR: Jason Grubbs, Clarence Lambe, Chris Leak, Mo McRae, Jack Steelman

AGAINST: George Bryan, Melynda Dunigan

EXCUSED: None

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Chris Murphy, AICP

Acting Director of Planning and Development Services